

# LOCAL GOVERNMENT ACT 1995

## CITY OF MANDURAH

### **LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES AMENDMENT LOCAL LAW 2026**

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

#### **Part 1 - Preliminary**

##### **1.1 Citation**

This local law may be cited as the *City of Mandurah Local Government Property and Public Places Amendment Local Law 2026*.

##### **1.2 Commencement**

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

##### **1.3 Principal local law**

This local law amends the *City of Mandurah Local Government Property and Public Places Local Law 2016* as published in *Government Gazette* No.101 on 26 May 2017.

#### **Part 2 - Amendments**

##### **2.1 Clause 1.1 amended**

In clause 1.1 delete the heading “**Citation**” and replace with “**Short title**”.

##### **2.2 Clause 1.3 amended**

In clause 1.3(2) delete the words “Part 5” and replace with “Part 6”.

##### **2.3 Clause 1.5 amended**

In clause 1.5:

(a) amend the title “**Definitions**” to “**Meaning of the terms used in this local law**”; and

(b) delete the following definitions:

- (i) **Chief Executive Officer**;
- (ii) **major event day**;
- (iii) **major event location**;
- (iv) **nuisance**;
- (v) **permissible verge treatment**;
- (vi) **seafood business**;
- (vii) **seafood sign**;
- (viii) **smoke**;
- (ix) **solicit**;
- (x) **street market**; and
- (xi) **wheeled recreational device**.

(c) insert the following definitions in alphabetical order:

- (i) **CEO** means the Chief Executive Officer of the local government;
- (ii) **community facility** means a facility owned or under the care, control or management of the local government accessible to the public for hire or use for recreational purposes and includes, but is not limited to, a hall, public swimming pool, library, community centre and recreation centre;
- (iii) **designated swimming area** means an area of a beach or adjacent waters that has been set aside by the local government, and indicated by signs, patrol flags or other notices, for the purpose of swimming;
- (iv) **electric personal transporter** has the meaning given in the *Road Traffic Code 2000*;
- (v) **electric rideable device** has the meaning given in the *Road Traffic Code 2000*;
- (vi) **fence** means any structure used or functioning as a barrier, irrespective of where it is located and includes any affixed gate or screening;
- (vii) **lot** has the meaning given to it in the *Planning and Development Act 2005*;
- (viii) **major event** means an event held on local government property or in a public place that is attended by more than 5000 persons;
- (ix) **nuisance** means any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which—
  - (a) is injurious or dangerous to the health or safety of another person of normal susceptibility; or
  - (b) anything a person does or permits or causes to be done which interferes with, or is likely to interfere with, the enjoyment or safe use by another persons of their ownership or occupation of land or use of a public place;

- (x) **permissible verge treatment** has the meaning given to it in clause 7.11 and includes any reticulation, pipes and sprinklers;
  - (xi) **private property** means any real property, parcel of land or lot that has a separate certificate of title, which is in private ownership or subject of a lease or agreement with a company or person enabling its use for private purposes and includes any building or structure thereon;
  - (xii) **sand dune** means the established or incipient ridge(s) and depressions of sand and coastal vegetation adjacent to the beach, that extend inland to include the low-lying land depressions behind the ridges and includes areas identified by the local government as sand dunes by signs or otherwise;
  - (xiii) **smoke** and/or **smoking** means to—
    - (a) smoke, hold or otherwise have control over an ignited tobacco product;
    - (b) light a tobacco product; or
    - (c) use a vaping device;
  - (xiv) **street market** means a collection of stalls, stands, displays and vehicles used for trading or display on local government property or a public place for the purposes of selling goods, wares, merchandise, produce or services, or carrying out any other transaction;
  - (xv) **vaping device** has the meaning given to it in the *Therapeutic Goods Act 1989* (Cth) as applied by the *Therapeutic Goods Law Application Act 2024*;
  - (xvi) **waterway** means any area of water under the care, control and management of the local government or a person authorised by the local government to undertake such care, control or management on behalf of the local government; and
  - (xvii) **wheeled recreational device** has the meaning given in the *Road Traffic Code 2000*.
- (d) in the definition **alfresco dining area** amend the first reference to “by the public” by deleting “by” and replacing with “to”;
- (e) in the definition of **animal** insert the words “cat or” before the word “dog”;
- (f) amend the definition of **authorised person** by deleting the words “local government” and replacing with “CEO”;
- (g) amend the definition of **attendant** by:
- (i) deleting the words “with responsibility for the control and management of persons” and insert “duly authorised to perform duties”; and
  - (ii) deleting the words “a public swimming pool or recreation” and insert “connection with a community”;
- (h) amend the definition of **Firearms Act** by deleting the year “1973” and insert “2024”;
- (i) amend the definition of **local government property** insert the words “land or other” after “means any”;

- (j) amend the definition of **manager** by deleting the words “swimming pool or recreation” and insert the word “community” before the word “facility”;
- (k) in the definition **person responsible for works** delete the words “Division 2” after “Part 7”;
- (l) in the definition of **premises** delete the reference to “clause 2.8(1)(a) and 4.6” and insert “clause 2.8(1)(a) and 5.8”;
- (m) in the definition of **street tree** insert the words “in a public place” after the word “location”;
- (n) in the definition of **surf lifesaving club** insert the words “or any branch thereof” after the words “Western Australia Inc.”;
- (o) in the definition of **trading** after subclause (b), insert new subclause (c) as follows:
  - “(c) the going from place to place, whether or not public places, and—
  - (i) offering goods or services for sale or hire;
  - (ii) inviting offers or soliciting orders for the sale or the hire of goods or services;
  - or
  - (iii) carrying out any other transaction in relation to goods and services;” and
- (p) at the end of the definition **Western Power** insert the word “and”.

#### **2.4 Clause 1.7 amended**

In clause 1.7 insert the words “section 9(2) of” before the words “*Disability Discrimination Act*”.

#### **2.5 Clause 2.2 amended**

In clause 2.2 of Part 2, Division 1 delete all references to “the local government” in subclauses (3), (4), (5) and (6) and replace with the word “Council”.

#### **2.6 Clause 2.6 amended**

In clause 2.6 of Part 2, Division 1 delete all references to “the local government” in subclauses (1), and (3) and insert the word “Council”.

#### **2.7 Clause 2.7 amended**

In clause 2.7 of Part 2, Division 2:

- (a) delete subclause (1)(c) and replace with the words “fly or use a motorised model aircraft, car, ship, glider, rocket or other similar remotely piloted device”; and
- (b) in subclause (1)(i) after the word “bicycle,” insert the words “an electric rideable device, an electric personal transporter,”.

#### **2.8 Clause 2.8 amended**

In clause 2.8 of Part 2, Division 2:

- (a) in subclause (1)(b) after the word “bicycle,” insert the words “an electric rideable device, an electric personal transporter,”;
- (b) delete the word “and” at the end of subclause (1)(g) and insert “and” at the end of subclause (1)(h); and
- (c) insert new subclause (1)(i) with the words “the use of a motorised model aircraft, car, ship, glider, rocket, or other similar remotely piloted device.”.

## **2.9 Clause 3.1 amended**

In clause 3.1 of Part 3, Division 1:

- (a) in subclause (1)(q) insert the word “event,” after the words “conduct a function”;
- (b) after subclause (1)(u), insert a new subclause (1)(v) and the remaining subclauses are renumbered accordingly:
  - “(v) play or practice on local government property—
  - (i) golf, archery or aim, shoot or throw a similar projectile; or
  - (ii) gun or rifle shooting including possession of a gun or rifle or means of discharging any projectile that may cause injury or damage to a person or property;”;
- (c) in subclause (1)(w) (formerly subclause (1)(v)) insert the word “wagering” before the word “contest”; and
- (d) after subclause (1)(x) (formerly subclause (1)(w)) insert new subclauses 1(y) and 1(z):
  - “(y) film or make a recording for commercial gain on local government property; and
  - (z) unless an employee of the local government in the course of their duties or on an area set aside for that purpose—
  - (i) drive, ride or take any vehicle or particular class of vehicle on local government property; or
  - (ii) park or stop any vehicle on local government property.”.

## **2.10 Clause 3.2 amended**

In clause 3.2 of Part 3, Division 1:

- (a) in subclause (a):
  - (i) delete the words “*Liquor Control Act 1988 (WA)*” and insert “Liquor Act;”; and
  - (ii) delete the word “and” at the end of the subclause;
- (b) insert the word “and” at the end of subclause (b); and
- (c) insert a new subclause (c) with the following words “the consumption of liquor does not, in the reasonable opinion of the local government or an authorised person, result in anti-social or unsafe behaviour or create a risk to members of the public accessing the local government property.”.

### **2.11 Clause 3.3 amended**

In Part 3, Division 2 delete clause 3.3 and insert:

#### **3.3 Application for a permit to hire local government property**

- (1) The local government may—
  - (a) hire local government property to a person who makes an application for a permit for the hire of local government property under Part 12; and
  - (b) on the application of a person seeking a permit, waive the requirement to pay a hire fee or any part of a hire fee.
- (2) The Council may determine that the requirements of this local law do not apply to the hiring of particular local government property or a class of local government property.
- (3) A permit is not required where the local government property is subject to a lease, licence, facility hire or other legal instrument and the proposed use is within the scope of that agreement.

### **2.12 Clause 3.4 amended**

In clause 3.4 of Part 3, Division 2:

- (a) delete all references to the number “2” in the clause and clause title and replace with the word “two”; and
- (b) replace the word “shall” with “may” after the word “applicant”.

### **2.13 Clause 3.5 amended**

In clause 3.5 of Part 3, Division 2:

- (a) in subclause (e) delete the words “Chief Executive Officer” and replace with the word “CEO”;
- (b) in subclause (g) insert the words “sale, supply or” before the word “consumption”; and
- (c) in subclause (h) delete the word “imposed” and replace with the word “given” and after the words “local government” insert the words “or an authorised person”.

### **2.14 Clause 3.6 amended**

In clause 3.6 of Part 3, Division 2:

- (a) in subclause (c) insert the words “materials associated with events or” before the word “decorations”; and
- (b) in subclause (e) insert the words “or an authorised person” after the words “local government” and insert the words “reschedule or” before the word “cancel”.

### **2.15 Clause 3.7 amended**

In clause 3.7(1) of Part 3, Division 2 delete “regulation 11(2)(a)” and insert “regulation 11(1)”.

## **2.16 Part 4 amended**

Delete Part 4 and insert:

### **PART 4—ENTRY ONTO LOCAL GOVERNMENT PROPERTY**

#### **4.1 Entry to local government property**

A person, other than an authorised person performing a function or a contractor of the local government carrying out a contracted duty, must not—

- (a) enter or leave any local government property other than by the public entrance or exit, except in an emergency;
- (b) enter or remain on any local government property except on those days and during those times when access is available to the public; or
- (c) enter any place that has been fenced off or closed to the public.

#### **4.2 Payment of applicable fees for entry or participation**

- (1) Subject to clause 4.2(2), where a fee is payable for entry to local government property or participation in an activity on or in any local government property, a person must not enter that property or participate in the activity without first paying the applicable fee.
- (2) The local government may exempt a person from compliance with clause 4.2(1) on the application of that person.

#### **4.3 Refusal of entry and removal**

- (1) If an authorised person, manager or attendant reasonably suspects that a person is breaching, or has just breached, a provision of this local law or any other written law, an authorised person may refuse to allow entry or suspend entry to any local government property.
- (2) A person who has been refused entry under clause 4.3(1) must immediately leave the local government property.
- (3) If a person fails to comply with clause 4.3(2), authorised person, manager or attendant may remove the person, or arrange for the person to be removed, from the local government property.
- (4) A refusal or suspension under subclause 4.3(1) may be for any period of up to 12 months as determined by an authorised person.
- (5) Clause 4.3(1) does not apply to a venue where Council or Committee meetings are held.

## **2.17 Part 5 amended**

Delete Part 5 and insert:

### **PART 5—BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY OR PUBLIC PLACES**

#### *Division 1 – General behaviour on and interference with local government property or public places*

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

A person must not, in or on local government property or in a public place, behave in a manner which—

- (a) is likely to or does interfere with, interrupt or disturb the enjoyment of a person who might use the property or who is using the property or public place;
- (b) causes or is likely to cause a disturbance to nearby residents;
- (c) otherwise creates a nuisance; or
- (d) places the public at risk or interferes with the safety of others.

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

A person must not, in or on local government property or public place, behave in a way which is or might be detrimental to the property or public place unless authorised by the local government.

##### **5.3 Behaviour at major events**

Except with the written approval of the local government a person must not at any major event—

- (a) smoke; or
- (b) bring, or allow to remain, any animal, cat or dog.

##### **5.4 Taking or injuring any fauna**

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

##### **5.5 Flora**

Unless authorised to do so under a written law or with the written approval of the local government or an authorised person, a person must not—

- (a) remove, damage or interfere with any flora that is on or above any local government property; or
- (b) cultivate, plant or deposit any flora on local government property.

##### **5.6 Drunk persons not to enter local government property**

A person must not enter or remain on local government property while drunk or under the influence of a prohibited drug.

#### **5.7 No prohibited drugs**

A person must not take a prohibited drug onto or consume or use a prohibited drug on local government property.

#### **5.8 No smoking**

- (1) A person must not smoke within a 5 metre radius of any entrance, exit or aperture of premises on local government property.
- (2) The use of vaping devices for delivery of nicotine or other substances is not permitted to be used in any area on local government property where smoking is restricted.
- (3) Where an authorised person reasonably believes that a person is contravening or has contravened clauses 5.8(1) or 5.8(2), the authorised person may direct the person to cease smoking.

#### **5.9 Appropriate behaviour and adequate clothing**

- (1) A person over the age of 6 years must not on or in any local government property or public place—
  - (a) appear in public unless properly dressed in clothing which covers the body to prevent indecent exposure, except where the property is set aside for the wearing of no clothes under clause 2.7(1)(j);
  - (b) loiter outside or act in an inappropriate manner in any portion of a toilet block or change room facility; or
  - (c) without the consent of the occupier, enter or attempt to enter any toilet or other compartment which is already occupied.
- (2) Where an authorised person, an attendant or a manager considers that the clothing of any person on local government property or in a public place is not proper or adequate to cover the body so as to prevent indecent exposure, the authorised person may direct that person to put on adequate clothing and that person must comply with that direction immediately.

### *Division 2—Signs*

#### **5.10 Signs**

- (1) The local government may erect a sign on local government property specifying any conditions of use which apply to that property.
- (2) A person must comply with a sign erected under clause 5.10(1).
- (3) A condition of use specified on a sign erected under clause 5.10(1) is—

- (a) not to be inconsistent with any provision of this local law or any determination;  
and
- (b) to be for the purpose of giving notice of the effect of a provision of this local law.

## **2.18 Part 6 amended**

Delete Part 6 and insert:

# **PART 6—SPECIFIC MATTERS RELATING TO TYPES OF LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES**

## *Division 1—Community Facilities*

### **6.1 General prohibitions**

A person must not—

- (a) obstruct an authorised person, manager or attendant in carrying out his or her duties;
- (b) fail to comply with a direction given by an authorised person, manager or attendant—
  - (i) refusing admission to a person;
  - (ii) directing a person to leave a community facility; or
  - (iii) directing a person in relation to his or her use of a community facility;
- (c) fail to comply with a direction given by an authorised person or manager suspending admission to a person;
- (d) permit an animal, cat or dog to enter or remain in or about a community facility where such entry is prohibited by a sign;
- (e) consume any food or drink in an area where consumption is prohibited by a sign;  
or
- (f) foul or pollute the water in a public swimming pool.

### **6.2 Use of all or part of a community facility**

An authorised person, manager or attendant may—

- (a) direct that all or part of a community facility is for the use of certain persons to the exclusion of others; and
- (b) direct a person as to that person's use of a community facility.

### **6.3 When entry and use may be refused**

- (1) An authorised person, manager or attendant may—
  - (a) refuse admission to;
  - (b) direct to leave; or

- (c) cause to be removed from,  
a community facility any person where any of the requirements set out in clause 6.3(2) are not being complied with or for any reason set out in clause 6.3(3).
- (2) For the purposes of clause 6.3(1), the requirements are—
  - (a) children under the age of 5 years must be accompanied into a community facility by a responsible adult who is at least 16 years of age, and must be supervised by that responsible adult within arms' length at all times while within a community facility;
  - (b) a responsible adult can only be responsible for a maximum of 3 children under the age of 5 years at any one time; and
  - (c) subject to clause 6.3(2)(a), children under the age of 12 years must be accompanied into a community facility by a responsible adult who is at least 16 years of age and must be supervised by that responsible adult within line of sight at all times while within the community facility.
- (3) For the purposes of clause 6.3(1), the reasons are—
  - (a) where the authorised person, manager or attendant reasonably suspects the person is—
    - (i) suffering from any gastrointestinal disease, contagious, infectious or cutaneous disease or complaint, skin infection or has unhealed wounds;
    - (ii) in an unclean condition;
    - (iii) wearing unclean clothes; or
    - (iv) under the influence of liquor or a prohibited drug;
  - (b) if the authorised person, manager or attendant is satisfied that—
    - (i) such action is necessary or desirable to prevent a contravention of this local law; or
    - (ii) the person is committing a breach of any provision of this local law; or
  - (c) by reason of his or her past or present conduct within or about a community facility, has created or is creating a nuisance.

#### **6.4 Suspension of access to community facility**

Subject to clause 4.3, an authorised person or manager may suspend admission for a minimum period of one day to any person who has committed a breach of any provision of this local law in relation to the community facility.

#### **6.5 Carnivals**

- (1) A person, club, organisation or association must not conduct controlled swimming or other sporting events, carnivals or competitions at a community facility without the prior approval of the manager.
- (2) The manager may grant such approval subject to any conditions considered fit by the manager and may withdraw that approval at any time.
- (3) A person, club, organisation or association conducting a carnival or event at a community facility must take reasonable steps to—
  - (a) prevent overcrowding;
  - (b) ensure that no damage is done to the buildings or fencing or any other portion of the community facility; and
  - (c) ensure that this local law is observed by all competitors, officials and spectators.

#### *Division 2—Beaches and foreshore areas*

### **6.6 General prohibitions**

On a beach or foreshore area, a person must not obstruct, disturb, insult or neglect to obey the lawful directions of any authorised person or member of an on-duty surf lifesaving club patrol.

### **6.7 Compliance with signs and directions**

A person must—

- (a) comply with any sign erected on a beach, sand dune or foreshore area;
- (b) comply with any lawful direction given by an authorised person, a patrol captain or a patrolling member of a surf lifesaving club patrolling the beach; and
- (c) not enter any area designated as being used for any surf lifesaving activity, training, competition or carnival.

### **6.8 Sand dune protection**

- (1) On a beach or sand dune area—
  - (a) the local government may set aside by signs or fencing an area restricting or prohibiting entry due to sand dune rehabilitation or protection where the local government is satisfied the area has environmental value warranting such protection or poses a hazard to public safety; and
  - (b) a person must not interfere with, damage, or alter the natural structure or vegetation of a sand dune.
- (2) A person must not, without permission of the local government or an authorised person—
  - (a) remove, tamper or damage any sign, fence or structure or thing placed by the local government to protect a sand dune or manage public access to it; or

- (b) scale, crawl beneath, or pass through any fence or gate installed for the purpose of restricting the entry of persons or vehicles to avoid damage to the dune.

#### **6.9 Use of off-road vehicles on beaches and foreshore areas**

A person must not drive or operate an off-road vehicle on a beach or foreshore area unless that person is authorised to do so under any written law.

#### **6.10 Surf lifesaving activities and identification of surf lifesaving patrol**

- (1) An authorised person, patrol captain or patrolling member of a surf lifesaving club authorised by that club to carry out duties set out in this clause may perform the following functions in the interests of maintaining safety at beaches in the district—
  - (a) patrol any beach;
  - (b) take onto any beach any lifesaving gear, including vehicles or boats that are used for lifesaving activities;
  - (c) indicate by signs or patrol flags, any designated swimming areas of a beach or adjacent water beyond the beach;
  - (d) indicate by signs any areas of a beach or the adjacent water beyond the beach where—
    - (i) riding of surfboards or any other bathing appliance is prohibited;
    - (ii) driving of boats is prohibited; or
    - (iii) fishing is prohibited;
  - (e) regulate or designate any areas for the following activities—
    - (i) conduct of training or surf lifesaving club carnivals; or
    - (ii) establishing a first aid or command post;
  - (f) direct any person to—
    - (i) swim only within the designated swimming area indicated by signs or patrol flags; or
    - (ii) leave the water during any period if, the authorised person, patrol captain or patrolling member is satisfied of potentially dangerous conditions or the sighting of a shark; and
  - (g) close any beach or part of any beach during any period of potentially dangerous conditions or sighting of a shark.
- (2) A person who is not a patrolling member of a surf lifesaving patrol on duty must not give the impression that they are a patrolling member of a surf lifesaving patrol on duty.
- (3) When any beach or part of any beach is closed in accordance with clause 6.10(1)(g) an authorised person or patrol captain of a surf lifesaving club must advise the CEO as soon as practicable.

### **6.11 Authority of local government employee to prevail**

If the local government has authorised a person to perform a duty under clause 6.10(1) and a member of a surf lifesaving club is also authorised in relation to the same duty contemporaneously, the authority of an authorised person employed by the local government must prevail in the event of inconsistency.

### **6.12 Fishing**

- (1) A person must not fish in any area—
  - (a) where fishing is prohibited by the local government and the prohibition is designated by signs; or
  - (b) set aside by an authorised person or member of a surf lifesaving club patrol as a designated swimming area.
- (2) A person must not, whether fishing is permitted or not—
  - (a) clean fish or dispose of fish waste within 10 metres of a designated swim area in a manner that may cause a nuisance to members of the public; or
  - (b) cut bait within 10 metres of a designated swim area in a manner that may cause a nuisance to members of the public.
- (3) A person who does not have a disability must not fish in an area which is designated and marked for use for fishing by a person with a disability unless there are no persons with a disability wanting to use that area at that time.

### **6.13 Boat launching**

- (1) A person must not launch a boat into the sea or from a foreshore area into any other body of water other than at a boat launching ramp designed, constructed and approved for that purpose or from the beach or foreshore area where this activity is permitted and designated by signs.
- (2) A person must not launch a personal watercraft into the sea or from a foreshore area into any other body of water other than at a boat launching ramp designated, constructed and approved for that purpose, unless that person has the written approval of the local government to launch a personal watercraft from another location.
- (3) Clauses 6.13(1) and 6.13(2) do not apply to any member of a surf lifesaving club or lifesaving patrol in the course of their duties, training or competition.

#### *Division 3—Fenced or closed property*

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

A person must not enter local government property or fenced thoroughfare which has been fenced off or closed to the public by a sign or otherwise unless authorised by the local government.

*Division 4—Toilet blocks and change rooms*

**6.15 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 to the toilet block or change room; or
  - (b) males, then a person of the female gender must not use that entry to the toilet block or change room.
- (2) Clause 6.15(1) does not apply to a child, when accompanied by a parent, guardian or caregiver where the child is—
  - (a) under the age of 6 years; or
  - (b) otherwise permitted by an authorised person to use the relevant entry.

**6.16 Hire of lockers**

- (1) A person may hire a locker in or near a change room for the purpose of safekeeping articles.
- (2) A person must not store in any locker a firearm or an offensive weapon or any article or substance that has been unlawfully acquired or which is a substance or article within the meaning of 'dangerous goods' under the *Dangerous Goods Safety Act 2004* (WA).

**6.17 Inspection of lockers**

An authorised person, manager or attendant may open and inspect the contents of a locker at any time, where the authorised person, manager or attendant reasonably suspects that a breach of this local law has occurred.

**6.18 Use of showers**

A person may use a shower in a change room provided that—

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

**6.19 No use of camera devices in toilet blocks or change rooms**

A person must not operate a camera device in any portion of a toilet block or change room to record or transmit an image.

## **2.19 Part 7, Division 1 amended**

In Part 7, Division 1:

(a) delete clause 7.1 and insert:

### **7.1 General prohibitions**

Subject to this local law, a person must not—

- (a) plant any plant on a thoroughfare—
  - (i) within the vicinity of an intersection that creates a sight line hazard in relation to pedestrians or drivers of vehicles using that intersection and which is not maintained at or below 0.5 metres in height; or
  - (ii) so that it is within 2 metres of a carriageway, except in the case of grass or a similar plant to grass;
- (b) damage a lawn or garden on or in a public place or remove any plant or part of a plant from a lawn or garden that is not a street tree on or in a public place unless—
  - (i) the person is the owner or occupier of the lot abutting that portion of the thoroughfare and the lawn, garden or the particular plant was installed or planted by that owner or occupier and is not a street tree; or
  - (ii) the person is acting under the authority of a written law;
- (c) on a verge, repair or service any vehicle;
- (d) place, allow to be placed or allow to remain on a thoroughfare or verge any thing that results in a hazard for any person using the thoroughfare or verge;
- (e) cause or permit any water from a hose or sprinkler to interfere with the use of any street, way or footpath by pedestrians;
- (f) play or participate in any game or sport so as to—
  - (i) cause danger to any person on a thoroughfare; or
  - (ii) obstruct the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, electric rideable device, electric personal transporter, wheeled recreational device or similar device.

(b) in clause 7.2(1)(c) delete the words “Division 3” and replace with “Division 4”.

## **2.20 Part 7, Division 2 amended**

In Part 7, Division 2:

- (a) Division 2 is renumbered to Division 3 and the remaining Divisions and clauses in this Part being renumbered accordingly; and
- (b) insert new Division 2:

*Division 2 - Works affecting a thoroughfare*

**7.4. No damage to thoroughfare**

A person must not alter, interfere with, remove or disturb, without lawful authority, a thoroughfare or anything belonging to or under the care, control or management of the local government that is on a thoroughfare, including but not limited to a footpath, verge or street tree.

**7.5 Footpath and verge protection**

- (1) The owner, occupier, licensee or contractor who undertakes works on a private property adjacent to a footpath or verge, must—
  - (a) take all necessary precautions to ensure that the footpath or verge is not damaged during the course of the works;
  - (b) take all necessary action to ensure that the footpath or verge remains in a safe functional state suitable for use by the public; and
  - (c) notify the local government of any existing damage to the footpath or verge prior to the commencement of the works.
- (2) A person who carries out any building or other operations or works necessitating the crossing of a footpath with vehicles that may cause damage to the footpath or verge, must ensure that—
  - (a) all reasonable precautions are taken to prevent damage to the footpath or verge during the course of the works; and
  - (b) heavy vehicles that access the private property, are to cross the footpath at the designated area for the proposed vehicle crossing.
- (3) If a person fails to comply with subclause 7.5(1) or 7.5(2) and a footpath or verge is damaged during works undertaken on private property or works within the road reserve, the local government or an authorised person may by written notice to that person, require that person within the time stated in the notice, to pay the costs of reinstating or repairing the footpath or verge.
- (4) On a failure to comply with a notice issued under subclause 7.5(3), the local government may recover the costs referred to in the notice as a debt due to it.

**7.6 Liability for damage to thoroughfare**

- (1) Where a person unlawfully damages a thoroughfare or any thing belonging to or under the care, control or management of the local government that is on a thoroughfare, the local government may by written notice to that person require that person within the time stated in the notice to, at the option of the local government, pay the costs of—
  - (a) reinstating the thoroughfare or thing to the state it was in prior to the occurrence of the damage; or
  - (b) replacing that thing.
- (2) On a failure to comply with a notice issued under subclause 7.6(1), the local government may recover the costs referred to in the notice as a debt due to it.

## **7.7 Street Tree Protection**

- (1) The owner, occupier, licensee or contractor who undertakes works on a private property adjacent to a street tree, must—
  - (a) take all necessary precautions to ensure that the street tree is protected and not damaged during the course of the works;
  - (b) provide a tree protection zone around the trunk of the tree comprising of temporary fixed barricade/fencing, measuring from the trunk of the tree, of at least 2m by 2m (preferably with appropriate signage), erected around the tree to protect the root zone and tree during the construction works;
  - (c) not place or store any building materials, building rubble and/or debris against the tree protection barricade or within the tree protection zone;
  - (d) ensure clear access to the tree is maintained at all times to enable the local government to access the tree for watering or carry out any works to the tree as required; and
  - (e) notify the local government of any existing damage to the street tree or if the tree becomes damaged.
- (2) Any person who causes damage to a street tree must pay the costs of the local government to carry out remedial works or to replace the street tree.
- (3) Any person who causes significant damage to a street tree or its destruction, commits an offence.
- (4) In instances where a tree is assessed by the local government as being significant in size, the barricade around the tree may need to be a greater distance from the tree trunk and this will be determined by the local government or an authorised person.

### **2.21 Part 7, Division 3 amended**

In Part 7, Division 3 (formerly Division 2):

- (a) insert new clause 7.8 and renumber remaining clauses accordingly:

*Division 3—Vehicle crossings*

**7.8 Vehicle crossings**

The owner or occupier of land adjacent to a thoroughfare may install a vehicle crossing in accordance with the *Local Government (Uniform Local Provisions) Regulations 1996* and the local government's vehicle crossing specifications, as varied from time to time.

- (b) in clause 7.9(1) (formerly clause 7.4(1)):

- (i) after the word "drains" insert a comma and delete the word "and"; and
- (ii) after the word "footpath" insert the words "and street trees"; and

- (c) in clause 7.9(2) (formerly clause 7.4(2)) replace the words "clause 7.4(1)" with "clause 7.9(1)".

**2.22 Part 7, Division 4 amended**

In Part 7, delete Division 4 (formerly Division 3) and insert:

*Division 4—Verge treatments*

**7.11 Permissible verge treatments**

- (1) An owner or occupier of land which abuts a verge may, on that part of the verge, install a permissible verge treatment comprising—
- (a) the planting and maintenance of a natural lawn that is not made of synthetic grass;
  - (b) the planting and maintenance of a garden provided that—
    - (i) it contains no plant or other vegetation of a thorny or poisonous nature or may otherwise create a hazard;
    - (ii) a clear and unobstructed pedestrian access of at least 2 metres is maintained along that part of the verge where no footpath exists;
    - (iii) it does not include a wall or built structure; and
  - (c) unobstructed access around signs, letterboxes, water meters, telecommunication pits, fire hydrants and manhole covers be maintained;
  - (d) the installation of an acceptable material;
  - (e) a combination of subclause 7.11(a), 7.11(b), and 7.11(c), provided that no more than 50% of the verge area (including any approved footpath and/or vehicle crossing) is covered with an acceptable material; or
  - (f) other treatment approved by the local government in writing.

- (2) In this clause **acceptable material** means any material that creates an impervious or semi-permeable surface, and which appears on a list of acceptable materials approved by the local government.
- (3) The local government may approve a greater proportion of acceptable material where the verge is less than 1.5 metres wide (excluding footpath) and it is not possible to maintain a natural lawn or garden.
- (4) Any street tree planted on a verge must be of a species approved by the local government or an authorised person.
- (5) The local government or an authorised person may by written notice, require a verge to be altered if shedding of stormwater or flooding is likely to cause a nuisance to neighbours or users of a thoroughfare.

#### **7.12 Only permissible verge treatments be installed**

- (1) A person must not install or maintain a verge treatment which is not a permissible verge treatment.
- (2) The owner and occupier of the land abutting on a verge treatment referred to in subclause 7.12(1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 7.13.

#### **7.13 Obligations of owner or occupier**

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

- (a) ensure that clear sight visibility is maintained at all times for pedestrians, cyclists and motorists using the abutting street or using a driveway on land adjacent to the street for access to and from the street;
- (b) ensure that the verge treatment does not cause injury to any person or damage or obstruct any street, pavement, kerb, drain, footpath, crossing of any pipe or cable, or tree planted by the local government and make good at such owner's or occupier's expense all such damage caused;
- (c) keep the verge treatment in good and tidy condition and ensure where the verge treatment is a garden or a lawn, that any accessway, footpath or thoroughfare adjoining the verge are not obstructed by the verge treatment;
- (d) not place or allow to remain any object, structure or material on or within the verge treatment area that obstructs access;
- (e) unless authorised by the local government or an authorised person, ensure the level and grade of a verge remains consistent with the surrounding levels to prevent hazards;

- (f) not water or maintain a verge treatment in such a manner as to cause a nuisance or hazard to any person, particularly any person using any street, footpath, or access way adjoining the verge; and
- (g) ensure that any hardstand area is not used to provide formal verge parking, unless approved in writing by the local government.

#### **7.14 Notice to owner or occupier**

- (1) The local government or authorised person may give a notice in writing to an owner or occupier of land abutting a verge, to make good any breach or remove all or any part of a verge treatment that does not comply with this Part, within the time specified in the notice.
- (2) If the owner or occupier does not comply with a notice issued in accordance with clause 7.14(1), the local government may carry out any works to make good any breach of this local law.

#### **7.15 Powers to carry out public works**

- (1) For the purposes of carrying out any works, the local government or any other authority empowered by law to dig up or carry out any other works on a street may, without notice and without being liable to compensate any person—
  - (a) dig up all or any part of a street; or
  - (b) disturb any verge treatment placed there by an owner or occupier of the adjacent land.
- (2) Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority—
  - (a) is not liable to compensate any person for that disturbance;
  - (b) may backfill with sand, if necessary, any garden or lawn; and
  - (c) is not liable to replace or restore any—
    - (i) verge treatment and, in particular, any hardstand, plant or any other acceptable material; or
    - (ii) sprinklers, pipes or other reticulation equipment.

#### **7.16 Transitional**

- (1) In this clause, **former provisions** mean the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.
- (2) A verge treatment which—
  - (a) was installed prior to the commencement day; and

(b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions,  
is to be taken to be a permissible verge treatment under this local law for so long as the verge treatment remains of the same type and continues to comply with the former provisions.

### **2.23 Division 5 amended**

In Part 7, Division 5 (formerly Division 4):

- (a) delete the word “Property” in the division title and insert the word “Street”;
- (b) in clause 7.17(1) (formerly 7.10(1)) replace the word “shall” with “may”;
- (c) in clause 7.18(2) (formerly 7.11(1)) replace the words “clause 7.11(1)” with “clause 7.18(1)”;  
and
- (d) in clause 7.19 (formerly 7.12) replace the word “shall” in subclauses (1) and (2) with “must”.

### **2.24 Part 7, Division 6 amended**

In Part 7, Division 6 (formerly Division 5) after clause 7.20 (formerly clause 7.13) insert new clause 7.21:

#### **7.21 Temporary fencing**

- (1) A person responsible for the works on a lot that adjoins or impacts a public place, waterway, or local government property may be required by a notice given by the local government or an authorised person to install temporary fencing, to the reasonable satisfaction of the local government, for the purpose of protecting and conserving the environment or ensuring public safety.
- (2) A person who fails to comply with a requirement under clause 7.21(1) commits an offence.

### **2.25 Part 7, Division 7 amended**

In Part 7, Division 7 (formerly Division 6):

- (a) in subclauses 7.22(2) and 7.22(3) (formerly 7.14(2) & 7.14(3)) delete all references to “clause 7.14(1)” and insert the words “clause 7.22(1)”;
- (b) in clause 7.23 (formerly 7.15) delete the words “clause 7.14” and insert the words “clause 7.22”.

### **2.26 Part 8 amended**

Part 8 is amended:

- (a) in clause 8.2:

- (i) delete subclause (2)(e) and insert:
    - “(e) on—
    - (i) the Mandurah Estuary Bridge on Mandurah Road;
    - (ii) the Old Mandurah Bridge, or its replacement;
    - (iii) all fencing on the intersection of Mandurah Terrace and Pinjarra Road;
    - (iv) all fencing on the corner of Pinjarra Road and Sutton Street; or
    - (v) on any pedestrian overpass bridges in the district;”;
  - (ii) in subclause (2)(f) delete the words “in the opinion of” and insert the words “or authorised person is satisfied that” after the words “local government”;
  - (iii) after subclause (2)(f)(iii) delete the full stop and insert “; or”; and
  - (iv) insert new subclause (2)(g) inserting the words “by affixing with metal star pickets.”;
- (b) in clause 8.3:
- (i) in subclause (3)(g)(i) delete the word “or” at the end of the clause and insert at the end of subclause (3)(g)(ii);
  - (ii) insert a new subclause (g)(iii) with the words “is not secured in position in accordance with the requirements of the local government.”;
  - (iii) in subclause (3)(j) delete the word “long” and insert the words “in length”; and
  - (iv) in subclause (4) insert the words “or authorised person” after the first occurrence of the words “local government”;
- (c) in clause 8.4(2)(f) replace the word “crossover” with “crossing”;
- (d) in clause 8.5:
- (i) in subclause 2 delete the words “clause 8.7” and insert “clause 8.6” and delete the word “shall” replace with “must”;
  - (ii) in subclause 2(l) delete the word “crossover” and replace with “crossing”; and
  - (iii) in subclause (4)(a) delete the words “\$10 million” and replace with “\$20 million (twenty million dollars).”;
- (e) delete clause 8.6 and renumber remaining clauses accordingly;
- (f) in clause 8.6 (formerly 8.7):
- (i) delete subclause (2)(a) and replace with the words “being erected at least 50m from any intersection, roundabout or traffic sign”;
  - (ii) insert new subclause (2)(b) with the words “having a display area less than 4.5 square metres.”; and
  - (iii) insert new subclause (2)(c) with the words “not being placed with the leading edge of the sign closer than 3.5 metres to the trafficable path of vehicles” and renumber the remaining clauses accordingly;
- (g) after newly numbered clause 8.7 (formerly clause 8.8) insert new clause 8.8 as follows:

## **8.8 Removal of sign for works**

When directed to do so by an authorised person, a person who has displayed a sign on local government property or a public place will ensure that the sign is removed to permit any authorised work to be carried out.

(h) in clause 8.9, replace the word “shall” with “must”; and

(i) delete clause 8.11.

### **2.27 Part 9, Division 1 amended**

In Part 9, Division 1:

(a) in clause 9.1(1) place a comma and insert the words “cat or dog” after the word “animal”;

(b) in clause 9.1 insert new subclause (2):

“(2) A person does not contravene subclause 9.1(1) where the animal is secured or tethered for a period not exceeding 1 hour.”; and

(c) in clause 9.3:

(i) insert the words “remove or” before the word “impound”; and

(ii) after the words “clause 9.1” insert the words “in accordance with Subdivision 4 of Division 3 of Part 3 of the Act and regulation 29 of the Regulations.”

### **2.28 Part 9, Division 2 amended**

In clause 9.4 of Part 9, Division 2:

(a) Insert new subclause (2) as follows:

“(2) Any vehicle left in contravention of clause 9.4(1) may be removed, impounded or disposed of by an authorised person in accordance with Subdivision 4 of Division 3 of Part 3 of the Act and regulation 29 of the Regulations.”

### **2.29 Part 9, Division 3 amended**

In Part 9, Division 3:

(a) in clause 9.5 replace the word “shall” with “must”;

(b) in clause 9.6 replace the word “shall” with “must”;

(c) in clause 9.8 insert the words “at the nearest location.” after the last reference to “shopping trolley”; and

(d) delete clauses 9.9 to 9.11 and insert the following:

#### **9.9 Shopping trolley to be removed by retailer**

- (1) If a shopping trolley is found abandoned on local government property, in a public place, and in contravention of this Part, the local government or authorised person may advise a retailer whose name is marked on the shopping trolley, verbally or in writing of its location.
- (2) A retailer must remove the shopping trolley within 24 hours of being advised.

#### **9.10 Impounding of abandoned shopping trolley**

- (1) Subject to the provisions of the Act and regulation 29 of the Regulations, the local government or authorised person may remove, impound or dispose of any shopping trolley that is—
  - (a) left on a thoroughfare, verge, beach, natural area, waterway or any local government property or public place that is found to be abandoned in accordance with clause 9.7; and
  - (b) marked in accordance with clause 9.5.
- (2) A retailer must pay any fees for removing and impounding abandoned shopping trolleys of the retailer within the period specified by the local government.

#### **9.11 Retailer to be notified**

The retailer must be notified in writing prior to the disposal of a shopping trolley of the retailer.

### **2.30 Part 10, Division 1 amended**

In Part 10, Division 1:

- (a) in clause 10.1 delete the title of the clause and replace with “**Trading and street market permits**”;
- (b) in clause 10.1 after the word “trading” insert the words “or conduct a street market”;
- (c) in clause 10.1(1)(a) insert the word “valid” before the word “permit” in subclauses (1)(a)(i) and (1)(a)(ii);
- (d) in clause 10.1(1)(b) insert the words “or street market” after the words “trading activity” and delete the word “and” at the end of the subclause and replace with a full stop;
- (e) delete subclause 10.1(1)(c);
- (f) in clause 10.2(1), after the first reference to “trading” delete the words “on the application” and insert the words “on making an application”; and
- (g) delete clauses 10.3 and 10.4 and insert new clause 10.3 as follows:

#### **10.3 Obligations of traders and street markets**

A trader or person conducting a street market must not—

- (a) deposit, place or store any goods or equipment on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
- (b) 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 the area specified in any permit;
- (c) fail to maintain a clear pedestrian access area of at least 2 metres in width adjacent to a building frontage, to provide for consistent unobstructed pedestrian access; or
- (d) carry on trading from a public place unless there is adequate parking for customers' vehicles reasonably close to the place of trading.

### **2.31 Part 10, Division 2 amended**

In Part 10, delete Division 2 and insert:

#### *Division 2—Street entertaining*

##### **10.4 When a permit is required for street entertaining**

A person must not perform on or in local government property or a public place without a permit for the purpose of street entertaining.

##### **10.5 Cancellation of a permit for street entertaining**

The local government or an authorised person may cancel a permit for street entertaining if the local government or authorised person is satisfied that—

- (a) the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons or businesses in a public place; or
- (b) the performance otherwise constitutes a nuisance.

##### **10.6 Obligations of a permit for street entertaining**

- (1) A person holding a permit for street entertaining must not, except with the written approval of the local government, in a public place or on local government property—
  - (a) use or fire any weapon or object with sharp edges;
  - (b) perform any act that endangers the safety of the public;
  - (c) perform in public places so as to unduly interfere with vehicular or pedestrian traffic, public amenities or cause undue obstruction to others;
  - (d) perform any act of cruelty to an animal, cat or dog;
  - (e) have more than 4 people perform, unless otherwise authorised by the permit;

- (f) unless otherwise authorised by the permit, allow any person under the age of 14 years to perform—
    - (i) during school hours on school days; and
    - (ii) between 7.00pm and 6.00am;
  - (g) sell or permit the sale of any music tapes, recordings, compact discs or merchandise unless authorised by the local government;
  - (h) act in an offensive or obscene manner; or
  - (i) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier—
    - (i) other than in the permitted area; and
    - (ii) unless the musical instrument or device is specified in the permit.
- (2) A person who performs in a public place or on local government property must comply with directions issued by an authorised officer, if the authorised officer is satisfied that—
- (a) the street entertaining is causing a nuisance;
  - (b) the noise level is too high;
  - (c) the safety of the public or the person performing is compromised;
  - (d) the person performing has failed to keep their site safe and clean while working;  
or
  - (e) the person performing is interfering in any way with an approved event or activity.
- (3) A person may be prohibited from performing in a public place in the district by a written notice from an authorised person.

### **2.32 Part 11 amended**

Part 11 is amended:

- (a) in clause 11.2 amend subclause (e) insert the words “including lighting” after the word “equipment”;
- (b) in clause 11.3:
  - (i) insert new subclause and renumber accordingly:  
“(1)(c) maintain a clear pedestrian access area of at least 2 metres in width adjacent to the building frontage, to provide for consistent unobstructed pedestrian access;” and
  - (ii) in subclause (1)(e) (formerly (1)(d) replace the word “shall” with “must”; and
- (c) in clause 11.5(b) replace the word “shall” with “must” and delete the words “a tobacco product” after the word “smoke”.

### **2.33 Part 12, Division 1 amended**

In Part 12, Division 1:

(a) delete clause 12.1 and insert:

#### **12.1 Application for a permit**

- (1) A person who is required to obtain a permit under this local law must apply for the permit in accordance with clause 12.1(2).
- (2) An application for a permit under this local law must—
  - (a) be in the form determined by the local government;
  - (b) state the full name and address of the applicant;
  - (c) be signed by the applicant;
  - (d) in the case of an application for a permit for an alfresco dining area, be signed by the proprietor of the abutting food business adjacent to the portion of the local government property or public place to which the application relates;
  - (e) contain the information required by the form;
  - (f) contain any other information required for that particular type of permit under this local law; and
  - (g) be forwarded to the local government together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) An application for a permit for the purposes of conducting trading or a street market on or in local government property or a public place must contain the following additional information (as applicable)—
  - (a) details of any location in which the applicant proposes to trade or conduct a street market;
  - (b) the period of time for which the permit is sought, together with the proposed days and hours of operation of the street market;
  - (c) the proposed goods and services which will be traded, sold, hired or offered for sale or hire by the trader or at a street market;
  - (d) details regarding public liability insurance held by applicant; and
  - (e) details of any proposed structure, stall or vehicle which may be used in conducting the trading or street market and a plan showing where any such structure, stall or vehicle will be located.
- (4) An application for a permit for the purposes of a street entertaining must contain the following additional information (as applicable)—

- (a) details of any location in which the applicant proposes to perform; and
  - (b) the period of time for which the permit is sought.
- (5) An application for a permit for the purposes of an alfresco dining area must contain the following additional information—
- (a) two copies of a plan and specifications of the proposed alfresco dining area on a scale of 1:50 showing—
    - (i) the location and dimensions of the proposed alfresco dining area including any footpath and the means by which the alfresco dining area is to be separated from the balance of the local government property or public place; and
    - (ii) the position of all tables, chairs and other structures proposed to be provided in the alfresco dining area including proximity to footpath and which of such items, if any, are to be retained within the alfresco dining area at all times;
  - (b) a colour photograph(s) or brochure(s) of the tables, chairs and other structures to be set up in the alfresco dining area;
  - (c) a description of the manner in which foodstuffs and other dining accessories are to be conveyed to, and protected from contamination within, the alfresco dining area;
  - (d) details regarding the public liability insurance taken out or to be taken out by the applicant in respect of the alfresco dining area; and
  - (e) be signed by the proprietor of the abutting food business adjacent to the portion of the local government property or public place to which the application relates.
- (6) Before determining an application for a permit, the local government or an authorised person may require the applicant to provide additional information reasonably related to the application.
- (7) If the local government or an authorised person makes a request under subclause 12.1(6) the local government or authorised person does not have to consider the application, or consider it further, until the request is complied with.
- (8) The local government may refuse to consider an application for a permit which does not satisfy the requirements within clause 12.1(2).
- (9) The local government may require an applicant to give local public notice of the application for the permit.
- (b) in clause 12.2:
- (i) amend subclause (1)(a) by inserting the words “unconditionally or subject to conditions; or” after the word “permit”; and

- (ii) delete subclause (1)(b) and renumber accordingly;
- (c) in clause 12.3:
  - (i) in subclause (1)(e) delete the word “considers” after the words “local government” and insert word “may consider”; and
  - (ii) delete subclause 2(c) and replace with the words “the applicant is not a fit and proper person to carry on the activity”.

### **2.34 Part 12, Division 2 amended**

In Part 12, delete Division 2 and insert:

#### *Division 2—Conditions on a permit*

##### **12.4 Examples of conditions**

The local government may impose conditions on a permit relating to—

- (a) the payment of a fee;
- (b) compliance with a standard or a policy of the local government adopted by the local government;
- (c) the duration and commencement of the permit, including the days and hours within which the activity the subject of the permit may be carried out or is prohibited;
- (d) the commencement of the permit being contingent on the happening of an event;
- (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (f) the area or specific location within the district to which the permit applies, including any set back distances applicable to the activity;
- (g) the payment of a bond against possible damage, cleaning or other expenses;
- (h) the obtaining of public liability insurance in an amount and on terms reasonably required by the local government;
- (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 or local government property by the permit holder;
- (j) any prohibition or restriction concerning the—
  - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
  - (ii) the use of amplifiers, sound equipment and sound instruments;
  - (iii) the use of any lighting apparatus or device; or

- (i) the use of signs;
- (k) if the permit relates to the trading of food, the provisions to be made for the storage of cooked and uncooked food, and the storage and disposal of waste water;
- (l) the designation of any place where trading is wholly or from time to time prohibited by the local government; and
- (m) any other matter that the local government considers fit or appropriate.

### **12.5 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 12.2(1)(a).

- (2) Under this Part 12, the local government may approve an application subject to conditions by reference to a policy.
- (3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 12.2(2).
- (4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

### **12.6 Compliance with terms and conditions of permit**

A permit holder must comply with any terms and conditions imposed on a permit, including any conditions as varied.

## **2.35 Part 12, Division 3 amended**

In Part 12, delete Division 3 and insert:

### *Division 3—General*

#### **12.7 Duration of permit**

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

- (a) otherwise stated in this local law or in the terms and conditions of the permit; or
- (b) suspended or cancelled under clause 12.12.

### **12.8 Renewal of permit**

- (1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of a permit.
- (2) The provisions of—
  - (a) this Part 12 regarding an application for a permit; or
  - (b) any other provision of this local law relevant to the permit which is to be renewed,apply to an application for the renewal of a permit with any necessary modifications.

### **12.9 Variation of permit**

- (1) The local government may by notice in writing to a person holding a permit vary a condition of the permit.
- (2) The local government or an authorised person may direct a holder of a permit to move from one permitted area to another permitted area if more than one area is specified in the permit.
- (3) A permit holder may apply to the local government to vary or remove any conditions imposed on a permit.
- (4) In determining whether to vary any condition imposed on a permit, the local government will have due regard to any relevant local government policy.

### **12.10 Transfer of permit**

- (1) An application may be made to the local government to transfer a valid permit.
- (2) An application to transfer a permit must—
  - (a) be made in writing;
  - (b) be signed by the permit holder and the proposed transferee for the permit;
  - (c) provide such information as the local government may require to enable the application to be determined; and
  - (d) be forwarded to the local government together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may—
  - (a) approve an application for the transfer of a permit;
  - (b) approve an application for the transfer of a permit subject to conditions; or
  - (c) refuse an application to transfer a permit.
- (4) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—
  - (a) an endorsement on the permit signed by the CEO or an authorised person; or

- (b) issuing to the transferee a permit in the form determined by the local government.
- (5) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.
- (6) Alfresco dining permits are non-transferable.

#### **12.11 Production of permit**

A permit holder must produce to an authorised person his or her permit immediately on being directed to do so by that authorised person.

#### **12.12 Cancellation or suspension of permit**

- (1) Subject to clause 13.1, a permit may be suspended or cancelled by the local government if—
  - (a) the permit was improperly obtained;
  - (b) the permit holder has not complied with a condition of the permit;
  - (c) the permit holder has not complied with a provision of any written law which relates to the activity regulated by the permit;
  - (d) the activity regulated by the permit constitutes or will constitute an unacceptable risk to the safety of the public;
  - (e) the local government has approved an event in or near the place to which the permit applies;
  - (f) the local government or a utility requires access to or near the place to which the permit applies for the purposes of carrying out works in or near the vicinity of that place;
  - (g) the permit holder has transferred or assigned or sought to transfer or assign the permit without the approval of the local government; or
  - (h) a law is amended or repealed in a manner which is inconsistent with the terms and conditions of the permit and which renders the permit invalid, ineffective or contrary to law.
- (2) If a permit is cancelled under clause 12.12(1), the permit holder—
  - (a) must return the permit to the local government as soon as practicable; and
  - (b) is to be taken to have forfeited any fees paid in respect of the permit.
- (3) On the cancellation or suspension of a permit under clause 12.12(1)(f), the permit holder is, subject to clause 12.12(4), to be taken to have forfeited any fees paid in respect of the permit.
- (4) Where a permit is cancelled or suspended under clause 12.12(1)(f) through no fault of the permit holder, the local government may refund to the permit holder all or part of

the fees paid in respect of what would otherwise have been the remaining term of the permit.

### **12.13 Nominee of permit holder**

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 the 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 apply to the nominee as if they were the permit holder.

### **12.14 Public liability insurance**

Where, as a condition of a permit, the permit holder is required to obtain and maintain a public liability insurance policy, the permit holder must—

- (a) effect and maintain a policy of insurance in the name of the permit holder in respect to any injury to any person or any damage to any property which may occur in connection with the use of the local government property by the permit holder;
- (b) ensure that any policy of insurance referred to in subclause 12.14(1)(a) indemnifies 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 local government property by the permit holder;
- (c) effect and maintain the policy of insurance referred to in subclause 12.14(1)(a) for the duration of the permit;
- (d) immediately notify the local government if the policy of insurance cover lapses, in which case the permit may be cancelled by the local government in accordance with clause 12.12;
- (e) at any time requested by the local government, provide the local government with a certificate of currency confirming that public liability insurance cover is in place;
- (f) ensure that, as a minimum, the permit holder's public liability insurance policy provides coverage of \$20 million (twenty million dollars), or such other amount as the local government considers appropriate to the risk and liability involved in the activity authorised by the permit;
- (g) upon the request of the local government (in its absolute discretion), increase the minimum value of coverage at the public liability insurance policy renewal date; and

- (h) ensure that the public liability insurer of the permit holder is a reputable insurer licensed to conduct insurance business in Australia in accordance with the guidelines issued by the Australian Prudential Regulatory Authority.

### **12.15 Production of certificate of insurance**

If the permit holder is required by the local government to hold public liability insurance as a condition of the permit, a permit holder must produce to an authorised person a current certificate of insurance upon the direction of that authorised person.

### **2.36 Part 13 amended**

In Part 13, amend clause 13.1:

- (a) in subclause (a) delete the word “consent” and insert the word “approval”; and
- (b) delete subclause (b) and insert the words “renew, vary, transfer, suspend or cancel a permit or approval that a person has under this local law,”.

### **2.37 Part 14, Division 1 amended**

In Part 14, Division 1 amend clause 14.2 by deleting the words “he or she” and insert the words “the authorised person”.

### **2.38 Part 14, Division 2 amended**

In Part 14, Division 2:

- (a) in clause 14.3(1) insert the words “or an authorised person” before the words “may by notice”; and
- (b) in clause 14.7(1) insert the words “or an authorised person” after the words “local government”.

### **2.39 Part 14, Division 3 amended**

In Part 14, Division 3 delete clause 14.8 and insert:

#### **14.8 Lost property and unclaimed property in a locker**

- (1) A person who finds an article which may have been left on or lost by another person on local government property must immediately deliver that article to a manager, attendant or other employee of the local government.
- (2) If an article in a locker is not claimed or collected at the expiry of the period of hire or before the close of operations of the local government property or public place on the date of hire, the article may be removed by an attendant or authorised person.

- (3) In respect of any article removed from a locker or otherwise left on local government property, an authorised person, manager or attendant must record in the unclaimed property register—
  - (a) a description of the relevant article;
  - (b) the time and date when the article was removed from the locker or identified; and
  - (c) if an original receipt exists in respect of the hire of the locker, the time and date recorded on that original receipt.
- (4) An authorised person, manager or attendant must ensure that an article removed from the locker or otherwise left on local government property is stored at a place for storing lost property determined by the local government.
- (5) An authorised person, manager or attendant may deliver to a person an article recorded in the unclaimed property register provided that the attendant or authorised person has received—
  - (a) satisfactory evidence of the person's right to obtain the article;
  - (b) an accurate description of the article being claimed; and
  - (c) payment of any outstanding fees or storage charges.
- (6) A person who receives delivery of an article from the unclaimed property register must, by way of acknowledging receipt of the article, write his or her name and address and sign his or her name in the unclaimed property register.
- (7) An article left on any local government property, that is not claimed or collected within a period of 1 month may be disposed of by the CEO or an authorised person—
  - (a) if the value of the property is reasonably believed to have a realisable value more than 1% of the amount prescribed by regulation 30(3) of the Regulations but not exceeding the amount prescribed, by handing the property to the Western Australian Police Force; or
  - (b) if the property is reasonably believed to be of less value than that the value in clause 14.8(7)(a)—
    - (i) by donation to a not for profit body incorporated under the Associations Incorporations Act 2015; or
    - (ii) if unlikely to be of interest to a not for profit body, in any manner determined by the CEO or an authorised person.
- (8) Adequate records must be kept by the local government of any articles of lost property disposed of pursuant to subclause 14.8(7).

- (9) This clause will not apply where a local government considers an item left on local government property or a public place to be, in its absolute discretion, suspicious or dangerous.

#### 2.40 Part 15, Division 2 amended

In Part 15, Division 2 delete clause 15.3(2)(a) and insert the words “a penalty not exceeding \$10,000; and”.

#### 2.41 Schedule 1 – Prescribed Offences

Delete the table in Schedule 1 and insert:

ITEM NO.	CLAUSE	DESCRIPTION	MODIFIED PENALTY
1.	2.4	Failure to comply with a determination	\$300
2.	3.1(1)	Carrying out an activity without a permit	\$300
3.	3.2	Consuming or possessing liquor on local government property contrary to the local law	\$300
4.	3.5	Failure of permit holder to comply with responsibilities	\$300
5.	4.1	Unauthorised entry to local government property	\$300
6.	4.2(1)	Entering local government without paying the required fee	\$300
7.	4.3	Failure to comply with a direction to leave local government property	\$300
8.	5.1	Behaviour on local government property or public place which interferes with others	\$500
9.	5.2	Behaviour on local government property or public place detrimental to property	\$500
10.	5.3	Prohibited behaviour at major event	\$300
11.	5.4	Taking or injuring any fauna on local government property	\$500
12.	5.5	Removing, damaging or depositing flora on local government property without authorisation	\$300
13.	5.6	Entering or remaining on local government property while drunk	\$500
14.	5.7	Taking or consuming a prohibited drug on local government property	\$500
15.	5.8(1)	Smoking within a 5 metre radius of an entrance, exit or aperture of premises on local government property	\$300
16.	5.8(2)	Using a vaping device in an area on local government property where smoking is restricted	\$300
17.	5.8(3)	Failing to comply with a direction to cease smoking or vaping given by an authorised person	\$300
18.	5.9(1)(a)	Failing to wear adequate clothing to prevent indecent exposure on local government property	\$300
19.	5.9(1)(b)	Loitering outside or acting in an inappropriate manner in a toilet block or change room facility on local government property	\$300
20.	5.9(1)(c)	Entering or attempting to enter an occupied toilet or other compartment without the consent of the occupier	\$300
21.	5.9(2)	Failing to comply with a direction to put on adequate clothing	\$300
22.	5.10(2)	Failure to comply with a sign on local government property regarding conditions of use	\$300
23.	6.1	Carrying out a prohibited activity at a community facility	\$300
24.	6.5(1)	Conducting a controlled swimming or other sporting event, or carnival or competition without consent at a community facility	\$300
25.	6.6	Carrying out a prohibited activity at a beach or foreshore	\$300

26.	6.7	Failing to comply with a sign or direction at a beach	\$500
27.	6.8(1)(b)	Interfering with, damaging, or altering the natural structure or vegetation of a sand dune set aside by signs or fencing	\$300
28.	6.8(2)(a)	Remove, tamper or damage any sign, fence or structure or thing placed by the local government to protect a sand dune or manage public access to it	\$300
29.	6.8(2)(b)	Entering a restricted sand dune area by scaling, crawling beneath, or passing through a fence or gate installed to prevent entry	\$300
30.	6.9	Driving or operating an off-road vehicle on a beach or foreshore area	\$500
31.	6.10(2)	Falsely giving the appearance of a member of a surf lifesaving patrol	\$300
32.	6.12(1)(a)	Fishing in an area where fishing is prohibited and designated by signs	\$300
33.	6.12(1)(b)	Fishing in an area set aside as a designated swimming area	\$300
34.	6.12(2)(a)	Cleaning fish or disposing of fish waste within 10 metres of a designated swimming area in a manner that may cause a nuisance	\$300
35.	6.12(2)(b)	Cutting bait within 10 metres of a designated swimming area in a manner that may cause a nuisance	\$300
36.	6.12(3)	Fishing in an area designated for use by a person with a disability when a person with a disability wishes to use that area	\$300
37.	6.13(1)	Launching a boat from a prohibited area	\$300
38.	6.13(2)	Launching a personal watercraft in a prohibited area	\$300
39.	6.14	Unauthorised entry to fenced off or closed local government property or fenced thoroughfare	\$300
40.	6.15(1)	Gender not specified using entry of toilet block or change room on local government property	\$300
41.	6.16(2)	Storing a prohibited item in a locker on local government property	\$300
42.	6.18	Using a shower in a prohibited manner	\$300
43.	6.19	Using a camera device to record or transmit an image in a toilet, shower or change room	\$500
44.	7.1(a)	Planting a plant on a thoroughfare in a prohibited manner	\$300
45.	7.1(b)	Damaging a lawn or garden or removing any plant or part of a plant on or in a public place	\$300
46.	7.1(c)	Repairing or servicing any vehicle on a verge	\$300
47.	7.1(d)	Placing, allowing to be placed or allowing to remain on a thoroughfare or verge an obstructive or hazardous thing	\$500
48.	7.1(e)	Causing or permitting water from a hose or sprinkler to interfere with the use of any street, way or footpath by pedestrians	\$300
49.	7.1(f)	Playing games or sport in a prohibited manner on or in a thoroughfare	\$300
50.	7.1(g)	Riding a bicycle, electric rideable device, electric personal transporter, wheeled recreational device, or similar device within a mall, arcade or verandah of a shopping centre	\$300
51.	7.2(1)(a)	Digging or creating a trench through or under a kerb or footpath without a permit	\$300
52.	7.2(1)(b)	Damaging or removing a street tree without a permit	\$500
53.	7.2(1)(c)	Throwing, placing or depositing any thing on a verge without a permit	\$300
54.	7.2(1)(d)	Damaging, removing or interfering with a thoroughfare, kerb, footpath or structure or sign erected on a thoroughfare without a permit	\$1000
55.	7.2(1)(e)	Causing an obstruction to a thoroughfare without a permit	\$500
56.	7.2(1)(f)	Causing an obstruction to a water channel or a water course in a thoroughfare without a permit	\$300
57.	7.2(1)(g)	Lighting a fire or burning any thing on a thoroughfare or verge without a permit	\$1000
58.	7.2(1)(h)(i)	Laying pipes under or providing taps on any verge without a permit	\$300
59.	7.2(1)(h)(ii)	Placing or installing prohibited materials on a thoroughfare without a permit	\$300
60.	7.2(1)(i)	Providing, erecting, installing or using a hoist or other thing for use over a thoroughfare without a permit	\$300
61.	7.2(1)(j)	Interfering with the soil of or anything in a thoroughfare or taking anything from a thoroughfare without a permit	\$300
62.	7.2(1)(k)	Driving any vehicle over or across a kerb or footpath except at a vehicle crossing without a permit	\$300

63.	7.2(1)(l)	Driving a vehicle or permitting a vehicle to be driven across a kerb or footpath without a permit	\$300
64.	7.2(1)(m)	Driving or taking a vehicle on a closed thoroughfare without a permit	\$300
65.	7.4	Damaging a thoroughfare or anything belonging to or under the care control or management of the local government that is on a thoroughfare	\$500
66.	7.5 (1)(a)	Failing to take reasonable precautions to prevent damage to footpath or verge	\$500
67.	7.5 (1)(b)	Failing to ensure footpath remains in a safe and functioning state suitable for use by the public	\$500
68.	7.5(1)(c)	Failing to notify local government of existing footpath damage prior to commencement of works	\$300
69.	7.5(2)(a)	Failing to take reasonable precautions to prevent damage to footpath or verge	\$500
70.	7.7(1)(a)	Failing to take reasonable precautions to ensure that the street tree is protected and not damaged during the course of works	\$500
71.	7.7(1)(b)	Failing to provide a tree protection zone comprising of a temporary barricade/fencing to protect a street tree during the construction works	\$300
72.	7.7(1)(c)	Placing and storing of any building materials, building rubble and/or debris against the tree protection barricade or within the tree protection zone	\$300
73.	7.7(1)(d)	Failure to ensure clear access is maintained at all times around a street tree to enable a local government to water the tree or carry out works	\$300
74.	7.7(1)(e)	Failing to notify local government of existing damage to a street tree prior to commencement of works	\$300
75.	7.7(3)	Causing significant damage to a street tree or causing its destruction	\$500
76.	7.9(1)	Failure to obtain a permit for a temporary vehicle crossing	\$300
77.	7.12(1)	Installing or maintaining a verge treatment which is not a permissible verge treatment	\$500
78.	7.13(1)(a)	Failing to ensure clear sight visibility is maintained at all times	\$500
79.	7.13(1)(b)	Failing to repair and make good any damage to the verge treatment	\$500
80.	7.13(1)(c)	Failing to keep verge treatment in good and tidy condition and avoid obstruction of any sort to any accessway, footpath or thoroughfare	\$300
81.	7.13(1)(d)	Place or allow to remain any object, structure or material on or within the verge treatment area that obstructs access	\$300
82.	7.13(1)(e)	Failing to ensure the level and grade of the verge remains consistent with surrounding levels to prevent hazard	\$500
83.	7.13(1)(f)	Water or maintain a verge treatment so as to cause a nuisance or a hazard to any person	\$300
84.	7.18(1)	Failure to properly display and maintain street number	\$300
85.	7.19(1)	Placing or display a street number in a location causing confusion or which is misleading	\$300
86.	7.19(2)	Adopting, using or displaying a street number other than the street number assigned.	\$300
87.	7.21(2)	Failure to comply with a notice to install temporary fencing	\$300
88.	7.22(2)	Failure to comply with a sign on a public place	\$300
89.	8.2(1)	Erecting or placing etc. any advertising sign contrary to the local law	\$500
90.	8.3(2)	Erecting or displaying a public interest sign without a permit	\$300
91.	8.3(3)	Permit holder erecting or displaying a public interest sign in a prohibited manner	\$300
92.	8.4(2)	Erecting or displaying a home open sign, display home sign or garage sale sign in a prohibited manner	\$300
93.	8.5(2)	Erecting or displaying an other portable sign in a prohibited manner	\$300
94.	8.5(3)	Erecting or displaying more than one other portable sign per business	\$300
95.	8.5(4)	Erecting or displaying any other portable sign on a local government verge in a prohibited manner	\$300
96.	8.6(2)	Erecting or displaying election advertising in a prohibited manner	\$500
97.	8.8	Refusing or failing to remove a sign to allow for authorised works	\$300
98.	8.9	Erecting an advertising sign without marking a name	\$300

99.	9.1	Leaving an animal in a public place or local government property without a permit or authorisation	\$300
100.	9.2(2)(a)	Allowing an animal to enter or remain on a thoroughfare	\$300
101.	9.2(2)(b)	Allowing an animal with a contagious or infectious disease to enter local government property or a public place	\$300
102.	9.2(2)(c)	Training or racing an animal on a thoroughfare	\$300
103.	9.2(2)(d)	Allowing an animal to defecate on local government property or a thoroughfare and failing to remove defecation	\$500
104.	9.2(3)	Leading, riding or driving a horse on a thoroughfare in a built-up area without a permit or authorisation	\$300
105.	9.4	Leaving a vehicle in a public place which causes an obstruction without a permit or authorisation	\$300
106.	9.5	Failure to mark a shopping trolley with the name of its retailer	\$300
107.	9.6	Leaving or discarding a shopping trolley in a public place other than an area set aside for shopping trolleys	\$300
108.	9.9(2)	Failing to remove shopping trolley within 24 hours	\$500
109.	10.1(1)(a)	Carrying on trading or conducting a street market in a public place or on local government property without a permit	\$300
110.	10.3	Failure of trader or person conducting street market to comply with obligations under local law	\$300
111.	10.4	Engaging in street entertaining on or in a public place without a permit	\$300
112.	10.6(1)	Failure of a holder of a permit for street entertaining to comply with obligations under local law	\$300
113.	10.6(2)	Failure to comply with directions issued by an authorised officer	\$300
114.	11.1(2)	Establishing or conducting an alfresco dining area contrary to local law	\$300
115.	11.3(1)	Failure of a holder of a permit for an alfresco dining area to comply with obligations	\$300
116.	11.5(b)	Smoking in an alfresco dining area	\$300
117.	11.6(2)	Failure to comply with direction of authorised person to remove tables, chairs, umbrellas or other chairs in an alfresco dining area	\$300
118.	11.8	Failure to notify the local government of a change of ownership of an alfresco dining area	\$300
119.	12.6	Failure to comply with terms and conditions of a permit	\$300
120.	12.11	Failure to produce permit upon request by an authorised person	\$300
121.	12.14(1)(a)	Failing to obtain and maintain a public liability insurance required as a condition of a permit	\$300
122.	12.15	Failure to produce a current certificate of insurance upon request by an authorised person	\$300
123.	14.1(a)	Failure to obey a lawful direction of an authorised person	\$300
124.	14.1(b)	Obstructing or hindering an authorised person in the execution of his or her duties	\$500
125.	15.1	Failure to comply with a notice	\$500
126.	15.6(2)(a)	Refusing to give name and address contrary to local law	\$500
127.	15.6(2)(b)	Giving false or misleading information regarding name and address etc.	\$500

Dated this \_\_\_\_\_ of \_\_\_\_\_ 2026.

The Common Seal of the City of Mandurah was affixed by authority of a resolution of the Council in the presence of:

\_\_\_\_\_  
 AMBER KEARNS  
 MAYOR

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CASEY MIHOVLOVICH  
CHIEF EXECUTIVE OFFICER

PROPOSED