LOCAL GOVERNMENT ACT 1995

CITY OF GOSNELLS

THOROUGHFARES AND PUBLIC PLACES LOCAL LAW 2021

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Gosnells resolved on 14 September 2021 to make the following local law.

Part 1 — Preliminary

1.1 Citation

This is the *City of Gosnells Thoroughfares and Public Places Local Law 2021*.

1.2 Commencement

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

1.3 Repeal

The *City of Gosnells Thoroughfares and Public Places Local Law 2012* as published in the *Government Gazette* on 12 March 2012 including amendments, is repealed on the day that this local law comes into operation.

1.4 Application

This local law applies throughout the district.

1.5 Interpretation

In this local law unless the context otherwise requires —

Act means the *Local Government Act 1995;*

applicant means a person who applies for a permit;

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

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

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

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

bulk rubbish container means a bin or container designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, but does not include a bin or container used in connection with the local government's regular domestic rubbish collection service;

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

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

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

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

(a) private land; or

(b) a private thoroughfare serving private land;

district means the district of the local government;

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

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

kerb includes the edge of a carriageway;

local government means the City of Gosnells;

local government property means anything except a thoroughfare —

(a) which belongs to the local government;

(b) of which the local government is the management body under the *Land Administration Act 1997*; or

(c) which is an otherwise unvested facility within section 3.53 of the Act;

local planning scheme has the meaning given to it in the *Planning and Development Act 2005*

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

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nuisance means —

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

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

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

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

permissible verge treatment means any of the treatments described in clause 2.7(2) and includes any reticulation pipes and sprinklers;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

person does not include the local government;

portable sign means a portable free standing advertising sign;

premises for the purpose of the definition of "public place", means a building or similar structure, but does not include a carpark or a similar place;

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

(a) premises on private property from which trading is lawfully conducted under a written law; or

(b) local government property;

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

Schedule means a Schedule to this local law;

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

street includes a highway and a thoroughfare which the public are allowed to use, and includes every part of the highway or thoroughfare, and other things including bridges and culverts, appurtenant to it;

street tree means a woody perennial plant generally having a single stem or trunk, within the thoroughfare or on the verge which will grow to a height of approximately 4 metres or higher;

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

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utility means any public or private body which provides a service, such as electricity, gas, water, drainage, sewerage, telecommunications or traffic control, and has equipment on, in, or under a public place for that purpose;

vehicle includes —

(a) every conveyance and every object, or part of a conveyance or object capable of being propelled or drawn on wheels, tracks or otherwise; and

(b) an animal being ridden or driven,

but excludes —

(a) a wheelchair or any device designed for use by a physically impaired person on a path;

(b) a bicycle or wheeled recreational device;

(c) a shopping trolley; or

(d) a pram, a stroller or a similar device.

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

Part 2 – Activities on thoroughfares and public places

Division 1 - General

2.1 General prohibitions

A person shall not —

(a) plant any plant other than lawn or prostrate ground covers with a maximum mature height of 100mm on a thoroughfare so that the plant is within 6 metres of an intersection;

(b) where there is no path, plant any plant, other than lawn or prostrate ground covers with a maximum mature height of 100mm on a thoroughfare so that it is within 2 metres of a carriageway;

(c) damage a lawn or garden or remove any plant or part of a plant from a lawn or garden on a thoroughfare unless —

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

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

(d) damage, remove, or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence, street furniture, planter box (including planting), or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;

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

(f) place anything on a path which may create a hazard for any person using the path.

2.2 Activities allowed with a permit

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

(a) unless in order to install a service/utility, dig or otherwise create a trench through or under a kerb or path;

(b) subject to Division 4 of this Part, throw, place or deposit anything on a verge except for removal by the local government under a bulk rubbish collection, and then only during the period of time and manner prescribed in any advertising literature distributed in connection with that collection by the local government;

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

(d) unless in order to install a service/utility, cause any obstruction to a water channel or a water course in a thoroughfare;

(e) damage a thoroughfare;

(f) light any fire or cause anything to burn on a thoroughfare;

(g) fell any tree onto a thoroughfare

(h) remove, or intentionally damage or kill any street tree on a thoroughfare unless the person is -

(i) acting under authority of a permit issued by the local government; or

(ii) a local government employee or contractor engaged by the local government to undertake work in relation to a particular tree or trees on thoroughfares in the district or on local government property generally; or

(iii) acting under the authority of a written law.

(i) unless in order to maintain a permissible verge treatment, lay pipes under any verge;

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

(k) subject to subclause 2.2(2), place or cause to be placed on a thoroughfare a

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bulk rubbish container;

(l) subject to subclause 2.2(2), place or cause to be placed on a thoroughfare a bulk container for temporary storage purposes;

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

(n) erect a building, fence or other structure on a thoroughfare; and

(o) deposit or discharge any material including dust, sand, waste water, storm water, waste, mud, concrete, paint, oil, or chemicals in, on or across a public place or local government property whether by hand, vehicle, or otherwise.

(2) Subclauses 2.2(1) (k) and (l) do not apply to the placement of one bulk container or one bulk rubbish container on a verge adjacent to a property subject to the following conditions —

(a) permission has been granted from the property owner adjacent to the verge if the person placing the bulk container or bulk rubbish container is not the property owner;

(b) the placement of the bulk container or bulk rubbish container does not exceed 7 days;

(c) the bulk container or bulk rubbish container does not cause a sight obstruction for users of the thoroughfare;

(d) the bulk container or bulk rubbish container must be 2 metres back from the kerb if there is no path;

(e) the bulk container or bulk rubbish container is not placed on a path;

(f) the bulk container or bulk rubbish container does not obstruct lawful use of the thoroughfare; and

(g) the bulk container or bulk rubbish container does not damage any street tree, kerb, path, sign, or other infrastructure on the thoroughfare.

Division 2 — Vehicle crossings

Subdivision 1— Temporary crossings

2.3 Permit required

(1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works shall obtain a permit for the construction of a temporary crossing to protect the existing infrastructure and street trees 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.

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

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

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

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

Subdivision 2 — Redundant vehicle crossings

2.4 Removal of redundant crossing

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

(2) An authorised person may give written notice to the owner or occupier of a lot requiring her or him to —

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

(b) reinstate the kerb, drain, path, verge and any other part of the thoroughfare, which may be affected by the removal, within the period of time stated in the notice, and the owner or occupier of the lot shall comply with that notice.

Division 3— Driving on a closed thoroughfare

2.5 No driving on closed thoroughfare

(1) In this clause —

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

(2) A person shall not drive or take a vehicle on a closed thoroughfare unless —

(a) it is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or

(b) the person has first obtained a permit.

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Division 4 — Verge treatments

Subdivision 1— Preliminary

2.6 Interpretation

In this Division, unless the context otherwise requires, ***acceptable material*** means any of the following —

(a) organic mulch and woodchips;

(b) brick paving;

(c) artificial or synthetic lawn; and

(d) compacted limestone.

Subdivision 2 — Permissible verge treatments

2.7 Permissible verge treatments

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

(2) The permissible verge treatments are —

(a) the planting and maintenance of a lawn; such that the lawn is maintained at a height no greater than 100mm;

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

(i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;

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

(iii) subject to clause 2.1(a), plants are maintained at a height no greater than 600mm; and

(iv) plants are not of a thorny, poisonous or hazardous nature; or

(c) the installation of an acceptable material.

(3) Where an acceptable material that prevents water penetration is installed, an open space of at least 1 metre diameter from the edge of the street tree to the edge of the acceptable material must be maintained.

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2.8 Only permissible verge treatments to be installed

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

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

2.9 Obligations of owner or occupier

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

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

(b) not disturb a path on the verge;

(c) ensure the verge treatment does not damage or obstruct a drain, manhole, gully, inspection pit, channel, kerb or street tree planted by the local government; and

(d) ensure any sprinklers, pipes or other reticulation equipment does not protrude above the level of the lawn or the garden when not in use.

2.10 Notice to owner or occupier

An authorised person may give a notice in writing to the owner or the occupier of a lot abutting a verge to make good, within the time specified in the notice, any breach of a provision of this Division.

Subdivision 3 — Existing verge treatments

2.11 Transitional provision

(1) In this clause —

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

(2) A verge treatment which —

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

(b) on the commencement day is a type of verge treatment which was permitted under and complied with any 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 any former provisions providing the verge treatment does not present a safety issue or hazard.

Subdivision 4 — Public works

2.12 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;

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

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

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

(ii) sprinklers, pipes or other reticulation equipment.

Division 5 — Street numbers

2.13 Interpretation

In this Division, unless the context requires otherwise —

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

2.14 Assignment of street numbers

(1) The local government may assign street numbers within the district.

(2) The local government may assign a different street number to that previously assigned.

(3) A person shall not adopt, use or display a street number other than that street number assigned by the local government.

2.15 Street number to be displayed

(1) The owner or occupier may display the street number painted on the kerb adjacent to the lot.

(2) The street number shall face the front of the street to which the street number was issued.

Division 6 — Fencing

2.16 Public place – Item 4(1) of Division 1, Schedule 3.1 of the Act

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

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(a) a public place, as that term is defined in clause 1.5; and

(b) local government property.

Part 3 –Signs

Division 1 — Preliminary

3.1 Interpretation

In this Part, unless the context otherwise requires —

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

Division 2 — Signs erected by the local government

3.2 Signs

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

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

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

3.3 Transitional

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 3.2 if —

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

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

Division 3 — Permits

3.4 Signs on thoroughfares

(1) A person may place one portable sign on a thoroughfare, adjacent to the property that the sign relates to subject to the sign —

(a) being maintained in good condition;

(b) not exceeding 1 metre in height;

(c) not exceeding an area of 0.75 metres squared on any side;

(d) being securely installed in accordance with manufacturer's specifications, freestanding, not secured in place using bricks, rocks or similar weighted objects, and not affixed to any existing sign, post, power or light pole, or similar structure;

(e) not being placed within 100 metres of any works on the thoroughfare;

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

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

(h) being erected at least 50 metres from any intersection;

(i) not being an illuminated sign; and

(j) not incorporating reflective or fluorescent materials.

(2) A person shall not without a permit, other than in accordance with subclause (1) —

(a) erect or place any sign on a thoroughfare; or

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

(3) Notwithstanding subclauses (1) and (2), a person shall not erect or place any sign —

(a) on a path;

(b) over any path where the resulting vertical clearance between the sign and the path is less than 2.7 metres;

(c) on or within 1 metre of a carriageway;

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

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

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

3.5 Matters to be considered in determining application for permit

In determining an application for a permit for the purpose of clause 3.4(2), the local government is to have regard to —

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

(b) the dimensions of the sign;

(c) how the sign will be fixed in place;

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(d) the materials the sign will be made of;

(e) whether or not the sign incorporates reflective or fluorescent materials or is an illuminated sign;

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

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

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

Part 4 – Obstructing animals, vehicles, or shopping trolleys

Division 1 — Animals and vehicles

4.1 Leaving an animal in a public place

(1) A person shall not leave an animal in a public place unless that person has first obtained a permit or is authorised to do so under a written law.

(2) A person will not contravene subclause (1) where the animal is secured or tethered for a period of time not exceeding 1 hour, and the animal does not obstruct the use of any part of that public place.

4.2 Prohibitions relating to animals

(1) In subclause (2), "owner" in relation to an animal includes —

(a) an owner of it;

(b) a person in possession of it;

(c) a person who has control of it; and

(d) a person who ordinarily occupies the premises where the animal is permitted to stay.

(2) An owner of an animal shall —

(a) take reasonable measures to prevent the animal from entering or remaining for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;

(b) take reasonable measures to prevent an animal which has a contagious or infectious disease from being led, ridden or driven in a public place; or

(c) not train or race the animal on a thoroughfare.

(3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

4.3 Prohibitions relating to vehicles

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

Division 2 — Shopping trolleys

4.4 Interpretation

In this Division —

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

shopping trolley means a wheeled container supplied by a retailer to enable a person to transport goods.

4.5 Retailer to remove abandoned trolley

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

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

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

4.6 Retailer taken to own trolley

In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

4.7 Person not to leave trolley in a public place

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

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Part 5 — Food trading in thoroughfares and public places

Division 1 —Food Traders

Subdivision 1 — Preliminary

5.1 Interpretation

In this Division, unless the context otherwise requires —

food has the meaning given to it in the *Food Act 2008*;

food trader means a person who carries on trading in food;

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

public place includes —

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

(b) local government property,

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

trading means the selling or offering for sale of food in a public place.

Subdivision 2 — Permits

5.2 Trader's permits

(1) A person shall not carry on trading on a public place unless that person is the holder of a valid food trader's permit.

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

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

(b) specify the location in which the applicant proposes to trade;

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

(d) specify the food proposed to be sold or offered for sale; and

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

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5.3 Conditions of permit

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

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

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

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

(d) the type of food in respect of which a permit holder may trade;

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

(f) the vacating of the place when trading is not being carried on;

(g) the acquisition by the trader of public liability insurance;

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

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

(2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, an authorised person may at the request of that permit holder, authorise another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

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

(1) In this clause —

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

commercial participant means any person who is involved in any food trading activity for personal gain or profit.

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

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

(b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of trading.

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

Subdivision 3 — Conduct of food traders

5.5 Conduct of food traders

(1) A food trader while trading shall —

(a) display the permit in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit while trading; and

(b) not display a permit unless it is a valid permit.

(2) A food trader shall not —

(a) deposit or store any container holding goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;

(b) act in an offensive manner;

(c) carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading; or

(d) contravene any other written law regulating activities in a public place.

Division 2 — Street entertainers

5.6 Interpretation

In this Division, unless the context otherwise requires —

perform may include playing a musical instrument, singing, mime, dancing, giving an acrobatic or aerobic display, reciting a story or poetry, or doing other acts of a similar nature, but does not include public speaking.

5.7 Performing on a thoroughfare

A person is allowed to perform as a street entertainer on a thoroughfare subject to the following conditions:

(1) the performer(s) must —

(a) if the thoroughfare is not local government property, obtain written permission from the owner of the property adjacent to the part of the thoroughfare on which the performer intends to perform which includes —

(i) the name of the performer(s);

(ii) the days and times that the owner permits the performer(s) to perform;

(iii) the type of performance including any permitted equipment; and

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(iv) any other conditions imposed by the owner of the property adjacent to the part of the thoroughfare where the performance will occur;

(b) not act or perform in a manner that is offensive or creates a nuisance; and

(c) have appropriate public liability insurance.

(2) A person shall comply with a direction from an authorised person to cease a performance as a street entertainer on a thoroughfare if they do not comply with subclause (1).

Division 3 — Outdoor eating facilities on public places

5.8 Interpretation

In this Division —

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

permit holder means the person to whom a permit has been issued for the purpose of clause 5.9; and

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

5.9 Permit required to conduct a Facility

(1) A person may establish a temporary Facility without a permit where free standing furniture or equipment is placed, subject to the following conditions —

(a) the food premises abutting the Facility is registered in accordance with the *Food Act 2008* and the use of the premises is permitted under the local planning scheme;

(b) the Facility is conducted in conjunction with, and as an extension of, food premises which abut the Facility, and the person establishing the Facility is responsible for conducting such food premises;

(c) the Facility does not obstruct the visibility or clear sight lines of any person at an intersection of thoroughfares;

(d) the Facility does not impede pedestrian access and maintains a distance of at least 1.2 metres between tables and chairs to allow universal access;

(e) the Facility does not impede the use of the public place for the purpose for which it was designed; and

(f) the Facility is removed at the end of each trading day by the owner of the Facility.

(2) Where a Facility is proposed to have permanent fixtures or fittings, not in accordance with subclause (1), a permit is required to establish a Facility.

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5.10 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 5.9(2), the local government will consider the conditions set out in clause 5.9(1), as well as considering the impact the permanent fixtures may have on accessibility and safety of users of the thoroughfare.

5.11 Obligations of permit holder

(1) The permit holder for a Facility shall maintain the chairs, tables and other structures in a serviceable condition at all times.

(2) Whenever, in the opinion of an authorised person, any work is required to be carried out to a Facility, an authorised person may give a notice to the permit holder to carry out that work within the time required by the notice.

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

5.12 Removal of Facility unlawfully conducted

Where a Facility is conducted in contravention of clause 5.9(1) or a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorised person and impounded in accordance with the Act.

5.13 Temporary removal of Facility

(1) The person responsible for the establishment of a Facility is to temporarily remove the Facility when requested to do so on reasonable grounds by an authorised person, or a member of an emergency service.

(2) The person responsible for the establishment of a Facility may replace the Facility removed under subclause (1) as soon as the person who directed the removal allows it to be replaced.

Part 6 — Permits

Division 1 — Applying for a permit

6.1 Application for permit

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

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

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

(b) be signed by the applicant;

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

(d) be forwarded to the 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 require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

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

(5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2) or where the applicant has not complied with subclause (3) or (4).

6.2 Decision on application for permit

(1) The local government may —

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

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

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

(3) If the local government refuses to approve an application for a permit, it is to, as soon as practicable after the decision is made —

(a) give to the applicant written notice of, and written reasons for, the refusal; and

(b) inform the applicant of his or her rights, under Part 9, Division 1 of the Act, to object to, and apply for a review of the decision.

(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 or an authorised person to refuse the application for a permit on other grounds under subclause (1)(b).

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Division 2 — Conditions

6.3 Conditions which may be imposed on a permit

Without limiting the generality of clause 6.2(1)(a), the local government may approve an application for a permit subject to conditions relating to —

(a) the payment of a fee;

(b) the duration and commencement of the permit;

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

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

(e) the granting of another approval, permit, licence, or authorisation which may be required under any written law;

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

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

(h) the obtaining of public 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.

6.4 Imposing conditions under a policy

(1) In this clause —

policy means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 6.2(1)(a).

(2) Under clause 6.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 6.2(2).

(4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.

(5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

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6.5 Compliance and variation of conditions

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

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

Division 3 — General

6.6 Duration of permit

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

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

(b) cancelled under clause 6.10.

6.7 Renewal of permit

(1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.

(2) The provisions of —

(a) this Part; and

(b) any other provision of this local law relevant to the permit which is to be renewed,

shall apply to an application for the renewal of a permit with all the necessary changes as required.

6.8 Transfer of permit

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

(a) be made in writing;

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

(c) provide such information as the local government 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.

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

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

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

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

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

6.9 Production of permit

A permit holder is to produce to an authorised person the permit issued by the local government immediately upon being required to do so by that authorised person.

6.10 Cancellation of permit

(1) Subject to clause 7.1, a permit may be cancelled by the local government on any one or more of the following grounds —

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

(i) condition of the permit; or

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

(2) The local government may cancel or suspend a permit if the local government or utility requires access to or near the place in which a permit applies, for the purposes of carrying out works in or near the vicinity of that place.

(3) If the local government cancels or suspends a permit under this clause, it is to as soon as practicable after the decision is made —

(a) give the permit holder written notice of, and reasons for, the decision; and

(b) inform the applicant of his or her rights under Part 9, Division 1 of the Act, to object to, and apply for a review of, the decision.

(4) The cancellation or suspension takes effect from the date on which the permit holder is served with the cancellation or suspension notice.

(5) On the cancellation of a permit the permit holder shall return the permit as soon as practicable to the local government.

(6) On the cancellation or suspension of a permit the permit holder is, subject to subclause (7), to be taken to have forfeited any fees paid in respect of the permit.

(7) Where a permit is cancelled or suspended through no fault of the permit holder, the local government may refund to the permit holder all or part of the fee in respect of what would otherwise have been the balance of the term of the permit.

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Part 7 — Objections and appeals

7.1 Application of Part 9 Division 1 of the Act

(1) When the local government makes a decision as to whether it will —

(a) grant an application for a permit or the issue of an approval;

(b) vary, cancel, or suspend a permit;

(c) transfer a permit;

(d) impose or amend a condition to which a permit is subject; or

(e) use the proceeds of a bond under clause 6.3(g),

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

(2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the local government.

Part 8 — Miscellaneous notices

8.1 Notice to redirect or repair sprinkler

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

8.2 Hazardous plants

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

8.3 Notice to repair damage to thoroughfare

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

8.4 Notice to remove thing unlawfully placed on thoroughfare

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

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Part 9 — Enforcement

Division 1 — Notices given under this local law

9.1 Offence to fail to comply with notice

Whenever an authorised person gives a 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.

9.2 The local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 9.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

Division 2 — Offences and penalties

9.3 Offences

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

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

9.4 Prescribed offences

(1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.

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

9.5 Form of infringement notices

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

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

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

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

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City of Gosnells Thoroughfares and Public Places Local Law 2021

Schedule 1 — Prescribed offences

[clause 9.4]

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY
1	2.1(a)	Plant any plant (except lawn or prostrate ground cover) within 6m of intersection	175
2	2.1(b)	Plant (except lawn or prostrate ground cover) on thoroughfare within 2m of carriageway	175
3	2.1(c)	Damage a lawn or garden on a thoroughfare	175
4	2.1(d)	Damaging or interfering with signpost or structure on thoroughfare	400
5	2.1(e)	Playing games so as to impede vehicles or persons on thoroughfare	175
6	2.1(f)	Place hazard on path	175
7	2.2(1)(a)	Digging a trench through a kerb or path without a permit	175
8	2.2(1)(b)	Throwing or placing anything on a verge without a permit	175
9	2.2(1)(c)	Causing obstruction to vehicle or person on a thoroughfare without a permit	175
10	2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	300
11	2.2(1)(e)	Damage a thoroughfare	400
12	2.2(1)(f)	Lighting a fire on a thoroughfare without a permit	400
13	2.2(1)(g)	Fell a tree onto a thoroughfare without a permit	175
14	2.2(1)(h)	Remove, damage or kill street tree on a thoroughfare without a permit	500
15	2.2(1)(i)	Installing pipes on thoroughfare without a permit	175
16	2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	400

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY
17	2.2(1)(k)	Placing a bulk rubbish container on a thoroughfare without a permit	175
18	2.2(1)(l)	Placing a bulk container on a thoroughfare without a permit	175
19	2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	175
20	2.2(1)(n)	Erect a structure on a thoroughfare without a permit	175
21	2.2(1)(o)	Deposit or discharge any material including dust, sand, waste water, storm water, waste, mud, concrete, paint, oil, or chemicals in, on or across a public place or local government property whether by hand, vehicle, or otherwise without a permit	175
22	2.3(1)	Construct a temporary crossing without a permit	300
23	2.4(2)	Failure to comply with notice to remove crossing and reinstate kerb	300
24	2.5(2)	Driving or taking a vehicle on a closed thoroughfare	400
25	2.8(1)	Installation of verge treatment other than permissible verge treatment	300
26	2.9	Failure to comply with obligations regarding verge treatment	175
27	2.10	Failure to comply with notice to rectify default	300
28	2.14(3)	Using a street number not assigned	175
29	2.15(2)	Incorrectly displaying a street number	175
30	3.2(2)	Failure to comply with sign on public place	175
31	3.4(2)	Placing sign or affixing any advertisement on a thoroughfare without a permit	175
32	3.4(3)	Erecting or placing of advertising sign in a prohibited area	175
33	4.1(1)	Leaving an animal in a public place	175

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY
34	4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	175
35	4.2(2)(b)	Animal on public place with infectious disease	175
36	4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	175
37	4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	175
38	4.3	Repairing vehicle on thoroughfare when not an emergency	175
39	4.5(2)	Failure to remove shopping trolley upon being advised of location	175
40	4.7	Person leaving a shopping trolley in a public place other than a trolley bay	175
41	5.2(1)	Trading in public place without a permit	400
42	5.5(1)(a)	Failure of trader to display or carry permit	175
43	5.5(1)(b)	Trader not displaying valid permit	175
44	5.5(2)	Trader engaged in prohibited conduct	175
45	5.7(1)	Fail to comply with conditions to perform as a street entertainer	175
46	5.7(2)	Fail to comply with a direction of an authorised person to cease performance	175
47	5.9(2)	Establishment or conduct of outdoor eating facility without a permit	400
48	5.11(1)	Failure of permit holder of outdoor eating facility to comply with obligations	175
49	6.5(1)	Failure to comply with a condition of a permit	175
50	6.9	Failure to produce permit on request of authorised person	175
51	9.1	Failure to comply with notice given under local law	300

Dated:_____2021

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

_____
DAVID GOODE JP
MAYOR

_____
IAN COWIE PSM
CHIEF EXECUTIVE OFFICER

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