

*Local Government Act 1995***CITY OF PERTH****THOROUGHFARES AND PUBLIC PLACES LOCAL LAW 2017**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Perth resolved on 9 May 2017 to make the *Thoroughfares and Public Places Local Law 2017*, as set out below.

PART 1 - PRELIMINARY**1.1 Title**

This local law may be cited as the *Thoroughfares and Public Places Local Law 2017*.

1.2 Commencement

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

1.3 Purpose and effect

- (1) The purpose of this local law is to provide for the regulation, management and control of activities on thoroughfares and public places throughout the district.
- (2) The effect of this local law is to establish the requirements with which any persons using, or on, thoroughfares and public property within the district, must comply.

1.4 Repeal

The *City of Perth Thoroughfares and Public Places Local Law 2007* as published in the *Government Gazette* on 2 March 2007 including amendments, is repealed on the day that this local law comes into operation.

1.5 Application

This local law applies throughout the district.

1.6 Terms used

In this local law unless the context requires otherwise –

Act means the *Local Government Act 1995*;

advertising sign means a sign used for the purpose of advertisement but does not include any such sign erected or affixed by the local government;

alternative verge treatment means a verge treatment which is not a permissible verge treatment and which has been approved by the local government in writing;

applicant means a person who applies for a permit;

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

bicycle has the meaning given in the *Road Traffic Code 2000*;

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

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

bunting means a group of flags or flimsy material (including paper, plastic, fabric, or any similar material) attached to a rope or line which is tethered or attached to any structure, vehicle, tree or pole;

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

CEO means the Chief Executive Officer of the local government;

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

Council means the Council of the local government;

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

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

district means the district of the local government;

electronic personal transporter means a vehicle that has one or two wheels, that balances itself and is built to be powered primarily or entirely by an electric motor that forms part of the vehicle;

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

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

hand held sign means a sign held or carried by a person but does not include an election sign;

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

kerb includes the edge of a carriageway;

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

liquor has the meaning given in the *Liquor Licensing Act 1988*;

local government means the local government of the City of Perth;

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; and
- (d) includes a Rest Centre and a public amenity facility;

local public notice has the meaning given in the Act;

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

mall reserve has the meaning given in the *Land Administration Act 1997*;

nuisance means –

- (a) any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which is injurious or dangerous to the health of another person of normal susceptibility, or which has a disturbing effect on the state of reasonable physical, mental or social wellbeing of another person;
- (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 person of any public place; or
- (c) anything a person does in or on a public place which unreasonably

detracts from or interferes with the enjoyment or value of nearby land owned by another person, provided that anything done in accordance with the law or a legal right or which is consistent with the standard of behaviour in the relevant locality shall not be unreasonable for the purpose of this local law;

owner or **occupier** in relation to land does not include the local government;

permissible verge treatment means any treatment described in clause 2.7(2);

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 car park or a similar place;

public amenity facility means facilities or items offered by the local government for the hire or use by the general public in and on local government property;

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

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

real estate sign means a portable sign which is used to direct persons to and for the purposes of advertising a residential home open;

receptacle means a receptacle, including a recycling waste receptacle –

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

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

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

Schedule means a schedule to this local law;

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

smoke has the meaning given in the *Tobacco Products Control Act 2006*;

street tree means any tree planted or self sown within the road reserve or on the verge, of an appropriate species and in an appropriate location, for the purposes of contributing to the streetscape;

thoroughfare has the meaning given in the Act;

tobacco product has the meaning given in the *Tobacco Products Control Act 2006*;

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 capable of being propelled or drawn on wheels, tracks or otherwise; and
- (b) an animal being ridden or driven,

but excludes –

- (c) a wheel-chair or any device designed for use, by a physically impaired person on a footpath;
- (d) a pram, a stroller or a similar device; and
- (e) a bicycle or wheeled recreational device;
- (f) a shopping trolley

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

wheeled recreational device means a wheeled device, built to transport a person, propelled by human power or gravity, and ordinarily used for recreation or play including –

- (a) in-line skates, rollerskates, a skateboard or similar wheeled device;

- (b) a scooter being used by a person aged 12 years of age or older;
- (c) a unicycle; and
- (d) an electronic personal transporter,

but not including a golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or wheeled toy; and

wheeled toy means a child's pedal car, a tricycle, a scooter or a similar toy, but only if it is being used by a child under 12 years of age.

PART 2 – ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES

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) 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 a garden or remove any plant or part of a plant from a lawn or a garden unless –
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;
- (d) damage a street tree or remove a street tree or part of a street tree irrespective of whether the street tree was planted by the owner or occupier of the lot abutting the thoroughfare or by the local government, unless –
 - (i) the removal of the street tree is authorised by the local government in writing; or
 - (ii) the person is acting under authority of written law;
- (e) install anything within the verge other than a permissible verge treatment listed in clause 2.7 or an alternative verge treatment which has been approved in writing by the local government;

- (f) install play equipment or structures within the verge;
- (g) attach or tie anything to a street tree;
- (h) install synthetic or artificial turf on the verge;
- (i) place on any thoroughfare any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the thoroughfare;
- (j) 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;
- (k) 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;
- (l) use or allow to be used a bicycle or wheeled recreational device on a thoroughfare so as to cause a nuisance or to endanger, or unduly obstruct or hinder any other person or vehicle lawfully using the same area;
- (m) within a mall, an arcade or verandah of a shopping centre, ride any bicycle or wheeled recreational device, noting that this clause does not apply to the Western Australia Police;
- (n) on a public place use anything or do anything so as to create a nuisance;
- (o) smoke any tobacco product within any mall reserve, which is not an outdoor eating area as defined by the *Tobacco Products Control Act 2006*; and
- (p) leave bags or baggage unattended in any mall reserve, thoroughfare or public place.

2.2 Activities allowed with a permit

- (1) A person shall not, without a permit –
 - (a) dig or otherwise create a trench through or under a kerb or footpath;
 - (b) throw, place or deposit anything on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and

during the period of time advertised in connection with that collection by the local government;

- (c) cause any obstruction to a vehicle, a person or persons, by placing objects or personal property on a thoroughfare or public place, or by a person or persons sitting or laying on a thoroughfare or public place for an unauthorised event, works or other activities;
- (d) cause any obstruction to a water channel or a water course in a thoroughfare;
- (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
- (f) damage a thoroughfare;
- (g) light any fire or burn anything on a thoroughfare;
- (h) fell any tree onto a thoroughfare;
- (i) unless installing, or in order to maintain, an approved verge treatment –
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (j) provide, erect, install or use in or on any building, structure or land abutting a thoroughfare any hoist, crane or other thing for use over the thoroughfare or, use a hoist or crane or other thing from a vehicle to any building, structure or land abutting a thoroughfare;
- (k) stop and use any part of a thoroughfare for the delivery of materials to a building site adjoining the thoroughfare or, for the removal of materials from a building site to a vehicle or other thing on a thoroughfare;
- (l) place or cause to be placed on a thoroughfare a bulk rubbish container, sea container, scaffolding, portable toilets or other materials associated with a building site or property adjoining the thoroughfare;
- (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare;
- (n) install a full or part road closure on any road or portion of road;

- (o) collect money or distribute pamphlets on any part of a thoroughfare or public place;
 - (p) use the local government's electricity in a thoroughfare or public place; and
 - (q) use a loud hailer or an amplified speaker system in a thoroughfare or public place.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

2.3 No possession and consumption of liquor on thoroughfare

- (1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless –
- (a) that is permitted under the *Liquor Control Act 1988* or under another written law; or
 - (b) the person is doing so in accordance with a permit.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

2.4 Discharging in public places

Unless authorised in accordance with a permit issued under this local law or authorised under any other written law, a person must not allow any material including dust, wastewater, stormwater, waste, mud, concrete, paint, oil or chemicals to be blown, conveyed, deposited or discharged in, on or across a public place or local government property.

2.5 Temporary crossings – permit required

- (1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works shall obtain a permit for the construction of a temporary crossing to protect the existing carriageway, kerb, drains, footpath, existing materials 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.
- (2) The “person responsible for the works” in subclause (1) is to be taken to be –

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

2.6 Removal of redundant crossing

- (1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.
- (2) The local government may give written notice to the owner or occupier of a lot requiring her or him to –
- (a) remove any part of or all of a crossing which does not give access to the lot; and
 - (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal, within the period of time stated in the notice, and the owner or occupier of the lot shall comply with that notice.

2.7 Permissible verge treatments

- (1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of their land, install a permissible verge treatment.
- (2) Permissible verge treatments include the installation of –
- (a) prostrate native ground covers with a maximum mature height of 100mm; or
 - (b) organic mulch; or
 - (c) a combination of (a) and (b);

2.8 Alternative verge treatments to be installed

- (1) An owner or occupier of land which abuts on a verge shall not install a

verge treatment other than a permissible verge treatment listed in clause 2.7 unless authorised in writing by the local government.

- (2) An application to install an alternative verge treatment shall be forwarded to the local government and include –
 - (a) the address of the property adjoining the verge where the proposed treatment is to be installed; and
 - (b) a plan to a scale of 1:100 detailing the type and location of the treatment or treatments proposed to be installed, including the location of any footpaths, crossings, street trees, manholes, gullies or service pits which are serviced from time to time.
- (3) In determining an application to install a verge treatment, the local government is to have regard to –
 - (a) any relevant local government policies or standards in relation to the type of treatments to be installed; and
 - (b) any pedestrian or vehicle safety considerations in regards to the proposed treatment.
- (4) The owner or occupier of the lot abutting a verge treatment referred to in clause 2.7 and this clause 2.8 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 verge treatment approved by the local government shall –

- (1) only install the verge treatment approved by the local government;
- (2) keep the verge treatment in a good and tidy condition and ensure that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (3) not place any obstruction on or around the verge treatment; and
- (4) not disturb a footpath on the verge.

2.10 Notice to owner or occupier

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

2.11 Existing verge treatments – transitional provisions

- (1) In this clause **former provisions** means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.
- (2) A verge treatment which –
 - (a) was installed prior to the commencement day; and
 - (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions, is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions providing the verge treatment does not present a safety issue or hazard.

2.12 Power to carry out public works on verge

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

- (1) is not liable to compensate any person for that disturbance;
- (2) may backfill with sand, if necessary, any garden or lawn; and
- (3) is not liable to replace or restore any –
 - (a) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
 - (b) sprinklers, pipes, reticulation or other equipment.

2.13 Assignment of property numbers

- (1) In this clause, unless the context requires otherwise **Number** means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.
- (2) The local government may assign a Number to a lot in the district and may assign another Number to the lot instead of that previously assigned.

2.14 Fencing adjoining public places - Item 4(1) of Division 1, Schedule 3.1 of 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 –

- (1) a public place, as defined in clause 1.6; and
- (2) local government property.

2.15 Signs erected by the local government

- (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.

2.16 Transitional provisions relating to signs

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 2.15(1) if –

- (1) 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
- (2) the condition of use specified is not inconsistent with any provision of this local law.

2.17 Advertising signs and portable direction signs

- (1) A person shall not, without a permit –
 - (a) erect or place an advertising sign on a thoroughfare; or
 - (b) post any bill or paint, place or affix any advertisement on a thoroughfare.
- (2) Notwithstanding subclause (1), a person shall not erect or place an advertising sign –
 - (a) on a footpath;
 - (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.75 metres;
 - (c) on or within 600mm of a carriageway;
 - (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a

thoroughfare or cause danger to any person using the thoroughfare; or

- (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.
- (3) In determining an application for a permit for the purpose of clause 2.16(1), the local government is to have regard to –
- (a) any other written law regulating the erection or placement of signs within the district;
 - (b) the dimensions of the sign;
 - (c) other advertising signs already approved or erected in the vicinity of the proposed location of the sign;
 - (d) whether or not the sign will create a hazard to persons using a thoroughfare; and
 - (e) the amount of public liability insurance cover, if any, to be obtained by the applicant.

2.18 Portable signs

- (1) A person may place or erect real estate signs on a thoroughfare only to direct attention to a residence that is for sale during the hours of a home open.
- (2) A person may place or erect community information signs on a thoroughfare only to direct attention to a place, activity or event during the hours of that activity or event, if the activity or event has been approved by the local government, inclusive of the said community information signs.
- (3) A person shall not erect, maintain or display a sign, or suffer or permit a sign to be erected, maintained or displayed or to remain so as to obstruct the view from a street or public place of traffic in a street or public place.

2.19 Bunting

A person shall not erect bunting on any street, hoarding, wall, building, fence or structure on a public place.

2.20 Hand held signs

A person shall not display a hand held sign on local government property or a public place unless approved by the local government or associated with an

event approved by the local government.

2.21 No driving on closed thoroughfare

- (1) A person shall not drive or take a vehicle on a closed thoroughfare unless –
 - (a) that is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or
 - (b) the person has first obtained a permit.
- (2) In this clause **closed thoroughfare** means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

2.22 No entry into a closed or locked mall reserve

A person shall not enter into a closed or locked mall reserve.

PART 3 – OBSTRUCTING ANIMALS, VEHICLES, SHOPPING TROLLEYS OR RECEPTACLES

3.1 Leaving animals or vehicles in a public place or on local government property

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

3.2 Prohibitions relating to animals

- (1) In subclause (2), “owner” in relation to an animal includes –
 - (a) an owner of it;
 - (b) a person in possession of it;
 - (c) a person who has control of it; and
 - (d) a person who ordinarily occupies the premises where the animal is permitted to stay.

- (2) An owner of an animal shall not –
 - (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
 - (b) subject to subclause (4), allow an animal to excrete in a public place or local government property;
 - (c) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
 - (d) 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) An owner of an animal does not commit an offence under subclause (2)(b) if any excreta is removed immediately by the owner.

3.3 Shopping trolley to be marked

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

3.4 Person not to leave shopping trolley in public place

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

3.5 Retailer to remove abandoned shopping trolley

- (1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.
- (2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subclause (1), unless the retailer –
 - (a) requests the local government to collect and deliver the shopping trolley to the retailer; and
 - (b) pays any fee for that collection and delivery (imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act) within the period specified by the local government.

3.6 Waste receptacles

An owner or occupier of premises shall –

- (1) before and after collection time, and for no longer than 24 hours, keep the receptacle on the premises and located –
 - (a) beyond a thoroughfare; or
 - (b) in such other position as is approved by the local government;
- (2) within 24 hours prior to collection time, place the receptacle in the street as close as practicable to the street alignment of the premises but so that it does not obstruct any thoroughfare.

PART 4 – PERMITS

4.1 Application for permit

- (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law shall –
 - (a) be in the form determined by the local government;
 - (b) provide the information required by the form; and
 - (c) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (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 subclauses (3) or (4).

4.2 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, as soon as practicable after the decision is made –
 - (a) to give 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 to refuse the application for a permit on other grounds under subclause (1)(b).

4.3 Conditions which may be imposed on a permit

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

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the 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) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government;
- (h) the imposition of a bond to repair any resulting damage to a thoroughfare or public place; and

- (i) require the submission of a construction management plan to mitigate any nuisance or congestion and to ensure safety to a thoroughfare or public place.

4.4 Security for restoration and reinstatement

- (1) The local government may require the payment of a bond, or the provision of a bank guarantee, for a sum determined by the local government –
 - (a) as a condition of a permit; or
 - (b) before the issue of a permit;for the purposes of ensuring that –
 - (c) a public place can be repaired or reinstated where a permit issued for an activity may cause damage to the public place; or
 - (d) conditions of approval in so far as they relate to the public place or local government property are complied with.
- (2) A bond, or bank guarantee, required under subclause (1) is to be paid into an account established by the local government for the purposes of this clause.
- (3) A bond, or bank guarantee, required under subclause (1) shall be returned to the permit holder if the local government is satisfied that the activity has not caused damage to the public place or local government property used for the activity.

4.5 Compliance with conditions

Where –

- (a) an application for a permit has been approved subject to conditions; or
 - (b) 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.

4.6 Amendment of permit conditions

- (1) A permit holder may apply in writing to the local government to amend any of the terms or conditions of the permit.
- (2) The local government may, in respect of an application under subclause (1) –

- (a) amend the permit, either in accordance with the application or otherwise as it sees fit; or
 - (b) decline to amend the permit.
- (3) The local government may, at any time, amend any of the terms and conditions of the permit.
- (4) If the local government amends a permit under this clause, it is to notify the permit holder in writing of the amendment as soon as practicable after the amendment is made and, unless otherwise specified in the amendment, the amended term or condition, or both, of the permit apply from the date of the notification.
- (5) If the local government amends a permit otherwise than in accordance with an application from the permit holder, it is, as soon as practicable after the decision to amend is made –
- (a) to give to the permit holder written notice of, and written reasons for, its decision to amend; and
 - (b) inform the permit holder of his or her rights, under Part 9, Division 1 of the Act, to object to, and apply for a review of, the decision.

4.7 Duration of permit

A permit is valid for six months from the date on which it is issued, unless it is –

- (1) otherwise stated in this local law or in the permit; or
- (2) cancelled under clause 4.11.

4.8 Renewal of permit

- (1) A permit holder may apply to the local government 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.

4.9 Transfer of permit

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

- (a) be made in writing;
 - (b) be signed by the permit holder and the proposed transferee of the permit;
 - (c) provide such information as the local government may require to enable the application to be determined; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
 - (3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by –
 - (a) an endorsement on the permit signed by the CEO; or
 - (b) issuing to the transferee a permit in the form determined by the local government.
 - (4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

4.10 Production of permit

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

4.11 Cancellation of permit

- (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 –
 - (i) a condition of the permit; or
 - (ii) a provision of this local law or any other 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 a utility requires access to or near the place to 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, as soon as practicable after the decision is made –
 - (a) to give the permit holder written notice of, and reasons for, the decision;
 - (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; and
 - (c) the cancellation or suspension takes effect from the date on which the permit holder is served with the cancellation or suspension notice.
- (4) On the cancellation of a permit, the permit holder shall return the permit as soon as practicable to the local government.
- (5) On the cancellation or suspension of a permit, the permit holder is, subject to subclause (6), to be taken to have forfeited any fees paid in respect of the permit.
- (6) 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.

PART 5 – OBJECTIONS AND APPEALS

5.1 Application of Part 9 Division 1 of Act

- (1) Where 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) impose or amend a condition to which a permit is subject; or
 - (d) use the proceeds of a bond under clause 7.2(2),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 6 – MISCELLANEOUS NOTICES

6.1 Notice to redirect or repair sprinkler

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

6.2 Hazardous plants

- (1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.
- (2) Subclause (1) does not apply where the plant was planted by the local government.

6.3 Notice to repair damage to thoroughfare

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

6.4 Notice to remove thing unlawfully placed on thoroughfare

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

PART 7 – ENFORCEMENT

7.1 Offence to fail to comply with notice

Whenever the local government 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.

7.2 The local government may undertake requirements of notice

- (1) Where a person fails to comply with a notice referred to in clause 7.1, 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.

- (2) The local government may apply the proceeds of any bond as a condition of approval under clause 4.4 to meet the costs under this clause incurred by the local government.
- (3) The liability of a permit holder to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 4.4.

7.3 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.

7.4 Infringement provisions and modified penalties

- (1) An offence against a clause specified in the First Schedule 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 the First Schedule.

7.5 Forms

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

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

7.6 Authorised persons

Unless expressly stated otherwise by the local government, a person appointed by the local government to be an authorised person for the purposes of this local law is taken to have also been appointed by the local government to be an authorised person for the purposes of sections 9.13 and

9.16 of the Act in relation to offences against this local law.

**First Schedule – Offences and Modified Penalties
[Clauses 7.3 and 7.4]**

City of Perth Thoroughfares and Public Places Local Law 2017

Item No.	Offence Clauses	Modified Penalty \$
1	2.1(a)	125
2	2.1(b)	125
3	2.1(c)	250
4	2.1(d)	500
5	2.1(e)	125
6	2.1(f)	125
7	2.1(g)	125
8	2.1(h)	125
9	2.1(i)	125
10	2.1(j)	350
11	2.1(k)	125
12	2.1(l)	125
13	2.1(m)	125
14	2.1(n)	125
15	2.1(o)	100
16	2.1(p)	125
17	2.2(1)(a)	250
18	2.2(1)(b)	250
19	2.2(1)(c)	250
20	2.2(1)(d)	250
21	2.2(1)(e)	250
22	2.2(1)(f)	500
23	2.2(1)(g)	350
24	2.2(1)(h)	125
25	2.2(1)(i)(i)	250
26	2.2(1)(i)(ii)	250
27	2.2(1)(j)	500
28	2.2(1)(k)	500
29	2.2(1)(l)	250
30	2.2(1)(m)	125
31	2.2(1)(n)	500
32	2.2(1)(o)	125

Item No.	Offence Clauses	Modified Penalty \$
33	2.2(1)(p)	125
34	2.2(1)(q)	125
35	2.3(1)	125
36	2.4	125
37	2.5(1)	250
38	2.6(1)	350
39	2.6(2)(a)	350
40	2.6(2)(b)	350
41	2.8(1)	250
42	2.9(1)	125
43	2.9(2)	125
44	2.9(3)	125
45	2.9(4)	125
46	2.10	125
47	2.15(2)	125
48	2.17(1)(a)	100
49	2.17(1)(b)	100
50	2.17(2)(a)	100
51	2.17(2)(b)	100
52	2.17(2)(c)	100
53	2.17(2)(d)	100
54	2.17(2)(e)	100
55	2.18(3)	100
56	2.19	100
57	2.20	100
58	2.21(1)(a)	350
59	2.21(1)(b)	350
60	2.22	250
61	3.1(1)	250
62	3.2(2)(a)	125
63	3.2(2)(b)	125
64	3.2(2)(c)	125
65	3.2(2)(d)	125
66	3.2(3)	125
67	3.4	125

Item No.	Offence Clauses	Modified Penalty \$
68	3.5(2)	125
69	3.6(1)(a)	100
70	3.6(1)(b)	100
71	3.6(2)	100
72	4.1(1)	250
73	4.5	500
74	4.10	125
75	7.1	125

Dated this day of May 2017.

The Common Seal of the)
City of Perth was)
affixed by authority of a)
a resolution of the Council)
in the presence of)

MS LISA SCAFFIDI
The Rt Hon the Lord Mayor

MR MARTIN MILEHAM
Chief Executive Officer