

City of Stirling

Local Government Act 1995

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LOCAL GOVERNMENT PROPERTY LOCAL LAW 2009

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Local Government Property Local Law 2009

Under the powers conferred on it by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Stirling resolved on 7 April 2009 to make this local law.

Part 1 - Preliminary

1.1 Citation

This local law may be cited as the *City of Stirling Local Government Property Local Law 2009*.

1.2 Commencement

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

1.3 Application

This local law applies –

- (a) throughout the district; and
- (b) in the water area for a distance of 200 metres seawards, from the western boundary, along the shoreline into the Indian Ocean, as approved by the Governor under section 3.6 of the *Local Government Act 1995* as published in the *Government Gazette* on 31 March 2009, No. 50, page 1029.

[Clause 1.3 amended by Government Gazette No. 64 of 2011]

1.4 Repeal

The City's Local Laws 242 to 427A inclusive published in the *Government Gazette* on 12 May 1971 are repealed.

1.5 Definitions

In this local law -

“**Act**” means the *Local Government Act 1995*;

“**applicant**” means a person who applies for a permit under clause 3.2;

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

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

“building” means any building which is local government property and includes a –

- (a) hall or room;
- (b) corridor, stairway or annexe of any hall or room; and
- (c) jetty;

“CEO” means the chief executive officer of the City;

“City” means the City of Stirling;

“commencement day” means the day on which this local law commences under clause 1.2;

“Council” means the council of the City;

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

“decency” means wearing of proper and adequate clothing for the occasion, so as to prevent indecent exposure;

“determination” means a determination made under clause 2.1;

“district” means the district of the City, as amended and notated in the Municipality Index and in the Municipality Boundary Amendments Register published in the *Government Gazette* on 29 October 2007, No. 225;

“drone” means a powered aerial vehicle that does not carry a human operator and is piloted remotely;

“function” means an event or activity characterised by all or any of the following –

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

“indecent exposure” means the revealing to view of those parts of the body, especially the genitals, which by law and convention should be covered by clothing under the given circumstances;

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

“liquor” means —

- (a) a substance intended for human consumption which at 20° Celsius contains more than 1.15% ethanol by volume, or such other proportion as is prescribed; and
- (b) any other substance prescribed as being liquor for the purposes of this Act; and
- (c) any thing that, for the purposes of sale, is held out to be such a substance;

[Section 3 of the *Liquor Control Act 1988*]

“local government property” means anything except a thoroughfare –

- (a) which belongs to the City;
- (b) of which the City 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;

“Manager” means the person for the time being employed by the City to control and manage a pool area or other facility which is local government property and includes the person’s assistant or deputy;

“permit” means a permit issued under this local law;

“permit holder” means a person who holds a valid permit;

“person” does not include the City;

“pool area” means any swimming and wading pools and spas and all buildings, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of or used in connection with such swimming and wading pools and spas which are local government property;

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

“sign” includes a notice, flag, mark, structure or device approved by the City on which may be shown words, numbers, expressions or symbols;

“slacklining” means the pursuit of walking a small, nylon rope, or webbing between 2 anchor points;

“surf riding equipment” means any device or toy used to or assist a rider in moving in or across waves or the water surface, and includes surfboard, boogie board, windsurfer, wave ski, canoe, kite surfer, inflatable toy or similar device but not a boat;

“trading” means the selling or hiring, or the offering for sale or hire of goods or services, and includes displaying goods for the purpose of –

- (a) offering them for sale or hire;
- (b) inviting offers for their sale or hire;
- (c) soliciting orders for them; or

- (d) carrying out any other transaction in relation to them;

“**Unclaimed Property Register**” means the register kept by an attendant of any unclaimed belongings under Division 4 of Part 5 of this local law; and

“**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 boat.

[Clause 1.5 amended by Government Gazette No. 64 of 2011, No. 182 of 2011, No. 146 of 2016]

1.6 Interpretation

In this local law, a reference to local government property includes a reference to any part of that local government property.

1.7 Overriding power to hire and agree

Despite anything to the contrary in this local law, the City may -

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

Part 2 - Determinations in respect of local government property

Division 1 - Determinations

2.1 Determinations as to use of local government property

- (1) The City may make a determination in accordance with clause 2.2 –
 - (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
 - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
 - (c) as to the matters in clauses 2.7(2) and 2.8(2); and

- (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 2 –
- (a) are to be taken to have been made in accordance with clause 2.2;
 - (b) may be amended or revoked in accordance with clause 2.6; and
 - (c) have effect on the commencement day.

2.2 Procedure for making a determination

- (1) The City is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that –
- (a) the City intends to make a determination, the purpose and effect of which is summarised in the notice;
 - (b) a copy of the proposed determination may be inspected and obtained from the City’s offices; and
 - (c) submissions in writing about the proposed determination may be lodged with the City within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide–
- (a) to give local public notice that the proposed determination has effect as a determination on and from the date of publication;
 - (b) to amend the proposed determination, in which case subclause (5) will apply; or
 - (c) not to continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c), the Council –
- (a) is to consider those submissions; and
 - (b) is to decide –
 - (i) whether or not to amend the proposed determination; or
 - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice –
- (a) of the effect of the amendments; and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.

- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

2.3 Discretion to erect sign

The City may erect a sign on local government property to give notice of the effect of a determination which applies to that property.

2.4 Determination to be complied with

A person must comply with a determination.

2.5 Register of determinations

- (1) The City is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

2.6 Amendment or revocation of a determination

- (1) The Council may amend or revoke a determination.
- (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

Division 2 - Activities which may be pursued or prohibited under a determination

2.7 Activities which may be pursued on specified local government property

- (1) A determination may provide that specified local government property is set aside as an area on which a person may –
 - (a) bring, ride or drive an animal;
 - (b) take, ride or drive a vehicle, or a particular class of vehicle;
 - (c) use a motorised model airplane, helicopter, boat, drone or other similar remotely piloted device;

- (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
 - (e) launch, beach or leave a boat;
 - (f) take or use a boat, or a particular class of boat;
 - (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
 - (h) play or practise –
 - (i) golf or archery;
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile including a javelin, hammer or discus which, in the opinion of the City may cause injury or damage to a person or property;
 - (i) use a sandboard or a similar device;
 - (j) wear no clothing; or
 - (k) use ropes or other similar equipment with anchor points for the purposes of engaging in slacklining or similar activities.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular –
- (a) the days and times during which the activity may be pursued;
 - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
 - (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;
 - (e) may specify that the activity can be pursued by a class of persons or all persons; and
 - (f) may distinguish between different classes of the activity.

[Clause 2.7 amended by Government Gazette No. 146 of 2016]

2.8 Activities which may be prohibited on specified local government property

- (1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property -
 - (a) smoking on premises;
 - (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
 - (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
 - (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
 - (e) taking or using a boat, or a particular class of boat;
 - (f) the playing or practise of -
 - (i) golf, archery, pistol shooting or rifle shooting; or
 - (ii) a similar activity, specified in the determination, involving the use of a projectile including a javelin, hammer or discus which, in the opinion of the City may cause injury or damage to a person or property;
 - (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property;
 - (h) the traversing of sand dunes or land which in the opinion of the City has environmental value warranting such protection, either absolutely or except by paths provided for that purpose;
 - (i) use a motorised model aeroplane, helicopter, boat, drone or other similar remotely piloted device; and
 - (j) use of ropes or other similar equipment with anchor points for the purposes of engaging in slacklining or similar activities.
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular –
 - (a) the days and times during which the activity is prohibited;
 - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
 - (d) that an activity is prohibited in respect of a class of persons or all persons; and

- (e) may distinguish between different classes of the activity.
- (3) In this clause –
“premises” means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

[Clause 2.8 amended by Government Gazette No. 146 of 2016]

Division 3 - Transitional

2.9 Signs taken to be determinations

- (1) Where a sign erected on local government property has been erected under a local law of the City that is repealed by this local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.
- (2) Clause 2.5 does not apply to a sign referred to in subclause (1).

Part 3 - Permits

Division 1 - Preliminary

3.1 Application of Part

This Part does not apply to a person who uses or occupies local government property under a written agreement with the City to do so.

Division 2 - Applying for a permit

3.2 Application for permit

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

- (5) The City may refuse to consider an application for a permit which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

3.3 Decision on application for permit

- (1) The City 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 City approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the City.
- (3) If the City refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.
- (4) The City may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the permit holder.

Division 3 - Conditions

3.4 Examples of conditions

- (1) Examples of the conditions that the City may impose on a permit are conditions relating to -
 - (a) the payment of a fee;
 - (b) compliance with a standard or a policy adopted by the City;
 - (c) the duration and commencement of the permit;
 - (d) the commencement of the permit being contingent on the happening of an event;
 - (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
 - (f) the approval of another application for a permit which may be required by the City under any written law;
 - (g) the area of the district to which the permit applies;
 - (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
 - (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the City.
- (2) Examples of the type and content of the conditions on which a permit to hire local government property may be issued include–

- (a) when fees and charges are to be paid;
- (b) payment of a bond against possible damage or cleaning expenses or both;
- (c) restrictions on the erection of material or external decorations;
- (d) rules about the use of furniture, plant and effects;
- (e) limitations on the number of persons who may attend any function in or on local government property;
- (f) the duration of the hire;
- (g) the right of the City to cancel a booking during the course of an annual or seasonal booking, if the City sees fit;
- (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Control Act 1988*;
- (i) whether or not the hire is for the exclusive use of the local government property;
- (j) the obtaining of a policy of insurance in the names of both the City and the hirer, indemnifying the City in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer;
- (k) the provision of an indemnity from the hirer, indemnifying the City in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
- (l) restrictions on the type of sport/recreation activities to be undertaken on a reserve, and the area within that reserve where such activities can be undertaken.

[Clause 3.4 amended by Government Gazette No. 146 of 2016]

3.5 Imposing conditions under a policy

- (1) In this clause –
 - “**policy**” means a policy of the City adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 3.3(1)(a).
- (2) Under clause 3.3(1)(a) the City may approve an application subject to conditions by reference to a policy.
- (3) The City must 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 3.3(2).

- (4) An application for a permit is not to be taken to have been approved subject to the conditions contained in a policy until the City gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act apply to a policy and for that purpose a policy is taken to be information within section 5.94(u)(i) of the Act.

3.6 Compliance with conditions

Where an application for a permit has been approved subject to conditions, the permit holder must comply with each of those conditions.

Division 4 - General

3.7 Agreement for building

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

3.8 Duration of permit

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

- (a) it is otherwise stated in this local law or in the permit; or
- (b) it is cancelled under clause 3.12.

3.9 Renewal of permit

- (1) A permit holder may apply to the City in writing prior to expiry of a permit for the renewal of the permit.
- (2) The provisions of this Part apply to an application for the renewal of a permit as though it were an application for a permit.

3.10 Transfer of permit

- (1) An application for the transfer of a valid permit must -
 - (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 City may require to enable the application to be determined; and
 - (d) be forwarded to the CEO together with any fee imposed by the City under sections 6.16 to 6.19 of the Act.
- (2) The City may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where the City approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by the CEO.

- (4) Where the City approves the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

3.11 Production of permit

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

3.12 Cancellation of permit

- (1) Subject to clause 9.1, a permit may be cancelled by the City if the permit holder has not complied with –
- (a) a condition of the permit; or
 - (b) a determination or a provision of any written law which may relate to the activity regulated by the permit.
- (2) On the cancellation of a permit the permit holder -
- (a) must return the permit as soon as practicable to the CEO; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.

Division 5 - When a permit is required

3.13 Activities needing a permit

- (1) A person must not without a permit –
- (a) subject to subclause (3), hire local government property;
 - (b) advertise anything by any means on local government property;
 - (c) erect, on local government property, a structure for public amusement or for any performance, whether for gain or otherwise;
 - (d) teach, coach or train, for profit, any person on a beach, reserve, in a pool area or an indoor recreation facility which is local government property;
 - (e) plant any plant or sow any seeds on local government property;
 - (f) carry on any trading on local government property unless the trading is conducted -
 - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
 - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
 - (g) unless an employee of the City in the course of his or her duties or on an area set aside for that purpose -

- (i) drive or ride or take any vehicle on to local government property; or
 - (ii) park or stop any vehicle on local government property;
 - (h) conduct a function, or undertake any promotional activity, on local government property;
 - (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
 - (j) light a fire on local government property except in a facility provided for that purpose;
 - (k) parachute, hang glide, abseil or base jump from or on to local government property;
 - (l) erect a building or a refuelling site on local government property;
 - (m) make any excavation on or erect or remove any fence on local government property;
 - (n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
 - (o) deposit or store any thing on local government property;
 - (p) depasture, tether, drive or ride any horse, sheep, cattle, goat, camel, ass, mule, pig or other similar animal on local government property;
 - (q) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly;
 - (r) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property; and
 - (s) conduct sport/recreation training and matchplay, or undertake any other related sport/recreation activity on a reserve which is local government property;
 - (t) use a motorised model aeroplane, helicopter, boat, drone or other similar remotely piloted device on local government property; or
 - (u) erect, on local government property, ropes or other similar equipment with anchor points for the purposes of engaging in slacklining or similar activities.
- (2) The City may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The City may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

[Clause 3.13 amended by Government Gazette No. 146 of 2016]

3.14 Permit required to camp outside a facility

(1) In this clause –

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

“*caravan park* means an area of land on which caravans, or caravans and camps, are situated for habitation;”

“*facility* means a caravan park or camping ground;”

“*camping ground* means an area of land on which camps, but not caravans, are situated for habitation but does not include any land prescribed for the purposes of this definition;”

[Section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*]

(2) This clause does not apply to a facility operated by the City.

(3) Except in accordance with a permit, a person must not -

- (a) camp on, or lodge at, local government property;
- (b) occupy any structure at night for the purpose of sleeping on local government property;
- (c) park a vehicle on local government property where that vehicle is being used, by that person or any other person, for purposes of camping or sleeping on local government property; or
- (d) erect a tent, camp, hut or similar structure on local government property.

[Clause 3.14 amended by Government Gazette No. 182 of 2011]

3.15 Permit required for possession and consumption of liquor

(1) A person must not, on local government property, consume any liquor or have in her or his possession or under her or his control any liquor, unless –

- (a) that is permitted under the *Liquor Control Act 1988*; and
- (b) a permit has been obtained for that purpose.

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

Note: Section 119 of the Liquor Control Act 1988 contains other limitations relating to liquor on unlicensed premises.

Division 6 - Responsibilities of permit holder

3.16 Responsibilities of permit holder

A holder of a permit must, in respect of local government property to which the permit relates -

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

Part 4 - Behaviour on all local government property

Division 1 - Behaviour on and interference with local government property

4.1 Behaviour which interferes with others

A person must not, in or on any local government property, behave in a manner which -

- (a) is likely to interfere with the enjoyment of a person who might use the property; or
- (b) interferes with the enjoyment of a person using the property.

Note: Other legislative provisions that may also be relevant in this context include section 203 of the *Criminal Code* which states:

“203. Indecent acts in public

(1) A person who does an indecent act —

- (a) in a public place or in the sight of any person who is in a public place; or
- (b) in a police station or lock-up,

is guilty of a crime and is liable to imprisonment for 2 years.

Summary conviction penalty: imprisonment for 9 months and a fine of \$9 000.

(2) A person who owns, or has the control or management of, a place to which the public is admitted, whether on payment of consideration or not, and who permits a person to do an indecent act in that place is guilty of a crime and is liable to imprisonment for 2 years.

Summary conviction penalty: imprisonment for 9 months and a fine of \$9 000.

(3) It is a defence to a charge of an offence under this section to prove that it was for the

public benefit that the act complained of should be done.

(4) Whether the doing of any such act is or is not for the public benefit is a question of fact.”

4.2 Behaviour detrimental to property

- (1) A person must not, in or on local government property, behave in a way which is or might be detrimental to the property.
- (2) In subclause (1) –
'detrimental to the property' includes –
 - (a) removing any thing from the local government property such as a rock, a plant or a seat provided for the use of any person; and
 - (b) destroying, defacing or damaging any thing on the local government property, such as a plant, a seat provided for the use of any person or a building.

4.3 Taking or injuring any fauna

- (1) A person must not take, injure or kill any fauna which is on or above any local government property, unless that person is authorised under a written law to do so.
- (2) In this clause –
“fauna” means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes, in relation to any such animal –
 - (a) any class of animal or individual member;
 - (b) the eggs or larvae; or
 - (c) the carcass, skin, plumage or fur.

Note: Sections 16 and 16A of the Wildlife Conservation Act 1950 deal with the taking on or imposition of protected fauna and section 20 of that Act deals with the authority of wildlife officers.

4.4 Removing or damaging any flora

- (1) A person must not remove or damage any flora which is on or above any local government property, unless that person is authorised to do so under a written law or with the written approval of the City.
- (2) In this clause –
“flora” means all vascular plants other than plants recognised as weeds.

4.5 Intoxicated persons not to enter local government property

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

4.6 No prohibited drugs

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

4.7 Refusal of entry to local government property

- (1) An authorised person may refuse to allow entry, or suspend admission, to any local government property by any person whom he or she believes has behaved in a manner contrary to the provisions of this Part.
- (2) This refusal or suspension can be for any period of up to 12 months as decided by that authorised person.
- (3) A decision made under this clause is a decision to which clause 8 applies.

[Clause 4.7 amended by Government Gazette No. 64 of 2011]

[Clause 4.8 inserted by Government Gazette No. 64 of 2011, deleted by Government Gazette No. 182 of 2011]

4.8 Umbrellas and temporary shade structures

A person may erect an umbrella or temporary shade structure on local government property that is not enclosed, only if it –

- (a) is erected for protection from the sun or other elements;
- (b) has an area of 6m² or less;
- (c) has a height of 2.5m or less;
- (d) is removed by that person immediately on leaving the local government property; and
- (e) is for private use.

[Clause 4.8 inserted by Government Gazette No. 64 of 2011, renumbered by Government Gazette No. 182 of 2011, amended by Government Gazette No. 182 of 2011]

Division 2 - Signs

4.9 Signs

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

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

[Clause 4.9 renumbered by Government Gazette No. 64 of 2011]

Part 5 - Matters relating to particular local government property

Division 1 - Swimming pool areas

5.1 When entry must be refused

- (1) A Manager or an authorised person must refuse admission to a pool area to any person who –
 - (a) in her or his opinion-
 - (i) is under the age of 4 years and who is unaccompanied by a responsible person over the age of 12 years;
 - (ii) is under the age of 4 years and who is accompanied by a responsible person over the age of 12 years where the responsible person is incapable of, or not providing, adequate supervision of or care for that person;
 - (iii) is suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
 - (iv) is under the influence of liquor or a prohibited drug; or
 - (b) is to be refused admission by the City for breaching a clause of this local law.
- (2) If a person referred to in paragraph (a) or (b) of subclause (1) is in a pool area, a Manager or an authorised person must –
 - (a) direct the person to leave; and
 - (b) if the person refuses or fails to leave, remove the person or arrange for the person to be removed, from the pool area.

5.2 Consumption of food or drink may be prohibited

A person must not consume any food or drink in an area where consumption is prohibited by a sign.

Division 2 - Beaches

5.3 Powers of authorised persons or surf life saving club members

- (1) An authorised person employed by the City may perform all or any of the following functions in relation to a beach -

- (a) patrol any beach;
 - (b) carry out any activity on any beach;
 - (c) erect signs designating bathing areas and signs regulating, prohibiting or restricting specified activities on the whole or any part of a beach or in or on the water adjacent to the beach and to direct persons on the beach or in or on the water to comply with such signs;
 - (d) temporarily enclose any area with rope, hessian, wire or any other means for the conduct of surf life saving club activities; and
 - (e) direct persons to leave the water adjacent to a beach during dangerous conditions or if a shark is suspected of being in the vicinity of a beach.
- (2) Subject to subclause (3), the City may authorise, under section 9.10 of the Act, the members of a surf life saving club to perform all or any of the functions listed in subclause (1).
- (3) Members authorised by the City under subclause (2) must have been recommended by the surf life saving club as competent to perform the functions referred to in that subclause in respect of which they are authorised.
- (4) Under subclause (2), the City may authorise members generally, or in relation to particular times, days or months.

5.4 Authority of City employee to prevail

If the City has authorised a person under clause 5.3(1) and member of a surf life saving club under clause 5.3(2) in relation to the same beach, where they could perform a function referred to in clause 5.3(1) contemporaneously, the authority of an authorised person employed by the City under clause 5.3(1) is to prevail.

5.5 Persons to comply with signs and directions

A person must -

- (a) not act in contravention of a sign erected on a beach under clause 5.3(1)(c);
- (b) not enter an area which has been temporarily closed with rope, hessian, wire or any other means for the conduct of surf life saving club activities, unless he or she is a member of the club or has obtained permission to enter from the club;
- (c) comply with any direction given under clause 5.3(1)(c) or 5.3(1)(e); and
- (d) not interfere with, obscure, obstruct, or hang any item of clothing or towel on a flag, sign, notice or item of life saving equipment.

Division 3 - Fenced or closed property

5.6 No entry to fenced or closed local government property

A person must not enter local government property which has been fenced off or closed to the public by a sign or otherwise, unless that person is authorised to do so by the City.

Division 4 - Toilet blocks and change rooms

5.7 Only specified gender to use entry of toilet block or change room

- (1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by –
 - (a) females - then a person of the male gender must not use that entry of the toilet block or change room;
 - (b) males - then a person of the female gender must not use that entry of the toilet block or change room; or
 - (c) families - then, where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.
- (2) Paragraphs (a) and (b) of subclause (1) do not apply to a child, when accompanied by a parent, guardian or caregiver, where the child is –
 - (a) under the age of 8 years; or
 - (b) otherwise permitted by an authorised person to use the relevant entry.

5.8 Hire of lockers

- (1) A person may hire a locker in or near a change room for the purpose of safekeeping articles on the conditions that -
 - (a) it is the responsibility of the person hiring the locker to lock the locker once the articles to be stored are placed in the locker and to return the key to the attendant; and
 - (b) on receiving a receipt given in respect of the hire of the locker, an attendant is to hand to that person the key for the locker described in the receipt in order to remove the articles from the locker.
- (2) A person must not store in any locker a firearm or offensive weapon or any article or substance that has been unlawfully acquired or which is a substance or article within the meaning of 'dangerous goods' under the *Dangerous Goods Safety Act 2004*.
- (3) An attendant or authorised person may open and inspect the contents of a locker at any time, where the attendant or authorised person reasonably suspects that a breach of this local law has occurred.

5.9 Unclaimed property in locker

- (1) If an article in a locker is not claimed or collected within 48 hours after the date of hire, the article may be removed by an attendant or authorised person.
- (2) An attendant or authorised person must record in the Unclaimed Property Register, with respect to each article removed from a locker –
 - (a) a description of the article removed;
 - (b) the time and date the article was removed; and
 - (c) the time and date recorded on the original receipt.
- (3) An attendant or authorised person must ensure that an article removed from the locker is stored at the place determined by the City.
- (4) An attendant or authorised person may deliver to a person an article recorded in the Unclaimed Property Register on receiving –
 - (a) satisfactory evidence of the person’s right to obtain the article;
 - (b) an accurate description of the article being claimed; and
 - (c) payment of any outstanding fees or storage charges.
- (5) A person who receives delivery of an article from the Unclaimed Property Register must, by way of acknowledging receipt of the article, write his or her name and address and sign his or her name in the Unclaimed Property Register.

Note: Under clause 9.3 of this local law, the City may dispose of any article left on local government property that is not claimed within a period of 3 months.

5.10 Use of shower or bath facilities

A person may use a shower or bath facility in change rooms only on conditions that –

- (a) the facilities must be used by the person only for the purpose of cleansing, bathing and washing themselves;
- (b) use of the facilities must be restricted to a maximum period of 15 minutes or such lesser time as required by an attendant; or
- (c) the facilities must not be used for the purpose of laundering or washing any clothing or other articles.

Division 5 - Golf course

5.11 Interpretation

In this Division –

“**controller**” means the person appointed by the City to direct, control and manage a golf course;

“golf course” means that portion of a golf course reserve which is laid out as a golf course and includes all tees, fairways, greens, practice tees, practice fairways, practice greens and any driving range; and

“golf course reserve” means the local government property described in Schedule 2 and includes all buildings, structures, fittings, fixtures and equipment on that land.

5.12 Observance of special conditions of play

While on a golf course, a player must –

- (a) observe and comply with a direction of the controller in respect of any special conditions of play;
- (b) observe and comply with a requirement of any notice erected to direct or control play;
- (c) not be accompanied by a non playing person without the permission of the controller or an authorised person

5.13 Children under the age of 10 years

A person under the age of 10 years must not enter, play or practise on a golf course unless accompanied by a person of 18 years or older

Part 6 - Fees for entry on to local government property

6.1 No unauthorised entry to function

- (1) A person must not enter local government property on a day or during a time when the property is set aside for a function, or when an admission charge is authorised, except –
 - (a) through the proper entrance for that purpose; and
 - (b) on payment of the applicable admission charge.
- (2) The City may exempt a person from compliance with subclause (1)(b).

Part 7 - Jetties and bridges

7.1 Interpretation

- (1) In this Part –
 - “jetty”** means any jetty, pier, wharf or landing place which is local government property.
- (2) This Part applies only to bridges and jetties which are local government property.

7.2 Application for consent and application fee

- (1) Where a person is required to obtain the consent of the City under this Part, the person must apply for that consent in the manner required by the City.
- (2) The City may require an application for consent made under subclause (1) to be accompanied by a fee.
- (3) If an application for consent is not made in the manner required by the City or the fee which is to accompany that application is not paid, the City may refuse to consider the application for consent.
- (4) The City must give, to a person who applied for consent, its decision in writing on the application for consent.
- (5) Where a fee is referred to in this Part, the fee must be imposed by the City under sections 6.16 to 6.19 of the Act.

7.3 When use of jetty is prohibited

A person must not land at, use or go on any part of a jetty which is -

- (a) under construction or repair; or
- (b) closed,

unless that person has first obtained the consent of the City.

7.4 Method of mooring boat

A person in control of a boat must not moor or make fast the boat to a jetty, or to any part of the jetty, except to such mooring piles, ring bolts or other fastenings as are provided.

7.5 When boat may remain moored

A person in control of a boat must not moor or make fast the boat to a jetty unless –

- (a) the boat is in distress and then only to effect the minimum repairs necessary to enable the boat to be moved elsewhere;
- (b) the embarking or disembarking of passengers is in progress, and then not for a consecutive period exceeding 2 hours without the prior consent of the City; or
- (c) where the boat is used at that time for commercial purposes, the person has first paid the fee (if any) for such mooring or making fast to the City.

7.6 Authorised person may order removal of boat

Despite anything to the contrary in this Part, a person in control of a boat moored or fastened to or alongside a jetty must remove it immediately after being directed to do so by an authorised person.

7.7 Restrictions on launching

A person must not launch a boat from or over any jetty (other than a boat ramp) unless he or she has first obtained the consent of the City.

7.8 Limitations on fishing

A person must not -

- (a) fish from a jetty or a bridge so as to obstruct or interfere with the free movement of a boat approaching or leaving the jetty or the bridge or so as to unreasonably interfere with the use of the jetty or the bridge by any other person; or
- (b) hang or spread a fishing net from, on or over any part of a jetty or a bridge.

Part 8 - Objections and appeals

8.1 Objection and appeal rights

Division 1 of Part 9 of the Act applies to a decision under this local law –

- (a) to grant, renew, amend or cancel a permit or consent; and
- (b) to refuse to allow entry, or to suspend admission, to any local government property.

Note: Division 1 of Part 9 of the Act gives an affected person a right to lodge an objection to, or apply for a review of, a decision. Regulation 33 of the Regulations would also apply to a decision of that type.

Part 9 - Miscellaneous

9.1 Authorised person to be obeyed

A person on local government property must obey any lawful direction of an authorised person and must not in any way obstruct or hinder an authorised person in the execution of his or her duties.

9.2 Persons may be directed to leave local government property

An authorised person may direct a person to leave local government property where he or she reasonably suspects that the person has contravened a provision of any written law.

9.3 Disposal of lost property

An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the City in any manner it thinks fit.

9.4 Liability for damage to local government property

- (1) Where a person unlawfully damages local government property, the local government may by notice in writing to that person require that person within the time specified in the notice to, at the option of the City, pay the costs of –
 - (a) reinstating the property to the state it was in prior to the occurrence of the damage or the removal; or
 - (b) replacing that property.
- (2) On a failure to comply with a notice issued under subclause (1), the City may recover the costs referred to in the notice as a debt due to it.

9.5 Decency of dress

Where an authorised person considers that the clothing of any person on local government property is not proper and adequate to secure decency, the authorised person may direct that person to put on adequate clothing and that person is to comply with the direction immediately.

Part 10 - Enforcement

Division 1 - Notices given under this local law

10.1 Offence to fail to comply with notice

A person who fails to comply with a notice given to him or her under this local law commits an offence.

10.2 City may undertake requirements of notice

If a person fails to comply with a notice given to him or her under this local law the City may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

Division 2 - Offences and penalties

10.3 Offences and general penalty

- (1) A 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) A person who commits an offence under this local law is liable, on 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.

10.4 Prescribed offences

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

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

10.5 Form of notices

- (1) 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.
- (2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

10.6 Impounding of goods

Provisions dealing with the power to impound goods that are involved in a contravention, including a contravention of this local law, are contained in the Act and Regulations.

Note: another enforcement option that may be open to an authorised person is to impound any goods that are involved in a 'contravention that can lead to impounding'. The relevant provisions include those in sections 3.37-3.38 of the Act and Regulation 29 of the Regulations. In general terms, an authorised person may be able to impound goods (such as surfboards or skateboards) involved in a contravention of this local law if the contravention occurs in a public place and –

- (a) the presence of the goods obstructs the lawful use of any place or presents a hazard to public safety; or
- (b) where the goods are located in a place contrary to a provision of this local law.

10.7 Evidence of a determination

- (1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.
- (2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.
- (3) Subclause (2) does not make valid a determination that has not been properly made.

Schedule 1 - Prescribed offences

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.4	Failure to comply with determination	125
3.6	Failure to comply with conditions of permit	125
3.13(1)	Failure to obtain a permit	125
3.14(3)	Failure to obtain permit to camp outside a facility	125
3.15(1)	Failure to obtain permit for liquor	125
3.16	Failure of permit holder to comply with responsibilities	125
4.1	Behaviour which interferes with others	125
4.2(1)	Behaviour detrimental to property	350
4.3(1)	Taking or injuring any fauna	350
4.4(1)	Removing or damaging any flora	350
4.5	Under influence of liquor or prohibited drug	125
4.8	Erecting unauthorised umbrella or shade structure on local government property	125
4.9(2)	Failure to comply with sign on local government property	125
5.2	Consuming food or drink in prohibited area	125
5.5	Failure to comply with sign or direction on beach	125
5.6	Unauthorised entry to fenced or closed local government property	125
5.7	Gender not specified using entry of toilet block or change room	125
5.12	Failure to comply with direction of controller or notice on golf course	125
6.1(1)	Unauthorised entry to function on local government property	125
7.3	Unauthorised use of any part of jetty which is closed or under repair or construction	125
7.4	Mooring of boats in unauthorised manner	125
7.5	Unauthorised mooring of a boat to jetty	125
7.6	Failure to remove moored boat on direction of authorised person	125
7.7	Launching of boat from jetty without consent	125
7.8	Fishing from jetty or bridge so as to obstruct a boat or another person	125
9.1	Failure to obey lawful direction of an authorised person	250
9.2	Failure to obey direction of authorised person to leave local government property	250

10.1	Failure to comply with notice	250
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[Schedule 1 amended by Government Gazette No. 64 of 2011, No. 182 of 2011]

Schedule 2 - Determinations

The following determinations are to be taken to have been made by the City under clause 2.1.

Part 1 - Preliminary

1.1 Definition

In these determinations unless –

“**local law**” means the *Local Government Property Local Law 2009* made by the City;

1.2 Interpretation

Where a term is used but not defined in a determination and that term is defined in the local law then the term is to have the meaning given to it in the local law.

Part 2 - Application

2.1 Animals on local government property

- (1) Unless authorised by a written law, or by a permit or a determination, a person must not tether any animal to a tree, shrub, tree guard, wall or fence or permit any animal to enter on or into any local government property.
- (2) This clause does not apply to a guide dog used for the assistance of visually impaired persons.

2.2 Vehicles on local government property

- (1) Unless authorised by a permit or determination, a person must not take or cause a vehicle to be taken onto or driven on local government property unless –
 - (a) subject to sub-clause (3), the local government property is clearly designated as a road, access way or car park;
 - (b) the vehicle is driven by a City employee, authorised person or contractor engaged by the City, who is engaged in –
 - (i) providing a service or making a delivery in connection with the local government property; or
 - (ii) maintaining the local government property;
 - (c) the person is driving an emergency vehicle in the course of his or her duties; or
 - (d) the vehicle is a motorised wheelchair, and the driver of that vehicle is a disabled person.
- (2) A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 10 kilometres per hour or as

otherwise indicated by a sign, or in such a manner as to cause danger, inconvenience or annoyance to any person.

- (3) Other than in accordance with paragraphs (b), (c) or (d) of subclause 1, a person shall not drive a vehicle on local government property or part of it that is being used for a function for which a permit has been obtained unless permitted to do so by the permit holder or an authorised person.

[Clause 2.2 amended by Council resolution 0211/032 on 8 February 2011]

2.3 Motorised model aeroplanes, boats or drones

A person must not use, launch or fly a motorised model aeroplane, helicopter, toy, boat, glider, rocket or drone that is propelled by mechanical, hydraulic, combustion or pyrotechnic means on or from local government property except where a permit or a determination specifies a particular local government property.

[Clause 2.3 amended by Council resolution 0816/007 on 2 August 2016]

2.4 Children's playgrounds

- (1) The City may set aside a public reserve or any portion of a public reserve as a children's playground.
- (2) The City may limit the ages of persons who are permitted to use a children's playground and may erect a sign under clause 2.3 of this local law to that effect on or in the immediate vicinity of the playground.
- (3) A person over the age specified in that sign, other than a person having the charge of a child or children in the playground, must not use a playground or interfere with the use by children of the playground.

2.5 Launching and retrieval of boats

A person must not take onto, launch from, or retrieve a boat on local government property except where a permit or a determination specifies a particular local government property unless —

- (a) the person is a City employee, authorised person: or
 - (i) contractor engaged by the City and who is engaged in providing a service or making a delivery in connection with the local government property; or
 - (ii) maintaining the local government property;
- (b) the person is in charge of a boat engaged in rescue services or dealing with an emergency; or
- (c) the local government property is a boat ramp on a portion of Trigg Beach (portion of Reserve 12992 - beach and coastal reserve) as delineated by signs.

2.6 Activities prohibited on local government property

- (1) A person must not play or practise archery, pistol or rifle shooting on local government property except on land which is reserved by the City for that purpose, or as otherwise provided by a determination or permit.
- (2) A person must not play or practise golf, on local government property except on Reserve 27391, known as Hamersley Golf Course in Marmion Avenue, Karrinyup.
- (3) A person must not, on any local government property, use or ride a bicycle or wheeled recreational device, skateboard, or sand board –
 - (a) inside or on the curtilage to, a building;
 - (b) on a sand dune or the beach area of Reserve 12992;
 - (c) in a pool area;
 - (d) on a golf course;
 - (e) in the Recycling Centre, Balcatta; or
 - (f) in or on a lakebed or waterway.
- (4) A person must not use on, or take on to, any local government property, a spear gun, hand spear, gidgie or similar device.

[Clause 2.6 amended by Government Gazette No. 64 of 2011]

2.7 Deposit of refuse, rubbish or liquid waste

- (1) A person must not, on local government property -
 - (a) shell, gut, scale or clean fish, shellfish or any other animal; or
 - (b) deposit or discard the waste or rubbish from any fish, shellfish or other animal.
- (2) A person must not, on local government property, deposit or discard refuse, rubbish or liquidwaste , except –
 - (a) in a place or receptacle set aside by the City for that purpose and subject to any conditions that may be specified on the receptacle or a sign in relation to the type of waste that may be deposited or other conditions; or
 - (b) at the Recycling Centre, Balcatta and subject to directions issued from time to time by the City or an authorised person for the orderly and proper use of the Recycling Centre in relation to hours of business, separation of waste into designated receptacles, prohibition of the deposit of certain types of refuse or waste, and conduct of persons or persons in charge of vehicles while on the site.

[Clause 2.8 deleted by Government Gazette No. 64 of 2011]

2.8 Javelin, hammer or discus

A person must not throw a javelin, hammer or discus on local government property except where a permit or a determination specifies a particular local government property.

[Clause 2.8 inserted by Council resolution 0816/007 on 2 August 2016]

Dated 29 April 2009

The Common Seal of the
City of Stirling was affixed by
authority of a resolution
of the Council in the
presence of -

DAVID BOOTHMAN

MAYOR

STUART JARDINE

CHIEF EXECUTIVE OFFICER