

LOCAL GOVERNMENT ACT 1995

SHIRE OF DENMARK

PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2025

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LOCAL GOVERNMENT ACT 1995

SHIRE OF DENMARK

PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2025

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the Council of the Shire of Denmark resolved on _____ 2025 to adopt the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Denmark Public Places and Local Government Property Local Law 2025*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The following local laws are repealed –

- (a) the Municipality of the Shire of Denmark adoption of *Local Government Model By-laws (Signs Hoardings and Billposting) No. 13* published in the *Government Gazette* on 30 December 1963;
- (b) the Municipality of the Shire of Denmark adoption of *Local Government Model By-laws (Deposit of Refuse and Litter) No. 16* published in the *Government Gazette* on 10 February 1966;
- (c) the Municipality of the Shire of Denmark adoption of *Draft Model By-laws (Caravan Parks and Camping Grounds) No. 12* published in the *Government Gazette* on 13 January 1971;
- (d) *Shire of Denmark Local Government Property Local Law* published in the *Government Gazette* on 29 May 2001; and
- (e) *Shire of Denmark Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Laws* published in the *Government Gazette* on 29 May 2001.

1.5 Transitional provisions relating to repealed local laws

- (1) An application for, or the renewal of a licence, permit or other authorisation made under a repealed local law that has not been finally determined before the commencement day is to be dealt with and determined as if it were an application under this local law.
- (2) A licence, permit or other authorisation under a repealed local law that is in force before the commencement day is to be regarded on and after that day as a licence under this local law and may be dealt with accordingly.

1.6 Terms used

- (1) In this local law –

Act means the *Local Government Act 1995*;

applicant means a person who applies for a licence;

application means an application for a licence;

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

beach means the area of sandy shoreline from the low water mark to either the base of the sand dune or the commencement of vegetation or building or structure, and where the context permits, includes

–

- (a) adjacent dunes and scrubland;
- (b) shoreline consisting of rocks or cliffs; and
- (c) any provision, facilities or structure for launching boats;

bicycle has the meaning given to it by the Code;

boat means any ship, vessel or structure capable of being used in navigation by water, however propelled or moved, and includes personal water craft;

building means any building or structure which is local government property and includes any –

- (a) hall or room;
- (b) corridor, stairway or annexe of any hall or room;
- (c) the immediate environs of the building if the context requires, but does not include an open space, a carpark or a similar; and
- (d) a jetty;

building permit means a permit granted under section 20 of the *Building Act 2011*;

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

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

CEO means the Chief Executive Officer of the local government;

children's playground means an area set aside for use by children and noted by the presence of any of the following –

- (a) dedicated children's playground equipment,
- (b) the presence of either sand or other form of soft fall surface; or
- (c) a sign indicating the area is a children's playground;

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

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

Code means the *Road Traffic Code 2000*;

community notice means such notice as the local government considers necessary –

- (a) stipulating duration and placement of notices as is considered relevant to inform the community,
- (b) not requiring compliance with local public notice under section 1.7 of the Act; and
- (c) which may be placed by the local government as a public notice on the local government's website or other means of informing the public;

costs means all expenses directly associated with reinstatement or replacement, and includes administrative expenses associated with reinstatement or replacement;

Council means the council of the local government;

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

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

determination means a determination made under clause 2.1;

district means the district of the local government;

drive has the meaning given to it by the *Road Traffic (Administration) Act 2008*;

electric rideable device has the meaning given to it in the Code;

emergency vehicle has the meaning given to it by the Code;

entertainment means –

- (a) the action of providing or being provided with amusement or enjoyment; or
- (b) an event, performance, or activity designed to entertain others;

food has the meaning given to it by the *Food Act 2018*;

footpath has the meaning given to it in the Code;

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;

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

hire includes offer to hire and expose for hire;

intersection has the meaning given to it 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, but will include any other plant provided that it has been planted by the local government;

licence means a licence, permit or approval issued under this local law;

licence document means a licence document issued under this local law;

licence holder means a person who holds a licence;

liquor has the meaning given to it in section 3 of the Liquor Control Act;

Liquor Control Act means the *Liquor Control Act 1988*;

local government means the Shire of Denmark;

local government property means anything, except a thoroughfare –

- (a) which belongs to or is leased by the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an otherwise unvested facility within section 3.53 of the Act;

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

local public notice has the meaning given to it in section 1.7 of the Act;

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

market means a collection of stalls, stands or displays erected for the purpose of selling or hiring goods or services or carrying out any other transaction;

nuisance means any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which –

- (a) is injurious or dangerous to the health or safety of another person of normal susceptibility; or
- (b) which has a disturbing effect on the state of reasonable physical, mental or social well being of another person;

owner or occupier, in relation to land, has the meaning given to it in section 1.4 of the Act, but does not include the local government;

owner, where used in relation to –

- (a) a vehicle licensed under the *Road Traffic (Vehicles) Act 2012*, means the person in whose name the vehicle has been registered under the *Road Traffic (Vehicles) Act 2012*; and
- (b) any other vehicle, means the person who owns, or is entitled to possession of that vehicle;

park in relation to a vehicle, has the meaning given to it by the Code;

permitted verge treatment means any one of the treatments described in clause 7.9(3), and includes any reticulation pipes and sprinklers;

person does not include the local government;

public place means –

- (a) a thoroughfare;
- (b) any local government property; or
- (c) a place to which the public have access;

repealed local law means a local law repealed under clause 1.4;

restricted local government property means local government property which by its nature or by sign erected by the local government property does not have public access, and includes –

- (a) a building used as a residence and the whole of the land on which it is situated;
- (b) a non-residential building occupied under an agreement with the local government and the whole or identified portion of the land on which it is situated;
- (c) land occupied under an agreement with the local government; and
- (d) buildings or land restricted by the local government for municipal purposes to ensure public safety, or for community interest or benefit;

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

scooter has the meaning given to it in the Code;

sell includes –

- (a) offer or attempt to sell;
- (b) display for sale;
- (c) send, forward or deliver for sale or on sale;
- (d) barter or exchange;
- (e) dispose, by lot or chance or by auction;
- (f) supply, or offer, agree or attempt to supply –
 - (i) in circumstances which the supplier derives or would be likely to derive a direct or indirect pecuniary benefit; or
 - (ii) gratuitously, but with a view to gaining or maintaining custom or other commercial advantage; or
- (g) authorise, direct, cause or permit to be done any act referred to in this definition;

set fee refers to fees and charges imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act;

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

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

special purpose vehicle has the meaning given to it by the Code;

stall means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold and includes a vehicle;

street tree means any tree planted or self sown in a thoroughfare, of an appropriate species and in an appropriate location, for the purposes of contributing to the appearance of the thoroughfare;

thoroughfare has the meaning given to it by the Act;

townsite means the following townsites constituted under section 26(2) of the *Land Administration Act 1997* –

- (a) Denmark;
- (b) Nornalup;
- (c) Peaceful Bay;

trading means –

- (a) the selling or hiring of, the offering for sale or hire of, or the soliciting of orders for, goods or services in a public place;
- (b) displaying or offering of goods or services in a public place for the purpose of –
 - (i) offering them for sale or hire;
 - (ii) inviting offers for their sale or hire;
 - (iii) soliciting orders for them; or
 - (iv) carrying out any other transaction or activity in relation to them;
- (c) the delivery of goods or services whether or not previously ordered, or taking of orders for goods or services in a public place, unless from a location within five metres of the premises of the purchaser of those goods or services or nearest alternative position; and
- (d) the going from place to place, whether or not a public place, and –
 - (i) offering goods or services for sale or hire; or
 - (ii) inviting offers or soliciting orders for the sale or the hire of goods or services;

UAV means unmanned aircraft, other than a balloon or kite;

vehicle includes –

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
- (b) where the context permits, an animal being ridden or driven,

but excludes –

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

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

waste includes matter –

- (a) whether liquid, solid, gaseous or radioactive and whether useful or useless, which is discharged into the environment; or
- (b) prescribed by regulations under the *Waste Avoidance and Resource Recovery Act 2007* to be waste;

wheeled recreational device has the meaning given to it in the Code; and

wheeled toy has the meaning given to it in the Code.

1.7 Interpretation

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

1.8 Overriding power to hire and agree

Despite anything to the contrary in this local law, an authorised person, on behalf of the local government, may –

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

1.9 Assistance animals

This local law is subject to any written law and any law of the Commonwealth about assistance animals as defined in section 9(2) of the *Disability Discrimination Act 1992 (Commonwealth)*.

1.10 Special purpose and emergency vehicles

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

- (1) a special purpose vehicle may, only in the course of his or her duties and when it is expedient and safe to do so, stop, or park the vehicle in any place, at any time; and
- (2) an emergency vehicle may, in the course of his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop, or park the vehicle at any place, at any time.

PART 2 - DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

2.1 Determinations as to use of local government property

The Council 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.

2.2 Procedure for making a determination

- (1) The local government is to give local public notice of the intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that –
 - (a) the Council 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 offices of the local government; and
 - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to –
 - (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;

- (b) amend the proposed determination, in which case subclause (5) is to apply; or
 - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c), the Council is to –
- (a) consider those submissions; and
 - (b) decide –
 - (i) whether or not to amend the proposed determination; or
 - (ii) whether or not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, local public notice is to be given –
- (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, local public notice is to be given 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 local government 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 shall comply with a determination.

2.5 Register of determinations

- (1) The local government 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 local public notice is to be given of the revocation and the determination is to cease to have effect on the date of publication.

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 UAV;
 - (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, rifle shooting or use any firearm, but subject to the compliance of that person with the *Firearms Act 1973*; or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;

- (i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device,
 - (j) wear no clothing.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular –
- (a) the days and times during which the activity may be pursued;
 - (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, equipment or things, or may extend it to all vehicles, 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.

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 practice of –
 - (i) golf, archery, pistol shooting or rifle shooting; or
 - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
 - (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
 - (h) the traversing of land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular –
- (a) the days and times during which the activity is prohibited;
 - (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, equipment or things, or all vehicles, 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.
 - (f)
- (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.

2.9 Sign under repealed local law taken to be determination

- (1) Where a sign erected on local government property has been erected under a repealed 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 - ACTIVITIES ON LOCAL GOVERNMENT PROPERTY REQUIRING A LICENCE

3.1 Activities requiring a licence

- (1) A person shall not without a licence –
 - (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 in any 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 licence to conduct a function, and where the trading is carried on under and in accordance with the licence; or
 - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
 - (g) conduct or set up a market on local government property;
 - (h) unless an employee of the local government in the course of her or his 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;
 - (i) conduct a function or entertainment event on local government property;
 - (j) 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;
 - (k) light a fire on local government property except in a facility provided for that purpose;
 - (l) parachute, hang glide, abseil or base jump from or on to local government property;
 - (m) erect a building or a refuelling site on local government property;
 - (n) make any excavation on or erect or remove any fence on local government property;
 - (o) 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;
 - (p) depasture any horse, sheep, cattle, goat, camel, ass, mule, pig or other grazing animal on local government property;
 - (q) conduct or take part in any gambling game or contest or bet, or offer to bet, on local government property;
 - (r) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property;
 - (s) conduct an entertainment event on local government property;
 - (t) film or make a recording as part of or for commercial gain on local government property;
 - (u) collection of seaweed on local government property for personal or commercial purposes.
 - (v) cause any obstruction to a vehicle or a person on local government property;
 - (w) cause any obstruction to a water channel or a water course on or into local government property;
 - (x) throw, place or drain offensive, noxious or dangerous fluid onto local government property;
 - (y) park, use anything or do anything so as to create a nuisance on local government property;
 - (z) place or cause to be placed a bulk rubbish container on local government property; or
 - (aa) interfere with the soil of, or anything in, or take anything from, local government property.
- (2) An authorised person may exempt a person from compliance with subclause (1) on the application of that person.
- (3) An authorised person may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

3.2 Licence required for possession and consumption of liquor

- (1) A person shall not offer for sale, consume, have in her or his possession or under her or his control on local government property, any liquor unless –
 - (a) permitted under the Liquor Control Act; and
 - (b) a licence has been obtained for that purpose from the local government.

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

3.3 Agreement for building

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

PART 4 - BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY

4.1 Application

In this Part –

local government property includes any structure, facility or item constructed or owned by the local government which may be situated on land not under the local government's management.

4.2 Restricted local government property

Nothing in this local law is to be construed as –

- (a) permitting access to or activities by the public on restricted local government property without the express approval –
 - (i) in the case of a building used as a residence and the whole of the land on which it is situated, by the occupier or authorised representative of the occupier;
 - (ii) in the case of a non-residential building occupied under an agreement with the local government, the building and the whole of the land on which it is situated, by the person occupying the building;
 - (iii) in the case of land occupied under an agreement with the local government, by the person occupying the land; and
 - (iv) in the case of a building or land restricted by the local government for municipal purposes to ensure public safety, or for community interest or benefit, by an authorised person; and
- (b) limiting the right of the occupier of restricted local government property to full use of that property for their private enjoyment as permitted by law or by agreement with the local government.

4.3 Behaviour which interferes with others

In or on any local government property, a person shall not, behave in a manner which –

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

4.4 Behaviour detrimental to property

A person shall not behave in or on local government property in a way which is or might be detrimental to the property, including but not limited to –

- (a) removing any thing from the local government property including 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, including a plant, a seat provided for the use of any person or a building.

4.5 No unauthorised entry to function

(1) A person shall not enter local government property on such days or during such times as the property is set aside for a function, except –

- (a) through the proper entrance for that purpose; and
- (b) on payment of any fee chargeable for admission as determined by the hirer at the time.

(2) An authorised person may exempt a person from compliance with subclause (1)(b).

4.6 Refusal of entry and removal

(1) If an authorised person reasonably suspects that a person is breaching, or has just breached, a provision of this local law or any other written law, an authorised person may –

- (a) refuse to allow that person to enter local government property;

- (b) if the person is on local government property, direct the person to leave the local government property; and
 - (c) specify a period of up to 30 calendar days within which the person is not to re-enter the local government property.
- (2) A person who has been refused entry or who has been directed to leave under subclause (1) shall immediately leave the local government property quickly and peaceably.
- (3) If a person fails to comply with subclause (2), an authorised person may remove the person, or arrange for the person to be removed, from the local government property.
- (4) An authorised person may reduce the period specified in subclause (1)(c) on application of the person who has been directed not to re-enter local government property.

4.7 Vehicles on local government property

- (1) Unless authorised by a licence or determination, a person shall not take or cause a vehicle to be taken onto or driven on local government property unless –
- (a) subject to subclause (3), the local government property is clearly designated as a road, access way, or car park;
 - (b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, 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 vehicle is –
 - (i) used in accordance with the conditions set down by the local government or an authorised person; and
 - (ii) of a type allowed to be taken onto the local government property by the local government or an authorised person; or
 - (d) the vehicle is a motorised wheelchair, and the driver of that vehicle is a person with a disability.
- (2) A person shall not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 20 kilometres per hour or as otherwise indicated by a sign, or in such a manner as to cause danger to any person.
- (3) Other than in accordance with subclause (1)(b), (c), (d) or (e), 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 licence has been obtained unless permitted to do so by the licence holder or an authorised person.

4.8 UAVs

- (1) A person shall not use a UAV on or from local government property except where a licence or determination specifies a particular local government property.
- (2) A person shall not use a UAV to overfly any public place during an emergency or where an emergency vehicle is in attendance, without the specific approval of an authorised person, which may be given verbally.

4.9 Archery, pistol or rifle shooting

A person shall not play or practise archery, pistol or rifle shooting on local government property except on land which is reserved by the local government for that purpose, or as otherwise provided by a determination or licence.

4.10 Playing or practising golf

A person shall not play or practise golf on local government property except where a licence or determination specifies a particular local government property.

4.11 Prohibition relating to bicycles, skateboards etc. on local government property

Unless the local government property is clearly identified for the purpose or with the approval of an authorised person, a person shall not, use or ride a bicycle or wheeled recreational device, skateboard or roller-blades, or sand board or similar devices on any local government property –

- (a) inside, or on the curtilage to, a building;
- (b) which has been prepared or is intended for another purpose: or

- (c) in or on a lakebed or waterway.

PART 5 - MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Division 1 – General

5.1 No entry to fenced, closed or restricted local government property

- (1) Unless that person is authorised to do so by an authorised person, a person shall not enter onto –
- (a) 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 local government, or
 - (b) restricted local government property except in accordance with clause 4.2.
- (2) Nothing in this local law is to be construed as preventing the access necessary by persons empowered to do so under a written law.

5.2 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 shall not use that entry of the toilet block or change room;
 - (b) males – then a person of the female gender shall 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) Subclause (1)(a) and (d) does 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.

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

Division 2 – Beaches

5.4 Powers of authorised persons

- (1) An authorised person employed by the local government 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 local government may authorise, under section 9.10 of the Act, one or more authorised persons not being employees to perform all or any of the functions listed in subclause (1).
- (3) Members authorised by the local government under subclause (2) must be competent to perform the functions referred to in that subclause in respect of which they are authorised.
- (4) Under subclause (2), the local government may authorise persons generally, or in relation to particular times, days or months.

5.5 Authority of local government employee to prevail

If the local government has authorised a person under clause 5.4(1) and a person not being an employee under clause 5.4(2) in relation to the same beach, where they could perform a function referred to in clause 5.4(1) contemporaneously, the authority of an authorised person employed by the local government under clause 5.4(1) is to prevail.

5.6 Persons to comply with signs and directions

- (1) A person shall –
 - (a) not act in contravention of a sign erected on a beach under clause 5.4(1)(c);
 - (b) not enter an area which has been temporarily closed with rope, hessian 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 5.4(1)(c) or 5.4(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.
- (2) Notwithstanding subclause (1) person shall comply with the instructions given by authorised person or emergency services personnel in the course of his or her duties.

Division 3 – Airports

5.7 Interpretation

In this Division –

aircraft has the meaning given to it in section 3 of the Civil Aviation Act 1988 (Commonwealth), but excludes a UAV; and

airport means an area intended for the use wholly or partly for the arrival, departure and movement of aircraft, and which is not a certified aerodrome in accordance with the *Civil Aviation Act 1988* (Federal).

5.8 Application

This Division applies to each airport which is local government property within the district.

5.9 Use by aircraft

- (1) The owner of every aircraft, upon payment of the set fee and compliance with this local law and other written law, shall be entitled to use the airport for the landing, servicing and departure of their aircraft and the embarkment and disembarkation of passengers and freight.
- (2) The local government may close the airport to aircraft movements if it considers the surface of the airport to be unsafe.

5.10 Right of entry to airport

- (1) A person shall not enter or remain upon the airport or any part thereof without the approval of an authorised person first being obtained unless –
 - (a) a person lawfully employed upon duties in or about the supervision and control of the airport, or acting under a permit or other agreement of or with the local government, in or about the arrival, departure and servicing of or other attention to aircraft lawfully using the airport; or
 - (b) a passenger or intending passenger of an aircraft lawfully using the airport; or
 - (c) a person greeting or seeing off a passenger or intending passenger of an aircraft lawfully using the airport.
- (2) The local government may from time to time designate or set apart any specified part or parts of an airport –
 - (a) to which only persons from time to time designated by the local government shall be admitted;
 - (b) to which persons other than those mentioned in subclause (1) shall not be admitted;
 - (c) to which the general public, or any limited classes of the general public, may be admitted, either at all times or at specified times, or for limited periods and generally upon such terms and conditions as may be determined;

- (d) to which no vehicle may be admitted or to which a limited class of vehicles may be admitted or to which vehicles may be admitted only on such terms and conditions as may be determined;
 - (e) to which no aircraft may be admitted or to which a limited class of aircraft may be admitted or to which aircraft may be admitted only on such terms and conditions as t may be determined.
- (3) Signs, markings or notices may be placed by the local government at the airport indicating the limits of any part of the airport set apart for any special or limited use under subclause (2).
 - (4) Notwithstanding the provisions of this clause the local government may on special occasions, for instance, an aerial pageant or other event of public interest, make such arrangements for the control of the airport as it may considered appropriate.

5.11 Access of animals restricted

- (1) A person shall not bring an animal on to an airport unless –
 - (a) the animal is being airfreighted from the airport;
 - (b) the animal has been air freighted to the airport;
 - (c) the person is authorised to do so by the local government.
- (2) A person in charge of an animal shall keep the animal under control and shall not allow it to wander at large on the airport.
- (3) If an animal is at any time on an airport in contravention of subclause (2), in addition to the person specified in that subclause, the owner of the animal at that time commits an offence against subclause (2).

Division 4 – Peaceful Bay water supply

5.12 Application

- (1) This part applies to the leased sites numbered-as identified on Deposited Plan 220017 for Reserve 24510.
- (2) This part applies only to the non-potable water supply provided by the local government.

5.13 Watering

- (1) Watering of gardens or lawns by reticulation or by sprinkler may be determined in accordance with a –
 - (a) determination of Council made in accordance with Part 2; or
 - (b) policy of Council adopted in accordance with clause 13.10.
- (2) A determination or policy made under subclause (1) may –
 - (a) specify periods of the year in which watering by reticulation or by sprinkler is prohibited;
 - (b) specify days of the week on which watering is permitted;
 - (c) specify times of the permitted days and the number of occasions on those days in which watering may be undertaken;
 - (d) specify the method for allocating permitted days to leased sites and identification of the sites; and
 - (e) provide for declaration of a total ban on watering, and the circumstance and duration of a ban.

5.14 Variation of watering requirements

Upon written application of the occupier of the site, an authorised person may vary the requirements of a determination or policy made in accordance with clause 5.13.

PART 6 - ACTIVITIES ON JETTIES AND BRIDGES

6.1 Interpretation

- (1) This Part only applies to bridges and jetties which are local government property.
- (2) In this Part –

jetty means any jetty, pier, wharf or landing place which is local government property.

6.2 When use of jetty is prohibited

Unless that person has first obtained a licence from the local government, a person shall not land at, use or go on any part of a jetty which is –

- (a) under construction or repair; or

(b) closed.

6.3 Method of mooring boat

A person in control of a boat shall 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.

6.4 Obstruction by vessels

- (1) A vessel shall not moor in such a manner as to –
 - (a) create an obstruction for other vessels attempting to moor; or
 - (b) by taking more than the reasonable amount of space required for the vessel moored.
- (2) When requested to provide unimpeded approach or departure for another commercial vessel or vessel in distress, a vessel shall not remain moored to a jetty in such a manner as to obstruct another vessel approaching the commercial jetty intending to moor to the jetty, or departing the jetty.

6.5 No private fixtures

- (1) A person shall not affix any private fenders, structure or item to a jetty.
- (2) Where private fixtures have been attached, an authorised person may give written notice requiring the removal of the private fixtures within a specified period.

6.6 When boat may remain moored

A person in control of a boat shall 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 a licence from the local government;
- (c) the loading or discharging of cargo or other goods is in progress in accordance with Division 7; or
- (d) where the boat is used at that time for commercial purposes, the person has first paid any set fee for such mooring or making fast to the local government.

6.7 Authorised person may order removal of boat

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

6.8 Restrictions on launching

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

6.9 Loading and discharging cargo

A person in control of a boat shall not allow the boat to come alongside or be moored or made fast to a jetty for the purpose of loading or discharging cargo or other goods –

- (a) until the cargo or other goods are ready to be loaded or discharged; or
- (b) without a licence from the local government for longer than 2 consecutive hours.

6.10 Outgoing cargo not to be stored on jetty

A person in control of cargo or other goods intended for loading on to a boat shall –

- (a) not allow them to be stored or placed on a jetty unless and until the boat is moored or fastened to or alongside the jetty; and
- (b) load them on to the boat as soon as is practicable after the boat is moored or fastened to or alongside the jetty.

6.11 Removal of incoming cargo from jetty

Any person unloading cargo or other goods from a boat on to a jetty shall remove them, or cause them to be removed from the jetty as soon as practicable, but not later than 6.00pm on the day on which they were placed there.

6.12 Authorised person may direct removal of cargo

An authorised person may direct a person who, in the opinion of the authorised person, is in charge of cargo or other goods which remain on a jetty contrary to any provision of this Part to remove them from the jetty.

6.13 Handling of bulk cargo

(1) In this clause –

bulk cargo means bulk produce, such as grain, coal, oil or mineral ore, which is not packaged.

(2) Unless a licence has been obtained from the local government, a person shall not place or deposit bulk cargo from a vehicle, boat or container on to a jetty.

6.14 Polluting surrounding area

A person shall not tip or deposit anything on to a jetty so as to pollute the surrounding area.

6.15 Limitations on fishing

A person shall 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 7 - ACTIVITIES IN THOROUGHFARES

Division 1 – General

7.1 General prohibitions

A person shall not –

- (a) plant, or allow to remain, in a thoroughfare a plant that is or may –
 - (i) become an obstruction to a reasonable sight line for a driver of any vehicle negotiating or using the thoroughfare; or
 - (ii) intrude onto or over a thoroughfare;
- (b) damage a lawn or a garden, or remove any plant or part of a plant from a lawn or a garden, in a thoroughfare 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;
- (c) damage, or remove a street tree, or part of a street tree, irrespective of whether it was planted by the owner or occupier of the lot abutting the thoroughfare or by the local government, unless –
 - (i) the damage to, or removal of, the street tree is authorised by an authorised person in writing; or
 - (ii) the person is acting under authority of written law;
- (d) except as permitted by this local law place, or allow to be planted, placed or remain, on a thoroughfare any thing (except water) that –
 - (i) obstructs the thoroughfare; or
 - (ii) results in a hazard for any person using the thoroughfare;
- (e) unless at the direction of an authorised person, damage, remove or interfere with any part of a thoroughfare, or any structure erected on a thoroughfare, by the local government or a person acting under the authority of a written law;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or unreasonably impede the movement of vehicles or persons on a thoroughfare; or
- (g) clear any verge, in whole or in part, other than –
 - (i) in accordance with clause 7.2 or 7.9. or
 - (ii) removal of weeds or pest plants.

7.2 Activities allowed with a licence

- (1) A person shall not, without a licence –
 - (a) dig or otherwise create a trench through or under a kerb or footpath;
 - (b) throw, place or deposit any thing 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 or a person using a thoroughfare;
 - (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) fell or damage any street tree;
 - (h) fell any tree onto a thoroughfare;
 - (i) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose;
 - (j) unless installing, or in order to maintain, a permitted verge treatment –
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install, on any part of a thoroughfare, any thing such as gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
 - (k) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
 - (l) on a thoroughfare, park, use anything or do anything so as to create a nuisance;
 - (m) place or cause to be placed on a thoroughfare a bulk rubbish container;
 - (n) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare;
 - (o) conduct or carry on any trading on a thoroughfare;
 - (p) conduct, carry on or set up a market on a thoroughfare;
 - (q) conduct or carry on an entertainment event on a thoroughfare.
 - (r) advertise anything by any means;
 - (s) erect a structure for public amusement or for any performance, whether for gain or otherwise;
 - (t) teach, coach or train, for profit, any person;
 - (u) plant any plant or sow any seeds, except in accordance with Division 2;
 - (v) erect a building or a refuelling site;
 - (w) depasture any horse, sheep, cattle, goat, camel, ass, mule, pig or other grazing animal; or
 - (x) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound;
- (2) An authorised person may exempt a person from compliance with subclause (1) on the application of that person.

7.3 Licence required for possession and consumption of liquor

- (1) A person shall not offer for sale, consume, have in her or his possession or under her or his control on a thoroughfare, any liquor unless –
 - (c) permitted under the Liquor Control Act; and
 - (d) a licence has been obtained for that purpose from the local government.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

7.4 Assignment of numbers

- (1) In this clause –

number means a number with or without an alphabetical suffix indicating the street address of land as assigned by the local government from time to time, in accordance with this local law.
- (2) An authorised person may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

7.5 No driving on closed thoroughfare

A person shall not drive or take a vehicle on a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act unless –

- (a) it is in accordance with any limit or exception specified in the order made under section 3.50 of the Act; or
- (b) the person has first obtained a licence.

7.6 Fencing of public place – Item 4(1) of Division 1, Schedule 3.1 of Act

A public place, as that term is defined in clause 1.6, is specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act.

7.7 Power to carry out public works on verge

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

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

Division 2 – Permitted verge treatments

7.8 Application

This Division only applies to townsites.

7.9 Permitted verge treatments

- (1) A person shall not install or maintain a verge treatment which is not a permitted verge treatment.
- (2) An owner or occupier of land which abuts on a verge may install a permitted verge treatment, on that part of the verge directly adjoining of her or his land.
- (3) A permitted verge treatment is–
 - (a) the planting and maintenance of a lawn;
 - (b) the planting and maintenance of a garden, provided that –
 - (i) an unobstructed sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare in accordance with clause 7.11(b) or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
 - (ii) where there is no footpath, a pedestrian has safe and unobstructed access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
 - (iii) does not include a wall or built structure; and
 - (iv) not of a thorny, poisonous or hazardous nature;
 - (c) in accordance with a determination of Council;
 - (d) in accordance with a policy of Council adopted in accordance with clause 13.10;
 - (e) other treatment approved by the local government;
 - (f) to comply with the Shire of Denmark *Local Laws Relating to Pest Plants*.
- (4) Clearing of a road verge is not permitted other than for the width and length required for installation of a driveway without a licence.
- (5) Where installation of material which would create a hard surface has been installed or is intended, an authorised person may by written notice, require –
 - (a) a reduction of area covered or to be covered, if shedding of storm water or flooding is likely to cause a nuisance to neighbours or users of a thoroughfare; and
 - (b) an area of open space from the edge of a street tree as determined by the authorised person taking into account the size or potential size of the street tree.
- (6) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 7.11.

7.10 Prohibited verge treatments

A person shall not without a licence install or replace artificial grass or turf.

7.11 Obligations of owner or occupier

An owner or occupier who installs or maintains a permitted verge treatment shall –

- (a) keep the permitted verge treatment in a good and tidy condition and, where the verge treatment is a garden or lawn, ensure that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) ensure that unobstructed sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in a carriageway, or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare –
 - (i) from an intersection – a maximum height of 500mm for a minimum distance of 10m; and
 - (ii) from a driveway – visually permeable for a minimum distance of 2m; or
 - (iii) as otherwise determined by an authorised person;
- (c) not place any obstruction on or around the verge treatment;
- (d) not disturb a footpath on the verge;
- (e) ensure that the verge treatment does not damage or obstruct a drain, manhole, galley, inspection pit, channel, kerb or tree planted by the local government, or fire-hydrant or other service access point; and
- (f) ensure that any sprinklers or pipes installed to irrigate a verge treatment –
 - (i) do not protrude above the level of the lawn or verge treatment when not in use;
 - (ii) are not used at such times so as to cause unreasonable inconvenience to pedestrians or other persons; and
 - (iii) do not otherwise present a hazard to pedestrians or other persons.

7.12 Transitional provision relating to verge treatments

- (1) In this clause –

former provisions means the provisions of a repealed local law which permitted certain types of verge treatments, whether with or without a licence from the local government.
- (2) A verge treatment is to be taken to be a permitted verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions 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.

Division 3 – Vehicle crossovers

7.13 Temporary crossovers

- (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 licence for the construction of a temporary crossover to protect the existing carriageway, kerb, drains, footpath, existing materials and street trees, where –
 - (a) a crossover does not exist; or
 - (b) a crossover does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossover.
- (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 owner of the lot, if no building permit has been issued under the *Building Act 2011* in relation to the works.
- (3) If an authorised person approves an application for a licence for the purpose of subclause (1), the licence is taken to be issued on the condition that until such time as the temporary crossover is removed, the licence holder shall keep the temporary crossover in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

7.14 Removal of redundant crossover

- (1) Where works on a lot will result in a crossover no longer giving access to a lot, the crossover is to be removed within 14 days of completion of work, 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 an authorised person.

- (2) An authorised person may give written notice to the owner or occupier of a lot requiring her or him within the period of time stated in the notice to –
 - (a) remove any part of or all of a crossover 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.

7.15 Crossovers in unsafe locations

- (1) Where a crossover is in an unsafe location, the local government may give notice to the owner or occupier to –
 - (a) remove the crossover; or
 - (b) make the crossover safe.
- (2) In determining whether the crossover is in an unsafe location, the local government shall have regard to –
 - (a) any guidelines or advice Main Roads Western Australia sought or published from time to time;
 - (b) the usage of the thoroughfare; and
 - (c) alternative treatments available to make the crossover safe.
- (3) Any notice issued under subclause (1) is to give a minimum period of 28 days to remove or make the crossover safe, provided immediate measures are taken to advise users of the thoroughfare of the circumstances deemed unsafe.

PART 8 - CONSERVATION IN PUBLIC PLACES

Division 1 – General

8.1 Interpretation

In this Part –

MRWA means Main Roads Western Australia;

protected flora has the meaning given to it in section 6(1) of the *Wildlife Conservation Act 1950*;

rare flora has the meaning given to it in section 23F of the *Wildlife Conservation Act 1950*;

Roadside Conservation Committee means the Roadside Conservation Committee appointed by the responsible Minister; and

special environmental area means an area designated as such under clause 8.7.

Division 2 – Flora roads

8.2 Declaration of flora road

The local government may declare a thoroughfare which has, in the opinion of the local government, high quality roadside vegetation to be a flora road.

8.3 Construction works on flora roads

Construction and maintenance work carried out by the local government on a flora road is to be in accordance with –

- (a) the Handbook of Environmental Practice for Road Construction and Road Maintenance Works, and
- (b) the *Shire of Denmark. Declared Flora Roads Management Plan 2012*, as amended or replaced from time to time.

8.4 Signposting of flora roads

The local government may signpost flora roads with the standard MRWA flora road sign.

8.5 Driving only on carriageway of flora roads

- (1) A person driving or riding a vehicle on a flora road shall only drive or ride the vehicle on the carriageway.
- (2) Subclause (1) does not apply where –

- (a) conditions on the thoroughfare do not reasonably allow a vehicle to remain on the carriageway;
- (b) there is no carriageway; or
- (c) an exemption from the application of subclause (1) has been obtained from the local government.

Division 3 – Special environmental areas

8.6 Designation of special environmental areas

The local government may designate a thoroughfare, or any part of a thoroughfare, as a special environmental area which –

- (a) has protected flora or rare flora; or
- (b) In the opinion of the local government, has environmental, aesthetic or cultural significance.

8.7 Marking of special environmental areas

The local government is to mark and keep a register of each thoroughfare, or part of a thoroughfare, designated as a special environmental area.

Division 4 – Planting in thoroughfares

8.8 Licence to plant in a thoroughfare

Subject to clause 7.9 a person shall not plant any plant or sow any seeds in a thoroughfare in a special environmental area without first obtaining a licence.

8.9 Relevant considerations in determining application

In determining an application for a licence for the purpose of clause 8.8, the local government is to have regard to –

- (a) the *Shire of Denmark. Declared Flora Roads Management Plan 2012*, as amended or replaced from time to time;
- (b) the *Shire of Denmark Roadside Vegetation Survey 2024*, as amended or replaced from time to time;
- (c) existing vegetation within that part of the thoroughfare in which the planting is to take place; and
- (d) the diversity of species and the prevalence of the species which are to be planted or sown.

Division 5 – Clearance of vegetation

8.10 Licence to clear public place

A person shall not clear any part of a public place unless –

- (a) the activity is specifically permitted under any written law; or
- (b) a licence –
 - (i) been obtained from the Government department having responsibility for the administration of the *Environmental Protection Act 1986*; and
 - (ii) the activity has been approved by the local government on production of proof of approval obtained under (i).

8.11 Application for licence

- (1) In addition to the requirements of clause 8.10 and 13.2, a person making an application for a licence for the purpose of clause 8.10 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.
- (2) When considering the application, an authorised person shall have regards to –
 - (a) the *Shire of Denmark. Declared Flora Roads Management Plan 2012*, as amended or replaced from time to time;
 - (b) the *Shire of Denmark Roadside Vegetation Survey 2024*, as amended or replaced from time to time; and
 - (c) any policies adopted by the local government.

Division 6 – Fire management

8.12 Permit to burn thoroughfare

A person shall not burn any part of a public place unless –

- (a) the activity is specifically permitted under any written law; or
- (b) a licence –
 - (i) been obtained from the Government department having responsibility for the administration of the *Environmental Protection Act 1986*; and
 - (ii) the activity has been approved by the local government on production of written approval under subclause (i).

8.13 Application for licence

In addition to the requirements of clause 8.12 an application for a licence for the purposes of this clause shall –

- (a) include a sketch plan showing the portions of the public place which are proposed to be burned; and
- (b) advise of the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn; and
- (c) any other information required by an authorised person.

8.14 When application for licence can be approved

- (1) The local government may approve an application for a licence for the purpose of clause 8.13 only if the burning of the particular part of the public place will –
 - (a) reduce a fire hazard and alternative means of reducing that hazard, such as slashing or the use of herbicides, are considered by the local government to be not feasible or more detrimental to native flora and fauna than burning; or
 - (b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.
- (2) When considering the application, an authorised person shall have regards to –
 - (a) any notice issue under section 33 of the *Bush Fires Act 1954*;
 - (b) the *Shire of Denmark. Declared Flora Roads Management Plan 2012*, as amended or replaced from time to time;
 - (c) the *Shire of Denmark Roadside Vegetation Survey 2024*, as amended or replaced from time to time; and
 - (d) any policies adopted by the local government.

Division 7 – Firebreaks on public places

8.15 Firebreaks on public places

- (1) A person shall not construct a firebreak on a public place.
- (2) Notwithstanding subclause (1), the local government may install a firebreak on land other than a thoroughfare.

Division 8 - Commercial wildflower harvesting on thoroughfares

8.16 General prohibition on wildflower harvesting

Notwithstanding clause 9.10, and subject to clause 8.17, a person shall not harvest native flora in a public place.

8.17 Permit for revegetation projects

- (1) A person shall not collect seed from native flora in a public place without first obtaining a licence.
- (2) The local government may approve an application for a licence under subclause (1) only where –
 - (a) the seed is required for a revegetation project; and
 - (b) the public place, or the relevant part of it, is not a special environmental area.
- (3) Unless the local government specifically provides to the contrary on a licence, if the local government

approves an application for a licence for it is subject to the following conditions –

- (a) the collection of the seed is to be carried out so as not to endanger the long term survival of the native flora on the thoroughfare; and
- (b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

PART 9 - ACTIVITIES IN PUBLIC PLACES

Division 1 - General

9.1 Determinations

Part 2 of this local law applies to public places not being thoroughfares.

9.2 Activities requiring a licence

- (1) In or on a public place, a person shall not without a licence –
 - (a) advertise anything by any means;
 - (b) erect a structure for public amusement or for any performance, whether for gain or otherwise;
 - (c) carry on any trading unless the trading is conducted –
 - (i) with the consent of a person who holds a licence to conduct a function, and where the trading is carried on under and in accordance with the licence; or
 - (ii) by a person who has a licence or permit to carry on trading under any written law;
 - (d) conduct or set up a market;
 - (e) conduct a function or entertainment event;
 - (f) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound;
 - (g) collection of seaweed for personal or commercial purposes.
 - (h) throw, place or drain offensive, noxious or dangerous fluid onto a public place;
 - (i) park, use anything or do anything so as to create a nuisance;
- (2) An authorised person may exempt a person from compliance with subclause (1) on the application of that person.

9.3 Prohibitions relating to animals in public entertainment

A licence shall not be issued by the local government under subclause (1)(h), for public entertainment or otherwise, if the function involves the display or performance of –

- (a) lions, tigers, leopards, other great cats, elephants, bears, giraffes, monkeys or apes; or
- (b) any other type of animal which, in the opinion of the local government, is either dangerous or wild by nature.

9.4 No licence required to sell newspaper

Notwithstanding any other provision of this local law, a person who sells, or offers for sale, a newspaper is not required to obtain a licence.

9.5 Licence to erect structures or camp

- (1) In this clause –

camp unless the context requires otherwise has the same meaning as given to it in section 5 of the *Caravan Parks and Camping Grounds Act 1995*;

caravan has the same meaning as given to it in section 5 of the *Caravan Parks and Camping Grounds Act 1995*;

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

park home has the same meaning as given to it in section 5 of the *Caravan Parks and Camping Grounds Act 1995*; and

structure includes a caravan, park home, or camp.

- (2) This clause does not apply to a caravan park or camping ground operated by the local government.
- (3) A person shall not without a licence –

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

9.6 Consumption of food or drink may be prohibited

In a public place where prohibited by a sign a person shall not –

- (a) take or consume any food or drink; or
- (b) take any glass.

9.7 Leaving animal or vehicle in public place

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

9.8 Prohibitions relating to animals

- (1) In this clause –

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, other than a cat, to enter or remain for any time on any public place except for the use of the public place as a thoroughfare and unless it is led, ridden or driven;
- (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
- (c) train or race the animal in a public place without a licence.

9.9 Taking or injuring fauna

- (1) In this clause –

animal means any living thing that is not a human being or plant;

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 unless it has been shed or discarded by the fauna in a normal or natural manner.

- (2) A person shall not intentionally take, injure or kill or attempt to take, injure or kill any fauna which is on or above any public place, unless that person is authorised under a written law to do so.

9.10 Flora

- (1) In this clause –

flora means all vascular plants, seeds and other flora, whether living or dead.

- (2) Subject to clauses 8.16 and 8.17 a person shall not, on or above any public place unless authorised to do so under a written law or with the written approval of an authorised person –
 - (a) remove, damage or interfere with any flora; or

- (b) plant or deposit any flora.

9.11 Waste

A person shall not deposit or discard waste in a public place except –

- (a) in a place or receptacle set aside by an authorised person for that purpose; and
- (b) in accordance with any conditions that may be specified on the receptacle or a sign; or

Division 2 – Shopping trolleys

9.12 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.

9.13 Person not to leave 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.

9.14 Retailer to remove abandoned 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 set fee for that collection and delivery within the period specified by the local government.

9.15 Retailer taken to own trolley

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

PART 10 - OUTDOOR EATING FACILITIES ON PUBLIC PLACES

10.1 Interpretation

In this Division -

facility means an outdoor eating facility or establishment on any part of a public place.

10.2 Licence required to conduct facility

A person shall not establish or conduct a facility without a licence.

10.3 Additional matters to be considered in determining application

In addition to clause 13.4 in determining an application for a licence for the purpose of clause 10.2, an authorised person may consider in addition to any other matter it considers relevant, whether or not –

- (a) the facility is conducted in conjunction with and as an extension of food premises which abut on the facility, and whether the applicant is the person conducting such food premises;
- (b) any abutting food premises are registered in accordance with the *Food Act 2008* and whether the use of the premises is permitted under the town planning scheme;
- (c) users of the facility will have access to proper and sufficient sanitary and ablutionary conveniences;
- (d) the facility would -
 - (i) obstruct the visibility or unobstructed sight lines at an intersection of thoroughfares of any person; or
 - (ii) impede pedestrian access; and
- (e) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.
- (f) such other matters as the authorised person may consider to be relevant in the circumstances of the case.

10.4 Additional obligations of licence holder

- (1) In addition to Part 13 Division 4, the licence holder for a facility shall –
 - (a) ensure that the facility is conducted at all times in accordance with health legislation, the *Shire of Denmark Health Local Law 2017* as amended, and this local law;
 - (b) ensure that the eating area is kept in a clean and tidy condition at all times;
 - (c) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times;
 - (d) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the facility; and
 - (e) be solely responsible for all rates and taxes levied upon the land occupied by the facility.
- (2) Whenever, in the opinion of the local government, any work is required to be carried out to a facility, the local government may give written notice to the licence holder for the facility to carry out that work within the time limited by the notice.
- (3) In subclause (2), “work” includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a facility.

PART 11 - TEMPORARY SIGNS AND TRADE DISPLAYS

11.1 Definitions

In this Part, unless the context otherwise requires –

temporary sign means a sign used for the purpose of advertisement or notification, whether free standing or requiring to be affixed to a structure of any type, and includes –

- (a) a bill, poster and the like;
- (b) an advertising sign;
- (c) a direction sign;
- (d) an election sign; and
- (e) an event sign.

trade display means the display for sale or as samples, the goods and services available in, or with the permission of the adjoining premises.

11.2 Application

- (1) This Part applies to –
 - (a) temporary signs complying with clause 11.3(1)(a); and
 - (b) temporary trade displays complying with clause 11.3(2).
- (2) Any advertising sign or trade display that is to be a permanent structure or fixture is to comply with –
 - (a) the Building Code as defined in section 3 of the *Building Regulations 2012*;
 - (b) any local planning scheme; and
 - (c) any other written law regulating of signs within the district.

11.3 Temporary signs and trade displays

- (1) A person shall not on a public place, without a licence –
 - (a) place a temporary sign unless the sign is compliant with any relevant Planning Policy or other policy;
 - (b) place a trade display.
- (2) Notwithstanding subclause (1), a licence is not required for a temporary trade display which –
 - (a) does not exceed 1m in width from the property boundary;
 - (b) is placed against the property boundary, or if no adjoining business, does not exceed 5m in length;
 - (c) does not extend beyond the frontage of the business; and
 - (d) complies in all other respects with clause 11.6.

11.4 Matters to be considered in determining application for licence

In determining an application for a licence for the purpose of clause 11.3(1), matters the local government is to have regard to include –

- (a) any other written law regulating the construction or placement of signs or trade displays within the district;
- (b) the dimensions of the sign or trade display;
- (c) whether or not the sign or trade display may create a hazard to persons using a thoroughfare;
- (d) other signs or trade displays already approved or erected in the vicinity of the proposed location of the sign or trade display; and
- (e) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

11.5 Prohibition on placement of temporary signs

A temporary sign shall not be placed –

- (a) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5 metres, unless otherwise approved by an authorised person;
- (b) on any natural feature, including a rock or tree, on a thoroughfare or public place; or
- (c) on any bridge or the structural approaches to a bridge.

11.6 Requirements for trade displays

A trade display shall –

- (a) relate to the adjoining business activity;
- (b) be in place only during the hours of the business activity;
- (c) be constructed only to a such a height that it remains stable, in the opinion of an authorised person;
- (d) be secured in position in accordance with any requirements of the local government;
- (e) be placed so as not to impede or obstruct either vehicle or pedestrian traffic, or access to a place by any person;
- (f) be placed so as not to obstruct lines of sight for vehicle traffic; and
- (g) be maintained in a neat and tidy manner.

11.7 Removal of offensive sign or trade display

An authorised person may obscure, remove or require to be removed any temporary sign, trade display or items on a trade display in a public place without prior notice where the sign or trade display –

- a) has not been approved or is not compliant with this Part;
- b) in the authorised person's opinion –
 - (i) contains offensive language, images or items; or
 - (ii) is unsafe to users;
- c) is not adequately maintained, including free of graffiti; or
- d) remains after the termination of the licence.

PART 12 - SIGNS AND POWERS TO GIVE DIRECTIONS

12.1 Signs installed by the local government

- (1) The local government may install a sign in a public place specifying any conditions of use which apply to that public 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.
- (4) Clause 2.5 does not apply to a sign referred to in subclause (1).

12.2 Transitional provision relating to signs

Where a sign in a public place has been erected under a repealed local law then, on and from the commencement day, it is to be taken to be a sign erected under clause 12.1 if –

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

12.3 Authorised person to be obeyed

- (1) A person on or in a public place that is given a lawful direction by an authorised person shall comply with that direction.
- (2) A person shall not obstruct or hinder an authorised person in the performance of that person's duties.

12.4 Disposal of lost property

An article left on any public place, and not claimed within a period of 3 months, may be disposed of by an authorised person –

- (a) if the value of the property is reasonably believed to exceed the amount prescribed by regulation 30(3) of the *Local Government (Functions and General) Regulations 1996*, using the process under section 3.58 of the Act for the sale of the article as if it was property referred to in that section;
- (b) if the value of the property is reasonably believed to have a realisable value more than 1% of the amount prescribed by regulation 30(3) of the *Local Government (Functions and General) Regulations 1996* but not exceeding the amount prescribed, by handing the property to the Western Australian Police Force, or
- (c) if the property is reasonably believed to be of less value than that in subclause (b) –
 - (i) by donation to a not for profit body incorporated under the *Associations Incorporations Act 2015*; or
 - (ii) if likely to be of no interest to a not for profit body, in any manner he or she thinks fit.

PART 13 - LICENCES

Division 1 – Licences generally

13.1 Terms used

In this Part –

facility includes all equipment, materials, structures, goods and belongings associated with a licence or where a licence is required to have been obtained;

13.2 Application for licence

- (1) Where a person is required to obtain a licence under this local law, that person shall apply for the licence in accordance with subclause (2).
- (2) An application for a licence under this local law shall –
 - (a) be in the form determined by the local government;
 - (b) be signed by the applicant;
 - (c) provide the information required; and
 - (d) be forwarded to the local government together with any set fee.
- (3) An authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a licence, including but not limited to –
 - (a) the number of persons involved in the purposes of the licence;
 - (b) proposed location or locations; and
 - (c) proposed days and hours of operation.
- (4) An authorised person may require an applicant to give community notice of the application for a licence.
- (5) An authorised person may refuse to consider an application for a licence which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

13.3 Decision on application for licence

- (1) An authorised person may –
 - (a) approve an application for a licence unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a licence.
- (2) If an authorised person approves an application for a licence, written notice of approval is to be issued to the applicant.

- (3) If an authorised person refuses to approve an application for a licence, written notice of that refusal is to be given to the applicant.
- (4) An authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the licence holder.

13.4 Relevant considerations in determining application for licence

In determining an application for a licence an authorised person is to have regard to –

- (a) any relevant policies of the local government;
- (b) the desirability of the proposed activity;
- (c) the location of the proposed activity; and
- (d) such other matters as the authorised person may consider to be relevant in the circumstances of the case.

13.5 Refusal of application for licence

An authorised person may refuse to approve an application for a licence on any one or more of the following grounds –

- (a) failure to comply with any requirement in making an application;
- (b) the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the licence is sought;
- (c) the applicant is not a desirable or suitable person to hold a licence;
- (d) the needs of the district, or the part for which the licence is sought, are adequately catered for by established shops or by persons who have a valid licence to carry on trading or to conduct a stall;
or
- (e) such other grounds as the local government may consider to be relevant in the circumstances of the case.

13.6 General restrictions on grant of licence

- (1) An authorised person shall not grant a licence if there are reasonable grounds for believing that the carrying on of the activity to which the application relates would constitute an unacceptable risk to the safety, health or well-being of the public.
- (2) An authorised person shall not grant a licence unless satisfied that –
 - (a) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the licence;
 - (b) the public place at which the activity is to be provided is suitable for that purpose;
 - (c) a licence or similar authority granted or issued to the applicant has not been cancelled in the period of 5 years before the application is made; and
 - (d) the applicant is considered to be a fit and proper person to carry on the activity.

13.7 False or misleading statement

A person shall not make a false or misleading statement in connection with an application in respect of a licence under this local law.

Division 2 – Conditions of licences

13.8 Compliance with conditions

Where an application for a licence has been approved subject to conditions, the licence holder shall comply with each of those conditions, as amended.

13.9 Conditions of licence

- (1) If an authorised person approves an application for a licence subject to conditions, those conditions may include but are not limited to –
 - (a) the place, the part of the district, or the thoroughfare to which the licence applies;
 - (b) the days and hours during which a licence holder may conduct a facility;
 - (c) the number, type, form and construction, as the case may be, of any stand, table, structure, vehicle or other thing which may be used in conducting a facility;

- (d) the goods or services in respect of which a licence holder may conduct a facility;
 - (e) the number of persons and the names of persons permitted to conduct a facility;
 - (f) the requirement for personal attendance at the facility by the licence holder and the nomination of assistants, nominees or substitutes for the licence holder;
 - (g) whether and under what terms the licence is transferable;
 - (h) any prohibitions or restrictions concerning the –
 - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the licence holder;
 - (ii) the use of amplifiers, sound equipment and sound instruments;
 - (iii) the use of signs; and
 - (iv) the use of any lighting apparatus or device;
 - (i) the manner in which the licence holder's name and other details of a valid licence are to be displayed;
 - (j) the care, maintenance and cleansing of the facility used for trading and the place of the facility;
 - (k) the vacating of the place of a facility when the activity is not being conducted or is not being carried on;
 - (l) the acquisition by the licence holder of public risk insurance;
 - (m) the period for which the licence is valid; and
 - (n) the designation of any place or places where the activity is wholly or from time to time prohibited by the local government.
- (2) Where a licence holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that licence holder authorise another person to be a nominee of the licence holder for a specified period, and this local law and the conditions of the licence shall apply to the nominee as if that person was the licence holder.

13.10 Imposing conditions under a policy

- (1) In this clause –
policy means a local government policy adopted by the Council under section 2.7(2)(b) of the Act containing conditions subject to which an application for a licence may be approved under clause 13.3(1)(a).
- (2) Under clause 13.3(1)(a) an authorised person may approve an application subject to conditions by reference to a policy.
- (3) An authorised person shall give to the licence holder a copy of the policy or, at the discretion of the authorised person, the part of the policy which is relevant to the application for a licence, with the written notice of approval referred to in clause 13.3(2).
- (4) An application for a licence is not to be taken to have been approved subject to the conditions contained in a policy until the authorised person gives the licence 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 deemed to be information within section 5.94(u)(i) of the Act.

Division 3 – Variation of licences

13.11 Amendment of licence

- (1) An authorised person may, by written notice given to the licence holder, amend a licence –
- (a) imposing any new condition; or
 - (b) change or remove any existing condition.
- (2) An amendment may be made on application made by the licence holder or on the initiative of an authorised person.
- (3) An amendment will come into effect on the day that written notice is given to the licence holder, or some other date as specified in the notice.

13.12 Duration of licence

A licence is valid for one year from the date on which it is issued, unless it is –

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

- (b) surrendered under clause 13.21; or
- (c) suspended or cancelled under this Division.

13.13 Renewal of licence

- (1) A licence holder may apply to the local government for the renewal of a licence.
- (2) An application for renewal shall –
 - (a) be in the form determined by the local government;
 - (b) be signed by the licence holder;
 - (c) provide the information required by the form or an authorised person;
 - (d) be forwarded to the local government no later than 28 days before the expiry of the licence, or within a shorter period that the local government in a particular case permits; and
 - (e) be accompanied by any set fee.
- (3) An authorised person may –
 - (a) approve an application for the renewal of a licence;
 - (b) approve the application subject to any conditions; or
 - (c) refuse to approve the application.
- (4) The provisions of this Part that apply to an application for a licence also apply to an application for the renewal of a licence as though it were an application for a licence.

13.14 Transfer of licence

- (1) An application for the transfer of a valid licence is –
 - (a) to be made in writing;
 - (b) to be signed by the licence holder and the proposed transferee of the licence;
 - (c) to include such information as an authorised person may require to enable the application to be determined; and
 - (d) to be forwarded to the local government together with any set fee.
- (2) An authorised person may –
 - (a) approve an application for the transfer of a licence;
 - (b) approve the application subject to any conditions; or
 - (c) refuse to approve the application.
- (3) Where an authorised person approves an application for the transfer of a licence, the transfer may be effected by –
 - (a) an endorsement on the licence signed by the authorised person; or
 - (b) issuing to the transferee a licence in the form determined by the local government.
- (4) Where an authorised person approves the transfer of a licence, the local government is not required to refund any part of any set fee paid by the former licence holder.

13.15 Restrictions on renewal or transfer of licence

- (1) A licence shall not be renewed if the authorised person –
 - (a) is no longer satisfied as to any matter referred to in Division 1 that was relevant to the decision to grant the licence; or
 - (b) is satisfied that the licensee has persistently or frequently contravened the provisions of this local law or a term or condition of the licence; or
 - (c) considers there are reasonable grounds for believing that continuation of the licence to which the application relates will constitute an unacceptable risk to the safety, health or welfare of the public.
- (2) A licence shall not be transferred if the authorised person –
 - (a) is no longer satisfied as to any matter referred to in Division 1 that was relevant to the decision to grant the licence; or
 - (b) considers there are reasonable grounds for believing that the continuation of the licence to which the application relates will constitute an unacceptable risk to the safety, health or welfare of the public.

13.16 Notice of proposed suspension

- (1) If an authorised person proposes to suspend a licence under clause 13.17(1), the authorised person shall give written notice to the licence holder of the proposed suspension.
- (2) The notice shall –

- (a) state that the authorised person proposes to suspend the licence;
 - (b) state the reasons for the proposed suspension; and
 - (c) inform the licence holder that the licence holder is entitled to make representation to the authorised person in respect of the proposed suspension within 7 days after the day on which the licence holder is given the notice.
- (3) In considering whether to suspend the licence, the authorised person shall have regard to any representations made by the licence holder within the period referred to in subclause (2)(c).
- (4) Notwithstanding subclause (2)(c) a suspension of a licence may have immediate effect if an authorised person has reasonable grounds for believing that the continued provision of the activity authorised by the licence constitutes or will constitute –
- (a) a nuisance; or
 - (b) an unacceptable risk to the safety, health or welfare of the public.

13.17 Suspension of licence

- (1) An authorised person may, subject to clause 13.16, by written notice given to the licence holder, suspend a licence if there are reasonable grounds for believing that –
- (a) the licence holder has contravened a term or condition of a licence;
 - (b) the licence holder has contravened a provision of this local law; or
 - (c) the continued provision of the activity authorised by the licence constitutes or will constitute an unacceptable risk to the safety, health or welfare of the public.
- (2) The suspension notice shall –
- (a) state the day, or the day and time, on or at which the suspension takes effect;
 - (b) state the reasons for the authorised person’s decision to suspend the licence;
 - (c) where appropriate, indicate what steps need to be taken to ensure that there is compliance with the relevant provision, term or condition or that there is no longer a risk as described in subclause (1)(c); and
 - (d) inform the licence holder that the licence holder has a right to apply under the Act for a review of the decision to suspend the licence.

13.18 Period of suspension

The suspension of a licence has effect on the day, or the day and time, specified in the suspension notice until one of the following happens –

- (a) the suspension is revoked under clause 13.19;
- (b) the licence is cancelled under clause 13.20 or expires; or
- (c) the licence is surrendered in accordance with the provisions of this local law.

13.19 Revocation of suspension

- (1) An authorised person shall by written notice given to the licence holder, revoke the suspension of a licence if the authorised person is satisfied that the steps specified in the suspension notice have been taken.
- (2) An authorised person may, by written notice given to the licence holder, revoke the suspension of the licence if it is appropriate to do so in the circumstances of a particular case.

13.20 Cancellation of licence

- (1) A licence may be cancelled by an authorised person if –
- (a) the licence was obtained improperly;
 - (b) the CEO is no longer be satisfied as to a matter referred to in Division 1 that was relevant to the decision to grant the licence; o
 - (c) the licence holder has persistently or frequently contravened a term or condition of the licence, or a provision of this local law, whether or not the licence is or has been suspended on the grounds of a contravention;
 - (d) the licence holder has been convicted of an offence against –
 - (i) this local law; or
 - (ii) any other law relating to carrying on the purposes of the licence;

- (e) there are reasonable grounds for believing that the continued provision of the activity constitutes or would constitute an unacceptable risk to the safety of the public, whether or not the licence has been suspended on the grounds of that risk; or
 - (f) a written law is amended or repealed in a manner which is inconsistent with the terms and conditions of the licence and which renders the licence invalid, ineffective or contrary to law.
- (2) The written notice of cancellation shall –
- (a) state the day, or the day and time, on or at which the cancellation takes effect;
 - (b) state the reasons for the authorised person’s decision to cancel the licence; and
 - (c) inform the licence holder that the licence holder has a right to apply under clause 15.1 for a review of the decision to cancel the licence.
- (3) Notwithstanding subclause (2)(c) a suspension of a licence may have immediate effect if an authorised person has reasonable grounds for believing that the continued provision of the activity authorised by the licence constitutes or will constitute –
- (a) a nuisance; or
 - (b) an unacceptable risk to the safety, health or welfare of the public.

13.21 Surrender of licence

A licence holder may, at any time by notice in writing to the local government, surrender the licence.

Division 4 – Responsibilities of licence holders and others

13.22 Production of licence

A licence holder shall produce to an authorised person her or his licence immediately after being required to do so by that authorised person.

13.23 Production of licence document for amendment

If an authorised person amends or renews a licence, the licence holder shall, if required by an authorised person, produce the licence document to the authorised person for amendment within the period specified by the authorised person.

13.24 Return of licence document if licence no longer in effect

- (1) The person who was the licence holder shall as soon as practicable return the licence document to the local government if a licence –
- (a) has expired or has not been renewed;
 - (b) has been suspended or cancelled; or
 - (c) has been surrendered.
- (2) On the cancellation of a licence under clause 13.20 the licence holder is to be taken to have forfeited any fees paid in respect of the licence.

13.25 Other responsibilities of licence holder

A licence holder shall in respect of local government property to which the licence relates –

- (a) ensure that an authorised person has unobstructed access for the purpose of inspecting the facility or enforcing any provision of this local law;
- (b) comply with an instruction from an authorised person to take the action specified in the instruction for the purpose of maintaining public safety;
- (c) leave the public place in a clean and tidy condition after its use;
- (d) report any damage or defacement of the public place to an authorised person; and
- (e) take all reasonable action to prevent the consumption of any liquor on the local government property unless the licence allows it and a licence has been obtained under the Liquor Control Act for that purpose.

PART 14 - NOTICES

14.1 Notice to remedy non-compliance

Where any thing is required to be done or not permitted to be done by this local law, an authorised person may give written notice –

- (a) to the owner or the occupier of the property or of a property which abuts that portion of the thoroughfare where the thing has been done or not done; or
- (b) to any other person who may be responsible for the thing done or not done, requiring the person to comply with the requirements of this local law.

14.2 Notice regarding damage

- (1) A person who unlawfully removes, damages or interferes with a public place commits an offence and may be given a written notice in accordance with clause 14.3.
- (2) Unless there is proof to the contrary, a person is to be taken to have damaged a public place under subclause (1) where –
 - (a) a vehicle or a boat caused the damage and the person was the person responsible, at the time the damage occurred, for the control of the vehicle or boat; or
 - (b) the damage occurred under a licence and the person is the licence holder in relation to that licence.

14.3 Notice requirements

- (1) A notice given under this Part shall –
 - (a) be in writing;
 - (b) be given to the person referred to in clauses 14.1 or 14.2 as the case may be;
 - (c) specify the reason for giving the notice;
 - (d) specify the action that is required to be undertaken; and
 - (e) specify the time within which the work or action is to be undertaken.
- (2) At the local government's discretion, the action that may be required to be undertaken is –
 - (a) to take or cease such action as may be required for compliance with this local law;
 - (b) reinstate the property or thing to the state it was in before the removal, damage or interference;
 - (c) replace that property or thing; or
 - (d) pay for the costs of reinstatement or replacement.

14.4 Offence to fail to comply with notice

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

14.5 Local government may undertake requirements of notice

If a person fails to comply with a written notice referred to in clauses 14.1 or 14.2, the local government may –

- (a) do the thing specified in the notice, including replace the property, or reinstate the property to the state it was in before the removal, damage or interference;
- (b) take whatever remedial action it considers appropriate to put the local government in the position it would have been in if the breach or failure had not occurred; and
- (c) recover all costs from the person, as a debt.

14.6 Entry into private land

This local law is subject to sections 3.25, 3.27 and schedules 3.1 and 3.2 of the *Local Government Act 1995* and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3, Subdivision 3 of the Act.

PART 15 - OBJECTIONS AND REVIEW

15.1 Objection and review rights

Division 1 of Part 9 of the Act applies to a decision under this local law in respect of the grant, renewal, transfer, amendment, suspension or cancellation of a licence or consent.

PART 16 - OFFENCES AND PENALTIES

16.1 Offences

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.

16.2 General penalty

A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$10,000, 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.

16.3 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 a modified penalty for a prescribed offence is the number specified adjacent to the clause in Schedule 1.

16.4 Form of infringement 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 *Local Government (Functions and General) Regulations 1996*;
 - (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 *Local Government (Functions and General) Regulations 1996*; 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 *Local Government (Functions and General) Regulations 1996*.
- (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.

16.5 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) Unless the contrary is proved, it is to be presumed 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.
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SCHEDULE 1 – PRESCRIBED OFFENCES

[clause 16.3]

Item	Clause	Nature of offence	Modified penalty \$
Part 2 – Determination in respect of local government property			
1	2.4	Failure to comply with a determination	250
Part 3 – Activities on local government property requiring a licence			
2	3.1	Undertaking activity on local government property without a licence	250
3	3.2(1)	Failure to obtain licence to possess, consume or sell liquor	250
Part 4 – Behaviour on local government property			
4	4.3	Behaviour interfering with others	250
5	4.4	Behaviour detrimental to property	1000
6	4.5	Unauthorised entry to function	250
7	4.6(1)(c)	Failure to comply with period of refusal or suspension	250
8	4.6(2)	Failure to leave a venue when instructed by an authorised person	250
9	4.7(1)	Unauthorised vehicle on local government property	250
10	4.7(2)	Unauthorised driving of a vehicle at more than 20km/hr on local government property	250
11	4.7(3)	Unauthorised driving of a vehicle on local government property during a function	250
12	4.8(1)	Unauthorised use of a UAV on or from local government property	100
13	4.8(2)	Unauthorised overflight of a public place by a UAV during an emergency	2,000
14	4.9	Unauthorised archery, pistol or rifle shooting on local government property	250
15	4.10	Unauthorised playing or practising golf on local government property	250
16	4.11	Unauthorised use of bicycle, skateboard etc. on local government property	100
Part 5 – Matters relating to particular local government property			
17	5.1	Unauthorised entry to fenced, closed or restricted local government property	500
18	5.2(1)	Unauthorised entry to gender specific toilet block or change room	250
19	5.3	Unauthorised use of toilet block or change room	250
20	5.6	Failure to comply with signs or directions of an authorised person	250
21	5.9(1)	Failure to pay set fee	250
22	5.9(2)	Unauthorised use of a closed airport	2,000
23	5.10(1)	Unauthorised entry to an airport	250
24	5.10(3)	Failure to comply with signs, markings or notices at an airport	250
25	5.11(1)	Bringing an unauthorised animal on to an airport	250
26	5.11(2)	Failure to control animal on an airport	250
27	5.13	Failure to comply with watering requirements	250

Item	Clause	Nature of offence	Modified penalty \$
Part 6 – Activities on jetties and bridges			
28	6.2	Unauthorised use of any part of jetty which is closed or under repair or construction	250
29	6.3	Mooring of boats in unauthorised manner	250
30	6.4	Obstruction by moored vessels	250
31	6.5	Fixing private fenders, structures or items to a jetty	250
32	6.7	Failure to remove moored boat on direction of authorised person	250
33	6.8	Launching of boat from jetty without consent	250
34	6.9	Mooring when not ready to load or discharge cargo, at times not permitted or for longer than permitted	250
35	6.10	Unlawful storing of goods on jetty	250
36	6.11	Removing goods from jetty during other than permitted hours	250
37	6.12	Failure to remove cargo on jetty on direction of authorised person	250
38	6.13	Unauthorised deposit of bulk cargo on jetty	250
39	6.14	Failure to prevent pollution of surrounding area	500
40	6.15	Fishing from jetty or bridge so as to obstruct a boat or another person	50
Part 7 – Activities in thoroughfares			
41	7.1(a)	Planting or allowing to remain a plant that may obstruct vehicle sightline or intrude over a thoroughfare	250
42	7.1(b)	Unauthorised damage of a lawn or garden	250
43	7.1(c)	Damaging or removing whole or part of a street tree without authorisation	250
44	7.1(d)	Unauthorised placement of obstruction or hazard	250
45	7.1(e)	Unauthorised damage, interference or removal of a structure	250
46	7.1(f)	Unauthorised playing or participation in a game or sport	100
47	7.1(g)	Unauthorised clearing of a verge	250
48	7.2(1) (a), (d), (e), (f), (g), (j)	Unauthorised activity in a thoroughfare causing damage	500
49	7.2(1)(b), (c), (h), (i), (k), (l), (m), (n), (o), (p), (r), (s), (t), (u), (v), (w), (x)	Unauthorised activity in a thoroughfare not causing damage	250
50	7.2(1)(q)	Carrying on or conducting entertainment as an individual	50
51	7.2(1)(q)	Carrying on or conducting entertainment as a group or business	250
52	7.3(1)	Failure to obtain licence to possess, consume or sell liquor	250

Item	Clause	Nature of offence	Modified penalty \$
53	7.5	Driving on a closed thoroughfare	250
54	7.9(1)	Unauthorised verge treatment	250
55	7.9(4)	Clearing for verge without approval	250
56	7.10	Installation or replacement of prohibited material	250
57	7.11 (a), (b), (d), (e)	Failure to keep permitted verge treatment in good and tidy condition, obstruct a thoroughfare, footpath, drain, or driveway	250
58	7.11(c)	Placing an obstruction on or around a verge treatment	100
59	7.11(f)	Failure to ensure sprinklers or reticulation pipes do not protrude, do not cause inconvenience to pedestrians, or present a hazard	250
60	7.13(1)	Failure to obtain licence for a temporary crossover	250
61	7.14	Failure to remove redundant crossover or reinstate kerb, drain, footpath, verge or thoroughfare	250
62	7.15	Failure to remove crossover in unsafe location	2,000
Part 8 – Conservation in public places			
63	8.5(1)	Driving other than on a carriageway	250
64	8.8	Unauthorised planting in a special environmental area	250
65	8.10	Unauthorised clearing of a public place	500
66	8.12(b)	Failure to obtain licence to burn in a public place	250
67	8.15(1)	Construction of a firebreak on a public place	250
68	8.16	Harvesting of flora without authorisation	250
69	8.17(1)	Unauthorised collection of seed	250
Part 9 – Activities in public places			
70	9.2(1)	Unauthorised activity in a public place	250
71	9.3	Unauthorised use of animals in a public place	250
72	9.5(3)	Unauthorised camping or erecting an unauthorised structure	250
73	9.6	Failure to comply with sign regarding consumption of food or drink	250
74	9.7	Leaving an animal or vehicle in a public place without approval	250
75	9.8(2)(a)	Animal in public place when not led, ridden or driven	250
76	9.8(2)(b)	Animal on public place without authorisation	250
77	9.8(2)(c)	Unauthorised training or racing an animal in a public place	250
78	9.9(2)	Taking or injuring fauna without authorisation	500
79	9.10(2)	Taking or damaging flora without authorisation	1000
80	9.11	Improper disposal of waste on local government property	250
81	9.13	Leaving a shopping trolley other than in an approved place	100
82	9.14(2)	Failure of retailer to remove shopping trolley when advised	250
Part 10 – Outdoor eating activities			
83	10.2	Unauthorised conduct of an outdoor eating facility	250
Part 11 – Temporary signs and trade displays			

Item	Clause	Nature of offence	Modified penalty \$
84	11.3(1)	Failure of temporary sign to comply with requirements	250
85	11.3(2)	Failure of trade display to comply with the conditions for which a licence is not required	250
86	11.5	Placement of a temporary sign in a prohibited place	500
87	11.6	Failure to comply with requirements for a trade display	250
88	11.7	Failure to obscure or remove a temporary sign, trade display or item when required	500
Part 12 – Signs and powers to give directions			
89	12.1(2)	Failure to comply with condition of use indicated by a sign	250
90	12.3(1)	Failure to comply with direction of authorised person	250
91	12.3(2)	Obstruction or hindrance of an authorised person	500
Part 13 – Licences			
92	13.1	Failure to obtain a licence when required	250
93	13.7	False or misleading statement in application for a licence	500
94	13.8	Failure to comply with licence condition	250
95	13.18	Failure to comply with notice of suspension	500
96	13.20	Failure to comply with notice of cancellation	500
97	13.22	Failure to produce licence for inspection when required	250
98	13.23	Failure to produce licence for amendment when required	250
99	13.24	Failure to return licence when no longer in effect	250
100	13.25	Failure to comply with other responsibilities of licence holder	250
Part 14 – Notices			
101	14.4	Failure to comply with notice	250
Part 16 – Offences and penalties			
102	16.2	Offence not elsewhere specified	250

Dated _____ 2025

The Common Seal of the Shire of Denmark was affixed by authority of a resolution of Council in the presence of –

K. GIBSON, President

D. KING, Chief Executive Officer

Administrative notes inserted for ease of use and will not be published as part of the Gazetted local law

Administrative notes –

1. Clause 1.3 Application – Governor’s approval for operation of the *Local Government Property Local Law 2001* was published in the *Government Gazette* on 6 April 2001.
 - A new approval will be needed for this local law, if extension is desired
 - Resolve to seek from Governor at time of putting draft out for public comment
 - Not to be a part of the local law (not under Council’s control) but inserted as an admin note
 - The authority for the extension is not from the local law but from the publication of the Governor’s approval in the Gazette
2. Determinations will need to be remade if desired – separate to adoption of local law