

10.4 EXECUTIVE SERVICES**10.4.1 Stage Three: Activities in Thoroughfares and Public Places and Trading Local Law 2026 – Consideration of Submissions and Adoption**

Date of Report:	15 July 2026
Applicant or Proponent:	Shire of Toodyay
File Reference:	F26/49-08 (D26/5922)
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	05/03/2026
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Schedule of Submissions; ⇒ 2. Activities in Thoroughfares and Public Places and Trading Local Law (track changed). ⇒

PURPOSE OF THE REPORT

That Council, pursuant to section 3.12(4) of the Local Government Act 1995:

1. *Considers the submission received during the public consultation period for the proposed Activities in Thoroughfares and Public Places and Trading Local Law 2026;*
2. *Notes that the submission has been considered and minor drafting amendments have been made that do not alter the intent or effect of the local law (and are not significantly different from what was proposed);*
3. *Resolves to make the Activities in Thoroughfares and Public Places and Trading Local Law 2026 as attached (Attachment 2); and*
4. *Authorises the Chief Executive Officer to arrange execution under the Common Seal and publish notice of the making of the local law in the Government Gazette in accordance with statutory requirements.*

BACKGROUND

Under section 3.12 of the *Local Government Act 1995*, Council is required to advertise a proposed local law and consider submissions prior to making the local law.

At the Ordinary Council Meeting held on 7 May 2026, Council resolved to advertise the proposed *Activities in Thoroughfares and Public Places and Trading Local Law 2026*.

The proposed local law was developed to:

- replace the existing *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2001*; and

- provide a contemporary and enforceable framework for regulating activities on thoroughfares and public places within the Shire.

The proposed local law was advertised for a minimum period of six (6) weeks, during which submissions were invited.

COMMENTS AND DETAILS

One submission was received during the advertising period (**Attachment 1**).

Council is requested to consider the submission, note the matters raised, and proceed to make the local law with minor drafting amendments only.

The submission primarily raised:

- formatting and presentation matters (e.g. headings, numbering and layout);
- drafting inconsistencies (e.g. clause numbering and terminology); and
- minor grammatical and typographical errors.

These matters have been reviewed and addressed where appropriate. The amendments made improve clarity, consistency and usability and do not alter the intent, scope or operation of the local law.

Importantly no submissions raised objections to the intent or operation of the local law.

Where suggested changes would have introduced inconsistency within the local law or limited the effectiveness of provisions, they were not supported.

The amendments incorporated into the final version are administrative and are not considered “significantly different” for the purposes of section 3.12(4) of the *Local Government Act 1995*.

Accordingly, the local law is considered suitable for Council to resolve to make.

IMPLICATIONS TO CONSIDER

Consultative:

Public advertising (Stage Two of the Local Law Process) was undertaken in accordance with statutory requirements. One submission was received and has been considered.

Strategic:

The Shire regulates compliance with legislation, regulations, local laws and policies.

Outcome 5. High quality town planning complements our rural ambience and heritage.

5.1. Provide responsible planning and development.

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Nil.

Financial:

Nil.

Legal and Statutory:

Section 3.12 of the *Local Government Act 1995*

Section 3.12(4) – Consideration of submissions and making of local law

Section 3.12(4) of the *Local Government Act 1995* provides that, after the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed. Accordingly, Council may proceed to make the local law under section 3.12(4).

Section 3.12(5)(a) – Publication in the Government Gazette

Section 3.12(5)(a) requires that, after making a local law, the local government must publish the local law in the Government Gazette.

Section 3.12(5)(b)(i) – Notification to the Departmental CEO (LGIRS)

Section 3.12(5)(b)(i) requires that, after making a local law, the local government must give a copy of the local law to the Departmental CEO (Director General of the Department of Local Government, Industry Regulation and Safety).

Section 3.12(5)(b)(ii) – Notification to other relevant Departments

Where a department of the Public Service other than LGIRS assists in the administration of an Act under which the local law is made, section 3.12(5)(b)(ii) requires that a copy of the local law also be provided to the CEO of that department.

Section 3.12(6) – Public notice after gazettal

Section 3.12(6) requires that, after publication in the Gazette, the local government must give public notice stating the title of the local law; a summary of its purpose and effect (including commencement date); and where the local law may be inspected or obtained.

Risk related:

Minor amendments to a local law correct drafting errors; resolve inconsistencies; and improve clarity and enforceability without altering intent, scope or operation.

Such amendments are not considered “significantly different” and do not require re-advertising.

Failure to update this local law may result in regulatory gaps; reduced enforcement capability; and inconsistency with current legislation. This report mitigates these risks.

Workforce related:

Nil.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO. OCM187/08/26**MOVED** Cr M Dival**SECONDED** Cr R Mills

That Council:

1. Notes the submission received during the public consultation period for the proposed *Activities in Thoroughfares and Public Places and Trading Local Law 2026*;
2. Determines that the submission has been duly considered (**Attachment 1**);
3. Notes that minor drafting amendments have been made to the *Activities in Thoroughfares and Public Places and Trading Local Law 2026* as presented (**Attachment 2**) to improve clarity and consistency, and that these amendments do not alter the intent or effect of the local law (and are not significantly different from the proposed *Activities in Thoroughfares and Public Places and Trading Local Law 2026* that was advertised); and
4. **Makes** the *Activities in Thoroughfares and Public Places and Trading Local Law 2026* pursuant to section 3.12 of the *Local Government Act 1995* as attached (**Attachment 2**); and
5. Authorises the Temporary Chief Executive Officer to:
 - (a) affix the Common Seal of the Shire to the *Activities in Thoroughfares and Public Places and Trading Local Law 2026* ;
 - (b) arrange publication of the local law in the Government Gazette in accordance with section 3.12(5)(a);
 - (c) notify the Director General of the Department of Local Government, Industry Regulation and Safety and any other relevant Department or Minister in accordance with section 3.12(5)(b); and
 - (d) give public notice of the local law in accordance with section 3.12(6) of the *Local Government Act 1995*.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 6/0 BY ABSOLUTE MAJORITY

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Schedule of Submissions

No.	Submission and mention of clauses	Comments from Officer	Action taken
1	Contents, Part 2, Division 3 - Subdivision 3 is missing - Clause 2.12 is missing	Agreed. Review confirms that Subdivision numbering is incomplete, with Subdivision 4 following Subdivision 2, and clause numbering omits clause 2.12. These are drafting errors that affect clarity and referencing.	Amended numbering to insert Subdivision 3 and renumbered the rest of the clauses in that section. Then updated the contents of the local law.
2	Contents, Part 2, Division 3 Subdivision 4 to the end of Part 2 Subheadings italicised Subheading numbers misaligned Page numbers italicised	The sub-headings are meant to be italicised. They are not misaligned. They were in the centre, as were the other division headings. The page numbers are not italicised. They are in a different font, but the whole document will be put into Century Schoolbook. Throughout all parts of the local law numbering in the document map of the word document did not line up so the numbers were amended throughout the entire local law.	Made subdivision headings in font size 12 to bring consistency across the document.
3	Contents, Part 2, Division 4 Clause 2.16 is missing	Agreed. Clause numbering skips from 2.15 to 2.17, indicating omission of clause 2.16, creating inconsistency in numbering.	The clauses have been renumbered.
4	Contents, Part 3 Division 2 onwards Subheadings italicised Subheading numbers misaligned Page numbers italicised	Refer to comment at No. 2	Refer to action taken at No. 2
5	Contents, Part 4, subheadings 4.2 onwards Subheadings italicised Subheading numbers misaligned Page numbers italicised	Refer to comment at No. 2	Refer to action taken at No. 2

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Schedule of Submissions

No.	<i>Submission and mention of clauses</i>	<i>Comments from Officer</i>	<i>Action taken</i>
6	Contents, Part 5, subheadings 5.2 onwards Subheadings italicised Subheading numbers misaligned Page numbers italicised	Refer to comment at No. 2	Refer to action taken at No. 2
7	Contents, Part 6, subheadings 6.2 onwards Subheadings italicised Subheading numbers misaligned Page numbers italicised	Refer to comment at No. 2	Refer to action taken at No. 2
8	Contents, Part 7, subheadings 7.2 onwards Subheadings italicised Subheading numbers misaligned Page numbers italicised	Refer to comment at No. 2	Refer to action taken at No. 2
9	Contents, Part 9, subheadings 9.2 onwards Subheadings italicised Subheading numbers misaligned Page numbers italicised	Refer to comment at No. 2	Refer to action taken at No. 2
10	Contents, Part 10 Subheadings italicised Subheading numbers misaligned Page numbers italicised	Refer to comment at No. 2	Refer to action taken at No. 2

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Schedule of Submissions

No.	Submission and mention of clauses	Comments from Officer	Action taken
11	1.4 Interpretation (Definitions) - Townsite: Why is it part (a) or part (b) instead of part (a) and part (b)?	Not supported. The use of “or” is intentional and reflects the definition of “townsite” under section 26 of the <i>Land Administration Act 1997</i>. That definition operates to include land that is either constituted under section 26(2) or land referred to in clause 37 of Schedule 9.3 of the <i>Local Government Act 1995</i>. Using “or” ensures the definition captures all relevant land that may fall within either legislative pathway. Replacing “or” with “and” would incorrectly narrow the definition and may exclude land that meets only one of the criteria.	No change.
12	2.4 and 2.5 - The words “crossing” and “crossover” are mixed randomly. Suggest the use of the “crossover” be used throughout.	Not supported. The use of both “crossing” and “crossover” in these clauses is intentional and reflects the different context in which the terms are applied. The defined term “crossover” refers to the constructed access point between a thoroughfare and land. The term “crossing” is used in a broader, descriptive sense to refer to the existence or condition of that access point (for example, whether one already exists or is to be removed). Accordingly, the terms are not used interchangeably, and their current usage does not create ambiguity or affect interpretation.	No change.
13	2.6 Interpretation Append “, which list shall be available for inspection at the Shire office and on the Shire’s web site”.	Agreed.	The words “that is acceptable to local government” will replace the words “and appears on a list maintained by the local government”

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14	2.8 (2) Needs a clause (3): "Subject to a permit being obtained as per clause 5.9".	Not supported. Clause 2.8 forms part of a specific regulatory framework for verge treatments within Part 2, Division 3. It is intended to set out the circumstances in which an owner or occupier may install and maintain a permissible verge treatment without the need to obtain a permit. While a verge forms part of a thoroughfare, clause 5.9 applies more broadly to planting within a thoroughfare and is not intended to apply to permissible verge treatments regulated under clause 2.8. Requiring compliance with clause 5.9 would create inconsistency within the local law by effectively requiring a permit for activities that clause 2.8 is expressly intended to allow without a permit. The existing drafting reflects a deliberate distinction between general planting within a thoroughfare and permissible verge treatments.	No change.
15	Part 2, Division 4 Clause 2.16 is missing	Supported. Duplicate of earlier submission; clause numbering inconsistency confirmed. Refer to response at 3.	Refer to response at 3.

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Schedule of Submissions

No.	Submission and mention of clauses	Comments from Officer	Action taken
16	2.18 (2) The last five words are meaningless.	Agree that the words mentioning the Land Administration Act are not required to be there.	Removed these words
17	3.3 (a) -semicolon missing	Agreed	Inserted semicolon.
18	3.4 (a) (iv) - forbids the inclusion of any text identifying the sign manufacturer	Noted but not supported. The inclusion of identifying who the sign manufacturer is irrelevant. It would be like placing an advert on an advert but in sign format.	No change required.
19	3.5 (d) is meaningless	Supported. The clause has a missing word so it does not make sense.	Redrafted clause to say: the sign must not obstruct sight lines for drivers entering or leaving a thoroughfare
20	3.5 (k) - inappropriate "and"	Agreed	Removed it
21	3.5 (l) - missing "and"	Agreed.	Placed it in.

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No.	Submission and mention of clauses	Comments from Officer	Action taken
22	4.1 (1) - spurious semicolon, should be a colon	Agreed.	Replaced with a colon.
23	4.2 (3) - As worded, this permits the riding of ponies, donkeys, mules and camels.	Clause 4.2(3) is intended to regulate the riding of horses within built-up areas. The new local law and even the previous local law only used the word horse. It is only about a horse. It does not say anything else. Admittedly the term vehicle includes an animal being ridden or driven so it could mean ponies, donkeys, mules and camels however as this is the same clause that appeared in the previous local law and it only mentioned a horse specifically.	No change is to be made to the local law as animals are mentioned in the above clauses.
24	4.3 Interpretation - retailer (meaning): inappropriate "and"	Agreed	Removed it.
25	4.3 Interpretation - shopping (bag): inappropriately capitalised	Agreed	Removed capitalisation.
26	5.4 - Source of the handbook is not specified. Suggest replacing the final "the" with "MRWA's"	Agreed.	Have included the words "Main Roads Western Australian"

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Schedule of Submissions

No.	Submission and mention of clauses	Comments from Officer	Action taken
27	5.6 (2) (a) - the word "or" needs to be appended	Agreed	Added the or
28	6.1 Interpretation - Alfresco Dining (meaning): spurious "12"	Technically the "12" is not spurious. It is the Policy Number (Document ID).	Have removed 12 so that if the document ID number is to be amended in the future, the local law would be unaffected.
29	6.1 Interpretation - Alfresco Dining (meaning): spurious full stop should be a comma, inappropriately capitalised "but".	Agreed	Have amended it accordingly.
30	6.1 Interpretation: Trading - (b) (i) to (iv) inconsistent layout &(c) (i) to (iii) inconsistent layout	Agreed	Amended the layout.
31	6.6 (1) (h) (ii) - the word "musical" is missing	Disagree. The word musical sits within the definition called "perform". It is tied to the word "instrument" within the local law in sections 6.14 (c) and the word musical was not included at 6.14(c)(ii). The word "Musical" is not missing at 6.6(1)(h)(ii) because it should not be there.	Insert the missing word "musical" in clause 6.14(c)(ii) but not amend clause 6.6(1)(h)(ii) as the wording in this clause is exactly what it was in the previous local law.
32	6.8 - The words "Alfresco Dining" missing from the start of the clause.	Agreed.	Have included those words.

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No.	Submission and mention of clauses	Comments from Officer	Action taken
33	6.8apostrophe missing from the word “applicant’s”.	Agreed	Included it.
34	6.14 (c) (iii) Regulations not capitalised	Agreed. The regulations have also been italicised.	Amended.
35	6.21 (2) Convolutd and unclear	Agreed. The redrafted clause to the right in the action taken column aligns with defined terms used throughout the local law and does not alter the intent or operation of the provision.	Redraft clause 6.21(2) to improve clarity and enforceability. Suggested wording: “The permit holder may replace the Facility removed under subclause (1) once the person who directed its removal notifies the permit holder that it may be reinstated.”
36	7.10 (1) (b) spurious “or”	Agreed.	Removed it.
37	Part II, prescribed offences - 2.4(1) the word should “crossover” & 2.5(2) the word should “crossover”	Noted but not supported. Refer to response in 12.	No change.

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Attachment 2: Activities in Thoroughfares and Public Places and Trading Local Law 2026 (Track changed)

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Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Toodyay resolved on 7 May 2026 to make the following local law.

PART 1 PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Toodyay Activities in Thoroughfares and Public Places and Trading Local Law 2026*, the purpose and effect of which is as follows:

Purpose

The purpose of this local law is to regulate the use of thoroughfares, public places and local government property in order to promote public safety, manage obstructions, protect the natural environment, ensure fair and orderly trading, and provide clear standards for activities such as verge treatments, signage, street trading, outdoor eating facilities, and other uses of public land within the Shire of Toodyay.

Effect

The effect of this local law is to provide a legal framework that:

- Prescribes the activities that require a permit,
- Sets conditions under which those activities may be conducted,
- Regulates trading, events and signage in public places,
- Manages vegetation, firebreaks, environmental protection and activities that may impact thoroughfares,
- Establishes offences for non-compliance, including prescribed modified penalties, and
- Enables the Shire to issue notices and take enforcement action to protect public health, amenity, safety and environmental values.

1.2 Commencement

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

1.3 Repeal

The Shire of Toodyay *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* published in the Government Gazette on 25 October 2001 (page 5684), is repealed.

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1.4 Interpretation (Definitions)

In this local law unless the context otherwise requires -

Term	Meaning
Act	The <i>Local Government Act 1995</i> .
applicant	A person who applies for a permit.
authorised person	A person authorised by the local government under section 9.10(2) of the Act to perform any of the functions of an authorised person under this local law.
built-up area	Has the meaning given to it in the <i>Road Traffic Code 2000</i> .
bulk rubbish container	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	The paved or constructed portion of a thoroughfare used or intended for use by vehicles.
CEO	The Chief Executive Officer of the local government.
commencement day	The day on which this local law comes into operation.
Council	The council of the local government.
crossover	A crossing giving access from a public thoroughfare to - (a) private land; or (b) a private thoroughfare serving private land;
district	The district of the local government.
footpath	Has the meaning given to it in the <i>Road Traffic Code 2000</i> .

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Term	Meaning
garden	Any part of a thoroughfare planted, developed or treated, otherwise than as a lawn, with one or more plants.
intersection	has the meaning given to it in the <i>Road Traffic Code 2000</i> .
kerb	edge of a carriageway.
lawn	Any part of a thoroughfare which is planted only with grass, or with a similar plant, but includes any other plant provided that it has been planted by the local government.
liquor	has the meaning given to it in section 3 of the <i>Liquor Control Act 1988</i> .
local government	The Shire of Toodyay.
local government property	Anything except a thoroughfare – (a) which belongs to the local government; (b) of which the local government is the management body under the <i>Land Administration Act 1997</i> ; or (c) which is an 'otherwise unvested facility' within section 3.53 of the Act;
local planning scheme	A local planning scheme of the local government made under the <i>Planning and Development Act 2005</i>
lot	has the meaning given to it in the <i>Planning and Development Act 2005</i> .
owner or occupier	In relation to land does not include the local government.
permissible verge treatment	Any one of the 4 treatments described in clause 2.8(2) and includes any reticulation pipes and sprinklers.
permit	A permit issued under this local law.
permit holder	A person who holds a valid permit.

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Term	Meaning
person	does not include the local government.
premises	A building or similar structure, but does not include a carpark or a similar place.
public place	Includes any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include – (a) premises on private property from which trading is lawfully conducted under a written law; and (b) local government property.
Regulations	The <i>Local Government (Functions and General) Regulations 1996</i> .
sign	Includes a notice, flag, mark, structure or device on which may be shown words, numbers, expressions or symbols.
thoroughfare	any road, street, lane, footpath, path, right of way, verge, reserve, bridge or other place over which the public has a right of passage, whether or not it is a dedicated road; and has the meaning given to it in the Act but does not include a private thoroughfare which is not under the management control of the local government;
townsite	The townsite of Toodyay which is – (a) constituted under section 26(2) of the <i>Land Administration Act 1997</i> ; or (b) referred to in clause 37 of Schedule 9.3 of the Act.

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Term	Meaning
vehicle	includes – (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and (b) an animal being ridden or driven, but excludes – (c) a wheelchair or any device designed for use by a physically impaired person on a footpath; and (d) a pram, a stroller or a similar device.
verge	That part of a thoroughfare between the carriageway and the land which abuts the thoroughfare but does not include any footpath.

1.5 Application of this local law

This local law applies throughout the district.

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PART 2 ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

Division 1 - General

2.1 General prohibitions

A person shall not -

- (a) plant any plant that exceeds 0.75m in height on a thoroughfare so that the plant is within 10m of an intersection *or otherwise obstructs required sight-distance visibility*;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless –
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;
- (c) plant any plant (except grasses or similar low-growing species) on a thoroughfare so that it is within 2m of a carriageway;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) that may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence 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 impede the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, rollerblades, electrical powered device or similar device – with the exclusion of an electric wheelchair or aged persons mobility device.

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~~(g)~~

2.2 Activities allowed with a permit - general

- (1) A person shall not, without a permit –
 - (a) dig or otherwise create a trench through or under a kerb or footpath;
 - (b) subject to Division 3 of this Part, throw, place or deposit any item on a verge except for removal by the local government under a bulk rubbish collection, and then only during the period of time advertised for that collection;
 - (c) cause any obstruction to a vehicle or a person using a thoroughfare as 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) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.13;
 - (h) fell any tree onto a thoroughfare;
 - (i) unless installing, or in order to maintain, a permissible verge treatment -
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install any thing on any part of a thoroughfare, including gravel, stone, concrete, pavers, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark, sawdust or similar material;
 - (j) provide, erect, install or use on any building, structure or land abutting on a thoroughfare any hoist or other device for use over the thoroughfare;
 - (k) on a public place use anything or do anything so as to create a nuisance;
 - (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
 - (m) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare.
- (2) The local government may exempt a person from compliance with subclause (1) on application.

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2.3 No possession and consumption of liquor on thoroughfare

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

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Division 2 - Vehicle crossing

Subdivision 1 - Crossover

2.4 Permit required

- (1) Where activities on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works shall obtain a permit for the construction of a crossover where –
 - (a) a crossing does not exist; or
 - (b) a crossing exists but is likely to be damaged by the vehicles or loads.
- (2) The “person responsible for the works” in subclause (1) is taken to be the registered proprietor of the lot.
- (3) A permit for a temporary crossover is taken to be issued on the condition that the permit holder keeps the temporary crossing in good repair so as not to create a danger or obstruction to persons using the thoroughfare and removes and rehabilitates the temporary crossover after a set period of time.

Subdivision 2 - Redundant vehicle crossings

2.5 Removal of redundant crossing

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

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Division 3 - Verge treatments

Subdivision 1 - Preliminary

2.6 Interpretation

In this Division, unless the context otherwise requires -

"Acceptable material" means any material that creates a hard and stable surface, ~~that is acceptable to and appears on a list maintained by~~ the local government.

2.7 Application

This Division applies within the district

Subdivision 2 - Permissible verge treatments

2.8 Permissible verge treatments

- (1) An owner or occupier of land abutting a verge may install a permissible verge treatment on the verge directly in front of their land.
- (2) The permissible verge treatments are –
 - (a) the planting and maintenance of a lawn;
 - (b) the planting and maintenance of a garden provided that -
 - (i) clear sight visibility is maintained at all times for persons using the abutting thoroughfare at intersections, bends or driveways; and
 - (ii) where there is no footpath, a pedestrian has safe and clear access of at least 2m along the verge immediately adjacent to the kerb;
 - (c) the installation of an acceptable material; or
 - (d) a combination treatment over no more than one-third of the verge area (excluding any vehicle crossing) of acceptable material, with the remainder planted and maintained as a lawn or garden.

2.9 Only permissible verge treatments to be installed

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

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- (2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.10.

2.10 Obligations of owner or occupier

- (1) An owner or occupier who installs or maintains a permissible verge treatment shall -
- (a) keep the verge treatment in a good and tidy condition and ensure, that a footpath or carriageway is not obstructed;
 - (b) not place any obstruction on or around the verge treatment; and
 - (c) not disturb a footpath on the verge.

2.11 Notice to owner or occupier

The local government may give written notice requiring the owner or the occupier to remedy any breach of a provision of this Division within the time specified in the notice.

*Subdivision **34** - Public works*

2.12 ~~2.13~~ Power to carry out public works on verge

Where the local government or an authorised authority disturbs a verge, it -

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

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Division 4 - Property numbers

2.13 ~~2.14~~ Interpretation

In this Division, unless the context requires otherwise -

"**Number**" means the house number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

2.14 ~~2.15~~ Assignment of numbers

The local government may assign or reassign a number to a lot in the district.

Division 5 - Signs erected by the local government

2.15 ~~2.17~~ Signs

- (1) The local government may erect a sign on a public place specifying conditions of use which apply to that place.
- (2) A person shall comply with any 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.

Division 6 - Driving on a closed thoroughfare

2.16 ~~2.18~~ No driving on closed thoroughfare

- (1) A person shall not drive or take a vehicle on a closed thoroughfare unless –
 - (a) Permitted by an order under section 3.50 of the Act; or
 - (b) the person has a permit.
- (2) In this clause –

"**Closed thoroughfare**" means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act. ~~Also, under Land Administration Act.~~

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PART 3 ADVERTISING SIGNS ON THOROUGHFARES

Division 1 - Preliminary

3.1 Interpretation

In this Part, unless the context otherwise requires -

Term	Meaning
advertising sign	A sign used for the purpose of advertisement and includes an "election sign"
direction sign	A sign indicating the direction of another place, activity or event, but does not include a sign erected or affixed by the local government or the Commissioner of Main Roads
election sign	A sign or poster that advertises any aspect of a forthcoming Federal, State or Local Government election
portable direction sign	A portable freestanding direction sign
portable sign	A portable freestanding advertising sign.

Division 2 - Permit

9.1 ~~3.2~~ Advertising signs and portable direction signs

- (1) A person shall not, without a permit –
 - (a) erect, place or display an advertising sign on a thoroughfare; or
 - (b) post any bill or paint, place or affix any advertisement on a thoroughfare.
- (2) Notwithstanding subclause (1), a permit is not required for a portable direction sign that –
 - (a) Does not exceed 500mm in height nor 0.5m² in area; and
 - (b) is placed or erected on an infrequent or occasional basis only to direct attention to a place, activity or event during its operational hours.

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- (3) Notwithstanding subclause (1), a person shall not erect or place an advertising sign -
 - (a) on a footpath;
 - (b) over any footpath where the vertical clearance between the sign and the footpath is less than 2.5m;
 - (c) on or within 3m of a carriageway;
 - (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct sight lines or cause danger; or
 - (e) on any natural feature, including a rock or tree, or on any bridge or the structural approaches to a bridge.

3.2 ~~3.3~~ Matters to be considered in determining application for permit

In determining an application for a permit under clause 3.2(1), the local government is to have regard to -

- (a) any written law regulating signs within the district including but not limited to the local planning scheme;
- (b) the dimensions of the sign;
- (c) any other advertising signs already approved or erected in the vicinity;
- (d) whether the sign will create a hazard to persons using a thoroughfare; and
- (e) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

Division 3 – Conditions on permit

3.3 ~~3.4~~ Conditions on portable sign

If the local government approves an application for a permit for a portable sign, the approval is taken to be subject to the following conditions –

- (a) the portable sign shall -
 - (i) not exceed 1m in height unless otherwise approved in writing by the local government;
 - (ii) not exceed an area of 1m² on any side;
 - (iii) relate only to the business activity described on the permit;
 - (iv) contain letters not less than 200mm in height;
 - (v) be erected only immediately adjacent to the building or the business to which it relates;

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- (vi) be removed each day at the close of the business;
- (vii) be secured in position as required by the local government;
- (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to premises; and
- (ix) be maintained in good condition; and
- (b) no more than two portable signs shall be erected for any one building or business.

3.4 ~~3.5~~ Conditions on election sign

If the local government approves the erection or placement of an election sign on a thoroughfare, the permit is taken to be subject to the following conditions –

- (a) the sign must be erected at least 30m from any intersection;
- (b) the sign must be freestanding and not affixed to any existing structure;
- (c) the sign must not obstruct the reasonable use of a thoroughfare, or access to any place;
- (d) the sign must not obstruct sight ~~distance~~ lines for drivers entering or leaving a thoroughfare;
- (e) the sign must be maintained in good condition;
- (f) the sign must not be erected until the election to which it relates has been officially announced;
- (g) the sign must be removed within 24 hours after the close of polls;
- (h) the sign must not be placed within 100m of any works on the thoroughfare;
- (i) the sign must be securely installed;
- (j) the sign must not be illuminated;
- (k) the sign must not incorporate reflective or fluorescent materials; ~~and~~
- (l) the sign must not display only part of a message that requires multiple signs to be read together to obtain the whole message; ~~and~~
- (m) If when placed on a State Road comply with Main Roads WA standards.

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PART 4 OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

Division 1 - Animals and vehicles

4.1 Leaving animal or vehicle in public place or on local government property

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

~~4.2~~ 4.2 Prohibitions relating to animals

- (1) In this clause, "owner" in relation to an animal includes –
 - (a) an owner of the animal;
 - (b) a person in possession of the animal;
 - (c) a person who has control of the animal; and
 - (d) a person who ordinarily occupies the premises where the animal is kept.
- (2) An owner of an animal shall not –
 - (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
 - (b) 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 on a thoroughfare.
- ~~(3)~~ An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

~~(3)~~

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Division 2 - Shopping trolleys

~~4.3~~ ~~4.3~~ Interpretation

In this Division –

Term	Meaning
retailer	A proprietor of a shop in respect of which shopping trolleys are provided for the use of customers of the shop; and
shopping trolley	A wheeled container or receptacle supplied by a retailer to enable a person to transport goods.
Shopping shopping bag or basket	A hand-held device for the purposes of transporting goods from place to place.

~~4.4~~ ~~4.4~~ Shopping trolley to be marked

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

~~4.5~~ ~~4.5~~ Person not to leave trolley, bag or basket in public place

A person shall not leave a shopping trolley, bag or basket in a public place other than in an area set aside for the storage of such devices.

~~4.6~~ ~~4.6~~ Retailer to remove abandoned trolley

- (1) If a shopping trolley or basket is found in a public place, other than in a designated trolley or basket storage area, the local government may advise (verbally or in writing) a retailer whose name appears on the trolley of its location.
- (2) A retailer shall remove the trolley or basket within 24 hours of being so advised under subclause (1), unless the retailer -
 - (a) requests the local government to collect and deliver the trolley to the retailer; and
 - (b) pays any fee imposed and determined under sections 6.16 to 6.19 of the Act) within the time specified.

~~4.7~~ ~~4.7~~ Retailer taken to own trolley

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

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PART 5 ROADSIDE CONSERVATION

Division 1 - Preliminary

5.1 Interpretation

In this Part -

Term	Meaning
MRWA	Main Roads Western Australia;
protected flora	<i>has the meaning given to it in the Biodiversity Conservation Act 2016</i>
rare flora	<i>has the meaning given to it in the Biodiversity Conservation Act 2016</i>
Roadside Conservation Committee	The Roadside Conservation Committee appointed by the responsible Minister.
special environmental area	An area designated as such under clause 5.7.

~~5.2~~ ~~5.2~~ Application

This Part does not apply to the townsite.

Division 2 - Flora roads

~~5.3~~ ~~5.3~~ Declaration of flora road

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

~~5.4~~ ~~5.4~~ 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 the [Main Roads Western Australian Handbook of Environmental Practice for Road Construction and Road Maintenance Works](#).

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~~5.5~~ ~~5.5~~ Signposting of flora roads

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

~~5.6~~ ~~5.6~~ 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 permit a vehicle to remain on the carriageway; or
 - (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

~~5.7~~ ~~5.7~~ 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) as protected flora or rare flora; or
- (b) in the opinion of the local government, has environmental, aesthetic, or cultural significance.

~~5.8~~ ~~5.8~~ 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

~~5.9~~ ~~5.9~~ Permit to plant

A person shall not plant any plant or sow any seeds in a thoroughfare without first obtaining a permit.

~~5.10~~ ~~5.10~~ Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 5.9, the local government is to have regard to -

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- (a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and
- (b) the diversity and prevalence of the species to be planted or sown.

Division 5 - Clearance of vegetation

5.11 ~~5.11~~ Permit to clear

A person shall not clear, and maintain in a cleared state, the surface of a thoroughfare within 1m of that person's land without first obtaining –

- (a) a permit; and
- (b) any other approvals required under any written law.

5.12 ~~5.12~~ Application for permit

In addition to the requirements of clause 7.1(2), a person applying for a permit under clause 5.11 shall submit a sketch plan clearly showing –

- (a) the boundary of the person's land; and
- (b) the portions of the adjoining thoroughfare proposed to be cleared.

Division 6 - Fire management

5.13 ~~5.13~~ Permit to burn thoroughfare

A person shall not burn any part of a thoroughfare without first obtaining a permit or unless acting under the authority of any other written law.

5.14 ~~5.14~~ Application for permit

In addition to the requirements of clause 7.1(2), an application for a permit under clause 5.13 shall –

- (a) include a sketch plan showing the portions of the thoroughfare proposed to be burned; and
- (b) advise the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn.

5.15 ~~5.15~~ When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 5.13 only if burning the particular part of the thoroughfare will -

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- (a) reduce a fire hazard and alternatives such as slashing or the use of herbicides are, in the opinion of the local government, not feasible or more detrimental to native flora and fauna; or
- (b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.

5.16 ~~5.16~~ Prohibitions on burning

Notwithstanding anything to the contrary in this local law, an application for a permit under clause 5.13 is not to be approved –

- (a) for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna; or
- (b) in any year, for any part of a thoroughfare on the opposite side of the carriageway to a part for which a permit has already been approved in that year.

Division 7 - Firebreaks

5.17 ~~5.17~~ Permit for firebreaks on thoroughfares

A person shall not construct a firebreak on a thoroughfare without first obtaining a permit.

5.18 ~~5.18~~ When application for permit cannot be approved

- (1) The local government is not to approve an application for a permit under clause 5.17 where the thoroughfare is less than 20m wide.
- (2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

Division 8 - Commercial wildflower harvesting on thoroughfares

5.19 ~~5.19~~ General prohibition on commercial wildflower harvesting

Subject to clause 5.20, a person shall not commercially harvest native flora on a thoroughfare.

5.20 ~~5.20~~ Permit for revegetation projects

- (1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.
- (2) The local government may approve an application for a permit

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under subclause (1) only where-

- (a) the seed is required for a revegetation project in any part of the district; and
 - (b) the thoroughfare, or the relevant part of it, is not a special environmental area.
- (3) Unless the local government specifically provides to the contrary on a permit, it is taken to be a condition of any permit approved under subclause (1) that –
- (a) seed collection 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 required under any other written law is to be obtained by the applicant.

PART 6 TRADING IN THOROUGHFARES AND PUBLIC PLACES

Division 1 - Stallholders and traders

Subdivision 1 - Preliminary

6.1 Interpretation

In this Division, unless the context otherwise requires -

Term	Meaning
Alfresco Dining	As per the Alfresco Dining Local Planning Policy. 12. But not a stall.
Competition Principles Agreement	The Competition Principles Agreement executed by each State and Territory of the Commonwealth and the Commonwealth of Australia on 11 April 1995;
public place	includes - (a) any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place is on private property; and (b) local government property, but does not include premises on private property from which trading is lawfully conducted under a written law.

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Term	Meaning
stall	A movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire;
stallholder	A person in charge of a stall;
stallholder's permit	A permit issued to a stallholder;
trader	A person who carries on trading;
trader's permit	A permit issued to a trader; and
trading	includes – (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 goods in any 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 in relation to them; and (c) the going from place to place, whether or not public places, and – (i) offering goods or services for sale or hire; (ii) inviting offers or soliciting orders for the sale or the hire of goods or services; or (iii) carrying out any other transaction in relation to goods or services, but does not include – (d) the delivery of pre-ordered goods or services to the purchaser, or a person nominated by the purchaser, whether or not payment is accepted on delivery; (e) the taking of further orders for goods or services from the purchaser of those pre-ordered goods or services, or the person nominated by the purchaser, when those orders are taken at the

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Term	Meaning
	same time as a previous order is delivered, whether or not payment is made for those goods or services at the time of taking the order; (f) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder's permit; (g) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from, a person who sells those goods or services; (h) the selling or offering for sale or hire by a person of goods of their own manufacture or services which they provide; and (i) the selling or hiring, or the offering for sale or hire of – (i) goods by a person who represents a manufacturer of the goods; or (ii) services by a person who represents a provider of the services, which are only sold directly to consumers and not through a shop.

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Subdivision 2 - Permits

6.2 ~~6.2~~ Stallholder's permit

- (1) A person shall not conduct a stall in a public place unless that person is –
 - (a) the holder of a valid stallholder's permit; or
 - (b) an assistant who can demonstrate they are working under the holder of a valid stallholder's permit.
- (2) Every application for a stallholder's permit shall –
 - (a) state the full name and address of the applicant;
 - (b) specify the proposed number of assistants to be engaged in conducting the stall, and their names and addresses if already engaged;
 - (c) specify the proposed location of the stall;
 - (d) specify the period for which the permit is sought, and the proposed days and hours of operation;
 - (e) specify the proposed goods or services to be sold, hired or offered; and
 - (f) be accompanied by an accurate plan and description of the proposed stall.

6.3 ~~6.3~~ Trader's permit

- (1) A person shall not carry on trading unless that person is –
 - (a) the holder of a valid trader's permit; or
 - (b) an assistant specified in a valid trader's permit.
- (2) Every application for a trader's permit shall –
 - (a) state the full name and address of the applicant;
 - (b) specify the proposed number of assistants, if any, and their names and addresses if already engaged;
 - (c) specify the location or locations in which the applicant proposes to trade;
 - (d) specify the period for which the permit is sought, and the proposed days and hours of trading;
 - (e) specify the proposed goods or services to be traded; and
 - (f) be accompanied by an accurate plan and description of any proposed structure or vehicle to be used.

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- (3) The conditions subject to which the local government may approve an application for a trader's permit include a condition that the permit holder may remain at a particular location only while there is a customer making a purchase and must move on within a reasonable time after the last transaction.

~~6.4~~ 6.4—No permit required to sell newspaper

A person who sells, or offers for sale, a newspaper only is not required to obtain a permit.

~~6.5~~ 6.5—Relevant considerations in determining application for permit

- (1) In determining an application for a permit under this Division, the local government 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;
 - (d) the principles set out in the Competition Principles Agreement; and
 - (e) any other matter the local government considers relevant.
- (2) The local government may refuse to approve an application for a permit on one or more of the following grounds –
 - (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the proposed activity; or
 - (b) that –
 - (i) the applicant is an undischarged bankrupt or is in liquidation;
 - (ii) the applicant has entered into any composition or arrangement with creditors; or
 - (iii) a manager, an administrator, a trustee, a receiver, or receiver and manager has been appointed in relation to any part of the applicant's undertakings or property.

~~6.6~~ 6.6—Conditions of permit

- (1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include –
 - (a) the place, the part of the district, or the thoroughfare to which the permit applies;

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- (b) the days and hours during which a permit holder may conduct a stall or trade;
 - (c) the number, type, form and construction of any stand, table, structure or vehicle used;
 - (d) the goods or services that may be sold, hired or offered;
 - (e) the number of persons and the names of persons permitted to conduct the stall or trade;
 - (f) the requirement for personal attendance by the permit holder and the nomination of assistants, nominees or substitutes;
 - (g) whether and on what terms the permit is transferable;
 - (h) any prohibitions or restrictions concerning -
 - (i) noise or disturbance likely to be a nuisance;
 - (ii) the use of amplifiers, sound equipment and instruments;
 - (iii) the use of signs; and
 - (iv) the use of lighting devices;
 - (i) the manner in which the permit holder's name and permit details are displayed;
 - (j) the care, maintenance and cleansing of the stall or trading structure and its site;
 - (k) vacating the site when the stall or trading is not being conducted;
 - (l) the acquisition of public risk insurance;
 - (m) the period for which the permit is valid; and
 - (n) any place or places where trading is wholly or from time to time prohibited.
- (2) Where a permit holder is unable to comply with this local law, by reason of illness, accident or other sufficient cause, the local government may, at the request of the permit holder, authorise another person to be a nominee of the permit holder for a specified period, and this local law and the permit conditions apply to the nominee as if they were the permit holder.

~~6.7~~ ~~6.7~~ Exemptions from requirement to pay fee or to obtain a permit

- (1) In this clause –

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Term	Meaning
charitable organisation	An institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium; and
commercial participant	Any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.

- (2) The local government may waive or refund any fee required for a stallholder's or trader's permit if the stall or trading is—
 - (a) on a portion of a public place adjoining the applicant's normal place of business; or
 - (b) conducted by a charitable organisation that does not sublet space to, or involve commercial participants in, the stall or trading, and any assistants specified in the permit are members of that organisation.
- (3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

6.8 ~~6.8~~ Alfresco Dining

Alfresco Dining ~~is~~ trading in the thoroughfare on a permanent or time limited period as approved under the Alfresco Dining local planning policy. This can only occur adjacent to the applicant's property, and may occur on temporary platforms over the road reserve.

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Subdivision 3 - Conduct of stallholders and traders

6.9 ~~6.8~~ Conduct of stallholders and traders

- (1) A stallholder while conducting a stall, or a trader while trading, shall –
 - (a) display their permit prominently on the stall, vehicle or structure, or carry it if none is used;
 - (b) not display a permit unless it is valid; and
 - (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the *National Measurement Act 1960* (Cth).
- (2) A stallholder or trader shall not –
 - (a) deposit or store any box or basket containing goods or structures on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicle movement;
 - (b) act in an offensive manner;
 - (c) use or cause to be used any apparatus or device, including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or
 - (d) in the case of a trader, trade from a public place unless there is adequate parking for customers' vehicles reasonably close to the trading place.

Division 2 - Street entertainers

Subdivision 1 - Preliminary

6.10 ~~6.9~~ Interpretation

In this Division, unless the context otherwise requires –

Term	Meaning
perform	includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobic display or entertain, but does not include public speaking;
permit	A permit issued for the purpose of clause 6.10;

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Term	Meaning
permitted area	The area or areas, specified in a permit, in which the permit holder may perform; and
permitted time	The time or times, specified in a permit, during which the permit holder may perform.

Subdivision 2 - Permits

6.11 ~~6.10~~ Permit required to perform

A person shall not perform in a public place without a permit.

6.12 ~~6.11~~ Variation of permitted area and permitted time

- (1) The local government may, by written notice to a permit holder, vary –
 - (a) the permitted area;
 - (b) the permitted time; or
 - (c) both the permitted area and the permitted time.
- (2) The local government may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in the permit.

6.13 ~~6.12~~ Duration of permit

A permit is valid for a period of 3 months after its issue date unless it is sooner cancelled under this local law.

6.14 ~~6.13~~ Cancellation of permit

The Chief Executive Officer may cancel a permit if, in their opinion, the volume of sound or the nature of the performance –

- (a) adversely affects the enjoyment, convenience or comfort of other persons in a public place; or
- (b) otherwise constitutes a nuisance, including in the opinion of an authorised person.

6.15 ~~6.14~~ Obligations of permit holder

A permit holder shall not in a public place –

- (a) perform wearing dirty, torn or ragged clothing – unless this is part of the performance;

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- (b) act in an offensive manner – unless this is part of the performance;
or
- (c) place, install, erect, play or use any musical instrument or any device which emits music, including a loudspeaker or amplifier -
 - (i) other than in the permitted area; ~~and~~
 - (ii) unless the musical instrument or device is specified in the permit; and
 - (iii) does not exceed acceptable noise levels as defined under the *Environmental Protection (noise) Regulations 1997*.

Division 3 - Outdoor eating facilities on a public place

6.16 ~~6.15~~ Interpretation

In this Division -

Term	Meaning
Facility	An outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;
permit holder	The person to whom a permit has been issued for the purpose of clause 6.16; and
public place	Has the meaning given to it in clause 6.1.

6.17 ~~6.16~~ Permit required to conduct Facility

A person shall not establish or conduct a Facility without a permit or development approval associated with a lease.

6.18 ~~6.17~~ Matters to be considered in determining application

In determining an application for a permit under clause 6.16, the local government may consider, in addition to any other matter, whether -

A Facility is:

- (a) conducted in conjunction with, and as an extension of, a food business which abuts the Facility, or
- (b) Has obtained a development approval associated with a lease issued by the local government; and
- (c) the applicant is the person conducting that food business: and

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- (d) any abutting food business is registered in accordance with the *Food Act 2008* and whether the use is permitted under the local planning scheme; and
- (e) users of the Facility will have access to proper and sufficient sanitary and ablutionary facilities; and
- (f) the Facility would not -
 - (i) obstruct visibility or sight lines at the intersection of thoroughfares; or
 - (ii) impede pedestrian access; and
- (g) the tables, chairs and other equipment would not overly cause an obstruction or impede the use of the public place for its designed purpose.

6.19 ~~6.18~~ Obligations of permit holder

- (1) The permit holder for a Facility shall –
 - (a) ensure that the Facility is conducted in accordance with this local law;
 - (b) ensure that the eating area is kept in a clean and tidy at all times;
 - (c) maintain all chairs, tables and structures in a good, clean and serviceable condition; and
 - (d) be solely responsible for all costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the Facility.
- (2) Where, in the opinion of the local government, any work is required to be carried out to a Facility, the local government may give the permit holder written notice to carry out that work within the time specified 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 Facility.

6.20 ~~6.19~~ Removal of Facility unlawfully conducted

Where a Facility is conducted without a permit, or in contravention of a permit condition, any tables, chairs, umbrellas or other equipment may be removed by an authorised person and impounded in accordance with the Act.

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6.21 ~~6.20~~ Use of Facility by public

- (1) A person shall not occupy a chair or otherwise use equipment in a Facility unless the person uses it for consuming food or drinks provided by the Facility.
- (2) A person shall leave a Facility when requested to do so by the permit holder.

6.22 ~~6.21~~ Temporary removal of Facility may be requested

- (1) The permit holder for a Facility is to temporarily remove the Facility when requested to do so, on reasonable grounds, by an authorised person of the local government, a member of the Police Service or an emergency service, in the event of an emergency.
- (2) The permit holder may replace the Facility removed under subclause (1) ~~once as soon as~~ the person who directed its removal ~~notifies the permit holder that it may be reinstated to be replaced.~~

PART 7 PERMITS

Division 1 – Applying for a permit

7.1 Application for permit

- (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law shall -
 - (a) be in the form determined by the local government;
 - (b) be signed by the applicant;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may require an applicant to provide additional information reasonably related to the application before determining an application.
- (4) The local government may require an applicant to give local public notice of the application.
- (5) The local government may refuse to consider an application that does not comply with subclause (2).

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~~7.2~~ ~~7.2~~ Decision on application for permit

- (1) The local government may –
 - (a) approve an application for a permit unconditionally or subject to conditions; or
 - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application, it shall issue a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application, it shall give written notice of the refusal to the applicant.
- (4) Where this local law refers to conditions which may be imposed on a permit, that reference does not limit the power of the local government to impose other conditions under subclause (1)(a).
- (5) Where this local law refers to grounds on which an application may be refused, that reference does not limit the power of the local government to refuse an application under subclause (1)(b).

Division 2 - Conditions

~~7.3~~ ~~7.3~~ Conditions which may be imposed on a permit

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

- (a) the payment of an application fee in accordance with the Shire's Schedule of Fees and Charges;
- (b) the duration and commencement of the permit;
- (c) commencement of the permit being contingent on an event;
- (d) rectification, remedying or restoration of a situation reasonably related to the application;
- (e) the approval of any other application required by the local government under any written law;
- (f) the area of the district to which the permit applies;
- (g) the payment of a bond or deposit against damage;
- (h) obtaining public risk insurance in an amount and on terms reasonably required by the local government; and
- (i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

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~~7.4~~ ~~7.4~~ Imposing conditions under a policy

- (1) In this clause –
"policy" means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 7.2(1)(a).
- (2) Under clause 7.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.
- (3) The local government is to give a copy of the policy, or the part of the policy, which is relevant to the application for a permit, with the form of permit referred to in clause 7.2(2).
- (4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

~~7.5~~ ~~7.5~~ Compliance with and variation of conditions

- (1) Where an application for a permit has been approved subject to conditions, or where a permit is taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.
- (2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

Division 3 - General

~~7.6~~ ~~7.6~~ Duration of permit

A permit is valid for one year from the date of issue, unless –

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 7.10.

~~7.7~~ ~~7.7~~ Renewal of permit

- (1) A permit holder may apply in writing to the local government prior to expiry of a permit for its renewal.
- (2) The provisions of –
 - (a) this Part; and

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- (b) any other relevant provision of this local law apply with any necessary modifications to an application for renewal.

7.8 ~~7.8~~ Transfer of permit

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

7.9 ~~7.9~~ Production of permit

A permit holder shall produce their permit to an authorised person immediately upon being required to do so.

7.10 ~~7.10~~ Cancellation of permit

- (1) Subject to clause 8.1, a permit may be cancelled by the local government if the permit holder has not complied with-
 - (a) a condition of the permit; or
 - (b) a provision of any written law which may relate to the activity regulated by the permit.~~5-6P~~
- (2) On the cancellation of a permit–
 - (a) The permit holder shall return the permit to the local government as soon as practicable; and
 - (b) the permit holder is taken to have forfeited any fees paid in respect of the permit.

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PART 8 OBJECTIONS AND APPEALS

8.1 Application of Part 9 Division 1 of Act

When the local government makes a decision under clause 7.2(1); or as to whether it will renew, vary, or cancel a permit, the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

PART 9 MISCELLANEOUS NOTICES

~~9.19.2~~ Notice to redirect or repair sprinkler

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

~~9.3~~ ~~9.2~~ Hazardous plants

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

~~9.4~~ ~~9.3~~ Notice to repair damage to thoroughfare

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

~~9.5~~ ~~9.4~~ Notice to remove thing unlawfully placed on thoroughfare

Where any thing is placed on a thoroughfare in contravention of this local law, the local government may, by written notice to –

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- (a) the owner or the occupier of the property abutting that portion of the thoroughfare; or
- (b) any other person who may be responsible for the thing being so placed,

require the relevant person to remove the thing *within the time specified in the notice*.

PART 10 ENFORCEMENT

Division 1 - Notices given under this local law

10.1 Offence to fail to comply with notice

Whenever the local government gives a notice under this local law requiring a person to do anything, if the person fails to comply with the notice, the person commits an offence.

10.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

Division 2 - Offences and penalties

Subdivision 1 - General

10.3 Offences

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which, under this local law; the person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and, if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

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Subdivision 2 - Infringement notices and modified penalties

10.4 Prescribed offences

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of a prescribed offence, an authorised person should be satisfied that –
 - (a) commission of the prescribed offence is a relatively minor matter; and
 - (b) only straightforward issues of law and fact are involved and the facts in issue are readily ascertainable.

10.5 Forms

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

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is 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 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 Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

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PART 11 SCHEDULE 1

PREScribed OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.1(a)	Plant exceeding 0.75m in height within 10m of intersection or obstructing sight distance	125
2.1(b)	Damaging a lawn or garden	125
2.1(c)	Plant (except grasses) within 2m of a carriageway	125
2.1(d)	Placing hazardous substance on footpath	125
2.1(e)	Damaging or interfering with signpost or structure	350
2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	125
2.1(g)	Riding bicycle, skateboard, rollerblades, or similar device in a prohibited place	125
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	125
2.2(1)(b)	Depositing material on verge without a permit	125
2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	125
2.2(1)(d)	Causing obstruction to water channel/watercourse on thoroughfare without a permit	250
2.2(1)(e)	Placing or draining offensive/noxious/dangerous fluid on thoroughfare without a permit	250
2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	350
2.2(1)(h)	Felling tree onto thoroughfare without a permit	125
2.2(1)(i)	Installing materials/structures onto a thoroughfare without a permit	125
2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350

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Attachment 2: Activities in Thoroughfares and Public Places and Trading Local Law 2026 (Track changed)

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CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	125
2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	125
2.2(1)(m)	Interfering with soil/anything on a thoroughfare without a permit	125
2.3(1)	Possessing or consuming liquor on thoroughfare contrary to local law	125
2.4(1)	Failure to obtain permit for temporary crossing	250
2.5(2)	Failure to comply with notice to remove redundant crossing	350
2.9(1)	Installation of non-permissible verge treatment	250
2.10	Failing to maintain permissible verge treatment or placement of obstruction on verge	125
2.11	Failing to comply with notice to rectify verge treatment	125
2.17(2)	Failing to comply with sign erected by local government	125
2.19(1)	Driving or taking a vehicle on a closed thoroughfare	350
3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	125
3.2(3)	Erecting or placing sign in a prohibited location	125
4.1(1)	Animal or vehicle obstructing a public place or local government property	125
4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	125
4.2(2)(b)	Animal with contagious disease in public place	125
4.2(2)(c)	Training or racing animal on thoroughfare	125
4.2(3)	Leading/Riding horse in built-up area without a permit	125
4.5	Leaving shopping trolley outside trolley bay	125
4.6(2)	Failing to remove abandoned trolley when notified	125

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CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
5.6(1)	Driving a vehicle other than on carriageway of a flora road	250
5.9	Planting in thoroughfare without a permit	250
5.11	Clearing within 1 m of property without a permit	500
5.13	Burning part of thoroughfare without a permit	500
5.17(1)	Constructing firebreak on thoroughfare without a permit	500
5.19	Commercial harvesting of native flora on thoroughfare	500
5.20(1)	Collecting seed from native flora on thoroughfare without a permit	350
6.2(1)	Conducting of stall in public place without a permit	350
6.3(1)	Trading without a permit	350
6.8(1)(a)	Failing to display or carry permit when required	125
6.8(1)(b)	Stallholder or trader not displaying valid permit	125
6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	125
6.8(2)	Stallholder or trader engaged in prohibited conduct	125
6.10	Performing in a public place without a permit	125
6.11(2)	Failure of performer to move onto another area when directed	125
6.14	Failure of performer to comply with obligations	125
6.16	Conducting outdoor eating facility without a permit	350
6.18	Failing to comply with obligations of outdoor eating facility	125
6.20(1)	Using outdoor eating facility without purchasing food or drink	60
6.20(2)	Failing to leave outdoor eating facility when requested	60

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CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
7.8(1)(b)	Transfer fee – equal to the fee imposed under 7.3(a)	
7.5	Failure to comply with a condition of a permit	125
7.9	Failing to produce permit when required	125
10.1	Failure to comply with notice given under local law	125

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AUTHORISATION

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Toodyay resolved on 7 May 2026 to make the following local law.

Dated this day of2026

The Common Seal of the }
Shire of Toodyay }
was affixed by authority of a }
resolution of the Council in the }
presence of: }

Cr Michael McKeown
Shire President

Mr Alan Hart
Temporary Chief Executive Officer