

LOCAL GOVERNMENT ACT 1995

City of Armadale

LOCAL GOVERNMENT ACTIVITIES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES AMENDMENT LOCAL LAW 2011

Under the powers conferred by the *Local Government Act 1995*, and under all other powers enabling it, the City of Armadale resolved on 28 November 2011 to adopt the following local law.

1. Citation

This Local Law may be cited as the *City of Armadale Local Government Activities and Trading in Thoroughfares and Public Places Amendment Local Law 2011*.

2. Commencement

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

3. Principal local law

In this local law, the *City of Armadale Local Government Activities and Trading in Thoroughfares and Public Places Local Law* published in the *Government Gazette* on 24 July 2001 is referred to as the principal local law. The principal local law is amended.

4. Clause 1.2 amended

Clause 1.2 is amended as follows—

- (a) In the definition for **liquor** delete “*Licensing*” and insert “*Control*”;
- (b) In the definition for **lot** delete “*Town Planning and Development Act 1928*” and insert “*Planning and Development Act 2005*”;
- (c) In the definition for **town planning scheme** delete “*Town Planning and Development Act 1928*” and insert “*Planning and Development Act 2005*”;
- (d) Delete the definition for **public place** and insert—
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;
- (e) In the definition of **thoroughfare** delete “Act” and insert “Act, but does not include a private thoroughfare which is not under the management or control of the local government”;
- (f) In the definition of **vehicle** after “for use by a” insert “physically impaired”; and
- (g) In the definition for **verge** delete “the thoroughfare” and insert “the thoroughfare, but does not include any footpath”.

5. Clause 2.3 amended

In clause 2.3 delete “*Licensing*” and insert “*Control*”.

6. Clause 2.4 amended

Clause 2.4 is amended as follows—

- (a) Delete the words “Crossings to be constructed by the local government”; and
- (b) Delete clause 2.4(1) and insert—
 - (1) A concrete, brick paved or asphalt crossing is only to be constructed under regulation 12(1) of the *Local Government (Uniform Local Provisions) Regulations 1996*, if the work is undertaken by—
 - (a) the local government using its own day labourers or contractors; or
 - (b) a contractor experienced in the type of work being undertaken.

7. Clause 2.9 amended

Clause 2.9 is amended as follows—

- (a) In clause 2.9(b)—
 - (i) after “no wider then” delete “6” and insert “8”; and
 - (ii) delete “10.7” and insert “12”;
- (b) In clause 2.9(d)(i) after “adjoining lot” insert “or 800 millimetres from any side entry gully, street light/power poles, verge tree or pram ramp”; and

- (c) In clause 2.9(d)(ii) after “intersection” insert “or closer than 2 metres from the truncation”.

8. Clause 3.5 inserted

After clause 3.4 insert—

3.5 Conditions on election signs

If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign—

- (a) being erected at least 30 metres from any intersection;
- (b) being free standing and not affixed to any existing sign, post, power pole, light pole or similar structure;
- (c) being placed so as not to obstruct or impede—
 - (i) the reasonable use of a thoroughfare, or access to a place by any person; or
 - (ii) the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (d) being maintained in good condition;
- (e) not being erected until the election to which it relates has been officially announced;
- (f) being removed within 24 hours of the close of polls on voting day;
- (g) not being placed within 100 metres of any works on the thoroughfare;
- (h) not being securely installed;
- (i) not being an illuminated sign;
- (j) not incorporating reflective or fluorescent materials; and
- (k) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

9. Clause 4.1 heading amended

The heading of clause 4.1 is amended as follows—

- (a) delete the heading to clause 4.1 and insert “Leaving animals or vehicles in a public place or on local government property”; and
- (b) delete “Permit required to leave animals or vehicle in public place or on local government property”.

10. Clause 4.1 amended

Clause 4.1 is amended as follows—

- (a) in subclause (1) delete “leave” and insert “allow”;
- (b) delete subclause (2); and
- (c) delete subclause (3).

11. Clause 4.6 amended

Clause 4.6 is amended as follows—

- (a) in subclause (1) after “notice” insert “either verbally or”;
- (b) delete subclause (3); and
- (c) delete subclause (4) and insert—
 - (4) If a retailer, having received a notice under subclause (1), does not remove the abandoned shopping trolley, then the local government may remove and impound the abandoned shopping trolley in accordance with section 3.39 of the Act.

12. Clause 5.16 amended

In clause 5.16 delete subclause (b).

13. Clause 6.1 amended

Clause 6.1 is amended as follows—

- (a) delete the definition for *public place*, and
- (b) in the definition for *stall* delete “goods or services are sold, hired or offered for sale or hire” and insert “trading is conducted”.

14. Clause 6.3 amended

In clause 6.3 delete subclause (3).

15. Clause 6.7 amended

After clause 6.7(3) insert—

- (4) Notwithstanding any other provisions of this local law, a requirement to obtain a permit under this local law does not apply to—

- (a) a special event or trading authorised by the local government under another written law or agreement; or
- (b) a person trading in a street market authorised by the local government.

16. Clause 6.8 amended

Clause 6.8 is amended as follows—

- (a) in subclause (1)(c) delete “*Weights and Measures Act 1915*” and inserting “*Trade Measurement Act 2006*”; and
- (b) in subclause (2)(b) insert “or cause a nuisance” after the word “manner”.

17. Clause 6.14 amended

In subparagraph (b) insert “or create a nuisance” after the word “manner”.

18. Clause 6.15 amended

Clause 6.15 is amended as follows—

- (a) In the definition for **permit holder** delete “; and” and insert “.”; and
- (b) Delete the definition for **public place**.

19. Clause 6.17 amended

- (a) In clause 6.17(b) delete “*Health Act 1911*” and insert “*Food Act 2008*”; and
- (b) In clause 6.17(c) delete “under section 172 of the *Health Act 1911*” and insert “under the *Food Act 2008*”.

20. Clause 6.18 amended

In clause 6.18(a) delete “under section 172 of the *Health Act 1911*” and insert “under the *Food Act 2008*”.

21. Schedule 1 amended

Delete Schedule 1 and insert—

Schedule 1 — Offences and Modified Penalties

(Clause 10.4)

Clause	Description	Modified Penalty \$
2.1(a)	Planting a plant of 0.75m in height on thoroughfare within 6m of intersection	125
2.1(c)	Installing paving on thoroughfare within 15 metres of intersection	125
2.1(d)	Positioning crossing within the truncated corner of lot at intersection	500
2.1(f)	Watering lawn or garden so that it causes inconvenience to persons using thoroughfare	125
2.1(g)	Installing impervious membrane, loosely placed materials or steel stakes on thoroughfare	125
2.1(h)	Driving vehicle on, or otherwise damaging lawn or garden	250
2.1(i)	Planting a plant (except lawn), erecting temporary enclosure, placing rocks or installing retaining feature on thoroughfare within 2 metres of carriageway	125
2.1(k)	Placing hazardous substance on path	125
2.1(l)	Damaging or interfering with signpost or structure on thoroughfare	350
2.1(m)	Playing games so as to impede vehicles or persons on thoroughfare	125
2.1(n)	Riding of skateboard or similar device on mall or verandah of shopping centre	125
2.2(a)	Digging a trench through a carriageway or path without a permit	125
2.2(b)	Throwing or placing any thing on a verge without a permit	125
2.2(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	125
2.2(d)	Causing obstruction to water channel on thoroughfare without a permit	250
2.2(e)	Placing or draining offensive fluid on thoroughfare without a permit	250
2.2(g)	Making alterations to carriageway without a permit	250
2.2(h)	Lighting a fire on a thoroughfare without a permit	350

Clause	Description	Modified Penalty \$
2.2(1)	Placing rocks on a verge without a permit	125
2.2(m)	Installing retaining feature or structure on verge without a permit	125
2.2(n)	Felling tree onto thoroughfare without a permit	125
2.2(o)	Installing pipes on thoroughfare without a permit	125
2.2(p)	Installing connection to stormwater drainage system without a permit	350
2.2(q)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350
2.2(r)	Creating a nuisance on a thoroughfare without a permit	125
2.2(s)	Clear the vegetation or interfering with the soil or take any thing in a thoroughfare without a permit	350
2.2(t)	Other than on Crossing driving over or across verge without a permit	250
2.4(1)	Constructing a crossing by persons other than those specified	250
2.9(b)	Installing crossing wider than allowed	125
2.11(2)	Failure to comply with notice to remove crossing and reinstate kerb	350
2.13(1)	Installation of verge treatment other than permissible verge treatment	250
2.13(2)	Failure to maintain permissible verge treatment	125
2.16	Failure to comply with notice to rectify breach of Division 3-Verge Treatments	125
2.22(2)	Failure to comply with sign on public place	125
2.24(1)	Driving or taking a vehicle on a closed thoroughfare	350
3.2	Erecting or placing of advertising sign in or on a thoroughfare	125
4.1(1)	Animal, vehicle or material 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 on public place with infectious disease	125
4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	125
4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	125
4.5	Person leaving shopping trolley in public place other than trolley bay	125
4.6(2)	Failure to remove shopping trolley upon being advised of location	125
5.6(1)	Driving a vehicle on other than the carriageway of a flora road	250
5.9	Planting in thoroughfare without a permit	250
5.11	Failure to obtain permit to clear thoroughfare	500
5.13	Burning of thoroughfare without a permit	500
5.17	Construction of firebreak on thoroughfare without a permit	500
5.20	Commercial harvesting of native flora on thoroughfare	500
5.21(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)	Failure of stallholder or trader to display or carry permit	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

Clause	Description	Modified Penalty \$
6.14	Failure of performer to comply with obligations	125
6.16	Establishment or conduct of outdoor eating facility without a permit	350
6.18	Failure of permit holder of outdoor eating facility to comply with obligations	125
6.20(1)	Use of equipment of outdoor eating facility without purchase of food or drink from facility	60
6.20(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	60
7.5	Failure to comply with a condition of a permit	125
7.9	Failure to produce permit on request of authorised person	125
10.1	Failure to comply with notice given under local law	125

Dated: 1 December 2011.

The common seal of the City of Armadale was affixed by the authority of a resolution of the Council in the presence of—

H. A. ZELONES JP, Mayor.
R. S. TAME, Chief Executive Officer.
