

Local Government Act 1995

Shire of Denmark

**LOCAL GOVERNMENT
PROPERTY LOCAL LAW**

This Local Law was adopted pursuant to Government Gazette of Tuesday 29 May 2001 p. 2738

Clause 1.4 Amended – Government Gazette – 6 April 2001 p. 2032

Various Amendments – Government Gazette – 3 November 2006 p. 4658 – 4660

Council reviewed on Tuesday 22 April 2008

Schedule 2 – Determinations – Part 3 Amended – Council Resolution No. 291214 / 23 December 2014

Clause 1.6 – Assistance Animals – Global Amendment Gazetted 6 January 2015 p. 23

Schedule 2 – Determinations – Par 3 Amended – Council Resolution No. 050316 / 1 March 2016

Local Government Act 1995

Shire of Denmark

LOCAL GOVERNMENT PROPERTY LOCAL LAW

TABLE OF CONTENTS

PART 1 - PRELIMINARY

- 1.1 Citation
- 1.2 Definitions
- 1.3 Interpretation
- 1.4 Application
- 1.5 Repeal
- 1.6 Application as to Assistance Animals

[Clause 1.6 Inserted – Global Amendment Gazetted 6 January 2015 p. 23]

PART 2 - DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1 - Determinations

- 2.1 Determinations as to use of local government property
- 2.2 Procedure for making a determination
- 2.3 Discretion to erect sign
- 2.4 Determination to be complied with
- 2.5 Register of determinations
- 2.6 Amendment or revocation of a determination

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

- 2.7 Activities which may be pursued on specified local government property
- 2.8 Activities which may be prohibited on specified local government property

Division 3 - Transitional

- 2.9 Signs taken to be determinations

PART 3 - PERMITS

Division 1 - Preliminary

- 3.1 Application of Part

Division 2 - Applying for a permit

- 3.2 Application for permit
- 3.3 Decision on application for permit

Division 3 - Conditions

- 3.4 Conditions which may be imposed on a permit
- 3.5 Imposing conditions under a policy
- 3.6 Compliance with and variation of conditions

Division 4 - General

- 3.7 Agreement for building
- 3.8 Duration of permit
- 3.9 Renewal of permit
- 3.10 Transfer of permit
- 3.11 Production of permit
- 3.12 Cancellation of permit

Division 5 - When a permit is required

- 3.13 Activities needing a permit
- 3.14 Permit required to camp outside a facility
- 3.15 Permit required for possession and consumption of liquor

Division 6 - Responsibilities of permit holder

- 3.16 Responsibilities of permit holder

PART 4 - BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

Division 1 - Behaviour on and interference with local government property

- 4.1 Behaviour which interferes with others
- 4.2 Behaviour detrimental to property
- 4.3 Taking or injuring any fauna
- 4.4 Intoxicated persons not to enter local government property
- 4.5 No prohibited drugs

Division 2 - Signs

- 4.6 Signs

PART 5 - MATTERS RELATING TO PARTICULAR PROPERTY

Division 1 - Swimming pool areas

- 5.1 When entry must be refused

Division 2 - Beaches

- 5.2 Powers of surf life saving club members
- 5.3 Authorizing other persons
- 5.4 Persons to comply with signs and directions

Division 3 - Fenced or closed property

- 5.5 No entry to fenced or closed local government property

Division 4 - Toilet blocks and change rooms

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

Division 5 – Central Business District

5.7 Use of wheeled recreational device prohibited

PART 6 - FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY

6.1 No unauthorized entry to function

PART 7 - OBJECTIONS AND APPEALS

7.1 Application of Division 1, Part 9 of the Act

PART 8 - MISCELLANEOUS

8.1 Authorized person to be obeyed

8.2 Persons may be directed to leave local government property, a public thoroughfare or footpath

8.3 Disposal of lost property

8.4 Liability for damage to local government property

PART 9 - ENFORCEMENT

Division 1 - Notices given under this local law

9.1 Offence to fail to comply with notice

9.2 Local government may undertake requirements of notice

Division 2 - Offences and penalties

Subdivision 1 - General

9.3 Offences and general penalty

Subdivision 2 - Infringement notices and modified penalties

9.4 Prescribed offences

9.5 Form of notices

Division 3 – Evidence in legal proceedings

9.6 Evidence of a determination

SCHEDULE 1 - PRESCRIBED OFFENCES

SCHEDULE 2 - DETERMINATIONS

SCHEDULE 3 - CENTRAL BUSINESS DISTRICT

[Table of Contents Amended – Government Gazette – 3 November 2006 p. 4658 – 4660]

Local Government Act 1995

SHIRE OF DENMARK

LOCAL GOVERNMENT PROPERTY LOCAL LAW

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Denmark resolved on 23rd January 2001 to make the following local law.

PART 1 - PRELIMINARY

Citation

- 1.1 This local law may be cited as the Shire of Denmark Local Government Property Local Law.

Definitions

- 1.2 In this local law unless the context otherwise requires -

"**Act**" means the *Local Government Act 1995*;

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

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

"**bicycle**" means a vehicle with two or more wheels that is built to be propelled by human power through a belt, chain or gears (whether or not it has an auxiliary motor) but not including a wheelchair, wheeled recreational device, wheeled toy, scooter or a powered-assisted pedal cycle (if the motor is operating);

[Definition Inserted – Government Gazette – 3 November 2006 p. 4658 – 4660]

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

"**building**" means any building which is local government property and includes a –

(a) hall or room;

(b) corridor, stairway or annexe of any hall or room; and

(c) jetty;

"**central business district**" means all of the land contained within the specified area depicted on the diagram in Schedule 3;

[Definition Inserted – Government Gazette – 3 November 2006 p. 4658 – 4660]

"**CEO**" means the chief executive officer of the local government;

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

"Council" means the council of the local government;

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

"determination" means a determination made under clause 2.1;

"district" means the district of the local government;

"footpath" includes every footpath, pedestrian access way or other place –

- (a) intended for the use of pedestrians only, or in the case of a dual use path, for the use of pedestrians and bicyclists only; or
- (b) habitually used by pedestrians and not by vehicles or, in the case of a dual use path, of pedestrians and bicyclists and not by vehicles other than bicycles;

[Definition Inserted – Government Gazette – 3 November 2006 p. 4658 – 4660]

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

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

"liquor" has the same meaning as is given to it in section 3 of the *Liquor Licensing Act 1988*;

"local government" means the Shire of Denmark;

"local government property" means anything except a thoroughfare –

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

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

"permit" means a permit issued under this local law;

"permit holder" means a person who holds a valid permit;

"person" does not include the local government;

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

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

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

"trading"

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

- (a) offering them for sale or hire;
- (b) inviting offers for their sale or hire;
- (c) soliciting orders for them; or
- (d) carrying out any other transaction in relation to them;

[Definition Amended – Government Gazette – 3 November 2006 p. 4658 – 4660]

"vehicle" includes –

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

but excludes –

- (c) a wheel-chair or any device designed for use, by a physically impaired person on a footpath;
- (d) a pram, a stroller or a similar device; and
- (e) a boat;

[Definition Amended – Government Gazette – 3 November 2006 p. 4658 – 4660]

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

- (a) rollerblades, rollerskates, a skateboard or similar wheeled device;
- (b) a scooter being used by a person aged 12 years of age or older; and
- (c) a unicycle,

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

[Definition Inserted – Government Gazette – 3 November 2006 p. 4658 – 4660]

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

[Definition Inserted – Government Gazette – 3 November 2006 p. 4658 – 4660]

Interpretation

1.3 In this local law unless the context otherwise requires a reference to local government property includes a reference to any part of that local government property.

Application

1.4

(1) This local law applies throughout the district and in the sea adjoining the district for a distance of 200 metres seawards from its southern district boundary which is bounded by the shores of the Southern Ocean.

(2) Notwithstanding anything to the contrary in this local law, the local government may -

(a) hire local government property to any person; or

(b) enter into an agreement with any person regarding the use of any local government property.

[Clause 1.4 Amended – Government Gazette – 6 April 2001 p. 2032]

Repeal

1.5

(1) The following local laws are repealed –

(a) Shire of Denmark Local Laws Relating to Control and Management of Civic Centre, Hall, Equipment and Property, published in the Government Gazette of 22 June 1984, as amended by publication in the Government Gazette of 3 April 1987; and

(b) Shire of Denmark (Beaches and Reserves) Local Laws published in the Government Gazette of 25 June 1997.

(2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.

(3) The Council may resolve that notwithstanding subclause (2), specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

Application as to Assistance Animals

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

[Clause 1.6 Inserted – Global Amendment Gazetted 6 January 2015 p. 23]

PART 2 - DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1 - Determinations

Determinations as to use of local government property

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

The determinations in Schedule 2 –

- (a) are to be taken to have been made in accordance with clause 2.2;
- (b) may be amended or revoked in accordance with clause 2.6; and
- (c) have effect on the commencement day.

Procedure for making a determination

2.2

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

- (a) consider those submissions; and
 - (b) decide –
 - (i) whether or not to amend the proposed determination; or
 - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice –
- (a) of the effect of the amendments; and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

Discretion to erect sign

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

Determination to be complied with

2.4 A person shall comply with a determination.

Register of determinations

2.5

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

Amendment or revocation of a determination

2.6

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

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

Activities which may be pursued on specified local government property

2.7

- (1) A determination may provide that specified local government property is set aside as an area on which a person may –
 - (a) bring, ride or drive an animal;
 - (b) take, ride or drive a vehicle, or a particular class of vehicle;
 - (c) fly or use a motorised model aeroplane;
 - (d) use a children’s playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
 - (e) launch, beach or leave a boat;
 - (f) take or use a boat, or a particular class of boat;
 - (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
 - (h) play or practice –
 - (i) golf or archery;
 - (ii) shotgun, pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
 - (i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and
 - (j) wear no clothing.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular –
 - (a) the days and times during which the activity may be pursued;
 - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
 - (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;
 - (e) may specify that the activity can be pursued by a class of persons or all persons; and

- (f) may distinguish between different classes of the activity.

Activities which may be prohibited on specified local government property

2.8

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

- (3) In this clause –

"premises" means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

Division 3 - Transitional

Signs taken to be determinations

2.9

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

PART 3 - PERMITS

Division 1 - Preliminary

Application of Part

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

Division 2 - Applying for a permit

Application for permit

3.2

- (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 an application before determining an application for a permit.
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

Decision on application for permit

3.3

- (1) The local government may –
 - (a) approve an application for a permit unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

Division 3 - Conditions

Conditions which may be imposed on a permit

3.4

- (1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to -
 - (a) the payment of a fee;
 - (b) compliance with a standard or a policy of the local government adopted by the local government;
 - (c) the duration and commencement of the permit;
 - (d) the commencement of the permit being contingent on the happening of an event;
 - (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
 - (f) the approval of another application for a permit which may be required by the local government under any written law;
 - (g) the area of the district to which the permit applies;
 - (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
 - (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.
- (2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued –
 - (a) when fees and charges are to be paid;

- (b) payment of a bond against possible damage or cleaning expenses or both;
- (c) restrictions on the erection of material or external decorations;
- (d) rules about the use of furniture, plant and effects;
- (e) limitations on the number of persons who may attend any function in or on local government property;
- (f) the duration of the hire;
- (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;
- (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Licensing Act 1988*;
- (i) whether or not the hire is for the exclusive use of the local government property;
- (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, 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 hire of the local government property by the hirer; and
- (k) the provision of an indemnity from the hirer, 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 hire of the local government property by the hirer.

Imposing conditions under a policy

3.5

- (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 3.3(1)(a).

- (2) Under clause 3.3(1)(a) the local government may approve an application subject to conditions by reference to a policy.
- (3) The local government shall give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 3.3(2).
- (4) An application for a permit shall be deemed 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 shall be deemed to be information within section 5.94(u)(i) of the Act.

Compliance with and variation of conditions

3.6

- (1) Where an application for a permit has been approved subject to conditions, 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 4 - General

Agreement for building

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

Duration of permit

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

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

Renewal of permit

3.9

- (1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.
- (2) The provisions of this Part shall apply to an application for the renewal of a permit *mutatis mutandis*.

Transfer of permit

3.10

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

Production of permit

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

Cancellation of permit

3.12

- (1) Subject to clause 7.1, 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) determination or a provision of any written law which may relate to the activity regulated by the permit.
- (2) On the cancellation of a permit the permit holder -
 - (a) shall return the permit as soon as practicable to the CEO; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.

Division 5 - When a permit is required

Activities needing a permit

3.13

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

- (ii) park or stop any vehicle on local government property;
 - (h) conduct a function on local government property ;
 - (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
 - (i) light a fire on local government property except in a facility provided for that purpose;
 - (j) parachute, hang glide, abseil or base jump from or on to local government property;
 - (k) erect a building or a refuelling site on local government property;
 - (l) make any excavation on or erect or remove any fence on local government property;
 - (m) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person; or
 - (n) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).
- (4) A permit shall not be issued by the local government under subclause (1)(h), for public entertainment or otherwise, if the function –
- (a) involves the display or performance of -
 - (i) lions, tigers, leopards, other great cats, elephants, bears, giraffes, monkeys or apes; or
 - (ii) any other type of animal which, in the opinion of the local government, is either dangerous or wild by nature.

Permit required to camp outside a facility

3.14

- (1) In this clause –
- "facility"** has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.
- (2) This clause does not apply to a facility operated by the local government.
- (3) A person shall not without a permit -
- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or

- (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.
- (4) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

Permit required for possession and consumption of liquor

3.15

- (1) A person, on local government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless –
 - (a) that is permitted under the *Liquor Licensing Act 1988*; and
 - (b) a permit has been obtained for that purpose.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 6 – Responsibilities of permit holder

Responsibilities of permit holder

3.16 A holder of a permit shall in respect of local government property to which the permit relates -

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

PART 4 - BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

Division 1 – Behaviour on and interference with local government property

Behaviour which interferes with others

4.1 A person shall not in or on any local government property behave in a manner which -

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

Behaviour detrimental to property

4.2

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

Taking or injuring any fauna

4.3

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

Intoxicated persons not to enter local government property

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

No prohibited drugs

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

Division 2 - Signs

Signs

4.6

- (1) A local government may erect a sign on local government property specifying any conditions of use which apply to that property.
- (2) A person shall comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is –
 - (a) not to be inconsistent with any provision of this local law or any determination; and
 - (b) to be for the purpose of giving notice of the effect of a provision of this local law.

PART 5 – MATTERS RELATING TO PARTICULAR PROPERTY

[Heading Amended – Government Gazette – 3 November 2006 p. 4658 – 4660]

Division 1 - Swimming pool areas

When entry must be refused

5.1 A Manager or an authorized person shall refuse admission to, may direct to leave or shall remove or cause to be removed from a pool area any person who –

- (a) in her or his opinion is -
 - (i) under the age of 6 years and who is unaccompanied by a responsible person over the age of 14 years;
 - (ii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
 - (iii) under the influence of liquor or a prohibited drug; or
- (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.

Division 2 - Beaches

Powers of surf life saving club members

5.2

- (1) Subject to subclause (2), the local government may authorize under section 9.10 of the Act the members of a surf life saving club to perform all or any of the following functions in relation to a beach -

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

Authorizing other persons

5.3

- (1) A local government may authorize, under section 9.10 of the Act, a person to perform all or any of the functions referred to in clause 5.2(1) in relation to a beach.
- (2) Under subclause (1), the local government shall authorize only those persons who, in the reasonable opinion of the local government, are competent to perform the functions referred to in clause 5.2(1) in respect of which they are authorized.
- (3) Under subclause (1), the local government may authorize a person generally, or in relation to particular times, days or months.
- (4) Where the local government has authorized members of a surf life saving club under clause 5.2(1) and a person under subclause (1) in relation to the same beach, so that they can perform all or any of the functions referred to in clause 5.2(1) contemporaneously, the local government is to specify which authorization is rendered ineffective when both are exercised.

Persons to comply with signs and directions

5.4 A person shall -

- (a) not act in contravention of any sign erected on a beach under clause 5.2(1)(c);
- (b) not enter an area which has been temporarily closed with rope, hessian, wire or any other means for the conduct of surf life saving club activities, unless he or she is a member of the club or has obtained permission to enter from the club; and
- (c) comply with any direction given under clause 5.2(1)(c) or 5.2(1)(e),

notwithstanding that the sign or the direction was erected or given, as the case may be, by a person referred to in clause 5.3(1).

Division 3 - Fenced or closed property

No entry to fenced or closed local government property

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

Division 4 - Toilet blocks and change rooms

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

5.6 Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by –

- (a) females, then a person of the male gender shall not use that entry of the toilet block or change room; or
- (b) males, then a person of the female gender shall not use that entry of the toilet block or change room.

Division 5 - Central Business District

Use of wheeled recreational device prohibited

5.7 A person shall not use, or travel in or on, a wheeled recreational device on –

- (a) local government property;
- (b) a public thoroughfare; or
- (c) a footpath,

that is part of the Central Business District, unless authorized by a determination made under clause 2.1(1)(a).

[Division 5 Inserted – Government Gazette – 3 November 2006 p. 4658 – 4660]

PART 6 - FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY

No unauthorized entry to function

6.1

- (1) A person shall not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorized, except –
 - (a) through the proper entrance for that purpose; and
 - (b) on payment of the fee chargeable for admission at the time.
- (2) The local government may exempt a person from compliance with subclause (1)(b).

PART 7 - OBJECTIONS AND APPEALS

Application of Division 1, Part 9 of the Act

7.1 When the local government makes a decision as to whether it will -

- (a) grant a person a permit or consent under this local law; or
- (b) renew, vary, or cancel a permit or consent that a person has under this local law,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

PART 8 - MISCELLANEOUS

Authorized person to be obeyed

8.1 A person on local government property, a public thoroughfare or footpath shall obey any lawful direction of an authorized person and shall not in any way obstruct or hinder an authorized person in the execution of her or his duties.

[Clause 8.1 Amended – Government Gazette – 3 November 2006 p. 4658 – 4660]

Persons may be directed to leave local government property, a public thoroughfare or footpath

8.2 An authorized person may direct a person to leave local government property, a public thoroughfare or footpath where she or he reasonably suspects that the person has contravened a provision of this local law or any other written law.

[Clause 8.2 Amended – Government Gazette – 3 November 2006 p. 4658 – 4660]

Disposal of lost property

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

Liability for damage to local government property

8.4

- (1) Where a person unlawfully damages local government property, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, pay the costs of –
 - (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
 - (b) replacing that property.
- (2) Unless there is proof to the contrary, a person is to be taken to have damaged local government property within subclause (1) where –
 - (a) a vehicle or a boat caused the damage, the person was the person responsible, at the time the damage occurred, for the control of the vehicle or the boat; or
 - (b) the damage occurred under a permit, the person is the permit holder in relation to that permit.
- (2) On a failure to comply with a notice issued under subclause (1), the local government may recover the costs referred to in the notice as a debt due to it.

PART 9 - ENFORCEMENT

Division 1 - Notices given under this local law

Offence to fail to comply with notice

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

Local government may undertake requirements of notice

9.2 Where a person fails to comply with a notice referred to in clause 9.1, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

Division 2 - Offences and penalties

Subdivision 1 - General

Offences and general penalty

9.3

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

Subdivision 2 - Infringement notices and modified penalties

Prescribed offences

9.4

- (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 the commission of a prescribed offence, an authorized 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 in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

Form of notices

9.5

- (1) For the purposes of this local law -
 - (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
 - (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
 - (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.
- (2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

Division 3 – Evidence in legal proceedings

Evidence of a determination

9.6

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

SCHEDULE 1

PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.4	Failure to comply with determination	100
3.6	Failure to comply with conditions of permit	100
3.13(1)	Failure to obtain a permit	100
3.14(3)	Failure to obtain permit to camp outside a facility	100
3.15(1)	Failure to obtain permit for liquor	100
3.16	Failure of permit holder to comply with responsibilities	100
4.2(1)	Behaviour detrimental to property	100
4.4	Under influence of liquor or prohibited drug	100
4.6(2)	Failure to comply with sign on local government property	100
5.4	Failure to comply with sign or direction on beach	100
5.5	Unauthorized entry to fenced or closed local government property	100
5.6	Gender not specified using entry of toilet block or change room	100
5.7	Unauthorized use of, or travel in or on, a wheeled recreational device in Central Business District <i>[Clause 5.7 Amended – Government Gazette – 3 November 2006 p. 4658 – 4660]</i>	50
6.1(1)	Unauthorized entry to function on local government property	100
9.1	Failure to comply with notice	200

SCHEDULE 2

DETERMINATIONS

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

PART 1 – PRELIMINARY

Definitions

1.1 In these determinations unless the context otherwise requires –

"local law" means the *Local Government Property Local Law* made by the local government;

Interpretation

1.2 Unless the context otherwise requires, where a term is used but not defined in a determination and that term is defined in the local law then the term shall have the meaning given to it in the local law.

PART 2 – CAMPING

Camping is not permitted on any beach or reserve except where:

- a. prior written approval of Council has been obtained; and/or
- b. the beach or reserve or part of the beach or reserve, has been approved as an authorised camping ground / caravan park by Council.

PART 3 – MOTORISED VEHICLES

Motorised Vehicles, including motor homes, trucks, passenger vehicles, busses, 4 wheel drive vehicles and motorbikes of any description, are not permitted to enter, drive / ride or park, on any beach or reserve except where:

- a. the reserve is set aside for motor sport; and/or
- b. the prior written approval of Council has been obtained; and/or
- c. clear defined vehicular access ways and / or parking areas are evident; and/or
- d. the beach is an approved motorised vehicle access beach.

Motorised vehicles are permitted on the following beaches:

- a. Parry Beach (Reserve 20928);
- b. Boat Harbour (Reserve 7723);
- c. Peaceful Bay (Reserve 24510);
- d. Ocean Beach (Reserve 24913) being that portion denoted as the Ocean Beach Boat Ramp as defined by clause 6.

The following conditions apply to all motorised vehicle access areas:

1. where speed signs are in place – speed is limited to that shown on sign;
2. where speed signs are not in place – speed limit observed is not to be greater than 40 kph;
3. pedestrians have right of way at all times;
4. approved beach areas – vehicles to be driven / ridden only between the low and high water lines;
5. vehicles are not to be driven / ridden in a reckless / dangerous manner;
6. Ocean Beach boat ramp – motorised vehicles are permitted to be utilised and/or parked on

that portion of Ocean Beach (Reserve No. 24913) immediately west of the bollards for the purposes of launching and retrieving of motorised vessels;

7. only road registered / licensed motorised vehicles may enter / park / travel on authorised beach and reserve areas.

[Part 3 Amended by Council Resolution No. 291214 / 23 December 2014]

[Part 3 Amended by Council Resolution No. 050316 / 1 March 2016]

PART 4 – SALE OF BEER, WINE OR SPIRITS

The sale of beer, wine or spirits is prohibited on all beaches and reserves and in all Council buildings, except where a liquor permit has first been obtained – this requires approval of the Council in writing as authorised by the Chief Executive Officer prior to a permit being issued by the Clerk of Courts.

SCHEDULE 3

CENTRAL BUSINESS DISTRICT

Defined as:

“that area of land contained within the boundary commencing at a point on the eastern side of the Hollings Road and Barnett Street intersection, travelling generally north west along the east side of Hollings Road and Horsley Road to the northern point of Reserve 19912 then due west along the southern side of North Street crossing to the western side of Strickland Street at lot 150, proceeding south east along the western side of Strickland Street to the southerly point of lot 150, then crossing Mt Shadforth Road to the north boundary point of lot 2 where it adjoins lot 218, then following the boundary of lot 2 south-east and south-west to the southern most corner of that lot, then south crossing South Coast Highway to the western most corner of lot 935 following that lot boundary and the eastern side of Price Street proceeding generally south to the southern side of the Barnett Street intersection and along that side of Barnett Street proceeding north east to the commencement point.”

