

City of Stirling

**THOROUGHFARES AND PUBLIC PLACES LOCAL
LAW 2009**

Local Government Act 1995

City of Stirling

Thoroughfares and Public Places Local Law 2009

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Local Government Act 1995

City of Stirling

Thoroughfares and Public Places Local Law 2009

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the Council of the City of Stirling resolved on 3 March 2009 to make this local law.

Part 1 - Preliminary

1.1 Citation

This local law may be cited as the *City of Stirling Thoroughfares and Public Places Local Law 2009*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The City Of Stirling Local Laws 241 – 280 (Prevention Of Damage To, Obstruction Of And Misuse Of Streets And Council Property), 282 ,486 – 490 (Street Lawns And Gardens), 655 – 666 (Hawkers And Stallkeepers), 730 – 744 (Street Trading), published in the *Government Gazette* on 12 May 1971, are repealed.

1.5 Definitions and interpretation

In this local law -

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

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

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

“**built-up area**” has the meaning given to it in the *Road Traffic Code 2000*;

“**built-up area**” means the territory contiguous to and including any road –

- (a) on which there is provision for street lighting at intervals of not over 100m for a distance of at least 500m or, if the road is shorter than 500m, for the whole road; or
- (b) which is built up with structures devoted to business, industry or dwelling houses at intervals of less than 100m for a distance of 500m or more;”

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

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

“*carriageway* means a portion of a road that is improved, designed or ordinarily used for vehicular traffic, and includes the shoulders, and areas, including embayments, at the side or centre of the carriageway, used for the stopping or parking of vehicles; and, where a road has 2 or more of those portions divided by a median strip, the expression means each of those portions, separately;”

[Regulation 3 of the *Road Traffic Code 2000*]

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

“**charitable organisation**” means 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;

“**City**” means the City of Stirling;

“**City property**” means anything except a thoroughfare –

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

“*otherwise unvested facility* means a thoroughfare, bridge, jetty, drain, or watercourse belonging to the Crown, the responsibility for controlling or managing which is not vested in any person other than under this section.”

[Section 3.53 of the *Local Government Act 1995*]

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

“**Council**” means the council of the City;

“**crossing**” means a crossing giving access from a public thoroughfare to -

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

“**crossover**” has the same meaning as crossing;

Note: crossings are also dealt with in regulations 12 to 15 of the Local Government (Uniform Local Provisions) Regulations 1996. Those include provisions relating to construction, cost sharing, repair, and crossings affecting declared main roads.

“**district**” means the district of the City;

“**footpath**” has the meaning given to it in the *Road Traffic Code 2000*;

“*footpath* means an area that is open to the public that is designated for, or has as one of its main uses, use by pedestrians;”

[Regulation 3 of the *Road Traffic Code 2000*]

“**garden**” means any part of a thoroughfare which is planted, developed or treated, otherwise than as a lawn, with one or more plants but does not include the planting of a tree;

“**intersection**” has the meaning given to it in the *Road Traffic Code 2000*;

“*intersection* means –

- (a) the area where 2 or more carriageways meet; or
- (b) the area within which vehicles, travelling by, on or from different carriageways may come into conflict;”

[Regulation 3 of the *Road Traffic Code 2000*]

“**kerb**” includes the edge of a carriageway;

“**lawn**” means any part of a thoroughfare which –

- (a) is planted, by any person, only with grass, or with a similar plant; or
- (b) is planted, by the City, with any other plant;

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

“*liquor* means —

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

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

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

“*lot* means a defined portion of land —

- (a) depicted on a plan or diagram available from, or deposited with, the Authority and for which a separate Crown grant or certificate of title has been or can be issued; or
- (b) depicted on a diagram or plan of survey of a subdivision approved by the Commission; or
- (c) which is the whole of the land the subject of —
 - (i) a Crown grant issued under the *Land Act 1933*²; or
 - (ii) a certificate of title registered under the *Transfer of Land Act 1893*; or

- (iii) a survey into a location or lot under section 27(2) of the *Land Administration Act 1997* or a certificate of Crown land title the subject of such a survey; or
- (iv) a part-lot shown on a diagram or plan of survey of a subdivision deposited with the Authority; or
- (v) a conveyance registered under the *Registration of Deeds Act 1856*,

but does not include a lot in relation to a strata scheme, a lot in relation to a survey-strata scheme, or a lot shown as common property on a survey-strata plan, as those terms are defined in the *Strata Titles Act 1985*;

[Section 4 of the *Planning and Development Act 2005*]

“**nature strip**” has the meaning given to it in the *Road Traffic Code 2000*;

“*nature strip* means an area between a carriageway and the front boundary of adjacent land, but does not include a path;”

[Regulation 3 of the *Road Traffic Code 2000*]

“**occupier**”, in relation to land, does not include the City;

“*occupier* where used in relation to land means the person by whom or on whose behalf the land is actually occupied or, if there is no occupier, the person entitled to possession of the land, and includes a person in unauthorised occupation of Crown land and where under a licence or concession there is a right to take profit of Crown land specified in the licence or concession, means the person having that right;”

[Section 1.4 of the *Local Government Act 1995*]

“**owner**”, in relation to land, does not include the City;

“*owner*, where used in relation to land —

- (a) means a person who is in possession as —
 - (i) the holder of an estate of freehold in possession in the land, including an estate or interest under a contract or an arrangement with the Crown or a person, by virtue of which contract or arrangement the land is held or occupied with a right to acquire by purchase or otherwise the fee simple; or
 - (ii) a Crown lessee or a lessee or tenant under a lease or tenancy agreement of the land which in the hands of the lessor is not rateable land under this Act, but which in the hands of the lessee or tenant is by reason of the lease or tenancy rateable land under this or another Act for the purposes of this Act; or
 - (iii) a mortgagee of the land; or
 - (iv) a trustee, executor, administrator, attorney, or agent of a holder, lessee, tenant, or mortgagee, mentioned in this paragraph;
- or
- (b) where there is not a person in possession, means the person who is entitled to possession of the land in any of the capacities mentioned in paragraph (a), except that of mortgagee; or
- (c) where, under a licence or concession there is a right to take profit of Crown land specified in the licence or concession, means the person having that right; or
- (d) where a person is lawfully entitled to occupy land which is vested in the Crown, and which has no other owner according to paragraph (a), (b), or (c), means the person so entitled; or

- (e) means a person who —
- (i) under the *Mining Act 1978*, holds in respect of the land a mining tenement within the meaning given to that expression by that Act; or
 - (ii) in accordance with the *Mining Act 1978* holds, occupies, uses, or enjoys in respect of the land a mining tenement within the meaning given to that expression by the *Mining Act 1904*; or
 - (iii) under the *Petroleum and Geothermal Energy Resources Act 1967* holds in respect of the land a permit, drilling reservation, lease or licence within the meaning given to each of those expressions by that Act;
- or
- (f) where a person is in the unauthorised occupation of Crown land, means the person so in occupation.”

[Section 1.4 of the *Local Government Act 1995*]

“permissible verge treatment” means a treatment described in clause 2.7(2), and includes reticulation pipes and sprinklers installed for the purposes of the treatment;

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

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

“person” does not include the City;

“premises” for the purpose of the definition of “public place” in both this clause and clause 5.1, means a building or similar structure, but does not include a carpark or a similar place;

“public place” includes a 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) City property;

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

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

“thoroughfare” has the meaning given to it in the Act, but does not include a private thoroughfare which is not under the management or control of the City;

“thoroughfare means a road or other thoroughfare and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end;”

[Section 1.4 of the *Local Government Act 1995*]

“town planning scheme” means a town planning scheme of the City made under the *Planning and Development Act 2005*;

“**tree**” means woody perennial plant generally having a single stem or trunk which will grow to a height of approximately 4 metres or higher;

“**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 –

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

“**verge**” means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare and includes a nature strip, but does not include a footpath.

[Clause 1.5 amended by Government Gazette No. 64 of 2011]

Part 2 - Activities in thoroughfares and public places

Division 1 - General

2.1 General prohibitions

A person must not -

- (a) remove or kill by felling, poison or any other means a tree on a verge area or thoroughfare or verge unless the person is -
 - (i) acting under authority of a permit issued by the City; or
 - (ii) a City employee or contractor engaged by the local government to undertake work in relation to a particular tree or trees on thoroughfares in the district or on City property generally; or
 - (iii) acting under authority of a written law.
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden that is not a tree 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 City; or
 - (ii) the person is acting under the authority of a written law;
- (c) place, or allow to be placed or remain, on a thoroughfare or verge any thing (except water) that –
 - (i) obstructs the thoroughfare or verge; or

- (ii) results in a hazard for any person using the thoroughfare or verge;
- (d) unless at the direction of the City, damage, remove or interfere with any part of a thoroughfare, or any structure erected on a thoroughfare by the City or a person acting under the authority of a written law;
- (e) 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;
- (f) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device; or
- (g) install a tree on the verge unless approved in writing by the City.

[Clause 2.1 amended by Government Gazette No. 64 of 2011]

2.2 Activities allowed with a permit - general

- (1) A person must 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 thing on a verge except for removal by the City under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised by the City in connection with 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, kerb or footpath;
 - (g) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose;
 - (h) 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, on any part of a thoroughfare, any thing such as gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
 - (i) fell any tree onto a thoroughfare;

- (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
- (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 or verge a bulk rubbish container;
- (m) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare; or
- (n) prune or lop a tree on a verge or in a thoroughfare unless that person is -
 - (i) a City employee or contractor engaged by the City to undertake work in relation to a particular tree or trees on thoroughfares in the district or on City property generally; or
 - (ii) acting under authority of a written law.
- (2) The City may exempt a person from compliance with subclause (1) -
 - (a) if that person complies with a policy issued by the City issued under clause 6.5 in relation to a specified activity in or on a thoroughfare, verge or footpath; or
 - (b) on the application of that person.

Note: Wherever a permit is required to be obtained under this local law, the provisions of Part 6 of this local law apply.

2.3 No possession and consumption of liquor on thoroughfare

- (1) A person must not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless –
 - (a) that is permitted under the *Liquor Control Act 1988* or under another written law; 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.

Division 2 - Vehicle crossings

2.4 Temporary crossing

- (1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works must obtain a permit for the construction of a temporary crossing to protect the existing carriageway, kerb, drains and footpath, where –
 - (a) a crossing does not exist; or

- (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.
- (2) The “person responsible for the works” in subclause (1) is to be taken to be –
- (a) the builder named on the building licence issued under the *Local Government (Miscellaneous Provisions) Act 1960*, if one has been issued in relation to the works; or
 - (b) the registered proprietor of the lot, if no building licence has been issued under the *Local Government (Miscellaneous Provisions) Act 1960* in relation to the works.
- (3) If the City approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that, until such time as the temporary crossing is removed, the permit holder must keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

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 is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the City.
- (2) The City may give written notice to the owner or occupier of a lot requiring her or him to –
- (a) remove any part of or all of a crossing which does not give access to the lot; and
 - (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,

within the period of time stated in the notice, and the owner or occupier of the lot must comply with that notice.

Division 3 - Verge treatments

2.6 Definition

In this Division -

“**acceptable material**” means any material which will create a hard surface, and which appears on a list of acceptable materials maintained by the City.

2.7 Permissible verge treatments

- (1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.
- (2) A permissible verge treatment is –
- (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 a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
- (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
- (iii) it does not include a wall or built structure
- (iv) it is not of a thorny, poisonous or hazardous nature;
- (c) the installation of an acceptable material; or
- (d) the installation of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

[Clause 2.7 amended by Government Gazette No. 64 of 2011]

2.8 Only permissible verge treatments to be installed

- (1) A person must not install or maintain a verge treatment which is not a permissible verge treatment.
- (2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.9.

2.9 Obligations of owner or occupier

An owner or occupier who installs or maintains a permissible verge treatment must -

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) ensure the verge treatment does not cause a sight distance obstruction to any person using a footpath on the verge or a carriageway or crossing adjoining the verge or in proximity to it;
- (c) not place any obstruction on or around the verge treatment;
- (d) not disturb a footpath on the verge;
- (e) ensure that the verge treatment does not damage or obstruct a drain, manhole, gully, inspection pit, channel, kerb, or tree planted by the City; and
- (f) ensure that any sprinklers or pipes installed to irrigate a verge treatment -
 - (i) do not protrude above the level of the lawn when not in use,

- (ii) are not used at such times so as to cause unreasonable inconvenience to pedestrians or other persons, and
- (iii) do not otherwise present a hazard to pedestrians or other persons.

2.10 Notice to owner or occupier

The City may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Division.

2.11 Transitional provision

(1) In this clause –

“**repealed provisions**” means one or more of the provisions of the repealed local laws which permitted certain types of verge treatments, whether with or without the consent of the City; and

“**repealed local laws**” means the local laws that are repealed by clause 1.4.

(2) A verge treatment which –

- (a) was installed prior to the commencement day; and
- (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions,

is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the repealed provisions.

2.12 Power to carry out public works on verge

Where the City or an authority empowered to do so under a written law disturbs a verge, the City or the authority -

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

Division 4 - Property numbers

2.13 Definition

In this Division -

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

2.14 Assignment of numbers

The City may assign a Number to a lot in the district and may assign another Number to the lot instead of that previously assigned.

Division 5 - Fencing

2.15 Public place – clause 4(1) of Division 1, Schedule 3.1 of Act

Each of the following places is specified as a public place for the purpose of clause 4(1) of Division 1 of Schedule 3.1 of the Act –

- (a) a public place, as that term is defined in clause 1.2; and
- (b) City property.

Division 6 - Signs erected by the local government

2.16 Signs

- (1) The City may erect a sign on a public place specifying any conditions of use which apply to that place.
- (2) A person must comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

2.17 Transitional

Where a sign erected on a public place has been erected under the repealed local laws, then on and from the commencement day, it is to be taken to be a sign erected under clause 2.16 if –

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

Division 7 - Driving on a closed thoroughfare

2.18 No driving on closed thoroughfare

- (1) In this clause –

“**closed thoroughfare**” means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.
- (2) A person must not drive or take a vehicle on a closed thoroughfare unless –
 - (a) that is in accordance with any limit or exception specified in the order made under section 3.50 of the Act; or
 - (b) the person has first obtained a permit.

Part 3 - Advertising signs on thoroughfares

3.1 Definitions

In this Part -

“advertising sign” means a sign used for the purpose of an advertisement or to draw attention to a product, business, person or event;

“community event” means a charitable, cultural or educational display, event or activity conducted by a charitable organisation; and

“illuminated street sign” means –

A sign consisting of an illuminated street name, as well as an advertisement or other legend, graphics or symbols, which has the primary function of assisting motorists to identify the name of intersecting roads.

“political sign” means –

- (a) an election sign or advertisement; or
- (b) a sign or advertisement to which the constitutional freedom of political communication applies.

“portable direction sign” means a portable free standing sign that –

- (a) does not exceed 500mm in height or 0.5m² in area; and
- (b) is used to direct persons to a residential property that is open for inspection by the public.

[Clause 3.1 amended by Government Gazette No. 156 of 2013, No. 38 of 2015]

3.2 General prohibitions

Subject to the exceptions in clauses 3.3-3.3.8, a person must not –

- (a) erect or place an advertising sign on a thoroughfare or verge; or
- (b) post any bill or paint, place or affix any advertisement on a thoroughfare or verge, or City property on the thoroughfare or verge.

[Clause 3.2 amended by Government Gazette No. 156 of 2013, No. 38 of 2015]

3.3 Portable direction signs

- (1) A person may erect or place, in a thoroughfare or verge, a portable direction sign during the hours that the property referred to in the sign is open for inspection by the public.
- (2) The portable direction sign must not be erected or placed -
 - (a) on a footpath;
 - (b) on or within 2m of a carriageway; or

- (c) in any other location where, in the opinion of the City, the sign is likely to obstruct a line of sight along a thoroughfare or create a hazard for any person using the thoroughfare.

3.4 Permit for a charitable organisation

The City may issue to a charitable organisation a permit to place, on a thoroughfare or verge, an advertising sign to draw attention to a community event held by that organisation.

3.5 Advertising permit or exemption

- (1) The City may issue a permit to a person to post a bill, paint, place or affix any advertisement on a bus seat or bus shelter.
- (2) The City may exempt the holder of a valid stallholder’s permit, trader’s permit or outdoor eating facility permit from all or part of the prohibitions in clause 3.2 in relation to an advertising sign or advertisement that directly relates to the goods or services which are the subject of the permit.
- (3) A permits is not required for a cultural or educational display, event or activity conducted by the City.

3.6 Election or poll

The City may erect, or issue a permit to a returning officer to erect, an advertising sign on a thoroughfare or verge to draw attention to the date of, or location of a polling place for, a City election or poll.

3.7 Political sign

The City may issue a permit for the erection or display of a political sign.

[Clause 3.7 inserted by Government Gazette No. 156 of 2013]

3.8 Illuminated Street Sign

The City may issue a permit to a person to erect an illuminated street sign on a thoroughfare or verge.

[Clause 3.8 inserted by Government Gazette No. 38 of 2015]

3.9 Impounding of advertising signs

An authorised person may remove or impound an advertising sign or portable direction sign that is in a thoroughfare or verge in contravention of this local law.

Notes:

1. Regulation 29 of the *Local Government (Functions and General) Regulations 1996* states –
“**29. Contraventions that may lead to impounding of goods (Act s. 3.37 —**

(1) A contravention of a regulation or local law made under the Act can lead to the impounding of goods involved in the contravention if —

(a) it occurs in a public place; and

- (b) either —
 - (i) the presence of the goods —
 - (I) presents a hazard to public safety; or
 - (II) obstructs the lawful use of any place;
 - or
 - (ii) where the regulation or local law prohibits or regulates the placement of the goods, the goods are located in a place contrary to that regulation or local law.”²The City’s Parking Local Law 2014 (including clauses 3.9 and 6.10) regulate the stopping of vehicles on verges and the parking of vehicles on any portion of a thoroughfare for the purpose of exposing it for sale.

[Clause 3.9 renumbered by Government Gazette No. 156 of 2013, No. 38 of 2015]

Part 4 - Obstructing animals, vehicles or shopping trolleys

Division 1 - Animals and vehicles

4.1 Leaving animal or vehicle in public place or on City property

- (1) A person must not leave an animal or a vehicle, or any part of a vehicle, in a public place or on City property so that it obstructs the use of any part of that public place or City property, unless that person has first obtained a permit or is authorised to do so under a written law.
- (2) Subject to any other Local Law, a person does not contravene subclause (1) if a vehicle is left for a period not exceeding 24 hours .

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 who has the animal in his or her possession or under his or her control; and
 - (c) the occupier of any premises where the animal is ordinarily kept or ordinarily permitted to live.
- (2) An owner of an animal must 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 the animal which has a contagious or infectious disease to be led, ridden or driven in a public place;
 - (c) train or race the animal on a thoroughfare, or
 - (d) subject to subclause (4), allow the animal to defecate on a thoroughfare.

- (3) An owner of a horse must not lead, ride or drive the horse on a thoroughfare in a built-up area, unless the person does so under a permit or under the authority of a written law.
- (4) An owner of an animal does not commit an offence if the defecation is immediately removed.

4.3 Removal of vehicle or animal

An authorised person may impound an animal or vehicle left in contravention of clause 4.1

Note: provisions relating to the impounding of vehicles or animals in public places are contained in sections 3.37-3.48 of the Local Government Act 1995 and regulations 29 and 29A of the Local Government (Functions and General) Regulations 1996.

“29. Contraventions that may lead to impounding of goods (Act s. 3.37) —

- (1) A contravention of a regulation or local law made under the Act can lead to the impounding of goods involved in the contravention if —
 - (a) it occurs in a public place; and
 - (b) either —
 - (i) the presence of the goods —
 - (I) presents a hazard to public safety; or
 - (II) obstructs the lawful use of any place;
 - or
 - (ii) where the regulation or local law prohibits or regulates the placement of the goods, the goods are located in a place contrary to that regulation or local law.
- (1a) A contravention of a regulation or local law made under the Act can lead to the impounding of goods that are animals (if they are involved in the contravention) whether or not the contravention takes place in a private or a public place.

- (2) In subregulation (1) or (1a) —

public place includes a place that is on private property that the public are allowed to use.”

“29A. Abandoned vehicle wrecks, value etc. prescribed for (Act s. 3.40A(5)(c)) —

For the purposes of the definition of *abandoned vehicle wreck* in section 3.40A(5)(c) —

- (a) the prescribed value is “\$200”; and
- (b) the prescribed manner in which that value is to be calculated is that the value is to be based on the local private sale value of a vehicle of the same, or a similar, model, year and condition.”

Division 2 - Shopping trolleys

4.4 Definitions

In this Division –

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

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

4.5 Shopping trolley to be marked

A retailer must clearly mark its name or its trading name on any shopping trolley made available for the use of customers.

4.6 Person not to leave trolley in public place

A person must not leave a shopping trolley in a public place or on City property other than in an area set aside for the storage of shopping trolleys.

4.7 Retailer to remove abandoned trolley

- (1) If a shopping trolley is found in a public place or on City property, other than in an area set aside for the storage of shopping trolleys, the City may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.
- (2) A retailer must remove a shopping trolley within 24 hours of being so advised under subclause (1).

4.8 Retailer taken to own trolley

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

4.9 Impounding of abandoned trolley

An authorised person may impound a shopping trolley that is –

- (a) left on a thoroughfare, verge or City property that is not marked in accordance with clause 4.5; or
- (b) not removed by a retailer after having been so advised under clause 4.7(2).

Part 5 - Trading in thoroughfares and public places

Division 1 - Stallholders and traders

5.1 Definition

In this Division -

“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) City property,

but does not include premises on private property from which trading is lawfully conducted under a written law;

“**stall**” means 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**” means a person in charge of a stall;

“**stallholder’s permit**” means a permit issued to a stallholder;

“**trader**” means a person who carries on trading;

“**trader’s permit**” means 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; and
- (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.

5.2 Stallholder's permit

A person must not conduct a stall on a public place unless that person is –

- (a) the holder of a valid stallholder’s permit; or
- (b) an assistant specified in a valid stallholder’s permit.

5.3 Trader's permit

A person must 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.

Note: other requirements for an application for a trader’s permit, including a requirement to pay any fee that is imposed, are contained in Part 6.

5.4 No permit required to sell newspaper

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

5.5 Exemptions from requirement to pay fee or to obtain a permit

- (1) In this clause –

“commercial participant” means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.
- (2) The City may waive any fee required to be paid by an applicant for a stallholder's permit or a trader's permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the stall is conducted or the trading is carried on –
 - (a) on a portion of a public place adjoining the normal place of business of the applicant; or
 - (b) by a charitable organisation –
 - (i) that does not sublet space to commercial participants, or involve commercial participants in the conduct of the stall or trading; and
 - (ii) where any assistant who is specified in the permit is a member of that charitable organisation.
- (3) The City 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.

5.6 Conduct of stallholders and traders

- (1) A stallholder while conducting a stall, or a trader while trading, must –
 - (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or, if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting the stall or trading;
 - (b) not display a permit unless it is a valid permit; and
 - (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *Trade Measurement Administration Act 2006*.
- (2) A stallholder or trader must not –
 - (a) deposit or store any thing on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
 - (b) act in an offensive manner; or
 - (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.

Division 2 - Street entertainers

5.7 Definitions

In this Division –

“**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**” means a permit issued for the purpose of clause 5.10;

“**permitted area**” means the area or areas, specified in a permit, in which the permit holder may perform; and

“**permitted time**” means the time or times, specified in a permit, during which the permit holder may perform.

5.8 Permit required to perform

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

5.9 Variation of permitted area and permitted time

(1) The City may by notice in writing to a permit holder vary –

- (a) the permitted area;
 - (b) the permitted time; or
 - (c) both the permitted area and the permitted time,
- shown on a permit.

(2) The City may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

5.10 Duration of permit

A permit is valid for a period of 3 months after the date on which it is issued unless it is sooner cancelled under this local law.

5.11 Cancellation of permit

The City may cancel a permit, if in its opinion, or in the opinion of an authorised person –

- (a) the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place; or
- (b) the performance otherwise constitutes a nuisance.

Division 3 - Outdoor eating facilities on public places

5.12 Definitions

In this Division -

“Facility” means 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” means the person to whom a permit has been issued for the purpose of clause 5.15; and

“public place” has the meaning given to it in clause 5.1.

5.13 Permit required to conduct Facility

A person must not establish or conduct a Facility without a permit.

5.14 Removal of an unlawfully conducted Facility

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

5.15 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 or a member of the Police Service or an emergency service.
- (2) The permit holder may replace the Facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

Part 6 - Permits

Division 1 – Applying for a permit

6.1 Application for permit

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

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

6.2 Decision on application for permit

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

6.3 Relevant considerations in determining application for permit

- (1) In determining an application for a permit, the City is to have regard to –
 - (a) any relevant policy of the City;
 - (b) the National Competition Principles Agreement;
 - (c) the desirability of the proposed activity;
 - (d) the location of the proposed activity; and
 - (e) such other matters as the City may consider to be relevant in the circumstances of the case.
- (2) The City may refuse to approve an application for a permit on any 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 activity in respect of which the permit is sought;
 - (b) that the applicant is not a desirable or suitable person to hold a permit; or
 - (c) such other grounds as the City may consider to be relevant in the circumstances of the case.

Division 2 - Conditions

6.4 Conditions which may be imposed on a permit

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

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the approval of another application for a permit which may be required by the City under any written law;
- (f) the area of the district to which the permit applies;
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the City; and
- (i) the provision of an indemnity from the permit holder indemnifying the City 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.

6.5 Imposing conditions under a policy

- (1) In this clause –

“policy” means a policy of the City adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 6.2(1)(a).

- (2) Under clause 6.2(1)(a) the City may approve an application subject to conditions by reference to a policy.
- (3) The City 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 6.2(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 City gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act apply to a policy and, for that purpose, a policy is to be taken to be information within section 5.94(u)(i) of the Act.

6.6 Compliance with and variation of conditions

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

Division 3 - General

6.7 Duration of permit

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 6.10.

6.8 Renewal of permit

- (1) A permit holder may apply to the City in writing prior to expiry of a permit for the renewal of the permit.
- (2) The provisions of –
 - (a) this Part; and
 - (b) any other provision of this local law relevant to the permit which is to be renewed,

apply, with appropriate modifications to an application for the renewal of a permit.

6.9 Transfer of permit

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

- (b) issuing to the transferee a permit in the form determined by the City.
- (4) Where the City 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.

6.10 Production of permit

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

6.11 Cancellation of permit

- (1) Subject to clause 8.1, a permit may be cancelled by the City if the permit holder has not complied with -
 - (a) a condition of the permit; or
 - (b) a provision of any written law which may relate to the activity regulated by the permit.
- (2) If a permit is cancelled, the permit holder –
 - (a) must return the permit to the City as soon as practicable ; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.

6.12 Nominee of permit holder

Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the City may at the request of that permit holder authorise another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit apply to the nominee as if he or she was the permit holder.

Part 7 - Objections and appeals

7.1 Application of Part 9 Division 1 of Act

The provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to a decision –

- (a) to impose conditions on a permit;
- (b) to vary a permit; or
- (c) not to renew or to cancel a permit.

Part 8 - Notices

8.1 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 which causes or may cause an inconvenience or obstruction to any person using a thoroughfare, the City may give a notice to the owner or the occupier of

the land abutting on the lawn or the garden, requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

8.2 Hazardous plants

- (1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the City may give a 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 City.

8.3 Damage to thoroughfare

Where any portion of a thoroughfare, kerb, or footpath has been damaged, the City may, by 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 City.

8.4 Thing unlawfully placed on thoroughfare

Where any thing is placed or remains on a thoroughfare in contravention of this local law, the City may by notice in writing to the owner or the occupier of the property which abuts that portion of the thoroughfare where the thing has been placed or remains, or such other person who may be responsible for the thing being so placed or remaining, require the relevant person to remove the thing.

Note: other powers for the City to give a notice under section 3.25(1)(b) of the Local Government Act 1995 are contained in regulations 6 and 7 of the Local Government (Uniform Local Provisions) Regulations 1996, dealing with obstructing public thoroughfares and encroaching on public thoroughfares, respectively.

Part 9 - Enforcement

Division 1 - Notices given under this local law

9.1 Offence to fail to comply with notice

If the City gives a notice under this local law requiring a person to do any thing and that person fails to comply with the notice, he or she commits an offence.

9.2 City may undertake requirements of notice

If a person fails to comply with a notice referred to in clause 9.1, the City 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

9.3 Offences

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

- (2) A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000 and, if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

9.4 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 the commission 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 in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

9.5 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 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.

Schedule 1 - Prescribed offences

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.1(a)	Removal of tree on thoroughfare or verge	350
2.1(b)	Damaging lawn or garden	125
2.1(c)	Obstructing or causing a hazard on thoroughfare or verge	200
2.1(d)	Damaging or interfering with a thoroughfare or structure	350
2.1(e)	Playing games so as to impede vehicles or persons on thoroughfare	125
2.1(f)	Riding of skateboard or similar device on mall or verandah of shopping centre	125
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	200
2.2(1)(b)	Throwing or placing anything on a verge without a permit	200
2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	200
2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	250
2.2(1)(e)	Placing or draining offensive 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)	Installing pipes or stone on thoroughfare without a permit	200
2.2(1)(i)	Felling tree onto thoroughfare without a permit	200
2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350
2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	200
2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	200
2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	200
2.2(1)(n)	Prune or lop a tree without a permit	250
2.3(1)	Consumption or possession of liquor on thoroughfare	125
2.4(1)	Failure to obtain permit for temporary crossing	250
2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	350
2.8(1)	Installation of verge treatment other than permissible verge treatment	250
2.9	Failure to maintain permissible verge treatment or placement of obstruction on verge	200
2.10	Failure to comply with notice to rectify default	200
2.16(2)	Failure to comply with sign on public place	125
2.18(2)	Driving or taking a vehicle on a closed thoroughfare	350
3.2	Placing advertising sign or affixing any advertisement on a thoroughfare or verge	125
3.3(2)	The erection or placing of a portable direction sign contrary to the Local Law	125
4.1(1)	Animal or vehicle obstructing a public place or City 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(2)(d)	Failure to remove animal excreta	125
4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	125
4.6	Person leaving shopping trolley in public place other than trolley bay	125
4.7(2)	Failure to remove shopping trolley upon being advised of location	200
5.2(1)	Conducting of stall in public place without a permit	350
5.3(1)	Trading without a permit	350
5.6(1)(a)	Failure of stallholder or trader to display or carry permit	125
5.6(1)(b)	Stallholder or trader not displaying valid permit	125
5.6(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	125
5.6(2)	Stallholder or trader engaged in prohibited conduct	125
5.8	Performing in a public place without a permit	125
5.9(2)	Failure of performer to move onto another area when directed	125
5.13	Establishment or conduct of outdoor eating facility without a permit	350
6.6	Failure to comply with a condition of a permit	200
6.10	Failure to produce permit on request of authorised person	125
9.1	Failure to comply with notice given under local law	200

Dated 09 March 2009.

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

.....
DAVID BOOTHMAN
MAYOR

.....
STUART JARDINE
CHIEF EXECUTIVE OFFICER