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CITY OF CANNING

LOCAL GOVERNMENT ACT 1995

ANIMALS, NUISANCE AND ENVIRONMENT LOCAL LAW 2021

LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2021

LOCAL GOVERNMENT ACT 1995

CITY OF CANNING

ANIMALS, NUISANCE AND ENVIRONMENT LOCAL LAW 2021

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LOCAL GOVERNMENT ACT 1995

CITY OF CANNING

ANIMALS, NUISANCE AND ENVIRONMENT LOCAL LAW 2021

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Canning resolved on 21 September 2021 to make the following local law.

PART 1—PRELIMINARY

1.1 Title

This is the *City of Canning Animals, Nuisance and Environment Local Law 2021*.

1.2 Commencement

This local law comes into operation 14 days after the day on which it is published in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Amend

(1) The *City of Canning Health Local-laws 1998*, published in the *Government Gazette* on 16 December 1998 is amended as follows—

- (a) delete Part 4 Waste Food and Refuse;
- (b) delete Part 5 Nuisance and General;
- (c) delete Part 6 Keeping of Animals;
- (d) delete Part 7 Pest Control;
- (e) delete Part 8 Infectious Diseases; and
- (f) delete Schedules 10 and 11.

(2) The *City of Canning Consolidated Local Laws*, published in the *Government Gazette* on 31 March 2000 is amended, by deleting Part XV Rubbish, Disused and Stored Things.

1.5 Terms used

(1) In this Local Law, unless the context otherwise requires—

approved means approved by the local government;

authorised officer means a person appointed under section 9.10 of the LG Act to perform any of the functions of an authorised officer under this local law.

aviary bird means any bird, other than poultry or pigeons, kept or usually kept in an aviary or cage;

bee means an insect belonging to any of the various *hymenopterous* insects of the super family *Apoidea* and commonly known as bee;

bee hive means a movable or fixed structure, container or object which contains a bees nest containing an independent colony of bees and in which bees are kept;

beekeeper has the meaning in regulation 3 of the *Biosecurity and Agriculture Management Regulations 2013*;

Building Code means the latest edition of the Building Code of Australia published by, or on behalf of, the Australian Building Codes Board, as amended from time to time, but not including explanatory information published with the Building Code;

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

building site means a lot for which a building permit is current, but does not include a lot on which there exists a commercial, industrial or residential building and the current building permit is issued in respect only of a pergola, patio, shed or other Class 10 building as classified by the Building Code;

CEO means the Chief Executive Officer of the local government;

cow includes an ox, calf or bull;

density code means a number equal to the number of dwellings per hectare of land, as described in State Planning Policy 7.3 Residential Design Codes (volume 1), that is applied to land under a local planning scheme;

development has the meaning in the *Planning and Development Act 2005*;

development site means—

- (a) a lot or lots for which there is a current development or subdivision approval; and
- (b) a lot or lots on which construction work, earthworks, clearing of scrub, trees or overgrowth or any other site works are taking or have taken place, whether or not the works are subject to a development or subdivision approval;

district means the district of the local government;

dust means any visible granular or particulate material which has or has the potential to become airborne and includes organic and non-organic matter and sand, but does not include smoke;

dwelling house means a place of residence containing at least one sleeping room and includes a room or outbuilding separate from, but ancillary to, the building in which the sleeping room is located;

food business has the meaning in the *Food Act 2008*;

hive means a moveable or fixed structure, container or object in which a colony of bees is kept;

horse includes an ass, mule, donkey or pony;

land includes a building or structure on the land;

large animal includes an alpaca, cow, horse, sheep, goat, deer, camel, lama, emu, ostrich, kangaroo or the like but does not include a pig;

LG Act means the *Local Government Act 1995*;

liquid waste means waste from any process or activity, whether useful or useless, that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land, air or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater;

local government means the City of Canning;

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

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

miniature pig means a pig that does not exceed 700mm in height and does not exceed 100 kilograms in weight as an adult;

mosquitoes means any of the two-winged insects constituting the family Diptera Culicidae commonly known as mosquitoes;

nuisance means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

occupier has the meaning in the LG Act, but does not include the local government;

owner has the meaning in the LG Act;

pigeon means those birds that are classified within the family Columbidae but does not include doves;

poultry includes fowls, peafowls, turkeys, ducks and other domestic fowl;

refuse includes bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter whatsoever, whether of the same type as or a different type from, those mentioned here;

refuse receptacle means a container for holding or facilitating the removal of refuse;

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

residential zone means an area zoned “Residential” under a local planning scheme;

rural zone means an area zoned “Rural” under a local planning scheme;

rural residential zone means an area zoned “Rural Residential” under a local planning scheme;

Schedule means a schedule to this local law;

stormwater, in relation to a site, means naturally occurring water that results from rainfall on or around the site, or water flowing onto the site;

street means any highway, thoroughfare or land used for vehicular or pedestrian traffic, and includes all the land lying between property lines, including the verge and path;

subdivision approval means a subdivision approval under the *Planning and Development Act 2005*;

(2) A term that is used in this local law and is not defined in subclause (1) has the meaning in the LG Act.

(3) Where in this local law, a duty or liability is imposed on an “owner or occupier” the duty or liability is taken to be imposed jointly and severally on each of the owner or occupier.

(4) Where under this local law in relation to any premises an act is required to be done or is prohibited, the owner or occupier of the premises has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the prohibited act, as the case may be.

(5) This local law is subject to sections 3.25, 3.27 and Schedules 3.1 and 3.2 of the LG Act and any powers of entry exercised by this local government under this local law is subject to Part 3, Division 3, Subdivision 3 of the LG Act.

PART 2—KEEPING ANIMALS

Division 1—General

2.1 Cleanliness

The owner or occupier of premises where an animal or bird is kept must—

- (a) keep the premises free from excrement, filth, food waste and all other matter that is likely to become offensive or injurious to health or to attract rodents; and
- (b) when so directed by an authorised officer, clean and disinfect the premises.

Division 2—Keeping Large Animals

2.2 Large animals

(1) A person must not keep a large animal on any land unless the land—

- (a) is in a rural zone or rural residential zone and the animal is kept in accordance with the provisions of any local planning scheme applicable to that zone; or
- (b) is zoned residential with a density code of R2.5 under a local planning scheme and the animal is kept in accordance with the provisions of any local planning scheme applicable to that zone.

(2) An owner or occupier of premises must not permit a large animal to approach or remain within 10 metres of a dwelling house.

Division 3—Keeping Miniature Pigs

2.3 Keeping miniature pigs

(1) Except for a miniature pig, a person must not keep a pig on any land.

(2) Unless subclause (3) applies, a person must not keep a miniature pig on any land.

(3) A person may keep, on any land, one miniature pig if—

- (a) the keeping of the miniature pig has been approved in writing by the local government;
- (b) the miniature pig is sterilised; and
- (c) the owner or occupier of premises where the miniature pig is kept complies with the requirements of subclause (5).

(4) On an application for an approval under clause 2.3(3)(a)—

- (a) the local government may—
 - (i) grant the application, unconditionally or subject to any conditions that it considers appropriate; or
 - (ii) refuse to grant the application;
- (b) if the local government grants the application, it is to issue to the approved person an approval in the form determined by the CEO; and
- (c) if the local government refuses to grant the application, it must advise the applicant in writing of its decision.

(5) The owner or occupier of premises where a miniature pig is kept must—

- (a) retain written proof of its sterilisation;
- (b) ensure that the pig does not cause a nuisance;
- (c) maintain documentary evidence that the pig's veterinary treatment against leptospirosis, erysipelas, roundworm and tapeworm is current; and
- (d) comply with the conditions (if any) imposed under subclause (4).

Division 4—Keeping Poultry, Pigeons and Aviary Birds

2.4 Keeping poultry and pigeons in a residential zone

An owner or occupier of premises in a residential zone must not keep or permit to be kept on the premises—

- (a) more than 6 poultry; or
- (b) more than 20 pigeons.

2.5 Roosters, geese, turkeys and peafowl

Except in the rural zone, rural residential zone and on lots zoned residential with a density code of R2.5 under a local planning scheme, an owner or occupier of premises must not keep—

- (a) a rooster;
- (b) a goose or gander;
- (c) a turkey; or
- (d) a peacock or peahen.

2.6 Conditions for keeping poultry

A person who keeps poultry or permits poultry to be kept must ensure that—

- (a) all poultry are kept in a properly constructed poultry coop, except where poultry are freed for exercise;
- (b) no poultry are to be kept less than 5 metres from an opening to a dwelling house on any other lot;
- (c) no poultry are to be kept less than 1 metre from a side or rear boundary; and
- (d) no poultry are to be kept within 6 metres of a street, public building, commercial premises or food business.

2.7 Conditions for keeping pigeons

A person who keeps pigeons or permits pigeons to be kept must ensure that—

- (a) all pigeons are kept in a properly constructed pigeon loft, except where pigeons are freed for exercise;
- (b) no opening to a pigeon loft, including openings for ventilation, is within 6 metres of a dwelling house on any other lot;
- (c) no pigeons are to be kept less than 1 metre from a side or rear boundary; and
- (d) no opening to a pigeon loft, including an opening for ventilation, is within 6 metres of a street, public building, commercial premises or food business.

2.8 Conditions for keeping aviary birds

A person who keeps, or permits to be kept, aviary birds on any premises, must ensure that the aviary or cage in which the birds are kept is located at least 1 metre from any lot boundary and at least 6 metres from a dwelling house on any other lot.

2.9 Exemptions

(1) An owner or occupier of premises may apply in writing to the local government for an exemption from any of the requirements of clauses 2.2, 2.4, 2.6, and 2.7.

(2) An application for an exemption must be accompanied by any relevant fees determined by the local government under sections 6.16 to 6.19 of the LG Act.

(3) The application for an exemption must include—

- (a) a statement outlining the reasons why an exemption is sought;
- (b) the number of birds proposed to be kept;
- (c) a site plan showing lot size, location of enclosure, and the distance of the enclosure from any boundaries and buildings on adjoining lots; and
- (d) proof of membership of a poultry or pigeon club (if applicable).

(4) The CEO or authorised officer may give notice of the application to any owner or occupier of adjoining properties who, in the opinion of the CEO or authorised officer, are likely to be affected by the granting of the exemption, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is given to the person.

(5) In considering an application for exemption under this clause, the CEO or authorised officer is to have regard to the following matters to the extent that, in the opinion of the CEO or authorised officer, those matters are relevant to the application—

- (a) any likely adverse impact of the proposed exemption on the environment or amenity of the neighbourhood;
- (b) any likely adverse impact of the proposed exemption on any owners or occupier of adjoining premises;
- (c) any social or educational benefits which may be derived by any person in the district if the application for an exemption is approved;
- (d) the structural suitability of any enclosure in which any animal is to be kept;
- (e) any written submissions received within the time specified in subclause (4) on the proposal;
- (f) whether or not the imposition of and compliance with appropriate conditions of an exemption will mitigate any adverse effects of the approved exemption identified in the preceding paragraphs; and
- (g) any other matter that the CEO or authorised officer considers to be relevant in the circumstances of the application.

(6) The CEO or an authorised officer may, in respect of an application for an exemption—

- (a) grant the exemption, unconditionally or subject to any conditions that the CEO or authorised officer considers appropriate; or
- (b) refuse the application.

(7) An exemption granted under this clause is to specify—

- (a) the owner or occupier to whom the exemption applies;
- (b) the premises to which the exemption applies;
- (c) the maximum number of animals or birds which may be kept on the premises; and
- (d) any terms and conditions under which the animals or birds must be kept.

- (8) If an exemption is granted subject to conditions, the holder of the exemption must comply with those conditions.
- (9) If an application for exemption is refused, the CEO or an authorised officer must give written notice of its decision to the applicant.
- (10) The CEO or an authorised officer may, at any time, cancel an exemption granted under this clause if—
- (a) the holder of the exemption has not complied with a condition of the exemption;
 - (b) the holder of the exemption has not complied with a provision of any written law which relates to the exemption; or
 - (c) a law is amended or repealed in a manner which is inconsistent with the terms and conditions of the exemption and which renders the exemption invalid, ineffective or contrary to law.
- (11) If the CEO or an authorised officer cancels an exemption, the exemption holder must be given written notice of the decision and the date of effect of the cancellation.

PART 3—PEST AND BEE MANAGEMENT

Division 1—General

3.1 Premises to be kept free of mosquito breeding matter

An owner or occupier of premises must keep the premises free of water that is, or is liable to become, the breeding place of mosquitoes.

3.2 Measures to be taken to eradicate rodents

If there are indications of the presence of rodents in, on or about premises, and while the indications continue, the owner or occupier of the premises must take effective measures to keep the premises free from rodents including—

- (a) protecting food stuffs;
- (b) using a rodenticide bait or a properly baited trap; and
- (c) preventing rodents having access to water on the premises.

Division 2—Bee Keeping

3.3 Conditions for keeping bees

- (1) A person must not keep, or permit to be kept, bees in more than 2 bee hives on any land without the written approval of the local government.
- (2) The local government may, in respect of a written application for approval to keep more than 2 bee hives on any land—
- (a) grant the application, unconditionally or subject to any conditions that it considers appropriate; or
 - (b) refuse to grant the application.
- (3) If the local government grants the application, it is to issue to the approved person an approval in the form determined by the CEO.
- (4) If an approval is granted subject to conditions, the holder of the approval must comply with those conditions.
- (5) If the local government refuses to grant the application, it must advise the applicant in writing of its decision.
- (6) Notwithstanding subclauses (1) and (2), a person must not keep, or permit to be kept, bees in bee hives on any lot unless at all times—
- (a) an adequate and permanent supply of water in a receptacle is provided on the lot within 3 metres of the bee hive;
 - (b) the bee hive is kept not closer than 10 metres from a footpath, street or public place and not closer than 5 metres from the boundary of the lot;
 - (c) the bee hive is kept not closer than 10 metres from, a dwelling house on any other lot; and
 - (d) the person is registered as a beekeeper if required by the *Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*.

3.4 Bees which cause a nuisance not to be kept

A person must take all reasonable steps not to keep, or permit the keeping of, bees which cause a nuisance.

PART 4—NUISANCES

Division 1—General

4.1 Burning rubbish, refuse or vegetation

- (1) Subject to subclause (4), a person must not set fire to rubbish, refuse or vegetation.
- (2) Subclause (1) does not apply to the burning of vegetation on rural zoned lots, rural residential zoned lots and lots zoned residential with a density code of R2.5 under a planning scheme, where approval has first been obtained from the local government, the burning complies with the *Bush Fires Act 1954*, any annual fire hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government.

(3) Subclause (1) does not apply to a barbeque, solid fuel water heater, space heater or oven fired with dry paper, synthetic char or charcoal type fuel.

(4) An owner or occupier of premises may apply in writing to the local government for an exemption from clause 4.1(1), to burn vegetation.

(5) An application for an exemption must be accompanied by any relevant fees determined by the local government under sections 6.16 to 6.19 of the LG Act.

(6) The CEO or authorised officer may give notice of the application to any owner or occupier of adjoining properties who, in the opinion of the CEO or authorised officer, are likely to be affected by the granting of the exemption, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is given to the person.

(7) In considering an application for exemption under this clause, the CEO or authorised officer is to have regard to the following matters to the extent that, in the opinion of the CEO or authorised officer, those matters are relevant to the application—

- (a) any likely adverse effect of the proposed exemption on the environment or amenity of the neighbourhood;
- (b) any likely adverse impact of the proposed exemption on any owners or occupier of adjoining premises;
- (c) whether or not there are reasonable alternatives for the disposal of the vegetation;
- (d) whether or not a haze alert has been issued by the Bureau of Meteorology for the period during which burning is to take place;
- (e) the proximity of the proposed burning of vegetation to a dwelling house, fence, road or building;
- (f) the measures proposed to be implemented by the applicant to manage the burn safely and to prevent the escape of the burn;
- (g) any written submissions received within the time specified in subclause (6) on the proposal;
- (h) whether or not the imposition of and compliance with appropriate conditions of an exemption will mitigate any adverse effects of the approved exemption identified in the preceding paragraphs; and
- (i) any other matter that the CEO or authorised officer considers to be relevant in the circumstances of the application.

(8) The CEO or an authorised officer may, in respect of an application for an exemption—

- (a) grant the exemption, unconditionally or subject to any conditions that the CEO or authorised officer considers appropriate; or
- (b) refuse the application.

(9) An exemption granted under this clause is to specify—

- (a) the owner or occupier to whom the exemption applies;
- (b) the premises to which the exemption applies; and
- (c) any terms and conditions under which vegetation is to be burnt.

(10) If an exemption is granted subject to conditions, the holder of the exemption must comply with those conditions.

(11) If an application for exemption is refused, the CEO or an authorised officer must give written notice of its decision to the applicant.

(12) The CEO or an authorised officer may, at any time, cancel an exemption granted under this clause if—

- (a) the holder of the exemption has not complied with a condition of the exemption;
- (b) the holder of the exemption has not complied with a provision of any written law which relates to the exemption; or
- (c) a law is amended or repealed in a manner which is inconsistent with the terms and conditions of the exemption and which renders the exemption invalid, ineffective or contrary to law.

(13) If the CEO or an authorised officer cancels an exemption, the exemption holder must be given written notice of the decision and the date of effect of the cancellation.

4.2 Escape of smoke, fumes, odours and other emissions

An owner or occupier of land or premises must take all reasonable steps not to cause or permit the escape of smoke, fumes or odours from the land or premises in such quantity or of such a nature as to cause or to be a nuisance to any person.

PART 5—BUILDING, DEVELOPMENT AND LAND CARE

Division 1—Litter and Refuse on Building Sites

5.1 Interpretation

In this Division, unless the context otherwise requires—

occupier, in respect of a building or development site, includes a person who is in control of all or part of the site, or who is authorised by the owner, lessee, licensee or other person empowered to exercise control in relation to the site to perform any work in relation to the site and, for the avoidance of doubt, includes a builder or contractor.

5.2 Control of refuse

(1) The owner or occupier of a building or development site must at all times provide and maintain available for use on the site a refuse receptacle, to the satisfaction of an authorised officer, of such design as will contain any refuse likely to be produced on the site.

(2) From the time of commencement of works on a building site until the time of completion of the works, the owner or occupier of the site must—

- (a) ensure all refuse on the site is placed and contained in a refuse receptacle and prevented from being blown from the site by wind;
- (b) keep the site as free as is reasonably practicable from any refuse;
- (c) maintain the street verge, and any other reserve, immediately adjacent to the site free of refuse from the site, unless otherwise approved by the local government; and
- (d) ensure the refuse receptacle is emptied when full.

Division 2—Prevention of Dust and Liquid Waste

5.3 Prohibited activities

(1) An owner or occupier of land must take all reasonable steps to—

- (a) stabilise dust on the land;
- (b) contain all liquid waste on the land; and
- (c) ensure no dust or liquid waste is released or escapes from the land, whether by means of wind, water or any other cause.

(2) Where the local government is satisfied that—

- (a) an owner or occupier of land has not complied with paragraph (a) or (b) of subclause (1); or
- (b) dust or liquid waste has been released or escaped from the land,

the local government may serve on the owner or occupier of the land a notice requiring the owner or occupier to do one or more of the following—

- (c) comply with paragraph (a) or (b) of subclause (1);
- (d) clean up and properly dispose of any released or escaped dust or liquid waste;
- (e) clean up and make good any damage resulting from the released or escaped dust or liquid waste; and
- (f) take reasonable steps to stop any further release or escape of dust or liquid waste.

(3) The requirements set out in a notice served under subclause (2) must be complied with—

- (a) within 48 hours of service of the notice where no other time is specified;
- (b) within such other period as is specified in the notice; or
- (c) immediately, if the notice so specifies.

(4) Where the local government is satisfied that dust or liquid waste has escaped or has been released from an activity undertaken on land or as a consequence of the use of equipment on land, the local government may serve a notice on the owner or occupier of the land or the operator of the equipment, as the case may be, requiring that the activity or use of the equipment on the land be ceased immediately, for such period as is specified in such notice, which shall not exceed 28 days.

(5) In subclause (4)—

equipment includes machinery or vehicles.

Division 4—Stormwater and Wastewater Disposal

5.4 Containment of stormwater

(1) Subject to subclause (2), the owner or occupier of a lot must take all reasonable steps to ensure that all stormwater received by any building, house, other structure or any paved or sealed or other surfaced areas including any vehicle access ways on the lot is contained within the lot and is not permitted to discharge onto or run-off onto adjacent land.

(2) Subclause (1) does not prevent the discharge of stormwater from a lot into a local government approved stormwater drain.

(3) The owner or occupier of a lot must ensure that all stormwater drainage systems on the lot are maintained in a good state of repair and free from obstruction.

PART 6—ENFORCEMENT

Division 1—Infringement Notices

6.1 Form of infringement notices

(1) The form of the infringement notice referred to in section 9.16 of the LG Act is that of Form 2 in Schedule 1 of the Regulations; and

(2) The form of the infringement withdrawal given under section 9.20 of the LG Act is that of Form 3 in Schedule 1 of the Regulations.

Division 2—Undertaking of Work Required by Notice

6.2 When local government may undertake work required by notice

(1) This clause applies only in respect of a notice issued under subclauses 5.3(2) of this local law.

(2) Where a person fails to comply with a notice referred to in subclause (1) the local government may, subject to compliance with the requirements of subdivision 3 of Division 3 of Part 3 of the LG Act, do anything that it considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.

(3) The local government may recover the cost of anything it does under subclause (2) as a debt due from the person who failed to comply with the notice.

PART 7—OFFENCES, PENALTIES AND FEES

Division 1—General

7.1 Offences

(1) A person who—

- (a) fails to do anything required or directed to be done under this local law;
- (b) fails to comply with a notice issued to the person under this local law; or
- (c) does an act or omits to do an act contrary to this local law,

commits an offence.

(2) A person who commits an offence under this local law is liable, on conviction—

- (a) to a penalty not exceeding \$5,000; and
- (b) if the offence is a continuing offence, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

7.2 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 LG Act.

(2) The amount appearing in the final column of Schedule 1 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

7.3 Fees

If a fee is prescribed by this local law, that fee is to be pro rata, calculated on a monthly basis for any period to 30 June each year.

PART 8—OBJECTION AND APPEAL

8.1 Objection and appeal rights

When the local government makes a decision under this local law as to whether it will—

- (a) grant a person an approval or exemption;
- (b) vary or cancel an approval or exemption; or
- (c) give a person a notice,

the provisions of Division 1 of Part 9 of the LG Act and regulation 33 of the Regulations shall apply to that decision.

SCHEDULE 1—PRESCRIBED OFFENCES

[Clause 7.2]

Item No.	Clause No.	Nature of Offence	Modified Penalty
1	2.1 (a)	Failure to keep premises free from matter likely to be offensive or injurious to health or attracts rodents	\$250
2	2.1 (b)	Failure to clean and disinfect premises when directed by an authorised officer	\$250
3	2.2 (1)	Keep large animal on land outside of rural zoned land, rural residential zoned land or land zoned residential with a density code of R2.5	\$250
4	2.2 (2)	Permit large animal within 10 metres of dwelling house	\$250
5	2.3 (1)	Keep a pig or pigs on any land, other than a miniature pig	\$250
6	2.3(2)	Keep more than one miniature pig on any land	\$250
7	2.3(3)(a)	Keep a miniature pig on any land, without written approval	\$250
8	2.3(3)(b)	Keep on any land, an unsterilised miniature pig	\$250
9	2.3(5)(a)	Failure to retain written proof of sterilisation of a miniature pig	\$250
10	2.3(5)(b)	Failure to ensure miniature pig does not cause a nuisance	\$250
11	2.3(5)(c)	Failure to maintain documentary evidence of miniature pig's veterinary treatment against leptospirosis, erysipelas, roundworm and tapeworm is current	\$250

Item No.	Clause No.	Nature of Offence	Modified Penalty
12	2.3(5)(d)	Fail to comply with conditions of written approval to keep miniature pig	\$250
13	2.4 (a)	Keep or permit to be kept on the premises more than 6 poultry	\$250
14	2.4 (b)	Keep or permit to be kept on the premises more than 20 pigeons	\$250
15	2.5	Keeping a rooster, goose or gander, turkey, peacock or peahen on premises	\$250
16	2.6 (a)	Fail to keep poultry in a properly constructed poultry coop, except where poultry are freed for exercise	\$250
17	2.6 (b)	Poultry kept less than 5 metres from an opening to a dwelling house on any other lot	\$250
18	2.6 (c)	Poultry kept less than 1 metre to a side or rear boundary	\$250
19	2.6 (d)	Poultry kept within 6 metres of a street, public building, commercial premises or food business	\$250
20	2.7 (a)	Failure to keep pigeons in a properly constructed pigeon loft, except when pigeons are freed for exercise	\$250
21	2.7 (b)	Opening to a pigeon loft, including openings for ventilation is within 6 metres of any dwelling house on other lot	\$250
22	2.7 (c)	Pigeons kept less than 1 metre from a side or rear boundary	\$250
23	2.7 (d)	Opening to a pigeon loft, including an opening for ventilation, is within 6 metres of a street, public building, commercial premises or food business	\$250
24	2.8	Failure to keep aviary or cage in which birds are kept located at least 1 metre from any lot boundary and at least 6 metres from a dwelling house on any other lot	\$250
25	2.9 (8)	Failure to comply or cause compliance with conditions of exemption	\$250
26	3.1	Fail to keep premises free of water that is, or is liable to become, the breeding place of mosquitoes	\$250
27	3.2	Fail to take effective measures to keep the premises free from rodents	\$250
28	3.3 (1)	Keep or permit to be kept, bees in more than 2 beehives on land without written approval from the local government	\$250
29	3.3 (4)	Fail to comply with conditions of written approval to keep bees	\$250
30	3.3 (6) (a)	When keeping bees in beehives failing to provide adequate and permanent supply of water in a receptacle within 3 metres of the beehive	\$250
31	3.3 (6) (b)	Beehive kept less than 10 metres from any footpath, street, street or public place and not closer than 5 metres from any lot boundary	\$250
32	3.3 (6) (c)	Beehive is kept closer than 10 metres from any dwelling house on any other lot	\$250
33	3.4	Bees kept or permitted to be kept causing a nuisance	\$250
34	4.1 (1)	Setting fire to rubbish, refuse or vegetation	\$250
35	4.1 (10)	Failure to comply or cause compliance with conditions of exemption to burn	\$250
36	4.2	Cause or permit the escape of smoke, fumes, odours or other emissions so as to cause a nuisance	\$250
37	5.2(1)	Failure to provide or maintain a refuse receptacle on a building or development site	\$250
38	5.2(2)(a)	Failure to place and contain all refuse on a building or development site in a refuse receptacle and prevent refuse blowing off site	\$250
39	5.2(2)(b)	Failure to keep the building or development site as free as is reasonably practicable from any refuse	\$250
40	5.2(2)(c)	Failure to maintain the street verge and any other reserve immediately adjacent to the site free of refuse from the site	\$250
41	5.2(2)(d)	Failure to ensure a refuse receptacle on a building or development site is emptied when full	\$250
42	5.3(1)	Release or escape of dust or liquid waste from land	\$250
43	5.4(1)	Failure to ensure that all rainwater or storm water received by a lot and any building, house or structure on the lot, is contained	\$250

Item No.	Clause No.	Nature of Offence	Modified Penalty
44	5.4(3)	Failure to ensure that all stormwater drainage systems on the lot are maintained in a good state of repair and free from obstruction	\$250

Dated this 24th of September 2021.

The Common Seal of the City of Canning was affixed by authority of a resolution of the Council in the presence of—

PATRICK HALL, Mayor.
STEPHEN CAIN, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

CITY OF CANNING

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LOCAL GOVERNMENT ACT 1995

CITY OF CANNING

LOCAL GOVERNMENT PROPERTY
AND PUBLIC PLACES LOCAL LAW 2021

Under the power conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Canning resolved on 21 September 2021 to make the following local law.

PART 1—PRELIMINARY

1.1 Title

This is the *City of Canning Local Government Property and Public Places Local Law 2021*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

Parts III, IV, V, VII, IX, X, XI, XII and XVI of the *City of Canning Consolidated Local Laws*, published in the *Government Gazette* on 31 March 2000, are repealed.

1.5 Terms used

In this local law, unless the context otherwise requires—

Act means the *Local Government Act 1995*;

advertising sign means a sign used for the purpose of advertisement or to draw attention to a product, business, person or event and includes a home open sign, a garage sale sign, a display home sign, an election sign and a portable sign;

alfresco dining area means an area in which tables, chairs and other temporary structures are provided for the purpose of the supply of food or beverages or both to the public or the consumption of food or beverages or both by the public;

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

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

Building Code of Australia means the Building Code of Australia which is volumes 1 and 2, as amended from time to time, of the National Construction Code series published by, or on behalf of, the Australian Building Codes Board;

carriageway has the meaning in the *Road Traffic Code 2000*;

CEO means the Chief Executive Officer of the local government;

commencement day means the day on which this local law comes into operation under clause 1.2;

Council means the council of the local government;

crossing means a crossing giving access from a public thoroughfare to—

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

detrimental to the property, in relation to local government property, includes—

- (a) removing any thing from the local government property such as a rock, plant, fixture, fitting, chattel, equipment or furniture provided for the use, enjoyment or safety of any person;
- (b) destroying, defacing or damaging a building or any thing on the local government property, such as a plant, fixture, chattel, equipment or furniture provided for the use, enjoyment or safety of any person; and
- (c) causing environmental harm or nuisance to or on the local government property;

district means the district of the local government;

election sign means a sign which advertises any aspect of a forthcoming Federal, State or Local Government election;

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 members;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur;

Food Act means the *Food Act 2008*;

food business has the meaning in the *Food Act*;

garage sale sign means a portable free standing sign used to direct persons to a garage sale at a residential premises;

home open sign means a portable free standing sign used to direct persons to a home for sale that is open for inspection by the public;

intersection has the meaning in the *Road Traffic Code 2000*;

local government means the City of Canning;

local government property means anything—

- (a) which belongs to, is owned by or is under the care control and management of the local government;
 - (b) which is an “otherwise unvested facility” within section 3.53 of the Act but does not include a thoroughfare; or
 - (c) of which the local government is the management body under the *Land Administration Act 1997*;
- but does not include a thoroughfare.

local public notice means notice given in accordance with the procedure set out in section 1.7 of the Act;

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

nuisance means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at common law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

occupier has the meaning in the Act, but does not include the local government;

owner has the meaning in the Act;

path has the meaning in the *Road Traffic Code 2000*;

permissible verge treatment has the meaning in clause 4.5;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

portable sign means a free standing portable advertising sign not permanently attached to a structure or fixed to the ground or pavement, and includes an ‘A’ frame sign;

promotional activity means the advertising or promotion of, or raising of funds for, a particular group, product or service;

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; or
- (b) local government property;

registered food business has the meaning in the Food Act and applies to a food business that is registered by the local government in accordance with the Food Act;

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

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

shopping trolley means a container or receptacle on wheels provided by a retailer to enable a person to transport goods;

smoke has the meaning in the *Tobacco Products Control Act 2006*;

street means any highway, thoroughfare or land used for vehicular or pedestrian traffic, and includes all the land lying between property lines, including the verge and path;

street number means a number or numbers, with or without an alphabetical suffix, assigned to a property to identify the address of the property by reference to a street;

street tree means a tree or tall plant that has a wooden trunk and branches that grow from its upper part, planted or self-sown in the street, of an appropriate species and in an appropriate location, as determined by the local government, for the purpose of contributing to the streetscape;

thoroughfare has the meaning in the Act, but does not include a private thoroughfare which is not under the management or control of the local government;

tobacco product has the meaning in the *Tobacco Products Control Act 2006*;

trading means—

- (a) the selling or hiring of, the offering for sale or hire of, or the soliciting of orders for, goods or services in a public place or on local government property; or
- (b) displaying goods in a public place or local government property for the purpose of—
 - (i) offering them for sale or hire;
 - (ii) inviting offers for their sale or hire;
 - (iii) soliciting orders for them; or
 - (iv) carrying out any other transaction in relation to them, and includes the setting up of a stall, or the conducting of a business at a stall;

vehicle includes—

- (a) each conveyance and each object capable of being propelled or drawn on wheels, tracks or otherwise, including an off-road vehicle; and
- (b) an animal being ridden or driven, but excludes—
 - (c) a wheelchair or any device designed for use by a physically impaired person on a path;
 - (d) a pram, a stroller or a similar device;
 - (e) a bicycle or wheeled recreational device;
 - (f) a shopping trolley; and
 - (g) a boat;

verge means that part of a thoroughfare that is between the carriageway and a lot which abuts the thoroughfare and includes a nature strip.

1.6 Meaning of ‘on’

In this local law—

- (a) a reference to ‘on local government property’ or to ‘in local government property’ includes ‘on or in local government property’; and
- (b) a reference to ‘on a public place’ or to ‘in a public place’ includes ‘on or in a public place’.

1.7 Transitional

A permit, licence, consent or authorisation issued in accordance with a local law that is repealed under clause 1.4—

- (a) is taken to be a permit granted under this local law;
- (b) is to be valid for the period specified on the permit, licence, consent or authorisation; and
- (c) may be earlier cancelled or suspended in accordance with this local law.

1.8 Application as to assistance animals

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

1.9 Overriding power to hire and agree

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

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

PART 2—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY

2.1 Activities needing a permit

(1) A person must not without a permit—

- (a) subject to subclause (3), hire local government property;
- (b) erect on local government property a structure for public amusement or for any other performance, whether for gain or otherwise;
- (c) erect a building on local government property;
- (d) make an excavation on, erect a fence on or remove a fence from, local government property;
- (e) deposit or store any thing on local government property;
- (f) camp on or lodge at local government property for the purpose of sleeping on local government property;
- (g) teach, coach or train for profit a person, animal or dog on local government property;
- (h) conduct a function, or public event or undertake any promotional activity, on local government property;
- (i) light a fire on local government property except in a facility provided for that purpose;

- (j) carry on 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 permit to carry on trading on local government property under any written law;
 - (k) 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;
 - (l) advertise anything by any means on local government property.
- (2) The CEO or an authorised person may exempt a person from compliance with subclause (1).
- (3) The CEO or an authorised person may exempt specified local government property or a specified class of local government property from the application of subclause (1)(a).

2.2 Application for a permit to hire local government property

- (1) The local government may hire local government property to a person who makes an application for a permit for the hire of local government property under Part 8.
- (2) The local government may—
- (a) determine that the requirements of this local law do not apply to the hiring of specified local government property or a specified class of local government property; and
 - (b) on the application of a person seeking a permit, waive the requirement to pay a hire fee or any part of a hire fee.

PART 3—BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY

Division 1—Behaviour on and Interference with Local Government Property

3.1 Behaviour which interferes with others

A person must not, on local government property, behave in a manner which is likely to or does, interfere with, interrupt or disturb the enjoyment of a person who might use the property or who is using the property.

3.2 Behaviour detrimental to property

A person must not behave in or on local government property in a way which is or might be detrimental to the property.

3.3 Taking or injuring any fauna

A person must 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 authorised under a written law to do so.

3.4 No smoking

- (1) In this clause—

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

- (2) A person must not smoke within a 10 metre radius of any entrance, exit or aperture of premises on local government property.

3.5 Entry to local government property

A person, other than an authorised person performing a function or a contractor of the local government carrying out a contracted duty, must not—

- (a) enter or remain on any local government property except on those days and during those times when access is available to the public; or
- (b) enter any place that has been fenced off or closed to the public.

3.6 Refusal of entry to local government property

- (1) An authorised person may refuse to allow entry, or suspend admission, to any local government property to any person whom he or she reasonably suspects has behaved in a manner contrary to the provisions of this Part.

(2) A refusal or suspension under subclause (1) can be for any period of up to 12 months as determined by an authorised person.

- (3) Subclause (1) does not apply to a venue where Council or Committee meetings are held.

3.7 Persons may be directed to leave local government property

An authorised person who reasonably suspects that a person has contravened a provision of any written law in respect of local government property may direct the person to leave the local government property.

*Division 2—Signs***3.8 Signs**

- (1) The local government may erect a sign on local government property specifying any conditions of use which apply to that property.
- (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—
 - (a) not be inconsistent with any provision of this local law; and
 - (b) be for the purpose of giving notice of the effect of a provision of this local law.

3.9 Transitional

A sign erected on a public place under a local law that is repealed under clause 1.4 is taken, on and from the commencement day, to be a sign erected under clause 3.8 if the sign is not inconsistent with any provisions of this local law.

PART 4—ACTIVITIES IN PUBLIC PLACES*Division 1—General***4.1 General prohibitions**

Subject to this local law, a person must not—

- (a) damage a lawn or garden on or in a public place or remove any plant or part of a plant from a lawn or garden on a public place unless—
 - (i) the person is the owner or occupier of the lot abutting that portion of the thoroughfare and the lawn, garden or the particular plant was installed or planted by that owner or occupier; or
 - (ii) the person is acting under the authority of a written law;
- (b) on a verge, repair or service a vehicle;
- (c) place, allow to be placed or allow to remain on a thoroughfare or verge any thing that results in a hazard for a person using the thoroughfare or verge; or
- (d) use anything or do anything so as to create a nuisance on a public place.

4.2 Activities requiring a permit

- (1) A person must not, without a permit—
 - (a) dig or otherwise create a trench through or under a kerb or path;
 - (b) damage a street tree or remove a street tree or part of a street tree, including the roots, which is on a public place irrespective of whether the street tree was planted by the owner or occupier of the lot abutting the thoroughfare or by the local government unless the person is acting under the authority of a written law;
 - (c) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for the purpose of removal by the local government under a bulk rubbish collection and then only in accordance with the terms and conditions and during the period of time advertised by the local government in connection with that collection;
 - (d) damage, remove or interfere with any part of a thoroughfare, kerb, path or any structure or sign erected on or in a thoroughfare by the local government or a person acting under lawful authority;
 - (e) unless installing, or in order to maintain, a permissible verge treatment—
 - (i) lay pipes under, or provide taps on, a verge; or
 - (ii) place or install, on a part of a thoroughfare, any thing such as crushed limestone, gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust, including for the purposes of storage of stockpiling;
 - (f) drive a vehicle or permit a vehicle to be driven across a kerb or path if the vehicle is so heavy or is of such a nature that it causes or is likely to cause damage to the kerb or the paving of the path;
 - (g) carry on trading in a public place;
 - (h) establish or operate an alfresco dining area, otherwise than in accordance with clause 7.1.
- (2) The local government may exempt a person from compliance with subclause (1).

*Division 2—Vehicle crossings***4.3 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 and use of a temporary crossing to protect the existing carriageway, kerb, drains and path 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) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that, until the temporary crossing is removed, the permit holder must keep the temporary crossing in good repair and in a condition that does not to create any danger or obstruction to persons using the thoroughfare.

4.4 Removal of a redundant crossing

(1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing must be removed and the kerb, drain, path, verge and any other part of the thoroughfare affected by the removal must be reinstated to the satisfaction of the CEO or an authorised officer.

(2) The local government may give written notice to the owner or occupier of a lot requiring him or her to—

- (a) remove all or part of a crossing which does not give access to the lot; and
- (b) reinstate the kerb, drain, path, 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

4.5 Permissible verge treatments

(1) An owner or occupier of land which abuts a verge may, on that part of the verge directly in front of the 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 street in the vicinity of an intersection or bend in the street or using a driveway on land adjacent to the street for access to or from the street;
 - (ii) plantings are maintained at a height no greater than 0.7 metres;
 - (iii) where there is no path, a pedestrian has safe and clear access of a minimum width of 1.5 metres along that part of the verge immediately adjacent to the kerb;
 - (iv) it does not include a wall or built structure;
 - (v) it is not of a thorny, poisonous or hazardous nature; and
- (c) the installation over no more than one third of the area of the verge (including any approved vehicle crossing and/or footpath) of an acceptable material and, on the balance of the verge, the installation of mulch or a permissible verge treatment in accordance with paragraph (a) or (b) of subclause (2).

(3) In this clause—

acceptable material means any material which would create a hard surface, and which has been approved by the local government.

(4) Unless otherwise approved in writing by the local government, a person must not install or maintain a verge treatment which is not a permissible verge treatment.

(5) 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 4.6.

4.6 Obligations of owner or occupier

(1) 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 path on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) ensure that clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in a thoroughfare, or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
- (c) not place an obstruction on or around the verge treatment; and
- (d) ensure that the verge treatment does not damage or obstruct a drain, manhole, galley, inspection pit, channel, kerb or tree planted by the local government.

(2) If an owner or occupier fails to install or maintain a verge treatment in accordance with subclause (1), the local government may issue the owner or occupier with a notice requiring that person to make good any breach of subclause (1).

4.7 Powers to carry out public works on verges

(1) If the owner or occupier does not comply with a notice issued under clause 4.6(2), the local government may carry out any works to make good any breach of this local law.

(2) The local government or any other authority empowered by law to dig up a street may, without being liable to compensate any person, dig up all or any part of a street and disturb any verge treatment installed or placed by an owner or occupier.

(3) Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority—

- (a) is not liable to compensate any person for that disturbance;
- (b) may backfill with sand, if necessary, any garden or lawn; and

- (c) is not liable to replace or restore any—
 - (i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
 - (ii) sprinklers, pipes or other reticulation equipment.

4.8 Transitional provision

(1) In this clause—

former provisions means the provisions of the repealed local laws which permitted certain types of verge treatments, whether with or without the consent of the local government.

(2) A verge treatment which—

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

is 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 former provisions.

Division 4—Street numbers

4.9 Assignment of street numbers

The CEO or an authorised person may assign a street number to a property in the district and may assign another street number to the property instead of that previously assigned.

4.10 Street number to be displayed

(1) The owner or occupier of a property must display and maintain the current street number assigned by the local government to the property in a conspicuous place on the front of the building, letterbox, fence or gate adjacent to the street fronting the property.

(2) A sign painted on the kerb adjacent to a property depicting the street number is satisfactory for the purposes of subclause (1).

Division 5—Fencing

4.11 Public place—clause 4(1) of Division 1, Schedule 3.1 of the Act

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

- (a) a public place, as that term is defined in clause 1.5; and
- (b) local government property.

PART 5—ADVERTISING SIGNS

5.1 General prohibitions

A person must not erect or place a sign—

- (a) on a footpath;
- (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.7 metres;
- (c) on or within 2 metres of a carriageway;
- (d) in any other location where, in the opinion of an authorised person, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
- (e) on any natural feature, including a rock or tree on a thoroughfare, or on any bridge or the structural approaches to a bridge.

5.2 Signs requiring a permit

(1) In this clause—

thoroughfare does not include a footpath or any other part of a thoroughfare that is specified in clause 5.1.

(2) A person must not, without a permit—

- (a) erect or place a sign on a thoroughfare; or
- (b) post any bill or paint, place or affix any advertisement on a thoroughfare.

5.3 Exemptions

(1) The following advertising signs are exempt from the requirement of clause 5.2—

- (a) an advertising sign erected by the local government or with the approval of the local government on land under the care, control and management of the local government;
- (b) an advertising sign erected by an authority lawfully empowered to do so;
- (c) a home open sign or a garage sale sign, placed on a verge, provided that—
 - (i) the sign neither exceeds 0.65 metres in height nor 0.4 metres squared in area;
 - (ii) the sign is placed or erected on a thoroughfare on the day of the garage sale or home open and is removed from the thoroughfare by no later than 7:30pm on the day of the garage sale or home open;

- (iii) no more than 3 signs are erected or placed on street verges or other public places for any individual home open or garage sale; and
- (iv) in the case of a home open sign only, the sign is marked with the name of the real estate agency and property address of the home open; and
- (d) an election sign, provided that—
 - (i) the sign is placed or erected on a thoroughfare not more than 28 days before or more than 7 days after the relevant election day;
 - (ii) the sign is no greater than 2 metres squared in area;
 - (iii) the sign is erected at least 30 metres from any intersection; and
 - (iv) the sign is free standing and is not fixed to any sign, post, power or light pole, or similar structure.

(2) The CEO or an authorised person may exempt a person from compliance with clause 5.2.

5.4 Impounding of advertising signs

A sign which contravenes clause 5.1 or clause 5.2 may be removed, impounded or disposed of in accordance with Subdivision 4 of Division 3 of Part 3 of the Act and regulation 29 of the Regulations.

PART 6—SHOPPING TROLLEYS

6.1 Person not to leave shopping trolley in a public place

A person must not leave or discard a shopping trolley on local government property or in a public place other than in an area designated for the storage of shopping trolleys.

6.2 Shopping trolley to be removed by retailer

(1) In this clause—

restricted area means the area marked on the diagram in Schedule 2 and includes each of the thoroughfares (including the verges on each of the thoroughfares) marked in red on the diagram.

(2) If a shopping trolley is found within the restricted area, other than in an area set aside for the storage of shopping trolleys, the CEO or an authorised person may advise (verbally or in writing) a retailer whose name is marked on the shopping trolley of the location of the shopping trolley.

(3) If a shopping trolley is found in a public place, other than within the restricted area or in an area set aside for storage of shopping trolleys, the CEO or an authorised person may advise (verbally or in writing) a retailer whose name is marked on the shopping trolley of the location of the shopping trolley.

(4) A retailer must take all reasonable steps to remove a shopping trolley within 12 hours of being advised under subclause (2), or within 24 hours of being advised under subclause (3), unless the retailer—

- (a) requests the local government to collect and deliver the shopping trolley to the retailer; and
- (b) pays any fee for that collection and delivery (imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act) within the period specified by the local government.

6.3 Impounding of abandoned shopping trolley

A shopping trolley that is not removed by a retailer after having been so advised under clause 6.2 may be removed, impounded or disposed of in accordance with Subdivision 4 of Division 3 of Part 3 of the Act and regulation 29 of the Regulations.

PART 7—ALFRESCO DINING AREA ON PUBLIC PLACE

7.1 Alfresco dining area on a public place without a permit

(1) Without a permit, a person may establish an alfresco dining area on a public place only if—

- (a) the person is the proprietor of a registered food business; and
- (b) the alfresco dining area is placed directly outside the registered food business and otherwise complies with the requirements of subclause (2).

(2) A person, when operating an alfresco dining area established under subclause (1), must—

- (a) ensure that there is a relevant current public liability insurance policy, in relation to all liability arising from the use or occupation of the alfresco dining area, containing indemnity provisions noting the interests of the local government, for an amount of not less than \$10 million;
- (b) maintain a clear pedestrian access area of 2 metres in width adjacent to the building frontage, to provide for consistent unobstructed pedestrian access;
- (c) place the alfresco dining area directly outside of the registered food business conducting the alfresco dining;
- (d) maintain an area which is at least 0.5 metres in width adjacent to any kerb, free of alfresco dining furniture and structures;
- (e) ensure that the alfresco dining area is no closer at any point than 2 metres away from a truncation, crossover or street corner;
- (f) provide for access to sufficient sanitary and ablutionary conveniences as specified in the Building Code of Australia;

- (g) operate the alfresco dining area only during the operating hours of the food business; and
- (h) ensure that the alfresco dining area is kept in a clean and tidy condition, including by maintaining the chairs, tables and other structures or equipment in the alfresco dining area in a good, clean and serviceable condition at all times.

7.2 No smoking areas

If an alfresco dining area is established under clause 7.1 or if a permit is granted under this local law in respect of an alfresco dining area—

- (a) the alfresco dining area is taken to be a no smoking area; and
- (b) a person must not smoke a tobacco product while in the alfresco dining area.

7.3 Removal of an unlawful alfresco dining area

(1) If an alfresco dining area is established or operated contrary to clause 7.1 or in contravention of the terms or conditions of a permit—

- (a) an authorised person may direct the proprietor or the permit holder (as the case may be) or any other person who appears to be involved in the operation of the alfresco dining area, to remove any tables, chairs, umbrellas or other structures or equipment; and
- (b) if a direction given under paragraph (a) is not complied with, or if it is not practicable to give a direction under paragraph (a), any tables, chairs, umbrellas or other structures or equipment may be removed by an authorised person and impounded in accordance with the Act.

(2) A person who is given a direction under subclause (1) must comply with the direction.

PART 8—PERMITS

Division 1—Applying for a permit

8.1 Application for a 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 CEO;
- (b) state the full name and address of the applicant;
- (c) be signed by the applicant;
- (d) contain the information required by the form;
- (e) contain any other information required for that particular type of permit under this local law; and
- (f) be forwarded to the local government 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) Before determining an application for a permit, the CEO or an authorised person may require the applicant to provide additional information reasonably related to the application.

(4) The CEO or an authorised person may require an applicant to give local public notice of the application for a permit.

(5) The CEO or an authorised person may refuse to consider an application for a permit which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

8.2 Matters to be considered in determining permit application for advertising sign

In determining an application for a permit for the purpose of clause 5.2, the local government is to have regard to—

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

8.3 Decision on application for permit

(1) The CEO or an authorised person, in respect of an application for a permit, may—

- (a) approve an application for a permit, unconditionally or subject to any conditions that the CEO or authorised person considers appropriate; or
- (b) refuse to approve an application for a permit.

(2) If an application for a permit is granted, the CEO or an authorised person is to issue to the applicant a permit in the form determined by the CEO.

(3) If an application for a permit is refused, the CEO or an authorised person must give written notice of that refusal to the applicant.

(4) The CEO or an authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the applicant, or the date specified in the notice, whichever is the later.

(5) Where a clause of this local law refers to conditions which may be imposed on a permit, the clause does not limit the power of the CEO or authorised person to impose other conditions on the permit under subclause (1)(a).

8.4 General restrictions on grant of permit

(1) The CEO or an authorised person must not grant a permit if there are reasonable grounds for believing that the provision of the activity to which the application relates would constitute an unacceptable risk to the safety of the public.

(2) The CEO or an authorised person must not grant a permit unless the CEO or an authorised person is satisfied that—

- (a) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the permit; and
- (b) the public place at which the activity is to be provided is suitable for that purpose.

(3) The CEO or an authorised person must not grant a permit to an applicant if the applicant has been found guilty of an offence under this local law unless the CEO or an authorised person is satisfied that there are exceptional reasons for doing so.

8.5 Compliance with a permit

A permit holder must comply with the terms and conditions (if any) of the permit.

Division 2—Conditions

8.6 Conditions which may be imposed on a permit

The CEO or an authorised person 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 local government 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 local government; and
- (i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

8.7 Conditions of trading in public place

If the CEO or an authorised person approves an application for a permit to conduct trading in a public place subject to conditions, those conditions may include—

- (a) the place, the part of the district, or the thoroughfare to which the permit applies;
- (b) the days and hours during which a permit holder may conduct trading;
- (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting trading;
- (d) the goods or services in respect of which a permit holder may conduct a stall or trading;
- (e) the number of persons and the names of persons permitted to conduct a stall or trading;
- (f) the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;
- (g) whether and under what terms the permit is transferable;
- (h) any prohibitions or restrictions concerning the—
 - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
 - (ii) the use of amplifiers, sound equipment and sound instruments;
 - (iii) the use of signs; and
 - (iv) the use of any lighting apparatus or device;
- (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;
- (j) the care, maintenance and cleansing of any structure used for trading and the place of any structure;
- (k) the vacating of the place of trading when trading is not being carried on;

- (l) the acquisition of public risk insurance;
- (m) the period for which the permit is valid; and
- (n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.

8.8 Conditions of advertising sign

If the CEO or an authorised person approves an application for a permit to erect an advertising sign in a public place subject to conditions, those conditions may include—

- (a) the location, number, size, type, form or construction, of the advertising sign;
- (b) removal of the sign each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
- (c) securing the sign in position in accordance with any requirements of the local government;
- (d) placement of the sign so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
- (e) be maintained in good condition.

Division 3—General

8.9 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 terms and conditions of the permit; or
- (b) cancelled under clause 8.12.

8.10 Renewal of permit

(1) A permit holder may apply to the CEO for the renewal of a permit.

(2) An application for renewal must—

- (a) be in the form determined by the CEO;
- (b) be signed by the permit holder;
- (c) provide the information required by the form;
- (d) be forwarded to the CEO no later than 28 days before the expiry of the permit, or within a shorter period that the CEO in a particular case permits; and
- (e) be accompanied by any fee imposed by the local government under sections 6.16 to 6.19 of the Act.

(3) The provisions of this Part that apply to an application for a permit also apply to an application for the renewal of a permit as though it were an application for a permit.

8.11 Transfer of permit

(1) An application for the transfer of a valid permit is—

- (a) to be made in writing;
- (b) to be signed by the permit holder and the proposed transferee of the permit;
- (c) to include such information as the CEO or an authorised person may require to enable the application to be determined; and
- (d) to be forwarded to the CEO together with any fee imposed by the local government under sections 6.16 to 6.19 of the Act.

(2) The CEO or an authorised person may, in respect of an application for the transfer of a permit—

- (a) approve the application, unconditionally or subject to any conditions that the CEO or authorised person considers appropriate; or
- (b) refuse the application.

(3) If an application for the transfer of a permit is granted—

- (a) the transfer is to be effected by an endorsement on the permit signed by the CEO or an authorised person;
- (b) the CEO or an authorised person is to give the applicant written notice of the decision to grant the application, including a copy of any endorsement on the permit under paragraph (a); and
- (c) the local government is not required to refund any part of any fee paid by the former permit holder.

(4) If an application for transfer of a permit is refused, the CEO or an authorised person must give the applicant written notice of the decision.

8.12 Cancellation or suspension of permit

(1) Subject to clause 9.1, a permit may be cancelled by the local government if—

- (a) the permit holder has not complied with a condition of the permit;
- (b) the permit holder has not complied with a provision of any written law which relates to the activity regulated by the permit;
- (c) the permit holder has transferred or assigned, or sought to transfer or assign, the permit without the approval of the local government; or
- (d) a law is amended or repealed in a manner which is inconsistent with the terms and conditions of the permit and which renders the permit invalid, ineffective or contrary to law.

(2) The local government may cancel or suspend a permit if the local government or a utility requires access to or near the place to which a permit applies for the purposes of carrying out works in or near the vicinity of that place.

(3) If a permit is cancelled under subclause (1) or subclause (2), the permit holder—

- (a) must return the permit to the local government as soon as practicable; and
- (b) subject to subclause (5), is taken to have forfeited any fees paid in respect of the permit.

(4) If a permit is suspended under subclause (2), the permit holder is, subject to subclause (5), taken to have forfeited any fees paid in respect of the permit.

(5) If a permit is cancelled or suspended under subclause (2) through no fault of the permit holder, the local government may refund to the permit holder all or part of the fees paid in respect of what would otherwise have been the remaining term of the permit.

8.13 Nominee of permit holder

If a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may, at the request of the 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 as if the nominee was the permit holder.

PART 9—OBJECTIONS AND APPEALS

9.1 Objection and appeal rights

Where the local government makes a decision—

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

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

PART 10—MISCELLANEOUS

10.1 Disposal of lost property

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.

PART 11—ENFORCEMENT

Division 1—Notices

11.1 Liability for damage to local government property or a public place

(1) If a person unlawfully damages local government property or a public place, the local government may, by notice in writing to the person, require the person within the time specified 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) If a person given a notice under subclause (1) fails to comply with the notice, the local government may recover the costs referred to in the notice as a debt due to it.

11.2 Notice to remove thing unlawfully placed on thoroughfare

If any thing is placed on a thoroughfare contrary to this local law, the local government may give a notice to—

- (a) the owner or the occupier of the property which abuts that portion of the thoroughfare where the thing has been placed; or
- (b) such other person who may be responsible for the thing being so placed,

requiring the relevant person to remove the thing.

11.3 Notice to repair damage to thoroughfare

If a portion of a thoroughfare has been damaged, the local government or an authorised person may, by notice to the person who caused the damage, require the person to repair or replace that portion of the thoroughfare.

11.4 Local government may undertake requirements of a notice

If a person fails to comply with a notice given to him or her under this local law, the local government may do, or arrange to be done, the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in doing so.

Division 2—Offences and penalties

11.5 Offences

(1) A person who—

- (a) fails to do anything required or directed to be done under this local law; or
- (b) fails to comply with a notice given to him or her under this local law; or
- (c) does an act or omits to do an act contrary to this local law,

commits an offence.

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

11.6 Prescribed offences

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16 of the Act.
- (2) The amount appearing in the final column of Schedule 1 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

11.7 Form of notices

For the purposes of this local law—

- (a) the form of the infringement notice give under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (b) 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 11.6]

Item No.	Clause No.	Nature of Offence	Modified Penalty
1	2.1(1)(b)	Erecting a structure for public amusement etc. on local government property without a permit.	\$250
2	2.1(1)(c)	Erecting a building on local government property without a permit	\$250
3	2.1(1)(d)	Making an excavation on, erecting a fence or removing a fence on local government property without a permit	\$250
4	2.1(1)(e)	Depositing or storing any thing on local government property without a permit	\$250
5	2.1(1)(f)	Camping on or lodging at local government property for the purpose of sleeping on local government property without a permit	\$250
6	2.1(1)(g)	Teaching, coaching or training a person, animal or dog for profit in or on local government property without a permit	\$250
7	2.1(1)(h)	Conducting a function or undertaking a promotional activity on local government property without a permit	\$250
8	2.1(1)(i)	Lighting a fire on local government property without a permit	\$250
9	2.1(1)(j)	Carry on any trading on local government property without consent or permit	\$250
10	2.1(1)(k)(i)	Drive or ride or take any vehicle on to local government property without a permit	\$250
11	2.1(1)(k)(ii)	Park or stop any vehicle on local government property without a permit	\$250
12	2.1(1)(l)	Advertise anything by any means on local government property without permit	\$250
13	3.1	Behaviour on local government property which interferes with others	\$250
14	3.2	Behaviour on local government property detrimental to property	\$250
15	3.3	Taking or injuring fauna on local government property	\$250
16	3.4(2)	Smoking within a 10 metre radius of an entrance, exit or aperture of premises on local government property	\$250
17	3.5	Unauthorised entry to local government property	\$250
18	3.8(2)	Failure to comply with a sign on local government property regarding conditions of use	\$250
19	4.1(a)	Damaging a lawn or garden or removing any plant or part of a plant on or in a public place	\$250
20	4.1(b)	Repairing or servicing a vehicle on a verge	\$250
21	4.1(c)	Placing, allowing to be placed or allowing to remain on a thoroughfare or verge a hazardous thing	\$250
22	4.1(d)	Creating a nuisance on a public place	\$250

Item No.	Clause No.	Nature of Offence	Modified Penalty
23	4.2(1)(a)	Digging or creating a trench through or under a kerb or footpath without a permit	\$250
24	4.2(1)(b)	Damaging or removing a street tree without a permit	\$300
25	4.2(1)(c)	Throwing, placing or depositing any thing on a verge without a permit	\$250
26	4.2(1)(d)	Damaging, removing or interfering with a thoroughfare, kerb, path or structure or sign erected on a thoroughfare without a permit	\$250
27	4.2(1)(e)(i)	Laying pipes under or providing taps on any verge without a permit	\$250
28	4.2(1)(e)(ii)	Placing or installing prohibited materials on a thoroughfare without a permit	\$250
29	4.2(1)(f)	Drive a vehicle or permit a vehicle to be driven across a kerb or path causing or likely to cause damage	\$250
30	4.2(1)(g)	Carry on trading in a public place without permit	\$250
31	4.2(1)(h)	Establish an alfresco dining area without permit	\$250
32	4.3(1)	Failure to obtain a permit for a temporary vehicle crossing.	\$250
33	4.5(4)	Installing a verge treatment other than a permissible verge treatment	\$250
34	4.6(1)(a)	Failure to keep permissible verge treatment in a good and tidy condition and path and carriageway not obstructed.	\$250
35	4.6(1)(b)	Failure to ensure that clear sight visibility is maintained	\$250
36	4.6(1)(c)	Placing an obstruction on or around a verge treatment	\$250
37	4.6(1)(d)	Failure to ensure verge treatment does not damage or obstruct a drain, manhole, galley, inspection pit, channel, kerb or tree	\$250
38	4.10(1)	Failure to properly display and maintain street number	\$100
39	5.1	Erecting or placing of advertising sign in a prohibited area	\$250
40	5.2(2)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	\$250
41	6.1	Leaving or discarding a shopping trolley in a public place other than an area set aside for shopping trolleys	\$250
42	6.2(4)	Failing to remove shopping trolley in the specified period	\$250
43	7.2(b)	Smoking tobacco product in alfresco dining area	\$250
44	7.3(2)	Failure to comply with direction of authorised person to remove tables, chairs and other equipment from alfresco dining area	\$250
45	8.5	Failure to comply with terms and conditions of a permit	\$250
46	11.5(1)(b)	Failure to comply with a notice	\$300

SCHEDULE 2—RESTRICTED AREA

[Clause 6.2(2)]



Dated this 24th of September 2021.

The Common Seal of the City of Canning was affixed by authority of a resolution of the Council in the presence of—

PATRICK HALL, Mayor.
STEPHEN CAIN, Chief Executive Officer.