

## LOCAL GOVERNMENT ACT 1995

## CITY OF WANNEROO

## TRADING IN PUBLIC PLACES AMENDMENT LOCAL LAW 2008

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Wanneroo resolved on 10 February 2009 to make the "*City of Wanneroo Trading in Public Places Amendment Local Law 2008*".

**1. Citation**

This local law may be cited as the *City of Wanneroo Trading in Public Places Amendment Local Law 2008*.

**2. Commencement**

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

**3. Principal Local Law**

In this local law, the *City of Wanneroo Trading in Public Places Local Law 1999* as published in the *Government Gazette* on 27 August 1999 is referred to as the principal local law. The principal local law is amended as follows.

**4. Clause 6 amended**

- (a) Delete the text of the definition "eating house" and insert—  
"has the meaning given to it in section 160 of the Health Act".
- (b) Delete the text of the definition for "Health Act" and insert—  
"means the *Health Act 1911* and Regulations made under that Act".
- (c) In the definition "Liquor Act" delete "Liquor Licensing Act 1988" and insert—  
"*Liquor Control Act 1988*".

**5. Clause 14 amended**

- (a) In paragraph (a) after "eating house" insert—  
"or other food premises approved by the local government".
- (b) In paragraph (b) after "eating house" insert—  
"or other food premises approved by the local government".

**6. Clause 16 amended**

In subclause (1)(a)—

- (i) after "eating house", in both instances where it appears, insert—  
"or approved food premises licensed under the Liquor Act"; and
- (ii) delete "immediately adjacent" and insert—  
"adjoining".

**7. Clause 17 amended**

- (a) In subclause (1)(c)(ii) after "eating house", in both instances where it appears, insert—  
"or approved food premises licensed under the Liquor Act".
- (b) In subclause (1)(c)(iii) after "eating house" insert—  
"or approved food premises licensed under the Liquor Act".
- (c) In subclause (1)(c)(iv) after "eating house" insert—  
"or approved food premises licensed under the Liquor Act".

**8. Clause 19 amended**

- (a) In subclause (1)(b) after "eating house" insert—  
"or approved food premises licensed under the Liquor Act".
- (b) In subclause (1)(d) delete "48" and insert—  
"47".

**9. Clause 21 amended**

In subclause (1)(e) insert before the word “all” the words—  
“ensure payment of”.

**10. Clause 26 amended**

In subclause (1)(c) delete “48” and insert—  
“47”.

**11. Clause 27 amended**

- (a) In subclause 27(1)(b) delete “Fire and Rescue Service of WA” and insert—  
“Fire and Emergency Services Authority of Western Australia”.
- (b) In subclause (1)(d) delete all the words after “including a” and insert—  
“certificate of approval specifying the maximum number of persons that may be accommodated in the street market.”.

**12. Clause 32 amended**

In paragraph (c) delete “48” and insert—  
“47”.

**13. Clause 33 amended**

- (a) Delete the text of subclause (1)(a) and insert—  
“display a copy of the Street Trading License;”.
- (b) Delete subclause (2)(b).
- (c) Subclause numbers “2(c)” through to “2(l)” are redesignated “2(b)” to “2(k)” consecutively.

**14. Clause 38 amended**

In paragraph (b) delete “48” and insert—  
“47”.

**15. Clause 39 amended**

- (a) In subclause 1(d) delete the text and insert—  
“unless otherwise approved, does not have more than 4 people participating in any one performance;”.
- (b) In subclause 1(g) delete all the words after “licence”.
- (c) Delete subclause 2(e).
- (d) In subclause 4(a) before the word “may” insert—  
“unless otherwise approved;”.
- (e) In subclause 4(b) after “shall” insert—  
“, unless otherwise approved, only”.

**16. Clause 46 amended**

Clause 46 and its heading “Limit on Liability” are deleted.

**17. Clause 48 amended**

- (a) Delete subclause (1) and insert—
  - (1) Where, as a condition of a licence, a licensee is required to obtain and maintain a public liability insurance policy, the licensee shall—
    - (a) enter into an agreement with the local government to provide and maintain the required public liability insurance cover during the entire time that the licence is in place;
    - (b) take out a public liability insurance policy in the name of the licensee, covering the licensee’s legal liabilities in respect of the licensee’s usual business activities including the provision of an outdoor eating area (alfresco dining) on footpaths or other trading places which may or may not be under the ownership, care, custody and control of the local government;
    - (c) advise the local government should the licensee cancel or modify or fail to renew the public liability insurance cover during the period of the licence;
    - (d) provide the local government with a Certificate of Currency confirming that the public liability insurance cover is in place as per the requirements of this clause prior to issuing of the licence;
    - (e) ensure that, as a minimum, the licensee’s public liability insurance policy has a limit of indemnity of \$5 million (five million dollars), or such other amount as the local government considers appropriate to the risk and liability involved. At the discretion of local government, the limit of indemnity required may be increased at the policy renewal date;
    - (f) ensure that the public liability insurer of the licensee is a reputable insurer licensed to conduct insurance business in Australia in accordance with the guidelines issued by the Australian Prudential Regulatory Authority.

(2) Subject to subclause (1), the local government, in certain situations may, at its own discretion, require the licensee to note the interest of the local government under the licensee's public liability insurance policy."

(b) Redesignate the existing subclause "(2)" to "(3)".

### 18. Renumbering of clauses

Clause numbers "47" through to "54" are redesignated as "46" to "53" consecutively.

### 19. First Schedule amended

Delete the First Schedule and insert—

"FIRST SCHEDULE  
City of Wanneroo  
*Trading in Public Places Local Law 1999*  
**OFFENCES AND MODIFIED PENALTIES**

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
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#### Part 3—Outdoor Dining

1	14(a)	Set up or conduct outdoor dining area in portion of street or public place not adjoining eating house or approved food premises licensed under the Liquor Act	150
2	14(b)	Set up or conduct outdoor dining area not by proprietor of adjoining eating house or approved food premises licensed under the Liquor Act	150
3	14(c)	Set up or conduct outdoor dining area without licence.	150
4	14(d)	Set up or conduct outdoor dining area contrary to licence plan or licence conditions	150
5	16(2)	Permit operation of outdoor dining area to extend beyond area approved as part of the licence	150
6	21(1)(a)(i)	Fail to manage outdoor dining area in accordance with conditions of licence	150
7	21(1)(a)(ii)	Fail to manage outdoor dining area in accordance with approved management plan	150
8	21(1)(b)	Fail to keep licenced area free of any obstacle or matter likely to cause injury to persons or property	150
9	21(1)(c)	Fail to ensure furniture or equipment remains in licenced area and not impede pedestrian flow	150
10	21(1)(d)	Fail to repair damage to surface area, fixtures, fittings or utility services caused by outdoor dining operation	150
11	21(1)(f)	Fail to ensure trading in outdoor dining area is limited to operating hours stated in licence	150
12	21(1)(g)	Fail to remove tables and chairs and non permanent fixtures and fittings at conclusion of operating hours	150
13	21(2)(a)	Fail to remove all equipment, structures and other things and reinstate area to satisfaction of local government on cessation of licence	150
14	21(2)(b)	Fail to pay all costs for complete reinstatement works	150

#### Part 4—Street Markets

15	22(a)	Set up or conduct street market without licence	150
16	22(b)(i)	Set up or conduct street market contrary to licence conditions	150
17	22(b)(ii)	Set up or conduct street market contrary to local law	150
18	23(2)	Permit operation of street market area to extend beyond area approved as part of the licence	150
19	27(1)(a)	Fail to obtain approval from local government and Police to close streets where markets held during market times	150
20	27(1)(b)	Fail to lodge copy of approved plans of street markets with Fire and Emergency Services Authority of Western Australia	150
21	27(1)(c)	Fail to make adequate refuse collection arrangements to satisfaction of local government	150

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
22	27(1)(d)(i)	Fail to obtain approval under Health (Public Buildings) Regulations 1992—Certificate of Approval, stating the maximum numbers	150
23	27(1)(e)	Fail to obtain approval in relation to any public entertainment aspects of the street markets	150
24	27(2)(a)	Fail to maintain pedestrian access through and beyond market area	150
25	27(2)(b)	Fail to maintain access to adjacent building entries	150
26	27(2)(c)	Fail to retain access to existing or approved outdoor dining areas with adjacent building entries	150
27	27(2)(d)	Fail to maintain adequate access for emergency vehicles through the streets of the licenced area	150
28	27(2)(e)	Fail to stabilise all structures and furniture used in operation of markets and remove same when not in use	150
29	27(2)(f)	Fail to maintain noise levels from music, announcements and the like so as not to cause a nuisance	150
30	27(2)(g)	Fail to maintain area of markets clean and free from rubbish	150
31	27(2)(h)	Fail to provide separate sanitary facilities for food stall staff	150
32	27(3)	Fail to remove all structures and equipment at conclusion of street market	150

**Part 5—Street Trading**

33	28(a)	Trading in a street or public place without a licence	150
34	28(b)(i)	Trading in a street or public place contrary to licence conditions	150
35	28(b)(ii)	Trading in a street or public place contrary to local law	150
36	29(2)	Permit trading to extend beyond area approved as part of the licence	150
37	33(1)(a)	Fail to display a copy of the Street Trading License	100
38	33(1)(b)	Fail to have licenced area attended when trading	100
39	33(1)(c)	Fail to keep any stall, stand, table, structure, or vehicle in clean, safe condition and good repair	150
40	33(1)(d)	Fail to keep location specified in licence free from refuse and rubbish	150
41	33(1)(e)	Fail to have licence available at all operation times and produce when requested by authorised person or police officer	100
42	33(1)(f)(i)	Fail to remove any stall, merchandise and signs and leave location clean and vacant at conclusion of operation hours	150
43	33(1)(f)(ii)	Fail to remove any stall, merchandise and signs and leave location clean and vacant whenever trading is not taking place	150
44	33(2)(a)	Trade in any goods, wares, merchandise or service not specified in the licence	150
45	33(2)(b)	Cause or permit any nuisance to exist, arise, or continue from the licence location	150
46	33(2)(c)	Deposit, place or store any goods, wares or merchandise on any street or public place other than the licence location	150
47	33(2)(d)	Obstruct free passage of pedestrians on footpath or accessway	150
48	33(2)(e)	Use, display or permit advertisement outside licence location, larger than approved size and for goods, merchandise or services not approved in the licence	150
49	33(2)(f)	Erect and maintain signs so as to obscure other signage on or adjacent to the licenced area	150

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
50	33(2)(g)	Cry out or shout about goods, merchandise or services in street or public place	150
51	33(2)(h)	Use or permit use of loud hailer, microphone amplifier or sound apparatus, outside licence location without approval	150
52	33(2)(i)	Use or permit use of any record, tape, radio or musical instrument to be heard outside licenced location without approval	150
53	33(2)(j)	Use or permit use of any flashing or intermittent lighting apparatus or device on or from licenced area	150
54	33(2)(k)	Use or permit use of any apparatus to increase dimensions of a stall beyond that specified in the licence	150

#### Part 6—Street Entertainment

55	34(a)	Engage in street entertainment without a licence	150
56	34(b)(i)	Engage in street entertainment contrary to licence conditions	150
57	34(b)(ii)	Engage in street entertainment contrary to local law	150
58	35(2)	Permit street entertainment to extend beyond area approved as part of the licence	150
59	39(1)(a)	Permit the performance to impede pedestrian flow or access to and along footpaths, entry or exit to shops or other buildings	150
60	39(1)(b)	Permit the performance to impede vehicular flow or access to and along any street, entry or exit to service delivery area	150
61	39(1)(c)	Permit the performance to cause a nuisance to any other street entertainment or activity approved by the local government	150
62	39(1)(d)	Have more people participating in any one performance than approved	150
63	39(1)(e)(i)	Permit the performance to include persons under 14 years of age, during school hours on a school day, without approval	150
64	39(1)(e)(ii)	Permit the performance to include persons under 14 year's of age on school days between 7.00pm and 6.00am, without approval	150
65	39(1)(f)(i)	Permit the performance to involve anything that is offensive or obscene	150
66	39(1)(f)(ii)	Permit the performance to involve the use of fire	150
67	39(1)(f)(iii)	Permit the performance to involve any weapon or object with sharp edges, including knives or swords	150
68	39(1)(f)(iv)	Permit the performance to involve any motorised machinery which emits a loud noise not suitable for the location	150
69	39(1)(f)(v)	Permit the performance to involve any matter whatsoever that endangers the safety of the public or performer	150
70	39(1)(f)(vi)	Permit the performance to involve cruelty to animals	150
71	39(1)(g)	Permit the performance to include amplification not approved on the licence	150
72	39(2)(a)	Fail to vacate the location if allocated space and location to perform is not used	150
73	39(2)(b)	Fail to produce the licence when requested by an authorised person	150
74	39(2)(c)	Fail to display valid licence number during each performance	150
75	39(2)(d)	Fail to comply with direction of an authorised person	150
76	39(3)(a)	Reserve or leave equipment at performance location unless immediately before, during or after a performance	150

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
77	39(3)(b)	Sell any goods or services without approval or licence for the purpose	150
78	39(3)(c)	Erect or permit to be erected or displayed a sign larger than that approved.	150
79	39(3)(d)	Perform in 1 location for more than 30 minutes without approval	150
80	39(4)(a)	Perform at the same site for a period contrary to the approval	150
81	39(4)(b)	Use materials contrary to the approval	250
82	39(4)(c)	Use of spray paint, crayons, textures or other indelible materials, by a pavement or visual artist	250
83	39(4)(d)	Failure of a pavement or visual artist, to return the location including pavement surface, to its former condition	250

**Part 8—Miscellaneous**

84	48(2)	Refusal to give date of birth, or give a false date on a demand being made	150
85		Other offences not specified	150"

Dated: 4 March 2009.

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

JON KELLY, Mayor.  
DANIEL SIMMS, Chief Executive Officer.

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