

**LOCAL GOVERNMENT ACT 1995
SHIRE OF BROOME**

TRADING, OUTDOOR DINING AND STREET ENTERTAINMENT LOCAL LAW 2003

Under the powers conferred by the Local Government Act 1995 and under all other powers enabling it, the Council of the Shire of Broome resolved to make the following local law on the 20 January 2004.

ARRANGEMENT

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PART 1 - PRELIMINARY

Title

1.1 This local law may be referred to as the Shire of Broome Trading, Outdoor Dining and Street Entertainment Local Law 2003.

Commencement

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

Purpose

1.3 The purpose of this local law is to provide for the regulation, control and management of outdoor dining areas, markets, trading (including door to door) and street entertainment, in any thoroughfare or public place within the district.

Repeal

1.4 The following by-laws of the local government:

- (a) the Local Government Model By-laws (Control of Hawkers) No. 6 adopted by the local government on 6 March 1968 and as amended from time to time; and
- (b) the By-laws Relating to Trading in Public Places, published in the Government Gazette on 28 September 1990 and as amended from time to time,

are repealed on the date this local law comes into operation.

Application

1.5 This local law applies throughout the district.

Definitions

1.6 In this local law unless the context requires otherwise:

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

"applicant" means a person who applies for a licence;

"application fee" means the application fee referred to in subclause 2.2.2(d) and which relates to the lodgement, assessment and determination of an application for a licence but does not include the licence fee;

"approved area" means an approved outdoor dining area, approved street entertainment area, approved market area or approved trading area;

"approved market area" means the portion of a public place approved for the setting up or conduct of a market under a market licence;

"approved outdoor dining area" means the portion of a public place approved for the setting up or conduct of an outdoor dining area under an outdoor dining area licence;

"approved street entertainment area" means the portion of a public place approved for street entertainment under a street entertainment licence;

"approved trading area" means the portion of a public place approved for the carrying on of trading under a trading licence, or in the case of a licensee who trades from place to place, the route or the area approved for the carrying on of trading under a trading licence;

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

"Cable Beach" means the Crown land forming part of the district which adjoins the Indian Ocean and which is known as "Cable Beach";

"carriageway" means the paved or made portion of a thoroughfare used or intended for use by vehicles;

"Council" means the council of the local government;

"district" means the district of the local government;

"eating house" means premises which are either registered as an eating house under the Health Act or are the subject of a hotel licence, limited hotel licence, special facility licence or a restaurant licence granted under the Liquor Act;

"footpath" means the paved or made portion of a thoroughfare used or intended for use by pedestrians and cyclists;

"goods" means goods, wares, merchandise and produce;

"Health Act" means the *Health Act 1911*;

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

"licence fee" means the fee referred to in subclause 2.4.1(b) and which relates to the issue of a licence;

"licensee" means the holder of a licence;

"liquor" has the meaning given to it in section 3 of the Liquor Act;

"Liquor Act" means the *Liquor Licensing Act 1988*;

"local government" means the Shire of Broome;

"lot" has the meaning given to it in the *Town Planning and Development Act 1928*;

"market" means a collection of stalls set up or conducted for the purpose of trading;

"market licence" means a licence issued under this local law to set up or conduct a market in a public place;

“nuisance” means:

- (a) any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which is injurious or dangerous to the health of another person of normal susceptibility, or which has a disturbing effect on the reasonable physical, mental or social state of another person;
- (b) any thing a person does or permits or causes to be done which interferes with or is likely to interfere with the reasonable enjoyment or safe use by another person of any public place; or

- (c) any thing a person does in or on a public place which unreasonably detracts from or interferes with the enjoyment or value of nearby land owned by another person, provided that any thing done in accordance with the law or a legal right or which is consistent with the standard of behaviour in the relevant locality shall not be unreasonable for the purpose of this local law;

"outdoor dining area" means an area in which tables, chairs and other structures are provided for the purpose of the supply of food or drink to the public or the consumption of food or drink by the public;

"outdoor dining licence" means a licence issued under this local law to set up and conduct an outdoor dining area in a public place;

"person" does not include the local government;

"private property" means any real property, parcel of land or lot that has a separate certificate of title, which is in private ownership or the subject of a lease or agreement with a person or the local government enabling its use for private purposes and includes any building or structure thereon;

"proprietor" in relation to an eating house, means

- (a) the owner, the occupier or any person having the management or control of the eating house; or
(b) the holder of a hotel licence, a limited hotel licence, a special facility licence or a restaurant licence granted under the Liquor Act in relation to the eating house;

"public place" means any thoroughfare or place which the public are allowed to use, whether the thoroughfare or place is or is not on private property and includes parklands, squares, reserves, beaches and other lands set apart for the use and enjoyment of the public, including all land which belongs to or of which the local government is the management body under the *Land Administration Act 1997* or which is an "otherwise unvested facility" within section 3.53 of the Act;

"public thoroughfare" means any thoroughfare which the public are allowed to use;

"secured amount" means the amount of the bond, bank guarantee or other security referred to in subclause 7.1.1;

"stall" means a movable or temporarily fixed structure, stand or table and includes a vehicle;

"street entertainment" means any form of theatrical, artistic, musical, audio or visual performance, whether for reward or not, and includes busking;

"street entertainment licence" means a licence issued under this local law to engage in street entertainment in a public place;

"thoroughfare" has the meaning given to it in section 1.4 of the Act;

"trading" includes:

- (a) the selling or hiring or, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;
- (b) displaying goods in any public place for the purpose of:
- (i) offering them for sale or hire;
 - (ii) inviting offers for their sale or hire;
 - (iii) soliciting orders for their sale or hire; or
 - (iv) carrying out any other transaction in relation to them; and
- (c) the going from place to place, whether or not public places, and:
- (i) offering goods or services for sale or hire; or
 - (ii) inviting offers or soliciting orders for the sale or hire of goods or services, but does not include:
- (d) the delivery of pre ordered goods or services to the purchaser of those goods or services, or to the person nominated by the purchaser of those goods or services to accept delivery, whether or not payment for those goods or services is made on delivery;

- (e) the taking of further orders for goods or services from the purchaser of the pre ordered goods or services, or from the person nominated by the purchaser of the pre ordered goods or services to accept delivery, when those orders are taken at the same time as the previous order is being delivered, whether or not payment is made for the further orders or the pre ordered goods or services at the time of the taking of the further orders;
- (f) the selling or the offering for sale of goods or services to, or the soliciting of orders for goods or services from a person who sells those goods or services;
- (g) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; or
- (h) the selling or hiring or the offering for sale or hire of:
 - (i) goods by a person who represents the manufacturer of the goods; or
 - (ii) services by a person who represents a provider of the services,
 which are only sold directly to consumers and not through a shop,

and in construing this definition “public place” has the meaning given to it in clause 5.1;

"trading licence" means a licence issued under this local law to carry on trading; and

“vehicle” includes:

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

but excludes:

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

PART 2 - APPLICATION FOR LICENCE AND ISSUE OF LICENCE

Planning consent

2.1 The requirement for a licence under this local law, is additional to the requirement if any, for a planning consent under the Shire of Broome Town Planning Scheme No 4.

Application for licence

2.2

2.2.1 Where a person is required to obtain or hold a licence under this local law, that person shall apply for the licence in accordance with subclause 2.2.2 and:

- (a) clause 3.4 in the case of an application for an outdoor dining licence;
- (b) clause 4.3 in the case of an application for a market licence;
- (c) clause 5.3 in the case of an application for a trading licence; and
- (d) clause 6.3 in the case of an application for a street entertainment licence.

2.2.2 An application for a licence under this local law shall:

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;
- (c) provide the information required by the form or by any other clause of this local law; and
- (d) be forwarded to the local government together with the application fee.

2.2.3 The local government may refuse to consider or determine an application for a licence which is not in accordance with subclause 2.2.2 or any other clause relating to the requirements to be complied with when making an application for a licence.

Determination of application

2.3

2.3.1 The local government may, in respect of an application for a licence:

- (a) refuse to approve the application; or
- (b) approve the application on such terms and conditions, if any, as it sees fit.

2.3.2 The local government may refuse to approve an application for a licence, where:

- (a) it is not in accordance with clause 2.2 or any other clause relating to the requirements to be complied with when making an application for a licence;
- (b) the needs of the area of the district for which the licence is sought are adequately catered for by an established shop or by a person who holds a valid licence;
- (c) the application is for a trading licence or market licence which relates to the conduct of trading or a market on Cable Beach, and there is a valid trading licence or market licence under which goods or services are traded which, in the opinion of the local government are similar to some or all of the proposed goods or services in the application;
- (d) a policy of the local government adopted by the Council relates to that application and the policy provides that the application is not to be approved;
- (e) the proposed activity or location in respect of which a licence is sought is considered by the local government to be undesirable;
- (f) the proposed stall is considered by the local government to be unsuitable in any respect for the activity or location for which the licence is sought;
- (g) the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the licence is sought;
- (h) the applicant is not a desirable or suitable person to hold a licence;

f

- (i) the applicant is an undischarged bankrupt or is in liquidation;
- g (j) the applicant has entered into any composition or arrangement with creditors;
- (k) a manager, an administrator, a trustee, a receiver or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or
- (l) there are other grounds on which the local government considers the application should be refused.

2.3.3 Where the local government approves an application for a licence, it may approve the application subject to conditions by reference to any policy of the local government adopted by the Council which contains conditions subject to which an application for a licence may be approved.

2.3.4 The local government is to give the applicant a copy of the policy referred to in subclause 2.3.3, or the part of the policy which contains the conditions, with the form of the licence referred to in subclause 2.4.1.

2.3.5 If the local government refuses to approve an application for a licence, it is to give written reasons for that refusal to the applicant.

Licence issue

2.4

2.4.1 When:

- (a) the local government approves an application for a licence; and
 - (b) the applicant pays the licence fee,
- then the local government shall issue to the applicant a licence in the form determined by the local government.

2.4.2 A licence may include plans or other documents other than the form of licence.

2.4.3 A licence shall not be valid until such time as any public liability insurance policy, if required as a condition of the licence, has been put into effect and a certificate of currency covering the period of the licence has been lodged with the local government.

2.4.4 The local government may vary the terms or conditions of a licence and the licensee shall comply with those terms and conditions as varied on and from the date of notification of the variation.

Licence renewal

2.5

2.5.1 Prior to the expiry of an outdoor dining licence, a market licence or a trading licence, the licensee may apply to the local government for the renewal of the licence, without having to resubmit details required at the time of the initial application where those details have not changed, and otherwise the provisions of this local law which are relevant to the licence which is to be renewed are to apply to an application for the renewal of the licence with the necessary changes being made.

2.5.2 Where the local government approves an application under subclause 2.5.1:

- (a) the licensee shall pay the licence fee for the renewed licence prior to the issue of that licence; and
- (b) the renewed licence shall be in the form determined by the local government.

Fees

2.6

2.6.1 All fees referred to in this local law shall be imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

2.6.2 In the event of cancellation of a licence, a licensee shall not be entitled to a refund of the licence fees for the remainder of the licence period unless the licence is cancelled under clause 2.7(f).

Cancellation of licence

2.7 The local government may cancel any licence if:

- (a) the licensee does not comply with the conditions of the licence;
- (b) the licensee is convicted of an offence against this local law;
- (c) the licensee does not comply with subclause 8.6.1 where it is a condition of the licence that the licensee provide a public liability insurance policy;
- (d) the licensee does not comply with a notice given under Part 8;
- (e) when relevant to the activity regulated by the licence:
 - (i) the licensee has become bankrupt, or gone into liquidation;
 - (ii) the licensee has entered into any composition or arrangement with creditors; or
 - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the licensee's undertakings or property; or
- (f) there are other grounds on which the local government considers the licence should be cancelled.

Suspension of licensee rights and privileges

2.8

2.8.1 Where, a public liability insurance policy is required as a condition of a licence, the rights and privileges granted to a licensee on the issue of a licence, shall be taken to be suspended, if that policy lapses, is cancelled or is no longer current.

2.8.2 The rights and privileges granted to a licensee on the issue of a licence, may be suspended by the local government, for the purpose and duration of any works, proposed or done in or adjacent to the area subject of the licence, by or on behalf of a Government department, instrumentality of the Crown or the local government.

Rights of objection and appeal

2.9 When the local government makes a decision as to whether it will:

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

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

PART 3 - OUTDOOR DINING

Prohibition

3.1 A person shall not set up or conduct an outdoor dining area in a public place unless:

- (a) in a portion of a public place directly adjacent to an eating house;
- (b) the person is the proprietor of the eating house referred to in paragraph (a);
- (c) the person is the holder of a valid outdoor dining licence; and
- (d) in accordance with the licence plan and any terms and conditions set out in, or applying in respect of, the outdoor dining licence.

Exclusions

3.2 The provisions of Part 3 do not apply to:

- (a) an outdoor dining area located on private property; or
- (b) special events such as a street festival, carnival, or other occasional activity, which require an approval under another written law.

Licence restrictions

3.3 An outdoor dining licence:

- 3.3.1 (a) may only be issued to the proprietor of an eating house, for use of the land directly adjacent to the eating house; and
- (b) is only transferable with the approval of the local government and on payment of the transfer fee.

3.3.2 A licensee shall not permit the operation of the outdoor dining area to extend beyond the portion of a public place specified in the plans approved as part of the licence.

3.3.3 The issue of an outdoor dining licence does not confer exclusive possession or use of the approved outdoor dining area, upon the licensee.

3.3.4 A local government may issue an outdoor dining licence only for an area where:

- (a) the positioning of tables and chairs is not in conflict with existing street furniture approved by the local government; and
- (b) the pedestrian flow on any footpath will not be impeded significantly.

Licence application

3.4 An applicant for an outdoor dining licence shall comply with subclause 2.2.2 and shall forward the application to the local government together with:

- (a) a plan or plans to a scale of 1:50 showing:
 - (i) the location and dimensions of the proposed outdoor dining area and the means by which the outdoor dining area is to be separated from the rest of the public place;
 - (ii) the eating house to which the outdoor eating area is directly adjacent, including any indoor seating areas, the area of food preparation and any counter service, and the dimension, location and purpose of all entrances to the eating house;
 - (iii) the dimensions, levels and slope of the adjacent footpath and the location and nature of any street furniture, drainage and utilities in the immediate vicinity of the eating house;
 - (iv) the location and nature of any parking or service bays in the immediate vicinity of the eating house, and the alignment of the adjacent carriageway;
 - (v) the number, position and dimensions of all tables, chairs and associated furniture and fixtures proposed to be placed in the outdoor dining area;
 - (vi) the position and description of any landscaping, bollards or other objects proposed to be used or displayed in the proposed outdoor dining area ; and
- (vii) such other information as the local government may require to assist with the assessment of the application;

- (b) a plan to a scale of 1:200 showing the location of the proposed outdoor dining area and all land and improvements within 30 metres of the boundaries of the eating area, and in particular:
 - (i) the development and use of abutting properties, including the location of any pedestrian or service access to those sites, the alignment of the building facade and the location of any windows;
 - (ii) the footpath and carriageway alignment, vehicle crossovers and any on-street parking provisions or restrictions; and
 - (iii) any street furniture or other structures situated in the verge area including any power poles, bollards, phone booths, bus shelters, fire hydrants, trees or free standing signage;
- (c) a management plan outlining the operations of the proposed outdoor dining area including:
 - (i) the manner in which foodstuffs and other dining accessories are to be conveyed to and protected from contamination in the proposed outdoor dining area;
 - (ii) the proposed days and times of operation of the outdoor dining area;
 - (iii) the proposed type of any advertising devices to be displayed on the proposed outdoor dining area;
 - (iv) the proposed arrangements for serving liquor to customers of the proposed outdoor dining area;
 - (v) the proposed location where, tables, chairs, furniture and equipment to be used on the proposed outdoor dining area, will be stored during periods when the proposed outdoor dining area is not open for business;
 - (vi) the proposed daily cleaning routine for the proposed outdoor dining area which shall include sweeping, washing or scrubbing the paved surface and removing and disposing of all rubbish, foodstuffs and cigarette ashes and butts and clearing the immediate surrounds of any rubbish, matter or things coming from or caused by patrons of the proposed outdoor dining area;
 - (vii) the type of table ornaments, including umbrellas and ashtrays, to be provided and ashtrays must be such that the contents of the ashtray and the ashtray itself are not blown onto the paved surface of the proposed outdoor dining area; and
 - (viii) details of how customers of the proposed outdoor area will be encouraged not to throw or dispose of rubbish, cigarette butts, or foodstuffs onto the paved surface of the proposed outdoor dining area.

Outdoor dining licence

3.5

3.5.1 An outdoor dining licence shall include:

- (a) an endorsed copy of the plan or plans detailing the location and number of tables and chairs, plus any other furniture and equipment required for the operation of the outdoor dining area, as approved by the local government;
- (b) the management plan;
- α (c) the days and hours of operation; and
- (d) details of any terms and conditions to be included as part of the licence.

3.5.2 The licensee shall not commence trading until the local government is satisfied that all conditions imposed under subclause 2.3.1(b) have been met.

Term and validity of licence

3.6

3.6.1 An outdoor dining licence remains valid until:

- (a) 30 June of the financial year in which the licence was issued, and the licence fee for a licence may be calculated on a pro-rata basis;
- (b) the proprietor of the eating house changes and no transfer of the licence has been approved under subclause 3.3.1(b);
- (c) variations are made to an existing licence, including an increase or reduction in the approved outdoor dining area or the type of furniture or equipment used in the operation;
- (d) the public liability insurance policy, where required as a condition of the licence, lapses, is cancelled or is no longer in operation; or
- (e) the licence is cancelled by the local government;

3.6.2 If any of the events specified in subclause 3.6.1 occur, then an application must first be made and a new outdoor dining licence issued before any outdoor dining area can be set up or conducted.

Cancellation of an outdoor dining licence

3.7

3.7.1 Without limiting clause 2.7, the local government may cancel an outdoor dining licence where:

- (a) there is a lapse or cancellation of the eating house registration or licence issued to the proprietor under the Health Act; or
- (b) the setting up or conduct of the outdoor dining area is determined by the local government to be detrimental to the interests of the public, any adjacent property owner or occupier, or cause a nuisance because of the behaviour of customers.

3.7.2 A decision to cancel a licence under paragraph (b) shall not be made without first having advised the licensee of the nature of any complaint or concern and having given the licensee an opportunity to respond to same.

Responsibilities of licensee

3.8

3.8.1 The licensee shall:

(a) comply with the conditions of the outdoor dining licence;
(b) manage the approved outdoor dining area
in accordance with the approved management plan submitted at time of application and subsequent approved amendments thereto;

- (c) keep the approved outdoor dining area free of any obstacle or matter likely to cause injury to persons or property;
- (d) ensure furniture and equipment remains within the approved outdoor dining area and storage location approved on the plan endorsed as part of the licence and does not impede pedestrian flow or access;
- (e) repair any damage to the surface area of or any fixtures, fittings or utility services in or on the approved outdoor dining area caused as a result of or attributable to the conduct of the approved outdoor dining area;
- (f) pay all fees, charges, rates and taxes, levied or incurred as a result of the establishment and operation of the approved outdoor dining area;
- (g) ensure trading within the approved outdoor dining area is limited to only the operating hours stated in the licence;
- (h) pay all and any costs associated with the alteration, removal, repair, reinstatement, or reconstruction of all or part of the approved outdoor dining area arising from any works proposed or done in the area or rest of the public place by or on behalf of a Government department, instrumentality of the Crown or the local government and shall not have any claim for compensation or damages as a result of any disruption to business or loss incurred due to such works.

3.8.2 On cessation of the outdoor dining licence, the licensee shall remove all furniture, equipment, structures and other things placed in or adjacent the approved outdoor dining area and reinstate the area to the satisfaction of the local government and pay the costs of that reinstatement.

PART 4 - MARKETS

Prohibition

4.1 A person shall not set up or conduct a market in a public place:

- (a) unless the person is the holder of a valid market licence; and
- (b) otherwise than in accordance with:
 - (i) the terms and conditions of the market licence; and
 - (ii) the provisions of this local law.

Licence restrictions

4.2

- 4.2.1 A market licence is only transferable with the approval of the local government and on payment of the transfer fee.
- 4.2.2 A licensee shall not permit the market to extend beyond the specified portion of the public place detailed in the plans approved and endorsed as part of the market licence.
- 4.2.3 The issue of a market licence does not confer exclusive possession or use of the approved market area upon the licensee.

Licence application

4.3 An applicant for a market licence shall comply with subclause 2.2.2 and shall forward the application to the local government together with:

- (a) a plan or plans to a scale of 1:50 showing:
 - (i) the location and dimensions of the proposed market;
 - (ii) the dimensions of the public place including any footpath and the location and nature of any street furniture, trees, utilities, parking or service bays in the area of the proposed market; and
 - (iii) the position and dimensions of all proposed stalls;
- (b) such other information as the local government may require to assist with the assessment of the application;
- (c) a management plan outlining the operations of the proposed market including:
 - (i) the proposed days and times of operation;
 - (ii) the proposed type and form of any advertising devices to be displayed on the proposed market; and
 - (iii) details of how the operational responsibilities of the licensee will be met;
- (d) the nature and extent of any activity relating to street entertainment; and
- (e) details of the goods or services to be traded under the market licence.

Market licence

4.4 A market licence shall include:

- (a) a licence number;
- (b) an endorsed copy of the plan or plans detailing the location where any stalls, furniture displays and other equipment may be placed for the operation of the market;
- (c) the management plan;
- (d) the days and hours of operation; and
- (e) any terms and conditions of the licence.

Term and validity of licence

4.5

4.5.1 A market licence remains valid until:

- (a) the expiry date stated in the licence is reached;
- (b) variations are made to an existing licence, including an increase or reduction in the approved market area;
- (c) the public liability insurance policy, where required as a condition of the licence, lapses, is cancelled or is no longer in operation; or
- (d) the licence is cancelled by the local government.

4.5.2 If any of the events specified in subclause 4.5.1 occur, then an application must be made and a new market licence issued before any market can be set up or conducted.

Responsibilities of licensee

4.6

- 4.6.1 The licensee shall, prior to setting up or conducting a market, under a market licence obtain approvals and make arrangements as follows:
- (a) where the market is to be set up or conducted on a public thoroughfare, obtain approval from the local government and Western Australian Police Service for the closure of the public thoroughfare to vehicular traffic or the part of it where the market is to be held and during the hours of operation of the market;
 - (b) lodge a copy of the approved plans of the market with the Fire and Emergency Services Authority of Western Australia (which is established under section 1 of the *Fire and Emergency Services Authority of Western Australia Act 1998*);
 - (c) ensure adequate refuse collection arrangements have been made to the satisfaction of the local government;
 - (d) where appropriate, have the necessary local government approvals under the *Health (Public Buildings) Regulations 1992*, including a:
 - (i) certificate of approval under regulation 6 of those regulations; and
 - (ii) certificate of electrical compliance under regulation 10 of those regulations; and
 - (e) obtain approval from the local government in relation to any street entertainment aspects of the market which are not approved by the market licence.
- 4.6.2 The licensee shall, during the operation of the market, including setting up and dismantling times:
- (a) maintain pedestrian access through and beyond the approved market area;
 - (b) maintain access to building entries adjacent to the approved market area;
 - (c) retain access to existing or approved outdoor dining areas associated with the building entries referred to in paragraph (b);
 - (d) maintain adequate access for emergency vehicles through the thoroughfare (if any) of the approved market area;
 - (e) stabilise all stalls, furniture and other equipment provided and used in the operation of the market at all times and shall remove such stalls, furniture and equipment when not in use;
 - (f) maintain noise levels from any associated music, announcements and the like, in accordance with any condition of the market licence, so as not to cause a nuisance; and
 - (g) maintain the approved market area clean and free from rubbish.
- 4.6.3 The licensee shall at the conclusion of the operation of each market, ensure that all stalls, furniture and other equipment used in the operation of the market, are removed and the area returned to the condition it was in before the commencement of the market, and to the satisfaction of the local government.

PART 5 – TRADING

Interpretation

- 5.1 In this Part and in the definition of “trading” in clause 1.6, “public place” has the meaning given to it in clause 1.6, except that it does not include premises on private property from which trading is lawfully conducted under a written law.

Prohibition

5.2

- 5.2.1 A person shall not carry on trading:
- (a) unless that person is the holder of a valid trading licence or is an assistant specified in a valid trading licence; and
 - (b) otherwise than in accordance with:
 - (i) the terms and conditions of the licence; and
 - (ii) the provisions of this local law.

5.2.2 Subclause 5.2.1 does not apply to any person trading under and in accordance with a valid market licence provided that the person is trading in accordance with:

- (a) the terms and conditions of the market licence; and
- (b) the provisions of this local law.

5.2.3 Where the local government has made a policy setting out the criteria upon which persons are exempted or may be exempted from holding a valid trading licence when carrying on trading in any public place, then subclause 5.2.1 will not apply to any person carrying on trading in any public place in accordance with the policy.

Licence restrictions

5.3

5.3.1 A trading licence is only transferable with the approval of the local government and on payment of the transfer fee.

5.3.2 A licensee shall not permit any trading activity to extend beyond the approved trading area.

5.3.3 The issue of a trading licence does not confer exclusive possession or use of the approved trading area upon the licensee.

Exemption from requirement to pay fee

5.4

5.4.1 In this clause:

“charitable organisation” means an institution, association, club, society or body, whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium; and

“commercial participant” means any person who is involved in operating a store or in conducting any trading activity for personal gain or profit.

5.4.2 The local government may waive the application fee referred to in clause 2.2.2(d) or the licence fee referred to in clause 2.4.1(b) or both, or may return any such fee which has been paid, if trading is carried on:

- (a) on a portion of a public place adjoining the normal place of business of the applicant for the trading licence; or
- (b) by a charitable organisation that does not sublet space to, or involve commercial participants in the carrying on of the trading, and any assistants that may be specified in the trading licence are members of that charitable organisation.

Licence application

5.5 An applicant for a trading licence shall comply with subclause 2.2.2 and shall forward the application to the local government together with:

- (a) details of the number of assistants to be employed in the trading at any one time;
- (b) a plan of the proposed location or, where the applicant proposes to go from place to place, a description of the route or area along or in which the applicant proposes to trade;
- (c) details of the days and hours of operation;
- (d) details of the proposed goods or services to be traded under the trading licence;
- (e) if any stall is to be used for trading, a detailed and accurate plan and description, including dimensions, of the stall; and
- (f) name and address of the person responsible for complying with any terms and conditions of the licence, where the applicant is a corporation.

Trading licence

5.6 A trading licence shall:

- (a) include a licence number;
- (b) include the location, days and hours of operation and approved trading area;
- (c) detail the goods or services which can be traded under the trading licence;
- (d) limit the number of persons that may carry on trading at any time under the trading licence; and
- (e) detail any other terms and conditions imposed on the licence.

Term and validity of licence

5.7

5.7.1 A trading licence remains valid until:

- (a) the expiry date stated in the licence is reached;
- (b) variations are made to an existing licence, including an increase, reduction or change in the approved trading area;
- (c) the public liability insurance policy, where required as a condition of the licence, lapses, is cancelled or is no longer in operation; or
- (d) the licence is cancelled by the local government.

5.7.2 If any of the events specified in subclause 5.7.1 occur, then an application must be made and a new trading licence issued before any trading can be carried out.

Responsibilities of licensee

5.8

5.8.1 The licensee shall:

- (a) where a stall is being used for trading:
 - (i) display a sign, with letters and numerals not less than 5 centimetres in height in a conspicuous place in the approved trading area, indicating the name of the licensee and the licence number;
 - (ii) ensure that the approved trading area is attended either by the licensee or an assistant, at all times when trading is being undertaken;
 - (iii) keep the stall in a clean, safe condition and in good repair;
 - (iv) keep the approved trading area free from refuse and rubbish;
 - (v) remove any stall, goods, equipment and signs from the approved trading area and leave that location clean and vacant:
 - (A) at the conclusion of the permitted hours of operation specified in the trading licence; and
 - (B) whenever trading is not taking place on the approved trading area; and
- (b) have the trading licence available at all times trading is being undertaken and produce the trading licence to any authorized person or any police officer when requested.

5.8.2 The licensee shall not:

- (a) engage in or permit any trading in any goods or services other than those specified in the trading licence;
- (b) cause, permit or suffer any nuisance to exist, arise or continue on or from the approved trading area;
- (c) deposit, place or store any goods on any public place, other than on the location to which the licence applies;
- (d) obstruct the free passage of pedestrians on any footpath or pedestrian accessway;
- (e) use or display or permit to be used or displayed any advertisement, placard, poster, streamer, sign or signboard on or about the approved trading area other than price tickets or labels on that area not exceeding a total area of 0.5 square metres;
- (f) erect and maintain any signs in accordance with paragraph (e) so as to obscure any other signage on or adjacent to the approved trading area;
- (g) cry out or shout about or permit any other person to cry out or shout about any goods or services in any public place or in the approved trading area; to the detriment or nuisance to nearby traders/ stallholders.

- (h) use or permit to be used any loud hailer, microphone, amplifier or other apparatus for making or transmitting sound, on or from the approved trading area, unless approved by the local government;
- (i) use or permit to be used any record, tape, radio, bell, musical instrument or other instrument or device capable of being heard beyond the boundaries of the approved trading area unless approved by the local government;
- (j) use or permit to be used any flashing or intermittent lighting apparatus or device on or from the approved trading area; or
- (k) use or permit to be used an apparatus or device including a flap or shelf whereby the dimensions of the stall are increased beyond the dimensions specified in the trading licence.

PART 6 - STREET ENTERTAINMENT

Prohibition

- 6.1 A person shall not, in any public place, engage in street entertainment:
- (a) unless that person is the holder of a valid street entertainment licence; and
 - (b) other than in accordance with:
 - (i) the terms and conditions of the street entertainment licence; and
 - (ii) the provisions of this local law.

Licence restrictions

- 6.2
- 6.2.1 A street entertainment licence is not transferable.
 - 6.2.2 A licensee shall not permit the street entertainment to extend beyond the specified portion of the public place approved in the street entertainment licence.
 - 6.2.3 The issue of a street entertainment licence does not confer exclusive possession or use of the approved street entertainment area upon the licensee.

Licence application

- 6.3 An applicant for a street entertainment licence shall comply with subclause 2.2.2 and shall forward the application to the local government together with:
- (a) details of the nature of the proposed street entertainment;
 - (b) details of any musical instrument or amplifier proposed to be used;
 - (c) details of the number of people to be involved in the proposed street entertainment;
 - (d) the name and date of birth of anyone proposed to be involved in the performance who is under 14 years of age; and
 - (e) any other information that the local government may require.

Street entertainment licence

- 6.4 A street entertainment licence shall include:
- (a) a licence number;
 - (b) details of the location and equipment that can be used for the street entertainment;
 - (c) the days and permitted times for the street entertainment; and
 - (d) any other terms and conditions of the licence.

Term and validity of licence

- 6.5
- 6.5.1 A street entertainment licence remains valid until:
 - (a) the expiry time and date stated in the licence is reached;
 - (b) the public liability insurance policy, where required as a condition of the licence, lapses, is cancelled or is no longer in operation; or
 - (c) the licence is cancelled by the local government.
 - 6.5.2 If any of the events specified in subclause 6.5.1 occur, then an application must be made and a new street entertainment licence issued before any street entertainment can take place.

Responsibilities of licensee

- 6.6
- 6.6.1 The licensee of the street entertainment licence shall ensure that the conduct of street entertainment approved under the licence:
 - (a) does not prevent or impede pedestrian flow or access to and along footpaths, entry or exit to shops and other buildings;
 - (b) does not prevent or impede vehicular flow or access to and along any thoroughfare, or vehicular entry or exit to any shop or other building;

- (c) does not cause a nuisance to any other street entertainment or activity approved by the local government;
- (d) unless otherwise approved, does not have more than 4 people participating in any one performance;
- (e) unless otherwise approved, does not include any person under the age of 14 years:
 - (i) during school hours, on school days;
 - (ii) between 7.00pm and 6.00am;
- (f) does not include, involve or permit:
 - (i) anything that is offensive or obscene;
 - (ii) the use of fire;
 - (iii) any weapon or object with sharp edges, including knives or swords;
 - (iv) any motorised machinery that emits a loud noise in its operation or is not suitable in the location and without limiting the generality of the foregoing motorised machinery such as a chainsaw shall not be used;
 - (v) any other activity, object or matter whatsoever that endangers the safety of the public or the performer; or
 - (vi) cruelty to an animal;
- (g) does not include any amplification unless specifically approved and endorsed on the street entertainment licence;
- (h) notwithstanding paragraph (g), does not include any amplification between Monday to Saturday, 10.00pm to 7.00am and Sundays between 10.00pm and 9.00am; and
- (i) complies at all times with the *Environmental Protection (Noise) Regulations 1997*.

6.6.2 A licensee of a street entertainment licence shall:

- (a) use the approved street entertainment area to perform during the days and times specified in the licence or vacate that area;
- (b) produce the licence when requested to do so by an authorized person;
- (c)
 - a) display a sign, with letters and numerals not less than 5 centimetres in height in a conspicuous place in the performance location, indicating the name of the licensee and the licence number; or
 - b) standard business cards
- (d) comply at all times with a direction of an authorized person; and
- (e) move at least 50 metres from the performance location within the approved street entertainment area at the completion of a performance and not return to that same location within 2 hours of the completion of the performance.

6.6.3 A licensee of a street entertainment licence shall not:

- (a) reserve or attempt to reserve a performance location within the approved street entertainment area or leave equipment at a location used for performances, unless immediately before, during or after a performance;
- (b) trade any goods or services without a licence issued for that purpose;
- (c) erect or display or permit to be erected or displayed at or near the performance location any sign except:
 - (i) a sign no larger than 0.25 square metres in area, displaying the name of the performance; or
 - (ii) standard business cards; and
- (d) perform in any one location for more than 60 minutes, unless specifically authorized by endorsement on the licence, or the performance is by a pavement or visual artist.

6.6.4 A licensee who is performing pavement or visual art:

- (a) may perform at the same site for a maximum of 2 hours but cannot return to the same site until 2 hours after the completion of the previous performance;
- (b) shall use chalk unless working on paper or card;
- (c) shall not use spray paint, crayons, textures or other indelible materials; and
- (d) shall return the performance location, including the pavement surface, to its former condition.

Cancellation and variation of street entertainment licence

6.7 Without limiting clause 2.7, the local government may cancel or vary the terms and conditions of a street entertainment licence, in the event that:

- (a) a complaint is received about a performance or the amenity of a performance location;
- (b) an authorized person has concerns with the content or material used in the performance; or
- (c) the licensee fails to meet any of the responsibilities detailed in clause 6.6.

PART 7 - SECURED SUM

Security for restoration and reinstatement

7.1

7.1.1 For the purpose of ensuring that an approved area is repaired, restored or reinstated where that is required under a licence or under this local law, the local government may require that a licensee shall:

- (a) as a condition of a licence;
- (b) before the issue of a licence; or
- (c) before the renewal or transfer of an outdoor dining licence, market licence or trading licence and before the issue of the renewed licence,

as the case may be, give to the local government:

- (d) a bond or bank guarantee; or
- (e) other security, of a kind and in a form acceptable to the local government, in an amount determined by the local government.

7.1.2 If a bond is paid under subclause 7.1.1, the local government is to pay the bond into an account established by the local government for the purpose of holding bonds or other forms of security.

Use by the local government of secured sum

7.2

7.2.1 If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions or by a notice where the local government has given the licensee a notice requiring such works to be carried out ("the required restoration and reinstatement work"):

- (a) within the time specified in those conditions;
- (b) where no such time has been specified, within a reasonable period of time from the expiration of licence;
- (c) within 14 days of being given a notice or such other time as may be specified in the notice,

then the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work that has not been completed.

7.2.2 The licensee shall pay to the local government on demand all administrative, legal, contractor and other costs actually incurred by the local government in carrying out and completing the required restoration and reinstatement work.

- 7.2.3 The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 7.1 to meet the costs referred to in subclause 7.2.2.
- 7.2.4 The liability of a licensee to pay the costs referred to in subclause 7.2.2 is not limited to the amount, if any, secured under clause 7.1.
- 7.2.5 A person or a licensee is not entitled to make any claim by way of damages or otherwise, against an authorized person, local government employee, local government appointed sub-contractor or other person authorized by the local government, to enter the land and carry out all or part of the required restoration and reinstatement work.

PART 8 - MISCELLANEOUS

Notice requiring works to be done to remedy breach

8.1

8.1.1 Where the local government requires a licensee:

- (a) to rectify a breach of any condition or term of a licence or of a provision of this local law; or
- (b) to change the arrangement or operation of an approved area considered necessary to maintain public safety, facilitate public works to the public place, or to protect the amenity of premises adjacent to an approved area;

the local government may give a notice in writing to the licensee:

- (c) advising details of the breach of the condition or term of the licence or the provision of the local law or of the change in arrangement or operation required;
- (d) requiring the licensee to remedy the breach or to change the arrangement or operation as required within the time specified in the notice; and
- (e) advising that where the licensee fails to comply with the requirements of the notice within the time specified, the local government may remedy the breach or change the arrangement or operation as required.

8.1.2 Where the licensee fails to comply with the requirements of the notice within the time specified in the notice, the local government may by its employees, agents or contractors do all things necessary to remedy the breach of the condition or term of the licence or of the provision of this local law or to change the arrangement or operation which is required by the notice.

8.1.3 The local government may recover the expenses incurred in doing the works referred to in subclause 8.1.2:

- (a) by deducting the expenses from the secured sum (if any) and where the secured sum is less than the expenses the local government may recover the balance through a court of competent jurisdiction; or
- (b) from the licensee in a court of competent jurisdiction.

Notice to advise licensee of planned or emergency works

8.2

8.2.1 The local government shall give 14 days notice of any works to be undertaken by the local government, that will require closure, part closure or access to an approved area.

8.2.2 Where the local government is to carry out emergency works in an approved area, the local government shall give such a period of notice which it considers reasonable in the circumstances.

Limit on liability

- 8.3 A licensee, or other person is not entitled to make any claim by way of damages or otherwise arising out of any works carried out under clause 8.1 or 8.2 as against the local government, an authorized person, local government employee, local government appointed subcontractor or other person authorized by the local government to carry out all or part of the works.

Works in public property

- 8.4 Where an applicant or a licensee is required to obtain the local government's permission under regulation 17 of the *Local Government (Uniform Local Provisions) Regulations 1996*, then any licence issued under this local law to the applicant or licensee is not to be taken to be a grant of that permission.

Serving of notice

- 8.5 Where a notice or other document is to be given to a person by the local government under this local law, it may be given to the person:
- (a) by delivering it to the person personally;
 - (b) where the person is an applicant or a licensee, by posting it by prepaid post to or leaving it at the address appearing on, respectively, the application for a licence or the licence; or
 - (c) where the person is not an applicant or a licensee, by posting it by prepaid post to or leaving it at the usual or the last known place of abode or business of the person.

Public liability insurance and indemnity

- 8.6
- 8.6.1 Where, as a condition of a licence, the licensee is required to provide a public liability insurance policy, indemnifying the local government against all actions, suits, claims, damages, losses and expenses made against or incurred by the local government arising from any activity, action or thing performed or erected under the licence, the licensee shall:
- (a) take out a public liability insurance policy in the name of the licensee and the local government, for a minimum value of \$5,000,000 or such other amount as the local government considers appropriate to the risk involved;
 - (b) keep that insurance policy current for the duration of the licence;
 - (c) include a clause in the policy which prevents the policy from being cancelled without the written consent of the local government;
 - (d) include a clause in the policy which requires both the licensee and the insurance company to advise the local government if the policy lapses, is cancelled or is no longer in operation; and
 - (e) on the request of an authorized person, provide for inspection of the policy and a certificate of currency for the required insurance policy.
- 8.6.2 A licensee who refuses or cannot provide a current certificate of insurance within 2 working days of a request under subclause 8.6.1(e) commits an offence.

PART 9- OFFENCES AND PENALTIES

Offences

- 9.1
- 9.1.1 A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- 9.1.2 Whenever the local government gives a notice under this local law requiring a person to do anything, if the person fails to comply with the notice, the person commits an offence.

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

Prescribed offences and modified penalties

9.2

9.2.1 An offence against a clause specified in the First Schedule is a prescribed offence for the purposes of section 9.16(1) of the Act.

9.2.2 The amount appearing in the final column of the First Schedule directly opposite a prescribed offence described in that Schedule is the modified penalty for that offence.

Infringement notices and other notices

9.3 For the purposes of this local law:

- (a) the form of the infringement notice given under section 9.16(1) of the Act is that of Form 1 in the Second Schedule;
- (b) where a vehicle is involved in the commission of an offence, the form of the notice requiring an owner to identify the driver referred to in section 9.13 of the Act is that of Form 2 in the Second Schedule;
- (c) where a vehicle is involved in the commission of an offence, the form of the infringement notice given under section 9.16(1) of the Act is that of Form 3 in the Second Schedule; and
- (d) the form of the notice to withdraw an infringement notice referred to in section 9.20 of the Act is that of Form 4 in the Second Schedule.

Records to be kept

9.4 The local government shall cause adequate records to be kept of all infringement notices given under section 9.16(1) of the Act and modified penalties received in relation to prescribed offences under this local law.

**FIRST SCHEDULE
SHIRE OF BROOME**

**TRADING IN PUBLIC PLACES LOCAL LAW 2000
Prescribed Offences and Modified Penalties**

Item No	Clause No	Nature of Offence	Modified Penalty \$
PART 3 – OUTDOOR DINING			
1	3.1(a)	Setting up or conducting outdoor dining area in portion of public place not adjoining eating house.	100
2	3.1(b)	Setting up or conducting outdoor dining area when not proprietor of adjoining eating house.	100
3	3.1(c)	Setting up or conducting outdoor dining area without licence.	100
4	3.1(d)	Setting up or conducting outdoor dining area contrary to licence plan or licence conditions.	100
5	3.3.2	Permitting operation of outdoor dining area to extend beyond approved area .	100
6	3.8.1(a)	Failing to comply with conditions of outdoor dining licence.	100
7	3.8.1(b)	Failing to manage outdoor dining area in accordance with approved management plan.	100
8	3.8.1(c)	Failing to keep licenced area free of any obstacle or matter likely to cause injury to persons or property.	100
9	3.8.1(d)	Failing to ensure furniture or equipment remains in approved outdoor dining area and does not impede pedestrian flow.	100
10	3.8.1(e)	Failing to repair damage to surface area, fixtures, fittings or utility services caused by outdoor dining operation.	100
11	3.8.1(g)	Failing to ensure trading in outdoor dining area is limited to operating hours stated in licence.	100
12	3.8.2	Failing to remove all equipment, structures and other things and reinstate area to satisfaction of local government on cessation of licence and pay reinstatement costs.	100
Part 4 –MARKETS			
13	4.1(a)	Setting up or conducting market without licence	100
14	4.1(b)(i)	Setting up or conducting market contrary to licence terms or conditions	100
15	4.1(b)(ii)	Setting up or conducting market contrary to local law	100
16	4.2.2	Permitting operation of market area to extend beyond approved market area.	100
17	4.6.1(a)	Failing to obtain approval from local government and Police to close public thoroughfare where market held during market times.	100
18	4.6.1(b)	Failing to lodge copy of approved plans of street markets with Fire and Emergency Services Authority.	100
19	4.6.1(c)	Failing to make adequate refuse collection arrangements to satisfaction of local government.	100
20	4.6.1(d)(i)	Failing to obtain approval under Health (Public Buildings) Regulations 1992 – Certificate of Approval.	100
21	4.6.1(d)(ii)	Failing to obtain approval under Health (Public Buildings) Regulations 1992 – Certificate of electrical compliance .	100
22	4.6.1(e)	Failing to obtain approval in relation to any street entertainment aspects of the street market.	100
23	4.6.2(a)	Failing to maintain pedestrian access through and beyond approved market area.	100
24	4.6.2(b)	Failing to maintain access to adjacent building entries.	100
25	4.6.2(c)	Failing to retain access to existing or approved outdoor dining areas with adjacent building entries.	100
26	4.6.2(d)	Failing to maintain adequate access for emergency vehicles through the streets of the approved market area.	100
27	4.6.2(e)	Failing to stabilise all stalls and furniture and other equipment used in operation of market and remove same when not in use.	100
28	4.6.2(f)	Failing to maintain noise levels from music, announcements and the like so as not to cause a nuisance.	100
29	4.6.2(g)	Failing to maintain approved market area clean and free from rubbish.	100

Item No	Clause No	Nature of Offence	Modified Penalty \$
30	4.6.3	Failing to remove all structures and equipment at conclusion of market.	100
PART 5 –TRADING			
31	5.2.1(a)	Trading without a licence	100
32	5.2.1(b)(i)	Trading contrary to licence terms or conditions.	100
33	5.2.1(b)(ii)	Trading contrary to local law.	100
34	5.3.2	Trading beyond approved trading area.	100
35	5.8.1(a)(i)	Failing to display sign indicating licensee name and licence number.	50
36	5.8.1(a)(ii)	Failing to have approved trading area attended when trading.	50
37	5.8.1(a)(iii)	Failing to keep any stall in clean, safe condition and good repair.	100
38	5.8.1(a)(iv)	Failing to keep approved trading area free from refuse and rubbish.	100
39	5.8.1(a)(v)	Failing to remove any stall, goods, equipment and signs and leave approved trading area clean at conclusion of operation hours.	100
40	5.8.1(a)(v)	Failing to remove any stall, goods, equipment and signs and leave location vacant whenever trading is not taking place.	100
41	5.8.1(b)	Failing to have licence available at all operation times and produce when requested by authorized person or police officer.	50
42	5.8.2(a)	Trading in any goods or services not specified in the licence.	100
43	5.8.2(b)	Causing or permitting any nuisance to exist, arise, or continue from the approved trading area.	100
44	5.8.2(c)	Depositing, placing or storing any goods on any public place other than the approved trading area.	100
45	5.8.2(d)	Obstructing free passage of pedestrians on footpath or accessway.	100
46	5.8.2(e)	Using, displaying or permitting advertisement outside licence location, larger than approved size .	100
47	5.8.2(f)	Erecting and maintaining signs so as to obscure other signage on or adjacent to the approved trading area.	100
48	5.8.2(g)	Crying out or shouting about goods or services in public place.	100
49	5.8.2(h)	Using or permitting use of loud hailer, microphone, amplifier or other sound apparatus, on approved trading area without approval.	100
50	5.8.2(i)	Using or permitting use of any record, tape, radio or musical instrument capable of being heard outside approved trading area without approval.	100
51	5.8.2(j)	Using or permitting use of any flashing or intermittent lighting apparatus or device on or from approved trading area.	100
52	5.8.2(k)	Using or permitting use of any apparatus to increase dimensions of a stall beyond that specified in the licence.	100

Item No	Clause No	Nature of Offence	Modified Penalty \$
PART 6 STREET ENTERTAINMENT			
53	6.1(a)	Engaging in street entertainment without a licence.	100
54	6.1(b)(i)	Engaging in street entertainment contrary to licence terms or conditions.	100
55	6.1(b)(ii)	Engaging in street entertainment contrary to local law.	100
56	6.2.2	Permitting street entertainment to extend beyond area approved as part of the licence.	50
57	6.6.1(a)	Permitting the performance to impede pedestrian flow or access to and along footpaths, entry or exit to shops or other buildings.	100
58	6.6.1(b)	Permitting the performance to impede vehicular flow or access to and along any thoroughfare or vehicular entry or exit.	100
59	6.6.1(c)	Permitting the performance to cause a nuisance to any other street entertainment or activity approved by the local government.	100
60	6.6.1(d)	Having more than 4 people participating in any performance without approval.	100
61	6.6.1(e)(i)	Permitting the performance to include persons under 14 years of age, during school hours on a school day, without approval.	100
62	6.6.1(e)(ii)	Permitting the performance to include persons under 14 years of age on school days between 7.00pm and 6.00am, without approval.	100
63	6.6.1(f)(i)	Permitting the performance to involve anything that is offensive or obscene.	100
64	6.6.1(f)(ii)	Permitting the performance to involve the use of fire.	100
65	6.6.1(f)(iii)	Permitting the performance to involve any weapon or object with sharp edges, including knives or swords.	100
66	6.6.1(f)(iv)	Permitting the performance to involve any motorised machinery which emits a loud noise or is not suitable for the location.	100
67	6.6.1(f)(v)	Permitting the performance to involve any activity, object or matter whatsoever that endangers the safety of the public or performer.	100
68	6.6.1(f)(vi)	Permitting the performance to involve cruelty to animals.	100
69	6.6.1(g)	Permitting the performance to include amplification outside permitted times.	100
70	6.6.2(a)	Failing to vacate approved street entertainment area when not performing.	100
71	6.6.2(b)	Failing to produce the licence when requested by an authorized person.	50
72	6.6.2(c)	Failing to display valid licence number during each performance.	100
73	6.6.2(d)	Failing to comply with direction of an authorized person.	100
74	6.6.2(e)	Failing to move 50 metres from performance location at end of performance or return to same location within 2 hours.	100
75	6.6.3(a)	Reserving or leaving equipment at performance location unless immediately before, during or after performance.	100
76	6.6.3(b)	Trading any goods or services without licence for the purpose.	100
77	6.6.3(c)	Erecting or permitting to be erected or displayed a sign larger than that approved.	100
78	6.6.3(d)	Performing in same location for more than 30 minutes without approval.	100
79	6.6.4(a)	Performance by a pavement or visual artist, in same location for more than 2 hours or return to same location within 2 hours of the last performance.	100
80	6.6.4(b)	Use of materials other than chalk by a pavement or visual artist, unless working on card or paper.	200
81	6.6.4(c)	Use of spray paint, crayons, textures or other indelible materials, by a pavement or visual artist.	200
82	6.6.4(d)	Failure of a pavement or visual artist, to return the location including pavement, to its former condition.	200
83		Other offences not specified.	100

SECOND SCHEDULE

FORM 1

SHIRE OF BROOME

LOCAL GOVERNMENT ACT 1995

INFRINGEMENT NOTICE

Infringement Notice No _____

Date: (1) _____

To: (2) _____

of (3) _____

It is alleged that on (4) _____ at (5) _____ am/pm at (6) _____

_____ you committed an offence against clause (7) _____

_____ of the Shire of Broome (8) _____ by (9) _____

_____ for which the modified penalty payable is (10) \$_____.

If you do not wish to have a complaint of the above offence heard and determined by a court you may pay the modified penalty within 28 days after this notice is given to you, by posting this form together with the amount of the modified penalty to the Chief Executive Officer of the Shire of Broome at PO Box 44, Broome WA, 6725, or by delivering this form and paying the amount of the modified penalty to an authorised person at the offices of the Shire of Broome at 27 Weld Street, Broome WA 6725.

Name of authorised person issuing notice: _____

Title of authorised person: _____

Signature of authorised person: _____

- (1) Insert date of infringement notice.
- (2) Insert name of alleged offender [or "owner of (vehicle identification)" if given with a notice under section 9.13 of the Act].
- (3) Insert address of alleged offender [not required if given with a notice under section 9.13 of the Act].
- (4) Insert date of alleged offence.
- (5) Insert time at which offence allegedly committed and indicate am or pm.
- (6) Insert place at which offence allegedly committed.
- (7) Insert number of clause of local law.
- (8) Insert name of local law (eg Trading, Outdoor Dining and Street Entertainment Local Law 2003).
- (9) Insert description of offence.
- (10) Insert amount of modified penalty.

SECOND SCHEDULE

FORM 2

SHIRE OF BROOME

LOCAL GOVERNMENT ACT 1995

NOTICE REQUIRING OWNER TO IDENTIFY DRIVER

Date: (1) _____

To: (2) _____

of (3) _____

It is alleged that on (4) _____ at (5) _____ am/pm at (6) _____

_____ your vehicle (7) _____

was involved in the commission of an offence against clause (8) _____ of the

Shire of Broome (9) _____.

You are required under section 9.13 of the *Local Government Act 1995* to identify the person who was the driver or person in charge of the vehicle at the time when the offence is alleged to have been committed.

If you do not prove otherwise, you will be deemed to have committed the offence unless:

- (a) within 28 days after being given this notice:
 - (i) you inform the Chief Executive Officer, or an authorised person of the Shire of Broome, as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; or
 - (ii) you satisfy the Chief Executive Officer that the vehicle had been stolen, or was being unlawfully used, at the time the offence is alleged to have been committed;

or

- (b) you were given an infringement notice for the alleged offence and the modified penalty specified in it is paid within 28 days after the notice was given to you or such further time as may be allowed.

Name of authorised person issuing notice: _____

Title of authorised person: _____

Signature of authorised person: _____

- (1) Insert date of notice.
- (2) Insert name of owner or "owner of (vehicle identification)".
- (3) Insert address of owner [not required if owner not named].
- (4) Insert date of alleged offence.
- (5) Insert time at which offence allegedly committed and indicate am or pm.
- (6) Insert place at which offence allegedly committed.
- (7) Insert vehicle registration number and description.
- (8) Insert number of clause of local law.
- (9) Insert name of local law (eg Trading, Outdoor Dining and Street Entertainment Local Law 2003).

SECOND SCHEDULE
FORM 3
SHIRE OF BROOME
LOCAL GOVERNMENT ACT 1995
INFRINGEMENT NOTICE

Infringement Notice No _____
Date: (1) _____

To: (2) _____

of (3) _____

It is alleged that on (4) _____ at (5) _____ am/pm at (6) _____
_____ your vehicle (7) _____

was involved in the commission of an offence against clause (8) _____

of the Shire of Broome (9) _____ by (10) _____

for which the modified penalty payable is (11) \$_____.

If you do not wish to have a complaint of the above offence heard and determined by a court you may pay the modified penalty within 28 days after this notice is given to you.

Unless within 28 days after the giving of this notice to you -

(a) the modified penalty is paid; or

(b) you:

- (i) inform the Chief Executive Officer or an authorised person of the Shire of Broome as to the identity and address of the person who was the driver or person in charge of the above vehicle at the time the offence is alleged to have been committed; or
- (ii) satisfy the Chief Executive Officer of the Shire of Broome that the above vehicle had been stolen or was being unlawfully used at the time the offence is alleged to have been committed,

you will be deemed to have committed the above offence and court proceedings may be instituted against you.

Payment may be made either by posting this form together with the amount of the modified penalty to the Chief Executive Officer of the Shire of Broome at PO Box 44, Broome WA 6725 or by delivering this form and paying the amount to an authorised person at the offices of the Shire of Broome at 27 Weld Street, Broome WA 6725.

Name of authorised person issuing notice: _____

Title of authorised person: _____

Signature of authorised person: _____

- (1) Insert date of infringement notice.
- (2) Insert name of alleged offender [or "owner of (vehicle identification)".
- (3) Insert address of owner (may be omitted).
- (4) Insert date of alleged offence.
- (5) Insert time at which offence allegedly committed and indicate am or pm.
- (6) Insert place at which offence allegedly committed.
- (7) Insert vehicle registration number and description.
- (8) Insert number of clause of local law.
- (9) Insert name of local law (eg Trading, Outdoor Dining and Street Entertainment Local Law 2003).
- (10) Insert description of offence.
- (11) Insert amount of modified penalty.

SECOND SCHEDULE

FORM 4

SHIRE OF BROOME

LOCAL GOVERNMENT ACT 1995

NOTICE OF WITHDRAWAL

Date: (1) _____

To: (2) _____

of (3) _____

Infringement Notice No (4) _____ dated (5) _____

has been withdrawn.

The modified penalty of (6) \$ _____

* _____ has been paid and a refund is enclosed

* _____ has not been paid and should not be paid.

* Delete as appropriate

Name of authorised person issuing notice: _____

Title of authorised person: _____

Signature of authorised person: _____

- (1) Insert date of notice.
- (2) Insert name of alleged offender to whom infringement notice has been given.
- (3) Insert address of alleged offender.
- (4) Insert infringement notice number.
- (5) Insert date of infringement notice.
- (6) Insert amount of modified penalty.
