

Brisbane City Council

Public Land and Council Assets Local Law 2014



Dedicated to a better Brisbane

Public Land and Council Assets Local Law 2014

made under the

City of Brisbane Act 2010

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Chapter 1 Preliminary

1 Short title

This local law may be cited as the *Public Land and Council Assets Local Law 2014*.

2 Objects

The objects of this local law are to—

- (a) provide for the management and regulation of activities in or on—
 - (i) council parks, open spaces, bushland and conservation areas; and
 - (ii) malls in the City; and
 - (iii) roads; and
 - (iv) other council assets;to optimise the benefit derived by the public from that land; and
- (b) protect council assets; and
- (c) provide for council consent to be required for certain activities; and
- (d) provide a procedure for the removal or confiscation of articles or vehicles situated on council assets contrary to this or another law, and the storage, return or disposal of those articles or vehicles.

3 Commencement

Sections 20 and 21 of Chapter 3 come into effect on the date—

- (a) this local law comes into effect; or
- (b) the repeal of Chapter 3, Part 3, Division 2 of the *City of Brisbane Regulation 2012* comes into effect;

whichever is the later.

4 Application

- (1) This local law applies without limiting—
 - (a) any relief to which council may be entitled at law or in equity or under any State or Commonwealth legislation; or
 - (b) any other local law or subordinate local law made by council.
- (2) The restrictions in this local law do not apply to—
 - (a) the use of a guide, hearing, assistance or trainee support dog for the purposes of the *Guide, Hearing and Assistance Dogs Act 2009*; or
 - (b) the use of essential aids or facilities by the elderly or people with disabilities on council assets.

5 Definitions

- (1) The dictionary in Schedule 3 defines particular words used in this local law.
- (2) A word used in this local law that is defined in the *City of Brisbane Act 2010* or the *City of Brisbane Regulation 2012* has the meaning given in that Act or Regulation, unless it is otherwise defined in the dictionary.
- (3) A reference in this local law to any act or local law includes a reference to any amended act or local law or to any act or local law that may replace the original one and which substantially fulfils the same purpose.

Chapter 2 Parks

Part 1 Preliminary

6 What this chapter is about

This chapter is about managing and regulating activities in parks, that affect, or are likely to affect, the operation of the park, park users or properties adjoining the park in a way that—

- (a) is dangerous; or
 - (b) damages, injures or interferes with wildlife, vegetation, natural features or park infrastructure; or
 - (c) causes nuisance;
- in order to—
- (d) promote the safe use and enjoyment of parks for all members of the community; and
 - (e) optimise the benefit derived by the public from parks; and
 - (f) protect, conserve and manage all council assets in parks.

7 Application

- (1) This chapter applies in addition to and without limiting Chapter 5 Use of council assets.
- (2) This chapter applies, subject to Chapter 3, to King George Square.
- (3) This chapter does not override any arrangement or agreement entered into by council with any person or entity in relation to any activity in or occupancy of a park on terms and conditions acceptable to council.

Part 2 Regulation of parks

8 Parks

For the purposes of this local law—

- (a) ***parks*** means—
 - (i) any public park, garden, reserve or common of the City which meets the definition of parks under *City Plan 2014*; or
 - (ii) any other area contained within the specified zones in *City Plan 2014*, including bushland; and
 - (iii) open to the public subject to this local law; and
 - (iv) owned by, dedicated to, vested in or under the control or management of council or vested in council as a trustee; and
- (b) ***parks*** includes Anzac Square, King George Square¹, Musgrave Park and Post Office Square; and
- (c) ***specified zones*** means—
 - (i) Open Space Zone; and
 - (ii) Sport and Recreation Zone; and
 - (iii) Conservation Zone;as defined in *City Plan 2014*.

9 Requirement for council consent

- (1) Commercial activities in parks require council consent.
- (2) Activities with a commercial element also require council consent.

Example—

activities or events where food, alcohol, or other drinks are for sale, such as school sports days or community sport events
- (3) Activities which are not commercial, but which have any of the following elements, also require council consent—
 - (a) involving access to and use of a council power source, or other utility service; or
 - (b) involving animals, other than domestic pets;

Example—

 - *native wildlife educational show occurring in an urban park*
 - *grazing of horses or cattle*
 - *organised horse/pony rides not on designated trails*
 - (c) distributing any handbill, notice, literature or similar promotional material;

¹ Chapter 2 does not apply to —

- (a) the State Bus Station and busway land in and, under King George Square; or
- (b) to the council car park under King George Square.

- (d) affixing or posting any bill or placard²;
- (e) erecting or placing any temporary structure covering more than 15m²;
- (f) activities involving significant numbers of participants and/or that have the potential to—
 - (i) damage the park; or
 - (ii) adversely affect adjoining land owners and occupiers; or
 - (iii) effectively exclude other people from, or negatively affect, the reasonable enjoyment of the park by other park users.

Examples—

- *a promoted open air art exhibition attracting numerous people over extended periods of time and that requires a substantial area displacing normal park users and activities such as picnicking*
- *multiple kindergartens meet and use a park for an annual get together that includes an animal nursery and other activities that are not charged or ticketed but incorporate hundreds of participants with traffic and parking impacts, and erect extensive temporary shade structures, and require vehicle access to the park and animal nursery*
- *an outdoor adventure event, such as a 24 hour endurance trail running competition, in a park in a natural area, where the number of people, scale and type of activity is inconsistent with the expected experiences in the park setting*
- *a world record attempt, such as “the world’s largest ballet class” using park infrastructure*

10 Park booking

- (1) A person who wants to conduct an activity with exclusive use of a particular site within a park for a set period of time must book the site.

Example—

weddings, parties & other private gatherings

- (2) Council will not accept a booking for an activity to which it does not consent.
- (3) When a booking is accepted, it constitutes a consent under this local law.
- (4) Council may consent under Chapter 7 to an activity not provided for in this section.

11 Prohibited activities

- (1) Any activity that is, or could—
 - (a) be dangerous; or
 - (b) damage, injure or interfere with wildlife; or

² A consent given under another law, e.g. a permit under council’s *Advertisements Local Law 2013*, is a consent for this law.

- (c) interfere with vegetation; or
- (d) damage or interfere with park infrastructure or the natural features of a park such as sand or rock; or
- (e) cause nuisance or obstruct public access to all or part of the park;

is prohibited in any park, unless it is a restricted activity conducted in accordance with section 12.

Examples—

for paragraph (a)—

- *bungee jumping*
- *exploding any substance, except in the course of a display authorised under the Explosives Regulation 2003*
- *playing golf*

for paragraph (b)—

- *fouling or polluting any lake, pond, creek, waterway, dam or other body of water in a park*

for paragraph (c)—

- *picking flowers or taking cuttings from a plant*

for paragraph (d)—

- *entering, whether or not in or on a vehicle, or walking on, any rehabilitation area, or other similar site that is contained within a barricaded or fenced area*
- *collecting driftwood or firewood*
- *paintball*

for paragraph (e)—

- *noise nuisance*

- (2) Paragraph (1)(a) does not apply to unrestricted fireworks under the *Explosives Regulation 2003*, such as sparklers, bon bons or party poppers.

12 Restricted activities

- (1) This section applies to any activity (a ***restricted activity***) that is, or could—
 - (a) be dangerous;
 - (b) damage, injure or interfere with wildlife;
 - (c) interfere with vegetation;
 - (d) damage or interfere with park infrastructure or the natural features of a park such as sand or rock; or
 - (e) cause nuisance or obstruct public access to all or part of the park.
- (2) A restricted activity may be conducted only at a place designated for that activity, or at a facility provided by council, and, if not so conducted, is prohibited.

Examples—

for paragraph (1)(a)—

- *only council barbeques and fireplaces may be used for fires*

- *vehicles must be confined to carriageways and parking areas in parks*

for paragraph (1)(b)—

- *letting or leaving a dog off leash is restricted to off-leash areas*

for paragraph (1)(c)—

- *riding or leading a horse, camel or other domestic animal is restricted to a track, pathway or other area designated for the activity*
- *riding a bicycle or a personal mobility device is restricted to a track, pathway or other area designated for the activity*

for paragraph (1)(d)—

- *rock climbing, abseiling or rappelling is restricted to a place designated for that activity;*

for paragraph (1)(e)—

- *camping*
- *remotely controlled, powered model aircraft and boats are restricted to designated sites*

(3) Subsection (2) does not apply to any of the following—

- (a) the use of portable gas barbeques;
- (b) practising golf strokes with a light practice ball, such as a “whiffle” ball;
- (c) playing with remotely controlled, powered flying machines or model aircraft—
 - (i) which are children’s toys; or
 - (ii) which the user can establish, to the reasonable satisfaction of an authorised person, weighs less than 0.5kg; or
- (d) playing with remotely controlled, powered model vehicles—
 - (i) which are children’s toys; or
 - (ii) which the user can establish, to the reasonable satisfaction of an authorised person, have a maximum speed of 15kph;
- (e) any activity that does not already have consent under Section 9 or 10.

13 Further provision by subordinate local law

Council may make further provision about regulated and prohibited activities in parks by subordinate local law.

14 Self-assessment of activities under section 9 or 10

Council may allow consent to be granted by a self-assessment system established under Section 45 of this local law.

Chapter 3 Malls

Part 1 Preliminary

15 What this chapter is about

This chapter is about managing and regulating activities in malls, in particular—

- (a) providing consistent management and regulation of activities in the public spaces in the inner city including King George Square³;
- (b) regulating activities in or abutting Queen Street Mall, Chinatown Mall, The Valley Mall and King George Square—
 - (i) to safeguard the health, safety and amenity of persons using those areas or affected by activities in or abutting those areas; and
 - (ii) to enhance the appearance of those areas.
- (c) providing for council consent to be required for certain activities.

16 Application

- (1) This chapter applies in addition to and without limiting Chapter 5 Use of council assets.
- (2) To apply this chapter to King George Square, a reference to a mall includes a reference to King George Square.
- (3) This chapter does not control the use of any buildings or land adjoining a mall but does regulate activities which may take place in areas abutting the mall such as entries of buildings and other land which may have an effect on the use of a mall.
- (4) This chapter does not override any arrangement or agreement entered into by council with any person or entity in relation to any activity in or occupancy of a mall on terms and conditions acceptable to council.

Part 2 Regulation of malls

Division 1 Activities and waste management

17 Activities in malls

- (1) Subject to Division 2 of this Part—
 - (a) any activity specified in Column 1 of Table 1 of Schedule 1 (a ***regulated activity***) requires council consent; and
 - (b) any activity specified in Column 1 of Table 2 of Schedule 1 is prohibited.
- (2) Council may consent under Chapter 7 to an activity not provided for in this Part.

³ Chapter 3 does not apply to —

- (a) the State Bus Station and busway land in and, under King George Square; or
- (b) to the council car park under King George Square.

- (3) Council may make further provision about regulated and prohibited activities in malls by subordinate local law.

18 Requirements for waste containers

The person who is responsible for or has the use of waste containers which are stored or serviced from a mall or from land abutting a mall must—

- (a) have a procedure in place whereby—
 - (i) any waste which might spill from the waste container other than during collection is promptly cleared; and
 - (ii) containers are placed for collection no earlier than the designated collection period; and
 - (iii) containers are removed from the mall promptly after collection; and
- (b) ensure that their use of waste containers does not otherwise obstruct or cause nuisance to mall users.

Division 2 Restricted traffic on malls

19 Definitions for this Division

- (1) **recreational vehicle** means a bicycle, personal mobility device or wheeled recreational device under the *Transport Operations (Road Use Management) Act 1995*, Schedule 4.

Examples of recreational vehicles—

rollerblades, segways, skateboards and scooters

- (2) **vehicle**—see the *Transport Operations (Road Use Management) Act 1995*, Schedule 4.

20 Mall traffic restrictions

- (1) This section applies in addition to section 25.
- (2) Council may, by public notice (a **mall traffic restriction**), restrict—
 - (a) the types of vehicles (including recreational vehicles) that may be on any part of a mall; and
 - (b) the times that particular types of vehicles (including recreational vehicles) may be on any part of a mall.
- (3) The mall traffic restriction must be published on council's website.
- (4) The mall traffic restriction takes effect on the date when it is published on council's website or on such other date as specified in the notice.
- (5) Also, the mall traffic restriction—
 - (a) may state the types of vehicles to which it relates by reference to any of the following—
 - (i) vehicles generally;
 - (ii) vehicles of a particular class or similar description;

- (iii) vehicles used for a particular purpose or in particular circumstances;
 - (iv) vehicles used by a particular person or class of person; and
- (b) may state that times differ according to different types of vehicles; and
- (c) may state the parts of the mall that a type of vehicle may not be on; and
- (d) must state the day on which the restrictions take effect.
- (6) Council may by public notice vary or revoke a mall traffic restriction made under subsection (2).
- (7) The variation or revocation must be published on council's website.
- (8) While a mall traffic restriction is in force, council must display and maintain a notice on the mall that—
 - (a) is easily visible to—
 - (i) if the mall traffic restriction applies to only part of the mall—persons entering the part of the mall where the mall traffic restriction applies; or
 - (ii) if the mall traffic restriction applies to all of the mall—persons entering the mall from a road; and
 - (b) generally indicates that mall traffic restrictions apply (including by indicating the types of vehicles affected by the mall traffic restriction); and
 - (c) states that further information about the mall traffic restriction may be viewed on council's website.

Note—

To comply with the requirement under paragraph (a) council may need to display more than one mall traffic restriction on a mall (at each entrance to the mall, for example).

21 Permits for vehicles on malls

- (1) Council may, in writing, permit a vehicle to be on any part of a mall for the purposes and period, and subject to the conditions (if any), stated in the permit (a ***mall traffic permit***).
- (2) A mall traffic permit must state the date on which it takes effect.
- (3) Council may revoke a mall traffic permit by giving written notice of the revocation to the holder of the permit.

Chapter 4 Commercial activities on council roads

Part 1 Preliminary

22 What this chapter is about

This chapter is about managing and regulating commercial activities on council roads in accordance with the objects of this local law, so that commercial use of a public space is subject to—

- (a) protecting the safe passage of pedestrian traffic along the verge; and
- (b) preventing interference with vehicles using any lawful crossing over the verge; and
- (c) ensuring the safe management of traffic along the carriageway; and
- (d) protecting the safety of people using the road whether as pedestrians, cyclists or motorists; and
- (e) protecting council assets from damage and ensuring that those assets are kept accessible and clean; and
- (f) minimising adverse impacts on the amenity of the immediate vicinity of that activity.

Part 2 Regulation of commercial activities on roads

23 Activities on roads

- (1) Any activity specified in Table 1 of Schedule 2 (a *regulated activity*) requires council consent.
- (2) Any activity specified in Table 2 of Schedule 2 is prohibited.
- (3) Council may consent under Chapter 7 to an activity not provided for in this Part.
- (4) Council may make further provision about regulated and prohibited commercial activities on roads by subordinate local law.

Chapter 5 Use of council assets

Part 1 Restrictions and conditions of use

24 Entry to and use of council assets

A person may go on to, or stay on, or use, or attempt to use, council assets only—

- (a) as provided in this local law; or
- (b) as provided in an agreement with council; or
- (c) as authorised under another law.

25 Council signs, notices, directions and conditions of use

- (1) Council may do any one or more of the following by sign or notice, or by lines or markings made on any surface—
 - (a) permit any activity on any council land;
 - (b) prescribe any restrictions or conditions of entry to, or use of any council assets;
 - (c) indicate or notify any other information relating to the use and administration of any council assets.

- (2) Council consent is not required if the activity is carried out in compliance with a council sign or notice under this section.
- (3) A person is taken to have notice of the contents of any sign, notice, lines or markings mentioned in this section.
- (4) A person may not sleep rough on any council infrastructure.

Part 2 Use of landings

26 Definition for this section

In this Part—

use of a landing includes the holding or fastening in any manner whatsoever of a boat to a landing, or otherwise placing a boat in such position in relation to a landing as to prevent any other boat entitled to use such landing from safely using the landing.

27 Designated landings

- (1) Council may designate a landing to be used by private boats, a hire boat or a charter boat.
- (2) The operator of a hire boat or charter boat must obtain council consent to the use of a landing designated under subsection (1).⁴

28 Duration of use

A person must not use a landing with any boat for longer than ten minutes at a time. After ten minutes use, the person must stop using the landing and not use it again until all boats waiting to access the landing at that time have done so⁵.

29 Fishing from council landings

Council may designate landings where fishing is permitted⁶.

Part 3 Crossings and stormwater and animals on council land

30 Construction of crossings

- (1) If access to private land can be gained only by driving across a kerb, gutter or water channel of a road or any part of a verge or other area under the control of council, council may, by written notice, require either or both of—
 - (a) the owner for the time being of the land;
 - (b) the occupier of the land;

⁴ See offence—section 78(2)

⁵ See offence—section 78(2)

⁶ See offence —section 76

to perform any one or more of the following, within a reasonable time, as specified in that notice—

- (i) provide a crossing or driveway for access to the land of a form and design specified in the notice or as otherwise agreed with the owner and/or occupier of the land;
 - (ii) repair an existing crossing or driveway;
 - (iii) remove an existing crossing or driveway that, in the reasonable opinion of council, is not in use;
 - (iv) cease driving across the kerb, gutter or water channel of a road, or any part of a verge or other area under the control of council, in order to prevent damage or erosion to its surface;
 - (v) cause any other reasonable work to be carried out as council may require.
- (2) The person to whom a notice is given under subsection (1) must comply with the notice in the way and within the time stated in the notice.
- (3) The owner for the time being of the land is responsible for maintaining the crossing or driveway to the land in a condition that is safe and complies with the conditions of the notice of council applicable to the crossing or driveway.

31 Private stormwater infrastructure

- (1) If stormwater flowing to a lawful point of discharge (including to a council stormwater system) must pass through stormwater infrastructure on private land, then, subject to subsection (3), council may, by written notice, require either or both of—
- (a) the owner for the time being of the land;
 - (b) the occupier of the land;
- to perform any one or more of the following specified in the notice, within a reasonable time—
- (i) repair and maintain any such infrastructure;
 - (ii) repair any damage to a road or council stormwater infrastructure caused by defects in that stormwater infrastructure;
 - (iii) cause any other reasonable work to be carried out as council may require.
- (2) The person to whom a notice is given under subsection (1) must comply with the notice in the way and within the time stated in the notice.
- (3) Council may elect to perform the works itself and recover the cost of those works from the owner or occupier under section 62.
- (4) The owner for the time being of the land is responsible for maintaining the infrastructure in a condition that is safe and complies with the conditions of the council consent or notice if applicable to the infrastructure.
- (5) If more than one parcel of land is benefitted by infrastructure to which this section applies—

- (a) council may give notice under subsection (1) to the owner for the time being, or the occupier, of each parcel of land; and
 - (b) the obligation is imposed jointly and severally on each of those persons.
- (6) If the persons on whom an obligation is imposed by this section cannot agree on suitable and fair arrangements for complying with that obligation, council may—
 - (a) perform the work; and
 - (b) apportion the reasonable overall cost between or among those persons; and
 - (c) recover, as a debt from each person, the person's share of the costs.

32 Section number not used

33 Animals

An authorised person may, by oral direction or compliance notice, require any person in charge of any animal to remove the animal from a beach, foreshore, or other place if, in the authorised person's opinion, the animal's presence there causes or is likely to cause inconvenience or danger to the public or to wildlife.

Chapter 6 Removal, storage, sale or disposal of vehicles and other articles

Part 1 Protection from liability

34 Protection from liability

No liability for damage caused by any action taken pursuant to this chapter in good faith and without negligence attaches to council or any other person taking such action at the direction of council.

Part 2 Removal of vehicle obstructing council works

35 Application

This Part applies when council is conducting works on a road.

36 Removal of vehicle obstructing council works

- (1) This section applies if council or an authorised person considers on reasonable grounds that any vehicle—
 - (a) has been left unattended on a road, whether temporarily or otherwise; and
 - (b) in circumstances where its continued presence obstructs council works.

- (2) If there is a person apparently in charge of the vehicle present at the time, council or the authorised person may give that person an oral direction⁷ to move the vehicle to a location where it does not obstruct the works.
- (3) If the person does not comply with the direction, or there is no person apparently in charge of the vehicle present at the time, in addition to any other action provided for by this local law, council or the authorised person may remove the vehicle, or cause it to be removed, to the nearest practicable location where it may be lawfully parked and does not obstruct those works.
- (4) Council or the authorised person must give notice of the removal in the way stated in subsection (5).
- (5) The notice—
 - (a) must state contact details to enable a person claiming a right to possession of any vehicle so removed to ascertain the whereabouts of the vehicle; and
 - (b) may be by temporary sign left on the verge adjacent to where the vehicle was parked prior to removal by council; and
 - (c) must be published on council's website as soon as practicable after the date of removal, and for at least 14 days.

Part 3 Removal, storage, sale or disposal of other vehicles and articles from council assets

Division 1 Vehicles

37 Intentionally deleted

38 Intentionally deleted

39 Vehicles on council land other than roads

- (1) This section applies to vehicles on council land (other than council roads), unless authorised to be there under this or another law.
- (2) If there is a person apparently in charge of the vehicle present at the time, an authorised person may give the person an oral direction⁸ to remove the vehicle from the council land.
- (3) If there is no person apparently in charge of the vehicle present at the time, or the person mentioned in subsection (2) does not remove the vehicle immediately, in addition to any other action provided for by this local law, council or the authorised person may remove the vehicle, or cause it to be removed, to the nearest road where it can lawfully be left.
- (4) Council or the authorised person must give notice of the removal as set out in subsection (5).
- (5) The notice must—

⁷ For oral directions, see section 59.

⁸ For oral directions, see section 59.

- (a) state contact details to enable a person claiming a right to possession of any vehicle so removed to ascertain the whereabouts of the vehicle; and
- (b) be published on council's website as soon as practicable after the date of removal, and for at least 14 days.

Division 2 Other articles

40 Section number not used

41 Confiscation of articles

- (1) Without limiting sections 35, 36 and 39 an authorised person may confiscate and remove an article, or cause it to be removed, into the possession of council, under this Part, in any of the circumstances outlined in subsection (2).
 - (2) If the authorised person reasonably believes that—
 - (a) any article—
 - (i) has damaged council land or property; or
 - (ii) has been abandoned on council land; or
 - (iii) has been left unattended or found in or on council land; or
 - (iv) has been deposited on council land without council's consent; or
 - (v) is being or has been otherwise used for a purpose or in a manner in contravention of a condition of consent of council or a requirement of this local law; or
 - (vi) is evidence of a contravention of this local law or another law administered by council or a condition of a consent of council; or
 - (b) it is necessary to prevent the article being used to commit, continue, or repeat, a contravention of this local law or a condition of consent of council;
- then the person may confiscate the article.

42 Notice of confiscation

- (1) If an authorised person confiscates anything under this local law, the authorised person must, as soon as is reasonably practicable after doing so—
 - (a) if the person from whom it is confiscated is present, give the person a receipt; or
 - (b) if personal service is not practicable, give notice of the confiscation.
- (2) The receipt—
 - (a) may be for a single article or for all articles confiscated from a person or place; and
 - (b) must include—
 - (i) the date and time the article was taken;
 - (ii) if the article was taken from a person—the name, address and telephone contact number of the person, if known;

- (iii) if the article was taken from an occupied place—the name, address and telephone contact number of the occupier of the place, if known;
 - (iv) a description of the article taken and the basis of the reasonable belief under section 41(2);
 - (v) the name and telephone contact number of the authorised person who confiscated the article.
- (3) The notice of confiscation—
 - (a) must be published on council’s website;
 - (b) must—
 - (i) be published for at least 14 days commencing as soon as practicable after the removal;
 - (ii) describe the article confiscated;
 - (iii) state what a person needs to do to have the article released.
- (4) This section does not apply to an article which, in the opinion of the authorised person, has no intrinsic value.

43 Release of confiscated articles

- (1) Subject to subsections (2) and (3), not sooner than the day following the day of the confiscation and not later than 28 days after the confiscation, council will release any article notified as confiscated under this local law to a person claiming a right to possession of it provided that the person—
 - (a) proves their ownership or right to possession of the article to council’s satisfaction; and
 - (b) pays to council the applicable cost-recovery fee specified in a resolution made by council under section 99 of the *City of Brisbane Act 2010*; and
 - (c) signs a receipt for the delivery of the article.
- (2) If the article is confiscated under section 41(2), and a legal proceeding or prosecution likely to require the production into evidence of the confiscated article is started within 12 months, then—
 - (a) at the end of the legal proceeding or prosecution and any appeal from the legal proceeding or prosecution; or
 - (b) if council decides that its retention as evidence is not necessary—within 28 days of that decision;

council will release the article in accordance with subsection (1).
- (3) If for whatever reason it is not possible to return the article to its owner or other person entitled to its possession, then council may dispose of the article under section 44.

44 Other disposal of confiscated articles

- (1) If a confiscated article is not released under section 43, then council may offer the article for sale by private treaty, tender, expression of interest or auction⁹.
- (2) If there is no purchaser for a confiscated article offered for sale, council may dispose of the article in any way it sees fit.
- (3) If upon the disposal of an article in accordance with this section, the costs and expenses incurred by council in connection with its removal, detention, storage and sale or disposal are not fully recovered, council may recover the outstanding balance in accordance with section 62.
- (4) If an article—
 - (a) is of a perishable nature; or
 - (b) consists of a substance that cannot be practically stored at the time of removal or within a reasonably short period of time after removal;then council may dispose of it in such manner as the Chief Executive Officer may determine.¹⁰

Chapter 7 Council consent

Part 1 Self-assessment

45 Self-assessment system

- (1) Council may establish a self-assessment system for activities that ordinarily require consent under this local law.
- (2) If a person properly undertakes self-assessment through a system established under subsection (1), this local law applies to any proper self-assessment as if it were a consent under this local law.
- (3) Part 2 applies subject to this section.

Part 2 Assessment by council

46 Application for consent

- (1) A person (the ***applicant***) may apply to council for a consent, or make a park booking, under this local law by lodging with council either electronically, or in paper copy, an application in the approved form, accompanied by—
 - (a) any prescribed application fee;
 - (b) any approval required by another law; and
 - (c) all other supporting information stated in the approved form to be mandatory.

⁹ Section 42A of the *City of Brisbane Act 2010* applies to the disposition of the proceeds of sale.

¹⁰ Section 42A of the *City of Brisbane Act 2010* applies to the disposition of the proceeds of sale.

- (2) The application must be lodged at least 5 business days before the proposed commencement of the activity.
- (3) Before deciding the application, council may give the applicant an information notice requiring the applicant to provide any further information or documents that council reasonably requires to decide the application.
- (4) An information notice must provide a reasonable period of at least 2 days for the applicant to provide the further information or documents.
- (5) The applicant is taken to have withdrawn the application if the applicant does not comply with an information notice within the stated period.
- (6) An application is not duly made until the applicant has complied with all the requirements of this section.

47 Assessing applications

- (1) In considering an application, council may have regard to the following—
 - (a) any constraints arising under its tenure of the relevant land, or applicable planning instruments;
 - (b) whether the proposed activity may pose a risk to the environment, health or safety of the public or wildlife and vegetation in the area in which the proposed activity is to be carried out;
 - (c) the effect in a park, or on the neighbourhood surrounding the site of the proposed activity, that the level of light, noise, dust or pollution associated with the activity may have;
 - (d) the cumulative effect of the proposed and any current activities;
 - (e) the security, traffic (including parking) and crowd controls and emergency procedures, necessary to ensure the safety, protection and convenience of council employees and the public;
 - (f) the likely impact on the effectiveness and efficiency of council services;
 - (g) whether adverse impacts can be adequately mitigated by compliance with conditions imposed on any consent;
 - (h) whether approvals required by other laws have been obtained; and
 - (i) the public interest.
- (2) In considering the matters under subsection (1), council may—
 - (a) consult with the occupiers of premises that council determines may be affected by consent to the application; and
 - (b) consult with other regulatory authorities about the application.
- (3) Council may in a subordinate local law specify additional criteria to those set out in subsection (1).

48 Deciding applications

- (1) Council may—
 - (a) approve the application; or

- (b) refuse the application; or
 - (c) approve the application subject to conditions.
- (2) If council approves the application, council will issue a consent in writing.
- (3) If council refuses the application, it must give the applicant a decision notice about the refusal.

49 Subject matter for conditions

Without limiting council's power to impose conditions under this local law, the conditions of a consent may be about any or all of the following—

- (a) the hours within which the proposed activity may be carried out;
- (b) making reasonable accommodation for people with disabilities;
- (c) the provision and maintenance of specified facilities, scaffolding, hoardings and gantries, amenities and equipment during the carrying out of the proposed activity;
- (d) the regular cleaning of the site in which the proposed activity is to be carried out;
- (e) disposal and recycling of refuse or waste generated during and after the carrying out of the proposed activity;
- (f) the keeping of specified records for production to council for inspection;
- (g) removal and disposal by council of articles left at the site;
- (h) the imposition of security deposits and the retention of such security deposits if any conditions of the consent are contravened;
- (i) the provision of an undertaking or bond of an amount and for a duration council considers sufficient to—
 - (i) meet any costs or expenses council may incur in repairing any damage to its land or property arising from the contravention of a condition; and
 - (ii) indemnify council against any liability for loss, damages compensation, costs and expenses payable to any person by reason of the carrying out of the proposed activity;
- (j) the production of evidence of such current and valid public risk and indemnity insurance policies that council may require and evidence that council's interest is noted on such public risk and indemnity insurance policies within a specified time.

50 Term of consent

A consent given under section 48 or obtained by self-assessment commences and terminates on the date specified on the consent, unless the consent is earlier revoked.

51 Transfer

A consent is not transferrable.

52 Variation of conditions upon application

- (1) A holder of a consent may apply in writing for council to add to, vary or revoke a condition of the consent.
- (2) The application must be—
 - (a) made in the approved form; and
 - (b) supported by enough information to allow council to decide the application; and
 - (c) accompanied by any prescribed fee.
- (3) Before deciding the application, council may give the applicant an information notice requiring the applicant to provide any further information or documents that council reasonably requires to decide the application.
- (4) An information notice must state a reasonable period of at least 2 days for the applicant to provide the further information or documents.
- (5) The applicant is taken to have withdrawn the application, if the applicant does not comply with an information notice within the stated period.
- (6) In deciding whether to grant or refuse the application, council may have regard to the criteria for assessing consent applications set out in section 47 of this local law.
- (7) Council may—
 - (a) approve the application; or
 - (b) refuse the application.
- (8) If council decides to approve the application it must inform the holder and give the holder a new consent showing the new set of conditions.
- (9) The new consent takes effect from the time specified in it.
- (10) If council decides to refuse the application it must give the holder a decision notice about the decision.

53 Variation of conditions by council

- (1) Council may add, vary or remove a condition whenever council considers it necessary or appropriate.
- (2) If council proposes to add, vary or remove a condition under subsection (1), council must give the permit holder a proposed action notice.
- (3) Council must consider any representations about the proposed action notice in accordance with section 52 of this local law and decide whether to add, vary or remove the condition.
- (4) Council must give the holder a decision notice about its decision under subsection (3).
- (5) An addition, variation or removal of a condition of a consent takes effect from the time specified in the notice.

54 Renewal of consent

- (1) The holder of a consent may apply to council to have the consent extended for a further term.
- (2) Application for an extension may be considered only if it is made at least 5 business days before the expiry of the consent and any prescribed fee is paid.
- (3) Council may—
 - (a) give an extension of the consent with or without additional conditions; or
 - (b) refuse the extension of the consent.

55 Revocation

- (1) Council may—
 - (a) by written notice revoke a consent given under this local law; or
 - (b) if it is impracticable to give written notice under paragraph (a), by an oral direction¹¹ by an authorised person, suspend a consent given under this local law.

Examples for paragraph (a)—

A consent to an activity may be varied to accommodate further applicants for consent to conduct the same or other activities, to balance competing claims for a finite resource. A consent to an activity may be revoked because it cannot be equitably balanced with further applications for consent to conduct the same or other activities.

- (2) Upon revocation or suspension of a consent, any person relying on the consent must, within such time as specified in the notice or oral direction, do any one or more of the following—
 - (a) leave the council land;
 - (b) stop the relevant activity;
 - (c) remove any structure, article, vehicle or animal;
 - (d) take any other action;as specified in the notice or oral direction.
- (3) A revocation takes effect from the time specified in the notice or stated in the oral direction.

56 Production of consent

A person required by this local law to hold a consent must produce it on demand by an authorised person.

¹¹ For oral directions, see section 59.

Part 3 Designated areas

57 Activities in designated areas

- (1) This section applies in addition to section 25.
- (2) Council may, by public notice (an ***activity designation***), designate areas of the City where activities regulated by this local law, specified in the activity designation, may or may not be conducted.
- (3) An activity designation must be published on council's website.
- (4) An activity designation may state the types of activities to which designated areas relate by reference to any of the following—
 - (a) activities generally;
 - (b) activities of a particular class or similar description;
 - (c) activities engaged in for a particular purpose or in particular circumstances;
 - (d) activities engaged in by a particular person or class of persons;
 - (e) times that differ according to different types of activities; and
 - (f) the parts of the City where a particular activity or class of activities may not be conducted.
- (5) Also, an activity designation must state the day on which the designation for all or any activities takes effect.
- (6) Council may vary or revoke an activity designation.

Chapter 8 Enforcement

Part 1 Preliminary

58 Obligation joint and several

- (1) If this local law imposes an obligation on the holder of a consent, the obligation is imposed jointly and severally on each of the persons who is the holder of a consent and any person acting under the consent.
- (2) If under this local law, a direction or notice is given to the holder of a consent or a person acting under the consent, the direction or notice may be given to all or any one or more of those persons, and the obligation to comply with the direction or notice is imposed, jointly and severally, on each person who receives the direction or notice.
- (3) If this local law imposes an obligation on a person and two or more persons jointly engage in an activity to which the obligation relates, the obligation is imposed jointly and severally on each of those persons.
- (4) Proceedings for an offence may be taken against any one or more of the persons who fail to comply with an obligation, direction or notice referred to in subsection (1), (2), or (3).

- (5) It is no defence to proceedings for a breach of section 72 that the person was an employee or agent of another person when the direction was given or the compliance notice was issued.
- (6) If a consent under this local law is held by more than one person, each person may be separately convicted of the same offence.
- (7) A person who is not the holder of a consent and the holder of the consent may be separately convicted of the same offence.
- (8) Council may, by a single action or successive actions, recover amounts payable under this local law from any one or more of the persons who fail to comply with this local law or a condition of a consent.
- (9) Council may, by a single action or successive actions, recover costs under this local law from any one or more of the persons referred to in subsection (3), but the total amount recovered must not exceed the amount of council's costs and the interest to which it is entitled.

59 Oral compliance direction

- (1) If, in the opinion of an authorised person, a person is engaging in conduct that is, or is preparatory to, a contravention of this local law, the authorised person may give that person an oral direction to do any or all of the following—
 - (a) stop the conduct;
 - (b) leave the council land; or
 - (c) take specified action to avert or remedy the contravention.
- (2) If, in the opinion of an authorised person, two or more persons are jointly engaging in an activity about which an oral direction may be given under this local law, the oral direction may be given to all or any one or more of them, and the obligation to comply with the direction or notice is imposed, jointly and severally, on those persons.
- (3) A direction may be given under this section in addition to any other action prescribed by any act, local law, or other statutory instrument.

60 Compliance notices

- (1) If, in the opinion of an authorised person, a person has contravened, or is contravening, a requirement of this local law, the authorised person may give to that person a written notice (a **compliance notice**) under this section, whether or not an oral compliance direction has been given.
- (2) If two or more persons jointly engage in an activity about which a notice may be given under this local law, the notice may be given to all or any one or more of those persons, and the obligation to comply with the notice is imposed, jointly and severally, on each of those persons who receives the notice.
- (3) A compliance notice may be given under this section in addition to any other action prescribed by any act, local law, or other statutory instrument.
- (4) A compliance notice must state all of the following—
 - (a) the date or dates by which any required action must be completed;

- (b) that, within 10 business days of service of the notice, the person may apply to council to review any or all requirements in the notice;
- (c) if a requirement of the notice requires work on council land, that—
 - (i) council may, in addition to any other action authorised by law, elect at its discretion to perform the work; and
 - (ii) council may give the person an account for the amounts set out in section 62; and
 - (iii) council may recover that amount under section 63.
- (5) A Court may order payment of those amounts under section 64 in addition to any penalty.
- (6) A compliance notice may—
 - (a) if the contravention is of a continuing or recurrent nature, require a person to stop the contravention;
 - (b) whether or not the contravention is of a continuing or recurrent nature, require a person to take specified action to remedy the contravention.
- (7) The action specified in sub-section (6)(b) may be to pay council an amount representing the value of any tree or trees involved in the contravention, calculated under the *Natural Assets Local Law 2003*.
- (8) A notice may be given under this section in addition to any other action prescribed by any act, local law, or other statutory instrument.

61 Review

- (1) A person may apply under this section for review of —
 - (a) a decision to refuse an application for a consent for a commercial activity in a park¹² under section 48;
 - (b) a decision to revoke a consent for a commercial activity in a park under section 55(1)(a);
 - (c) a compliance notice issued under section 60.
- (2) The application for review must be—
 - (a) in writing;
 - (b) received by council within 10 business days of service of the decision notice, revocation notice or compliance notice;
 - (c) supported by enough information to enable council to decide the application.
- (3) Within 10 business days after receiving an application in accordance with subsection (2), council must—
 - (a) consider any written submissions properly made by the applicant; and

¹² “Commercial activity in a park” – see section 9(1)

- (b) make a decision (the **review decision**) to—
 - (i) confirm or revoke the original decision or requirement; or
 - (ii) vary the original decision or requirement in a way that council considers appropriate.
- (4) The application for review must not be dealt with by—
 - (a) the person who issued the decision notice, revocation notice or compliance notice; or
 - (b) a person in a less senior office than the person who issued the decision notice, revocation notice or compliance notice.
- (5) Within 2 business days of making the review decision, council must give written notice of the review decision (the **review notice**) to the applicant, stating reasons for the decision to confirm or vary the original decision or requirement.
- (6) A review notice under this section may be given personally, electronically, or by post.
- (7) If a person makes an application for review in accordance with this section—
 - (a) any requirement to take immediate action to stop or remedy any activity or damage is unaffected; but
 - (b) the date for compliance with any other requirements of the decision notice, revocation notice or compliance notice is extended to the date stipulated under subsection (8).
- (8) The review decision takes effect on the date stipulated in the review notice, which must be at least 2 business days after council gives the review notice.

62 Cost of work

- (1) If action necessary to remedy a contravention of this local law would require work on council assets, council may elect to perform the work itself and recover its reasonable costs pursuant to subsection (2).
- (2) If subsection (1), or section 31(3), applies, council may recover—
 - (a) any cost or expense incurred by council in undertaking the remediation, or other works, including any necessary approvals or inspections; and
 - (b) any other expense incurred by council through the failure of the person to comply with this local law; and
 - (c) any loss or damage suffered by council through the failure of the person to comply with this local law; and
 - (d) all other amounts, the omission to pay which was an element in or was in any way related to such failure to comply with this local law, including costs and expenses associated with removal, storage and disposal of any article or vehicle; and
 - (e) if reinstatement, restoration or repair of the relevant damaged council asset is not practicable—
 - (i) the reasonable cost of replacement of the asset; or

- (ii) if council elects—the original cost of the asset if it is a lesser amount than the reasonable cost of replacement.
- (3) Council must give the person liable an account for the amount.

63 Civil remedy

- (1) If an account under section 62(3) is not paid on or before a date for payment fixed in the account, council may recover the amount from a person liable, as a debt, with interest.
- (2) The right to recover costs and expenses under this section is in addition to and does not limit any right to costs or compensation available under any other law.
- (3) A council certificate stating any of the following matters is evidence of the matter, unless the contrary is proved—
 - (a) the carrying out of work under this local law; and
 - (b) the delivery of an account required by this section; and
 - (c) the amount payable to council under this local law which is unpaid at the date of the certificate.
- (4) This section applies whether proceedings for an offence have been instituted or not, but if council recovers the amounts under this section, those amounts shall be taken into account by a Court making an order under section 64.

64 Order on conviction

When any person is convicted of an offence against this local law, the Court in which the conviction is made shall have jurisdiction to order the person to pay, in addition to the penalty, any or all of the following—

- (a) the value of the vegetation involved in the offence;
- (b) any amount mentioned in section 62;
- (c) if the omission to pay any fees, charges, or other amounts was an element of the offence—those fees, charges, or other amounts.

65 Evidence

In any proceedings under this local law—

- (a) council may claim the value of vegetation, calculated under the *Natural Assets Local Law 2003*; and
- (b) an account given under section 62(3) is evidence of the amount owing, unless the contrary is proved.

Part 2 Offences

Division 1 Offences generally

66 False or misleading information

A person must not provide false or misleading information in any particular of an application under this local law or a response to an information notice.

Maximum penalty—50 Penalty Units.

67 Restriction or condition of entry or use

A person must not—

- (a) enter any council land in contravention of; or
 - (b) while using or remaining on council land, fail to comply with;
- any restriction or condition of entry or use prescribed by council.

Maximum penalty—50 Penalty Units.

68 Failure to obtain consent

A person must not fail to obtain a consent required by this local law.

Maximum penalty — consent required under Chapter 3, as set out in Column 2 of Table 1 of Schedule 1.

— otherwise, 50 Penalty Units.

69 Contravene condition of consent

- (1) A person acting under a consent required by this local law, whether the holder or another person, must not contravene a condition of that consent.

Maximum penalty—consent required under Chapter 3—as set out in Column 2 of Table 1 of Schedule 1.

Otherwise—50 Penalty Units.

- (2) Subsection (1) does not apply to a client or guest of the holder of the consent.

70 Failure to produce consent

Subject to section 25, a person acting under a consent whether the holder or another person must not fail to produce a consent on demand by an authorised person.

Maximum penalty—20 Penalty Units.

71 Undertaking a prohibited activity

A person must not undertake a prohibited activity.

Maximum penalty—prohibition under Chapter 3— as set out in Column 2 of Table 2 of Schedule 1.

Otherwise—50 Penalty Units.

72 Directions and notices

- (1) A person must comply with an oral direction.
Maximum penalty—50 Penalty Units.
- (2) A person must comply with a notice under section 30.
Maximum penalty—50 Penalty Units.
- (3) A person must comply with a notice under section 31.
Maximum penalty—50 Penalty Units.
- (4) A person must comply with a compliance notice.
Maximum penalty—500 Penalty Units.

73 Depositing of articles on council land

A person must not—

- (a) deposit any article or vehicle on council land without a reasonable excuse; or
- (b) deposit rubbish or waste at a council waste disposal site contrary to council's directions or conditions.

Examples for paragraph (a)—

- deposit or leave any timber, stone, or other material, tree trimmings or other debris on a verge or in a park

Examples of a reasonable excuse for paragraph (a)—

- articles deposited on a verge in accordance with a Kerbside Collection Program conducted by council
- flood debris deposited on a verge within 2 weeks of floodwaters receding

Maximum penalty—50 Penalty Units.

74 Activities on private premises affecting council land

- (1) A person must not use or manage any land or premises abutting any council land in a way that involves any encroachment on council land.
- (2) A person must not use or manage any land or premises abutting any council land in a way that obscures a council sign.
- (3) A person must not use or manage any land or premises abutting any council land that is open to the public in a way that detrimentally affects any or all of the following—
 - (a) the use or enjoyment by the public of the council land;
 - (b) the free and safe passage of pedestrians over the council land;
 - (c) a lawful activity ordinarily carried out on the council land.

Examples for paragraph (a)—

- water, other than rain water runoff, leaking from an awning or balcony

- activity on any premises raising unreasonable amounts of dust

Examples for paragraph (b)—

- fallen fruit, overhanging branch or protruding root of a plant on the person's premises left unattended or untrimmed and obstructing or causing a hazard to safe passage of users
- a shutter, gate or door on premises left in a position that obstructs or causes a hazard to safe passage of users
- soil, rock or debris that has fallen, drifted or been washed from premises and become an obstruction or hazard to the safe passage of other users

Maximum penalty—50 Penalty Units.

75 Interference with council roads

- (1) In this section, “**interfere**” does not include—
 - (a) works authorised under another law or performed in accordance with a council consent;
 - (b) any temporary or urgent repair to restore an access ramp, crossing or driveway over a kerb, gutter, water channel, or verge—
 - (i) to the standards originally stated in a council consent or notice; or
 - (ii) necessary to ensure public safety.

- (2) A person must not interfere with any council road.

Examples—

- construct, repair or replace a driveway on; or
- dig up or make any opening in; or
- put up any article or structure on, in or over; or
- remove any turf or ground substance from; or
- plant any vegetation in; or
- construct a tramway or pipeline along, across, over or under;

roads.

- (3) A person must not interfere with a kerb, gutter, water channel or similar infrastructure in any road, verge or pedestrian area under the control of council.

Examples—

- mix concrete or mortar upon the surface of any street or constructed water channel or verge
- pour any liquid containing cement or mortar, or any other material which could solidify either alone or in combination with other materials, into any water channel or council drain, or into any drain connected to a council drain or to a water channel in any street

Maximum penalty—50 Penalty Units.

76 Council bridges, culverts and landings

- (1) A person must not fish from a pontoon or council bridge.
- (2) A person must not fish from any other landing—
 - (a) if it is not designated by council for that purpose; or

- (b) if it interferes with the mooring of vessels.
- (3) A person must not do anything on or near any landing or council bridge, or culvert so as to—
- (a) pose a risk to the operation of council public passenger services; or
- (b) render the bridge, culvert or landing unsafe or unhygienic.

Example for (3)(a)—

- *throwing objects off a bridge*

Example for (3)(b)—unhygienic

- *washing, gutting or scaling fish*

Maximum penalty—50 Penalty Units.

77 Council public passenger service facilities

A person must not—

- (a) enter into water from any council ferry terminal or ferry; or
- (b) fish from any council ferry terminal or ferry; or
- (c) carry out any other activity on land or at a council ferry terminal that is likely to—
- (i) interfere with the safe operation of the council ferry terminal or ferry; or
- (ii) endanger public safety on board the council ferry terminal or ferry¹³; or
- (iii) obstruct passenger or ferry movement.

Example for (c)—

- *a vessel (motorised or non-motorised) tying up to any part of a ferry terminal*
- *a person or vessel approaching by water within 10 metres of any portion of any ferry terminal*

Maximum penalty—50 Penalty Units.

78 Other unlawful use

- (1) A person must not otherwise damage or interfere with council land or property.

Example—

- *pony club horse-riding on verges*
- *driving a horse-drawn vehicle across a verge, other than at a proper crossing*

Maximum penalty—50 Penalty Units.

- (2) A person may not go on to, or stay on, or use, or attempt to use, council assets contrary to section 24.

Example—

¹³ See also section 186 of the *Transport Operations (Marine Safety) Act 1994* for provisions about unlawful interference with a ship. A ship is defined by section 10(1) of that Act.

- *Stay overnight or sleep rough at a ferry terminal*

Maximum penalty—50 Penalty Units.

79 Article confiscated by council

A person must not take delivery, or obtain possession of or remove or attempt to remove from detention, an article taken under Chapter 6 except in accordance with the provisions of Chapter 6.

Maximum penalty—50 Penalty Units.

Division 2 Offences relating to particular matters

80 What this Division is about

- (1) This division specifies offences relating to particular types of council land or particular activities.
- (2) This division does not limit the generality of Division 1 of this Part.

Subdivision 1 Offences relating to parks

81 Entry to parks

- (1) A person must not enter or remain in a park at any time that council has closed the park to public access.
Maximum penalty—50 Penalty Units.
- (2) Subsection (1) does not apply to a person who enters or remains in a park under a lease or licence agreement, or a consent, permit, approval or authorisation given by council under another law.

Subdivision 2 Offences relating to malls

82 Dogs and other animals

- (1) A person must not permit any animal to be in a mall.
Maximum penalty—20 Penalty Units.
- (2) A person permits an animal to be in a mall when—
 - (a) the person is the owner of the animal; or
 - (b) the person is leading, handling or controlling the animal, or assisting or attempting to lead, handle or control the animal; or
 - (c) the person is directing others who are engaging in the activities listed in paragraph (b).

83 Waste containers

A person must not contravene section 18.

Maximum penalty—50 Penalty Units.

84 Contravene mall traffic restriction

A person must not contravene a mall traffic restriction.

Maximum penalty—recreational vehicles—20 Penalty Units.

Other vehicles—50 penalty units.

Subdivision 3 Offences relating to vehicles

85 Intentionally deleted

86 Vehicles on council land

- (1) This section does not apply to council roads or parks.
- (2) A person must not push, wheel, drive, ride, bring or park any vehicle upon any council land, without council consent.

Maximum penalty—5 Penalty Units.

87 Contravention of sign

- (1) A person must not contravene any sign, notice, lines or markings regarding control of vehicle traffic and parking—
 - (a) on carriageways and other areas; or
 - (b) on any machine or other device;on council land¹⁴.

Maximum penalty—20 Penalty Units.

- (2) For this section, evidence that a vehicle was found stationary is evidence that the vehicle was parked or stopped.
- (3) If—
 - (a) a person commits an offence against subsection (2); and
 - (b) an infringement notice, under the *State Penalties Enforcement Act 1999*, for the offence is placed on or attached to a vehicle in relation to which the offence is committed; and
 - (c) the vehicle remains parked in the same place after the notice is affixed;then the person commits a separate and further offence under that provision, for each further time (equal to the maximum permitted time) that the vehicle remains parked in contravention of this local law.

88 Vehicles on kerbs

A person must not drive a vehicle on or across any part of a kerb, gutter or water channel except at a proper crossing.

¹⁴ This section applies subject to the *Transport Operations (Road Use Management) Act 1995*.

Maximum penalty—50 Penalty Units.

Division 3 Defence

89 Lawful excuse

- (1) It is a defence to a proceeding under this Chapter that the person had a lawful excuse.
- (2) It is a lawful excuse if a person carries out an activity under a lease or licence agreement, or a permit, approval or authorisation given by council under this or another law.

Chapter 9 Miscellaneous

90 Subordinate local laws

Council may make subordinate local laws about any of the following matters—

- (a) prohibited or regulated activities in parks or malls, or on roads;
- (b) criteria for a consent of council given under this local law¹⁵;
- (c) any other matter where this law provides for a subordinate local law.

91 Electronic communication

- (1) This section applies if an application or submission has been made in an approved form.
- (2) If the person making the application or submission lodges it with council electronically, the person is deemed to have given consent for council to give the person any information or notice about their application or submission by electronic means.
- (3) Council may elect to give the person any information or notice electronically or in paper copy.

92 Giving of notice

Whenever this local law requires written notice to be given—

- (a) the requirement for writing is satisfied whether the notice is given by paper copy or electronically; and
- (b) if the notice is given by post, the provisions of the *Acts Interpretation Act 1954* section 39 — Service of Documents, and section 39A —Meaning of service by post etc., will apply to the giving of the notice; and

¹⁵ See section 47.

- (c) if the notice is given electronically, the provisions of the *Electronic Transactions (Queensland) Act 2001* will apply to the time and place of despatch and receipt; and
- (d) the notice may be served personally.

Chapter 10 Repeal and amendment

93 Amendment of Ferries, Jetties and Pontoons Local Law

This section amends the *Ferries, Jetties and Pontoons Local Law*.

Part 1, except the definition of “ferry service” and section 4—

omit.

Part 2—

omit.

94 Amendment of Health, Safety and Amenity Local Law 2009

This section amends the *Health, Safety and Amenity Local Law 2009*.

Section 6—

omit, insert—

‘(1) This Part will not apply to fires in any of the following circumstances—

- (a) where the fire is used to cook food for human consumption in a barbeque or similar structure (but not a fire on the ground);
- (b) where there is a permit for the fire under section 65 of the *Fire and Emergency Services Act 1990*;
- (c) where the fire is required to be lit by a notice under section 69 of the *Fire and Emergency Services Act 1990*;
- (d) where the person holds a specific authority or consent under this or another law, or is specifically required by another law, to light the fire;
- (e) where the fire is used as part of theatrical performances or similar entertainment events.

(2) This Part will apply to passive fires whether used for ceremonial or other purposes but does not include the Eternal Flame at the Shrine of Remembrance Anzac Square, or any fire forming part of a Boy Scout or Girl Guide function.’

95 Amendment of Legal Proceedings Local Law

This section amends the *Legal Proceedings Local Law*.

Sections 1, 2 and 3 of Part 10—

omit.

Part 13—

omit.

96 Amendment of Parking and Control of Traffic Local Law

This section amends the *Parking and Control of Traffic Local Law*.

Part 3, except for sections 2 and 3B—

omit.

97 Amendment of Queen Street Mall Local Law

This section amends the *Queen Street Mall Local Law*.

Part 1—

omit.

Part 2—

omit.

Part 3—

Section 55(1)(c)—

omit, insert—

‘(c) is authorised by a consent granted under Chapter 7 of the *Public Land and Council Assets Local Law 2014*.’

Section 57—

omit.

Part 4—

omit.

Part 5—

omit.

Part 6—

omit.

Part 7—

omit.

98 Amendment of Streets, Bridges, Culverts, Etc. Local Law

This section amends the *Streets, Bridges, Culverts, Etc. Local Law*.

Part 1—

omit.

Part 2—

omit.

Part 4—

omit.

99 Amendment of Sundry Matters Relating to Structures Local Law

This section amends the *Sundry Matters Relating to Structures Local Law*.

Sections 3 and 4—

omit.

100 Repeal of Chinatown and Brunswick Street Malls Local Law

The *Chinatown and Brunswick Street Malls Local Law* is repealed.

101 Repeal of Foreshore and Retaining Walls Local Law

The *Foreshore and Retaining Walls Local Law* is repealed.

102 Repeal of Parks Local Law

The *Parks Local Law* is repealed.

103 Repeal of Public Health, Safety and Convenience Local Law

The *Public Health, Safety and Convenience Local Law* is repealed.

Chapter 11 Transitional and savings

104 Definition

In this Chapter, “repealed provision” means any of the provisions listed in Chapter 10.

105 Existing authorisation

- (1) An existing authorisation in force immediately before the commencement of this local law or issued under any of the repealed provisions continues in force as an authorisation under this local law until the existing authorisation expires at the time stated in the authorisation or under the law according to which the authorisation was issued.
- (2) Any conditions attached to the existing authorisation continue to apply during the term of the authorisation.

Schedule 1 Activities in malls

Section 17

Activities in malls	
Table 1—Regulated activities and prescribed penalties	
Column 1	Column 2
Regulated activity	Maximum penalty for sections 68 and 69 (penalty units)
Distributing any written material, or communicating any advertising matter by means of any placard, board, banner or article of a similar nature	20
Delivering any public address except at a location designated by council	50
Soliciting, gathering or collecting subscriptions or contributions	20
Carrying on or soliciting for any business	50
Singing, chanting, playing a musical instrument, dancing, busking, reciting, miming or entertaining other persons	20
Setting up or using any stall, stand or cooking or beverage facility for the purpose of offering for sale any goods, or for the pursuit of any business	50
Mall outdoor dining	50
Operating a mall venue	50
Stacking or storing any goods	20
Selling or exposing for sale any goods	20
Setting up any stall, stand, table or chair or cooking or beverage facility for the purposes of offering mall outdoor dining	50
Operating any tool or machinery, or using an amplifying device to amplify any word, music or sound— (a) in a mall area; or (b) on land or from a building abutting a mall; if the noise generated by the operation of the tool or machinery, or the amplified word, music or sound, is audible in the mall.	50
Each of— (a) erecting any structure; and (b) operation of a business in any such structure; and (c) permitting occupation of any structure.	50

Activities in malls		
Table 2—Prohibited activities and prescribed penalties		
Column 1	Column 2	
Prohibited activity	<i>Maximum penalty for Section 71 (penalty units)</i>	
	Individual	Corporation
Affix any notice, advertisement, sign, placard or the like to any post, tree, building, wall barrier, fence or other structure	50	
Walk on, run on or otherwise interfere with gardens or plants	20	
Throw or discharge any missile or object	20	
Spit in a mall or area abutting a mall	20	
Climb or interfere with any tree, statue or structure	20	
Wade, swim, wash or interfere with the water in any pool or pond	20	
Engage in any sporting game whether organised or impromptu	20	
Conduct a public assembly which is not authorised under the <i>Peaceful Assembly Act 1992</i>	20	
Deliberately or maliciously interrupt, disturb or frustrate other mall users and/or the conduct of any authorised ceremony or lawful gathering of people	50	
Obstruct or unreasonably disturb any person lawfully using a mall	50	
Camp, lodge, sleep rough or stay over night	20	

Schedule 2 Activities on roads

Section 23

Activities on roads

Table 1—Regulated activities

Busking whether or not with the use of amplification equipment

Conducting a promotional activity on a road or colonnade

Displaying, stacking or storing articles or vehicles on a road or colonnade

Installing or operating a vending machine on a roadside

Setting up a free newspaper dispensing machine in or on any roadside

Setting up or using in or on any road any stall, booth, stand, tables or chairs or both or standing vehicle for a purpose of or connected with the carrying on of any commercial or promotional activity

Activities on roads

Table 2—Prohibited activities

Selling a motor vehicle on or from a road

Schedule 3 Dictionary

article includes a boat.

authorised person means an appropriately qualified person appointed by council as an authorised person under the *City of Brisbane Act 2010*.

authorisation includes any form of current and valid permit, approval, and authority under any law.

Anzac Square means the area known as Anzac Square.

boat includes a canoe, kayak, jet-ski or other vessel or watercraft of any description.

building includes any structure (whether or not it is roofed) that is wholly or partly enclosed by one or more walls, and a part of a building.

carriageway means the part of a road designed for the driving of vehicles.

Chinatown Mall means the area administered as Chinatown Mall at the date of commencement of this local law and any subsequent extensions of that area.

colonnade means the part of land or building erected on the land—

- (a) that abuts a road or mall; and
- (b) that separates the road or mall from the external wall or interior of any building on the land; and
- (c) to which the public has unrestricted access.

commercial element, for an activity, means involving the exchange of goods or services for a fee or other consideration.

consent includes—

- (a) any sign or written authorisation;
- (b) any instrument evidencing the issue through a council system of a consent to a self-assessable activity.

council assets means council land and council property.

council land includes any land or premises owned, or held under any tenure, by council, or controlled by council under any law.

council property includes any article, infrastructure, vehicle or vessel owned, or controlled by council under any law.

council road means a road under the control of council.

designated area means an area of the city designated in an activity designation under section 57.

ferry terminal includes any structure that is owned, controlled or occupied by council for the purpose of operating a ferry service.

foreshore means that portion of the seafront, between high water and low water.

hazardous has the meaning given in section 100(2) of the *Transport Operations (Road Use Management) Act 1995*.

information notice see section 46(3).

infrastructure, for council assets, includes all constructed fixtures, other than buildings, in or on council land. In a park, infrastructure includes infrastructure constructed or placed in the park but not the park itself.

Examples for a park—

Benches, seats, playground equipment

interfere, for vegetation, has the meaning given in the *Natural Assets Local Law 2003*.

King George Square means the area known as King George Square.

landing includes any jetty, pier, wharf, pontoon, gangway, buoyant landing platform, steps or structure, other than a ferry terminal, that is owned, controlled or occupied by, or leased to, council for the general use of the public.

mall, where the context permits, means any or all of—

- (a) Queen Street Mall;
- (b) Chinatown Mall;
- (c) The Valley Mall.

mall outdoor dining means the accommodation or serving of food or drink or both by any person to patrons or customers in any area of a mall.

mall venue means premises in a mall occupied by a person under a consent issued by council that is open to the public at any time or for certain hours for purposes which may include regulated activities, and includes a part of the premises.

Musgrave Park means the area known as Musgrave Park.

natural areas are those bushlands, wetlands, waterways and habitat corridors that are managed as natural areas under any outdoor recreation, environmental, or natural areas asset management strategy for Brisbane's natural areas, adopted by council from time to time.

operate, for a mall venue, means open the mall venue to the public.

owner, where the context permits, includes—

- (a) the owner for the time being of; and
 - (b) a person in control of;
- land, premises or a chattel; and
- (c) an occupier of land.

Parks see section 8.

Planning Act has the meaning given in the *Natural Assets Local Law 2003*.

pedestrian includes—

- (a) a person in a motorised wheelchair that cannot travel over 10km/h; and
- (b) a person in a non-motorised wheelchair.

Personal mobility device has the meaning given by Schedule 4 of the *Transport Operations (Road Use Management) Act 1995* and section 15A of the *Transport Operations (Road Rules) Regulation 2009*

Post Office Square means the area known as Post Office Square.

Queen Street Mall means the area administered as Queen Street Mall at the date of commencement of this local law and any subsequent extensions of that area.

reserve has the meaning given in the *Land Act 1994*.

road means—

- (a) an area that is dedicated to public use as a road; or
- (b) an area that is open to or used by the public and is developed for, or has as one of its uses, the driving or riding of motor vehicles, whether on payment of a fee or otherwise.

self-assessment see section 45.

temporary park means land being administered by council as a park for a limited period before being used for another purpose.

The Valley Mall means the area administered as The Valley Mall at the date of commencement of this local law and any subsequent extensions of that area.

vehicle includes caravans, trailers and any type of transport that moves on wheels, other than a personal mobility device, a bicycle, a wheeled recreational device or a wheeled toy.

wheeled recreational device and wheeled toy have the respective meanings given by the *Transport Operations (Road Use Management—Road Rules) Regulation 2009*.

vegetation has the meaning given in the *Natural Assets Local Law 2003*.

verge means the part of a road between the carriageway and the boundary of the adjacent lot or other limit to the road.

wildlife includes their eggs and nests.

Endnotes

Key

Key to abbreviations in list of amendments

Key	Explanation
amd =	amended
Ch =	chapter
def =	definition
Div =	division
hdg =	heading
ins =	inserted
om =	omitted
pres	present
prev	previous
Pt =	part
renum =	renumbered
rep =	repealed
s =	section
sch =	schedule
sub =	substituted

List of amendments

Chapter 6 **Removal, storage, sale or disposal of vehicles and other articles**

s.37	amd	<i>Health, Safety and Amenity Local Law 2021 s.65(1)</i>
s.38	amd	<i>Health, Safety and Amenity Local Law 2021 s.65(2)</i>
s.41	amd	<i>Health, Safety and Amenity Local Law 2021 s.65(3)</i>

Chapter 8 **Enforcement**

s.65	amd	<i>Health, Safety and Amenity Local Law 2021 s.65(4)</i>
s.85	amd	<i>Health, Safety and Amenity Local Law 2021 s.65(5)</i>

Dictionary

Sch 3	om	“abandoned”	<i>Health, Safety and Amenity Local Law 2021 s.65(6)</i>
Sch 3	om	“unregistered vehicle”	<i>Health, Safety and Amenity Local Law 2021 s.65(6)</i>