

Subordinate Local Law No. 11.1

(Interference with a Road) 2008

Consolidated version

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Subordinate Local Law No. 11.1 (Interference with a Road) 2008
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by the Council of the City of Gold Coast by resolution dated 4 April 2014

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Council of the City of Gold Coast Subordinate Local Law No. 11.1 (Interference with a Road) 2008

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Council of the City of Gold Coast Subordinate Local Law No. 11.1 (Interference with a Road) 2008

Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 11.1 (Interference with a Road) 2008*.

2 Authorising local law

This subordinate local law is made pursuant to *Local Law No. 11 (Roads and Malls) 2008*.

3 Object

The object of this subordinate local law is to assist in the implementation of *Local Law No. 11 (Roads and Malls) 2008* by ensuring that the operation of a regulated activity being interference with a local government road does not result in personal injury or property damage or detrimentally affect the amenity of the area in which it is operated.

4 Definitions—the dictionary

The dictionary in the Schedule (Dictionary) of this subordinate local law defines particular words used in this subordinate local law.

Part 2 Interference with a road

5 Application for a permit

For the purposes of section 12(1)(c)(iv) of *Local Law No. 11 (Roads and Malls) 2008*, an application for a permit for the operation of a regulated activity being interference with a road must, unless otherwise required by the local government be accompanied by—

- (a) the name, street address, telephone number, facsimile number and email address of the person to be operating the regulated activity; and
- (b) the trading name, street address, telephone number, facsimile number and email address, registered business name and Australian Company name of the business under which the regulated activity is to be operated; and
- (c) details of all public liability insurance held by the person to be operating the regulated activity; and

- (d) in the case of driving or using a horse drawn vehicle or pedicab on a local government road for the purpose of carrying passengers—
 - (i) details of the vehicle, including type and specifications; and
 - (ii) a statement by the owner of the vehicle that the vehicle complies with the *Transport Operations (Road Use Management) Act 1995*; and
 - (iii) details of the horses to be used including—
 - (A) the condition and fitness of the horses; and
 - (B) veterinary certificates; and
 - (C) the address where the horses are to be stabled; and
 - (iv) details of the route to be used, including the primary location for the pick-up and set down of passengers; and
 - (v) the hours of operation of the activity, including a proposed timetable; and
 - (vi) the name, address and telephone number of the persons who will be driving the vehicle, including details of their experience in operating such vehicles; and
- (e) in the case of the use of a motor vehicle in a mall, evidence that the vehicle is regularly used—
 - (i) to deliver goods or pick up goods from premises adjacent to a mall; and
 - (ii) to provide services to premises adjacent to a mall; and
 - (iii) for a special purpose in connection with premises adjacent to a mall; and
- (f) in the case of taking an animal into a mall—
 - (i) details of the proposed place or places for which approval is sought to be granted; and
 - (ii) the name, address and telephone number of—
 - (A) the owner of the animal; and
 - (B) the person who will control the animal; and
 - (iii) details of the activities involving the animal; and

- (g) in the case of the use of a mall for any other purpose which interferes with the mall, details of the proposed place or places for which approval is sought to be granted; and
- (h) in the case of road excavation work—
 - (i) details of the road excavation work including—
 - (A) the dimensions of the work and construction techniques; and
 - (B) when, where and how the road excavation work is to be undertaken; and
 - (ii) a site plan to scale and specifications of the road excavation work to be undertaken; and
 - (iii) details of all relevant insurances held by the person who will be undertaking the road excavation work.

6 Grant of a permit

- (1) For the purposes of section 13(1)(g) of *Local Law No. 11 (Roads and Malls) 2008*, the local government is to in assessing an application for the grant of a permit for the operation of a regulated activity being interference with a road, have regard to the following assessment criteria—
 - (a) whether the matters the subject of the conditions specified in section 7 (Conditions of a permit) of this subordinate local law which are relevant to the operation of the regulated activity can be adequately addressed by the imposition of those conditions; and
 - (b) whether the operation of the regulated activity will—
 - (i) unduly obstruct pedestrian or vehicular traffic; or
 - (ii) prejudice the safety of pedestrian or vehicular traffic; or
 - (iii) prejudice the maintenance of a road; or
 - (iv) affect the amenity or heritage significance of an area; and
 - (c) whether in the case of the use of a motor vehicle in a mall—
 - (i) the motor vehicle is used—
 - (A) to deliver goods or pick up goods from premises adjacent to a mall; or
 - (B) to provide services, other than personal transportation to premises adjacent to a mall; or

- (C) for a special purpose in connection with premises adjacent to a mall; and
- (ii) the vehicle is used between the hours of 10:00pm on one day and 10:00am on the next day; and
- (d) whether in the case of the driving or using of a horse drawn vehicle or a pedicab on a road for the purpose of carrying passengers—
 - (i) the horse drawn vehicle pedicab is in a clean and safe condition; and
 - (ii) the driving or using of the horse drawn vehicle or pedicab will not have an adverse impact upon the efficient operation of nearby commercial premises; and
 - (iii) the person driving or using the horse drawn vehicle or pedicab—
 - (A) holds a current Australian driver license; and
 - (B) has not been the holder of a permit which has been cancelled pursuant to section 18(1)(b), (c), (d) or (e) of *Local Law No. 11 (Roads and Malls) 2008*; and
- (e) whether in the case of road excavation work, the road excavation work will—
 - (i) unduly obstruct pedestrian or vehicular traffic; or
 - (ii) prejudice the safety of pedestrians or vehicular traffic; or
 - (iii) prejudice the structural integrity or proper maintenance of a road.
- (2) However the local government may grant a permit for the operation of a regulated activity under subsection (1), even if the interference with a local government road does not comply with the assessment criteria specified in subsection (1), if the inference with the road will substantially increase the commercial activity or amenity of the area in which the interference with a road is to be located.

7 Conditions of a permit

- (1) For the purposes of section 15(3) of *Local Law No. 11 (Roads and Malls) 2008*, the local government may impose all or any of the following conditions on a

permit for the operation of a regulated activity being an interference with a road¹—

- (a) An interference with a road must comply with all relevant laws, including—
 - (i) the *Environmental Protection Act 1994*; and
 - (ii) the *Environmental Protection (Water) Policy 2009*; and
 - (iii) the *Environmental Protection (Noise) Policy 2008*; and
 - (iv) the *Environmental Protection (Air) Policy 2008*; and
 - (v) the *Environmental Protection (Waste Management) Regulation 2000*.
- (b) An interference with a local government road must not constitute a nuisance pursuant to *Local Law No. 8 (Public Health, Safety and Amenity) 2008*.
- (c) All hazardous materials used as part of an interference with the road must be stored and used in a safe manner.
- (d) Trade waste from an interference with a road must be disposed of in accordance with an approval under the *Water Supply (Safety and Reliability) Act 2008*.
- (e) All waste, including waste water, generated as part of an interference with a road—
 - (i) must be disposed of in a safe and sanitary manner and in accordance with the *Environmental Protection Act 1994*, *Environmental Protection (Waste Management) Regulation 2000* and the *Water Supply (Safety and Reliability) Act 2008*; and
 - (ii) must be disposed of in a manner which maintains the interference with a road and its surrounds in a clean, tidy, sanitary and hygienic condition; and
 - (iii) must be kept so as not to attract pests; and
 - (iv) must not be disposed of into waters or a watercourse; and

¹ This section prescribes, for the purposes of section 15(3) of *Local Law No. 11 (Roads and Malls) 2008*, the conditions that will ordinarily be imposed on a permit. However, the local government may, pursuant to section 15(1) of *Local Law No. 11 (Roads and Malls) 2008*, grant a permit on any conditions the local government considers appropriate.

- (v) including a spillage of a waste, a contaminant or another material must—
 - (A) be cleaned up immediately; and
 - (B) not be cleaned up by hosing, sweeping or otherwise releasing the waste, contaminant or material to any stormwater system or waters.
 - (f) All waste water generated during or from an interference with a road must be discharged safely to the sewerage system or an on-site sewerage facility.
 - (g) Waste containers sufficient to accommodate the collection and storage of all waste generated as part of the interference with a road must be—
 - (i) provided in the manner and locations specified by the local government; and
 - (ii) regularly cleaned and maintained in a clean, tidy, sanitary and hygienic condition; and
 - (iii) designed and constructed to prevent access to pests and to be easily and effectively cleaned and disinfected.
 - (h) The permit number issued by the local government, the local government issuing the permit and details of the interference with a road must be prominently and permanently displayed in letters and numbers not less than fifty (50) mm in height to enable it to be viewed by members of the public eg. *GCCC – Interference with a local government road [insert permit number]*.
 - (i) The person operating the interference with a road must hold a broadform public liability insurance policy on those terms and conditions as regulated by the local government from time to time.
- (2) For the purposes of section 15(3) of *Local Law No. 11 (Roads and Malls) 2008*, the local government may impose all or any of the following conditions for a permit for interference with a local government road in the case of driving or using a vehicle in a mall²—
- (a) The label issued by the local government to identify a vehicle as a designated vehicle must be—
 - (i) clearly displayed on the left hand extremity of the windscreen; or

² This section prescribes, for the purposes of section 15(3) of *Local Law No. 11 (Roads and Malls) 2008*, the conditions that will ordinarily be imposed on a permit. However, the local government may, pursuant to section 15(1) of *Local Law No. 11 (Roads and Malls) 2008*, grant a permit on any conditions the local government considers appropriate.

- (ii) if the vehicle does not have a windscreen, in a prominent position.
- (3) For the purposes of section 15(3) of *Local Law No. 11 (Roads and Malls) 2008*, the local government may impose all or any of the following conditions for a permit for interference with a road in the case of the driving or using of a horse drawn vehicle or a pedicab on a road for the purpose of carrying passengers³—
- (a) The vehicle must be kept in a condition which is, in the opinion of an authorised person, clean, safe and fit for the conveyance of passengers.
 - (b) The horses must be fit and kept in a good condition.
 - (c) The person driving the vehicle must be in a clean and presentable condition.
 - (d) The operation of the activity must not be conducted outside the hours of 6.00pm to 6.00am the following day.
 - (e) The vehicle and the operation of the vehicle must comply with all relevant legislation, including the *Transport Operations (Road Use Management) Act 1995*.
 - (f) A pick-up and set-down area must be kept in a condition which is, in the opinion of an authorised person, clean and tidy.
 - (g) The driver of the vehicle must at all times be close enough to the vehicle to be able to maintain adequate control over the vehicle and the horse.
 - (h) The driver of the vehicle must ensure that appropriate measures are taken to—
 - (i) prevent manure dropping onto a road; and
 - (ii) remove any manure that drops onto a road; and
 - (iii) ensure that no overloading of the vehicle occurs.
 - (i) The local government must be notified immediately of any of the following—
 - (i) the vehicle being replaced with another vehicle; and
 - (ii) a horse being replaced with another horse; and

³ This section prescribes, for the purposes of section 15(3) of *Local Law No. 11 (Roads and Malls) 2008*, the conditions that will ordinarily be imposed on a permit. However, the local government may, pursuant to section 15(1) of *Local Law No. 11 (Roads and Malls) 2008*, grant a permit on any conditions the local government considers appropriate.

- (iii) any change to the route used, including the pick-up and set-down location; and
- (iv) any change to the timetable; and
- (v) any change to the hours of operation.
- (j) The name, address and telephone number of the holder of the permit must be prominently and permanently displayed on both sides of the vehicle or pedicab.
- (k) The permit number issued by the local government, the local government issuing the permit and details of the activity must be prominently and permanently displayed on the rear of the vehicle to enable it to be viewed by members of the public eg. *GCCC – Driving a horse drawn vehicle or pedicab [insert permit number]*.
- (4) For the purposes of section 15(3) of *Local Law No. 11 (Roads and Malls) 2008*, the local government may impose all or any of the following conditions on a permit for the undertaking of road excavation work⁴—
 - (a) The holder of the permit is to pay any general charge applicable to the road excavation work.
 - (b) The holder of the permit is to provide a monetary guarantee to secure the cost of the local government having to rectify any interference with a local government road.
 - (c) The road excavation work must not interfere with the structure of the local government road for a period that is longer than is reasonably required to complete the road excavation work.
 - (d) The holder of the permit must, within seven days after completion of the road excavation work—
 - (i) ensure that all wastes (including surplus soil, earth and other materials) generated by the road excavation work are lawfully disposed of as directed by the local government; and
 - (ii) make good the structure of the local government road to the satisfaction of the local government.
 - (e) The holder of the permit must maintain the structure of the local government road without defect, to the satisfaction of the local government, for a period of six months after the completion of the road excavation work, unless otherwise required by the local government.

⁴ This section prescribes, for the purposes of section 15(3) of *Local Law No. 11 (Roads and Malls) 2008*, the conditions that will ordinarily be imposed on a permit. However, the local government may, pursuant to section 15(1) of *Local Law No. 11 (Roads and Malls) 2008*, grant a permit on any conditions the local government considers appropriate.

- (f) The holder of the permit must ensure the safety of pedestrians and traffic by providing and maintaining appropriate signage and barrier protection, in accordance with the Manual of Uniform Traffic Control Devices for Works on Roads and the *Workplace Health and Safety Act 1995*, for the duration of the road excavation works.

Part 3 Enforcement

8 Records to be kept

For the purposes of section 23 (Records to be kept) of *Local Law No. 11 (Roads and Malls) 2008*—

- (a) records must be kept by the person operating a regulated activity being an interference with a road; and
- (b) the records must contain copies of details of—
 - (i) any public liability insurance policies or vehicle insurance policies relating to the interference with a road; and
 - (ii) in the case of driving or the using of a horse drawn vehicle on a road for the purpose of carrying passengers, any veterinary certificate for the horses used as part of the activity; and
- (c) the records must be kept for a period of seven years.

Schedule Dictionary

section 4

Australian driver license has the meaning given in the *Transport Operations (Road Use Management) Act 1995*.

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