

LOCAL GOVERNMENT ACT 1995
City of Joondalup
Trading in Public Places Amendment Local Law 2009

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Joondalup resolved on 15 September 2009 to make the following local law.

1. Citation

This local law may be cited as the *City of Joondalup Trading in Public Places Amendment Local Law 2009*

2. Repeal

The *City of Joondalup Trading in Public Places Amendment Local Law 2008*, published in the *Government Gazette* No 205 of 5 December 2008 is hereby repealed.

3. Principal local law

In this local law the *City of Joondalup Trading in Public Places Local Law 1999* published in the *Government Gazette* No 162 of 27 August 1999 and as amended and published in the *Government Gazette* No 205 of 5 December 2008 and the *Government Gazette* No 136 of 10 July 2000 is referred to as the principal local law. The principal local law is amended as follows.

4. Clause 6 amended

In clause 6, insert the following definitions in the appropriate alphabetical order:

- (a) ““licence plan” means a plan attached to and forming part of a licence depicting the parts of a street or public place within which an outdoor dining area may be set up and conducted;” and
- (b) ““licenced outdoor dining area” means the area depicted on a licence plan;”.

5. Clause 14 amended

Clause 14 is deleted in its entirety and the following is inserted in its place –

“14.(1) No person shall set up or conduct an outdoor dining area in a portion of street or public place:

- (a) that is not adjoined to an eating house;
 - (b) unless the person is the proprietor of an eating house adjoining that outdoor dining area; and
 - (c) unless the person is the holder of a current and valid licence for that outdoor dining area.
- (2) No person shall set up or conduct an outdoor dining area otherwise than in accordance with –
- (a) the licence plan for that outdoor dining area; and
 - (b) any condition specified in the licence for that outdoor dining area.
- (3) No person shall set up or conduct an outdoor dining area that prohibits public access to that area unless that area is located on private land.
- (4) From the date of commencement of this local law—
- (a) No person shall smoke in a licenced outdoor dining area; and
 - (b) Where a licensee of an eating house is aware or could reasonably be expected to be aware that a person is smoking in a licenced outdoor dining area, then the licensee shall—
 - (i) inform the person smoking that the person is committing an offence; and
 - (ii) request the person to leave the licenced outdoor dining area until the person has finished smoking.

(c) Licensees must ensure that visible signage is available to indicate to patrons that smoking is prohibited within the licenced outdoor dining area.”

6. Clause 17 amended

- (a) In clause 17(e)(vi) delete the words “, foodstuffs and cigarette ends” and insert the words “and foodstuffs” in its place;
(b) Clause 17(e)(vii) is deleted in its entirety; and
(c) In clause 17(e)(viii) delete the words “, cigarette butts,”.

7. Clause 18 amended

In clause 18 insert the word “licence” before the words “plan” and “plans”.

8. First Schedule amended

The table is amended as follows –

- (a) In Item 1, delete clause number “14(a)” and insert “14(1)(a)” in its place.
(b) In Item 2, delete clause number “14(b)” and insert “14(1)(b)” in its place.
(c) In Item 3, delete clause number “14(c)” and insert “14(1)(c)” in its place.
(d) In Item 4, delete clause number “14(d)” and insert “14(2)” in its place.
(e) A new prescribed offence and modified penalty is inserted in the appropriate clause order –

4A	14(4)(a)	Smoking in a licenced outdoor dining area.	200
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- (f) A new prescribed offence and modified penalty is inserted in the appropriate clause order –

4B	14(4)(b)	Failure of licensee to comply with requirements under clause 14(4)(b).	100
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- (g) A new prescribed offence and modified penalty is inserted in the appropriate clause order –

4C	14(4)(iii)	Failure to erect visible no smoking signage	50
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