



**MORNINGTON
PENINSULA**
Shire

COMMUNITY AMENITY LOCAL LAW 2022

This Local Law was made by resolution of Council on 23 August 2022,
and commenced on 5 October 2022.

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Incorporated by reference

- Signage Policy
- Commercial Activities on Footpaths Policy
- Building and Works Code of Practice
- Control and Management of Itinerant Traders Policy
- Waste Contamination Policy

PART 1**INTRODUCTORY****1. Title**

This Local Law is the Community Amenity Local Law 2022 of the Mornington Peninsula Shire.

2. Objectives of this Local Law

The objectives of this Local Law are to prohibit, regulate and control uses and activities to:

- (a) provide for the peace, order, and good government of the *Municipal District* of the Mornington Peninsula Shire;
- (b) promote a physical and social environment in which residents and visitors to the *Municipal District* can enjoy a quality of life that meets the general expectations of the community;
- (c) prevent and suppress nuisances which may adversely affect the enjoyment of life within the *Municipal District* or the health, safety, and welfare of persons within the *Municipal District*;
- (d) prohibit, regulate, and control activities which may be dangerous or unsafe or detrimental to a person's health, amenity, or the environment;
- (e) provide for fair access and use of Council and community assets and prescribe measures to protect those assets; and
- (f) prescribe requirements for the administration and enforcement of the Local Law.

3. Authorising Provision

This Local Law is made under section 71 of the *Local Government Act 2020*.

4. Operation Date

This Local Law comes into operation on 5 October 2022.

5. Revocation Date

This Local Law ceases to operate on 5 October 2032, unless revoked sooner by Council.

6. Repeal of Local Law

From the commencement of this Local Law, the General Purposes Local Law – 2012 that came into operation on 5 October 2012, is repealed.

7. Application of the Local Law

This Local Law applies and has operation throughout the whole of the *Municipal District*.

8. Definitions

Unless the contrary intention appears in this Local Law, the following words are defined to mean:

WORDS	MEANING
Act	The <i>Local Government Act 1989</i> and/or <i>Local Government Act 2020</i> .
Acceptable no smoking sign	Has the same meaning as in the <i>Tobacco Act 1987</i> .
Advertising sign	Includes any placard, inflatable sign, portable electric sign, illuminated, revolving, spinning, or flashing sign, flag, banner, A-frame structure and other object or similar sign, being of a fixed or transient nature including being affixed to a vehicle, trailer, bicycle, tricycle, trolley, or other object.
Animal	Carries the ordinary meaning of animal but also includes a bird, a dog, a cat, a pig, cattle, a horse, sheep, a goat, poultry, rabbit, ferret, a reptile and an insect.
Animal Owner	Includes a person who keeps or who harbours an animal or has an animal in his or her care for the time being, whether such animal is at large or in confinement.
Applicable Organisation	Has the same meaning as in the <i>Domestic Animals Act 1994</i> .
Appointed agent	The person authorised in writing by an owner of a building or land to make an application, appeal, referral, or representation on their behalf.
Approved household waste bin	Means a garbage bin or recycling bin or green waste bin or other designated bin as defined in Council's <i>Waste Contamination Policy</i> .
Assistance animal	Has the same meaning as in the <i>Disability Discrimination Act 1992 (Cth)</i> .
Assistance dog	Has the same meaning as in the <i>Equal Opportunity Act 2010</i> .
Authorised Officer	Any person appointed by Council to be an Authorised Officer under section 224 of the <i>Local Government Act 1989</i> .
Builder	A person who has been nominated as the builder on the building permit and if no such application has been made, the person in charge of the building work being carried out, the person actually conducting the work and includes the owner of the land on which the work is being carried out.
Building	Includes any structure or building, whether temporary or permanent, or any part of such building or structure.
Building Site	Any land on which building work is carried out.
Building work	Includes any work for or in connection with: <ol style="list-style-type: none"> (a) the construction, demolition, renovation, alteration or removal of any building or structure or earthworks such as excavation, digging or boring; and (b) delivery and removal of goods or materials.

Definitions (Cont'd)**WORDS****MEANING**

Building and Works Code of Practice	Means the <i>Building and Works Code of Practice</i> adopted by Council on 24 September 2012 as may be amended from time to time by Council resolution and which is incorporated in this Local Law.
Bulk rubbish container	A bin, skip or other container used for the deposit of waste, but excludes an approved household waste bin.
Busk	Means the sounding or playing of a musical instrument, singing, giving a recitation, or performing any conjuring, juggling, puppetry, mime, dance, footpath art or other entertainment or doing any of those things concurrently.
Camp	The use of a tent, a sleeping bag, a caravan, mobile home, or any other moveable vehicle to provide accommodation.
Chief Executive Officer	The Chief Executive Officer of the Council or any person acting in that position and includes a person authorized by the Chief Executive Officer to act on his or her behalf in relation to this Local Law.
Clothing recycling bin	A bin or similar structure used for the collection of used clothing (whether or not it is used for the collection of other goods).
Commercial Activities on Footpaths Policy	Means the Commercial Activities on Footpaths Policy adopted by Council on 13 October 2008 as may be amended from time to time by Council resolution and which is incorporated in this Local Law.
Container	A suitable rubbish container capable of restricting debris and other waste from leaving a building site.
Control and Management of Itinerant Traders Policy	Means the Control and Management of Itinerant Trader Policy adopted by Council on 20 June 2005 as may be amended from time to time by Council resolution and which is incorporated in this Local Law.
Council	The Mornington Peninsula Shire Council.
Corporation	Has the same meaning as in the <i>Corporations Act 2001</i> .
Council land	Means any land, buildings, assets, and facilities which are owned, occupied, or vested in the Council or in respect of which the Council has the care and management and to which the public has access or ought to have access to, whether an entry fee is paid or not.
Designated material	Means material as defined in Council's <i>Waste Contamination Policy</i> .
Dwelling	Any building or portion of a building which is used, intended, adapted, or designed for use for living.
Electric fence	Has the same meaning as in the <i>Australian/New Zealand Standard 3016.2002</i> .
Electric scooter	Has the same meaning as in the <i>Road Safety Road Rules 2017</i> .
Event	Means an organised recreational, cultural, commercial, or social event or a gathering of people, and includes a procession, festival, and street party.
Footpath	Has the same meaning as in the <i>Road Safety Road Rules 2017</i> .

Definitions (Cont'd)

WORDS	MEANING
Friable asbestos	Has the same meaning as in the <i>Environment Protection Regulations 2021</i> .
Frontage	A boundary between a property and an adjoining road. If a property adjoins more than one road, the frontage is the boundary between the property and the road to which the largest building on the property fronts.
Hazardous substance	Has the same meaning as in the <i>Environment Protection Regulations 2021</i> .
Hoon event	Means one or more motor vehicles being driven in a manner that intentionally or recklessly leads to the motor vehicle/s: (a) losing traction; (b) racing; (c) time trialling; or (d) emitting undue noise or smoke.
Incinerator	A structure, device or piece of equipment which is designed, adapted, used or capable of being used for the burning of any material or substance and which is not: (a) enclosed in any building; (b) a barbecue; or (c) licensed under the provisions of the <i>Environment Protection Act 2017</i> .
Infringement notice	Has the same meaning as in the <i>Infringements Act 2006</i> .
Land	Has the same meaning as in the <i>Interpretation of Legislation Act 1984</i> and includes any Council land or private land in separate or joint ownership or occupation.
Litter	Has the same meaning as in the <i>Environment Protection Act 2017</i> .
Litter device	An apparatus, which can be used for the purpose of removing animal excrement and includes a paper or plastic bag.
Miniaturised motor cycle	Has the same meaning as in the <i>Road Safety Act 1986</i> .
Minor building work	Building work valued at less than \$10,000 but excludes demolition and removal of buildings and structures and the installation of swimming pools (regardless of value).
Motor vehicle	Has the same meaning as in the <i>Road Safety Act 1986</i> .
Moveable Advertising Sign	Any moveable board, notice, structure, banner, or other similar device used for the purposes of notifying a sale, soliciting sales, or notifying people of the presence of an adjacent property where goods or services may be obtained.
Municipal District	The Municipal District of the Council.

Definitions (Cont'd)

WORDS	MEANING
Municipal place	Means any building which is on Council land and includes a public library and any recreation centre which is owned, occupied or under the management or control of Council.
Noxious weeds	Has the same meaning as in the <i>Catchment and Land Protection Act 1994</i> .
Occupier	Means the person in charge or having the management or control of the land and includes the owner of the land, a lessee and a licensee of the land.
On-site wastewater management system	Has the same meaning as in the <i>Environment Protection Regulations 2021</i> .
Operator	Means the person who was driving or in charge of the vehicle at the time when it was involved in the commission of a relevant offence.
Penalty unit	Has the same meaning as in the <i>Sentencing Act 1991</i> .
Person	Includes a natural person, a corporation, an association incorporated under the <i>Associations Incorporation Reform Act 2012</i> , a partnership, an unincorporated association and a public statutory corporation constituted by or under any law of the State of Victoria, any other State or Territory of the Commonwealth or the Commonwealth.
Policy	A policy applied by Council from time to time for the purpose of the particular provision in which the term is used.
Poultry	Includes ducks, chickens, geese, peacocks, pheasants, turkeys, and guinea fowl.
Permit	A permit in writing issued for the purpose of the particular provision in which the term is used.
Planning Scheme	Means the Mornington Peninsula Planning Scheme.
Power-assisted pedal cycle	Has the same meaning as in the Vehicle Standard (Australian Design Rule – Definitions and Vehicle Categories) 2005 determined under section 7 of the <i>Motor Vehicle Standards Act 1989</i> .
Premises	Includes a building, land, flat, unit, house and dwelling but does not include any building, land, flat, unit, home or dwelling owned or under the control of Council.
Prescribe and prescribed	Means determined and resolved by Council.
Public body	Any government department or body established for a public purpose by or under an Act of the Parliament of Victoria, any other State or Territory of the Commonwealth, or the Commonwealth, and includes any water authority established by or under such Acts.
Public place	Has the same meaning as in the <i>Summary Offences Act 1966</i> .

Definitions (Cont'd)

WORDS	MEANING
Recreational vehicle	<p>Any miniaturised motor cycle, trail bike, motor cycle, motor scooter, go-cart, four-wheel drive vehicle or other vehicle propelled by a motor, which can be used for recreational purposes, but does not include:</p> <p>(a) a motorised wheelchair;</p> <p>(b) a power-assisted pedal cycle that meets the legislative requirements;</p> <p>(c) an electric scooter that meets the legislative requirements; or</p> <p>(d) a vehicle whilst engaged in legitimate farming activities.</p>
Residential area	Means land within one of the Residential Zones of the Planning Scheme.
Retailer	A person who sells goods by retail and who provides trolleys to customers.
Road	Has the same meaning as in the <i>Local Government Act 1989</i> .
Reserve	Means Council land which is dedicated or used for outdoor cultural, environmental, sporting, or recreational purposes and includes sporting reserves, bushland reserves, foreshore areas, beaches, wetlands, parks and gardens and other like spaces.
Sell or sold	<p>Means the ordinary meaning of sell or sold and includes -</p> <p>(a) sell by means of any machine, electronic device, or mechanical device;</p> <p>(b) hire;</p> <p>(c) barter or exchange for sale or hire;</p> <p>(d) offer or expose or display for sale or hire;</p> <p>(e) advertise for sale or hire;</p> <p>(f) keep or have in possession for sale or hire; or</p> <p>(g) agreeing to, directing, causing, or attempting to sell or hire.</p>
Signage Policy	Means the Signage Policy adopted by Council on 1 September 2012 as may be amended from time to time by Council resolution and which is incorporated in this Local Law.
Smoke	Has the same meaning as in the <i>Tobacco Act 1987</i> .
Smoke free area	Means any area prescribed by Council.
Smoke free event	Means an organised recreational, cultural, commercial, or social event or a gathering of people which is held on Council land and prescribed by Council or determined by an <i>Authorised Officer</i> and it includes a procession, festival, and street party.
Street furniture	Includes furniture used for outdoor dining such as tables and chairs, and ancillary equipment such as gas heaters, screens, planter boxes, umbrellas, blinds, menuboards, and awnings.

Definitions (Cont'd)

WORDS	MEANING
Street litter bin	Means a receptacle provided by Council in a public place to receive packaging, papers and other litter arising during the occupation or use of the public place by any person.
Tobacco product	Includes an e-cigarette; and both tobacco product and e-cigarette have the same meaning as in the <i>Tobacco Act 1987</i> .
Toy vehicle	Includes: (a) a vehicle designed to be propelled by human power and includes a scooter, skateboard, roller skates, roller blades and like toys; or (b) a remote control vehicle.
Trade waste	Any waste, refuse, slops, or other matter arising from or generated by any trade, industry, or commercial undertaking.
Trade waste bin	A purpose-built container for the deposit of trade waste.
Trail bike	Means a motorcycle for use on rough terrain.
Unreasonable noise	Has the same meaning as in the <i>Environment Protection Act 2017</i> .
Use	In relation to a vehicle means park, ride, or drive.
Utility	Has the same meaning as in the <i>Road Management Act 2004</i> .
Vehicle	Has the same meaning as in the <i>Road Safety Act 1986</i> .
Vehicle owner	Means the person who is the registered owner of the motor vehicle or has immediate right to the possession of the vehicle or the person who appears to be in control of the vehicle.
Vermin	Has the same meaning as in the <i>Catchment and Land Protection Act 1994</i> , and includes cockroaches, bedbugs, European wasps, and rats.
Waste Contamination Policy	Means the <i>Waste Contamination Policy</i> adopted by Council on 23 February 2021 as may be amended from time to time by Council resolution and which is incorporated in this Local Law.
Work	Includes: <ul style="list-style-type: none"> (a) excavating, digging holes and landscaping; (b) erecting fencing, hoarding and scaffolding; (c) using a mobile crane or travel tower or similar; (d) constructing, removing, or altering a vehicle crossing; and (e) installing fences, barriers or other items that restricts access to or movement on a road.

PART 2**YOUR PROPERTY****9. Unsightly Land**

- (1) An occupier of *land* must not keep or allow another person to keep that *land* in a manner which is, in the opinion of *Council* or an *Authorised Officer*:
 - (a) unsightly; or
 - (b) detrimental to the general amenity of the neighbourhood in which it is located.
- (2) Without limiting the generality of Clause 9(1), *land* may be unsightly or detrimental to the general amenity of the neighbourhood in which it is located by the presence of:
 - (a) disused excavation;
 - (b) a *building* which is incomplete and not currently being constructed;
 - (c) unconstrained rubbish, litter, waste material or any stockpile that adversely affects the amenity of the land or neighbourhood;
 - (d) growth of vegetation and undergrowth exceeding a height of 200 millimetres;
 - (e) second-hand materials, scrap metal, building materials or building refuse;
 - (f) derelict *vehicles* and machinery, or *vehicle-* or machinery parts;
 - (g) graffiti on exterior walls of buildings or fences; or
 - (h) any material or substance that makes the land out of character with the appearance of other land in the neighbourhood, irrespective of whether it can be seen from a neighbouring property or a *public place*.

10. Dilapidated Building

- (1) An *occupier* of *land* must not allow a *building* located on the *land* to:
 - (a) become dilapidated; or
 - (b) become further dilapidated,and must maintain any such *building* in a state of good repair.
- (2) For the purposes of Clause 10(1), a *building* is dilapidated if it is in a state of disrepair or has deteriorated or fallen into a state of partial ruin as a result of age, neglect, poor maintenance, or misuse.

11. Dangerous Land

- (1) An occupier of *land* must not, in the opinion of *Council* or an *Authorised Officer*:
 - (a) keep or allow another person to keep that *land* in a manner which is dangerous or likely to cause danger to health, life or property; or
 - (b) allow that *land* to contain *vermin* or *noxious weeds*.
- (2) Clause 11(1)(a) does not apply to any danger to health, life or property arising from the condition of vegetation, including trees, unless the vegetation or trees poses a risk to persons or property in a *public place*.

- (3) An *occupier* of *land* must not, without a *permit*, store any matter, hazardous substance or thing which is dangerous or likely to cause danger to health, life or property on that land.
- (4) An *occupier* of *land*, who installs new or maintains an existing *electric fence* on *land* that is adjacent to a *public place*, must comply with the Australian/New Zealand Standards.

12. Overhanging Obstructions or Vegetation

An *occupier* of *land* must not permit anything, including vegetation, located on the *land* to overhang the boundary of the *land* so as to:

- (a) obstruct the clear view of a pedestrian or the driver of any *vehicle* travelling along the *road* abutting the *land*;
- (b) encroach upon any *road* or *Council land*;
- (c) otherwise prejudice the safe and convenient use of any *road* by pedestrians or drivers; or
- (d) obscure street lights or a traffic control device.

13. Shipping Containers

A *person* must not keep, store, repair or in any other manner use a shipping container on *land* without a *permit* issued under this Local Law unless the *Planning Scheme* requires a planning permit for such use and a planning permit under the *Planning Scheme* has been issued.

14. Numbering Properties

- (1) An *occupier* must not number or display a number in respect to the land unless the number has been allocated to or approved for use by *Council* in relation to the land.
- (2) If *Council* has allocated a number to the land, the *occupier* of the land must ensure that the land is marked with the number allocated by *Council* and the numbers are of sufficient size and free from obstructions so that they can be clearly read under normal lighting conditions from the *road* immediately adjacent to the front boundary of the land.

15. Oversize Vehicles

A *person* must not, without a *permit*, park, store, or repair or allow another person to park, store or repair a vehicle over 7.5 metres in length (including any trailer and fittings) and/or a vehicle with a Gross Vehicle Mass in excess of 4.5 tonnes on private *land*, which is in a *Residential Area*.

16. Camping on Private Land

- (1) A *person* must not *camp* on vacant private *land*.
- (2) A *person* may *camp* on private land where there is an existing dwelling for a cumulative period of not more than six (6) months in any twelve (12) month period provided that:
 - (a) appropriate sanitary facilities are available to the *land*; and
 - (b) there is no detrimental effect on the amenity of adjoining *land*.
- (3) A *person* must not, without a *permit* or unless exempted under the *Planning Scheme*, *camp* on private *land* in excess of the period prescribed in Clause 16(2).

17. Use of Recreational Vehicles on Private Land

- (1) A *person* must not on private *land* use a *recreational vehicle*, except where the use is authorised by signs placed on the *land* by *Council*, or permitted under any Act or regulation.
- (2) An *occupier* of private *land* must not, without a *permit*, allow a *person* to use a *recreational vehicle* on that *land*.

18. On-site Wastewater Management System

- (1) An *occupier* of *land* where a reticulated sewerage system is not available for connection to a *dwelling*, must not dispose of sewage:
 - (a) other than to an *on-site wastewater management system*; or
 - (b) contrary to the conditions of a *permit* issued by *Council*.
- (2) The *occupier* of *land* that has an *on-site wastewater management system* must maintain the system so as not to cause a nuisance to any person or to the environment.
- (3) The *occupier* of *land* that has an *on-site wastewater management system* must provide *Council* with a certificate from a qualified plumber or an *Authorised Officer* every three (3) years certifying that the system is in good working order, including evidence that the primary *on-site wastewater management system* has been de-sludged or was not required to be de-sludged.

19. Lights

An *occupier* of *land* must not cause or allow to be caused, in the opinion of *Council* or an *Authorised Officer*, a light to be a nuisance to any other person.

20. Asbestos

- (1) A *person*, other than a licensed asbestos removalist, must not remove material that contains or is likely to contain asbestos from a *building* or *land* unless:
 - (a) the asbestos is non-friable and the total amount to be removed from the *land* or *building* is not more than ten (10) square metres;
 - (b) all reasonable precautions are taken, including wetting down of the material immediately prior to its removal and keeping it wet until it is wrapped in plastic, sealed, and clearly labelled to indicate the presence of asbestos; and
 - (c) the removal is carried out in accordance with the requirements of the *Occupational Health and Safety Regulations 2017*.

PART 3

ANIMALS

21. Keeping of Animals Generally

- (1) The limitations and restrictions in this Part do not prohibit the keeping of any animals for which a planning permit is required under the *Planning Scheme* and a planning permit has been issued for such keeping.
- (2) An *occupier* of any *land* must not, without a *permit*, keep or allow to be kept on that *land* any more of each of the species or group, or type of animals than is stated in the following Table:

Animal ¹	<499 s/mtrs	500 – 1,199 s/mtrs	1,200 - 2,499 s/mtrs	2,500 - 4,999 s/mtrs	>5,000 s/mtrs	>10,000 s/mtrs
Dogs	1	2	2	3	3	3
Cats	2	2	2	2	2	2
Horses, Donkeys or similar	0	0	0	1	2	3
Sheep, Goats, Llamas or similar	0	0	1	2	4	6
Pig	0	0	0	0	0	0
Rooster	0	0	0	0	0	0
Poultry/Fowl or similar	0	5	10	10	10	20
Cattle	0	0	0	0	0	1

- (3) Notwithstanding Clause 21(2), if the above Table specifies the number of nought (0) for any type of *animal* on that size of allotment, the keeping of that type of *animal* on that size of allotment is prohibited and a permit cannot be granted.
- (4) *Council* or an *Authorised Officer* may exempt any *person* or class of persons from the application of Clauses 21(2) or (3).
- (5) Notwithstanding Clauses 21(1), (2) and (3), a *person* is allowed to keep an *assistance dog* or *assistance animal* on land, provided that the *assistance dog* or *assistance animal* is registered with *Council* or an appropriate body or *Applicable Organisation*, if required under legislation.

¹ For the purpose of calculating the maximum number of dogs and cats allowed to be kept on *land*, the progeny of any dog or cat lawfully kept on the *land* is not to be counted for twelve (12) weeks after their birth. An *assistance dog* or *assistance animal* is included in the total number of animals allowed, except where the number of nought (0) is specified in the Table.

22. Responsible Breeding of Dogs and Cats

- (1) A *person*, other than the proprietor of a registered domestic animal business or a member of an *Applicable Organisation* under the *Domestic Animals Act 1994* with which a dog or cat is registered, must not sell, or give away to any *person* any dog or cat that has not been de-sexed except where the dog or cat is ten (10) years of age or older.
- (2) A *person* must, when selling or giving away a dog or cat, provide details of the dog or cat and details of the new owner to *Council* within seven (7) days of selling or giving away that dog or cat.

23. Keeping Animals

- (1) An *occupier* of *land* must ensure that any *land* used for keeping an *animal*:
 - (a) is maintained in a clean, inoffensive, and sanitary condition and does not cause a nuisance to any other *person*;
 - (b) is kept to the satisfaction of *Council* or an *Authorised Officer*; and
 - (c) is adequately fenced and the fence maintained to the satisfaction of *Council* or an *Authorised Officer*, so that any *animal* kept on the *land* cannot escape from that *land*.
- (2) An *occupier* of *land* on which an *animal* is kept must ensure that:
 - (a) any structure used for housing of that *animal* is located so as not to cause a nuisance;
 - (b) any structure used for housing of that animal is not attached to, or within one (1) metre of, a fence or other structure designed to separate neighbouring *land*;
 - (c) the *land* surrounding the place where the *animal* is kept is free from rubbish or vegetation that could attract or harbour *vermin*;
 - (d) all *animal* food for consumption is kept or stored in a *vermin* and fly proof receptacle; and
 - (e) all *animal* waste is removed so as not to be offensive or a nuisance to any other person.

24. Animal Excrement

- (1) A *person* in charge of an *animal* must not allow any part of the animal's excrement to remain on a *road* or *Council land* and must immediately collect and dispose of the excrement.
- (2) A *person* in charge of an *animal* on a *road* or *Council land* must carry sufficient litter devices to collect and dispose of animal excrement.
- (3) A *person* in charge of an *animal* on a *road* or *Council land* must produce a litter device at the request of an *Authorised Officer*.

25. Animal Noise

An *occupier* of *land* must not allow an *animal* kept on that *land* to emit *unreasonable noise*.

26. Feeding of Animals

- (1) If an *Authorised Officer* is of the opinion that the feeding of an uncaged *animal* by a *person* is causing a nuisance or may damage property, the *Authorised Officer* may direct the *person* to cease feeding the *animal*.
- (2) A *person* to whom a direction is given under Clause 26(1) must comply with that direction.

27. Wasps and Bees

- (1) An *occupier* of *land* must ensure that any European wasps on the *land* are destroyed.
- (2) An *occupier* of *land* must ensure that any European honey bees that have a hive or are swarming on the *land* are removed from the *land*, unless the hive is registered with an appropriate body.

PART 4**OPEN AIR BURNING, INCINERATORS AND CHIMNEYS**

In this Part “in the open air” has the same meaning as that contained in Division 3 of the Country Fire Act 1958.

28. Restrictions on Burning in the Open Air – Land 1,500 Square Metres or Below

- (1) A *person* must not, without a *permit*, light or allowed to be lit a fire in the open air on *land*, including in an *incinerator*, where the land size is 1,500 square metres or below.
- (2) The restriction in Clause 28(1) does not apply to:
 - (a) a barbecue, pizza oven or other properly constructed appliance while it is being used for cooking food;
 - (b) a fire in a brazier or chimenea while it is being used for heating;
 - (c) a tool of trade while being used for the purpose for which it was designed;
 - (d) a fire lit during the course of duty by a member of a fire and emergency services agency; or
 - (e) a fire where the *Council* has granted a *permit* because it considers that the specific circumstances of the case enable it to provide an exemption to the restriction as specified in Clause 33.

29. Restrictions on Burning in the Open Air – Land Above 1,500 Square Metres

- (1) A *person* may light a fire in the open air on *land*, including in an *incinerator*, where the *land* size exceeds 1,500 square metres but is less than 40,000 square metres, provided that:
 - (a) the fire is lit or allowed to remain alight only on a Friday or a Saturday and not before 9am or after 4pm;
 - (b) no more than 10 cubic metres of vegetation is burnt at any one time;
 - (c) the fire is not within 10 metres of any neighbouring dwelling;
 - (d) the fire is lit or allowed to remain alight in accordance with Clause 36 – General Provisions.
- (2) Where a *person* wants to burn in the open air under this provision and the requirements in Clause 29(1) cannot be complied with, a *person* must obtain a *permit*.

30. Restrictions on Burning in the Open Air – Land 40,000 Square Metres or Above

- (1) A *person* may light a fire in the open air on *land*, including in an *incinerator*, where the *land* size is 40,000 square metres or above, provided that:
 - (a) no more than 100 cubic metres (e.g., 5 metres wide x 5 metres long x 4 metres high) of vegetation is burnt at any one time;
 - (b) the fire is not within 100 metres of any neighbouring dwelling; and
 - (c) the fire is lit or allowed to remain alight in accordance with Clause 36 – General Provisions.
- (2) Where a *person* wants to burn in the open air under this provision and the requirements in Clause 30(1) cannot be complied with, a *person* must obtain a *permit*.

31. Removal of Restrictions on Open Air Burning

The Municipal Fire Prevention Officer may remove any restrictions on open air burning contained within Part 4 of the Local Law. The removal of any restrictions will be for a period of up to four (4) weeks to enable landowners to light a fire in the open air for fire prevention purposes only and *Council* will give public notice of this period.

32. Applying for a Permit to Burn

A *person* can apply for a *permit* by:

- (a) lodging an application with *Council* in a form approved by the *Council* or an *Authorised Officer* and
- (b) paying to the *Council* the appropriate application fee, if applicable.

33. Issue of Permits to Burn

- (1) The *Council* or an *Authorised Officer* may issue a *permit* with or without conditions or refuse to issue a *permit* based on the specific circumstances of the case having due regard to:
 - (a) the size of the land;
 - (b) the ability of the landowner to remove the vegetation via more appropriate methods;
 - (c) the proximity to other landowners and risk of smoke nuisance; or
 - (d) any other relevant thing.
- (2) The conditions of the *permit* must be set out in the *permit*.
- (3) A *person* who undertakes open air burning for which the *Council* or an *Authorised Officer* has issued a *permit* must comply with the conditions on the *permit*.
- (4) Even if a *permit* has been issued, a *person* must not light or allow to remain alight any fire in the open air on a day that has been declared as a total fire ban day or smog alert day.

34. Nuisance Burning and Incinerators

- (1) A *person* must not light or allow to be lit a fire on any *land* in the open air, including in an *incinerator* that:
 - (a) is offensive or a nuisance to another *person* in the vicinity, or beyond the property boundary;
 - (b) may cause a hazard to a person's health;
 - (c) has an adverse impact on visibility beyond the property boundary, including reducing the visibility of motorists and other users of a public road; or
 - (d) creates a hazard on, or near, a public road.
- (2) A *person* must not light a fire in the open air, including in an *incinerator* on *land* to burn, cause or allow to be burnt any:
 - (a) green or wet material;
 - (b) non timber based building materials;

- (c) rubber or plastic, including plastic mulch, plant pots and packaging materials;
- (d) furnishings and carpet;
- (e) manufactured chemicals;
- (f) petroleum or oil products;
- (g) paint, including any container in which paint is kept;
- (h) food waste;
- (i) manure and straw;
- (j) carcasses or dead animals, unless prescribed by the Department of Primary Industries as the only means of disposal; or
- (k) other offensive, noxious, or toxic matter.

35. Extinguishing Fires

A *person* who has lit or allowed a fire to remain alight contrary to the provisions in this Part or any condition contained in a *permit*, must extinguish the fire immediately on being directed to do so by:

- (a) an *Authorised Officer*, or
- (b) a member of Victoria Police or the Country Fire Authority.

36. General Provisions

- (1) A *person* who has lit or allowed a fire to remain alight must do so in accordance with the following requirements:
 - (a) the fire or use of the *incinerator* is supervised by an adult at all times;
 - (b) sufficient fire protection equipment is available to extinguish the fire if required;
 - (c) the vegetation to be burnt is dead and dry prior to lighting it; and
 - (d) at the site of the fire, the wind speed must not exceed 20 kilometres per hour (11 knots).
- (2) A *person* must not light a fire in the open air in the whole of the *Municipal District*.
 - (a) on any day of smog alert declared by Environment Protection Authority Victoria;
 - (b) on any day of total fire ban declared by the Country Fire Authority; and
 - (c) during a declared fire danger period under the *Country Fire Authority Act 1958* without first obtaining a permit from the Municipal Fire Prevention Officer or Country Fire Authority.

37. Chimneys

- (1) A *person* who owns or occupies *land* must not allow any chimney on that land to discharge ash, smoke, or dust to such an extent that it becomes a public nuisance, or is dangerous or is likely to be dangerous to the health and safety of any *person* or *animal*, or is harming or likely to be harmful to the environment.

- (2) In determining whether a contravention has occurred an *Authorised Officer* must have regard to:
- (a) the nature of any complaint received;
 - (b) any observations of an *Authorised Officer*, including the level of observable dust, grit, ash, smoke substance or odour;
 - (c) any diary entries made by any *person* detailing the particulars of the complaint;
 - (d) whether the chimney and any heating devices comply with any relevant Australian Standard; and
 - (e) the nature of the fuel used in the heating device.

PART 5
NOISE CONTROL

38. Unreasonable Noise

A person must not cause or allow unreasonable noise to be emitted from Council land.

39. Audible Intruder Alarm

A person must not in any premises install or permit or allow to be installed or cause to be retained in an active state, an intruder alarm, which emits a noise audible beyond the boundary of the premises, unless such an alarm is constructed or regulated to ensure that it complies with the relevant Australian Standard.

PART 6**WASTE****40. Approved Household Waste Bin**

- (1) *Council or an Authorised Officer may determine under this clause whether an approved household waste bin is to be used for the deposit of waste by the occupier of land, and the occupier of the land must comply with any such determination by Council or an Authorised Officer.*
- (2) *The occupier of land to which Council provides a waste collection service must:*
 - (a) *deposit only designated material generated at the land into a designated approved household waste bin to prevent contamination;*
 - (b) *not place in an approved household waste bin anything other than designated material which:*
 - (i) *is wrapped in any manner necessary to render it inoffensive and prevent the protrusion of sharp objects;*
 - (ii) *is appropriately wrapped and bagged to prevent being caught by wind during the process of emptying the approved household waste bin; and*
 - (iii) *is contained in any other manner approved by Council or an Authorised Officer;*
 - (c) *not place any items in the approved household waste bin which are likely to damage the bin or the collection vehicle;*
 - (d) *not place any hazardous substance in an approved household waste bin;*
 - (e) *not place an approved household waste bin out more than one day before the collection day or leave the approved household waste bin out beyond the end of the day after the collection day;*
 - (f) *not place out for collection any approved household waste bin, except in accordance with any requirements prescribed by Council or determined in accordance with this Local Law;*
 - (g) *upon being directed to do so by Council or an Authorised Officer, remove or cause to be removed from the approved household waste bin any material deposited or caused to be deposited in contravention of Clause 40(2)(b); and*
 - (h) *not deposit any designated material generated at the land into a street litter bin.*
- (3) *The occupier of land must not without the consent of Council or an Authorised Officer, place more than one (1) of each approved household waste bin out for collection and must ensure that the approved household waste bin:*
 - (a) *is positioned on the nature strip or footpath adjacent to the kerb, or in any other manner directed by Council or an Authorised Officer from time to time;*
 - (b) *does not exceed the maximum gross weight determined by Council or an Authorised Officer from time to time for the purposes of this clause; and*
 - (c) *is closed to prevent anything placed in the approved household waste bin from escaping.*

- (4) The *occupier of land* must:
 - (a) keep an *approved household waste bin*:
 - (i) in good order;
 - (ii) in a clean inoffensive and sanitary condition; and
 - (iii) to the satisfaction of *Council* or an *Authorised Officer*;
 - (b) ensure that an *approved household waste bin* is capable of being closed to prevent the contents of the *approved household waste bin* from escaping; and
 - (c) maintain the site on which an *approved household waste bin* is located and the location where it is placed for collection in a clean, inoffensive, and sanitary condition.
- (5) The *occupier of land* must immediately notify *Council* if their *approved household waste bin* develops a defect, is destroyed or damaged, or is lost or stolen.

41. Waste Collection

- (1) A *person* must not place, or cause or allow to be placed, any thing (other than an *approved household waste bin*) on a nature strip or other part of a *road*, except for the purposes of a waste collection service provided by *Council*.
- (2) A *person* must not, without the consent of the *occupier* who placed a thing on a nature strip or other part of a *road* for the purpose of a waste collection service, or the consent of *Council* or an *Authorised Officer*, remove or interfere with any thing left for collection under Clause 41(1).

42. Bulk Rubbish Containers

A *person* must not, without a *permit*, place a *bulk rubbish container* on a *road* or *Council land*.

43. Trade Waste Bin

- (1) The *occupier* of a commercial or industrial premises must provide a container for the storage of *trade waste* which is:
 - (a) constructed of impervious materials, watertight and pest proof;
 - (b) emptied before it overflows;
 - (c) removed from any *public place* immediately after the container is emptied; and
 - (d) maintained and kept in a clean condition and free from offensive odours.
- (2) A *person* must not place a *trade waste bin* on a *road* for longer than is practicably required for the emptying of the *trade waste bin*.
- (3) A *person* must not cause any –
 - (a) obstruction; or
 - (b) danger –

to any *person* on a *road* when placing a *trade waste bin* on a *road* to be emptied.

- (4) A *person* who has placed a *trade waste bin* on a *road* must repair any damage to the *road* or any works in the *road*, including a vehicle crossing, that results from placing the *trade waste bin* on the *road* or emptying it.
- (5) The *occupier* of a commercial or industrial premises must not deposit *trade waste* into an *approved household waste bin* or a *street litter bin*.

PART 7**COUNCIL LAND****DIVISION 1 - BEHAVIOUR****44. Behaviour on Roads and Council Land**

A *person* must not:

- (a) create a nuisance on a *road* or *Council land*;
- (b) act in a manner that is likely to interfere with the reasonable use and enjoyment of a *road* or *Council land* by other persons;
- (c) act in a manner which endangers any other person on a *road* or *Council land*;
- (d) use indecent, insulting, offensive or abusive language on a *road* or *Council land*;
- (e) behave in an indecent, offensive, insulting, or riotous manner on a *road* or *Council land*;
- (f) bring onto *Council land* any substance, liquid or powder which may:
 - (i) be dangerous or injurious to health;
 - (ii) have the potential to foul, pollute or soil any part of the *Council land*; or
 - (iii) cause discomfort to any *person*without the consent of *Council* or an *Authorised Officer*;
- (g) organise, conduct, or hold any function or *event* on a *road* or *Council land* without the consent of *Council* or an *Authorised Officer* or a *Council* staff member;
- (h) act contrary to any restriction, prohibition or direction contained on a sign on a *road* or *Council land*;
- (i) erect, operate or cause to be erected or operated any amusement, without a *permit*, on a *road* or *Council land*;
- (j) obstruct, hinder, or interfere with a *Council* staff member in the performance of their duties on a *road* or *Council land*;
- (k) act contrary to any reasonable direction of an *Authorised Officer* or *Council* staff member given on a *road* or *Council land*, including, without limitation, a direction to leave the *road* or *Council land*, whether or not a fee for admission has been paid;
- (l) use or interfere with any lifesaving or emergency device located on a *road* or *Council land*, unless using the device in an emergency or participating in instruction or maintenance approved by *Council*;
- (m) make any wager for money or engage in any form of gambling, without a *permit*, on a *road* or *Council land*;
- (n) remain in a *municipal place* while under the influence of alcohol or any prohibited drug; or
- (o) remain on a *road* or *Council land* after being directed to leave by an *Authorised Officer* or a *Council* staff member.

45. Access to a Municipal Place

- (1) *Council* or an *Authorised Officer* or a *Council* staff member may determine the hours when any *municipal place* will be open to the public.
- (2) A *person* must not, without the consent of *Council* or an *Authorised Officer* or a *Council* staff member:
 - (a) act contrary to any conditions of entry or membership applicable to a *municipal place*;
 - (b) enter or remain in a *municipal place* after being directed to leave by an *Authorised Officer* or a *Council* staff member;
 - (c) enter or remain in a *municipal place* during hours when the *municipal place* is not open to the public;
 - (d) bring any *animal* into, or allow any *animal* under their control to remain in a *municipal place*, except for an *assistance dog* being used by that person; or
 - (e) bring any *vehicle* or *toy vehicle* into a *municipal place*, except for:
 - (i) a pram or pusher being used by a child; or
 - (ii) a wheelchair being used by a physically disabled person.
- (3) A *person* must not act contrary to any reasonable direction of an *Authorised Officer* or a *Council* staff member given in or on a *municipal place*.

46. Smoking in a Smoke Free Area or at a Smoke Free Event

- (1) A *person* must not *smoke a tobacco product* in a *smoke free area* or at a *smoke free event*.
- (2) Where an *Authorised Officer* believes on reasonable grounds that a *person* is contravening or has contravened Clause 46(1), the *Authorised Officer* may direct the *person* to extinguish and then dispose of the *tobacco product*.
- (3) A *person* to whom a direction is given under Clause 46(2) must comply with that direction.
- (4) *Council* may prescribe any area within the *Municipal District* to be a *smoke free area*.
- (5) *Council* may prescribe, or an *Authorised Officer* may determine, any *event* within the *Municipal District* to be a *smoke free event*.
- (6) *Council* or an *Authorised Officer* may erect, or cause to be erected, an *acceptable no smoking sign* in a *smoke free area* or at a *smoke free event*.

47. Smoking on Council Land

- (1) A *person* must not *smoke*:
 - (a) inside a *building* on *Council land*; or
 - (b) on *Council land* within ten (10) metres of the entrance to a *building* owned, occupied, or vested in *Council* or in respect of which *Council* has the care and management thereof.
- (2) Where an *Authorised Officer* believes on reasonable grounds that a *person* is contravening or has contravened Clause 47(1), the *Authorised Officer* may direct the *person* to extinguish and then dispose of the *tobacco product*.

- (3) A *person* to whom a direction is given under Clause 47(2) must comply with that direction.
- (4) *Council* or an *Authorised Officer* may erect, or cause to be erected, an *acceptable no smoking sign* on *Council land*.

48. Council Sign

A *person* must comply with any sign erected or installed by or on behalf of *Council* on a *road* or *Council land* or in a *municipal place*.

49. Activities in or on a Reserve or a Beach

A *person* must not, without a *permit* or written *Council* approval, in or on any *reserve* or *beach*:

- (a) use, ride, drive or park a *vehicle*, except on a signed or dedicated path or laneway reserved for such a *vehicle*;
- (b) play, engage in or practise any game or sport, whether or not in accordance with a *permit* issued under this Local Law, in a manner that is:
 - (i) dangerous to any other *person*; or
 - (ii) likely to interfere with the reasonable use or enjoyment of any other *person*;
- (c) play or practise golf unless designated or set aside as a golf course;
- (d) conduct any fitness training or health and wellbeing activity for commercial purposes; or
- (e) play, organise or engage in any organised competitive sport or game.

50. Camping on a Road or Council Land

- (1) A *person* must not *camp* on a *road* or *Council land* unless it is in a designated camping area permitted by *Council*.
- (2) In addition to Clause 50(1), a *person* must comply with all conditions applying to the designated camping area and pay the prescribed *Council* fee or charge.
- (3) *Council* or an *Authorised Officer* may exempt any *person* or class of persons from the application of Clauses 50(1) or (2).

COUNCIL LAND**DIVISION 2 – VEHICLES****51. Repair of Vehicles**

A *person* must not, without a *permit*, paint or carry out any repairs or maintenance of a *vehicle* on a *road* or *Council land*, other than to enable it to be moved.

52. Display of Vehicles

- (1) A *person* must not, without a *permit*, display a *vehicle* for sale or hire on a *road* or *Council land*.
- (2) *Council* may grant an exemption from Clause 52(1) to a *person* or class of persons conducting a business for the sale or hire of *vehicles*.

53. Storage of Vehicles on Council Land

A *person* must not, without a *permit*, place or store or allow to be placed or stored a boat, caravan, or trailer in or on *Council land*.

54. Abandoned, Derelict & Unregistered Vehicles

- (1) A *person* must not park or store an abandoned, derelict, or unregistered *vehicle* or cause or allow such a *vehicle* to be parked or stored on a *road* or *Council land*.
- (2) Any *vehicle* found on a *road* or *Council land* that is considered by an *Authorised Officer* to be abandoned, derelict or unregistered may be dealt with under the provisions of Schedule 11 of the Act.

55. Toy Vehicles and Bicycles

A *person* must not on a *road* or *Council land*:

- (a) use, place or leave or allow another *person* to use, place or leave a *toy vehicle* or bicycle in such a manner as to interfere with the passage of, or cause annoyance or danger to, any person on or using the *road* or *Council land*; or
- (b) use or allow another person to use a *toy vehicle* in an area prescribed by *Council* to be a prohibited place for the purpose of this clause.

56. Use of Recreational Vehicles in a Public Place

A *person* must not, in a *public place*, ride or cause or allow to be ridden any *recreational vehicle*, except where the use is authorised by signs placed on the *land* by *Council*, or permitted under an Act or regulation.

57. Behaviour Involving Motor Vehicles

- (1) A *person* must not participate in, encourage, or attend a *hoon event*.
- (2) The driver of a *vehicle* must not stop or park, for the purposes of attending a *hoon event*, within 200 metres of a *motor vehicle* involved in a *hoon event*.

COUNCIL LAND**DIVISION 3 – BUSINESSES****58. Itinerant Trading**

- (1) A *person* must not, without a *permit*, *sell*, or cause or allow another person to *sell*, from or on a *road* or *Council land*:
 - (a) any goods or services from a *vehicle*, *animal*, stall, or other like structure; or
 - (b) any goods or services carried on the *person*.
- (2) A *person* must, in addition to Clause 58(1), comply with any *permit* conditions and additional requirements in *Council's Control and Management of Itinerant Traders Policy*.

59. Signage

- (1) A *person* must not, without a *permit* or an appropriate licence agreement, place or allow to be placed a *moveable advertising sign* on a *road* or *Council land*.
- (2) A *person* must, in addition to Clause 59(1), comply with any permit conditions and additional requirements in *Council's Signage Policy*.
- (3) Notwithstanding Clauses 59(1) and (2) above, a *person* is exempt from applying for a *permit* or an appropriate licence agreement to place or allow to be placed a *moveable advertising sign* on a *road* or *Council land* if permitted to do so under *Council's Signage Policy*.
- (4) An *advertising sign* must not contain any offensive or inappropriate content.
- (5) A *person* erecting or locating any type of sign described in *Council's Signage Policy* must comply with any additional requirements or conditions in the *Signage Policy* applicable to that sign.

60. Street Furniture and Display of Goods

- (1) A *person* must not, without a *permit* or an appropriate licence agreement, place or allow to be placed *street furniture* or display goods on a *road* or *Council land*.
- (2) A *person* must, in addition to Clause 60(1), comply with any *permit* conditions and additional requirements in *Council's Commercial Activities on Footpaths Policy*.
- (3) Notwithstanding Clauses 60(1) and (2) above, a *person* is exempt from applying for a *permit* or an appropriate licence agreement to place or allow to be placed *street furniture* or display goods on a *road* or *Council land* if permitted to do so under *Council's Commercial Activities on Footpaths Policy*.

61. Clothing Recycling Bins

- (1) A *person* must not, without a *permit*, place a *clothing recycling bin* on a *road* or *Council land* or *public place*.
- (2) A *person* must, in addition to Clause 61(1), comply with any *permit* conditions and *Council's* policy relating to *clothing recycling bins*.
- (3) A *person* or holder of a permit to place a *clothing recycling bin* on a *road*, *Council land* or *public place* must not allow items to remain outside the confines of the *clothing recycling bin*.

62. Restrictions on Selling and Displaying Aerosol Spray Paint

A *person* who as part of their business sells aerosol spray paint:

- (a) must not give away samples of aerosol spray paint to a person under eighteen (18) years of age; and
- (b) must ensure that access and availability by any person to aerosol spray paint products, including while they are displayed or stored, is restricted to the seller or an employee of the seller.

63. Shopping Trolleys

- (1) A *person* must not leave a shopping trolley on a *road* or *Council land*, except in the area designated by *Council* for the leaving of shopping trolleys.
- (2) A *retailer* who provides shopping trolleys intended for the use of customers must ensure that each shopping trolley has a locking mechanism attached to it.
- (3) A *retailer* must ensure that all shopping trolleys left outside the retailer's business premises when the business is closed, are secured by whatever means necessary to prevent any shopping trolley being used.
- (4) Clause 63(2) does not apply to a *retailer* who has less than 25 shopping trolleys available for the use of customers.
- (5) A *retailer* may apply in writing to *Council* for an exemption from the application of this provision and *Council* may decide to grant a temporary or permanent exemption.
- (6) *Council* or an *Authorised Officer* or a person engaged by *Council* for this purpose may, on behalf of *Council*, seize and impound any shopping trolley which is being made available for use, or is being used, or has been left on a *road* or on *Council land* in contravention of this Local Law.

64. Street Collection and Distribution

A *person* must not, without a *permit*, solicit, distribute, or collect any gifts, monies, pamphlets, flyers or subscriptions from a *road* or *Council land*.

65. Spruiking

A *person* must not, without a *permit*, spruik, tout, or solicit the sale of any goods or services on a *road* or *Council land* or from any land adjacent to a *road* or *Council land*.

66. Busking, Fundraising and Community Awareness Activities

- (1) A *person* must not, without a *permit* busk, fundraise, or conduct a community awareness activity on a *road* or *Council land*.
- (2) A *person* who has a *permit* to busk, fundraise, or conduct a community awareness activity on a *road* or *Council land* within a shopping precinct set out in Council's *Commercial Activities on Footpaths Policy* must only do so in the commercial activity zone as defined in the *Commercial Activities on Footpaths Policy*.

67. Filming

A *person* must not, without a *permit*, conduct or allow any filming for commercial purposes on a *road* or *Council land*.

68. Circuses, Carnivals, Festivals or Events

A *person* must not, without a *permit* or an appropriate licence agreement, hold or allow to be held a circus, carnival, festival, or *event* on *Council land*.

PART 8

ASSET PROTECTION

DIVISION 1 – BUILDING SITES & DRAINS

69. Building Sites

- (1) An *occupier of land* or a *person* in charge of a *building site* or a works site must obtain an Asset and Amenity Protection Permit prior to the commencement of work on the building or works site.
- (2) An *occupier of land* or a *person* in charge of a *building site* or works site for which an Asset and Amenity Protection Permit has been issued must comply with any conditions or requirements in the Asset and Amenity Protection Permit and *Council's Building and Works Code of Practice*.
- (3) An *occupier of land* or a *person* in charge of a *building site* or works site must comply with any conditions or requirements in Council's *Building and Works Code of Practice*.
- (4) The requirements of Clauses 69(1) and (2) do not apply where *minor building work* is being undertaken.
- (5) An *occupier of land* or *person* in charge of a *building site* or works site must repair, to the satisfaction of *Council* or an *Authorised Officer*, roads, road reserves, channels, drains, vehicle crossings or any other asset owned or vested in *Council*, which has been damaged, altered, compromised or interfered with in connection with the *building site* or works site for which an Asset and Amenity Protection Permit has been obtained.
- (6) *Council* or an *Authorised Officer* may approve the carrying out of work by another person, or carry out the work itself where:
 - (a) damage, alteration, compromise or interference has occurred as a result of *building work*; or
 - (b) there is a danger to life, safety, property, or the environment.
- (7) Where *Council* or another person carries out the work on behalf of *Council*, *Council* may recover the cost of the work from the *occupier* of the *land* or *person* in charge of a *building site* or works site.
- (8) If in the opinion of *Council* or an *Authorised Officer* it is likely that any *Council* asset may be damaged, altered, compromised or interfered with in the course of any *building work* for which an Asset and Amenity Protection Permit has been issued, the *occupier* of the *land* or the *person* in charge of a *building site* or a works site may be required to pay a bond to *Council*.
- (9) The amount of any bond under Clause 69(8) must be determined by *Council* or the *Authorised Officer* having regard to the probable cost of repairing any damage, alteration, compromise or interference that is likely to be caused.
- (10) Any bond or part of a bond paid to *Council* under Clause 69(8) may be retained by *Council* to meet the cost of repairing any damage, alteration, compromise or interference, which an *occupier* or the *person* in charge of a *building site* or a works site has failed to repair in accordance with their obligations under Clause 69.
- (11) For the purpose of Clause 69(5), *Council* or an *Authorised Officer* may determine the cost of repairs to *Council* assets.

- (12) *Council* must refund any bond, or part of a bond, paid to it under Clause 69(8) if *Council* or an *Authorised Officer* is satisfied that:
- (a) there has been no damage, alteration, compromise or interference to *Council* assets as a consequence of the *building work*; or
 - (b) any such damage, alteration, compromise or interference has been repaired in accordance with Clause 69.

70. Drains

- (1) The *occupier* of any *land* must ensure that any drain on the *land* is maintained in a condition that is not:
- (a) dangerous to health;
 - (b) unsightly;
 - (c) a nuisance; or
 - (d) hindering, obstructing, or interfering with the operation of the drain.
- (2) A *person* must not discharge or cause to be discharged any material into a drain or watercourse, which is vested in or under the control of *Council*, except for the discharge of stormwater.
- (3) A *person* must not damage, obstruct or interfere or cause or allow to cause damage, obstruction, or interference with a drain, which is vested in or under the control of *Council*.
- (4) A *person* must not, without a *permit*, tap into any drain, culvert or sewer vested in or under the control of *Council*.

PART 8**ASSET PROTECTION****DIVISION 2 – COUNCIL LAND AND ROADS****71. Works on Council Land or Roads**

- (1) A *person*, other than a *utility*, must not, without a *permit*, undertake works in, on, under or over a *road* or *Council land* or allow another person to do so.
- (2) An *occupier of land* or a *person* in charge of a *building site* or works site for which a *permit* has been issued, must comply with any conditions in the *permit*.
- (3) *Council* may require that a *person* who undertakes works on a *road* or *Council land* pay a bond, which must be proportionate to the potential cost of repairing any damage to the *road* or *Council land*.
- (4) The bond may be held for the duration of the works plus a maintenance period of twelve (12) months and must be refunded at the end of this period or applied by *Council* to offset the cost of repairing any damage or defects.

72. Vehicle Crossings

- (1) A *person* must not, without a *permit*, construct, remove or relocate or alter a vehicle crossing.
- (2) *Council* or an *Authorised Officer* may by notice in writing to the *occupier of land*, require the construction of a permanent or temporary vehicle crossing to any *land* with the full cost of such construction works to be borne by the *occupier of the land*.
- (3) A vehicle crossing must be constructed and sited to the satisfaction of *Council* or an *Authorised Officer*.
- (4) If *Council* or an *Authorised Officer* has required the *occupier of land* on which *building work* is to occur to construct a vehicle crossing under Clause 72(2), building work must not commence until the vehicle crossing has been constructed.
- (5) *Council* or an *Authorised Officer* may by notice in writing to the *occupier of land* require the repair of a vehicle crossing, which is in a state of disrepair, with the full cost of such repair works to be borne by the *occupier of the land*.
- (6) *Council* or an *Authorised Officer* may by notice in writing to the *occupier of land* require the removal of a vehicle crossing and reconstruction of the kerb and channel and footpath if the vehicle crossing is, in the opinion of an *Authorised Officer*, no longer required, with the full cost of such removal to be borne by the *occupier of the land*.
- (7) An *occupier of land* must, at their own cost, ensure that the vehicle crossing between the *road* and the boundary of such *land* is maintained and kept in good condition.
- (8) An *occupier of land* must not allow any person to access the *land* by *vehicle* other than over a *Council* approved vehicle crossing.

73. Interfering with Roads, Council Land, or Infrastructure

A *person* must not, without a *permit*:

- (a) destroy, deface, interfere with, or cause damage to a *road* or *Council land* or *Council* infrastructure or asset or allow another person to do so; or
- (b) remove any thing from a *road* or *Council land* or allow another *person* to do so.

74. Spoil on Roads

- (1) A *person* must not allow any soil, earth, mud, clay, cement slurry, liquid waste, or other litter to fall or escape from a *vehicle* onto a *road* in the course of any trade, industry, or commercial undertaking.
- (2) A *person* must not allow any fuel, grease, oil, mud, clay, cement slurry, paint, detergents, or other litter to run from a *vehicle* whilst being cleaned and to be deposited onto a *road*, or into a drain.
- (3) If the *operator* of the *vehicle* cannot be found or it is impracticable to charge that *person* with an offence under Clauses 74(1) or (2), the *occupier* of the *land* or the *person* in charge of the *building* or works at the *land* where the *vehicle* is likely to have been soiled, is guilty of an offence under Clauses 74(1) or (2).
- (4) An occupier of private *land* must not allow any soil, earth, mud, clay, cement slurry, liquid waste, or other litter to be discharged from that *land* onto a *road* or *Council land*.

75. Obstructions on Roads and Council Land

- (1) A *person* must not, without a *permit* allow, place, store or leave any thing on a *road* or *Council land* unless they are permitted to do so under any other Act, regulation, or other Local Law.
- (2) Clause 75(1) does not apply to the works or activities of a *utility*.

76. Occupation of Roads

- (1) A *person* must not, without a *permit* or written consent under section 63(1) of the *Road Management Act 2004*, occupy (whether wholly or partially) a *road* for:
 - (a) any works that involve:
 - (i) fencing off part of a *road*;
 - (i) erecting a hoarding, scaffolding or overhead protective awning;
 - (ii) using a mobile crane or travel tower;
 - (iii) making a hole or excavation;
 - (iv) reinstating a hole or excavation;
 - (v) leaving or storing any building, paving or other construction materials or any tools, machinery, plant, or equipment; or
 - (b) any other non-road purpose which does not involve a special event.
- (2) Clause 76(1) does not apply to the works or activities of a *utility*.

PART 9**ADMINISTRATION****77. Exercise of Discretion**

In exercising any discretion contained in this Local Law, *Council* and an *Authorised Officer* must have regard to:

- (a) the objectives of this Local Law; and
- (b) any other relevant matter.

78. Impounding

- (1) An *Authorised Officer* may seize and impound a thing which has been or is being used or possessed in contravention of this Local Law.
- (2) Where a thing has been impounded under this Local Law, *Council* or an *Authorised Officer* must, if it is practicable to do so, serve notice of the impounding personally or by registered mail on the *person* who appears to be the owner of the impounded thing.
- (3) If the identity or whereabouts of the owner of a thing impounded under this Local Law is unknown, the *Authorised Officer* must take reasonable steps to ascertain the owner's identity or whereabouts prior to exercising their powers under Clause 79.
- (4) An impounded thing must be surrendered to –
 - (a) its owner; or
 - (b) a person acting on behalf of its owner who provides evidence to the satisfaction of an *Authorised Officer* of their authority from the owner and -
 - on:
 - (i) evidence to the satisfaction of the *Authorised Officer* being provided of the owner's right to the thing; and
 - (ii) payment of any fee and reasonable costs of impounding determined by *Council* or an *Authorised Officer*.
- (5) Clause 78(4) does not apply where the impounded thing cannot be kept or possessed in accordance with this Local Law or any Act or regulation.

79. Disposal

- (1) An *Authorised Officer* may sell, destroy, dispose of, or give away any thing impounded under the provisions of this Local Law if:
 - (a) the impounded thing has not been surrendered to the owner or a person acting on the owner's behalf within fourteen (14) days of service of the notice of impounding;
 - (b) the owner of the thing or a person acting on the owner's behalf has not paid the fee and reasonable costs of impounding determined by *Council* or an *Authorised Officer* within fourteen (14) days of service of the notice of impounding; or
 - (c) no notice of impounding has been able to be served on the owner of the impounded thing.

- (2) If the impounded thing is perishable and will not survive the period specified in Clause 79(1), the *Authorised Officer* may dispose of the thing sooner.
- (3) *Council* is entitled to retain the proceeds of sale of any impounded thing towards its reasonable costs incurred in impounding, keeping, and selling the thing.

80. Permits

- (1) An application for a *permit* under this Local Law must be –
 - (a) submitted in a form approved by *Council* or an *Authorised Officer*, and
 - (b) accompanied by the fee *prescribed* by *Council*, unless waived by *Council* or an *Authorised Officer*.
- (2) *Council* or an *Authorised Officer* may require an applicant for a *permit* to supply more information before *Council* or the *Authorised Officer* deals with the *permit* application, or to give notice of the application in a manner specified from time to time by *Council* or an *Authorised Officer*.
- (3) *Council* or an *Authorised Officer* may in their absolute discretion decide –
 - (a) to grant a *permit* with or without conditions; or
 - (b) to refuse a *permit*.
- (4) *Council* or an *Authorised Officer* may cancel a *permit* if:
 - (a) there has been a serious or ongoing breach of the conditions of the *permit*;
 - (b) a Notice to Comply has been issued, but not complied with within seven (7) days after the time specified in the Notice to Comply;
 - (c) there was a material error or misrepresentation in the application for the *permit*;
 - (d) there has been a material error in relation to the issue of the *permit*; or
 - (e) there has been a material change of circumstances which has occurred since the issue of the *permit*.
- (5) *Council* or an *Authorised Officer* may correct a *permit* if that *permit* contains:
 - (a) an unintentional error or an omission; or
 - (b) a material miscalculation of figures or a material mistake in the description of a person, thing, or property referred to in the *permit*.
- (6) Before cancelling or correcting a *permit* under Clauses 80(4) or (5), *Council* or an *Authorised Officer* must provide the *permit* holder an opportunity to make written submissions on the proposed cancellation or correction.
- (7) *Council* may exempt a person or class of persons from the requirement to obtain a *permit* under this Local Law.
- (8) Except where expressly stated in this Local Law or in a *permit*, a *permit* expires one (1) year after the date of issue.
- (9) *Council* must keep a register of permits and any correction or cancellation of a *permit* must be noted in this register.

- (10) The holder of a *permit* issued under this Local Law must comply with all *permit* conditions and any requirements in a *Council* policy applicable to that *permit*.
- (11) A *person* must not make a false representation or declaration, or intentionally omit material information in an application for a *permit* or *permit* exemption.

PART 10**ENFORCEMENT****81. Notice to Comply and Verbal Direction**

- (1) An *Authorised Officer*, who reasonably believes that a person has contravened any provision of this Local Law, may give a verbal direction to and/or serve a Notice to Comply on a person to do a thing or carry out work to remedy the thing, which constitutes a contravention under this Local Law.
- (2) A verbal direction given or a Notice to Comply issued in accordance with this Local Law must state the time and date by which the thing must be done or the work carried out.
- (3) The time required by a verbal direction given or Notice to Comply served under this Local Law must be reasonable in the circumstances, having regard to:
 - (a) the amount of work involved;
 - (b) the degree of difficulty;
 - (c) the availability of necessary materials or other necessary items;
 - (d) climatic conditions;
 - (e) the degree of risk or potential risk; and
 - (f) any other relevant matter.
- (4) If a *person* who was given a verbal direction or served with a Notice to Comply, fails to carry out any work or remedy anything stipulated in the verbal direction or Notice to Comply, *Council* or the *Authorised Officer* may approve the carrying out of the work by another person or carry out the work itself and recover the cost of performing the work from the *person* who failed to carry out the work.
- (5) A *person* may make representations, within ten (10) days after being given a verbal direction or served with a Notice to Comply, to *Council* or the *Authorised Officer* about matters contained in the verbal direction or Notice to Comply, but nothing in this right or the exercise of this right relieves the person from complying with the verbal direction or Notice to Comply unless the *Authorised Officer* who issued the verbal direction or Notice to Comply otherwise directs.

82. Power to Act in Urgent Circumstances

- (1) *Council* or an *Authorised Officer* may, where an owner, *occupier*, *builder*, or other relevant *person* has failed to comply with any requirement of this Local Law, take action considered necessary to prevent any danger to the environment or any nuisance arising, provided that:
 - (a) *Council* or an *Authorised Officer* considers the circumstances to be sufficiently urgent and that the time necessary, or potential difficulty in serving a Notice to Comply, may place a person, animal, property, or the environment at risk or in danger of substantial detrimental effect; and
 - (b) the *Chief Executive Officer* of the *Council* or their delegate, not being the Council Officer administering this clause, approves of the proposed action; and
 - (c) details of the circumstances and of the remedial action taken are as soon as practicable forwarded to the owner, *occupier*, *builder*, or other relevant *person*.
- (2) Action taken by *Council* or an *Authorised Officer* under this clause shall not extend beyond what is necessary to cause the immediate abatement or minimisation of the risk or danger involved.

- (3) Where *Council* undertakes work in accordance with this section, it may recover the cost of performing the work from the owner, *occupier*, *builder*, appointed agent or responsible person.

83. Offences and Penalties

A *person* who:

- (1) contravenes or fails to comply with any provision under this Local Law;
- (2) contravenes or fails to comply with any condition contained in a *permit* issued under this Local Law or any requirements in the *Council* policy applicable to that *permit*; or
- (3) contravenes or fails to comply with a verbal direction or Notice to Comply by the date specified in the verbal direction or Notice to Comply

is guilty of an offence and is liable to a penalty of:

- (a) twenty (20) penalty units; and
- (b) a further penalty of one (1) penalty unit for each day during which the contravention continues.

84. Offences by Corporations

- (1) If a *person* charged with an offence against this Local Law is a *corporation*, any *person* who is concerned or takes part in the management of that *corporation* may be charged with the same offence.
- (2) If the *corporation* is found guilty of an offence against this Local Law, a *person* charged with the same offence may also be found guilty of that same offence and is liable to the penalty for that offence, unless that *person* proves that the act or omission constituting the offence took place without their knowledge or consent.

85. Operator Onus Offence

If the *operator* of a *motor vehicle* that is used in the commission of an offence under this Local Law cannot be found or it is impracticable to charge the *operator* with an offence, the registered owner of that *motor vehicle*, is guilty of that offence.

86. Infringement Notices

- (1) If an *Authorised Officer* believes on reasonable grounds that a *person* is contravening or has contravened any provision under this Local Law, the *Authorised Officer* may, as an alternative to a prosecution for an offence, serve on that *person* an *Infringement Notice*.
- (2) The penalties fixed for *Infringement Notices* are set out in Schedule 1.

SCHEDULE 1

PENALTIES FOR INFRINGEMENT NOTICES

Clause	Topic	Penalty Unit
	Part 2 Your Property	
9	Unightly land	3
10	Dilapidated building	5
11	Dangerous land	5
12	Overhanging Obstruction or Vegetation	3
13	Shipping containers	1
14	Numbering properties	1
15	Oversize vehicles	3
16	Camping on private land	2
17	Use of Recreational vehicles on private land	3
18	On-site wastewater management system	5
19	Lights	1
20	Asbestos	5
	Part 3 Animals	
21	Keeping of animals Generally	2
22	Responsible Breeding of Dogs and Cats	2
23	Keeping Animals	2
24	Animal Excrement	2
25	Animal noise	1
26	Feeding of Animals	1
27	Wasps and Bees	1
	Part 4 Open Air Burning, Incinerators & Chimneys	
28	Restriction on Burning in the Open Air – land 1,500 sq metres or below	2
29	Restriction on Burning in the Open Air – land above 1,500 sq metres	2
30	Restriction on Burning in the Open Air – land 40,000 sq metres or above	2
34	Nuisance Burning and Incinerators	2
35	Extinguishing Fires	2
36	General Provisions	2
37	Chimneys	2
	Part 5 Noise Control	
38	Unreasonable noise	2
39	Audible Intruder alarm	1
	Part 6 Waste	
40	Approved Household Waste Bin	1
41	Waste Collection	1
42	Bulk Rubbish Containers	2
43	Trade Waste Bin	2

SCHEDULE 1

PENALTIES FOR INFRINGEMENT NOTICES
(CONT'D)

Clause	Topic	Penalty Unit
	Part 7 Council Land Division 1 – Behaviour	
44	Behaviour on Council land	2
45	Access to Municipal Place	1
46	Smoking in a Smoke Free Area or at a Smoke Free Event	1
47	Smoking on Council land	1
48	Council sign	1
49	Activities in or on a Reserve or Beach	2
50	Camping on Council land	2
	Division 2 – Vehicles	
51	Repair of Vehicles	2
52	Display of Vehicles	2
53	Storage on Council land	2
54	Abandoned, Derelict & Unregistered Vehicles	2
55	Toy Vehicles and Bicycles	1
56	Use of Recreational Vehicles in a Public Place	3
57	Behaviour Involving Motor Vehicles	5
	Division 3 Businesses	
58	Itinerant Trading	3
59	Signage	1
60	Street Furniture and Display of Goods	2
61	Clothing Recycling Bin	1
62	Restrictions on selling and displaying Aerosol Spray Paint	2
63	Shopping Trolleys	2
64	Street Collection and Distribution	1
65	Spruiking	1
66	Busking, Fundraising and Community Awareness Activities	1
67	Filming	5
68	Circuses, Carnivals, Festivals and Events	5
	Part 8 Asset Protection Division 1 – Building Sites and Drains	
69	Building Sites	5
70	Drains	5
	Division 2 – Council land and Roads	
71	Works on Council land and Roads	5
72	Vehicle Crossings	5
73	Interfering with Roads, Council land and Infrastructure	5
74	Spoil on Road	5
75	Obstructions on Road and Council land	5
76	Occupation of Roads	5
80	Permits	3
81	Verbal direction & Notice to Comply	3