

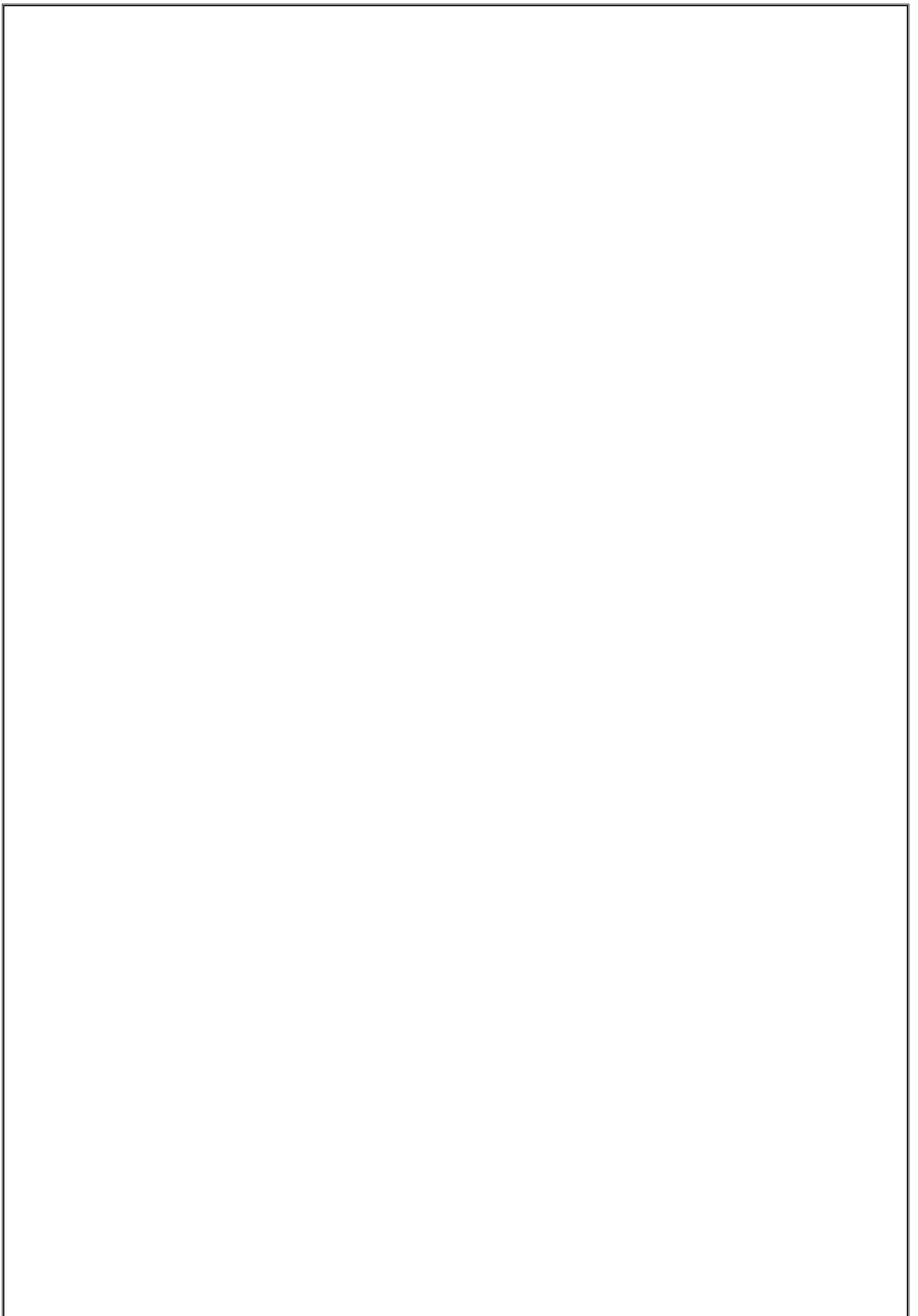


CITY OF MONASH

LOCAL LAW NO. 3

Commencement date - 1 February 2005

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LOCAL LAW NO. 3

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CITY OF MONASH

LOCAL LAW No.3

PART 1

PRELIMINARY

Title

1. This Local Law is called "Local Law No.3".

What are the objectives of this Local Law?

2. The objectives of this Local Law are to:
 - 2.1 provide for the peace, order and good government of the *municipal district*;
 - 2.2 promote a physical and social environment free from hazards to health, in which the residents of the *municipal district* can enjoy a quality of life that meets the general expectations of the community; and
 - 2.3 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*,and to achieve these objectives by:
 - 2.4 regulating and controlling activities of people within the *municipal district* which may be dangerous, unsafe or detrimental to the quality of life of other people in, or the environment of, the *municipal district*; and
 - 2.5 providing standards and conditions for specified activities to protect the safety and the welfare of people within, and the environment of, the *municipal district*.

What authorises this Local Law?

3. This Local Law is made under section 111 of the *Act*.

When does this Local Law commence?

4. This Local Law commences on 1 February 2005.

When does this Local Law end?

5. This Local Law ends on 1 February 2015.

To what part of the *municipal district* does this Local Law apply?

6. This Local Law applies throughout the whole of the *municipal district*.

What does this Local Law replace?

7. From the commencement of this Local Law, Local Law No. 3 previously made by *Council* is revoked.

Definitions

8. The words identified in italics throughout this Local Law are intended to have the following meanings:

"*advertising sign*" means any placard, board, sign, card, or banner, whether portable or affixed or attached to any land or building which:

8.1 provides information about a business or industry; or

8.2 advertises goods, services, an event or a competition.

"*Act*" means the Local Government Act 1989.

"*alcohol*" means a beverage intended for human consumption with an alcoholic content greater than 0.5 per centum by volume at a temperature of 20 degrees celsius.

"*allotment*" means any land in separate ownership or occupation.

"*appointed agent*" means the person authorised in writing by an owner of land to make an application, appeal, referral or representation on the owner's behalf.

"*approved garbage receptacle*" means a wheeled mobile garbage receptacle supplied by *Council* for the purpose of disposing of *domestic waste*.

"*approved green waste receptacle*" means a wheeled green waste receptacle supplied by *Council* for the purpose of disposing of *green waste*.

"*Asset Protection Permit*" means a written permit issued by Council for the protection of public assets and infrastructure during *building work*.

"*authorised officer*" means a person appointed by *Council* to be an authorised officer under section 224 of the Act.

"*builder*" means a person who carries out *building work* or, not being an owner of land on which the *building work* is carried out, manages or arranges the carrying out of *building work*.

"*builder's refuse*" includes any solid or liquid domestic or commercial waste, debris or rubbish, and, without limiting the generality, includes any glass, metal, plastic paper, fabric, wood, food, vegetation, soil, sand, concrete, rocks and other waste material, substance or thing generated by or in connection with *building work*.

"*building site*" means the parcel of land on which or part of which *building work* is being carried out;

"*building work*" means work for or in connection with the construction, renovation, alteration, demolition, relocation or removal of a building, including excavation, landscaping, concreting, and subdivision *road* construction but excludes *minor building work*.

"*bulk rubbish container*" means a bin, skip or other container used for the deposit of waste, but excludes a *receptacle* used in connection with Council's waste collection services.

"*caravan*" includes a mobile home and moveable *dwelling*.

"*carriageway*" means the portion of the *road* generally available for traffic by *motor vehicles*, whether sealed, formed or unconstructed.

"*charity bin*" means any bin placed by or on behalf of any charitable or non-profit organization and dedicated to the collection of used clothing or small household items.

"*construction period*" means the period during which *building work* is being carried on.

"*Council*" means Monash City Council.

"*Council land*" means any land vested in or under the control of Council, including a reserve, watercourse, reservation and the like, but excludes a *road*, except that part of the *road* which is the nature strip and footpath.

"*domestic waste*" means all waste or rubbish produced or accumulated in or on any land, but excludes:

- 8.3 hot or burning materials;
- 8.4 nightsoil, sewerage, and animal excreta unless it is wrapped in a manner which prevents its escape;
- 8.5 slops or liquid wastes;
- 8.6 waste generated from *building work*;
- 8.7 waste generated from the restoration, repair or servicing of *motor vehicles*;
- 8.8 waste from a vacuum cleaner, hair, moist refuse or similar waste, unless it is wrapped or contained in a manner which prevents its escape;
- 8.9 ash, unless it is:
 - 8.9.1 cold;
 - 8.9.2 dampened; and
 - 8.9.3 wrapped or contained in a manner which prevents its escape;
- 8.10 trade waste;
- 8.11 *recyclables*;
- 8.12 oil, paints, solvents and similar substances;
- 8.13 any broken glass, lancet or other sharp object, unless:
 - 8.13.1 it is wrapped in impermeable material; or
 - 8.13.2 contained entirely within an impermeable receptacle from which it cannot escape;
- 8.14 disposable nappies, unless they have been cleaned of faeces and wrapped in impermeable material;
- 8.15 any waste that cannot be contained in an approved garbage bin due to its size, shape, nature or volume;
- 8.16 medical or veterinary waste;
- 8.17 building materials, including, without limitation, bricks, concrete, timber and metal objects;

- 8.18 furniture and like objects;
- 8.19 *motor vehicle* parts;
- 8.20 *green waste*;
- 8.21 any object which may damage the collection mechanism or a vehicle used for the collection of refuse; and
- 8.22 any other substance declared by *Council* or an *authorised officer* not to constitute "*domestic waste*" for the purposes of this Local Law from time to time;

"*dwelling*" means a building or portion of a building, which is used, or intended, adapted or designed, for residential purposes.

"*frontage*" means a boundary between an *allotment* and an adjoining road, and if an *allotment* adjoins more than one (1) *road*, the *frontage* is the boundary between the *allotment* and the *road* to which the largest building on the *allotment* fronts.

"*green waste*" means all organic waste produced or accumulated in or on any land, including grass clippings, branches, garden prunings and leaves but excluding any log, stump, soil, rubbish, *domestic waste* or portion of a tree, shrub, trunk or branch which has a diameter exceeding 75 millimetres or a length exceeding 400 millimetres.

"*habitable room*" means any room in a *dwelling*, other than a kitchen, storage area, bathroom, laundry, toilet or pantry.

"*incinerator*" means any structure, device or item of equipment which is designed, adapted, used or capable of being used for the burning of any material or substance and is not:

- 8.23 enclosed in any building;
- 8.24 a barbeque; or
- 8.25 licensed under the provisions of the *Environment Protection Act 1970*.

"*minor building work*" means *building work* valued at less than \$5,000 but excludes the construction of any masonry structure and the demolition and removal of buildings and structures (regardless of value).

"*motor vehicle*" has the meaning ascribed to it by the *Road Safety Act 1986*.

"*municipal district*" means the municipal district of Council.

"*Municipal Place*" means any building which is owned, occupied or under the management or control of *Council*, and includes a *public* library and any recreation centre which is owned, occupied or under the management or control of *Council*.

"*Notice to Comply*" means a notice served under clause 145.

"*noxious weed*" has the meaning ascribed to it by the *Catchment and Land Protection Act 1994*;

"*poultry*" includes hens, ducks, geese, peacocks, turkeys, bantam, squab, guinea fowls and other edible birds over the age of 12 weeks but excludes roosters;

"*private land*" means any land which is not *Council land* nor land occupied or under the control or management of a public body.

"*public holiday*" means a public holiday within the meaning of the *Public Holidays Act 1993*, applying in the *municipal district*.

"*public place*" has the meaning ascribed to it by the *Summary Offences Act 1966*.

"*public library*" means a library operated by *Council*;

"*public library manager*" means a member of *Council* staff who manages a *public library*;

"*racing pigeon*" means any pigeon kept by its owner for the purpose of racing if that owner is a member of a club or association:

8.26 established for the racing of pigeons; or

8.27 which is affiliated with an organisation established for the racing of pigeons.

"*receptacle*" means any approved garbage receptacle, approved green waste receptacle or recycling receptacle.

"*recreational vehicle*" means any mini-bike, trail-bike, motor bike, motor scooter, go-kart or other vehicle propelled by a motor which is ordinarily used for recreational purposes but excludes a motorised wheelchair and motorised bicycle with a maximum capacity of 22 watt aggregate power.

"*recyclables*" means any substances or articles which *Council* has resolved or an *Authorised Officer* has by written notice determined to be *recyclables* for the purposes of this Local Law.

"*recycling receptacle*" means any crate, tub or other receptacle for the collection of *recyclables*, supplied by *Council*.

"*refuse facility*" means a receptacle capable of retaining all *builder's refuse* within a *building site* and preventing removal of the *builder's refuse* by unauthorised persons or by wind or rain.

"*Residential Area*" means any area zoned as residential or predominantly residential under an applicable Planning Scheme.

"*reserve*" means any land which is owned, occupied or managed or controlled by *Council* and dedicated or used for outdoor cultural, sporting or recreational purposes.

"*road*" has the meaning ascribed to it by section 3 of the *Act*.

"*sell*" includes

8.28 sell by means of any machine or mechanical device;

8.29 barter or exchange;

8.30 agree to sell;

8.31 offer or expose for sale; or

8.32 keep or have in possession for sale –

and directing, causing or attempting any of such acts or things.

"*Service Authority*" means an emergency service or a public body which *Council* has resolved is a *Service Authority* for the purposes of this Local Law.

"*stormwater system*" means a drainage system which provides for the conveyance of stormwater run-off including kerb and channel, open channels, underground pipe systems and natural waterways.

"*toy vehicle*" means any vehicle or contraption designed to be propelled by human power, and includes a scooter, skateboard, roller skaters and roller blades.

"*trade waste*" means any waste, refuse, slops or other matter arising from or generated by any trade, industry or commercial undertaking.

"*trade waste hopper*" means a purpose-built receptacle for the deposit of trade waste that is ordinarily emptied by mechanical means.

"*vehicle*" includes any conveyance propelled or drawn by human, animal, mechanical, electrical or other power.

Notes in this Local Law

9. Introductions to Parts, headings and notes are explanatory notes and do not form part of this Local Law. They are provided to assist understanding.

PART 2

USE OF COUNCIL LAND

Introduction: This Part contains provisions that define what is and what is not permitted on Council land. Generally, the provisions apply to what are known as *Municipal Places*. Specific provisions then extend to reserves.

What Council may do

10. Council may:
 - 10.1 restrict access to a *municipal place* or part of it;
 - 10.2 close any *Municipal Place* or part of it to the public;
 - 10.3 establish conditions of entry to a *Municipal Place*;
 - 10.4 set fees or charges for admission to or the hire or use of a *Municipal Place* or part of it;
 - 10.5 set fees or charges for the hire or use of any *Council* property in connection with a *Municipal Place*; and
 - 10.6 authorise a person to do any one or more of the things described in clause 10.1- 10.5 (inclusive).

What a person cannot do

11. A person must not, without the consent of *Council* or an *authorised officer*:
 - 11.1 act contrary to any conditions of entry applicable to a *Municipal Place*;
 - 11.2 enter a *Municipal Place* without paying any fee or charge applicable to that *Municipal Place* or the hire or use of the *Municipal Place*; or
 - 11.3 hire or use any *Council* property in connection with a *Municipal Place* without first paying any fee or charge which is applicable.

Penalty: 3 Penalty Units

Behaviour in *Municipal Places*

12. A person must not:
 - 12.1 commit any nuisance in a *Municipal Place*;
 - 12.2 interfere with another person's use and enjoyment of a *Municipal Place*;
 - 12.3 act in a manner which endangers any other person in a *Municipal Place*;
 - 12.4 use indecent, insulting, offensive or abusive language in a *Municipal Place*;
 - 12.5 behave in an indecent, offensive, insulting or riotous manner in a *Municipal Place*;

- 12.6 without the consent of *Council* or an *authorised officer*:
- 12.6.1 destroy, damage, interfere with or deface a *Municipal Place*;
 - 12.6.2 destroy, damage, interfere with or deface anything located at, on or in a *Municipal Place*; or
 - 12.6.3 remove any object which is owned by *Council* from a *Municipal Place*;
- 12.7 act in a manner contrary to any restriction or prohibition contained in the inscription on a sign at, on or in a *Municipal Place*;
- 12.8 deposit any litter in a *Municipal Place*, except in a receptacle provided for that purpose;
- 12.9 except for a child under the age of six (6) years in the care of a responsible person, enter or use any dressing room, shower, convenience or other area in a *Municipal Place* which has been appropriated for persons of the opposite gender;
- 12.10 without the consent of *Council* or an *authorised officer*, sell any goods or services in a *Municipal Place*;
- 12.11 without the consent of *Council* or an *authorised officer*, erect, affix, place or leave any advertisement in a *Municipal Place*;
- 12.12 without the consent of *Council* or an *authorised officer*, erect, operate or cause to be erected or operated any amusement in a *Municipal Place*;
- 12.13 obstruct, hinder or interfere with any member of staff of *Council* in the performance of his or her duties in a *Municipal Place*;
- 12.14 act contrary to any lawful direction of an *authorised officer* or member of *Council* staff given in a *Municipal Place*, including, without limitation, a direction to leave the *Municipal Place*, whether or not a fee for admission to the *Municipal Place* has been paid;
- 12.15 use or interfere with any life saving or emergency device located in a *Municipal Place*, unless:
- 12.15.1 using the device in an emergency; or
 - 12.15.2 participating in an instruction approved by *Council* or an *authorised officer*;
- 12.16 organise any function or event in a *Municipal Place* without the consent of *Council* or an *authorised officer*;
- 12.17 bring any animal into, or allow any animal under his or her control to remain in, a *Municipal Place* without the consent of *Council* or an *authorised officer*, except for a guide dog being used by a visually impaired person or a hearing dog being used by a hearing impaired person;
- 12.18 bring any *vehicle* or *toy vehicle* into a *Municipal Place* without the consent of *Council* or an *authorised officer*, except for:
- 12.18.1 a pram or pusher being used by a child; or
 - 12.18.2 a wheelchair being used by a physically disabled person; or

- 12.19 bring into a *Municipal Place* any substance, liquid or powder which may:
- 12.19.1 be dangerous or injurious to health;
 - 12.19.2 have the potential to foul, pollute or soil any part of the *Municipal Place*; or
 - 12.19.3 cause discomfort to any person
- without the consent of *Council* or an *authorised officer*.

Penalty: 5 Penalty Units

Access to *Municipal Places*

13. *Council* or an *authorised officer* may:
- 13.1 determine the hours when any *Municipal Place* will be open to the public;
 - 13.2 restrict access to a *Municipal Place* or part of a *Municipal Place*;
 - 13.3 close any *Municipal Place* or part of a *Municipal Place* to the public; and
 - 13.4 charge fees for admission to or the use of a *Municipal Place* or part of a *Municipal Place*.
14. *Council* may:
- 14.1 authorise any person to occupy a *Municipal Place* or restrict access to a *Municipal Place*; or
 - 14.2 authorise any person to charge fees for admission to or the use of a *Municipal Place* or part of a *Municipal Place*.
15. *Council*, an *authorised officer* or any person authorised by *Council*, may from time to time establish:
- 15.1 conditions applying to and fees or charges for admission to or the hire or use of a *Municipal Place* or part of a *Municipal Place*; and
 - 15.2 conditions applying to and fees or charges for the hire or use of any property of *Council* in connection with a *Municipal Place*.
16. In exercising the powers conferred by clause 15, *Council*, an *authorised officer* or any person authorised by *Council* may determine conditions applying to and fees and charges for admission to or the use of *Municipal Place*:
- 16.1 on multiple occasions;
 - 16.2 over a period of time; or
 - 16.3 on any other basis that it, he or she considers appropriate.
17. A person must not, without the consent of *Council* or an *authorised officer*:
- 17.1 enter a *Municipal Place* other than through an entrance provided for that purpose;

- 17.2 enter or remain in a *Municipal Place* during hours when the *Municipal Place* is not open to the public;
- 17.3 enter or remain in a *Municipal Place* without having paid any fee or charge imposed by *Council*, an *authorised officer* or any person authorised by *Council* for admission to the *Municipal Place*;
- 17.4 remain in a *Municipal Place* after being directed to leave by an *authorised officer*, or
- 17.5 enter a *Municipal Place*, after having been directed to leave that *Municipal Place* by an *authorised officer*, until her or she is granted written permission to do so by *Council* or an *authorised officer*.

Penalty: 3 Penalty Units

Activities Prohibited in Reserves

- 18. In a *reserve*, a person must not:
 - 18.1 unless that person is a player, official or competitor in or at a sporting match or gathering, enter upon or remain on an area set aside as a playing ground during the course of a sporting match or gathering;
 - 18.2 climb or jump on any wall, fence, gate, seat or other structure;
 - 18.3 intentionally roll or throw any stone or missile so as to endanger any person or cause any damage;
 - 18.4 spit on or otherwise foul any path or structure;
 - 18.5 use any children's playground equipment other than for the purpose for which it is provided;
 - 18.6 swim, paddle, dive or jump into or enter any wetland, lake, pond or fountain;
 - 18.7 throw, place or allow to be thrown or placed any liquid, stone, stick, paper, dirt or other object, substance or thing into any wetland, lake, pond or fountain;
 - 18.8 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:
 - 18.8.1 dangerous to any other person in the *reserve*; or
 - 18.8.2 likely to interfere with the reasonable use or enjoyment of the *reserve* by any other person; or
 - 18.9 play or practise golf other than in a *reserve* designated or set aside as a golf course.

Penalty: 5 Penalty Units

Activities which may be permitted in Reserves

- 19. In a *reserve*, a person must not, without a permit,

- 19.1 fly or permit to be flown any aircraft (including any powered modelled aeroplane);
- 19.2 ride or drive a vehicle or animal in a manner or in a place which is likely to damage or ruin any grassed area or turf surface or otherwise interfere with the use of the *reserve* by another person;
- 19.3 light a fire or permit any fire to remain alight except:
 - 19.3.1 a barbecue provided by *Council*; or
 - 19.3.2 a portable liquid petroleum gas barbecue;
- 19.4 play, organise, practise or engage in any organised competitive sport or game;
- 19.5 camp or pitch, erect or occupy any camp, tent, caravan or temporary structure;
- 19.6 conduct or celebrate a wedding;
- 19.7 organise, hold or participate in any rally, procession, demonstration or any other public gathering;
- 19.8 hold a circus or carnival;
- 19.9 make a collection of money;
- 19.10 carry any firearm except a pistol intended and designed for use as sporting official's starting pistol;
- 19.11 destroy, damage or interfere with any flora or kill, injure or interfere with any fauna;
- 19.12 use an amplifier; or
- 19.13 walk on any plot, bed, border or any other area set aside for vegetation.

Penalty: 3 Penalty Units

Public Libraries

- 20. *Council or a public library manager may:*
 - 20.1 establish conditions of membership for any *public library*; and
 - 20.2 set fees or charges in connection with the use of any *public library*.
- 21. A person:
 - 21.1 who is a member of a *public library* must comply with any conditions of membership which have been established under clause 20.1 and which are applicable to him or her;
 - 21.2 must pay any fee or charge set under clause 20.2 which is applicable to him or her;
 - 21.3 must:

- 21.3.1 open for inspection at the request of a *public library manager* or any other member of *Council* staff present in the *public library* any bag, briefcase, container or other receptacle in his or her possession;
- 21.3.2 not leave any pamphlet, poster or handbill in any *public library* without the consent of a *public library manager* or other member of *Council* staff present in the *public library*;
- 21.3.3 relinquish any item ordinarily held in the *public library* at the request of any *public library manager* or other member of *Council* staff present in the *public library*; and
- 21.3.4 not leave any child under the age of 11 years unsupervised in any *public library* without the consent of the relevant *public library manager* or other member of *Council* staff present in the *public library*.

Penalty: 2 Penalty Units

PART 3

PROTECTION OF COUNCIL LAND AND ASSETS

Introduction: This Part is designed to protect *Council land* and assets. Specifically, it regulates drains, vehicle crossings and recreational vehicles. More generally, it establishes a system of *Asset Protection Permits*, as a means of regulating *building work* which may harm *Council land* or assets.

What are a person's responsibilities relating to drains?

22. A person must not, without a permit, destroy, damage or tap into any drain, culvert or sewer vested in *Council*.

Penalty: 10 Penalty Units

- 22.1 A person must not:

22.1.1 allow any drain vested in him or her and located on land which he or she owns or occupies to fall into disrepair or a condition which is dangerous to health; or

22.1.2 perform any act in relation to a drain into which he or she has been permitted to tap or to which he or she has been permitted to connect which causes the drain to:

22.1.2.1 fall into disrepair; or

22.1.2.2 develop a condition which is dangerous to health.

Penalty: 5 Penalty Units

Interference with Watercourse

23. A person must not, without a permit, destroy, damage or interfere with any watercourse, wetland, ditch, creek, gutter, tunnel, bridge, levy or culvert which is vested in or under the management or control of *Council*.

Penalty: 10 Penalty Units

Constructing Vehicle Crossings

- 24.

24.1 A person must not, without a permit, construct, remove or relocate any temporary or permanent vehicle crossing.

Penalty: 10 Penalty Units

24.2 Each owner and occupier of land must not, without a permit:

24.2.1 construct or allow to be constructed; or

24.2.2 use or allow to be used

a second or subsequent vehicle crossing to service the land.

Penalty: 10 Penalty Units

Maintaining Vehicle Crossings

25. Each owner and occupier of land must maintain and keep in good condition any vehicle crossing which services that land.

Penalty: 5 Penalty Units

Directing Vehicle Crossing Works

26. Council or an authorised officer may direct:

26.1 the construction of a temporary or permanent vehicle crossing;

26.2 the repair or reconstruction of a vehicle crossing; or

26.3 the removal of a vehicle crossing, and the reinstatement of any kerb, channel, footpath or other areas to the satisfaction of the *authorised officer*

by the owner or occupier of any adjacent land at his or her cost.

Each owner or occupier of land to whom a direction has been given under this clause 26 must comply with that direction by applying for a permit to do the thing which is directed.

Penalty: 10 Penalty Units

Asset Protection

27.

27.1 The:

27.1.1 owner of any land;

27.1.2 *builder* engaged to carry out *building work* on land;

27.1.3 appointed agent; or

27.1.4 demolition contractor engaged to carry out the demolition of a structure on the land, in the case of *building work* involving demolition,

must:

- 27.1.5 obtain an *Asset Protection Permit* before carrying out the *building work*; or allowing the *building work* to be carried out on that land; or
- 27.1.6 not carry out or allow to be carried out any *building work* on that land unless an *Asset Protection Permit* has been obtained.

Penalty: 20 Penalty Units

- 28. On the payment of an application fee, *Council* may issue an *Asset Protection Permit* in respect of any land where *building work* is to be carried out.
- 29. An *Asset Protection Permit* may allow a person to enter land from a *road* other than by a permanently constructed vehicle crossing whether or not public assets or infrastructure are likely to be damaged.
- 30. An *Asset Protection Permit* may be subject to such conditions as *Council* determines, including conditions:
 - 30.1 requiring protection works to be done;
 - 30.2 requiring the payment of a security bond;
 - 30.3 requiring that any or all public assets or infrastructure damage be repaired, replaced or re-instated within a specified time and to the satisfaction of *Council*; or
 - 30.4 requiring a temporary vehicle crossing to be installed to *Council's* specification before commencement of any *building work* or delivery of any equipment or materials to the land.
- 31. A person who is not one of the persons described in clause 27 must not:
 - 31.1 carry out *building work* on land unless, in respect of the *building work*, an *Asset Protection Permit* has been obtained; or
 - 31.2 deliver to a *building site* any equipment or materials unless an *Asset Protection Permit* has, in respect of the *building work* being carried out on the land, been obtained.

Penalty: 5 Penalty Units

32. The:
- 32.1 owner of any land on which *building work* is being or is to be carried out;
 - 32.2 *builder* engaged to carry out *building work* on land;
 - 32.3 *appointed agent*;
 - 32.4 driver of any vehicle involved in placing or removing a *refuse facility* on land; or
 - 32.5 demolition contractor engaged to carry out the demolition of a structure on the land, in the case of *building work* involving demolition,
- must, in respect of the *building work*, ensure that:
- 32.6 entry takes place only across a temporary vehicle crossing unless otherwise permitted by *Council* and in accordance with that permission, and
 - 32.7 no materials are deposited on any part of a *road* or *Council land* without the approval of *Council*.

Penalty: 20 Penalty Units

33. Regardless of whether a building permit has been issued, the:
- 33.1 owner of any land on which *building work* is being or is to be carried out;
 - 33.2 *builder* engaged to carry out *building work* on land;
 - 33.3 *appointed agent*; or
 - 33.4 demolition contractor engaged to carry out the demolition of a structure on the land, in the case of *building work* involving demolition,
- must:
- 33.5 notify *Council* in writing of the proposed *building work* at least seven (7) days before the *building work* commences; and
 - 33.6 provide to *Council* written notice of any prior damage to any part of the adjoining *road* or any other adjoining public asset or infrastructure at least seven (7) days before *building work* commences or the delivery of any equipment or materials to the land which relate to that *building work*.

Penalty: 20 Penalty Units

34. If the owner, *builder* or *appointed agent* or, in the case of *building work* involving demolition, the demolition contractor, fails to give written notice in accordance with clause 33.6, it must be presumed that there was no prior damage to any part of the adjoining *road*, *Council land* or other adjoining public asset or infrastructure prior to the commencement of *building work*.

35. The owner, *builder* or *appointed agent* or, in the case of *building work* involving demolition, the demolition contractor, must repair to the satisfaction of *Council* any damaged *road* (including carriageway), channel, drain, vehicle crossing or other asset vested in *Council* adjacent to the land where the *building work* takes place or which is likely to be affected by the *building work* for which an *Asset Protection Permit* has been obtained.

Penalty: 20 Penalty Units

36. The amount of any security bond required under any *Asset Protection Permit* must be proportionate to the likely costs of repairing any potential damage to any existing *Council land, road* (including carriageway), channel, drain, vehicle crossing or other public asset arising from the *building work*; or
37. Upon completion of the *building work*, the amount of the security bond:
- 37.1 may be retained by *Council* to offset the costs of carrying out any works in accordance with this Local Law;
- 37.2 may be refunded to the person who lodged it, upon *Council's* satisfaction that no damage has been caused, or that any damage caused has been repaired by, or on behalf of, that person to *Council's* satisfaction; and
- 37.3 must be supplemented by a further payment equal to the difference between the cost of carrying out any works in accordance with this Local Law and the amount of the bond, if *Council* is satisfied that the amount of the bond is insufficient to meet such cost and it makes a demand for such payment in writing.
38. Where *Council* so determines, it may agree to accept an alternative form of security to a security bond.
39. It is a defence to a prosecution for an offence against clause 52 that there was in force at the time of the alleged offence a current *Asset Protection Permit* relating to the land and that there was compliance with the conditions of that *Asset Protection Permit*.

Building Sites Generally

40. *Council* or an *authorised officer* may inspect a *building site* at any reasonable time.
41. If *Council* or an *authorised officer* identifies any damage which appears to result from non-compliance with this Local Law, an *authorised officer*:
- 41.1 may direct the responsible party to reinstate the damage within a specified time; and
- 41.2 must provide the responsible party with written confirmation of the damage either at the time of the inspection or within a reasonable timeframe.
42. Where any *building work* is being carried out on any land, the owner of the land, the *builder* engaged to carry out *building work* on the land, the *appointed agent* or, in the case of *building work* which involves demolition, the demolition contractor engaged to demolish a structure on the land, must ensure that the *building site* is developed and managed to minimise the risks of stormwater pollution, through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants in accordance with currently accepted best practice, by adopting measures to:

- 42.1 minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting roads or washed into the *stormwater system*; and
- 42.2 prevent building clean-up, wash-down or other wastes being discharged offsite or allowed to enter the *stormwater system*.

Penalty: 20 Penalty Units

- 43. Where any *building work* is being carried out on any land, the owner of the land, *builder* engaged to carry out *building work* on the land or *appointed agent* must:
 - 43.1 provide a *refuse facility* for the purpose of disposal of *builder's refuse*, and, provided the *refuse facility* contains all *builder's refuse* on the land to the satisfaction of *Council* or an *authorised officer*, its size, design and construction will be at the discretion of the *builder*,
 - 43.2 place the *refuse facility* on the land and keep it in place (except for such periods as are necessary to empty the *refuse facility*) for the *construction period*;
 - 43.3 not place the *refuse facility* on any *Council land* or *road* without a permit; and
 - 43.4 empty the *refuse facility* whenever full, and, if necessary, provide a replacement *refuse facility* during the emptying process.

Penalty: 20 Penalty Units

- 44. *Council* or an *authorised officer* may from time to time exempt any person from the application of clause 43.
- 45. During *building work*, the:
 - 45.1 owner of land on which the *building work* is being carried out;
 - 45.2 *builder* engaged to carry out the *building work*; or
 - 45.3 *appointed agent*
 must ensure that:
 - 45.4 all *builder's refuse* which requires containment is placed in the *refuse facility*;
 - 45.5 the *builder's refuse* is not deposited in or on any land other than in accordance with clause 43; and
 - 45.6 the *builder's refuse* is not deposited in or over any part of the *stormwater system*.

Penalty: 20 Penalty Units

- 46. On any land where *building work* is being, or has been, carried out, the:

- 46.1 owner of the land on which the *building work* is being or has been carried out;
- 46.2 *builder* engaged to carry out the *building work* or
- 46.3 *appointed agent*

must remove and lawfully dispose of all *builder's refuse*, including, without limiting the generality, the *builder's refuse* in the *refuse facility*, within seven (7) days of completion of the *construction period* or issue of an occupancy permit, whichever occurs last.

Penalty: 20 Penalty Units

47. The:
- 47.1 owner of the land on which the *building work* is being or is to be carried out;
- 47.2 *builder* engaged to carry out the *building work*; or
- 47.3 *appointed agent*

must not carry out or allow to be carried out any *building work* or other work necessitating the employment or engagement of persons on a *building site* unless a sewerated toilet or a fresh water flush with water seal type portable toilet (closed) system is provided, and is serviced as required (at least monthly) for the use of persons on that *building site* to the satisfaction of *Council* or an *authorised officer*.

Penalty: 20 Penalty Units

48. No liability will arise under clause 47 if:
- 48.1 a building is being constructed on an adjacent *building site* simultaneously by the same person; and
- 48.2 *Council* allows and there is provided one (1) sewerated toilet system or a fresh water flush with waste seal type portable toilet (closed) system serviced as required for three (3) *building sites*.
49. An *authorised officer* may enter any *building site* at any reasonable time for the purpose of inspecting any sewerated toilet, portable toilet (closed) systems, urinal, pan, receptacle, vehicle, plant or other thing placed on it, for the purpose of carrying out the provisions of this Local Law.

50. The:
- 50.1 owner of land on which *building work* is to be carried out;
- 50.2 *builder* engaged to carry out the *building work*
- 50.3 *appointed agent*

must not, without a permit, carry out or allow to be carried out any *building work* on the land unless, in respect of that *building work*, the land is secure with permanent

or temporary fencing which is at least 1.5 metres high and is to the satisfaction of *Council*.

Penalty: 20 Penalty Units

Works on *Council Land* and *Roads*

51. Where a person is required to undertake any works on *Council land* or a *road* that person must:
- 51.1 undertake those works safely;
 - 51.2 provide and maintain pedestrian and traffic control devices during the course of the works; and
 - 51.3 ensure that any pedestrian or traffic control device which is being used on or in respect of the land complies with Australian Standard AS 1742.3 published by or on behalf of Australian Standards.

Penalty: 20 Penalty Units

Damaging *Council Land* or *Roads*

52. A person must not, without a permit:
- 52.1 destroy, damage or interfere with any *Council land* or any *road* or thing on *Council land* or any *road*;
 - 52.2 place any thing on *Council land* or any *road* so as to endanger any other person or any property;
 - 52.3 remove any thing from *Council land* or any *road*; or
 - 52.4 light a fire on any *Council land* or any *road*, except in a properly constructed barbecue.

Penalty: 10 Penalty Units

53. Clause 52 does not apply to a person employed or engaged by *Council* while acting in the course of his or her duties.

Recreational Vehicles

54. A person must not, without a permit:
- 54.1 use; or
 - 54.2 permit a person under his or her care or control to use
a recreational vehicle on any *Council land*.

Penalty: 5 Penalty Units

PART 4**MUNICIPAL AMENITY**

Introduction: This Part is concerned with the visual amenity of the *municipal district*. Its provisions control a number of activities which, if left uncontrolled, have the potential to detract from the natural environment.

Unsightly land

55. Unless permitted under a Planning Scheme applicable to the land, a person must not allow or permit land of which he or she is the owner or occupier to be kept in a manner which is:

55.1 unsightly;

55.2 dangerous; or

55.3 detrimental to the general amenity of the neighbourhood in which it is located.

Penalty: 3 Penalty Units

56. Each owner or occupier of land must maintain his or her land by:

56.1 mowing;

56.2 slashing; or

56.3 otherwise removing all overgrown grass and weeds

so as to give the land an overall appearance of neatness.

Penalty: 3 Penalty Units

57. An owner or occupier of land which is not a *building site* must not, without a permit, keep any bulk shipping container on that land for the purpose of storing goods.

Penalty: 3 Penalty Units**Old, Used or Second Hand Machinery, Materials, Goods and Vehicles**

58. Unless permitted under a planning scheme applicable to the land, a person must not, without a permit:

58.1 use any land for the storage, assembly or dismantling of any old, used or second hand:

58.1.1 machinery;

58.1.2 materials; or

- 58.1.3 goods; or
- 58.2 use any land for the storage, assembling or dismantling of any old or second hand vehicles.

Penalty: 3 Penalty Units

Prohibition on Graffiti

59. A person must not:

- 59.1 write;
- 59.2 paint; or
- 59.3 draw any inscription, figure or mark

on the exterior of any premises without the prior consent of the:

- 59.3.1 owner; or
- 59.3.2 occupier

of the premises and for the purpose of affecting the visual amenity of the premises or the area in which they are located.

Penalty: 10 Penalty Units

Permitting Camping

60. Unless permitted under a Planning Scheme applicable to the land, the owner or occupier of any land in a *Residential Area* must not, without a permit, allow any person to:

- 60.1 occupy; or
- 60.2 place or cause to be placed for the purpose of occupation any:
- 60.3 *caravan*;
- 60.4 tent; or
- 60.5 like structure

on any land.

Penalty: 5 Penalty Units

Camping

61. Unless permitted under a Planning Scheme applicable to the land, a person must not, without a permit:

- 61.1 occupy; or

- 61.2 cause to be occupied;
- any
- 61.3 *caravan*;
- 61.4 tent; or
- 61.5 like structure

on any land for a period longer than three (3) weeks in any calendar year.

Penalty: 5 Penalty Units

Caravans

- 62. Unless permitted under a Planning Scheme applicable to the land, a person must not:
 - 62.1 without a permit:
 - 62.1.1 place;
 - 62.1.2 cause to be placed; or
 - 62.1.3 permit to be placed
- more than one (1) *caravan* on any land in a *Residential Area*; or
- 62.2 place or cause or permit to be placed a *caravan* on any land in a *Residential Area* unless the placement is to the satisfaction of an *authorised officer*.

Penalty: 3 Penalty Units

Camping on roads or Council land

- 63. Unless permitted under a Planning Scheme applicable to the land, a person must not, without a permit:
 - 63.1 camp; or
 - 63.2 erect, place or occupy a –
 - 63.2.1 *caravan*;
 - 63.2.2 tent; or
 - 63.2.3 similar structure

on a *road*, *Council land* or *public place*.

Penalty: 5 Penalty Units

Exemption

64. *Council* or an *authorised officer* may from time to time exempt any:
- 64.1 person; or
 - 64.2 class of persons;
- from the application of clause 60, 61, 62 or 63.

Vegetation at Intersections

65. The owner or occupier of any land situated at the intersection of two or more *roads* must not permit any vegetation located on the land to grow in a manner that obstructs the clear view:
- 65.1 by a driver, of any:
 - 65.1.1 pedestrian;
 - 65.1.2 vehicle; or
 - 65.1.3 traffic control item; or
 - 65.2 by a pedestrian, of any
 - 65.2.1 vehicle; or
 - 65.2.2 traffic control item.

Penalty: 5 Penalty Units

Overhanging Vegetation

66. An owner or occupier of any land must not permit vegetation on that land to overhang a *road* at a height of less than three (3) metres from the surface of the *road*.

Penalty: 2 Penalty Units

Encroaching Vegetation

67. Notwithstanding clause 66 an owner or occupier of any land must not permit any vegetation on that land to encroach upon any adjacent *road* or *Council land*.

Penalty: 5 Penalty Units

Vermin and Noxious Weeds

68. An owner or occupier of land must not allow any vermin or noxious weeds to be present on the land.

Penalty: 5 Penalty Units

Prevention of Fire Risks

69. The owner or occupier of any land must not permit the land to contain any thing which constitutes or is likely to constitute a fire hazard or a source of fuel for a fire.

Penalty: 5 Penalty Units

Numbering of *Allotments*

70. *Council* or an *authorised officer* may from time to time allot a number to an *allotment* and may from time to time allot a different number to an *allotment* or otherwise change the numbering.

71. The owner or occupier of an *allotment* to which a number has been allotted by *Council* or an *authorised officer* must mark the *allotment* with the number:

71.1 in a form;

71.2 of sufficient size; and

71.3 in such a position, clear of vegetation, and other obstructions

so as to be clearly visible and legible from the road on which the *allotment* has its frontage.

Penalty: 3 Penalty Units

72. The owner or occupier of an *allotment* must ensure that all numbers marking the *allotment* are:

72.1 made of durable materials;

72.2 kept in a good state of repair; and

72.3 renewed as often as may be necessary.

Penalty: 3 Penalty Units

Noise Generally

73. A person:

73.1 must not allow a refrigeration unit mounted on a *motor vehicle* to run prior to:

73.1.1 7.00am or after 10.00pm on any day between Monday and Friday inclusive that is not a *public holiday*, or

73.1.2 9.00am or after 10.00pm on any Saturday, Sunday or *public holiday*; or

73.2 must not deliver any goods to or remove any goods from any:

- 73.2.1 shop;
- 73.2.2 market;
- 73.2.3 factory;
- 73.2.4 warehouse;
- 73.2.5 workshop; or
- 73.2.6 other premises used for commercial purposes in a *Residential Area*

prior to:

- 73.2.7 7.00am or after 10.00pm on any day between Monday and Saturday inclusive that is not a *public holiday*; or
- 73.2.8 9.00am or after 10.00pm on any Sunday or *public holiday*; or

73.3 must not use any machine for or in connection with the:

- 73.3.1 mowing of grass;
- 73.3.2 the lopping or removal of trees; or
- 73.3.3 any other gardening activity

prior to:

- 73.3.4 7.00am or after 6.00pm on any day between Monday and Saturday inclusive that is not a *public holiday*; or
- 73.3.5 9.00am or after 6.00pm on any Sunday or *public holiday*;

if noise from the refrigeration unit, delivery or machine, as the case may be, can be heard in a habitable room of a residence, regardless of whether any door or window giving access to the habitable room is open.

Penalty: 5 Penalty Units

74. Nothing in clause:

- 74.1 applies to any person who is carrying on a domestic waste collection service, green waste collection service, recycling collection service, paper and cardboard collection service or hard rubbish collection service authorised by *Council*; or
- 74.2 applies to a person to whom section 48A of the *Environment Protection Act 1970* applies (including but not limited to a person who uses any machine for in connection with the mowing of grass, lopping or removal of trees or any other gardening activity on *Residential Land* which he or she occupies).

Noise and Alarms

75. An owner or occupier of land must not:

- 75.1 install;

- 75.2 allow to be installed; or
- 75.3 cause to be retained and active

on the land any form of intruder alarm which emits a noise audible beyond the boundary of the land unless the alarm is so constructed or regulated as to ensure that:

- 75.4 whenever a detection device is activated, the alarm is automatically rendered inaudible beyond the boundary of the land within five (5) minutes of being activated; and
- 75.5 the alarm cannot reactivate following the operation of that single detection device until the alarm condition has been manually reset.

Penalty: 5 Penalty Units

- 76. Notwithstanding clause 75, an intruder alarm may operate for a further period of five (5) minutes beyond the period described in clause 75.4 if the alarm is activated by a different detection device following the cessation of the alarm in accordance with clause 75.

Fires

- 77. A person must not, without a permit:
 - 77.1 light;
 - 77.2 allow to be lit; or
 - 77.3 allow to remain alight
 a fire in the open air.

Penalty: 5 Penalty Units

Incinerators

- 78. A person must not:
 - 78.1 construct;
 - 78.2 erect;
 - 78.3 install;
 - 78.4 use; or
 - 78.5 permit to be constructed, erected, installed or used
 an *incinerator* on any land.

Penalty: 5 Penalty Units

Nuisances

- 79. A person must not:
 - 79.1 burn; or

- 79.2 cause or permit to be burned
any substance, if the burning of the substance is likely to:
- 79.3 cause a nuisance;
- 79.4 be dangerous to the health of any person; or
- 79.5 be offensive to any person.

Penalty: 5 Penalty Units

80. Without limiting the application of clause 79, a person must not:
- 80.1 burn; or
- 80.2 cause or permit to be burned
any:
- 80.3 rubber or plastic substance;
- 80.4 waste petroleum oil or material containing waste petroleum oil;
- 80.5 paint or receptacle which contains or has contained paint;
- 80.6 manufactured chemical;
- 80.7 pressured can;
- 80.8 textile fabric; or
- 80.9 food waste.

Penalty: 5 Penalty Units

Extinguishing Fires

81. A person who has lit or allowed a fire to remain alight contrary to clause 77, 78, 79 or 80 must extinguish the fire immediately on being directed to do so by:
- 81.1 an *authorised officer*;
- 81.2 a member of the Victoria Police; or
- 81.3 an employee of the Metropolitan Fire and Emergency Services Board.

Penalty: 5 Penalty Units

82. Nothing in clauses 77 - 81 (inclusive) applies to:
- 82.1 a barbeque while being used for the purposes of cooking food;
- 82.2 a tool of trade while being used for the purpose for which it was designed;
- 82.3 a fire lit by a member of staff of the Melbourne Fire and Emergency Services Board in the course of his or her duties;

- 82.4 an *incinerator* licensed under the *Environment Protection Act 1970*; and
- 82.5 gas and kerosene lights, flares, outdoor braziers or heaters or burners installed for the comfort or convenience of those seated outside a restaurant, cafe or like establishment.

Building Work

- 83. A person must not, without a permit, perform or permit to be performed any *building work* which can be heard in a habitable room of a residence, regardless of whether any door or window of the room is open:
 - 83.1 before 7.00am or after 8.00pm on any day from Monday to Friday; or
 - 83.2 before 9.00am or after 8.00pm on a weekend or *public holiday*.

Penalty: 10 Penalty Units

- 84. Clause 83 does not apply to:
 - 84.1 any employee or agent of a permit holder;
 - 84.2 any *building work* being performed by or on behalf of *Council*;
 - 84.3 any *building work* which is subject to a permit issued under the *Planning and Environment Act 1987*, if that permit contains a condition which:
 - 84.3.1 restricts the times during which *building work* may be performed; and
 - 84.3.2 the condition is more restrictive than clause 83; or
 - 84.4 any person to whom section 48A of the *Environment Protection Act 1970* applies.
- 85. A person who carries out or allows to be carried out any *building work* must ensure that the *building work* is carried out such:
 - 85.1 as not to emit excessive dust into the air and onto land proximate to the land on which the *building work* is carried out; and
 - 85.2 that it does not constitute a nuisance or unreasonably interfere with the enjoyment by any person of land proximate to the land on which the *building work* is carried out.

Penalty: 10 Penalty Units

Dilapidated Buildings.

- 86. The owner or the occupier of any land must not permit a building located on the land to:
 - 86.1 become dilapidated; or
 - 86.2 become further dilapidated

and must maintain any such building in a state of good repair.

Penalty: 20 Penalty Units

PART 5

ROADS AND COUNCIL LAND: OBSTRUCTIONS AND BEHAVIOUR

Introduction: In this Part, the emphasis is on things which interfere with the use and enjoyment of *roads* and *Council land*.

Dog Excrement

87. A person:

87.1 must not permit excrement of a dog under his or her care or control to remain on a *road* or *Council land*; and

87.2 who is in charge or control of a dog on a *road* or *Council land* must have in his or her possession a bag for the purpose of removing from the *road* or *Council land* any excrement from that dog deposited on the *road* or *Council land*.

Penalty: 3 Penalty Units

Spitting

88. A person must not spit upon or otherwise foul any *road*, *Council land* or *public place*.

Penalty: 3 Penalty Units

Shopping Trolleys

89. A person must not leave a shopping trolley:

89.1 on a *road*;

89.2 on *Council land*; or

89.3 in a car park vested in *Council*

except in the area designated by *Council* for the leaving of shopping trolleys.

Penalty: 3 Penalty Units

Signs and Goods

90. Unless permitted under a Planning Scheme applicable to the land, a person must not, without a permit:

90.1 display or permit to be displayed any goods on a *road* or *Council land*; or

90.2 place or allow to be placed a movable advertising sign on a *road* or *Council land*.

Penalty: 5 Penalty Units

91. A person who has placed, permitted to be placed, displayed or permitted to be displayed goods or a moveable advertising sign on a *road* or *Council land*, whether with or without a permit issued under clause 90, must move or remove them if directed to do so by:
- 91.1 an authorised officer; or
 - 91.2 a member of staff of a *Service Authority*.

Penalty: 5 Penalty Units**Obstructions on Roads**

92. A person must not, without a permit:
- 92.1 leave or permit to be left any:
 - 92.1.1 bulk rubbish container on a *road* or *Council land*; or
 - 92.1.2 other thing on a *road* or *Council land* which encroaches on, or obstructs the free use of, the *road* or *Council land* or which reduces the breadth, or confines the limits, of the *road* or *Council land*; or
 - 92.2 leave or permit to be left on a *road* or *Council land* any *charity bin*.

Penalty: 10 Penalty Units

93. Council or an authorised officer may exempt any:
- 93.1 person; or
 - 93.2 class of persons;
- from the application of clause 92.
94. If a person reasonably suspected of having committed an offence under clause 92 is the driver of a vehicle which transports a bulk rubbish container or other thing and that person cannot be found or it is impracticable to charge that person with an offence under clause 92, any person who is concerned in or takes part in the management of the business which supplies the bulk rubbish container or other thing which is left on and obstructs the free use of a *road* may be charged with and is capable of committing an offence under clause 92.

Spoil on Roads

95. A person must not:
- 95.1 drive; or
 - 95.2 permit or cause to be driven

a vehicle on a *road* if the vehicle is being or has been used directly or indirectly in:

95.3 the filling or excavation of any land; or

95.4 *building work*

unless the exterior of the vehicle is free from soil, earth and clay.

Penalty: 20 Penalty Units

96. If a person reasonably suspected or having committed an offence under clause 95 is the driver of the vehicle, and that person cannot be found or it is impracticable to charge that person with an offence under clause 95, any person who is concerned in or takes part in the management of *building work*, excavation work or other work on the land at which the vehicle is likely to have been soiled may be charged with and is capable of committing an offence under clause 95 .

Occupation of Roads for Works

97. A person must not, without a permit:

97.1 occupy or fence off;

97.2 erect a hoarding or scaffolding on;

97.3 use a mobile crane or travel tower for any work on;

97.4 make a hole or excavation in;

97.5 fill a hole or excavation in; or

97.6 remove, damage or interfere with a temporary traffic signal, sign, barrier or other structure erected to protect pedestrians or regulate traffic on any *road* or part of a *road*.

Penalty: 10 Penalty Units

98. Clause 97 does not apply to the works or activities of a *Service Authority* if the *Service Authority* notifies *Council* in writing that it has made, proposes to make or authorised the making of a hole or excavation in a *road* under the control of *Council*.

Repair and Display for Sale of Vehicles

99. A person must not:

99.1 paint a vehicle on a *road* or *Council land*;

99.2 service a vehicle on a *road* or *Council land*;

99.3 carry out maintenance on a vehicle on a *road* or *Council land*;

99.4 repair or dismantle a vehicle on a *road* or *Council land* except in an emergency breakdown to enable it to be removed; or

99.5 display for sale a vehicle on a *road* or *Council land*.

Penalty: 5 Penalty Units**Storage of Vehicles**

100. A person must not, without a permit, store on any *road* or *Council land*:

100.1 boat;

100.2 trailer; or

100.3 caravan

for more than seven (7) consecutive days.

Penalty: 3 Penalty Units**Parking of Vehicles**

101. The owner of a *motor vehicle* must not leave that *motor vehicle* standing in a parking area located on *Council land*:

101.1 except in the manner indicated by the inscription on any sign associated with the parking area;

101.2 contrary to any limitation in respect of days, periods of a day, classes of persons or classes of *motor vehicles* indicated by the inscription on any sign associated with the parking area; or

101.3 for any multiple of any limitation in respect of days or periods of a day indicated by the inscription on any sign associated with the parking area.

Penalty: 3 Penalty Units**Consumption of Alcohol**

102. A person must not:

102.1 consume any alcohol; or

102.2 have in his or her possession any unsealed container of alcohol.

in any place which *Council* declares from time to time by resolution to be a prohibited place for the purpose of this clause.

Penalty: 5 Penalty Units**Toy Vehicles**

103. A person must not:

103.1 use; or

103.2 permit a person under his or her care, custody or control to use

a *toy vehicle* on any *Council land* or part of *Council land* which *Council* declares from time to time by resolution to be a prohibited place for the purpose of this clause.

Penalty: 5 Penalty Units

PART 6
SALE OF GOODS, STREET
COLLECTIONS AND DISTRIBUTIONS

Introduction: This Part is concerned with commercial activities on *Council land* and *roads*. It establishes a permit system to regulate these commercial activities.

Persons Selling Goods

104. A person must not, without a permit, sell or allow to be sold, any goods on, or within, a *road* or *Council land*.

Penalty: 5 Penalty Units

105. Unless permitted to do so under a Planning Scheme applicable to the land, a person must not, without a permit:

105.1 erect or use on any land a temporary structure or building for the sale of goods; or

105.2 sell goods from a tent or a temporary structure or building erected in contravention of clause 105.1.

Penalty: 5 Penalty Units

Street Collection

106. A person must not, without a permit, solicit to collect, on a *road* or *Council land* any gifts or subscriptions for any purpose or cause nor authorise another person to do so.

Penalty: 5 Penalty Units

Unsolicited Material

107. A person must not, without a permit, distribute any handbills, place cards, notices, advertisements, books, pamphlets, goods, gifts or samples to any person on any *road* or *Council land*.

Penalty: 5 Penalty Units

Busking

108. A person must not, without a permit, busk on any:

108.1 *road*; or

108.2 *Council land*

with the object, or apparent object, of collecting money.

Penalty: 5 Penalty Units

Exemptions

109. Council or an authorised officer may exempt any:

109.1 person; or

109.2 class of persons

from the application of clause 104, 105, 106, 107 or 108 .

PART 7
KEEPING OF ANIMALS

Introduction: In this Part, the provisions regulate the keeping of animals. They regulate the number and type of animals which can be kept, and the conditions in which they are kept.

Application of this Part

110. This Part does not apply to any land:

110.1 on which a pet shop is located; or

110.2 on which an animal hospital or veterinary practice is located

if the use of the land for this purpose is permitted under a Planning Scheme applicable to the land.

Keeping of Animals Generally

111. Unless permitted under a Planning Scheme applicable to the land, a person must not, without a permit, keep or allowed to be kept on land any more of each species or group of animals than is stated in the following table:

Type of <i>Animal</i>	Maximum Allowed
Dogs	2
Cats	3
Poultry	5
Pigeons	10
Racing Pigeons	60
Rabbits	5
Guinea Pigs	8
Mice	8
Cold water and tropical gold fish	unlimited

Penalty: 3 Penalty Units

112. Unless permitted under a Planning Scheme applicable to the land or an Act, a person must not, without a permit, keep an animal of a species not listed in the table in clause 111 on any land.

Penalty: 3 Penalty Units

113. *Council* or an *authorised officer* may from time to time exempt any:

113.1 person; or

113.2 class of persons

from the application of clause 111 or 112.

Housing of Animals

114. Any structure used for housing an animal and the area within three (3) metres of such structure must be maintained:

114.1 in a clean, inoffensive and sanitary condition;

114.2 so as not to cause any nuisance; and

114.3 to the satisfaction of *Council* or an *authorised officer*.

Penalty: 3 Penalty Units

115. A person must not keep any poultry in a wire-mesh battery cage.

Penalty: 3 Penalty Units

Noise and Smell from Animals

116. An occupier of any land on which any animal is kept must not allow any noise or smell to emanate from the animal which interferes with the reasonable comfort or convenience of persons who occupy adjacent or nearby land.

Penalty: 3 Penalty Units

PART 8
RESOURCE RECOVERY

Introduction: This Part is concerned with the collection and disposal of waste. Among other things, it regulates the collection and disposal of domestic waste, green waste, recyclables, paper and cardboard and hard rubbish.

Disposal of Disused Refrigerators and other Compartments

117. A person must not place:

117.1 a disused refrigerator;

117.2 an ice chest;

117.3 a chest; or

117.4 any other similar article

with a compartment having a capacity of 0.04 cubic metres or more upon any:

117.5 rubbish tip;

117.6 *Council land*;

117.7 *public place*; or

117.8 unfenced vacant land.

without:

117.9 in the case of *Council land* or a *public place*, it is a day designated by *Council* for the collection of hard rubbish; and

117.10 in any event, without having first:

117.10.1 removed from it every door and lid;

117.10.2 removed from it every lock, catch and hinge attached to a door or lid; or

117.10.3 otherwise rendered every door and lid incapable of being fastened.

Penalty: 5 Penalty Units

Resource Collection

118. The occupier of any land to which *Council* provides a

118.1 domestic waste collection service must:

- 118.1.1 without delay deposit all *domestic waste* generated on the land which is to be collected by *Council* into an *approved garbage receptacle* designated for the deposit of *domestic waste*, although nothing in this clause will preclude an occupier from using some other object for the deposit of *domestic waste* prior to the transfer of the *domestic waste* to the *approved garbage receptacle* or from composting any organic waste in a fly and vermin-proof compost container;
- 118.1.2 not place out for collection by *Council* any *domestic waste* other than in an *approved garbage receptacle* designated for the deposit of *domestic waste*;
- 118.1.3 not place out for collection any *approved garbage receptacle*, except in accordance with any requirements prescribed by or determined in accordance with this Local Law; and
- 118.1.4 not remove an *approved garbage receptacle* from any land except when it is placed out for collection.

118.2 *green waste* collection service must:

- 118.2.1 without delay deposit all *green waste* generated on the land which is to be collected by *Council* into an *approved green waste receptacle* designated for the deposit of *green waste*, although nothing in this clause will preclude an occupier from using an object for the deposit of *green waste* prior to the transfer of the *green waste* to the *approved green waste receptacle* ;
- 118.2.2 not place out for collection by *Council* any *green waste* other than in an *approved green waste receptacle* designated for the deposit of *green waste*;
- 118.2.3 not place out for collection any *approved green waste receptacle* except in accordance with any requirements prescribed by or determined in accordance with this Local Law; and
- 118.2.4 not remove any *approved green waste receptacle* from any land, except when it is placed out for collection.

118.3 recycling collection service must

- 118.3.1 without delay deposit all *recyclables* used on the land which are to be collected by *Council* into a *recycling receptacle*, although nothing in this clause will preclude an occupier from using an object for the deposit of *recyclables* prior to the transfer of the *recyclables* to the *recycling receptacle*;
- 118.3.2 not place out for collection by *Council* any *recyclables* other than in a *recycling receptacle*;
- 118.3.3 not place out for collection any *recycling receptacle* except in accordance with any requirements prescribed by or determined in accordance with this Local Law; and

- 118.3.4 not remove any *recycling receptacle* from any land, except when it is placed out for collection; and
- 118.4 paper and cardboard collection service must
- 118.4.1 without delay deposit all paper and cardboard used on the land which are to be collected by *Council* into the container provided by *Council* for that purpose, although nothing in this clause will preclude an occupier from using an object for the deposit of paper and cardboard prior to the transfer of the paper and cardboard to the provided by *Council* for that purpose;
- 118.4.2 not place out for collection by *Council* any paper or cardboard other than in the container provided by *Council* for that purpose;
- 118.4.3 not place out for collection any paper or cardboard, except in accordance with any requirements prescribed by or determined in accordance with this Local Law; and
- 118.4.4 not remove a container provided by *Council* for the purpose of the paper and cardboard collection service from any land, except when it is placed out for collection.

Penalty: 5 Penalty Units

119. The occupier of any land must not, without the consent of *Council* or an *authorised officer*, place out for collection more than one (1) *receptacle* of each type.

Penalty: 3 Penalty Units

120. Any *receptacle* placed out for collection by the occupier of any land must:
- 120.1 be placed:
- (A) on the nature strip in front of the land within one (1) metre of the kerb; or
- (B) in the absence of a nature strip, on the footpath in front of the land within one (1) metre of the kerb
- unless *Council* or an *authorised officer* directs that the *receptacle* be placed in another position;
- 120.2 be placed so that there is a minimum:
- 120.2.1 vertical distance of three (3) metres above the lid of the *receptacle*; and
- 120.2.2 horizontal distance of one (1) metre from the sides of the *receptacle*
- clear of any structure, tree, shrub or any vehicle owned or used by a person resident or employed on the land to which the *receptacle* was supplied by *Council*; and
- 120.3 be placed with the side of the *receptacle* on which hinges securing the lid are located positioned facing the land.

Penalty: 3 Penalty Units

121. A person must not place an *approved garbage receptacle* or *approved green waste receptacle* out for collection which has a gross weight of more than 72 kilograms.

Penalty: 3 Penalty Units

122. A person must not place any *domestic waste* or *green waste* in an *approved garbage receptacle* or *approved green waste receptacle* (as the case may be) that would prevent the lid of the relevant *receptacle* being closed.

Penalty: 5 Penalty Units

123. A person must not place out for collection any *receptacle* so as to cause a hazard to a pedestrian or vehicle.

Penalty: 3 Penalty Units

124. The occupier of any land must keep any *receptacle* in a clean, inoffensive and sanitary condition.

Penalty: 3 Penalty Units

125. The occupier of any land must ensure that any area where a *receptacle* is placed between collections is kept in a clean, inoffensive and sanitary condition.

Penalty: 3 Penalty Units

126. An *approved garbage receptacle* and an *approved green waste receptacle* must be covered by their lids at all times, except when *domestic waste* or *green waste* (as the case may be) is being deposited in or removed from the *approved garbage receptacle* or *approved green waste receptacle* or such *approved garbage receptacle* or *approved green waste receptacle* is being cleaned or repaired.

127. The occupier of any land must not:

127.1 use; or

127.2 permit to be used

a *receptacle* for any purpose other than the deposit of relevant waste in accordance with this Local Law.

128. If, in the opinion of *Council* or an *authorised officer*, any loss of, or damage to, a *receptacle* is due to the neglect or deliberate act of any person, that person must pay:

128.1 a fee determined by *Council* or an *authorised officer* from time to time for the replacement of the *receptacle*; or

128.2 such part of the fee set under clause 128.1 as *Council* or an *authorised officer* considers appropriate.

129. Once waste has been collected by *Council* or persons authorised by *Council*, the occupier of any land must:

129.1 return any *receptacle* to the land to which it was supplied by *Council* on the same day; and

129.2 remove any waste from a *road* or any *Council land* which has spilled from the *receptacle* supplied to the land which he or she occupies except waste that has apparently been spilled during the process of collection.

Penalty: 3 Penalty Units

Hard Rubbish and Green Waste Collection

130. Where *Council* or an *authorised officer* has given public notice that a hard rubbish or *green waste* collection will be made, any hard rubbish or *green waste* to be collected must be left for collection in accordance with *Council's* or the *authorised officer's* directions.

Penalty: 5 Penalty Units

Interference with Waste

131. A person must not:

131.1 without the consent of the relevant occupier, deposit waste or other matter in any *receptacle* supplied to any land on which he or she does not reside; or

131.2 without the consent of *Council* or an *authorised officer*, remove or interfere with any waste placed out for collection in a *receptacle* or any hard rubbish left out for collection in accordance with clause 130.

Penalty: 5 Penalty Units

132. *Council* or an *authorised officer* may, by notice in writing, direct the owner or occupier of any land to install, repair, replace or modify a fence or other means of screening a *receptacle* or *trade waste hopper* from public view if it, he or she is of the opinion that the *receptacle* or *trade waste hopper* is unsightly, dangerous or detrimental to the general amenity of the neighbourhood in which it is located.

Penalty: 10 Penalty Units

Suspension of Waste Collection Service

133. If, in the opinion of *Council*, any occupier of land:

133.1 has persistently contravened; or

133.2 is persistently contravening;

any provision in this Part, it may suspend the provision of any waste collection service to the land.

134. If *Council* suspends the provision of any waste collection service to land the suspension may be:

134.1 indefinite; or

134.2 for such a period as *Council* specifies by a notice given to the occupier of land

and, in either case, on such terms as are specified by *Council* in any notice given to the occupier of the land.

Street Litter

135. A person must not deposit into any street litter bin any *green waste* or trade or commercial waste.

Penalty: 10 Penalty Units

Transportation of Waste

136. A person must not convey or cause to be conveyed on a *road* any manure dead animal or remains of a dead animal, including offal, bones, hides or skins or refuse, rubbish or other waste matter, unless the vehicle is:

136.1 constructed;

136.2 fitted;

136.3 loaded; and

136.4 covered

so that no leakage occurs and no materials are dropped or deposited on any *road* or adjacent area from the vehicle and the possibility of escape of offensive odours is reduced.

Penalty: 10 Penalty Units

Storage of Trade Waste

137. The owner or occupier of any land must ensure that any *trade waste hopper* kept on the land is constructed and maintained in accordance with any requirements detailed by an *authorised officer*.

Penalty: 10 Penalty Units

Storage Site for Trade Waste

138. If directed by *Council* or an *authorised officer*, the owner of any land must ensure that any area where a *trade waste hopper* is placed:

138.1 has an impermeable surface;

138.2 is drained to an outlet approved by *Council* or an *authorised officer*;

138.3 is supplied with water from a tap and hose; and

138.4 is maintained in a clean, inoffensive and sanitary condition.

Penalty: 5 Penalty Units

Exemptions

139. Council may exempt any:

139.1 person; or

139.2 class of persons; or

from the application of any provisions of clause 136, 137 or 138 .

PART 9
ADMINISTRATION AND ENFORCEMENT

Introduction: This Part aims to supplement the preceding provisions of the Local Law by explaining how the Local Law may be administered and enforced. In particular, powers to impound and serve *Notices to Comply* and Infringement Notices are given, and the system of applying for, obtaining and retaining permits is provided for.

Impounding

140. An *authorised officer* may seize and impound any thing which has been or is being used or possessed in contravention of this Local Law.
141. Where any 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 mail on the person who appears to be the owner of the impounded thing.
142. An impounded thing must be surrendered to:
- 142.1 its owner; or
 - 142.2 a person acting on behalf of its owner who provides evidence to the satisfaction of an authorised officer of his or her authority from the owner –
on
 - 142.3 evidence to the satisfaction of the *authorised officer* being provided of the owner's right to the thing; and
 - 142.4 payment of any fee determined by *Council* or an *authorised officer* from time to time.
143. Clause 142 does not apply to the impounding of alcohol under this Local Law or other items where the nature of the item impounded is such that it would be impracticable to return the item to the person from whom it was impounded or the owner.
144. If an impounded thing has not been surrendered to its owner or a person acting on the owner's behalf within 14 days of the notice of impounding being served or, if no notice of impounding has been served, of the act of impounding, *Council* may, at its discretion,
- 144.1 sell;
 - 144.2 give away; or
 - 144.3 destroy,
- the impounded thing.

Notices to Comply

145. *Council* or an *authorised officer* may, by serving a *Notice to Comply*, direct any owner, occupier or other relevant person to remedy any thing which constitutes a breach of this Local Law.
146. A *Notice to Comply* issued in accordance with this Local Law must state the date by which the thing must be remedied.
147. The time required by a *Notice to Comply* served under this Local Law must be reasonable in the circumstances, and what will be reasonable will vary depending on the matters to be remedied, but should take into account, if applicable:
- 147.1 the amount of work involved;
 - 147.2 the degree of difficulty;
 - 147.3 the availability of necessary materials or other necessary items;
 - 147.4 climatic conditions;
 - 147.5 the degree of risk or potential risk; and
 - 147.6 any other relevant matter.
148. Any person who fails to remedy a thing in accordance with a *Notice to Comply* within the time specified is guilty of an offence under this Local Law.

Penalty: 10 Penalty Units

149. Nothing in this Local Law
- 149.1 obliges *Council* or an *authorised officer* to serve a *Notice to Comply*; or
 - 149.2 precludes *Council* or an *authorised officer* from both serving a *Notice to Comply* and also serving an Infringement Notice or prosecuting for an offence.

Permits

150. *Council* or an *authorised officer* in its, his or her absolute discretion may issue a permit under this Local Law with or without conditions, including the payment of any fee *Council* may require, or may refuse to issue the same.
151. *Council* or an *authorised officer* may from time to time prescribe:
- 151.1 the manner and form in which applications for permits under this Local Law should be made;
 - 151.2 the manner in which any permit under this Local Law should be issued; and
 - 151.3 the fee for any such permit.
152. *Council* or an *authorised officer* may waive payment of any fee for a permit.
153. *Council* may make appropriate delegations of permit-issuing powers.
154. *Council* must keep a register of permits.

155. *Council* or an *authorised officer* may require an applicant for a permit to give notice of the application in a manner specified from time to time by *Council* or an *authorised officer*.
156. *Council* or an *authorised officer* may require an applicant for a permit to provide *Council* with more information before *Council* or the *authorised officer* deals with the permit application.
157. A permit expires on the date specified in the permit or if no such date is specified the permit will expire one(1) year after the date of issue.
158. Where *Council* or an *authorised officer* is of the opinion that there is or has been a breach of any conditions of a permit, it, he or she may serve a *Notice to Comply* on the permit holder.

Considering Applications

159. In considering an application for a permit, *Council* or an *authorised officer* may consider any:
- 159.1 policy or guideline adopted by *Council* relating to the subject matter of the application for the permit;
 - 159.2 submission that may be received in respect of the application;
 - 159.3 comments that may be made in respect of the application by any public body, community organisation or other person; and
 - 159.4 other relevant matter.

Correction of Permits

160. *Council* or an *authorised officer* may correct a permit issued if the permit contains:
- 160.1 a clerical mistake or an error arising from any accident, slip or omission; or
 - 160.2 an evident and material miscalculation of figures or any evident and material mistake in the description of any person, thing or property referred to in the permit.
161. *Council* or the *authorised officer* must note the correction in the register of permits.

Grounds for Cancellation of or Amendment of Permits

162. *Council* or an *authorised officer* may cancel or amend any permit if it, he or she considered that there has been:
- 162.1 a material mis-statement or concealment of fact(s) in relation to the application for a permit;
 - 162.2 any material mistake in relation to the issue of a permit;
 - 162.3 any material change of circumstances which has occurred since the issue of the permit;
 - 162.4 a failure to comply with the conditions under which the permit was issued; or
 - 162.5 a failure to comply with a *Notice to Comply* within the time specified in the *Notice to Comply*.

163. *Council* or the *authorised officer* must notify the holder of a permit of *Council's* or the authorised officer's intention to amend or cancel the permit and give the holder of that permit an opportunity to make a written submission before the permit is amended or cancelled.
164. If *Council* or the *authorised officer*, after considering any written submission made by the permit holder, determines to cancel or amend the permit, *Council* or the *authorised officer* must note that cancellation or amendment in the register of permits.

Urgent Circumstances

165. If an *authorised officer* is of the opinion that:
- 165.1 a person has breached any provision of this Local Law in respect of which a *Notice to Comply* may be issued and:
- 165.1.1 any person;
- 165.1.2 any animal;
- 165.1.3 any property; or
- 165.1.4 the environment of the *municipal district*
- is in danger of substantial detriment due to the breach; and
- 165.2 that the danger may be exacerbated by the length of time it may take to serve and ensure compliance with a *Notice to Comply*
- he or she may take such action as he or she considers necessary to abate or minimise the danger without serving a *Notice to Comply* if notice is given, if practicable, of :
- 165.3 the reasons for taking the action; and
- 165.4 the action taken
- to the person in breach of the provision of this Local Law in respect of which the action was taken.

Offences

166. A person who:
- 166.1 contravenes or fails to comply with any provision under this Local Law;
- 166.2 contravenes or fails to comply with any condition contained in a permit issued under this Local Law; or
- 166.3 contravenes or fails to comply with a *Notice to Comply* by the date specified in the *Notice to Comply*
- is guilty of an offence and is liable to:
- 166.4 the penalty stated under a provision or, if no penalty is stated, two (2) penalty units;

- 166.5 a further penalty of one (1) penalty unit for each date during which the contravention continues; and
- 166.6 upon conviction for a second or subsequent offence, double the penalty stated under a provision of penalty units, whichever is the lesser.

Infringement Notices

167. As an alternative to prosecution for an offence, a person may be served with an Infringement Notice.
168. The penalties fixed for Infringement Notices are set out in Schedule 1.
169. Where an *authorised officer* has reason to believe that a person is guilty of an offence or offences for which an Infringement Notice may be issued under this Local Law, the *authorised officer* may serve on that person an Infringement Notice in a form determined by *Council* from time to time.
170. Any person issued with an Infringement Notice may pay the penalty indicated to an *authorised officer* at the *Council* offices.
171. To avoid prosecution, the penalty indicated should be paid within 28 days from the date of the issue of the Infringement Notice.
172. A person issued with an Infringement Notice is entitled to disregard the Notice and defend the prosecution in court.
173. If a person issued with an Infringement Notice makes a written representation to *Council* or an *authorised officer* within 28 days of the issue of the Infringement Notice, the representation must be brought to the attention of the Chief Executive Officer.
174. The Chief Executive Officer may consider any written representations and any other relevant information and must consider any such material brought to his or her attention within 28 days of the issue of the Infringement Notice to which it relates.

Withdrawing a Notice

175. *Council* or the Chief Executive Officer may at any time withdraw an Infringement Notice either as a result of consideration any representations made or with a view to prosecuting for an offence.
176. Where an Infringement Notice is withdrawn, the person upon whom it was served is entitled to a refund or any payment which that person has made on the Infringement Notice.
177. If the penalty referred to in an Infringement Notice has been paid within 28 days of its issue and no representation has been received by *Council* or its staff, no decision may be made to withdraw the Infringement Notice and prosecute the offence after the expiry of 28 days from the issue of the Infringement Notice.
178. Any notice of withdrawal of an Infringement Notice may be served in accordance with section 234 of the *Act*.

Failure to Comply with Notice

179. In the event of the failure of a person served with an Infringement Notice to pay the amount specified within 28 days of the issue of the notice or such further time as *Council* or the *authorised officer* may permit, *Council* or the *authorised officer* may pursue the matter by prosecuting for an offence or by taking any steps which may be available for enforcing penalties by registration of infringement notices.

Requirement to Act Fairly and Reasonably

180. In exercising any power under this Local Law, *Council* and an *authorised officer* must act fairly and reasonably and in proportion to the nature and extent of the breach of this Local Law.
181. Where *Council* or an *authorised officer* may take action forming any particular opinion, or, where *Council* or an *authorised officer* is required to form an opinion prior to taking any action under this Local Law, the opinion must be reasonably held having regard to all the circumstances.

This Local Law was made by resolution of Council at a meeting held on 14 December 2004.

THE COMMON SEAL of
MONASH CITY COUNCIL
was hereto affixed in the presence of :

SCHEDULE 1

CLAUSE	PENALTY FOR INFRINGEMENT NOTICE (IN PENALTY UNITS)
11	1
12.1, 12.2, 12.4, 12.7, 12.12, 12.16, 12.17 &12.18	1
12.3, 12.5, 12.6.1, 12.6.2, 12.6.3, 12.8, 12.9, 12.10, 12.11, 12.13, 12.14, 12.15 &12.19	2
17	1
18	2
19	1
21	1
23, 24, 25, 26, 27,31, 32, 33, 35, 42, 43, 45, 46, 47, 50, 51, 52	2
55, 56, 57, 58, 59, 60, 61, 62, 63, 65, 66, 67, 68,	1
69	2
71,72	1
73,75,77	2
78	1
79, 80, 81, 83, 85, 86	2
87, 88, 89	1
90, 91, 92, 95, 97, 99	2
100, 101, 102, 103	1
104, 105, 106, 107, 108	2
111,112,114, 115, 116	1
117,118	2
119, 120, 121	1
122	2
123, 124, 125, 126, 127, 128, 129	1
130, 131, 132, 135, 136, 137, 138, 148	2