

**LOCAL LAW NO. 3 –
COMMUNITY AMENITY**

**CITY OF MONASH
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 – Community Amenity".

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 2015.

When does this Local Law end?

5. Unless revoked sooner, this Local Law ends on 1 February 2025.

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*, and operative from 1 February 2005 onwards, is revoked.

Definitions

8. The words identified in italics throughout this Local Law are intended to have the following meanings, unless the context suggests otherwise:

"advertising sign" includes any placard, board, sign, card, banner or similar item, whether portable or affixed or attached to any land, building or other structure or item, which:

(a) provides information about a business, an industry or an organisation; or

(b) advertises goods, services, an event, a competition or similar activity."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.

"*animal*" includes every species of quadruped and every species of bird (including, without limitation, poultry).

"*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*.

"*assistance dog*" has the meaning ascribed to it by section 4(1) of the *Equal Opportunity Act 2010*.

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

*Inserted by
No. 1/2017
C. 7.2*

"*authorised token*" means any object the same size as an Australian currency one (1) dollar (\$1) or two (2) dollar (\$2) coin approved by a *retailer* to release a trolley from a coin mechanism, other than an Australian currency one (1) dollar (\$1) or two (2) dollar (\$2) coin.

"*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.

"*busk*" means entertain, whether by playing a musical instrument, singing, conjuring, juggling, miming, dancing, operating puppets, drawing on a pavement or otherwise.

"*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.

"*coin deposit and release mechanism*" means a coin-operated lock that operates with the insertion of an Australian currency one (1) dollar (\$1) or two (2) dollar (\$2) coin or equivalent *authorised token* of the same size.

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

"*Council*" means Monash City Council.

"*Council land*" means any land (including a building) vested in or under the control of *Council*, including a *reserve*, watercourse, reservation and the like but excludes a *road*.

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

- (a) hot or burning materials;
- (b) nightsoil, sewerage, and animal excreta unless it is wrapped in a manner which prevents its escape;
- (c) slops or liquid wastes;
- (d) waste generated from *building work*;
- (e) waste generated from the restoration, repair or servicing of *motor vehicles*;
- (f) waste from a vacuum cleaner, hair, moist refuse or similar waste, unless it is wrapped or contained in a manner which prevents its escape;
- (g) ash, unless it is:
 - (i) cold;
 - (ii) dampened; and
 - (iii) wrapped or contained in a manner which prevents its escape;
- (h) trade waste;
- (i) recyclables;
- (j) oil, paints, solvents and similar substances;
- (k) any broken glass, lancet or other sharp object, unless:
 - (i) it is wrapped in impermeable material; or
 - (ii) contained entirely within an impermeable receptacle from which it cannot escape;
- (l) disposable nappies, unless they have been cleaned of faeces and wrapped in impermeable material;
- (m) any waste that cannot be contained in an *approved garbage receptacle* due to its size, shape, nature or volume;
- (n) medical or veterinary waste;
- (o) building materials, including, without limitation, bricks, concrete, timber and metal objects;
- (p) furniture and like objects;
- (q) motor vehicle parts;
- (r) green waste;
- (s) any object which may damage the collection mechanism or a *vehicle* used for the collection of refuse; and

- (t) 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, the details of which appear on *Council's* website.

"*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, leaves and other waste declared by *Council* to constitute "*green waste*" for the purposes of this Local Law (the details of which appear on *Council's* website) 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:

- (a) enclosed in any building;
- (b) a barbeque; or
- (c) 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 on *Council land*, 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 170.

"*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 library*" means a library operated by *Council*.

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

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

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

- (a) established for the racing of pigeons; or
- (b) 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 empty glass bottles or jars (clear, brown or green), polyethylene terephthalate (PET), high density polyethylene (HDPE), polyvinyl polyethylene (PVC), hard plastics (coded or uncoded), aluminium cans and foil, steel cans, clean paper and cardboard, liquid paper board and any other material which *Council* has resolved to be *recyclables* for the purposes of this Local Law (the details of which appear on *Council's* website).

"*recycling receptacle*" means any yellow-lidded 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.

"*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.

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

"*residential parking area*" means a parking area in which lawful parking is restricted, whether for the whole or part of a day, to residents of a particular area.

"*residential parking permit*" means a permit authorising a person to park in a *residential parking area*.

"*retailer*" means a person who sells goods by retail and provides shopping trolleys to its customers.

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

"*sell*" includes:

- (a) sell by means of any machine or mechanical device;
- (b) barter or exchange;
- (c) agree to sell;
- (d) offer or expose for sale; or
- (e) 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 and which is described as such on *Council's* website.

"*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.

"*street party*" means an organised social gathering of up to 150 people which is held on a *road* for the sole purpose of bringing together people in a particular locality.

"*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*" has the meaning ascribed to it by section 3(1) of the *Road Safety Act 1986*.

*Substituted by
No. 1/2017
C. 7.3*

"*wheeled toy*" means a child's pedal car, scooter, skateboard, roller skates, roller blades, tricycle or similar toy vehicle to which wheels or blades are attached.

Notes in this Local Law

9. Introductions to Parts, headings and notes are explanatory only 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 *Council land*. Specific provisions then extend to *Municipal Places* and *reserves*.

What Council may do

10. Council may:
 - 10.1 restrict access to *Council land* or part of it;
 - 10.2 authorise any person to occupy *Council land*;
 - 10.3 close any *Council land* or part of it to the public;
 - 10.4 establish conditions of entry to *Council land*;
 - 10.5 set or authorise another person to set fees or charges for admission to or the hire or use of *Council land* or part of it;
 - 10.6 set or authorise another person to set fees or charges for the hire or use of any *Council* property in connection with *Council land*; and
 - 10.7 authorise a person to do any one or more of the things described in clause 10.1 - 10.6 (inclusive);
11. *Council*, an *authorised officer* or any person authorised by *Council*, may from time to time establish:
 - 11.1 conditions applying to and fees or charges for admission to or the hire or use of *Council land* or part of *Council land*; and
 - 11.2 conditions applying to and fees or charges for the hire or use of any property of *Council* in connection with *Council land*.
12. In exercising the powers conferred by clause 11, *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 *Council land*:
 - 12.1 on multiple occasions;
 - 12.2 over a period of time; or
 - 12.3 on any other basis that it, he or she considers appropriate.

What a person cannot do

13. A person must not, without the consent of *Council* or an *authorised officer*.

- 13.1 act contrary to any conditions of entry applicable to *Council land*;
- 13.2 enter *Council land* without paying any fee or charge applicable to that *Council land* or the hire or use of the *Council land*;
- 13.3 hire or use any *Council* property in connection with *Council land* without first paying any fee or charge which is applicable;
- 13.4 remain on *Council land* after being directed to leave by an *authorised officer*; or
- 13.5 enter *Council land*, after having been directed to leave that *Council land* by an *authorised officer*, until her or she is granted written permission to do so by *Council* or an *authorised officer*.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.1*

Behaviour on *Council land*

- 14. A person must not:
 - 14.1 commit any nuisance on *Council land*;
 - 14.2 interfere with another person's use and enjoyment of *Council land*;
 - 14.3 act in a manner which endangers any other person on *Council land*;
 - 14.4 use indecent, insulting, offensive or abusive language on *Council land*;
 - 14.5 behave in an indecent, offensive, insulting or riotous manner on *Council land*;
 - 14.6 without the consent of *Council* or an *authorised officer*:
 - 14.6.1 destroy, damage, interfere with or deface *Council land*;
 - 14.6.2 destroy, damage, interfere with or deface anything located at or on *Council land*; or
 - 14.6.3 remove any object which is owned by *Council* from *Council land*;
 - 14.7 act in a manner contrary to any restriction or prohibition contained in the inscription on a sign on *Council land*;
 - 14.8 deposit any litter on *Council land*, except in a receptacle provided for that purpose;

- 14.9 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 on *Council land* which has been appropriated for persons of the opposite gender;
- 14.9A without the consent of *Council* or an *authorised officer*, conduct any filming for commercial purposes on *Council land*;
- 14.10 without the consent of *Council* or an *authorised officer*, sell any goods or services on *Council land*;
- 14.11 [Deleted clause]
- 14.12 without the consent of *Council* or an *authorised officer*, erect, operate or cause to be erected or operated any amusement on *Council land*;
- 14.13 obstruct, hinder or interfere with any member of staff of *Council* in the performance of his or her duties on *Council land*;
- 14.14 act contrary to any lawful direction of an *authorised officer* or member of *Council* staff given on *Council land*, including, without limitation, a direction to leave on *Council land*, whether or not a fee for admission to the *Council land* has been paid;
- 14.15 use or interfere with any life saving or emergency device located on *Council land*, unless:
- 14.15.1 using the device in an emergency; or
- 14.15.2 participating in an instruction approved by *Council* or an *authorised officer*;
- 14.16 organise any function or event on *Council land* without the consent of *Council* or an *authorised officer*, or
- 14.17 bring onto *Council land* any substance, liquid or powder which may:
- 14.17.1 be dangerous or injurious to health;
- 14.17.2 have the potential to foul, pollute or soil any part of the *Council land*; or
- 14.17.3 cause discomfort to any person
- without the consent of *Council* or an *authorised officer*.

*Inserted by
No. 1/2017
C. 8.1*

*Deleted by
No. 1/2017
C. 8.2*

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.2*

Access to *Municipal Places*

15. *Council* or an *authorised officer* may determine the hours when any *Municipal Place* will be open to the public.
16. A person must not, without the consent of *Council* or an *authorised officer*:
- 16.1 enter a *Municipal Place* other than through an entrance provided for that purpose;
- 16.2 enter or remain in a *Municipal Place* during hours when the *Municipal Place* is not open to the public;
- 16.3 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 an *assistance dog* being used by that person; or
- 16.4 bring any vehicle or wheeled toy into a *Municipal Place* without the consent of *Council* or an *authorised officer*, except for:
- 16.4.1 a pram or pusher being used by a child; or
- 16.4.2 a wheelchair being used by a physically disabled person.

*Substituted by
No. 1/2017
C. 8.3*

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.3*

Activities Prohibited in *Reserves*

17. In a *reserve*, a person must not:
- 17.1 unless that person is a player, official or competitor in or at a sporting match, training session or gathering, enter upon or remain on an area set aside as a playing ground during the course of a sporting match or gathering;
- 17.2 climb or jump on any wall, fence, gate, seat or other structure;
- 17.3 intentionally roll or throw any stone or missile so as to endanger any person or cause any damage;
- 17.4 spit on or otherwise foul any path or structure;
- 17.5 use any children's playground equipment other than for the purpose for which it is provided;
- 17.6 swim, paddle, dive or jump into or enter any wetland, lake, pond or fountain;

- 17.7 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;
- 17.8 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:
- 17.8.1 dangerous to any other person in the *reserve*; or
- 17.8.2 likely to interfere with the reasonable use or enjoyment of the *reserve* by any other person; or
- 17.9 play or practise golf other than in a *reserve* designated or set aside as a golf course.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.4*

Activities which may be permitted in Reserves

18. In a *reserve*, a person must not:
- 18.1 without a permit:
- 18.1.1 fly or permit to be flown any aircraft (including any powered modelled aeroplane);
- 18.1.2 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;
- 18.1.3 light a fire or permit any fire to remain alight except:
- (a) a barbecue provided by Council; or
- (b) a portable liquid petroleum gas barbecue;
- 18.1.4 [Deleted clause];
- 18.1.5 camp or pitch, erect or occupy any camp, tent, caravan or temporary structure;
- 18.1.6 conduct or celebrate a wedding;
- 18.1.7 organise, hold or participate in any rally, procession, demonstration or any other public gathering;
- 18.1.8 hold a circus or carnival;

*Deleted by
No. 1/2017
C. 8.4*

- 18.1.9 make a collection of money;
- 18.1.10 carry any firearm except a pistol intended and designed for use as sporting official's starting pistol;
- 18.1.11 destroy, damage or interfere with any flora or kill, injure or interfere with any fauna;
- 18.1.12 use an amplifier; or
- 18.1.13 walk on any plot, bed, border or any other area set aside for vegetation; or
- 18.2 without Council's written approval:
 - 18.2.1 conduct any fitness training for commercial purposes; or
 - 18.2.2 play, organise or engage in any organised competitive sport or game.

*Substituted by
No. 1/2017
C. 8.5*

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.5*

Public Libraries

- 19. Council or a public library manager may:
 - 19.1 establish conditions of membership for any *public library*; and
 - 19.2 set fees or charges in connection with the use of any *public library*.
- 20. A person:
 - 20.1 who is a member of a *public library* must comply with any conditions of membership which have been established under clause 19.1 and which are applicable to him or her;
 - 20.2 must pay any fee or charge set under clause 19.2 which is applicable to him or her;
 - 20.3 must:
 - 20.3.1 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;
 - 20.3.2 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*;

- 20.3.3 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
- 20.3.4 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: 5 Penalty Units

*Amended by
No. 1/2017
C. 9.6*

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?

21. A person must not:

21.1 without a permit, destroy, damage or tap into any drain, culvert or sewer vested in *Council*

Penalty: 20 Penalty Units

*Amended by
No. 1/2017
C. 9.7*

21.2 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

Penalty: 20 Penalty Units

*Amended by
No. 1/2017
C. 9.8*

21.3 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:

21.3.1 fall into disrepair; or

21.3.2 develop a condition which is dangerous to health.

Penalty: 20 Penalty Units

*Amended by
No. 1/2017
C. 9.9*

Interference with Watercourse

22. 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

23.

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

Penalty: 20 Penalty Units

*Amended by
No. 1/2017
C. 9.10*

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

23.2.1 construct or allow to be constructed; or

23.2.2 use or allow to be used

a second or subsequent vehicle crossing to service the land.

Penalty: 20 Penalty Units

*Amended by
No. 1/2017
C. 9.11*

Maintaining Vehicle Crossings

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

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.12*

Directing Vehicle Crossing Works

25. Council or an authorised officer may direct:

25.1 the construction of a temporary or permanent vehicle crossing;

25.2 the repair or reconstruction of a vehicle crossing; or

25.3 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 25 must comply with that direction by applying for a permit to do the thing which is directed.

Penalty: 10 Penalty Units

Asset Protection

26. The:

26.1 owner of any land;

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

26.3 appointed agent; or

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

must:

- 26.5 obtain an *Asset Protection Permit* before carrying out the *building work*; or allowing the *building work* to be carried out on that land; or
- 26.6 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

- 27. 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.
- 28. 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.
- 29. An *Asset Protection Permit* may be subject to such conditions as *Council* determines, including conditions:
 - 29.1 requiring protection works to be done;
 - 29.2 requiring the payment of a security bond;
 - 29.3 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
 - 29.4 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.
- 30. A person who is not one of the persons described in clause 26 must not:
 - 30.1 carry out *building work* on land unless, in respect of the *building work*, an *Asset Protection Permit* has been obtained; or
 - 30.2 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: 10 Penalty Units

- 31. The:
 - 31.1 owner of any land on which *building work* is being or is to be carried out;
 - 31.2 *builder* engaged to carry out *building work* on land;

*Amended by
No. 1/2017
C. 9.13*

- 31.3 appointed agent;
- 31.4 driver of any *vehicle* involved in placing or removing a *refuse facility* on land; or
- 31.5 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:

- 31.6 entry takes place only across a temporary vehicle crossing unless otherwise permitted by *Council* and in accordance with that permission, and
- 31.7 no materials are deposited on any part of a *road* or *Council land* without the approval of *Council*.

Penalty: 20 Penalty Units

- 32. Regardless of whether a building permit has been issued, 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; or
 - 32.4 demolition contractor engaged to carry out the demolition of a structure on the land, in the case of *building work* involving demolition,

must:

 - 32.5 notify *Council* in writing of the proposed *building work* at least seven (7) days before the *building work* commences; and
 - 32.6 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

- 33. 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 32.6, 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*.
- 34. 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

35. 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
36. Upon completion of the *building work*, the amount of the security bond:
- 36.1 may be retained by *Council* to offset the costs of carrying out any works in accordance with this Local Law;
 - 36.2 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
 - 36.3 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.
37. Where *Council* so determines, it may agree to accept an alternative form of security to a security bond.
38. It is a defence to a prosecution for an offence against clause 51 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

39. *Council* or an *authorised officer* may inspect a *building site* at any reasonable time.
40. If *Council* or an *authorised officer* identifies any damage which appears to result from non-compliance with this Local Law, an *authorised officer*:
- 40.1 may direct the responsible party to reinstate the damage within a specified time; and
 - 40.2 must provide the responsible party with written confirmation of the damage either at the time of the inspection or within a reasonable timeframe.

A responsible party must comply with any direction given under clause 40.1.

Penalty: 20 Penalty Units

41. 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:
- 41.1 minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting roads or washed into the *stormwater system*; and
 - 41.2 prevent building clean-up, wash-down or other wastes being discharged offsite or allowed to enter the *stormwater system*.

Penalty: 20 Penalty Units

42. 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:
- 42.1 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*;
 - 42.2 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*;
 - 42.3 not place the *refuse facility* on any *Council land* or *road* without a permit; and
 - 42.4 empty the *refuse facility* whenever full, and, if necessary, provide a replacement *refuse facility* during the emptying process.

Penalty: 20 Penalty Units

43. *Council* or an *authorised officer* may from time to time exempt any person from the application of clause 42.
44. During *building work*, the:
- 44.1 owner of land on which the *building work* is being carried out;
 - 44.2 *builder* engaged to carry out the *building work*; or
 - 44.3 appointed agent

must ensure that:

- 44.4 all *builder's refuse* which requires containment is placed in the *refuse facility*;
- 44.5 the *builder's refuse* is not deposited in or on any land other than in accordance with clause 42; and
- 44.6 the *builder's refuse* is not deposited in or over any part of the *stormwater system*.

Penalty: 20 Penalty Units

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

- 45.1 owner of the land on which the *building work* is being or has been carried out;
- 45.2 *builder* engaged to carry out the *building work*; or
- 45.3 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

46. The:

- 46.1 owner of the land on which the *building work* is being or is to be carried out;
- 46.2 *builder* engaged to carry out the *building work*; or
- 46.3 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 sewerer 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

47. No liability will arise under clause 46 if:

- 47.1 a building is being constructed on an adjacent *building site* simultaneously by the same person; and
- 47.2 *Council* allows and there is provided one (1) sewerer toilet system or a fresh water flush with waste seal type portable toilet (closed) system serviced as required for three (3) *building sites*.

48. An *authorised officer* may enter any *building site* at any reasonable time for the purpose of inspecting any sewerage 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.

49. The:

49.1 owner of land on which *building work* is to be carried out;

49.2 *builder* engaged to carry out the *building work*

49.3 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*

50. Where a person is required to undertake any works on *Council land* or a *road* that person must:

50.1 undertake those works safely;

50.2 provide and maintain pedestrian and traffic control devices during the course of the works; and

50.3 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*

51. A person must not, without a permit:

51.1 destroy, damage or interfere with any *Council land* or any *road* or thing on *Council land* or any *road*;

51.2 place or allow to be placed any thing on *Council land* or any *road* so as to endanger any other person or any property;

51.3 remove any thing from *Council land* or any *road*;

51.4 light a fire on any *Council land* or any *road*, except in a properly constructed barbecue; or

51.5 discharge or cause or allow to be discharged any fireworks from *Council land*.

Penalty: 20 Penalty Units

52. Clause 51 does not apply to a person employed or engaged by *Council* while acting in the course of his or her duties.

Recreational Vehicles

53. A person must not, without a permit:
- 53.1 use; or
 - 53.2 allow a person under his or her care or control to use a recreational vehicle on any Council land.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.15*

Fences Between Private and Council Land

54. An owner or occupier of land adjoining *Council land* must not, without a permit, construct or otherwise effect an opening or construct or install a gate in any fence on the boundary between his or her land and the adjoining *Council land*.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.16*

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, an owner or occupier of land must not keep that land or allow that land to be kept in a manner which causes in the land to become:

55.1 unsightly;

55.2 dangerous; or

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

Penalty: 15 Penalty Units

*Amended by
No. 1/2017
C. 9.17*

56. Without limiting the generality of clause 55, land may be unsightly or detrimental to the general amenity of the neighbourhood in which it is located by the presence of:

56.1 unconstrained rubbish;

56.2 dead trees and/or excessive growth of vegetation;

56.3 waste material;

56.4 unregistered *motor vehicles* or any parts of them;

56.5 scrap metal;

56.6 a disused excavation; or

56.7 a building or structure which is incomplete and not currently being constructed.

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

57.1 mowing;

57.2 slashing; or

57.3 otherwise removing all overgrown grass and weeds

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

Penalty: 15 Penalty Units

*Amended by
No. 1/2017
C. 9.18*

Nature strips

58. An owner or occupier of land must ensure that the nature strip adjacent to or otherwise referable to that land:
- 58.1 is maintained in a neat and tidy condition; and
- 58.2 does not contain grass, stubble, scrub or undergrowth exceeding 30 centimetres in height.

*Amended by
No. 1/2017
C. 8.6*

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.19*

59. An owner or occupier of land must not, without a permit, keep any bulk shipping container on that land.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.20*

Old, Used or Second Hand Machinery, Materials, Goods and Vehicles

60. Unless permitted under a Planning Scheme applicable to the land, a person must not, without a permit:
- 60.1 use any land for the storage, assembly or dismantling of any old, used or second hand:
- 60.1.1 machinery;
- 60.1.2 materials; or
- 60.1.3 goods; or
- 60.2 use any land for the storage, assembling or dismantling of any old or second hand *vehicles*.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.21*

Prohibition on Graffiti

61. A person must not:
- 61.1 write;
- 61.2 paint; or
- 61.3 draw any inscription, figure or mark
- on the exterior of any premises without the prior consent of the:
- 61.3.1 owner; or
- 61.3.2 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

62. 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:

62.1 occupy; or

62.2 place or cause to be placed for the purpose of occupation:

any

62.3 caravan;

62.4 tent; or

62.5 like structure

on any land.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.22*

Camping

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

63.1 occupy; or

63.2 cause to be occupied;

any

63.3 caravan;

63.4 tent; or

63.5 like structure

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

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.23*

Caravans

64. Unless permitted under a Planning Scheme applicable to the land, a person must not:

- 64.1 without a permit:
- 64.1.1 place;
 - 64.1.2 cause to be placed; or
 - 64.1.3 permit to be placed

more than one (1) *caravan* on any land in a *Residential Area*; or

- 64.2 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: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.24*

Camping on roads or Council land

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

- 65.1 camp; or
- 65.2 erect, place or occupy a:
 - 65.2.1 caravan;
 - 65.2.2 tent; or
 - 65.2.3 similar structure
 - 65.2.4 on a road, Council land or public place.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.25*

Exemption

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

- 66.1 person; or
- 66.2 class of persons;

from the application of clause 62, 63, 64 or 65.

Vegetation

67. The owner or occupier of any land must not permit any vegetation located on the land to grow in a manner that obstructs the clear view:

- 67.1 by a driver, of any:

- 67.1.1 pedestrian;
- 67.1.2 vehicle;
- 67.1.3 street sign; or
- 67.1.4 traffic control item; or
- 67.2 by a pedestrian, of any:
 - 67.2.1 vehicle;
 - 67.2.2 street sign; or
 - 67.2.3 traffic control item.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.26*

Overhanging and Encroaching Vegetation

- 68. An owner or occupier of any land must not permit vegetation on that land to:
 - 68.1 overhang a road or *Council land* at a height of less than 2.5 metres from the surface of the road or *Council land*; or
 - 68.2 encroach upon any adjacent *road* or *Council land*.

*Substituted by
No. 1/2017
C. 8.7*

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.27*

- 69. [Deleted clause].

*Deleted by
No. 1/2017
C. 8.8*

Vermin and Blackberries

- 70. An owner or occupier of land must not allow any vermin or blackberry (*rubus fruticosus agg.*) to be present on the land.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.29*

Prevention of Fire Risks

- 71. 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: 20 Penalty Units

*Amended by
No. 1/2017
C. 9.30*

Numbering of Allotments

- 72. *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.

73. 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:
- 73.1 in a form;
 - 73.2 of sufficient size; and
 - 73.3 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: 5 Penalty Units

*Amended by
No. 1/2017
C. 9.31*

74. The owner or occupier of an *allotment* must ensure that all numbers marking the *allotment* are:
- 74.1 made of durable materials;
 - 74.2 kept in a good state of repair; and
 - 74.3 renewed as often as may be necessary.

Penalty: 5 Penalty Units

*Amended by
No. 1/2017
C. 9.32*

Noise Generally

75. A person:
- 75.1 must not allow a refrigeration unit mounted on a *motor vehicle* to run prior to:
 - 75.1.1 7.00am or after 10.00pm on any day between Monday and Friday inclusive that is not a *public holiday*; or
 - 75.1.2 9.00am or after 10.00pm on any Saturday, Sunday or *public holiday*; or
 - 75.2 must not deliver any goods to or remove any goods from any:
 - 75.2.1 shop;
 - 75.2.2 market;
 - 75.2.3 factory;
 - 75.2.4 warehouse;
 - 75.2.5 workshop; or
 - 75.2.6 other premises used for commercial purposes in a *Residential Area*, premises adjacent to a

Residential Area or premises from which any noise arising out of the delivery of goods can be heard from a habitable room in premises used primarily for residential purposes

prior to:

75.2.7 7.00am or after 10.00pm on any day between Monday and Saturday inclusive that is not a *public holiday*; or

75.2.8 9.00am or after 10.00pm on any Sunday or *public holiday*; or

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

75.3.1 mowing of grass;

75.3.2 the lopping or removal of trees; or

75.3.3 any other gardening activity

prior to:

75.3.4 7.00am or after 6.00pm on any day between Monday and Saturday inclusive that is not a *public holiday*; or

75.3.5 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: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.33*

76. Nothing in clause 75:

76.1 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

76.2 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

77. An owner or occupier of land must not:

- 77.1 install;
- 77.2 allow to be installed; or
- 77.3 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:

- 77.4 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
- 77.5 the alarm cannot reactivate following the operation of that single detection device until the alarm condition has been manually reset.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.34*

- 78. Notwithstanding clause 77, an intruder alarm may operate for a further period of five (5) minutes beyond the period described in clause 77.4 if the alarm is activated by a different detection device following the cessation of the alarm in accordance with clause 77.

Fires

- 79. A person must not, without a permit:
 - 79.1 light;
 - 79.2 allow to be lit; or
 - 79.3 allow to remain alight
 a fire in the open air.

Penalty: 10 Penalty Units

Incinerators

- 80. A person must not:
 - 80.1 construct;
 - 80.2 erect;
 - 80.3 install;
 - 80.4 use; or
 - 80.5 permit to be constructed, erected, installed or used
 an *incinerator* on any land.

Penalty: 15 Penalty Units

*Amended by
No. 1/2017
C. 9.35*

Nuisances

81. A person must not:
- 81.1 burn; or
 - 81.2 cause or permit to be burned any substance, if the burning of the substance is likely to:
 - 81.3 cause a nuisance;
 - 81.4 be dangerous to the health of any person; or
 - 81.5 be offensive to any person.

Penalty: 15 Penalty Units

*Amended by
No. 1/2017
C. 9.36*

82. Without limiting the application of clause 81, a person must not:
- 82.1 burn; or
 - 82.2 cause or permit to be burned any:
 - 82.3 rubber or plastic substance;
 - 82.4 waste petroleum oil or material containing waste petroleum oil;
 - 82.5 paint or receptacle which contains or has contained paint;
 - 82.6 manufactured chemical;
 - 82.7 pressured can;
 - 82.8 textile fabric; or
 - 82.9 food waste.

Penalty: 15 Penalty Units

*Amended by
No. 1/2017
C. 9.37*

Extinguishing Fires

83. A person who has lit or allowed a fire to remain alight contrary to clause 79, 80, 81 or 82 must extinguish the fire immediately on being directed to do so by:
- 83.1 an authorised officer;
 - 83.2 a member of the Victoria Police; or

- 83.3 an employee of the Metropolitan Fire and Emergency Services Board.

Penalty: 20 Penalty Units

*Amended by
No. 1/2017
C. 9.38*

84. Nothing in clauses 79 - 83 (inclusive) applies to:

- 84.1 a barbeque, pizza oven or other appliance constructed for the purposes of cooking food while it is being used for that purposes;
- 84.1A a fire in a brazier, chimenea or other appliance constructed for the purposes of heating while it is being used for that purposes;
- 84.2 a tool of trade while being used for the purpose for which it was designed;
- 84.3 a fire lit by a member of staff of the Melbourne Fire and Emergency Services Board in the course of his or her duties;
- 84.4 an incinerator licensed under the *Environment Protection Act 1970*; and
- 84.5 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.

*Substituted by
No. 1/2017
C. 8.9*

Building Work

85. 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:

- 85.1 before 7.00am or after 8.00pm on any day from Monday to Friday; or
- 85.2 before 9.00am or after 8.00pm on a weekend or *public holiday*.

Penalty: 10 Penalty Units

86. Clause 85 does not apply to:

- 86.1 any employee or agent of a permit holder;
- 86.2 any *building work* being performed by or on behalf of *Council*;
- 86.3 any *building work* which is subject to a permit issued under the *Planning and Environment Act 1987*, if that permit contains a condition which:

- 86.3.1 restricts the times during which *building work* may be performed; and
 - 86.3.2 the condition is more restrictive than clause 85; or
 - 86.4 any person to whom section 48A of the *Environment Protection Act 1970* applies.
87. A person who carries out or allows to be carried out any *building work* must ensure that the *building work* is carried out such:
- 87.1 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
 - 87.2 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

88. The owner or the occupier of any land must not permit a building located on the land to:
- 88.1 become dilapidated; or
 - 88.2 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

89. A person:

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

89.2 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: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.39*

Spitting

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

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.40*

Shopping Trolleys

91. A person must not leave a shopping trolley:

91.1 on a *road*;

91.2 on *Council land*; or

91.3 in a car park vested in *Council*

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

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.41*

92. Subject to clause 93, a *retailer* must not make available for use or allow to be used a shopping trolley which:

92.1 does not have a fully functioning *coin deposit and release mechanism* attached to it; or

92.2 is not secured to the *retailer's* premises by a perimeter constraint system approved by *Council*.

Penalty: 20 Penalty Units

93. Clause 92 does not apply when a *retailer* makes available for use, or allows to be used, 25 shopping trolleys or less.
94. A *retailer* may apply in writing to a *Council* for an exemption from the application of clause 92.
95. *Council* may, in its absolute discretion, decide to exempt any *retailer* from the application of clause 92 in respect of all shopping trolleys or particular types of shopping trolley provided by that *retailer*, either temporarily or permanently.
96. A *retailer* must not obtain or attempt to obtain an exemption by wilfully making or causing to be made any false representation.

Penalty: 20 Penalty Units

97. 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.
98. On the first business day of each month or as soon possible thereafter, a list of shopping trolleys that have been impounded by *Council* will be forwarded to each *retailer* stating:
- 98.1 the period within which the shopping trolley must be claimed;
- 98.2 that unclaimed shopping trolleys may be disposed of by *Council* after the period; and
- 98.3 that it is an offence for a *retailer* to not claim an impounded shopping trolley.
99. Any impounded shopping trolley may be claimed by the *retailer* who owns the shopping trolley after payment of a fee set by *Council*, which fee must not exceed an amount that reasonably represents the cost to *Council* of seizing, impounding, moving, keeping and releasing the shopping trolley (including any relevant overhead and other indirect costs).
100. Any impounded shopping trolley not claimed within the time specified in the list of impounded shopping trolleys referred to in clause 98 may be disposed of by *Council*.
101. A *retailer* must claim the impounded shopping trolley within the period stated by *Council* in the list of impounded shopping trolleys forwarded to that *retailer*.

Penalty: 10 Penalty Units

Signs, Goods and Street Trading Items

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

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

102.2 place or allow to be placed an *advertising sign* on a *road* or *Council land*; or; or

*Substituted by
No. 1/2017
C. 8.10*

102.3 place or allow to be placed any table, chair, barrier or other street trading item on a *road* or *Council land*.

Penalty: 20 Penalty Units

*Amended by
No. 1/2017
C. 9.42*

102A An *advertising sign* must not contain any offensive or inappropriate content.

Penalty: 20 Penalty Units

*Inserted by
No. 1/2017
C. 8.11*

103. In deciding whether to grant a permit under clause 102, *Council* may have regard to:

103.1 the effect on pedestrian traffic flows and safety;

103.2 the impact on the appearance of the *road* or *Council land* and its surroundings;

103.3 the impact on residential amenity;

103.4 the duration of the use;

103.5 the effect on vehicular traffic flows and safety;

103.6 compatibility with other uses in the *road* or *Council land*;

103.7 whether it is complementary to the primary adjoining use;

103.8 whether it is less intensive than the primary adjoining use;

103.9 the applicant's previous record of compliance;

103.10 any relevant policies of *Council*; and

103.11 any other matter relevant to the application.

104. A person who has placed or displayed, or permitted to be placed or displayed, goods, an *advertising sign*, a table, chair, barrier or other item on a *road* or *Council land*, whether with or without a permit issued under clause 102, must move or remove them or it if directed to do so by:

*Substituted by
No. 1/2017
C. 8.12*

104.1 an authorised officer; or

104.2 a member of staff of a Service Authority.

Penalty: 20 Penalty Units

*Amended by
No. 1/2017
C. 9.43*

Obstructions on Roads

105. A person must not, without a permit:

105.1 leave or permit to be left any:

105.1.1 bulk rubbish container on a road or Council land; or

105.1.2 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

105.2 leave or permit to be left on a *road* or *Council land* any *charity bin*.

Penalty: 20 Penalty Units

*Amended by
No. 1/2017
C. 9.44*

106. Council or an authorised officer may exempt any:

106.1 person; or

106.2 class of persons;

from the application of clause 105.

107. If a person reasonably suspected of having committed an offence under clause 105 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 105, 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 105.

Spoil on Roads

108. A person must not:

108.1 drive; or

108.2 permit or cause to be driven

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

108.3 the filling or excavation of any land; or

108.4 building work

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

Penalty: 20 Penalty Units

109. If a person reasonably suspected or having committed an offence under clause 108 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 108, 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 108.

Occupation of Roads for Works

110. A person must not, without a permit:

110.1 occupy or fence off;

110.2 erect a hoarding or scaffolding on;

110.3 use a concrete pump, mobile crane or travel tower for any work on;

*Amended by
No. 1/2017
C. 8.13*

110.4 make a hole or excavation in;

110.5 fill a hole or excavation in; or

110.6 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: 20 Penalty Units

*Amended by
No. 1/2017
C. 9.45*

111. Clause 110 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*.

Repair and Display for Sale of Vehicles

112. A person must not:

112.1 paint a vehicle on a road or Council land;

112.2 service a vehicle on a road or Council land;

112.3 carry out maintenance on a vehicle on a road or Council land;

- 112.4 repair or dismantle a vehicle on a road or Council land except in an emergency breakdown to enable it to be removed; or
- 112.5 display for sale a vehicle on a road or Council land.

Penalty: 20 Penalty Units

*Amended by
No. 1/2017
C. 9.46*

Storage of Vehicles

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

- 113.1 boat;
- 113.2 trailer;
- 113.3 caravan; or
- 113.4 *vehicle*, whether registered or not, which is in a dilapidated state

for more than seven (7) consecutive days or for more than eight (8) days in any period of 14 days.

Penalty: 20 Penalty Units

*Amended by
No. 1/2017
C. 9.47*

Consumption of Alcohol

114. A person must not:

- 114.1 consume any *alcohol*; or
- 114.2 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: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.48*

Wheeled Toys

115. A person must not:

- 115.1 use; or
- 115.2 allow a person under his or her care, custody or control to use

a *wheeled toy* 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: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.49*

Publication of Prohibited Places

116. *Council* must ensure that a description of any prohibited place declared under clause 114 or 115 appears on its website.

PART 6**ROADS AND COUNCIL LAND: PARKING**

Introduction: This Part regulates the parking of *vehicles* on some *roads* and *Council land*. It is intended to be read in a manner which is consistent with the *Road Safety Road Rules 2009*.

Parking of Vehicles

117. The owner of a *motor vehicle* must not leave that *motor vehicle* standing in a parking area located on *Council land*:
- 117.1 except in the manner indicated by the inscription on any sign associated with the parking area;
 - 117.2 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
 - 117.3 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: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.50*

Residential Parking

118. A person must not leave a *motor vehicle* standing in a *residential parking area* unless a *residential parking permit* is displayed under the windscreen of that *motor vehicle*.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.51*

119. An application for a *residential parking permit* must be in a form approved by *Council*.
120. A person who has a *residential parking permit* must comply with any conditions of the *residential parking permit*.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.52*

PART 7

SALE OF GOODS, STREET COLLECTIONS AND DISTRIBUTIONS AND STREET PARTIES

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

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

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.53*

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

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

122.2 sell goods from a tent or a temporary structure or building erected in contravention of clause 122.1.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.54*

Street Collection

123. 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: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.55*

Unsolicited Material

124. 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: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.56*

Busking

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

125.1 *road*; or

125.2 Council land

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

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.57*

Exemptions

126. Council or an authorised officer may exempt any:

126.1 person; or

126.2 class of persons

from the application of clause 121, 122, 123, 124 or 125.

Street Parties

127. A person must not, without *Council's* written approval, host or hold a *street party*.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.58*

PART 8

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

128. This Part does not apply to any land:

128.1 on which a pet shop is located; or

128.2 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

129. Unless permitted under a Planning Scheme applicable to the land, a person must not, without a permit, keep or allow 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	2
Poultry	5
Pigeons	10
Racing Pigeons	60
Rabbits	5
Guinea Pigs	8
Mice	8
Cold water and Tropical Gold Fish	unlimited

Penalty: 10 Penalty Units

130. 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 129 on any land.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.59*

*Amended by
No. 1/2017
C. 9.60*

131. *Council* or an *authorised officer* may from time to time exempt any:
- 131.1 person; or
- 131.2 class of persons
- from the application of clause 129 or 130.

Housing of Animals

132. Any structure used for housing an *animal* and the area within three (3) metres of such structure must be maintained:
- 132.1 in a clean, inoffensive and sanitary condition;
- 132.2 so as not to cause any nuisance; and
- 132.3 to the satisfaction of *Council* or an *authorised officer*.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.61*

- 132A. A structure used for housing an *animal* must not be attached to, or within one metre of, any fence or other structure designed to separate neighbouring properties.

*Inserted by
No. 1/2017
C. 8.14*

Penalty: 10 Penalty Units

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

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.62*

Noise and Smell from Animals

134. 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: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.63*

Feeding of Animals

135. 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*.
136. A person to whom a direction is given under clause 135 must comply with that direction.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.64*

PART 9
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

137. A person must not place:

137.1 a disused refrigerator;

137.2 an ice chest;

137.3 a chest; or

137.4 any other similar article

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

137.5 rubbish tip;

137.6 road;

137.7 Council land;

137.8 public place; or

137.9 unfenced vacant land.

without:

137.10 in the case of a *road, Council land* or *public place*, it is a day designated on *Council's* website as a day for the collection of hard rubbish; and

137.11 in any event, without having first:

137.11.1 removed from it every door and lid;

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

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

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.65*

Resource Collection

138. The occupier of any land to which *Council* provides a
- 138.1 *domestic waste* collection service must:
- 138.1.1 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;
- 138.1.2 not place out for collection by *Council* any *domestic waste* other than in an *approved garbage receptacle* designated for the deposit of *domestic waste*;
- 138.1.3 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 published on *Council's* website; and
- 138.1.4 not remove an *approved garbage receptacle* from any land except when it is placed out for collection.
- 138.2 *green waste* collection service must:
- 138.2.1 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*;
- 138.2.2 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*;
- 138.2.3 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 published on *Council's* website; and

- 138.2.4 not remove any *approved green waste receptacle* from any land, except when it is placed out for collection.
- 138.3 recycling collection service must
- 138.3.1 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*;
- 138.3.2 not place out for collection by *Council* any *recyclables* other than in a *recycling receptacle*;
- 138.3.3 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 published on *Council's* website; and
- 138.3.4 not remove any *recycling receptacle* from any land, except when it is placed out for collection; and
- 138.4 commercial paper and cardboard collection service must
- 138.4.1 without delay deposit all paper and cardboard used on the land which are to be collected by or on behalf of *Council* into the container provided by or on behalf of *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;
- 138.4.2 not place out for collection by or on behalf of *Council* any paper or cardboard other than in the container provided by *Council* for that purpose;
- 138.4.3 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 published on *Council's* website; and
- 138.4.4 not remove a container provided by or on behalf of *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

139. 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: 5 Penalty Units

*Amended by
No. 1/2017
C. 9.66*

140. Any *receptacle* placed out for collection by the occupier of any land must:

140.1 be placed:

140.1.1 on the nature strip in front of the land within one (1) metre of the kerb; or

140.1.2 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;

140.2 be placed so that there is a minimum:

140.2.1 vertical distance of three (3) metres above the lid of the *receptacle*; and

140.2.2 horizontal distance of 500 millimetres 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

140.3 be placed with the side of the *receptacle* on which hinges securing the lid are located positioned facing the land.

Penalty: 5 Penalty Units

*Amended by
No. 1/2017
C. 9.67*

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

Penalty: 5 Penalty Units

*Amended by
No. 1/2017
C. 9.68*

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

Penalty: 5 Penalty Units

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

Penalty: 5 Penalty Units

*Amended by
No. 1/2017
C. 9.69*

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

Penalty: 5 Penalty Units

*Amended by
No. 1/2017
C. 9.70*

145. 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: 5 Penalty Units

*Amended by
No. 1/2017
C. 9.71*

146. The occupier of land must ensure that an *approved garbage receptacle*, an *approved green waste receptacle* and a *recycling receptacle* is covered by their lids at all times, except when *domestic waste*, *green waste* or *recyclables* (as the case may be) is or are being deposited in or removed from the *approved garbage receptacle*, *approved green waste receptacle* or *recycling receptacle* or such *approved garbage receptacle*, *approved green waste receptacle* or *recycling receptacle* is being cleaned or repaired.

Penalty: 5 Penalty Units

*Amended by
No. 1/2017
C. 9.72*

147. The occupier of any land must not:

147.1 use; or

147.2 allow to be used

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

Penalty: 5 Penalty Units

*Amended by
No. 1/2017
C. 9.73*

148. 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:

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

148.2 such part of the fee set under clause 148.1 as *Council* or an *authorised officer* considers appropriate.

149. Once waste has been collected by or on behalf of *Council*, the occupier of any land must:

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

149.2 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: 5 Penalty Units

*Amended by
No. 1/2017
C. 9.74*

Hard Rubbish and Green Waste Collection

150. Where *Council* or an *authorised officer* has given public notice that a hard rubbish or *green waste* collection will be made, or where other arrangements are made by *Council* to collect such rubbish or *green waste* any hard rubbish or *green waste* to be collected must be left out for collection in a neat, tidy, safe and orderly manner and in accordance with *Council's* or the *authorised officer's* directions.

*Substituted by
No. 1/2017
C. 8.15*

Penalty: 5 Penalty Units

151. A person must not place, or cause or allow to be placed, any item (other than a *receptacle*) on a nature strip or other part of a *road*, except for the purposes of a hard waste collection provided by *Council* and in accordance with clause 150.

*Substituted by
No. 1/2017
C. 8.15*

Penalty: 5 Penalty Units

Interference with Waste

152. A person must not:
- 152.1 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
 - 152.2 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 150.

Penalty: 5 Penalty Units

153. *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.
154. An owner or occupier of land to whom a direction is given under clause 153 must comply with that direction.

Penalty: 10 Penalty Units

Suspension of Waste Collection Service

155. If, in the opinion of *Council*, any occupier of land:
- 155.1 has persistently contravened; or
 - 155.2 is persistently contravening;
- any provision in this Part, it may suspend the provision of any waste collection service to the land.

156. If *Council* suspends the provision of any waste collection service to land the suspension may be:
- 156.1 indefinite; or
 - 156.2 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 and Other Litter

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

Penalty: 10 Penalty Units

158. A person must not sweep or otherwise deposit any leaves, garden clippings or like things into any gutter or other part of a *road*.

Penalty: 5 Penalty Units

Transportation of Waste

159. A person must not convey or cause to be conveyed in a *vehicle* 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:

- 159.1 constructed;
- 159.2 fitted;
- 159.3 loaded; and
- 159.4 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

160. 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

161. 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:

- 161.1 has an impermeable surface;
- 161.2 is drained to an outlet approved by *Council* or an *authorised officer*;
- 161.3 is supplied with water from a tap and hose; and
- 161.4 is maintained in a clean, inoffensive and sanitary condition.

Penalty: 10 Penalty Units

*Amended by
No. 1/2017
C. 9.75*

Certain Waste Only to be Collected During Certain Hours

- 162. A person must not collect industrial, commercial or trade waste other than between the following hours:
 - 162.1 7am to 8pm Monday to Saturday; and
 - 162.2 9am to 8pm Sunday and *public holidays*.

Penalty: 10 Penalty Units

Exemptions

- 163. Council may exempt any:
 - 163.1 person; or
 - 163.2 class of persons; or

from the application of any provisions of clause 160, 161 or 162.

Waste Management Plans

- 164. If directed by *Council* or an *authorised officer* to prepare and, following approval, to comply with a Waste Management Plan, an owner or occupier of land used primarily for commercial purposes must:
 - 164.1 prepare a Waste Management Plan and submit it to *Council* for approval; and
 - 164.2 not cause or allow any waste to be collected from the land other than in accordance with a Waste Management Plan approved by *Council*.

Penalty: 10 Penalty Units

PART 10

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

165. An *authorised officer* may seize and impound any thing which has been or is being used or possessed in contravention of this Local Law.
166. 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.
167. An impounded thing must be surrendered to:
- 167.1 its owner; or
 - 167.2 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
 - 167.3 evidence to the satisfaction of the *authorised officer* being provided of the owner's right to the thing; and
 - 167.4 payment of any fee determined by *Council* or an *authorised officer* from time to time.
168. Clause 167 does not apply to the impounding of *alcohol* or any shopping trolley 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.
169. 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,
- 169.1 sell;
 - 169.2 give away; or
 - 169.3 destroy,
- the impounded thing.

Notices to Comply

170. *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.
171. A *Notice to Comply* served in accordance with this Local Law must state the date by which the thing must be remedied.
172. 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:
- 172.1 the amount of work involved;
 - 172.2 the degree of difficulty;
 - 172.3 the availability of necessary materials or other necessary items;
 - 172.4 climatic conditions;
 - 172.5 the degree of risk or potential risk; and
 - 172.6 any other relevant matter.
173. 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: 20 Penalty Units

*Amended by
No. 1/2017
C. 9.76*

174. Nothing in this Local Law
- 174.1 obliges *Council* or an *authorised officer* to serve a *Notice to Comply*; or
 - 174.2 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

175. *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.
176. *Council* or an *authorised officer* may from time to time prescribe:
- 176.1 the manner and form in which applications for permits under this Local Law should be made;
 - 176.2 the manner in which any permit under this Local Law should be issued; and
 - 176.3 the fee for any such permit.

177. *Council* or an *authorised officer* may waive payment of any fee for a permit.
178. *Council* may make appropriate delegations of permit-issuing powers.
179. *Council* must keep a register of permits.
180. *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*.
181. *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.
182. 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.
183. 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

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

Correction of Permits

185. *Council* or an *authorised officer* may correct a permit issued if the permit contains:
- 185.1 a clerical mistake or an error arising from any accident, slip or omission; or
 - 185.2 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.
186. *Council* or the *authorised officer* must note the correction in the register of permits.

Grounds for Cancellation of or Amendment of Permits

187. *Council* or an *authorised officer* may cancel or amend any permit if it, he or she considered that there has been:
- 187.1 a material mis-statement or concealment of fact(s) in relation to the application for a permit;
 - 187.2 any material mistake in relation to the issue of a permit;
 - 187.3 any material change of circumstances which has occurred since the issue of the permit;
 - 187.4 a failure to comply with the conditions under which the permit was issued; or
 - 187.5 a failure to comply with a *Notice to Comply* within the time specified in the *Notice to Comply*.
188. *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.
189. 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

190. If an *authorised officer* is of the opinion that:
- 190.1 a person has breached any provision of this Local Law in respect of which a *Notice to Comply* may be issued and:
 - 190.1.1 any person;
 - 190.1.2 any animal;
 - 190.1.3 any property; or
 - 190.1.4 the environment of the *municipal district*
 is in danger of substantial detriment due to the breach; and
 - 190.2 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 :
- 190.3 the reasons for taking the action; and
 - 190.4 the action taken

to the person in breach of the provision of this Local Law in respect of which the action was taken.

Offences

191. A person who:
- 191.1 contravenes or fails to comply with any provision under this Local Law;
 - 191.2 contravenes or fails to comply with any condition contained in a permit issued under this Local Law; or
 - 191.3 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:
- 191.4 the penalty stated under a provision or, if no penalty is stated, two (2) penalty units;
 - 191.5 a further penalty of one (1) penalty unit for each date during which the contravention continues; and
 - 191.6 upon conviction for or upon being found guilty of a second or subsequent offence, double the penalty stated under a provision of penalty units or 20 penalty units, whichever is the lesser.

Infringement Notices

192. 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, as an alternative to prosecution for an offence, serve on that person an Infringement Notice.
193. The penalties fixed for Infringement Notices are set out in Schedule 1.
194. Any person issued with an Infringement Notice may pay the penalty indicated to an *authorised officer* at the *Council* offices.

Requirement to Act Fairly and Reasonably

195. 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.
196. 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 25 November 2014.

THE COMMON SEAL of
MONASH CITY COUNCIL

was hereto affixed in the presence of :

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SCHEDULE 1

*Amended by
No. 1/2017
C. 8.16*

CLAUSE	PENALTY FOR INFRINGEMENT NOTICE (IN PENALTY UNITS)
13, 14, 16, 17, 18, 22, 24, 25, 30, 31, 32, 34, 40, 41, 42, 44, 45, 46, 49, 50, 53, 54, 58, 61, 62, 63, 64, 65, 70, 87, 88, 89, 90, 92, 96, 101, 114, 115, 117, 118, 120, 129, 130, 132, 132A, 133, 134, 136, 137, 159, 160, 161, 162 & 164	2
20, 73, 74, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 149, 150, 151, 152, 154, 157 & 158	1
21, 23, 26, 51, 71, 83, 102, 102A, 104, 105, 108, 110, 112, 113 & 173	5
55, 57, 79, 80, 81 & 82	3
59, 60, 67, 68, 75, 77, 85, 91, 121, 122, 123, 124, 125 & 127	2.5