

**PORT PHILLIP CITY COUNCIL**

**COMMUNITY AMENITY (AMENDMENT) LOCAL LAW NO. 1 of 2008**

**PART A – INTRODUCTORY**

**1. Title**

This Local Law is entitled "Community Amenity (Amendment) Local Law No. 1 of 2008".

**2. Objectives of Local Law**

The objectives of this Local Law are to:

- 2.1 provide for the peace, order and good government of the Municipal District;
- 2.2 amend the Council's Community Amenity Local Law No. 3; and
- 2.3 amend errors and make minor amendments to the Local Law.

**3. Authorising Provision**

This Local Law is made under section 111(1) of the Act.

**4. Commencement**

This Local Law comes into operation on the day after the day on which it is made.

**5. Revocation**

Unless revoked earlier, this Local Law ceases to operate on the day on which the Principal Local Law ceases to operate.

**6. Application**

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

**7. Interpretation**

Unless the contrary intention appears in this Local Law, the following words are defined as indicated:

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

**"Council"** means the Port Phillip City Council;

**"Municipal District"** means the Municipal District of the Council; and

**"Principal Local Law"** means the Council's Community Amenity Local Law No. 3.

## PART B – AMENDING THE PRINCIPAL LOCAL LAW

### 8. Amendment of Clause 6

In clause 6 of the Principal Local Law:

- 8.1 delete the existing definition of "Significant Tree" and replace it with the following:

**"Significant Tree"** means a tree on private land:

- (a) with a trunk circumference of 150 centimetres or greater measured 1 metre from its base; or
- (c) if the tree has been removed a trunk circumference of 150 centimetres or greater measured at its base.

- 8.2 after the definition of "Council land" insert the following:

**"Council Reserve"** means

- (a) Wattie Watson Oval, Elwood Park;
- (b) Esplanade Oval/cricket ground 2, Elwood Park;
- (c) Head Street Grounds A & B, Elwood Park;
- (d) Peanut Farm Oval, Peanut Farm Reserve;
- (e) Alma Park Oval, Alma Park;
- (f) Lagoon Oval, Lagoon Reserve;
- (g) Anderson Oval 1, J.L. Murphy reserve;
- (h) Anderson Oval 2, J.L. Murphy Reserve;
- (i) G.S. Williams Oval, J.L. Murphy Reserve;
- (j) A.T. Aanensen Oval, J.L. Murphy Reserve;
- (k) J.M. Woodruff Oval, J.L. Murphy Reserve; and
- (l) North Port Oval, Port Melbourne Oval.

### 9. Amendment of Clause 6

In clause 6 of the Principal Local Law:

after clause 6A insert the following clause:

"6B Any activity or other matter that requires approval under the Road Management Act 2004 is to be evidenced by way of the grant of a permit under the Local Law."

## **10. Amendment of Clause 7**

In clause 7(1) of the Principal Local Law:

10.1 delete paragraph (m) and replace it with the following:

"(m) carrying out building work on land as specified in clause 20"; and

10.2 delete paragraph (oa)

## **11. Amendment of Clause 8**

In clause 8 of the Principal Local Law:

delete clause 8 (5) and replace it with the following:

"(5) If an advertising sign is placed in breach of this clause 8:

(a) the person who is the owner of the business, event or activity to which the advertising sign relates;

(b) the person who has the management and control of premises, property, business, event or activity to which the advertising sign relates;

(c) the person who is the promoter of the premises, property, business, event or activity to which the advertising sign relates; and

(d) the person who is responsible for the placement, siting or distribution of the advertising sign including without limitation the person who engages another whether as an employee or agent to place, site or distribute the advertising sign

are each guilty of an offence against this Local Law whether or not the person who placed the advertising sign is identified or prosecuted."

## **12. Amendment of Clause 11**

In clause 11 of the Principal Local Law:

12.1 after clause 11(2) insert the following:

"(2A) A permit is required for any activity that involves occupying or partly occupying a road."

12.2 delete clause (3) and replace with:

"(3) In addition to the requirements to obtain a permit to occupy the road for works or other activities a person must comply with the requirements in the *Procedures and Protocols Manual*."

## **13. Amendment of Clause 13**

In clause 13 of the Principal Local Law:

delete the amount of "\$1000" after the word "Penalty" and insert "\$2000".

**14. Amendment of Clause 16**

In clause 16 of the Principal Local Law:

after clause 16(2) Insert the following clause:

- "(3) A permit holder:
  - (a) must not assign, transfer or encumber his or her permit; and
  - (b) must ensure that:
    - (i) the permit is fixed to the lower interior of the passenger side corner of the front windscreen of the relevant vehicle or in any other manner specified in the permit; and
    - (ii) all printed information on the permit is capable of being read by any person standing beside the vehicle."

**15. Amendment of Clause 19**

In clause 19 of the Principal Local Law:

15.1 delete sub-clause (1)(c) and 19(2) and replace with the following:

- "(1A) Despite subclause (1), a person must not keep more than four animals on any residential, commercial or industrial property.
- (2) An owner or occupier of residential, commercial or industrial property must keep animals housed in a way which:
  - (a) is adequate and appropriate for the type and numbers of animals being kept; and
  - (b) is not offensive; and
  - (c) protects adjoining properties from animal noise; and
  - (d) does not adversely impact on the amenity of the area."

15.2 after clause 19(3) insert the following:

- "(4) An owner or occupier of residential property must not keep, allow to be kept or harbour any roosters."

**16. Amendment of Clause 24 (5) and new Clause 24(5A)**

In clause 24(5)of the Principal Local Law:

16.1 delete clause 24(5) and replace with the following:

- "(5) A builder must not, without a permit, carry out building works on a building site other than between the following hours:
  - (a) 7.00 am to 6.00 pm Monday to Friday; and

(b) 9.00 am to 3.00 pm Saturday."

16.2 after clause 24(5) insert the following:

"(5A) A builder must not carry out building works on a building site on a public holiday that is a public holiday under the *Public Holidays Act 1993*."

16.3 after clause 24(20) insert the following:

"(20A) A person who delivers materials to a building site or collects materials or waste from a building site must do so without causing damage to any adjoining land."

## 17. Amendment of Clause 25

In clause 25 of the Principal Local Law:

after clause 25(1) insert the following:

"(1A) A person carrying out building work must not, without a permit, access the building site via a laneway."

**Penalty: \$2000"**

## 18. Amendment of Clause 26

In clause 26 of the Principal Local Law:

delete clause 26 and replace with the following:

### **"26. General Requirements Applying to Industrial, Trade and Commercial Waste**

(1) A person must not collect industrial, trade or commercial waste (including the collection of recyclable materials) other than between the following hours:

(a) 7.00 am to 8.00 pm Monday to Saturday;

(b) 9.00 am to 8.00 pm Sunday and public holidays.

(2) A person who collects industrial, trade or commercial waste (including the collection of recyclable materials) materials outside the hours specified in sub-clause (1) provided that the amenity of the area is not disturbed by unreasonable noise.

(3) The collection of industrial, trade or commercial waste (including the collection of recyclable materials) is deemed to generate unreasonable noise if noise from the collection can be heard in a habitable room in any dwelling (regardless of whether any door or window giving access to that room is open).

(4) A person using an industrial, trade or commercial waste bin must comply with the requirements in the *Procedures and Protocols Manual*."

## **19. Amendment of Clause 27**

In clause 27 of the Principal Local Law:

19.1 after clause 27(1) insert the following:

"(1A) An owner or occupier of commercial premises must not detrimentally affect the amenity of the neighbourhood through the emission of noise, smell or appearance of the premises."

19.2 after clause 27(2) insert the following:

"(3) The delivery to commercial premises or collection from commercial premises of any products is deemed to generate unreasonable noise if noise from the delivery or collection can be heard in a habitable room in any dwelling (regardless of whether any door or window giving access to that room is open)."

## **20. Amendment of Clause 29**

In clause 29 of the Principal Local Law :

20.1 delete clause 29(1) and replace with the following:

(1) An owner or occupier of residential premises must:

- (a) place all domestic waste and recyclable material for collection in bins ready for collection on the days from time to time specified by the Council;
- (b) not use Council supplied bins for any other purpose except for domestic waste or recyclable material;
- (c) place bins on the verge of the vehicle crossing or roadway abutting the property or other location, confirmed in writing by the Council, prior to 6 am on the day the waste is to be collected;
- (d) ensure that any material that may cause a hazard (or a safety risk) is not placed in bins provided by the Council for domestic waste or recycling;
- (e) ensure that, if the Council has notified occupiers of a green waste or hard garbage collection, the material to be collected (of the type of green waste or hard garbage) is left for collection in accordance with the Council's instructions;
- (f) ensure that once the waste has been collected by the Council, the empty bins are returned to the property as soon as practicable but within 24 hours from the collection;
- (g) ensure that any waste from a container that has spilled onto the road, nature-strip or surrounding area before collection, is removed as soon as practicable; and
- (h) ensure that bins are maintained in a clean and tidy manner so that they do not cause a health threat or offence to any person.

20.2 After clause 29(1) insert the following:

(1B) Sub-clause (1)(a) does not apply to material which is recycled on the property in a manner which causes no nuisance to neighbours or kept on the property for recycling in accordance with a Council sponsored recycling program.

(1C) The owner of any flats or units must provide a clearly defined storage area for the storage of bins and every occupier must keep the bin allocated to the flat or unit in that defined storage area."

## **21. Amendment of Clause 34**

In clause 34 of the Principal Local Law:

21.1 delete the word "be" after the word "may" in clause 34(5) and insert the word "by" after the word "may";

21.2 after clause 34(3) insert the following after clause (3):

"(3A) A person must not access land in a vehicle other than via a temporary or permanent vehicle crossing."

**Penalty\$1000"**

## **22. Amendment of Clause 37**

In clause 37 of the Principal Local law:

22.1 delete clause 37(1);

22.2 delete sub-clause (2)(d) and replace with the following:

"(2)(d) must not sell, offer to sell, assign, transfer or encumber his or her permit; and "

## **23. Amendment of Clause 38**

Delete clause 38 of the Principal Local Law and replace with the following:

**"38. Significant Trees**

(1) A person must not, without a permit, remove, damage, destroy or lop a Significant Tree.

**Penalty: \$2000"**

## **24. New Clause 38A and 38B**

After clause 38 of the Principal Local Law, insert the following:

**"38A Use of Council Reserves**

(1) A person must not use a Council Reserve for the purpose of training or conducting sporting activities unless a permit is in

existence for the use of the Council Reserve for the purpose of training or conducting sporting activities by a sporting club.

**Penalty: \$1000"**

**"38B Maintenance of stormwater drains**

- (1) An owner of land must not allow a stormwater pipe to accumulate leaves, dirt or other matter so that it causes a council drain to become obstructed."

**25. Amendment of Clause 45**

In clause 45 of the Principal Local Law insert the following after clause 45(2):

- "(3) For the purpose of sub-clause (1) the following are designated areas and designated dates and times:
- (a) for the period of the St Kilda Festival conducted in the St Kilda precinct between the hours of 9 am and 12 midnight for each day of the event;
  - (b) for the period of the Australian Formula 1 Grand Prix (as defined in Australian Grand Prix Act) the municipal district from 12 midnight on the Monday preceding the Grand Prix to 12 midnight on the Monday after the Grand Prix;
  - (c) at any time on a road or Council land between the hours of 11 pm and 7 am the following day.
  - (d) on New Years Eve, on a road or Council land, between 12.01am and midnight, and on New Years Day between midnight and 7am.
- (4) For the purpose of clause 45 the St Kilda precinct is that area bounded by the foreshore along Thackeray Street to Barkly Street, along Barkly Street to Fitzroy Street, along Fitzroy Street to Canterbury Road, along Canterbury Road to Cowderoy Street, along Cowderoy Street to the foreshore (including the beach area)."

**26. Amendment of Clause 48A**

In clause 48A of the Principal Local Law, insert the following after clause 48A(2):

- "(3) For the purpose of sub-clause (2) a barbecue is a device specifically designed and constructed for the purpose of cooking."

**27. Amendment of Clause 51**

In clause 51 of the Principal Local Law:

delete the amount of "\$200" after the word Penalty and insert "**\$400**".

**28. Amendment of Clause 55**

In clause 55 of the Principal Local Law:

delete sub-clause 55(a) and replace with the following:

"(a) issue a permit that is generally in the form in the *Procedures and Protocols Manual* with or without conditions; or"

**29. Amendment of clause 57**

In clause 57 of the Principal Local Law:

delete sub-clause 57(a) and replace with following:

"(a) A permit may be issued which contains conditions considered to be appropriate in the circumstances including (but not limited to) the following:

- (i) the payment of a fee or charge;
- (ii) the payment of a security deposit, bond or guarantee to the council to secure the proper performance of conditions on a permit or to rectify any damage caused to Council assets as a result of the use or activity allowed by the permit;
- (iii) a time limit to be applied specifying the duration, commencement or completion date;
- (iv) that the applicant be insured against the risk and to provide a written indemnification of the Council against liability arising from the activity or use;
- (v) the rectification, remedying or restoration of a situation or circumstance;
- (vi) where the applicant is not the owner of the subject property, the consent of the owner; and
- (vii) the granting of some other permit or authorisation."

**30. Amendment of clause 67**

In clause 67 of the Principal Local Law:

delete sub-clause (1) and insert the following:

"(1) In urgent circumstances arising as a result of a failure to comply with this Local Law:

- (a) an authorised officer may take action to remove, remedy or rectify a situation without first serving a notice to comply if –
  - i. the authorised officer considers the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a

notice, may place a person, animal, property or thing at risk or in danger; and

ii. wherever practicable, a senior officer is given prior notice of the proposed action; or

(b) an authorised officer may take action to remove, remedy or rectify a situation where a notice to comply has been served on a person and that person has not complied with the notice if:

i. the authorised officer considers the circumstances or situation to be sufficiently urgent and the non compliance with the notice may place a person, animal, property or thing at risk or in danger; and

ii. wherever practicable, a senior officer is given prior notice of the proposed action.”

**31. Deletion of clause 70**

Delete clause 70 of the Principal Local Law.

**32. Deletion of clause 71**

Delete clause 71 of the Principal Local Law.

**33. Amendment of Schedule 2**

Amend Schedule 2 (Penalties Fixed For Infringements) as follows:

delete the following penalty amounts:

13(1)	Failing to obtain a Permit for filming on a road or Council land	500
38	Failing to obtain consent to remove a significant tree	500
51	Failing to remove a shopping trolley	100

insert the following penalty amounts:

13(1)	Failing to obtain a Permit for filming on a road or Council land	1000
38	Failing to obtain consent to remove a significant tree	1000
51	Failing to remove a shopping trolley	200

This Local Law was made by a Resolution of Council at a meeting held on **[insert date]**.

Date of public notice of the making of this Local Law in the **[name of newspaper]**: **[date]**.

Date of notice of the making of this Local Law in the Victoria Government Gazette: **[date]**.