

**City of Port Phillip**

**LOCAL LAW NO. 1  
(Community Amenity)**

**Date: 01 September 2013**

[Incorporates amendments provided by Community Amenity \(Amendment\) Local Law No 1 of 2017.](#)

*Note: This Local Law should to be read in conjunction with [any other relevant the corresponding](#) provisions in the Council's Procedures and Protocols Manual.*

## **Notes on the City of Port Phillip Local Law No.1 (Community Amenity)**

1. This document is a consolidation and re-structure of the previous
  - Community Amenity Local Law No.3, and
  - Footpath Trading Local Law No.7

**CITY OF PORT PHILLIP**  
**LOCAL LAW NO 1**  
**(COMMUNITY AMENITY)**  
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**PORT PHILLIP CITY COUNCIL**

**LOCAL LAW NO. 1  
(COMMUNITY AMENITY)**

***PART 1 - PRELIMINARY PROVISIONS***

**1. Title**

This is the Local Law No.1 (Community Amenity) of 2013.

**2. Purpose**

The purpose of this Local Law is to provide for the peace, order and good governance of the City of Port Phillip in a way that is complementary to *Council's* Council Plan by:

- (1) managing the uses and activities on *roads* and *Council land* so that *Council* is aware of uses or activities which may:
  - (a) interfere with the safety and convenience of people travelling on or using *roads* or *land*; and
  - (b) impede free and safe access for people, in particular those with sight and movement impairment or disabilities; and
  - (c) cause damage to *Council* and community assets; and
  - (d) create a danger or expose others to risk; and
  - (e) be detrimental to the amenity of the area or the enjoyment of facilities on *roads* or *land*;
- (2) managing, regulating and controlling uses and activities which may:
  - (a) be dangerous, cause a nuisance or be detrimental to the amenity of the area or the environment; and
  - (b) interfere with a healthy and safe environment in the municipal district for residents, workers and visitors;
- (3) identifying uses and activities where a *permit* is not required but conditions are applicable to the use or activity so that the purposes identified in sub-clauses (1) and (2) are achieved; and
- (4) providing for the administration of *Council's* powers and functions.

**3. Authorising Provision**

This Local Law is made under Section 111(1) of the *Local Government Act* 1989 and Section 42 of the *Domestic Animals Act* 1994.

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**4. Commencement, revocation and area of operation**

This Local Law:

- (1) commences on 01 September 2013;
- (2) ceases to operate on 31 August 2023, unless revoked earlier; and
- (3) operates throughout the whole municipal district.

**5. Revocation of other Local Laws**

From the date of commencement of this Local Law, the following local laws are revoked:

- (1) Community Amenity Local Law No. 3 of 2003;
- (2) Community Amenity (Amendment) Local Law No. 1 of 2005;
- (3) Community Amenity (Amendment) Local Law No. 1 of 2008;
- (4) Community Amenity (Amendment) Local Law No. 2 of 2008; and
- (5) Footpath Activities Local Law (No. 7) of 2009.

**6. Definitions of Words used in this Local Law**

In this Local Law:

<i>acceptable no smoking sign Act</i>	has the same meaning as in the <i>Tobacco Act 1987</i>
<i>advertising sign</i>	means the <i>Local Government Act 1989</i> . means any placard, sign, pointer board, notice, poster, mobile billboards, banner, <u>or projected image</u> or other similar device whether portable or affixed or attached to any <i>land, building, bicycle</i> or <i>vehicle</i> , which is used for the purposes of: <ul style="list-style-type: none"> <li>• soliciting sales;</li> <li>• notifying the presence or location of a property where goods or services may be obtained; or</li> <li>• notifying an event or competition, including a community or recreational event,</li> </ul> but does not include an advertising sign which requires and has been granted a permit under <i>Council's planning scheme</i> .
<i>animal</i>	includes every species of quadruped and every species of bird (including, without limitation, poultry).
<i>appropriate fee</i>	means the appropriate fee determined by <i>Council</i> in accordance with this Local Law.
<i>Asset Protection Permit</i>	means a written <i>permit</i> issued by <i>Council</i> for the protection of public assets and infrastructure during <i>building works</i> .

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<i>audible intruder alarm</i>	means a device, installed or retained in a property by the owner or occupier of that property or at the direction of the owner or occupier of the property, which is designed to be (or which has the effect when switched on or being) activated by an intruder to the property so as to emit noise capable of being heard beyond the boundary of the property in which it is installed or retained.
<i>authorised officer</i>	means a person appointed pursuant to section 224 of the <i>Act</i> as an authorised officer for the purposes of this Local Law.
<i>beach</i>	includes the sanded areas of Port Phillip Bay generally between the sea-wall and the waters of the Bay that are within the municipal district at any time.
<i>builder</i>	means the person who is nominated as the builder in a building <i>permit</i> under the <i>Building Act</i> 1993 granted for the <i>building works</i> , the person in charge of any <i>building works</i> being carried out and the owner of a <i>building site</i> .
<i>builder's refuse</i>	includes any solid or liquid domestic or commercial waste, debris or rubbish, and, without limiting the generality of the above, 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 <i>building works</i> .
<i>building</i>	includes any structure or building, whether temporary or permanent, or part of such building or structure.
<i>building site</i>	includes any <i>land</i> on which <i>building works</i> are being undertaken.
<i>building works</i>	includes work that is involved with: <ul style="list-style-type: none"> <li>• the construction, demolition, renovation or removal of a <i>building</i>, including landscaping and concreting; and</li> <li>• the delivery of products or materials used or intended to be used in the construction, demolition, renovation or removal of a <i>building</i>; and</li> <li>• excavation, <i>road</i> making, drainage or other works relating to the <i>building site</i> where they are occurring.</li> </ul>
<i>bulk rubbish container</i>	means a bin, container or other structure designed or used for holding a substantial quantity of rubbish that is unable to be lifted <u>or relocated</u> without mechanical assistance but does not include bins or containers used in connection with the regular collection of domestic, commercial, industrial or trade waste.
<i>busk and busking</i>	mean entertainment that includes playing a musical instrument, singing, conjuring, juggling, mime, mimicry, dance, puppetry, performance art, pavement drawing of any form, recitation and other appropriate theatrical and visual forms.

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<i>carriageway</i>	means the portion of the <i>road</i> generally available for traffic by <i>vehicles</i> (whether sealed, formed or unconstructed).
<a href="#"><u>Charity Bin</u></a>	<a href="#"><u>includes clothing recycling bin and any other receptacle used to collect donated goods for charities.</u></a>
<i>Chief Executive Officer</i>	means the Chief Executive Officer of <i>Council</i> .
<i>clothing recycling bin</i>	means a bin or similar container used for the collection of used clothing.
<i>commercial fitness activities</i>	means any individual or group fitness activities involving a <i>commercial fitness trainer</i> who derives a payment or reward, either directly or indirectly, in connection with such fitness activities, and includes (but is not limited to): <ul style="list-style-type: none"> <li>• gym sessions (with or without weights, fit balls, skipping ropes or other personal fitness equipment);</li> <li>• boxing and pad training;</li> <li>• organised aerobic activities;</li> <li>• yoga, tai chi and pilates classes and like activities;</li> <li>• circuit training;</li> <li>• jogging;</li> <li>• soccer; and</li> <li>• any combination of the above.</li> </ul>
<i>commercial fitness trainer</i>	means a person who conducts <i>commercial fitness activities</i> .
<a href="#"><u>commercial premises</u></a>	<ul style="list-style-type: none"> <li>• <del>means premises used primarily for commercial purposes.</del></li> </ul>
<a href="#"><u>commercial premises</u></a>	<p>means premises used:</p> <ul style="list-style-type: none"> <li>• <a href="#"><u>primarily for commercial purposes;</u></a></li> <li>• <a href="#"><u>as a hostel, rooming house or student dormitory;</u></a></li> </ul> <p><a href="#"><u>or</u></a></p> <p><a href="#"><u>for short-term or other accommodation for commercial gain (including for the accommodation of backpackers).</u></a></p>
<i>community advertising sign</i>	means a temporary <i>advertising sign</i> erected by a community group.
<i>community group</i>	includes (but is not limited to): <ul style="list-style-type: none"> <li>• any non-profit aged care, disability, youth, art and culture group based in the municipality;</li> <li>• a school or preschool based in the municipality; or</li> <li>• a branch of service club based in the municipality.</li> </ul>
<i>construction period</i>	means the period during which <i>building works</i> are carried out.

<i>container</i>	means mobile garbage bin provided by <i>Council</i> for the collection of garbage or recyclable materials or a crate provided by <i>Council</i> for recyclable materials.
<u><i>Council</i></u>	<u>means City of Port Phillip Council.</u>
<u><i>Council</i></u>	<u>means Port Phillip City Council.</u>
<u><i>Council assets and public assets</i></u>	means footpath, kerb and channel, nature strip, parking signs, irrigation or sprinkler systems, trees, shrubs and other vegetation, street furniture, <i>vehicle crossings</i> or other <i>Council</i> property or works forming part of a <i>road</i> or <i>Council land</i> .
<i>Council land</i>	means <i>land, buildings</i> and facilities which are owned or occupied by or vested in <i>Council</i> or in respect of which <i>Council</i> has the care and management to which the public has access whether an entry fee is paid or not and includes a <i>public place</i> .
<i>Council Reserve</i>	means: <ul style="list-style-type: none"> <li>• Wattie Watson Oval, Elwood Park;</li> <li>• Esplanade Oval/cricket ground 2, Elwood Park;</li> <li>• Head Street Grounds A &amp; B, Elwood Park;</li> <li>• Peanut Farm Oval, Peanut Farm Reserve;</li> <li>• Alma Park Oval, Alma Park;</li> <li>• Lagoon Oval, Lagoon Reserve;</li> <li>• Anderson Oval 1, J.L. Murphy Reserve;</li> <li>• Anderson Oval 2, J.L. Murphy Reserve;</li> <li>• G.S. Williams Oval, J.L. Murphy Reserve;</li> <li>• A.T. Aanensen Oval, J.L. Murphy Reserve;</li> <li>• J.M. Woodruff Oval, J.L. Murphy Reserve; and</li> <li>• North Port Oval, Port Melbourne Oval.</li> </ul>
<i>crane</i>	has the same meaning as the <i>Occupational Health and Safety Regulations 2007</i> .
<i>declared road</i>	means a <i>road</i> for which the Roads Corporation is the co-ordinating road authority under the <i>Road Management Act 2004</i> .
<i>designate and designated by Council</i>	means set out or having set out any matter or thing by resolution of <i>Council</i> or an <i>authorised officer</i> through the exercise of a delegated power or function, the details of which appear on <i>Council's</i> website.
<i>footpath</i>	means the area between the property boundary and the kerbside of a <i>road</i> that is provided for use by pedestrians.
<i>footpath object</i>	means an object listed in clause 10 of this Local Law that is placed on a <i>footpath</i> .
<i>foreshore</i>	means coastal Crown land within the meaning of the <i>Coastal Management Act 1995</i> .

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<i>foreshore waters</i>	means the area of seawater from the high-water mark along the <i>beach</i> at any time that is within the municipal district and extending seawards 150 metres.
<i>Grand Prix parking permit</i>	means a <i>permit</i> which authorises parking in the Local Access Only Zone or the Middle Park Area during the holding of the Australian Grand Prix.
<i>Guidelines</i>	means any guidelines made by Council under clause <del>4</del> 10(1) of this Local Law.
<i>incinerator</i>	means a structure or device which: <ul style="list-style-type: none"> <li>• is used or intended, adapted or designed to be used or capable of being used for the purpose of burning any matter, material or substance;</li> <li>• is not licensed or otherwise subject to control under the provisions of any Act; and</li> <li>• is not a barbeque.</li> </ul>
<i>incorporated document</i>	means any document identified by clause 7 of this Local Law as incorporated into this Local Law.
<del><i>itinerant trading</i></del>	<del>means selling or offering for sale or hire goods or services from a temporary location, from place to place or from a vehicle or from door to door.</del>
<i>itinerant trading</i>	<u>means offering free of charge or selling or offering for sale or hire goods or services from a temporary location, from place to place, from a vehicle or from door to door.</u>
<i>land</i>	<u>has the same meaning as in the <i>Planning and Environment Act 1987</i></u>
<i>Local Access Only Zone</i>	means the area <del>designated by the</del> <u>Council</u> as the 'Local Access Only Zone' in accordance with the <i>Parking Permit Policy</i> .
<i>local street</i>	means a <i>road</i> for which <i>Council</i> has the care and management.
<del><i>market site</i></del>	<del>includes a stall or stand within a market operated by <i>Council</i>.</del>
<i>market site</i>	<u>includes a stall or stand within a market operated by <i>Council</i> or a stall operated on <i>Council land</i>.</u>
<i>Middle Park Area</i>	means the <del>part</del> <u>part</u> of the <i>Local Access Only Zone</i> <del>designated by the</del> <u>Council</u> as the Middle Park Area in accordance with the <i>Parking Permit Policy</i> .
<i>minor building works</i>	means <i>building works</i> valued at less than \$5,000 but excludes demolition and removal of <i>buildings</i> and other structures (regardless of value).

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<del><i>outdoor commercial recreational activity</i></del>	<p><del>means recreational and sporting activities conducted outdoors on beaches, foreshore areas, parks and other public places from temporary or permanent facilities, and for which a commercial fee is charged.</del></p> <p><del>Examples of commercial recreational activity include skydiving, kite boarding instruction and hire, kayaking instruction and hire, and commercial fitness activities.</del></p> <p><del>The term commercial recreational activity does not include one-off or occasional events. One-off or occasional events would be special events.</del></p>
<u><i>outdoor commercial recreational activity</i></u>	<p><u>means recreational and sporting activities conducted outdoors on beaches, foreshore areas, parks and other public places from temporary or permanent facilities, and for which a commercial fee is charged.</u></p> <p><u>Examples of commercial recreational activities include skydiving, kite-boarding instruction and hire, kayaking instruction and hire and commercial fitness activities.</u></p> <p><u>The term commercial recreational activity does not include a one-off or occasional event.</u></p>
<i>parking area</i>	<p>has the same meaning as in the <del>Road Safety Road Rules 2009.</del></p>

<p><b>Note: One-off or occasional events would be special events.</b></p>
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<i>parking meter</i>	<p>means a device that, on the insertion of money or other designated methods of payment, automatically gauges the period for which a <i>vehicle</i> may be left standing in the space in the <i>parking area</i> to which the <i>parking meter</i> relates, or in the case of a <i>parking meter</i> that relates to more than one such space, in any one of those spaces.</p>
<i>permit</i>	<p>means a permit issued under this Local Law which authorises that use or activity including an <i>Asset Protection Permit</i> and in the case of a market operated by <i>Council</i> includes a licence or a lease.</p>
<i>personal watercraft</i>	<p>includes an aqua scooter, jet bike, power ski, wave runner, wave jammer, ski free motorised surfboard or any similar vessel that has an engine used for propulsion.</p>
<i>place, placed, places, placing and placement</i>	<p>means permitting the relevant <i>footpath object</i> to remain on the <i>footpath</i>, as well as the actual act of putting the <i>footpath object</i> on the <i>footpath</i>.</p>
<del><i>planning scheme</i></del> <u><i>Planning Scheme</i></u>	<p>means the Planning Scheme operating in the municipal district that is made under the <i>Planning and Environment Act 1987</i>.</p>

<i>planter boxes</i>	means a container made of any material designed to display plants on <i>footpaths</i> or for segregating parts of the <i>footpath</i> (whether containing plants or not).
<i>public place</i>	has the same meaning as in the <i>Summary Offences Act 1966</i> .
<i>race period</i>	has the same meaning as in the <i>Australian Grand Prix Act 1994</i> .
<i>redundant</i>	means no longer required or of use, whether because of a change in the use of <i>land</i> in respect of which the <i>vehicle crossing</i> was constructed or otherwise.
<i>refuse facility</i>	means a suitable rubbish receptacle capable of retaining all waste material and <i>builder's refuse</i> within the <i>building site</i> and preventing removal by unauthorised persons or the intervention of wind or water.
<i>registered</i>	means, in respect of a <i>vehicle</i> or <i>trailer</i> , registered by Vic Roads under the <i>Road Safety Act 1986</i> or by an equivalent registration authority in another State or Territory.
<i>reserve</i>	means any park, garden, reserve or other place of public recreation or resort.
<i>residential parking area</i>	means a <i>parking area</i> in which lawful parking is restricted, whether for the whole or a part of a day, to residents of a particular area.
<i>residential parking permit</i>	means a permit authorising a person to park in a <i>residential parking permit area</i> .
<i>residential premises</i>	means premises used primarily for residential purposes.
<i>road</i>	includes: <ul style="list-style-type: none"> <li>• a street; and</li> <li>• a right of way; and</li> <li>• any <i>land</i> reserved or proclaimed as a street or <i>road</i> under the <i>Crown Land (Reserves) Act 1978</i> or the <i>Land Act 1958</i>; and</li> <li>• a passage; and</li> <li>• a cul de sac; and</li> <li>• a by-pass; and</li> <li>• a bridge or ford; and</li> <li>• a <i>footpath</i>, bicycle path or nature strip; and</li> <li>• any culvert or kerbing or other <i>land</i> or works forming part of the <i>road</i>.</li> </ul>
<i>road related area</i>	has the same meaning as in the <i>Road Safety Road Rules 2009/2017</i> .
<i>screen</i>	means a covered frame or the like, movable or fixed, serving as a partition between the <i>footpath</i> and the road or segregating parts of the <i>footpath</i> .

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<i>security bond</i>	means a payment or guarantee made to <i>Council</i> for the purposes of securing public assets and infrastructure from the cost of damage during <i>building works</i> .
<i>senior officer</i>	has the same meaning as in the <i>Local Government Act 1989</i> .
<i>significant tree or palm</i>	means a tree or a palm on private <i>land</i> . <ul style="list-style-type: none"> <li>with a trunk circumference of 150 centimetres or greater measured 1 metre from its base;</li> <li>a multi-stemmed tree on private <i>land</i> where the circumference of its exterior stems equals or is greater than 1.5 metres when measured 1 metre from its base; or</li> <li>if the tree has been removed a trunk circumference of 150 centimetres or greater measured at its base.</li> </ul>
<i>smoke</i>	means to smoke, hold or otherwise have control over an ignited <i>tobacco product</i> , or light a <i>tobacco product</i> .
<i>smoke free area</i>	means an area designated to be a <i>smoke free area</i> in accordance with clause 55.
<del><i>special event</i></del>	<del>means an organised sporting, recreational, cultural, commercial or social gathering of twenty (20) or more people which is held on a road or Council land other than the area designated by the <i>Australian Grands Prix Act 1994</i> during the race period, but does not include a street party.</del>
<i>special event</i>	<u>means an organised sporting, recreational, cultural, commercial or social gathering of twenty (20) or more people, including a market, promotional activity or wedding, which is held on a road or Council land other than the area designated by the <i>Australian Grand Prix Act 1994</i> during the race period.</u>
<i>St. Kilda precinct</i>	means that area being from 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 then down Cowderoy Street to the <i>foreshore</i> , including the <i>beach</i> .
<i>standard condition</i>	means any condition identified as a standard condition in an <i>incorporated document</i> .
<i>stormwater system</i>	means a system which provides for the conveyance of stormwater run-off, including kerb and channel, open channels, underground pipe systems and natural waterways.
<i>street party</i>	means an organised social gathering of up to 150 people which is held on a <i>road</i> or <i>Council land</i> which is for the sole purpose of bringing together people in a particular area or community.

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<i>temporary vehicle crossing</i>	means a constructed form of wooden panels or other <i>Council</i> approved structure over a bed of sand, that extends from the boundary of <i>land</i> over any public assets such as footpaths, nature strips, kerbs and channels to the <i>road</i> , and is designed to minimise damage to assets caused by <i>vehicles</i> and materials entering and leaving the <i>land</i> during the currency of <i>building works</i> .
<i>ticket vending machine</i>	means a device that, on the insertion of money or other designated methods of payment, issues a ticket with an imprint indicating the date and time of issue of the ticket and the expiry time in the <i>parking area</i> to which the ticket vending machine relates.
<i>tobacco product</i>	has the same meaning as the <i>Tobacco Act 1987</i>
<i>trailer</i>	has the same meaning as in the <i>Road Safety Act 1986</i> .
<i>unregistered</i>	means, in respect of a <i>vehicle</i> or <i>trailer</i> , a vehicle or trailer that is not <i>registered</i> .
<i>vehicle</i>	has the same meaning as 'motor vehicle' in the <i>Road Safety Act 1986</i> but does not include a bicycle, motorised scooter or tram.
<i>vehicle crossing</i>	means an opening or artificial surface which allows or facilitates access from a <i>road</i> to <i>land</i> which abuts that <i>road</i> .

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## **7. Incorporation of Documents**

- (1) The document titled "*Procedures and Protocols Manual*", as made by *Council* and published from time to time on *Council's* website, is hereby incorporated into this Local Law.
- (2) The document titled "*Parking Permit Policy*", as made by *Council* and published from time to time on *Council's* website, is hereby incorporated into this Local Law.
- (3) The document titled "*Footpath Trading Guidelines*", as made by *Council* and published from time to time on *Council's* website, is hereby incorporated into this Local Law.

## **8. Interpretation**

- (1) Any activity or other matter that requires consent or approval of *Council* under the *Road Management Act 2004* is to be evidenced by way of the grant of a *permit* under this Local Law.
- (2) Introductions to Parts [and Notes](#) do not form part of this Local Law. They are provided to assist understanding.

## **PART 2 - ACTIVITIES AND USES REQUIRING A PERMIT**

### **Introduction**

In this Part, provision is made for a *permit* or consent (as the case may be) to be obtained from *Council* before a person carries out the following uses or activities:

- *placing footpath objects* as specified in clause 10;
- *placing advertising signs* as specified in clause 11;
- *itinerant trading* as specified in clause 12;
- *itinerant trading from house to house* as specified by clause 13;
- occupation of the *road* as specified in clause 14;
- having a *special event* as specified in clause 15;
- holding a *street party* as specified in clause 16;
- conducting certain activities in *St Kilda precinct* during the St Kilda Festival as specified in clause 17;
- filming as specified in clause 18;
- *busking*, fund raising and promotional activities and any form of street stall as specified in clause 19;
- placing *bulk rubbish containers* as specified in clause 20;
- occupying *market sites* as specified in clause 21;
- connecting into *Council drains* except where exempted by clause 22;
- keeping excess numbers of *animals* as specified in clause 23;
- carrying out works where those works may damage *Council assets* as specified in clause 24;
- placing *clothing recycling bins* as specified in clause 25;
- conducting *commercial fitness activities* as specified in clause 26;
- taking off or landing in a hot air balloon or skydiving onto *Council land* as specified in clause 27;
- placing or allowing to remain on the *foreshore* or *beach* an inflatable sign, display or like object as specified in clause 28; and
- discharging fireworks as specified in clause 29.

### **DIVISION 1 – MANAGEMENT BY PERMIT**

#### **9. Permits and Offences**

- (1) A person who fails to obtain a *permit* when a *permit* is required under this Local Law is guilty of an offence against this Local Law.

**Penalty: 20 penalty units (unless provided otherwise)**



~~(3)~~(2) In addition to the requirement to obtain a *permit*, a person must comply with:

- (a) any requirements or limitations that this Local Law applies to a use or activity to a person under this Part;
- (b) any requirement that an *incorporated document* applies to the use or activity authorised by the *permit*; and
- (c) any conditions of a *permit*.

**Penalty: 20 penalty units (unless provided otherwise)**

~~(4)~~(3) In deciding whether to grant a *permit* under this Local Law, *Council* may take into consideration whether the proposed use or activity will:

- (a) comply with any related policies of *Council*;
- (b) cause a danger or hazard to pedestrians or *vehicles*;
- (c) disturb, annoy or disrupt adjacent property owners or occupiers;
- (d) be detrimental to the amenity of the area;
- (e) be done without destruction to native vegetation on *roads* or *Council land*;
- (f) have the potential to cause damage to *Council assets*;
- (g) require approval or compliance with requirements under any other legislation;
- (h) require the consent, or should be referred to obtain the opinion of any other public authority;
- (i) require additional arrangements to be made for waste water disposal, litter and garbage disposal, lighting and security and *advertising signs*;
- (j) obstruct a *footpath*;
- (k) necessitate the applicant to have insurance against any risk;
- (l) necessitate a written indemnification of *Council* against liability arising from activities authorised by the *permit*; and
- (m) require consideration of any other matters relevant to the circumstances of the application.

## **DIVISION 2 – EXPANDED REQUIREMENTS, LIMITATIONS AND EXEMPTIONS**

### **10. Footpath Activities**

#### *Permit requirement*

(1) A *permit* is required to *place* one or more of the following objects on a *footpath*:

- (a) tables;
- (b) chairs;
- (c) umbrellas;
- (d) screens;
- (e) planter boxes;
- (f) goods for sale; or
- (g) other equipment ancillary to a business;

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*Criteria for grant of permit*

(2) In deciding whether to grant a *permit* for the *placement* of a *footpath object*, *Council* may have regard to:

- (a) the effect on pedestrian traffic flows and safety;
- (b) the impact on the appearance of the street and its surroundings;
- (c) the impact on residential amenity;
- (d) the duration of the use;
- (e) the effect on vehicular traffic flows and safety;
- (f) compatibility with other uses in the street;
- (g) whether it is complementary to the primary adjoining use;
- (h) whether it is less intensive than the primary adjoining use;
- (i) the applicant's previous record of compliance;
- (j) any relevant policies of *Council*; and
- (k) any other matter relevant to the application.

*Council to provide registration sticker*

(3) When *Council* grants a *permit* for the *placement* of a *footpath object*, it must provide a registration sticker to the permit holder as evidence of the currency of the *permit*.

*Registration sticker to be displayed*

(4) If a *permit* is issued for one or more *footpath objects* listed in sub-clause (3), the permit holder must display the sticker in the shop window of the premises to which the *permit* relates.

*Offence not to display registration sticker*

(5) A permit holder who fails to display the sticker is guilty of an offence against this Local Law.

**Penalty: 10 penalty units**

*Placement of footpath objects to comply with Guidelines*

- (6) A person *placing a footpath object* on a *footpath* must comply with the *Footpath Trading Guidelines*.

*Offence not to comply with Guidelines*

- (7) A person who fails to comply with the requirements of the *Footpath Trading Guidelines* is guilty of an offence against this Local Law.

**Penalty: 20 penalty units**

*Sale and consumption of liquor in footpath trading zone*

- (8) Liquor can be sold or consumed in the footpath trading zone, providing this condition has been included in the person's footpath trading permit.

**11. Advertising Signs**

*Permit requirement*

- (1) A *permit* is required to place an *advertising sign* on or in:
- (a) a *road, road related area* or *Council land*; or
  - (b) an area *designated by Council*; or
  - (c) any other location likely to interfere with the vision of a pedestrian or driver.

*Community advertising signs*

- (2) A *community group* may apply for a *community advertising sign*.

*Additional criteria for grant of permit*

- (3) In considering whether to grant a *permit* for an *advertising sign*, in addition to the matters specified in clause 9(4), the Council must have regard to:
- (a) the appropriateness of the proposed location to the community event advertised;
  - (b) the impact of the proposed sign on visual amenity;
  - (c) any traffic and safety issue associated with the location and design of the sign; and
  - (d) any other relevant matter to the circumstances of the application.

*Proof of permission to place signs to be produced on request*

- (4) Where an *advertising sign* is proposed to be placed on *land* or fixtures that are not *Council land*, the permission of the owner must be obtained and evidence of that permission must be produced to an *authorised officer* upon request.

*Offence to fail to comply with this clause*

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- (5) If an *advertising sign* is placed in breach of this clause 11:
- (a) the person who is the owner of the business, event or activity to which the *advertising sign* relates; or
  - (b) the person who has the management and control of premises, property, business, event or activity to which the *advertising sign* relates; or
  - (c) the person who is the promoter of the premises, property, business, event or activity to which the *advertising sign* relates; or
  - (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*),

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

**Penalty: 20 penalty units**

*Council may designate matters*

- (6) *Council may designate:*
- (a) *advertising signs* relating to particular uses or activities that are exempt from the requirements of this provision; or
  - (b) areas where *advertising signs* are permitted, limited or prohibited.

## **12. Itinerant Trading**

*Permit requirement*

- (1) A *permit* is required to engage in *itinerant trading* from:
- (a) a vehicle;
  - (b) any other temporary method of transport including a caravan, trailer, table, stall or other similar structure;
  - (c) a road related area;
  - (d) a property or *public place* adjacent to a *road* or a person on a *road* or *public place*; or
  - (e) any beach or in foreshore waters.

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*Exemption from permit requirement*

~~(2) The requirement to obtain a *permit* for *itinerant trading* does not apply where *Council* has *designated* trading sites and has accepted the tender of a person to occupy a *designated* trading site.~~

~~(2) The requirement to obtain a *permit* for *itinerant trading* does not apply where:~~

- ~~(a) *Council* has *designated* trading sites and has accepted the tender of a person to occupy a *designated* trading site; or~~

(b) [a person \(including a benevolent or charitable organisation\) has written permission from Council for the provision of free services at a designated location.](#)

### **13. Itinerant trading from house to house**

#### *Permit requirement*

- (1) A *permit* is required to engage in *itinerant trading* by selling or offering goods or services for sale from house to house.

#### *Exemption from permit requirement*

- (2) The requirement to obtain a *permit* does not apply to:
- (a) newspapers or magazines being home delivered;
  - (b) the home delivery of goods purchased at another location;
  - (c) the home delivery of goods where such delivery has been requested by the occupier of the house;
  - (d) the sale of fundraising products by persons duly authorised by an educational, cultural or recreational facility or organisation which is established within the municipal district.

### **14. Occupation of Roads**

#### *Permit requirement*

- (1) A *permit* is required to occupy (whether wholly or partially) a *road*:
- (a) for any works that involve:
    - (i) fencing off part of a *road*;
    - (ii) erecting a hoarding, scaffolding or overhead protective awning;
    - (iii) using a mobile *crane* or travel tower for any *building works*;
    - (iv) making a hole or excavation;
    - (v) reinstating a hole or excavation; and
    - (vi) leaving or storing any building, paving or other construction materials or any tools, machinery, plant or equipment; or
  - (b) for any other non-road purpose which does not involve a *special event*.

#### *Exemption from permit requirement*

- (2) The requirement to obtain a *permit* does not apply to the works of service authorities:
- (a) in an emergency or urgent circumstances; or
  - (b) when works are being carried out in accordance with the *Road Management Act 2004*.

- ~~(3) The requirement to obtain a *permit* does not apply to the works of contractors undertaking any works within a *road* or *road related area* for or on behalf of *Council*.~~
- (3) The requirement to obtain a *permit* does not apply to the works of contractors undertaking any works within a *road* or *road related area* for or on behalf of *Council*.
- ~~(4) Nothing in these exemption provisions eliminates the requirement that *Council* of the location of the works prior to them beginning or, in an emergency or urgent circumstances, on the next working day following the works beginning.~~
- (4) Nothing in sub-clause (2) or 1(1) exempts a person from an obligation to notify *Council* of the location of the works prior to them beginning or, in an emergency or urgent circumstances, on the next working day following the works beginning.

*Additional criteria for grant of a permit*

- ~~(5) In considering whether to grant a permit to occupy a road under this clause, in addition to the matters specified in clause 9(4), the Council must have regard to:~~
- ~~(-) the nature and duration of the works;~~
  - ~~(-) the likely hazard that the works may constitute to users of the road;~~
  - ~~(-) the impact of the works on the amenity of the adjoining area;~~
  - ~~(-) whether an indemnity/guarantee has been provided to the Council;~~
  - ~~(-) any other matter relevant to the circumstances of the application.~~
- (5) In considering whether to grant a *permit* to occupy a *road* under sub-clause (1), in addition to the matters specified in clause 9(3) *Council* must have regard to:
- (a) the nature and duration of the works;
  - (b) the likely hazard that the works may constitute to users of the *road*;
  - (c) the impact of the works on the amenity of the adjoining area;
  - (d) whether an indemnity/guarantee has been provided to *Council*; and
  - (e) any other matter relevant to the circumstances of the application.

**15. Special events**

*Permit requirement*

- (1) A *permit* is required to conduct a *special event* on a *road* or on *Council land*.  
**Penalty: 20 penalty units**

### Application requirements

- (2) ~~An applicant for a *permit* to hold a *special event* must provide:~~
- ~~(-) Details of the event in the format required by the Council;~~
  - ~~(-) Advice of any potential security or emergency issues for the police and other emergency service organisations such as the SES, St Johns Ambulance;~~
  - ~~(-) Advice of any potential police and emergency services personnel resource issues;~~
  - ~~(-) A proposed traffic plan for the event area with access details for emergency vehicles and road closures, proof of notification and approval from any other relevant authorities;~~
  - ~~(-) A copy of any extended liquor license application;~~
  - ~~(-) A copy of any extending trading hours application;~~
  - ~~(-) A proposed disaster plan for the event area; and~~
  - ~~(-) A certificate of currency indicating that the applicant has at least \$5m public liability insurance.~~

- (2) An applicant for a *permit* to hold a *special event* must provide:
- (a) details of the event in the format required by *Council*;
  - (b) detailed event operations and management plans;
  - (c) evidence of support from emergency service providers;
  - (d) proof that approval has been sought for all other regulatory requirements, including (but not limited to) liquor licences, Phonographic Company of Australia Ltd licences and building permits; and
  - (e) a certificate of currency indicating that the applicant has public liability insurance with a cover of at least \$20 million.

### Conditions on permit for special event

~~Without limiting Council's powers under Part 5 of this Local Law, in granting a *permit* for a *special event*, Council may require:~~

- ~~(-) Additional applications for permits for extended street trading; and~~
- ~~(-) Additional applications for liquor licenses from licensed premises for the consideration by the Council's Planning Department~~

(3) Without limiting *Council*'s powers under Part 5 of this Local Law, in granting a *permit* for a *special event*, *Council* may require:

- (a) additional applications for *permits* for extended street trading; and
- (b) additional applications for liquor licences from licensed premises for consideration by *Council*.

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*Notice to affected persons*

~~If the Council grants a permit for a special event and having regard to the type of special event that is to occur, the applicant must:~~

~~(a) Provide specific details to affected residents and businesses in writing on the extent of traffic closures and other measures to be taken relating to the event; and~~

~~(a) undertake any other notification that the Council considers relevant to the circumstances or that is required by this Local Law or the *Procedures and Protocols Manual*.~~

(4) If Council grants a permit for a special event and having regard to the type of special event that is to occur, the applicant must:

(a) provide specific details to affected residents and businesses in writing on the extent of traffic closures and other measures to be taken relating to the event; and

(b) undertake any other notification that Council considers relevant to the circumstances or that is required by this Local Law or the *Procedures and Protocols Manual*.

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*Council may alter parking restrictions*

~~(13)(5)~~ (5) If Council has granted a permit for a special event, Council may apply revised parking restrictions for the period of the special event.

**16. Street party**

*Consent to hold a street party*

(1) *Council's* written consent must be obtained to hold a street party.

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Consent may be subject to conditions

- (2) In granting consent to hold a *street party*, Council may impose any condition it considers appropriate in the circumstances.

*Street parties not to be held on declared roads*

- (3) A *street party* may be held on a *local street* but must not be held on a *declared road*.

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## 17. **St Kilda Festival activities**

*Permit requirement*

- (1) A *permit* is required to conduct any of the following activities in the *St Kilda precinct* on the day of the St Kilda Festival:
- (a) trading, whether *itinerant trading* or trading from a fixed position;
  - (b) *busking*;
  - (c) the erection of temporary fencing;
  - (d) the conduct of a *special event*;
  - (e) filming and commercial photography; and
  - (f) providing samples of *goodgoods* or services for promotional purposes.

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*Other permits inapplicable*

- (2) For the avoidance of doubt, where a *permit* is required for an activity under this clause, a *permit* for the same activity issued under a different clause does not authorise conduct of that activity in the *St Kilda precinct* on the day of the St Kilda Festival.

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## 18. **Filming**

*Permit requirement*

- (1) A *permit* is required to film on a *road* or *Council land* where the film is for commercial, *public or community* purposes or public exhibition.

## 19. **Busking, Fundraising Raising and Promotional Activities and Street Stalls**

*Permit requirement*

- (1) A *permit* is required to:
- (a) *busk*;
  - (b) engage in *a* fundraising activity;
  - (c) conduct any promotional activity; or
  - (d) conduct a street *stall*.

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on a road or Council land.

*Busking, etc. other than on roads or Council land*

- (2) Where a person intends to *busk*, fundraise or conduct any promotional activity or have a street stall on *land* to which members of the public have access but is not a road or Council land, the permission of the owner must be obtained and evidence of that permission must be produced to an *authorised officer* upon request.

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*Council may designate areas*

- (3) Council may designate areas where *busking*, *a* fundraising activity or promotional activities or any form of street stall is permitted or limited.

Exemption

- (4) A person is not guilty of an offence under sub-clause (1) where that person establishes that he or she:

(a) is homeless or in need of secure accommodation; or

(b) has complex needs or is in the need of additional assistance because of mental or physical disability or illness.

## 20. Bulk Rubbish Containers (Skip bins)

*Permit requirement*

- (1) A *permit* is required to *place* a *bulk rubbish container* on a road or Council land.

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*Additional criteria for grant of a permit*

- (2) In considering whether to grant a *permit* for a bulk rubbish container under this clause, in addition to the criteria specified in clause ~~9(4), the~~9(3) Council must have regard to:

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(a) whether the *placement* will obstruct the passage of *vehicles* and pedestrians, obscure the view of motorists or present a physical hazard;

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(b) whether the *placement* will contravene any traffic control signs;

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(c) whether hazard lights can be securely attached on the side nearest passing traffic or placed on a *carriageway*, so as an approaching motorist can identify the extent and form of the container;

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(d) the need to protect *Council assets*;

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(e) whether the activity is covered by appropriate insurance and the applicant has provided an indemnity/guarantee to ~~the~~ *Council*; and

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(f) any other matter relevant to the circumstances of the application.

*Offence to place unidentified bulk rubbish container*

- (3) A person must not *place* or allow to remain on *Council land* a *bulk rubbish container* which does not prominently display the name and contact details of the person responsible for the *bulk rubbish container*.

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## 21. Occupying Market Sites

### Permit requirement

- (1) A permit is required to occupy a market site on Council land.

~~Note: A permit, as defined under clause 6 of this Local Law, includes a lease or licence for a market site. As such, a holder of lease or licence for a market site granted by Council may occupy a market site without the need for an additional permit.~~

Note: A permit, as defined under clause 6 of this Local Law, includes a lease or licence for a market site. As such, a holder of lease or licence for a market site granted by Council may occupy a market site without the need for an additional permit.

### Procedures for allocation of market sites

- (2) In allocating market sites, ~~the Council will~~must apply the procedures set out in the *Procedures and Protocols Manual*.

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### Occupier to comply with Manual

- (3) An occupier of a market site must comply with the requirements in the *Procedures and Protocols Manual* to the extent that the requirements in the *Procedures and Protocols Manual* are not inconsistent with any ~~license~~licence or lease.

## 22. Connecting into Council drains

### Permit requirement

- (1) Subject to sub-clause (2), a permit is required to tap into or interfere with any Council drain.

### Exemption from permit requirement

- (2) The requirement to obtain a permit does not apply where Council has certified a plan of subdivision or given its approval for the drain to be tapped under other legislation administered by it.

## 23. Keeping excess numbers of animals

### Permit requirement

- (1) Unless permitted under the Port Phillip Planning Scheme, a permit is required to keep or allow to be kept on any land, any more of each species or group of animals and birds than is specified in Part 17 of the *Procedures and Protocols Manual*.

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### Further permit required

- (2) A permit issued under this clause is valid for the animals named in the permit at the address stated in the permit. A new permit is required if:

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- (a) any additional animals are acquired; or  
(b) the animals are moved to a new address within the municipality.

*Period of permit*

- (3) Notwithstanding ~~66(1)sub-clause~~ (1), a *permit* for the keeping of an *animal* is valid for the life of that *animal*.

*Animals to be adequately housed*

- (4) An owner or occupier of residential, commercial or industrial *property/land* 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.

*Offence to keep rooster on residential premises*

- (5) An owner or occupier of *residential premises* must not keep, allow to be kept or harbour on those residential premises any ~~roosters~~*rooster*.

**Penalty: 10 penalty units**

**24. Asset Protection Permit**

*Permit requirement*

- (1) A *builder* requires an *Asset Protection Permit* to carry out or allow to be carried out *building works* on *land*.

**Penalty: 20 penalty units**

*Conditions on Asset Protection Permit*

- (2) Without limiting *Council's* powers under Part 5 of this Local Law, an *Asset Protection Permit* may be subject to such conditions as *Council* determines including:
- (a) requiring protection works to be done;
  - (b) requiring the payment of a *security* bond;
  - (c) requiring the erection of temporary fencing to the satisfaction of *Council*;
  - (d) requiring that any or all *public assets* or infrastructure damage be repaired, replaced or re-instated within a specified time; or
  - (e) requiring a *temporary vehicle crossing* to be installed to *Council's* specification before commencement of any *building works* or delivery of any equipment or materials to the *land*.

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*Amount of security bonds*

- (3) The amount of any *security bond* required under any *Asset Protection Permit* is to be proportionate to the likely costs of repairing any potential damage to any existing *road* (including *carriageway*), channel, drain, *vehicle crossing* or other *public asset* arising from the *building works*. Nothing in this clause prevents *Council* from setting a lower amount if it considers it is appropriate to do so.

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#### *Retention and return of security bond*

~~(4) Upon completion of the *building works*, the amount of the *security bond*:~~

~~— may be retained by *Council* to offset the costs of carrying out any repairs to public assets caused by, or associated with, the *building works*; or~~

~~(a) if not retained, must 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.~~

For the purpose of this clause the completion of *building works* includes abandonment of a *building site*.

(4) A *security bond* may be refunded by *Council* upon:

(a) an application for a refund of the *security bond* by the person who lodged it, made within 6 months of the date of completion of the *building works*; and

(b) *Council* being satisfied 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.

(4A) The *security bond* may be retained by *Council*, to offset the costs incurred, or anticipated to be incurred by *Council*, in carrying out any repairs to *public assets* which are required as a result of, or associated with, the *building works*.

(4B) If an application for a refund of a *security bond* is not made within 6 months of completion of the *building works* in accordance with sub-clause (4)(a), then *Council* may retain the *security bond* to offset the costs incurred by or anticipated to be incurred by *Council*, in carrying out any repairs to *public assets* which are required as a result of, or associated with, the *building works*.

(4C) If a *security bond* is or any surplus funds are not required to be retained by *Council* for repairs in accordance with sub-clause (4A) but are not claimed within 12 months of completion of the *building works*, the *security bond* or surplus funds will be forwarded by *Council* to the Registrar of Unclaimed Money, in accordance with the requirements of the *Unclaimed Money Act 2008*.

#### *Council may accept alternative security*

- (5) Where *Council* so determines, it may agree to accept an alternative form of security to a *security bond*.

#### *Power to enter land*

- (6) An *authorised officer* may enter any *land* at any reasonable time for the purpose of inspecting any sewerage toilet, portable toilet (closet) systems, urinals, pans, receptacles, *vehicles*, plant and any other things and placed on them and for the purpose of carrying out the provisions of this Local Law.

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## 25. **Clothing Recycling Bins**

### *Permit requirement*

- (1) A *permit* is required to *place a clothing recycling bin on Council land*.

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### *Application requirements*

- (2) ~~In applying for a *permit*, or the renewal of a *permit*, the applicant must:~~

- ~~(-) have public liability insurance of \$10,000,000 and must provide Council with a current insurance certificate of currency;~~
- ~~(-) specify the type, design, construction, colour and finish of any bin used for the collection of clothing;~~
- ~~(-) provide the time, nature, location and frequency of the proposed collection;~~
- ~~(-) ensure that bins will be serviced to maintain cleanliness and to ensure a four hour response to untidy locations;~~
- ~~(-) Demonstrate that the site:
  - ~~(-) is in an appropriate location;~~
  - ~~(-) has parking availability in close proximity;~~
  - ~~(-) that the installation, or continued placement, of the *clothing recycling bin* will not result in any loss of parking; and~~
  - ~~(-) is visible & well lit.~~~~
- ~~(-) show that the installation, or continued placement, of the *clothing recycling bin* not likely to cause an obstruction or amenity concerns.~~
- ~~(-) submit information that they are a charitable organisation within the meaning of Australian taxation legislation.~~

### *Additional criteria for the grant of a permit*

- (2) ~~In addition to the criteria specified in clause 9(4) of this Local Law, the Council, in determining whether to grant a permit under this clause, must have regard to:~~
- ~~(-) the matters mentioned in sub-clauses 2(a)-(g);
    - ~~(-) Footpaths will only be considered as appropriate locations with approval of adjacent property owner/s and where approval will not adversely affect visual amenity or impede pedestrian access;~~~~
  - ~~(-) any other matter relevant to the circumstances associated with the application.~~

*Maximum of four bins permitted on any one site*

~~(3) Council must not authorise more than four clothing recycling bins on any one site.~~

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*Application requirements*

(2) In applying for a *permit*, or the renewal of a *permit*, the applicant must:

- (a) have public liability insurance of \$10 million and must provide *Council* with a current insurance certificate of currency;
- (b) specify the type, design, construction, colour and finish of any bin used for the collection of clothing;
- (c) specify the time, nature, location and frequency of the proposed collection, including reference to preserving the amenity of the location during weekends, holidays (including Christmas, New Year, Easter and school holidays) and the 48 hours immediately after such holidays;
- (d) ensure that bins will be serviced to maintain cleanliness and to ensure a four hour response to untidy locations;
- (e) demonstrate that the site:
  - (i) is in an appropriate location;
  - (ii) has parking availability in close proximity;
  - (iii) that the installation, or continued placement, of the clothing recycling bin will not result in any loss of parking; and
  - (iv) is visible and well lit;
- (f) show that the installation, or continued placement, of the clothing recycling bin is not likely to cause an obstruction or amenity concerns; and
- (g) submit information that evidences that it is a charity within the meaning of the *Charities Act 2013 (Cth)*.

*Additional criteria for the grant of a permit*

(3) In addition to the criteria specified in clause 9(3) of this Local Law, *Council*, in determining whether to grant a *permit* under this clause, must have regard to:

- (a) the matters mentioned in sub-clause (2); and
- (b) any other matter relevant to the circumstances associated with the application.

(4) A *permit* to place a clothing recycling bin on a footpath will only be granted if the adjacent property owner/s approve and where the placement will not adversely affect visual amenity or impede pedestrian access.

*Maximum of four bins permitted on any one site*

(5) *Council* must not authorise more than four clothing recycling bins on any one site.

## 26. Outdoor Commercial Recreational Activities

### Permit requirement

- (1) A *permit* is required to conduct an *outdoor commercial recreational activity* on *Council land*.

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### Permit to be produced on request

- (2) The operator of an *outdoor commercial recreational activity* must produce a *permit* to an *authorised officer* when conducting activities on *Council land*, upon request.

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## ~~28-27.~~ Hot Air Balloons and Skydiving

### Permit requirements

- (1) A *permit* is required to
- (a) take off from; or
  - (b) land on
- Council land* in a hot air balloon.
- (2) A *permit* is required to skydive from an aeroplane or helicopter so as to land on *Council land*.

### No permit required for emergency landing

- (3) Nothing in sub-clause (1) or (2) applies to a person who lands on *Council land* because of an emergency landing.

## ~~29-28.~~ Inflatable Displays on Foreshore or Beaches

### ~~Permit requirement~~

- ~~(1) A *permit* is required to place or allow to remain on the foreshore or a beach any inflatable sign, display or like object.~~

### ~~Permit requirements~~

- ~~(1) A *permit* is required to place or allow to remain on the foreshore or a beach any inflatable sign, display or like object.~~
- ~~(2) Any inflatable sign, display or like object permitted under sub-clause (1) must be anchored.~~
- ~~(3) Failure to anchor an inflatable sign, display or like object will void any *permit*.~~
- ~~(4) For the purpose of this clause, "anchor" means to secure or fix in a static position, without an ability to be moved.~~



### **30.29. Fireworks**

#### *Permit requirement*

A *permit* is required to discharge or cause or allow to be discharged any fireworks from *Council land*.

## **PART 3 - CONDITIONAL ACTIVITIES AND USES**

### **Introduction**

~~In this Part, provision is made for a person to observe the requirements of this Local Law applicable to:~~

- ~~• managing amenity on *building sites* by clause 31;~~
- ~~• extended hours for *building works* on a dwelling by clause 32;~~
- ~~• protection of *Council assets* by clause 0;~~
- ~~• industrial, trade and commercial waste by clause 34;~~
- ~~• commercial premises by clause 35;~~
- ~~• domestic waste and recyclable materials by clause 36;~~
- ~~• the installation and retention of active *audible intruder alarms* by clause 37;~~
- ~~• the location of trees, plants and signs on a property by clause 38;~~
- ~~• the display of property numbers by clause 39;~~
- ~~• *vehicle crossings* by clause 40;~~
- ~~• parking of *vehicles* by clauses 41, 42, and 43;~~
- ~~• *significant trees* by clause 44;~~
- ~~• the use of *Council reserves* for organised activities by clause 45; and~~
- ~~• the maintenance of stormwater pipes by clause 46.~~
- ~~•~~

In this Part, provision is made for a person to observe the requirements of this Local Law applicable to:

- managing amenity on *building sites* by clause 31;
- requirement for fencing by clause 31A;
- extended hours for *building works* on a dwelling by clause 32;
- protection of *Council assets* by clause 33;
- industrial, trade and commercial waste by clause 34;
- commercial premises by clause 35;
- domestic waste and recyclable materials by clause 36;
- the installation and retention of active *audible intruder alarms* by clause 37;
- the emission of noise or creation of other nuisances by clause 37A;
- the location of trees, plants and signs on a property by clause 38;
- the display of property numbers by clause 39;
- *vehicle crossings* by clause 40;
- parking of *vehicles* by clauses 41, 42, and 43;
- *significant trees* by clause 44;
- the use of *Council reserves* for organised activities by clause 45;
- the maintenance of stormwater pipes by clause 46, and
- the management of groundwater by clause 46A.

## **DIVISION 1 – MANAGING POTENTIAL NUISANCE USES AND ACTIVITIES**

### **34.30. Offences**

A person who fails to comply with the requirements applied to any of the uses or activities in this Part is guilty of an offence against this Local Law and liable to the penalty specified.

**Penalty: 5 penalty units (unless provided otherwise)**

### **32.31. Managing Amenity on Building Sites**

*Builder to comply with management measures*

- (1) A *builder* must comply with the measures for the management of a *building site* stated in the *Procedures and Protocols Manual*.

**Penalty: 20 penalty units**

*Builder to keep record of compliance*

- (2) A *builder* must keep a daily record of compliance with the measures in the approved form contained in the *Procedures and Protocols Manual*.

*Records to be produced on request*

- (3) The daily records referred to in sub-clause (2) must be produced by a builder if requested by an *authorised officer*.

*Building works to be carried out at certain times*

- (4) A *builder* requires a *permit* to 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.

**Penalty: 20 penalty units**

- (5) 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*.

**Penalty: 20 penalty units.**

*Criteria for grant of permit to conduct building work out of hours*

- (6) In determining whether to grant a permit under sub-clause (4), Council must have regard to:
- (a) the nature of the proposed works;
  - (b) the time and circumstances in which the works will be carried out;
  - (c) the likely volume, intensity, and duration of the noise levels that will be emitted by the proposed works;
  - (d) any previous applications made or permits granted to that person, including any complaints made in respect of such permits;

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- (e) any potential precautions or conditions which could be taken to prevent the emission of noise that is clearly audible and detrimental to the amenity of any surrounding:
  - (i) *residential premises* outside the permitted hours and in particular before 9.00am Saturday and 10.00am Sunday; and / or
  - (ii) *Non-residential* premises outside the permitted hours and in particular at business critical times to any business operating from those premises;
- (f) any issues of community safety and amenity;
- (g) the need for the provision of reasonable notice to residents and occupiers of non-residential premises.

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- (7) *Council* must not grant a *permit* for a *builder* to carry out *building works* on a day that is an appointed public holiday under the *Public Holidays Act 1993*.

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*Application for out of hours permit*

- (8) An application for a *permit* under sub-clause (4) to conduct *building works* out of hours must be:
  - (a) *Made* at least five (5) days prior to the commencement of the proposed out of hours *building works*; and
  - (b) *in* the approved form contained in the *Procedures and Protocols Manual*.

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*Emergency works may be conducted at any time*

- (9) Nothing in sub-clause (4) or (5) applies if the *building works* are made necessary by an emergency (including but not limited to an immediate need to repair following a storm or major climatic event).

*Offence to cause unreasonable noise*

- (10) A person is guilty of an offence against this Local Law where unreasonable noise is made as a result of carrying out *the building works* detailed in this clause.

**Penalty: 20 penalty units**

- (11) For the purpose of determining whether noise from *building works* on a *building site* is unreasonable, regard will be had to:
  - (a) the volume, intensity or duration; and
  - (b) the time, place and any other relevant circumstances in which the noise is emitted.

*Power to inspect building sites*

- (12) Council may inspect a *building site* at any reasonable time.

*Vehicle crossings to be used*

- (13) The *builder* must, in respect of the *building works*, ensure that no vehicular entry to the *land* takes place other than across the existing *vehicle crossing* or a *temporary vehicle crossing*.

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**Penalty: 20 penalty units**

*Management of stormwater*

- (14) Where any *building works* are being carried out on any *land*, the *builder* 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:

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

**Penalty: 20 penalty units**

*Refuse facility to be provided*

- (15) Where any *building works* (other than *minor building works*) are being carried out on any *land*, the *builder* must:

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- (a) provide a *refuse facility* for the purpose of disposal of *builder's refuse*, and, provided the facility contains all *builder's refuse* on the *land* to the satisfaction of *Council*, its size, design and construction will be at the discretion of the *builder*,
- (b) *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*,
- (c) not place the *refuse facility* on any *Council land* or *road* without a *permit*, and
- (d) empty the *refuse facility* whenever full, and, if necessary, provide a replacement *refuse facility* during the emptying process.

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**Penalty: 20 penalty units**

*Refuse to be placed in refuse facility*

- (16) During *building works*, the *builder* must ensure that:
- (a) all *builder's refuse* which requires containment is placed in the *refuse facility* referred to in sub-clause (15);
  - (b) the *builder's refuse* is not deposited in or on any *land* other than in accordance with sub-clause (15); and
  - (c) the *builder's refuse* is not deposited in or over any part of the *stormwater system*.

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**Penalty: 20 penalty units**

*Refuse to be removed following completion*

- (17) On any *land* where *building works* are being, or has been, carried out, the *builder* must remove and lawfully dispose of all *builder's refuse* on the *land*, including, without limiting the generality of the above, the *builders' refuse* in the *refuse facility* referred to in sub-clause (15), within seven (7) days of completion of the *construction period* or issue of an occupancy permit, whichever occurs last.

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**Penalty: 20 penalty units**

*Adjoining land not to be damaged*

- (18) 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*.
- (19) If *Council* identifies any damage which appears to result from non-compliance with this Local Law, an *authorised officer*:
- may direct the responsible party to reinstate the damage within a specified time, in which case the responsible party must comply with such direction; and
  - must issue the responsible party with a Notice to Comply requiring the damage to be reinstated, either at the time of the inspection or within a reasonable timeframe.

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### **31A. Requirement for Fencing**

*Notice to Comply*

- In addition to any requirements for managing amenity on *building sites*, *building works* or dangerous or unsightly *land* of the kind referred to in clause 57, an *authorised officer* may issue to the owner of the relevant *land* a Notice to Comply requiring that temporary fencing be installed on the *land*, if the fencing is required to maintain the amenity of the area.
- In considering whether on to issue a Notice to Comply to fence, the *authorised officer* must have regard to:
  - the risk to public safety; and
  - the amenity of the area in which the *land* is located; and
  - whether fencing will reduce potential risks associated with public safety or amenity.

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### **33-32. Building Works on a Dwelling**

*Extended hours for owners and occupiers*

- In addition to the hours specified in clause 31(4), the owner or occupier of a dwelling may carry out *building works* on that dwelling between the hours of:
  - 7.00am and 8.00pm Mondays to Fridays;
  - 9.00am to 6.00pm Saturdays;
  - 9.00am to 6.00pm Sundays and Public Holidays; and

~~Provided that no other person is engaged to carry out the building works for fee or reward and the person or persons carrying out the works comply with or observe any direction, notice or order of the Council, any authorised officer or any public authority.~~

(1) In addition to the hours specified in clause 31(4), the owner or occupier of a dwelling may carry out *building works* on that dwelling between the hours of:

(a) 7.00am and 8.00pm Mondays to Fridays;

(b) 9.00am to 6.00pm Saturdays;

(c) 9.00am to 6.00pm Sundays and Public Holidays

provided that no other person is engaged to carry out the *building works* for fee or reward and the person or persons carrying out the *building works* comply with or observe any direction, notice or order of the Council, any authorised officer or any public authority.

(2) Despite sub-clause (1), a person may carry out *building works* on a dwelling at times other than those specified, provided that unreasonable noise does not occur.

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*Offence to cause unreasonable noise*

(3) A person is guilty of an offence against this Local Law where unreasonable noise is made as a result of carrying out *building works* in this clause.

(4) For the purpose of determining whether noise from *building works* on a dwelling, referred to in sub-clause (1) and (2) is unreasonable, regard will be had to:

(a) the volume, intensity or duration of the noise; and

(b) the time, place and any other relevant circumstances in which the noise is emitted.

### **34.33. Protection of Council Assets**

*Report to be provided prior to commencing building works*

(1) In addition to any notification required under clause 31, a *builder* must, at least 48 hours before *building works* commences or the delivery of any equipment or materials to the *land*, provide a report to *Council* of the existing condition of *Council assets* which is/are:

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(a) adjacent to the *land* to which the building permit relates; or

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(b) likely to be affected by the *building works* authorised by the building permit.

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**Penalty: 20 penalty units**

*Council to inspect assets after completion*

(2) *Council* must as soon as is reasonably practical after receiving notice that an occupancy permit or a final certificate in relation to alterations to an existing *building* has been issued ensure that an inspection of *Council assets* is carried out.

*Builder to repair assets affected*

- (3) The *builder* must repair to the satisfaction of *Council* any damaged road (including *carriageway*), channel, drain, *vehicle crossing* or other assets vested in *Council* adjacent to the *land* where the *building works* takes place or which is likely to be affected by the *building works* for which an *Asset Protection Permit* has been obtained.

**Penalty: 20 penalty units**

*Council may carry out repairs*

- (4) If *Council* considers that *building works* have caused damage to *Council assets* it may repair the damage itself and deduct the cost of repairs from any *security bond* that has been paid in accordance with clause [24\(4\)-24\(4A\)](#).
- (5) If the amount of the *security bond* is insufficient to cover the costs of repairs or if a *security bond* was not required to be paid, *Council* may give a notice under [Sectionsection](#) 225 of the *Local Government Act* 1989 and recover the costs of repairs in accordance with that section.

*Return of bond*

- (6) Subject to ~~clause 24(4) sub-clause~~ (4), any money from the *security bond* that has not been used in covering the costs of repairs ~~must~~ *may* be refunded to the ~~builder~~ *person who lodged it*.

**35-34. General Requirements Applying to Industrial, Trade and Commercial Waste**

*Waste only to be collected between certain hours*

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

**Penalty: 20 penalty units**

*Extended hours for waste collection outside designated areas*

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

*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).

*Premises to have adequate waste management arrangements*

- (4) The occupier of a property must ensure that any *container* used for the storage of industrial, trade or commercial waste is:

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- (a) not kept on a road or Council land and ~~must be~~ kept on the property for which the bin has been obtained unless the Council has approved, in writing, an alternative location;
- (b) constructed of material to prevent leakage, ~~and~~ is water-tight, ~~and~~ fly and vermin proof ;
- (c) of a sufficient size to contain all waste generated on the ~~premises~~ property in between clearances;
- (d) kept in a clean, sanitary and inoffensive condition; and
- (e) emptied at least weekly or more regularly if the contents become offensive.

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**Penalty: 20 penalty units**

- (5) The occupier of any premises must ensure that any area where any container used for the storage of industrial, trade or commercial waste is kept is:
  - (a) maintained at all times in a clean, sanitary and inoffensive condition;
  - (b) adequately screened from adjoining properties; and
  - (c) adequately fenced or otherwise constructed so that access to the public is not possible.

**Penalty: 20 penalty units**

- (6) Every waste hopper or recycling bin used for the collection of waste or recyclable material must display a notice indicating the type of waste or material which is permitted and stating that it is an offence to deposit any material contrary to the notice.

**Penalty: 20 penalty units**

**36-35. Additional requirements applying to commercial premises**

*Commercial premises not to detrimentally affect amenity*

- ~~(1) 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.~~

**Penalty: 20 penalty units**

~~In considering whether an owner or occupier has detrimentally affected the amenity of the neighbourhood, the Council will have regard to the matters specified in the *Procedures and Protocols Manual*.~~

*Extended responsibility for commercial premises*

- ~~(2) The owner or occupier of commercial premises is responsible for ensuring that unreasonable noise is not caused by the patrons of the commercial premises or by any amplified music from the commercial premises.~~

- ~~(2) The cleanliness of the area immediately adjacent to the commercial premises is the responsibility of the owner or occupier of the commercial premises and any litter must be removed.~~

*Council may require Waste Management Plan*

- (2) ~~If required by the Council or by an authorised officer, the owner or occupier of the commercial premises must submit a waste management plan incorporating the adequate waste management arrangement, to the Council for approval, which approval may be given subject to such conditions as the Council or authorised officer thinks fit. The owner or occupier must ensure that the waste management plan is carried out in accordance with any such approval.~~

*Deliveries not to cause nuisance*

- (2) ~~If a residential premise is impacted by noise from the delivery of goods to or collection of goods from a commercial premise, then a person must not deliver goods to or collect goods from a commercial premise, other than between the following hours:~~

~~(-) 7.00 am to 10.00 pm Monday to Saturday; and~~

~~(-) 9.00 am to 10.00 pm Sunday and public holidays.~~

**Penalty: 20 penalty units**

- (2) ~~A person delivering any goods to commercial premises must not cause any nuisance or disturb the amenity of the area in which the commercial premises are located.~~

**Penalty: 20 penalty units**

~~The delivery to commercial premises or collection from commercial premises of any goods is deemed to create a nuisance or disturb the amenity of the area if noise, including noise from ancillary motors or truck engines, 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). Commercial premises not to detrimentally affect amenity~~

- (1) ~~An owner or occupier of commercial premises must not detrimentally affect the amenity of the neighbourhood, whether through the emission of unreasonable noise or smell from the premises, activities conducted in the premises, the appearance of the premises or otherwise.~~

**Penalty: 20 penalty units**

- (2) ~~An owner of commercial premises must not allow the use of the premises to detrimentally affect the amenity of the neighbourhood or create a nuisance.~~

**Penalty: 20 penalty units**

- (3) ~~In considering whether noise emanating from commercial premises is unreasonable for the purposes of sub-clause (1), an authorised officer may have regard to the following:~~

~~(a) the likelihood of the noise causing disturbance or annoyance to others;~~

~~(b) the volume, intensity, or duration of the noise;~~

~~(c) the time and place of the noise;~~

~~(d) reasons why the noise is occurring; and~~

~~(e) any other relevant circumstances.~~

(4) In circumstances where an *authorised officer* is of the opinion that unreasonable noise has been allowed to emanate from *commercial premises*, the *authorised officer* may request, in writing, that the owner, occupier or the person in charge of the *commercial premises* provide an Amenity Management Plan within a specified time frame.

(5) An owner, occupier or person in charge of *commercial premises* to whom a request is made in writing under sub-clause (4) must comply with that request.

**Penalty: 20 penalty units**

(6) An owner, occupier or the person in charge of *commercial premises* must ensure compliance with the approved Amenity Management Plan referable to those *commercial premises* all times.

**Penalty: 20 penalty units**

Extended responsibility for commercial premises

(7) The owner or occupier of *commercial premises* must ensure that unreasonable noise is not caused by the patrons of the *commercial premises* or by any amplified music from the *commercial premises*.

(8) The cleanliness of the area immediately adjacent to the *commercial premises* is the responsibility of the owner or occupier of the *commercial premises* and any litter must be removed.

Council may require Waste Management Plan

(9) If required by the *Council* or by an *authorised officer*, the owner or occupier of *commercial premises* must submit a waste management plan (incorporating adequate waste management arrangements) to *Council* for approval, which approval may be given subject to such conditions as *Council* or an *authorised officer* thinks fit. The owner or occupier must ensure that the waste management plan is carried out in accordance with any such approval.

Deliveries not to cause nuisance

(10) If *residential premises* are impacted by noise from the delivery of goods to or collection of goods from *commercial premises*, then a person must not deliver goods to or collect goods from the *commercial premises*, other than between the following hours:

(a) 7.00 am to 10.00 pm Monday to Saturday; and

(b) 9.00 am to 10.00 pm Sunday and public holidays.

**Penalty: 20 penalty units**

(11) A person delivering any goods to *commercial premises* must not cause any nuisance or disturb the amenity of the area in which the *commercial premises* are located.

**Penalty: 20 penalty units**

(12) The delivery to *commercial premises* or collection from *commercial premises* of any goods is deemed to create a nuisance or disturb the amenity of the area if noise, including noise from ancillary motors or truck engines, 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).

### **38-36. Domestic waste and recyclable materials**

#### *General obligations in respect of domestic waste*

- (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 *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 *road* abutting the property premises or other location confirmed in writing by *Council* not earlier than 24 hours before the day of collection;

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#### **Penalty: 1 penalty unit**

- (d) ensure that any material that may cause a hazard (or a safety risk) is not *placed* in bins provided by *Council* for domestic waste or recycling;
  - (e) ensure that, if *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 *Council's* instructions;
  - (f) ensure that once the waste has been collected by or on behalf of Council, the empty bins are returned to the property premises 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.
- (2) Sub-clause (1)(a) does not apply to material which is recycled on the property premises in a manner which causes no nuisance to neighbours or kept on the property premises for recycling in accordance with a *Council* sponsored recycling program.

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(3) Sub-clause (1)(f) does not apply if the bin can be stored in a lane or other similar area, permission to store there is given by an authorised officer and the placement of the bin does not cause an obstruction to vehicular or pedestrian traffic.

#### *Storage area to be provided and utilised*

(3) 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.

#### **Penalty: 1 penalty unit**

~~(4) 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.~~

**Penalty: 1 penalty unit**

*Domestic waste to be collected between certain hours*

~~(4) A person must not collect domestic waste and recyclable materials unless:~~

~~(-) The collection is carried out only between the hours of:~~

~~(-) 6.30am – 8.00pm on Mondays to Saturdays; or~~

~~(-) 9.00am – 8.00pm on Sundays; or~~

~~(-) 6.30am – 8.00pm on Public Holidays; or~~

~~(-) The amenity of the area is not disturbed by unreasonable noise.~~

~~(5) A person must not collect domestic waste and recyclable materials unless:~~

~~(a) the collection is carried out only between the hours of:~~

~~(i) 6.30am – 8.00pm on Mondays to Saturdays; or~~

~~(ii) 9.00am – 8.00pm on Sundays; or~~

~~(iii) 6.30am – 8.00pm on Public Holidays; or~~

~~(b) the amenity of the area is not disturbed by unreasonable noise.~~

~~(5) For the purpose of determining whether the amenity of the area is disturbed by unreasonable noise, regard will be had to:~~

~~(a) The volume, intensity or duration of the noise; and~~

~~(b) The time, place and any other relevant circumstances in which the noise is emitted.~~

~~(6) For the purpose of determining whether the amenity of the area is disturbed by unreasonable noise, regard will be had to:~~

~~(a) the volume, intensity or duration of the noise; and~~

~~(b) the time, place and any other relevant circumstances in which the noise is emitted.~~

*Care and control of domestic waste bins*

~~(6) A bin issued to a property:~~

~~(a) is owned by the Council;~~

~~(b) must be kept and remain on the property; and~~

~~(c) if it is damaged, lost or stolen the occupier of the premises must notify the Council as soon as possible in the manner required and may be required to pay the costs of replacement.~~

(7) A bin issued to premises:

(a) is owned by Council; and

(b) must be kept and remain on the premises.

(8) If a bin is damaged, lost or stolen the occupier of the premises must notify Council as soon as possible in the manner required and may be required to pay the costs of replacement.

### **39-37. Audible Intruder Alarms**

An owner or occupier of ~~a property~~premises must not:

(1) install or cause to be installed; or

(2) retain or cause to be retained

and active on ~~that property~~those premises any *audible intruder alarm* which emits a noise audible beyond the boundary of the premises which breaches the operating guidelines for audible intruder alarms specified in the *Procedures and Protocols Manual*.

**Penalty: 10 penalty units**

## ***DIVISION 2 – PUBLIC SAFETY AND THE PROTECTION OF ASSETS***

### **40-38. The location of trees, plants and signs**

A person must not plant, locate or allow to be located a tree, plant, sign or other similar object in a way that it is obstructing or interfering with pedestrian or vehicular traffic by:

(1) overhanging any *footpath* or other part of the *road* used by pedestrians to any extent up to a height of 2.1 metres or so that it gets in the way of pedestrians or is likely to cause injury or damage; or

(2) extending over any part of the *road* in such a way that it:

(a) obstructs the view between *vehicles* at an intersection; or

(b) obstructs the view between *vehicles* and pedestrians; or

(c) obstructs any *Council assets* including drains; or

(d) obscures a traffic control item from an approaching *vehicle* or pedestrian; or

(e) obscures street lighting; or

(f) ~~constituting~~constitutes a danger to *vehicles* or pedestrians or ~~compromising~~compromises the safe and convenient use of the *road*.

**Penalty: 5 penalty units**

### **41-39. Display of property numbers**

Where *Council* has allocated street numbers to a property the owner or occupier of that property must ensure that the number allocated is clearly

displayed by ensuring that it can be clearly read in normal lighting conditions from the *road* immediately adjacent to the front boundary.

**Penalty: 2 penalty units**

#### **42-40. Vehicle crossings**

##### *Permit requirement*

- (1) A *permit* is required to construct a temporary or permanent *vehicle crossing*.

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**Penalty: 10 penalty units**

##### **Power to require construction or repair vehicle crossing**

- (2) *Council* or an *authorised officer* may by notice in writing require:

- (a) the construction of a temporary or permanent *vehicle crossing*; or
- (b) the repair or reconstruction of a *vehicle crossing*,

by the owner or occupier of any adjacent *land*.

##### *Land to be accessed by vehicle crossings*

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

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**Penalty: 10 penalty units**

##### *Power to require removal of vehicle crossing*

- (4) *Council* or an *authorised officer* may by notice in writing require the removal of any *vehicle crossing* and the reinstatement of any kerb, drain, *footpath*, nature strip or other part of a *road*, if, in the opinion of *Council* or an *authorised officer*, the *vehicle crossing*:

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- (a) is *redundant*,
- (b) has been constructed in breach of any provision of this clause or a *permit*,
- (c) has not been properly maintained; or
- (d) is in a state of disrepair.

##### *Owner / occupier to comply with notice*

- (5) An owner or occupier of *land* to whom a notice in writing is given under sub-clause (2) or (4) must comply with that notice.

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**Penalty: 10 penalty units**

- (6) Any work in respect of a *vehicle crossing* must be performed to the satisfaction of *Council* or an *authorised officer*.

**Penalty: 10 penalty units**

#### **43-41. Residential parking**

##### *Permit requirement*

- (1) A *residential parking permit* is required to leave a *vehicle* standing in a *residential parking area*.

*Application to be in approved form*

- (2) An application for a *residential parking permit* must be in the approved form contained in the *Parking Permit Policy*.

*Criteria for grant of permit*

- (3) *Residential parking permits* will be granted in accordance with the *Parking Permit Policy*.

*Residents to comply with permits*

- (4) A person who has a *residential parking permit* must:
- (a) comply with any conditions of the *residential parking permit*; and
  - (b) comply with any requirements of the *Parking Permit Policy*.

**Penalty: 4 penalty units**

#### **44.42. Grand Prix parking**

*Permit requirement during Grand Prix*

- ~~(1) During the period of the Australian Grand Prix, a *Grand Prix parking permit* is required to leave a *vehicle* standing in the *Local Access Only Zone* or the *Middle Park Area*.~~

*Corporation Council's agent for permits*

- ~~(1) The Council authorises the Australian Grand Prix Corporation to be its agent for the purpose of issuing *Grand Prix parking permits* under this clause.~~

*Corporation not to apply for permits*

- ~~(1) The Australian Grand Prix Corporation is not eligible to make any applications for a *Grand Prix parking permit* for itself or its employees or agents.~~

*Permits to be issued in accordance with policy*

- ~~(1) *Grand Prix parking permits* will be granted in accordance with the *Parking Permit Policy*~~

*No fee payable for permit*

- ~~(1) No fee is payable for a *Grand Prix parking permit*.~~

*Permit holder's obligations*

- (1) A *Grand Prix parking permit* holder:
- (-) must not assign, transfer or encumber his or her permit; and
  - (-) must ensure that:



- ~~(-) 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~~
- ~~(-) all printed information on the permit is capable of being read by any person standing beside the vehicle.~~

#### Exemptions

~~(1) The following vehicles are exempt from the requirements under this clause:~~

- ~~(-) bicycles;~~
- ~~(-) coaches and Public Transport Corporation buses when parked in clearly designated bus parking areas;~~
- ~~(-) taxis or stretch limousines providing taxi services when parked in a clearly designated taxi rank;~~
- ~~(-) vehicles owned by the Council, the Public Transport Corporation or the Roads Corporation;~~
- ~~(-) Police, Ambulance, Fire Brigade and State Emergency Service Vehicles;~~
- ~~(-) vehicles carrying a registered doctor or a nurse who is on duty and required to attend premises within the Local Access Only Zone;~~
- ~~(-) clearly marked courier vehicles when parked for the purpose of collecting or delivering any object; and,~~
- ~~(-) motorcycles.~~

#### Power to exempt persons

~~(1) The Council or the Police may exempt any person from the operation of this clause or any of the requirements contained in it.~~

#### Permit Requirement during Grand Prix

~~(1) During the period of the Australian Grand Prix, a Grand Prix parking permit is required to leave a vehicle standing in the Local Access Only Zone or the Middle Park Area.~~

#### Penalty: 5 penalty units

~~(2) An offence against sub-clause (1) is an operator onus offence for the purposes of Part 6AA of the Road Safety Act 1986.~~

**Note: Readers should refer to Pt 6AA of the Road Safety Act 1986 for more information about operator onus offences.**

#### Corporation Council's agent for permits

~~(3) Council authorises the Australian Grand Prix Corporation to be its agent for the purpose of issuing Grand Prix parking permits under sub-clause (1).~~

#### Corporation not to apply for permits

~~(4) The Australian Grand Prix Corporation is not eligible to make any applications for a Grand Prix parking permit for itself or its employees or agents.~~

Permits to be issued in accordance with policy

(5) Grand Prix parking permits will be granted in accordance with the Parking Permit Policy

No fee payable for permit

(6) No fee is payable for a Grand Prix parking permit.

Permit holder's obligations

(7) A Grand Prix parking 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.

Exemptions

(8) The following vehicles are exempt from the requirements under this clause:

(a) bicycles;

(b) coaches and Public Transport Development Authority buses when parked in clearly designated bus parking areas;

(c) taxis or stretch limousines providing taxi services when parked in a clearly designated taxi rank;

(d) vehicles owned by Council, Public Transport Development Authority or the Roads Corporation;

(e) Police, Ambulance, Fire Brigade and State Emergency Service vehicles;

(f) vehicles carrying a registered doctor or a nurse who is on duty and required to attend premises within the Local Access Only Zone;

(g) clearly marked courier vehicles when parked for the purpose of collecting or delivering any object; and

(h) motorcycles.

Power to exempt persons

(9) Council or a member of Victoria Police may exempt any person from the operation of this clause or any of the requirements contained in it.

#### **45.43. Parking offences**

*Operator onus offences*

~~(1) The offences contained in this clause are operator onus offences for the purposes of Pt. 6AA of the Road Safety Act 1986.~~

**Note: Readers should refer to Pt. 6AA of the Road Safety Act for more information about operator onus offences.**

~~(1) The offences contained in this clause are operator onus offences for the purposes of Part 6AA of the Road Safety Act 1986.~~

**Note: Readers should refer to Part 6AA of the Road Safety Act for more information about operator onus offences.**

*Offence to park vehicle on reserve or foreshore*

~~(3)(2) A person must not park a vehicle or leave a vehicle standing on any Council land that is a reserve or on the foreshore.~~

**Penalty: 4 penalty units**

~~(4)(3) Sub-clause (4)(2) does not apply to an authorised officer or a person acting on behalf of Council, whether a member of staff or otherwise, in the course of carrying out his or her authorised activities.~~

*Offence to leave vehicle for extended period*

~~(5) A person must not park a vehicle or leave a vehicle standing in any public place for more than 28 consecutive days.~~

**Penalty: 4 penalty units**

~~Sub-clause (3) applies to a person regardless of whether they have a resident parking permit.~~

*Offence to leave trailer for extended period*

~~(6) A person must not leave a registered trailer standing in any public place for more than 28 consecutive days.~~

**Penalty: 4 penalty units**

*Offence to leave unregistered vehicle or trailer in public place*

~~(7)(4) A person must not park, or leave standing, an unregistered vehicle or trailer in a public place.~~

**Penalty: 4 penalty units**

#### **46.44. Significant Trees**

*Permit requirement*

(1) A permit is required to:

(a) destroy, damage or remove or allow to be destroyed, damaged or removed; or

(b) cut, trim, lop or prune or allow to be cut, trimmed, lopped or pruned, a significant tree or palm.

**Penalty: 20 penalty units**

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### *Exemption from permit requirement*

- (2) The requirement to obtain a *permit* under sub-clause (1) does not apply:
- (a) where a person cuts, trims or prunes a *significant tree* or palm to comply with clause 38 of this Local Law;
  - (b) where an adjacent land owner removes branches which are overhanging that adjacent land.
- (3) For the avoidance of doubt, the requirement to obtain a *permit* under this Local Law is additional to any requirement to obtain any necessary planning permission under the Port Phillip Planning Scheme.

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### *Criteria for grant of a permit*

- (4) In deciding whether to grant a *permit* under sub-clause (1), *Council* must have regard to:
- (a) whether it is necessary to obtain an arborist's/arborist's report;
  - (b) whether the tree is included on any register;
  - (c) the reasons for the request;
  - (d) the impact on the amenity and the safety of the area;
  - (e) any proposed replacement plantings; and
  - (f) any other matter considered relevant by the Council.

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### **47-45. Use of Council Reserves**

A *permit* is required to use a *Council Reserve* for the purpose of organised training or conducting organised sporting activities.

**Penalty: 10 penalty units**

### **48-46. Maintenance of stormwater pipes**

~~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.~~

An owner of land must not allow:

- (1) a stormwater pipe to accumulate leaves, dirt or other matter so that it causes a Council drain to become obstructed; or
- (2) a stormwater drain (including the legal point of discharge) servicing the land to be in disrepair.

**Penalty: 5 penalty units**

### **46A. Ground table water management**

- (1) The owner of any land that is developed and on which a groundwater pump and filtration system to pump filtered groundwater into the stormwater system

operates must provide *Council*, on request, evidence that the pump and filtration system have been serviced within the previous 12 months and are operating in accordance with relevant standards.

(2) An *authorised officer* may direct the owner of *land* to arrange a suitably qualified person to service and test the ground water pump and filtration system, if it has not been serviced within the previous 12 months.

(3) A failure to comply with a request under sub-clause (1) or a direction under sub-clause (2) is an offence.

**Penalty: 10 penalty units**

## **PART 4 - ACTIVITIES AND USES NOT PERMITTED**

This Part contains prohibitions on a number of activities and uses of *land*. Any person who breaches any provision may be guilty of an offence and liable to the penalty which is indicated.

### **49-47. Trading Sites**

Where *Council* has *designated* trading areas and has entered into an agreement with a person to trade from a *designated* site, no other person may trade from that site whether or not that person has a *permit* from *Council*.

**Penalty: 20 penalty units**

### **50-48. Repairing Vehicles**

A person must not dismantle, paint, carry out maintenance or repair a *vehicle* on a *road* except where it is necessary to enable the *vehicle* to be removed or so that it can be driven away within one hour of a request by an *authorised officer*.

**Penalty: 20 penalty units**

### **51-49. Interfering with Council Assets**

A person must not interfere with or use *Council assets* in such a way that:

- (1) damage or detriment could be caused to *Council assets*; or
- (2) any other person could be injured or suffer loss as a result of that interference or use.

**Penalty: 20 penalty units**

### **52-50. Damage from Adjoining Properties**

A person must not allow any tree or plant on *land* owned or occupied by him or her to cause damage to or interfere with a *road* or *Council land* or any drain vested in or under the control of *Council*.

**Penalty: 5 penalty units**

### **53-51. Repair Any Damage**

- (1) An *authorised officer* may direct a person who has damaged or interfered with *Council assets* contrary to clause 49 or 50 to repair any damage.
- (2) A person to whom a direction is given under sub-clause (1) must comply with that direction.

**Penalty: 20 penalty units**

### **54-52. Behaviour on Council Land**

A person must not behave on *Council land*.

- (1) in a manner which causes interference with the quiet enjoyment by any other person using the *Council land* or living in close proximity to the *Council land*; ~~or~~
- (2) contrary to any conditions or signs that contain conditions applying to the use of the *Council land*; or
- (3) contrary to any direction by an *authorised officer*.

**Penalty: 2 penalty units**

- (4) For the avoidance of doubt, a person does not interfere with the quiet enjoyment of other persons simply by expressing political or other opinions which may cause offence.

### 55-53. Camping on Council Land

- (1) A person must not camp on any *Council land* or in any public place in a *vehicle*, tent, caravan or any other type of temporary or provisional form of accommodation.

**Penalty: 2 penalty units**

- ~~(2) A person is not guilty of an offence under sub-clause (1) where that person establishes that he or she:~~

~~(-) is homeless or is in need of secure accommodation; or~~

~~(-) has complex needs or is in need of additional assistance because of a mental or physical disability or illness.~~

- (2) A person is not guilty of an offence under sub-clause (1) where that person establishes that he or she:

(a) is homeless or in need of secure accommodation;

(b) is homeless or is in need of secure accommodation; or

(c) has complex needs or is in the need of additional assistance because of mental or physical disability or illness

### 56-54. Consumption of ~~alcohol~~liquor

Offence to consume or possess ~~alcohol~~liquor in an unsealed container

- (1) A person must not:
  - (a) in or at a *public place*; or
  - (b) in or on a *vehicle* which is on or at a *public place*.

consume any liquor or have in his or her possession or control any liquor other than liquor in a sealed container in that part of the municipal district *designated* by *Council*.

**Penalty: 10 penalty units**

Offence to possess ~~alcohol~~liquor in a sealed container

- (2) Without limiting sub-clause (1), a person must not:

- (a) in or at a *public place*; or
- (b) in or on a *vehicle* which is on or at a *public place*;

possess ~~alcohol~~liquor in a sealed container in that part of the municipal district *designated* by *Council*, except where the possession is for the transport of ~~alcohol~~liquor to premises referred to in sub-clause (3).

**Penalty: 10 penalty units**

*Exceptions*

- (3) Sub-clause (1) does not apply to a person:
  - (a) taking part in a *special event* in respect of which the *Council* has granted a *permit* for persons to consume liquor or to have in their possession or control any liquor other than liquor in a sealed container;
  - (b) within authorised premises or licensed premises under the *Liquor Control Reform Act 1998* or any subsequent legislation relating to the serving and consumption of liquor; or
  - (c) who has been granted a *permit* to take liquor into an area *designated* by *Council*.

*Authorised officer may issue directions*

- (4) Where an *authorised officer* believes on reasonable grounds that a person is contravening or has contravened sub-clause (1), the *authorised officer* may direct the person to seal any container or dispose of the contents of any unsealed container.

*Offence to fail to comply with a direction*

- (5) A person to whom a direction is given under sub-clause (4) must comply with that direction.

**Penalty: 10 penalty units**

**57.55. No Smoking in Smoke Free Areas**

*Smoking prohibited*

- (1) A person must not *smoke* a tobacco product in a *smoke free area*.

**Penalty: 10 penalty units**

*Authorised officer may issue directions*

- (2) Where an *authorised officer* believes on reasonable grounds that a person is contravening or has contravened sub-clause (1), the *authorised officer* may direct the person to extinguish and then dispose of the *tobacco product*.

*Offence to fail to comply with a direction*

- (3) A person to whom a direction is given under sub-clause (2) must comply with that direction.

**Penalty: 10 penalty units**

*Council may designate smoke free areas*



(4) Council may *designate* any area within the municipality to be a *smoke free area*.

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(4a) Council will not *designate* any footpath trading zone as a *smoke free area*, unless a request to consider designating a footpath trading zone as being smoke free is made by the trader permitted to use the footpath trading zone.

#### *Criteria to be considered in designating smoke free areas*

~~(5) When determining whether to designate a *smoke free area*, Council must have regard to the following factors:~~

~~(f) The size of the proposed *smoke free area*;~~

~~(g) The opinions of any person who is the owner or occupier of any part of the proposed *smoke free area*;~~

~~(h) The proximity of the proposed *smoke free area* to a *public place*;~~

~~(i) The extent and outcome of any public consultation on the proposed *smoke free area*;~~

~~(j) Any benefits to the community which would be achieved by Council designating the proposed *smoke free area*;~~

~~(k) Any detriment to the community which would be caused by the Council designating the proposed *smoke free area*; and~~

~~(l) Any other matter the Council considers relevant.~~

(5) When determining whether to *designate* a *smoke free area*, Council must have regard to the following factors:

(a) the size of the proposed *smoke free area*;

(b) the opinions of any person who is the owner or occupier of any part of the proposed *smoke free area*;

(c) the proximity of the proposed *smoke free area* to a *public place*;

(d) the extent and outcome of any public consultation on the proposed *smoke free area*;

(e) any benefits to the community which would be achieved by Council designating the proposed *smoke free area*;

(f) any detriment to the community which would be caused by Council designating the proposed *smoke free area*; and

(g) any other matter Council considers relevant.

#### *Power to erect signs*

~~(13)~~(6) Council or an *authorised officer* must erect, or cause to be erected, an *acceptable no smoking sign* in every designated *smoke free area*.

#### **58-56. Use of boats and other watercraft**

- (1) A person must not take or locate a sailboard, *personal watercraft*, yacht, boat or similar vessel on to the *beach* other than through an access lane, launching ramp, slipway or *designated* area.

**Penalty: 2 penalty units**

- (2) Non-motorised paddle vessels, including kayaks, canoes and stand up paddle boards, may be taken onto the *beach* from *foreshore waters* in any area which is adjacent to a "5 knot shared boating zone".

- (3) *Council* may *designate* areas within which *personal watercraft* may be launched or transferred from *foreshore waters* to a mode of *land* transport.

- (4) Sub-clause (1) does not apply to registered sailing and lifesaving clubs providing training, competition and/or service to the community.

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#### **59-57. Dangerous or unsightly land**

- ~~(1) An owner or occupier of land must not allow that land to be kept in a manner which is dangerous or unsightly.~~

~~**Penalty: 10 penalty units**~~

- ~~(3) In determining whether land is dangerous or unsightly, an authorised officer must have regard to whether:~~

~~(ggg) there are any materials or substances on the land that are kept in such a way that they may be flammable or explosive; or~~

~~(ggg) the way in which the land is kept or items are stored on the land may constitute or contribute to it being a health hazard; or~~

~~(ggg) the condition of the land, or any part of it, may promote the presence of vermin and pests; or~~

~~(ggg) the appearance of the land is one of neglect and is out of character with other land in the vicinity; or~~

~~(ggg) a combination of any of the above factors renders the land to be dangerous or unsightly.~~

- ~~(9) (1) A person is not guilty of an offence under sub-clause (1) where that person is unable to remove the danger or carry out the require maintenance and repairs due to age, illness, disability or complex needs.~~

- (1) An owner or occupier of land must not allow that land to be kept in a manner which is dangerous or unsightly.

**Penalty: 20 penalty units**

- (2) In determining whether land is dangerous or unsightly, an authorised officer may have regard to whether:

(a) there are any materials or substances on the land that are kept in such a way that they may be flammable or explosive;

(b) the way in which the land is kept or items are stored on the land may constitute or contribute to it being a health hazard;

- (c) the condition of the *land*, or any part of it, may promote the presence of vermin and pests;
- (d) the appearance of the *land* is one of neglect and is out of character with other *land* in the vicinity; or
- (e) a combination of any of the above factors renders the *land* to be dangerous or unsightly.

(3) Without limiting sub-clause 1(1), the owner or the occupier of *land* on which is located any building or other structure which is unoccupied, unfit for occupation or normal use or not occupied most of the time:

- (a) must not permit any structure to become dilapidated or further dilapidated;
- (b) must take all reasonable steps to secure the building and the *land* on which it is built from unauthorised access;
- (c) must maintain any building in a state of good repair and appearance, including undertaking temporary repairs as required to ensure on-site safety and security and to avoid the appearance of neglect out of character with other premises in the vicinity;
- (d) must not allow any graffiti to remain on any building, wall, fence, post or other structure or object erected on that *land*; and
- (e) will commit a new offence under this Local Law for every month any breach of this sub-clause continues unless effective works have been undertaken to remedy any breach.

**Penalty: 20 Penalty Units**

(4) For the purposes of sub clause 1(1), a building is deemed to be dilapidated if the exterior of the building is in a state of disrepair and has been damaged or defaced so as to:

- (a) affect the visual amenity of the building or *land* on which it is built; or
- (b) cause the building to be out of conformity with the general standard of appearance of other buildings in the vicinity of the *land*;

(5) A person is not guilty of an offence under sub-clause 1(1) or 1(1) where that person is unable to remove the source of the danger or carry out the required maintenance and repairs due to age, illness or disability.

**60-58. Incinerators, fires and open air burning**

*Open air fires / incinerators not to be lit*

(1) A person must not light or allow any fire to be lit in the open air or in an incinerator on any *land*.

**Penalty: 10 penalty units**

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*Barbecues excepted*

- (2) Subject to the requirements of any other legislation, the prohibition in sub-clause (1) does not apply to a person who uses a barbecue for the purposes of cooking food.
- (3) For the purpose of sub-clause (2) a barbecue is a device specifically designed and constructed for the purpose of cooking.

**64-59. Animal Litter**

*Animal litter to be collected*

- (1) The owner or person for the time being in charge of an *animal* must immediately collect and remove all of the excrement left by the *animal* on a *road* or *Council land* or in a *public place*.

**Penalty: 4 penalty units**

- (2) The owner or person for the time being in charge of an *animal* must carry a receptacle, dispenser, bag or other similar device in which to place the excrement of the *animal* when with the *animal* on a *road*, on *Council land* or in a *public place*.

**Penalty: 4 penalty units**

**63-60. Shopping Trolleys**

- ~~(1) The proprietor of any premises which provides shopping trolleys must ensure that a shopping trolley is not left on any road or Council land unless Council has provided land or set aside areas for that purpose.~~

~~**Penalty: 4 penalty units**~~

~~*Process to be followed where shopping trolley left on road or Council land*~~

- ~~(4) Any premises which provides shopping trolleys for customer use must ensure that the name of the store is clearly marked on the trolley and is accompanied by a message to customers about their responsibility to return the trolley to a proper collection point.~~
- ~~(5) Where a shopping trolley has been left on a road or Council land, the proprietor of the premises identified on the shopping trolley shall be notified and given a reasonable opportunity to recover the trolley, unless the shopping trolley or its location poses a danger to the users of the road or the Council land.~~
- ~~(6) If, following notification, the proprietor does not recover the shopping trolley in question within a reasonable period of time, an authorised officer may impound that shopping trolley.~~

~~*Council may enter into agreements for handling shopping trolleys*~~

- ~~(8) The Council and the proprietor of any premises which provides shopping trolleys, or a body that represents such proprietors, may agree on a process for the handling and collection of shopping trolleys left on roads or Council land which may be contained in a Code or guidelines adopted by both of them or in a written agreement between them.~~

~~(9) Where Council enters into an agreement under sub-clause (6), an authorised use must ensure that:~~

~~*Shopping trolleys containing possessions*~~

~~(11) Where a shopping trolley that has been left on a road or Council land contains the personal belongings of a person who is homeless, an authorised officer must take all reasonable steps to ensure that those belongings are removed for safe-keeping and returned to the owner.~~

~~(1) The proprietor of any premises which makes shopping trolleys available for use must ensure that:~~

~~(a) from 1 July 2018 onwards, each shopping trolley has a coin operated lock or a perimeter constraint system; and~~

~~(b) each shopping trolley clearly contains:~~

~~(i) the name and address of the business operating from the premises; and~~

~~(ii) a message to customers about their responsibility to return the shopping trolley to a recognised collection point.~~

**Penalty: 20 penalty units**

~~(2) The proprietor of any premises which makes shopping trolleys available for use must ensure that a shopping trolley is not left on any road or Council land unless it is land which Council has set aside for that purpose.~~

**Penalty: 20 penalty units**

**64.61. Horse Riding on Council Land**

A permit is required to ride or lead a horse on Council land or in foreshore waters.

**Penalty: 10 penalty units**

**65.62. Glass and Sharp Object on Beach**

~~A person must not place or leave any glass or sharp object on a beach so as to create a:~~

~~(1) hazard; or~~

~~(2) danger;~~

~~to any person on the beach.~~

~~**Penalty: 5 penalty units**~~

~~A person must not place or leave any glass or sharp object on a beach so as to create a:~~

~~(a) hazard; or~~

~~(b) danger,~~

~~to any person on the beach.~~

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Penalty: 5 penalty units

**62A Glass Free Areas**

**Note: Whether at an event in a park at night, or at a crowded public gathering, or where children play on a beach, broken glass can be dangerous. Council therefore may, on occasion, ban glass containers from some locations by designating glass free areas.**

(1) For the purposes of sub-clause (2) "public holiday" means any day specified as a public holiday in the *Public Holidays Act 1993* or gazetted in the *Victoria Government Gazette* as a public holiday.

(2) A person must not, without a *permit*, take any glass container, bottle, receptacle, vessel or like product:

(a) onto any *beach* within the municipal district, at any time on a public holiday or between 8pm on 30 December and midnight on 31 December or between:

(i) the commencement of; and

(ii) 9am on

2 January; or

(b) into or onto any other area *designated by Council* from time to time to be glass free.

Penalty: 20 penalty units

## **PART 5 - ADMINISTRATION AND ENFORCEMENT**

Part 5 contains provisions setting out how the Local Law will be administered and enforced.

### **DIVISION 1 - PERMITS, FEES AND DELEGATIONS**

#### **66.63. Applying for a permit**

- (1) A person who wishes to apply for a *permit* may do so by:
  - (a) lodging with *Council* an application that contains any information required by this Local Law and the *Procedures and Protocols Manual*; and
  - (b) paying to *Council* the appropriate fee.
- (2) An applicant may be requested to provide additional information before an application for a *permit* or for exemption is dealt with.
- (3) *Council* may require a person making an application for a *permit* to give public notice which will entitle any person to make a submission and to be heard.

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#### **67.64. Fees and Charges**

- (1) *Council* may, from time to time, by resolution determine fees and charges for the purposes of this Local Law.
- (2) In determining any fees and charges *Council* may establish a system or structure of fees and charges, including a minimum or maximum fee or charge, if it considers it is appropriate to do so.
- (3) *Council* may waive, reduce or alter a fee or charge with or without conditions.
- (4) *Council's* power to determine fees or charges for the purposes of this Local Law does not apply to any lease that may be entered into to occupy a *market site* regulated by this Local Law.

#### **68.65. Issue of permits**

Where *Council* receives an application for a *permit*, *Council* may:

- (1) issue a *permit* in the approved form contained in the *Procedures and Protocols Manual* with or without conditions; or
- (2) refuse to issue a *permit*.

#### **69.66. Duration of permits**

- (1) Subject to clause 23(3), a *permit* is in force until the expiry date indicated on the *permit*, unless it is cancelled before the expiry date.
- (2) If no expiry date is indicated on the *permit*, the *permit* expires on 30 June next after the day on which it is issued.

## **70-67. Conditional permits**

### *Power to impose conditions*

- (1) A *permit* may be issued which contains conditions considered to be appropriate in the circumstances including (but not limited to) the following:
  - (a) the payment of a fee or charge;
  - (b) the payment of a *security deposit*, bond or guarantee to *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*;
  - (c) a time limit to be applied specifying the duration, commencement or completion date;
  - (d) that the applicant be insured against the risk and to provide a written indemnification of *Council* against liability arising from the activity or use;
  - (e) the rectification, remedying or restoration of a situation or circumstance;
  - (f) where the applicant is not the owner of the subject property, the consent of the owner; and
  - (g) the granting of some other *permit* or authorisation.

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### *Standard conditions presumptively imposed*

- (2) Unless *Council* decides otherwise, a *permit* must contain the *standard conditions* contained in any relevant *incorporated document*.

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### *Conditions to be set out in permit*

- (3) The conditions of a *permit* must be set out in the *permit*.

### *Power to amend conditions*

- (4) *Council* may, during the currency of a *permit*, amend the conditions of a *permit* if it considers it to be appropriate to do so.
- (5) In considering whether it is appropriate to amend the conditions on the permit, ~~the~~ *Council* must have regard to:
  - (a) the purposes for which the conditions were imposed;
  - (b) whether those purposes are adequately achieved by the current conditions;
  - (c) the impact of the proposed amendment on the permit holder and any relevant third parties; and
  - (d) any other relevant matter.

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### *Process to be followed in amending conditions*

- ~~(6) If *Council* proposes to amend the conditions on a *permit*, it must:~~



~~(-) Give the permit holder an opportunity to make submissions on whether the amendment should be made; and~~

~~(-) Take into account those submissions in deciding whether to amend the permit.~~

(6) If Council proposes to amend the conditions on a permit, it must:

(a) give the permit holder an opportunity to make submissions on whether the amendment should be made; and

(b) take into account those submissions in deciding whether to amend the permit.

### **71.68. Cancellation of permit**

#### *Power to cancel permits*

(1) Council may cancel a permit if it considers that:

(a) there has been a serious or ongoing breach of the conditions of the permit; ~~or~~

(b) a Notice to Comply has been issued, but not complied with within seven days after the time specified in the Notice to Comply; ~~or~~

(c) there was a significant error or misrepresentation in the application for the permit; or

(d) in the circumstances, the permit should be cancelled.

#### *Process to be followed in cancelling permits*

~~(2) If Council proposes to cancel a permit, it must:~~

~~(-) Give the permit holder an opportunity to make submissions on whether the cancellation should occur; and~~

~~(-) Take into account those submissions in deciding whether to cancel the permit.~~

(2) If Council proposes to cancel a permit, it must:

(a) give the permit holder an opportunity to make submissions on whether the cancellation should occur; and

(b) take into account those submissions in deciding whether to cancel the permit.

~~(5)(3)~~ If a permit holder is not the owner of the land and the owner's consent was required to be given to the application for the permit, the owner must be notified of any ~~notice~~Notice to ~~comply~~Comply and of the reason why it has been served.

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### **72.69. Correction of permits**

#### *Power to make corrections*

- (1) *Council* may correct a *permit* in relation to:
  - (a) an unintentional error or an omission; or
  - (b) an evident material miscalculation or an evident material mistake of description of a person, thing or property.

*Process to be followed in making corrections*

~~(2) If *Council* proposes to correct a *permit*, it must:~~

- ~~(-) Give the *permit* holder an opportunity to make submissions on whether the correction should be made; and~~
- ~~(-) Take into account those submissions in deciding whether to correct the *permit*.~~

(2) If *Council* proposes to correct a *permit*, it must:

- (a) give the *permit* holder an opportunity to make submissions on whether the correction should be made; and
- (b) take into account those submissions in deciding whether to correct the *permit*.

~~(5)(3)~~ If the *permit* holder is not the owner of the *land* and the owner's consent was required to be given to the application for the *permit*, the owner must be notified of any correction to a *permit*.

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**73-70. Registers**

- (1) *Council* must maintain a record of *permits*, including details of corrections and cancellations.
- (2) *Council* must maintain a register of determinations made and of guidelines or procedures prepared for the purposes of this Local Law.
- (3) *Council* must ensure that the registers are available for public inspection at the office of *Council* during normal business hours.

**74-71. Exemptions**

- (1) *Council* may by written notice exempt any person or class of persons from the requirement to have a *permit*, either generally or at specified times.
- (2) In considering whether to grant an exemption under this clause, ~~the~~ *Council* will have regard to:
  - (a) the reasons for which the exemption is sought;
  - (b) the period for which the exemption is sought;
  - (c) whether it would be reasonable, in all the circumstances, to expect the applicant for an exemption to apply for a *permit*;
  - (d) whether the grant of the exemption would be consistent with the purposes of this Local Law;

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- (e) any benefits or detriments that might arise from the grant of the exemption; and
- (f) any other relevant matter.

An exemption may be granted subject to conditions.

- (3) A person must comply with the conditions of an exemption.
- (4) An exemption may be amended, cancelled or corrected as if it were a *permit*.

**75.72. Offences**

A person who makes a false representation or declaration (whether oral or in writing), or who intentionally omits relevant information in an application for a *permit* or exemption is guilty of an offence.

**Penalty: 10 penalty units**

**76.73. Delegations**

- (1) In accordance with section 114 of the *Local Government Act 1989*, ~~the~~ *Council* hereby delegates to those persons listed under Part 1 of the *Procedures and Protocols Manual* and to any person acting for these persons, all the powers, discretions, authorities and considerations of *Council* under this Local Law including powers, discretions and authority to issue or refuse *permits*, fix conditions and durations relevant to *permits*, cancel *permits*, require additional information, apply guidelines or policies of *Council*, waive the need for any *permit*, waive, fix or reduce fees or charges, *designate* areas or to do any act, matter or thing necessary or incidental to the exercise of any function or power by ~~the~~ *Council*.

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**DIVISION 2 - ENFORCEMENT**

**77.74. Compliance with directions**

A person must comply with any reasonable direction or instruction of an *authorised officer*, member of the Police Force or emergency service when requested to do so in urgent circumstances or for public safety reasons whether or not a person has a *permit* under this Local Law.

**Penalty: 5 penalty units**

**78.75. Power of authorised officer**

An *authorised officer* may, on behalf of *Council*, issue a warning, a ~~notice~~ *Notice* to ~~comply~~ *Comply* and an infringement notice on the person who is breaching the Local Law and commence legal proceedings and may impound items, goods or equipment in relation to a breach of the Local Law.

**79.76. Notices to Comply**

- (1) ~~A Notice to Comply must be in the approved form contained in the *Procedures and Protocols Manual*, and state:~~

- ~~( ) The nature of any breach of the Local Law; and~~

~~( ) The time and date by which the breach must be remedied.~~

(1) A Notice to Comply must include the information contained in the *Procedures and Protocols Manual*, and state:

(a) the nature of any breach of the Local Law; and

(b) the time and date by which the breach must be remedied.

~~(4)~~(2) The time required by a Notice to Comply must be reasonable in the circumstances having regard to:

- (a) the amount of work involved; and
- (b) the degree of difficulty; and
- (c) the availability of necessary materials or other necessary items; and
- (d) climatic conditions; and
- (e) the degree of risk or potential risk; and
- (f) any other relevant factor.

#### **80-77. Failure to comply with a Notice to Comply**

A person who fails to comply with a Notice to Comply served on that person is guilty of an offence.

**Penalty: 20 penalty units**

**Note: Failure to comply with a Notice to Comply may also result in the revocation of a relevant permit under clause 67.**

Note: Failure to comply with a Notice to Comply may also result in the revocation of a relevant permit under clause 67.

#### **84-78. Power of authorised officers to act in urgent circumstances**

(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.
- (2) In deciding whether circumstances are urgent, an *authorised officer* must take into consideration, to the extent relevant:
  - (a) whether it is practicable to contact:
    - (i) the person by whose default, permission or sufferance the situation has arisen; or
    - (ii) the owner or the occupier of the premises or property affected; and
  - (b) whether there is an urgent risk or threat to public health, public safety, the environment or *animal* welfare.
- (3) The action taken by an *authorised officer* under sub-clause (1) must not extend beyond what is necessary to cause the immediate abatement of or minimise the risk or danger involved.
- (4) An *authorised officer* who takes action under sub-clause (1) must ensure that, as soon as practicable:
  - (a) details of the circumstances and remedying action are forwarded to the person on whose behalf the action was taken; and
  - (b) a report of the action taken is submitted to the *Chief Executive Officer* or a *senior officer* to whom the *authorised officer* reports.

#### **82-79. Power of authorised officers to impound**

- (1) Where a person owning or responsible for items, goods and equipment has ignored a request from an *authorised officer* to remove them, the items, goods and equipment may be removed and impounded.
- (2) If an *authorised officer* has impounded anything in accordance with this Local Law, *Council* may refuse to release it until the *appropriate fee* or charge for its release has been paid to *Council*.
- ~~(3) As soon as it is reasonably practicable to do so, the *authorised officer* must serve a Notice of Impoundment in the approved form contained in the *Procedures and Protocols Manual* on the owner or person responsible for the impounded item setting out the fees and charges payable and time by which the item must be retrieved.~~
- (3) As soon as it is reasonably practicable to do so, an *authorised officer* must serve a Notice of Impoundment, which includes the information contained in the *Procedures and Protocols Manual*, on the owner or person responsible for the impounded item setting out the fees and charges payable and time by which the item(s) must be retrieved.

- (4) If, after the time required in a Notice of Impoundment, an impounded item is not retrieved, an *authorised officer* may take action to dispose of the impounded item according to the following principles:
- (a) where the item has no saleable value, it may be disposed of in the most economical way; and
  - (b) where the item has some saleable value the item may be disposed of either by tender, public auction or private sale but failing sale may be treated as in paragraph (a); and
  - (c) where the owner has advised *Council* in writing that *Council* may dispose of the goods because he or she does not intend to retrieve them, *Council* may dispose of them by the method identified in either paragraph (a) or (b).
- (5) When the identity or whereabouts of the owner or person responsible for the impounded item is unknown, the *authorised officer* must take reasonable steps to ascertain the identity or whereabouts of that person and may proceed to dispose of the impounded item in accordance with sub-clause (4) once he or she is satisfied that all reasonable efforts have been made to contact the owner or person responsible for the impounded item.
- (6) Any proceeds from the disposal of impounded items under this Local Law must be paid to the owner or to the person who, in the opinion of *Council*, appears to be authorised to receive the money except for the reasonable costs incurred by *Council* in the administration of this Local Law.
- (7) If a person described in sub-clause (6) cannot be identified or located and the money is held by *Council* for 12 months, *Council* must comply with requirements of the *Unclaimed Money Act 2008*.

#### **83-80. Infringement Notices**

- (1) As an alternative to a prosecution, an *authorised officer* may issue an infringement notice to any person committing an offence against this Local Law.
- ~~(2) The fixed penalty in respect of an infringement is the amount set out in Schedule 1.~~
- (2) The fixed penalty in respect of an offence for which an infringement is issued is the amount set out in Schedule 1 or if no amount is set out two (2) penalty units.

#### **84-81. Penalties for continuing offences**

A person who after conviction by a Court:

- (1) continues to commit the same offence against the Local Law is liable to a penalty not exceeding 2 penalty units or each day after the conviction that the contravention continues; and
- (2) commits a subsequent offence against the Local Law is liable to a penalty not exceeding 20 penalty units.

## Schedule 1 Penalties Fixed for Infringements

Clause	Offence	Penalty Units
9(1)	Failing to obtain a <i>permit</i>	10
9(2)	Failing to comply with requirements, limitations or conditions of a <i>permit</i> or <i>incorporated document</i>	10
10(1)	Failing to obtain a <i>permit</i> to place an object on the footpath	10
10(5)	Failure to affix a sticker to window of premises or sign	2
10(7)	Failure to comply with the <i>Footpath Trading Guidelines</i>	10
11(4)	Placing <i>advertising signs</i> contrary to Local Law	10
12(1) and 13(1)	<i>Itinerant trading</i> , whether <del>house to house</del> or otherwise, without a <i>permit</i>	2.5
14(1)	Occupation of a <i>road</i> without a <i>permit</i>	10
15(1)	Conducting <i>special events</i> without a <i>permit</i>	10
16(1)	Holding a <i>street party</i> without consent	10
17(1)	Conducting a relevant activity in the <i>St Kilda precinct</i> <del>Precinct</del> on St Kilda Festival day without a <i>permit</i>	10
18(1)	Failing to obtain a <i>permit</i> for filming on a <i>road</i> or <i>Council land</i> .	10
19(1)	<del>Busking or fundraising or conducting promotional activities or conducting a street stall</del> without a <i>permit</i> or in breach of <del>requirementsconditions</del> of a <i>permit</i> <del>or failing to comply with applicable conditions requirements.</del>	5
20(1)	<del>Failing to obtain a permit to place a bulk rubbish container on a road or Council land.</del>	2.5
21(1)	Occupying <i>market site</i> without a <i>permit</i> or failing to comply with applicable conditions or requirements <del>of a permit.</del>	5
22(1)	Connecting into <i>Council Drain</i> <del>rain</del>	5
23(1)	Keeping of excess <i>animals</i> or birds without a <i>permit</i> or failing to comply with conditions or requirements	5
23(5)	Keeping rooster on <i>residential premises</i>	5
24(1)	Failing to obtain an <i>Asset Protection Permit</i>	10
25(1)	Placing <i>clothing recycling bin</i> on <i>Council land</i> <del>or failing to comply with applicable conditions requirements without a permit</del>	2.5

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Clause	Offence	Penalty Units
25(2)	<u>Failing to comply with conditions and requirements of a permit</u>	<u>2.5</u>
26(1) and 26(2)	Conducting <i>outdoor commercial recreational activities</i> without a <i>permit</i> or failing to produce a <i>permit</i> upon request	5
27(1)	Taking off or landing in a hot air balloon or skydiving without a <i>permit</i>	2.5
28	Placing or allowing inflatable sign, display or like object on <i>foreshore</i> or <i>beach</i> without a <i>permit</i>	2.5
29	Discharging fireworks from <i>Council land</i> without a permit	2.5
31(1), 31(2), 31(3), 31(4), 31(5), 31(13), 31(14), 31(15), 31(16), and 31(17)	Failing to comply with requirements applying to <i>building sites</i>	10
31(10)	Causing unreasonable noise from <i>building sites</i>	10
31(18)	Delivering to a <i>building site</i> in a manner causing damage	2.5
32(1)	Performing <i>building works</i> on a dwelling contrary to requirements	2.5
32(3)	<i>Building works</i> on a dwelling causing unreasonable noise	2.5
33(1)	Failing to provide the report of the condition of Council assets 48 hours prior to commencing works	10
33(3)	Failing to repair damaged asset	10
34(1) and 34(4)	Failing to comply with requirements applicable to industrial trade and commercial waste	10
35(1), 35(2), 35(5), 35(6), 35(10) and 35(11)	Failing to comply with requirements applying to <i>commercial premises</i>	10
36(1) and 36(4)	Failing to comply with requirements applicable to domestic waste and recyclable materials	0.5

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Clause	Offence	Penalty Units
37	Failing to observe operating requirements relating to <i>audible intruder alarms</i>	5
38	Failing to comply with requirements applicable to trees, plants and signs	2.5
39	Failing to adequately display property numbers	1
40(1)	Failing to obtain a <i>permit</i> to construct a <i>temporary vehicle crossing</i> or permanent <i>vehicle crossing</i>	5
40(3)	Accessing <i>land</i> other than via <i>vehicle crossing</i>	5
40(5)	Failing to comply with notice	5
40(6)	Failing to perform work in respect of a <i>vehicle crossing</i> to the satisfaction of an <i>authorised officer</i> .	5
41(4)	Failing to comply with requirements applying to <i>residential parking permits</i>	1
42(1)	<u>Leaving a vehicle standing in the Local Area Access Only Zone or Middle Park Area, without a permit</u>	1
43(2)	Parking a <i>vehicle</i> or <i>trailer</i> on a <i>reserve</i> or <i>foreshore</i>	1
43(4)	<del>Parking a vehicle in a public place for more than 28 consecutive days</del>	4
43(6)	<del>Parking a registered trailer in a public place for more than 28 consecutive days</del>	4
43(4)	Parking an <i>unregistered vehicle</i> or <i>trailer</i> in a <i>public place</i>	1
44(1)	Failing to obtain consent to remove or prune or lop a <i>significant tree</i> <u>or palm</u>	10
45	Organised training or sporting activity in a <i>reserve</i> <i>without a permit</i>	5
46(1)	Allowing <u>a</u> stormwater pipe to become obstructed	<u>2.5</u>
46(2)	<u>Allowing a stormwater drain to be in disrepair</u>	2.5
<u>46A(3)</u>	<u>Failing to comply with either a request under clause 46A(1) or a direction under clause 46A(2)</u>	<u>2.5</u>
47	Trading from an unavailable site	10
48	Repairing and maintaining <i>vehicles</i> on a <i>road</i>	10
49	Interfering with <i>Council assets</i>	10
50	Damaging <i>roads</i> or <i>Council land</i> from adjoining property	2

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Clause	Offence	Penalty Units
51(2)	Failing to comply with direction to repair damage	10
52	Behaving on <i>Council land</i> contrary to Local Law	1
54(1)	Consumption or possession of <a href="#">alcohol</a> contrary to Local Law	2
54(2)	Possession of sealed <a href="#">alcohol</a> contrary to Local Law	2
54(5)	Failure to comply with a direction	2
5555(1)	Smoke in a <i>smoke free area</i>	1
55(3)	Failure to comply with a direction	1
56	Use of boats or other <i>personal watercraft</i> contrary to Local Law	1
57(1)	Allowing <i>land</i> to be kept in a dangerous or unsightly manner	10
57(3)	<a href="#">Allowing building to become dilapidated</a>	10
58(1)	Lighting <i>incinerators</i> and open air fires contrary to Local Law	5
59(1)	Failing to remove <i>animal</i> excrement	2
59(2)	Failing to carry a receptacle, bag or similar device in which to place <i>animal</i> excrement	2
60(1)	<a href="#">Making shopping trolley available without meeting specified requirements</a>	<u>5</u>
60(2)	Leaving shopping trolley on <i>road</i> or <i>Council land</i> or failing to remove a shopping trolley	<u>25</u>
61	Riding or leading horse contrary to Local Law	5
62	Placing glass or sharp object on <i>beach</i>	2.5
<u>62A</u>	<a href="#">Taking any glass container, bottle, receptacle, vessel or like product onto a beach or designated glass free area, without a <i>permit</i></a>	<u>2.5</u>
72	Making false representation or omission of relevant information in application for a <i>permit</i> or exemption	5
74	Failing to comply with directions	2
77	Failing to comply with a Notice to Comply	10

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