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# Warrnambool City Council



## Local Law Number 2.

# Community Amenity Local Law

Adopted by Council 4<sup>th</sup> February 2019

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# **PART 1 - ADMINISTRATION OF LOCAL LAW**

## **DIVISION 1 PRELIMINARY**

### **1. TITLE**

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This Local Law is the Warrnambool City Council Local Law No. 2 – Community Local Law and referred to below as this Local Law.

### **2. OBJECTIVES OF THIS LOCAL LAW**

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The objectives of this Local Law are to:

- (1) provide for and ensure equitable, orderly and enjoyable use of community facilities and infrastructure by persons within the municipal district;
- (2) protect Council property and other community assets from loss and damage;
- (3) provide for the administration of this Local Law and of Council's powers and functions;
- (4) promote a physical and social environment free from hazards to health, safety and welfare of persons within the municipal district;
- (5) prevent, suppress and regulate activities which may adversely affect the enjoyment of life within the municipal district or the health, safety and welfare of persons within the municipal district; and
- (6) provide for the peace, order and good government of the municipal district.

### **3. POWER TO MAKE THIS LOCAL LAW**

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The Council's power to make this Local Law is contained in section 111 of the *Local Government Act 1989*.

### **4. DATE THIS LOCAL LAW COMMENCES OPERATION**

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This Local Law commences operation on 7<sup>th</sup> February 2019.

### **5. DATE THIS LOCAL LAW CEASES OPERATION**

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Unless this Local Law is revoked sooner, its operation will cease on the day prior to the 10<sup>th</sup> anniversary of the date specified under clause 4.

### **6. REPEAL OF OTHER LOCAL LAWS AND BY LAWS**

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From the date of commencement of this Local Law, the following Local Laws will cease to operate and are revoked:

- (1) Local Law No.2 – Administration of Local Laws Local Law;
- (2) Local Law No. 3 – Environment Local Law;
- (3) Local Law No. 4 – Municipal Places Local Law;

- (4) Local Law No. 5 – Streets & Roads Local Law;
- (5) Local Law No. 6 – Warrnambool Regional Airport Local Law; and
- (6) Local Law No. 7 – Livestock Exchange Local Law.

## **7. SCOPE OF THIS LOCAL LAW**

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This Local Law applies to the whole of the municipal district save where the provisions thereof specifically provide to the contrary.

## **8. WORDS USED IN THE WARRNAMBOOL CITY COUNCIL LOCAL LAWS**

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- (1) In this Local Law:
  - (a) “the Act” means the Local Government Act 1989.
  - (b) “advertising sign” means any board, notice, structure, banner or other similar device used for the purposes of soliciting sales or notifying people of a service, event or situation.
  - (c) “applicant” means a person who applies for a permit under this Local Law.
  - (d) “appropriate fee” means the appropriate fee determined by the Council in accordance with clause 18.
  - (e) “authorised officer” means a person appointed as an authorised officer under section 224 of the Act.
  - (f) “bulk rubbish container” means a bin, container or other receptacle designed or used for holding a substantial quantity of rubbish which is unlikely to be lifted without mechanical assistance and excludes containers used in connection with the Council's regular domestic rubbish collections.
  - (g) “busking” means a street performance by an itinerant musician or actor, whether for donations or otherwise.
  - (h) “camping area” means land which is declared by the Council to be a camping area for the purposes of this Local Law.
  - (i) “Chief Executive Officer” (“CEO”) means the person appointed by the Council to be its Chief Executive Officer and any person acting in that position.
  - (j) “Council” means the Warrnambool City Council.
  - (k) “detached dwelling” means a building used, or intended, adapted or designed to be used, for residential purposes which is not attached to any other dwelling or building.
  - (l) “farming area” means the area within a "Farming Zone" as defined in the Planning Scheme.
  - (m) “fire ban day” means a day or part of a day that has been declared a day or partial day of total fire ban by the Country Fire Authority under the *Country Fire Authority Act 1958*.



- (n) “FOGO” means Food Organics and Garden Organics, being organic material which is able to be composted and reused for farming or gardening purposes.
- (o) “footpath” means any path or walkway that is provided for the use of pedestrians only or that is habitually used by pedestrians and not vehicles and includes a segregated or shared footway.
- (p) “houseboat” means a vessel containing enclosed or semi-enclosed sleeping accommodation.
- (q) “incinerator” means a structure, device or contraption (not enclosed in a building) which:
  - (i) is used or intended, adapted or designed to be, or capable of being, used for the purpose of burning any matter, material or substance;
  - (ii) is not licensed or otherwise subject to control under the provisions of any Act; and
  - (iii) is not a barbeque.
- (r) “jetty” means a wharf, pier, jetty or landing place which is the property of, or located within an area under the control of, the Council.
- (s) “leased mooring” means areas of public jetty that can be the subject of a lease or licence pursuant to the *Crown Lands (Reserves) Act 1978*.
- (t) “licensed premises” means a premises for which a licence or permit has been granted under the *Liquor Control Reform Act 1998*.
- (u) “livestock” has the same meaning as in the *Impounding of Livestock Act 1994*.
- (v) “liquor” means a beverage or other prescribed substance intended for human consumption with an alcoholic content greater than 0.5 per centum by volume at a temperature of 20 degrees Celsius.
- (w) “minor building work” means building work valued at \$10,000 or less but excludes the construction of any masonry structure and the demolition and removal of buildings and structures (regardless of value).
- (x) “mobile garbage bin” means a bin supplied by the Council for the purposes of providing waste collection services and includes a bin provided for the disposal of household waste, recyclables and FOGO.
- (y) “mooring” means to hold a vessel by means of anchoring, tying up to or fixing to something that prevents drifting.
- (z) “motorised recreational vehicle” means a motor vehicle, whether registered or unregistered, used for recreational purposes on any land (excluding a road) and includes, but is not limited to, the following motor vehicles:
  - (i) a motor vehicle with two (2) wheels, with or without a sidecar attached that is supported by a third wheel;
  - (ii) a motor vehicle with three (3) wheels that is ridden in the same way as a motor vehicle with two (2) wheels; and

- (iii) any other motorised recreational vehicle including, but not limited to, mini-bikes, trail bikes, monkey bikes, motorised scooters, motorised go-carts and quad bikes,  
but excludes:
  - (iv) a motorised wheelchair, or other aid used by a person with a disability or limited mobility;
  - (v) a motorised farm vehicle that is being used for farming purposes; and
  - (vi) a motorised bicycle with a maximum capacity of 22-watt aggregate power.
- (aa) “municipal building surveyor” means the Municipal Building Surveyor appointed by the Council from time to time.
- (bb) “municipal district” means the municipal district of the Council.
- (cc) “Municipal Engineer” means the person appointed to, or acting in, the position of Director of City Infrastructure or equivalent position.
- (dd) “municipal fund” means the Council’s general revenue.
- (ee) “Municipal Environmental Health Officer” means the person appointed to, or acting in, the position of Municipal Environmental Health Officer or equivalent position.
- (ff) “municipal place” means any land (and improvements) vested in or under the control of the Council other than roads.
- (gg) “Notice to Comply” means a Notice to Comply issued under clause 11.
- (hh) “nature strip” means a section of the road under Council control located between the property boundary and the thoroughfare, but not including the footpath or kerb and channel.
- (ii) “outdoor eating facility” means any tables and/or chairs located outside on a municipal place or a road at which food and/or drink is served by a business and may be consumed by customers of that business.
- (jj) “penalty unit” has the same meaning as in section 110 of the *Sentencing Act 1991*.
- (kk) “permanent mooring” means an area allocated by the Council for the purposes of mooring for a period up to 12 months at a time.
- (ll) “permit” means a permit issued by the Council under this Local Law.
- (mm) “permit holder” is a person to whom a permit has been issued under this Local Law.
- (nn) “person” includes the owner or occupier or the person in charge of any property and includes a corporation.
- (oo) “planning permit” means a permit required by the Planning Scheme.
- (pp) “Planning Scheme” means the Warrnambool Planning Scheme as may be in force from time to time.

- (qq) “processions” means an organised group of people proceeding along a road or gathering for a ceremony or function on a road or on a municipal place and includes fun runs and bicycle events.
- (rr) “prohibited waste” means:
- (i) slops, hot ashes, liquid waste or offensive material;
  - (ii) broken glass or other sharp objects unless they are properly contained or wrapped in such a way as to render them harmless;
  - (iii) oil, paint, solvents or similar substances and any other substance which may damage the bin or reduce its strength or effectiveness;
  - (iv) trade wastes of any kind;
  - (v) chemicals, solid or liquid, used in the household, in water treatment, in photography, in the garden or in the garage;
  - (vi) medical infectious and prescribed waste;
  - (vii) building rubble and excavation material; and
  - (viii) other waste as specified by the Council from time to time.
- (ss) “property” means any land, building, premises, dwelling or flat separately rated within the municipal district and excludes personal property.
- (tt) “recyclables” means any material that is able to be recycled and is collected by the Council through the regular kerbside collection service.
- (uu) “residential area” means the area within a “Residential Zone” as defined in the Planning Scheme.
- (vv) “road” has the same meaning as in the Act.
- (ww) “street festival” means an organised recreational, cultural, commercial or social gathering of people which is held on a road.
- (xx) “street party” means an organised social gathering that is held on a road by people who live on that road and/or on one or more adjacent or nearby roads.
- (yy) “traffic” means the movement of people, by foot or in or on vehicles, along, across or within a road.
- (zz) “traffic control item” means a traffic control item within the meaning of the *Road Safety Road Rules 2017*.
- (aaa) “vehicle” means a conveyance that is designed to move, to be moved, or to be towed on land. It includes an animal that is either driven or ridden and a trailer but does not include:
- (i) a train;
  - (ii) a wheeled toy; or

- (iii) in respect of an injured or disabled person, a wheelchair or a motorised wheelchair that is capable of a speed of no more than 7 kilometres per hour.
- (bbb) “vessel” means any kind of vessel that is used, or capable of being used, in navigation by water however propelled or moved, and includes:
  - (i) a barge, lighter, floating restaurant, houseboat, hire boat, punt, yacht, boat or other floating vessel; and
  - (ii) an air-cushioned vehicle, or other similar craft that may be used in navigation by water.
- (ccc) “waste” means any material which cannot be reused or recycled.
- (ddd) “watercourse” means a body of water within the municipal district under the control and management of the Council.
- (eee) “wheeled recreational device” has the same meaning as in the *Road Safety Road Rules 2017*.

## **9. GENERAL INTERPRETATION**

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In this Local Law, unless the context otherwise requires:

- (1) words denoting the singular number shall include the plural and vice versa;
- (2) words denoting any gender shall include all genders;
- (3) where a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase shall have corresponding meanings;
- (4) words denoting natural persons shall include corporations and vice versa;
- (5) headings are for convenience only and do not affect interpretation;
- (6) references to any legislation or to any provision of any legislation shall include any modification or re-enactment of that legislation and any legislative provision substituted for, and all regulations and statutory instruments issued under, such legislative provision; and
- (7) references to dollars and “\$” shall be taken as referring to amounts in Australian Currency.

## **DIVISION 2 ADMINISTRATION OF THIS LOCAL LAW**

### **10. EXERCISE OF DISCRETIONS**

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- (1) In exercising any discretion given by this Local Law the Council will have regard to:
  - (a) the objectives of this Local Law; and
  - (b) any guidelines prepared by the Council.
- (2) For the avoidance of doubt:
  - (a) the Council may prepare guidelines for use by the Council, authorised officers and other persons for the purposes of administering this Local Law; and

- (b) any guidelines prepared by the Council must not be inconsistent with the objectives of this Local Law or with the standards contained in it.

## **11. NOTICES TO COMPLY**

---

- (1) The Council or an authorised officer may, by serving a Notice to Comply, direct any owner and/or occupier and/or other relevant person to remedy any thing which constitutes a breach of this Local Law.
- (2) A Notice to Comply issued under this Local Law must state the:
  - (a) thing which contravenes this Local Law;
  - (b) clause of this Local Law which the thing contravenes; and
  - (c) date and time by which the contravention the subject of the Notice to Comply must be remedied.
- (3) The time by which a contravention must be remedied must be reasonable and, in determining what is reasonable, the Council or the authorised officer, as the case may be, will have regard to:
  - (a) the amount of work involved;
  - (b) the degree of difficulty;
  - (c) the availability of materials or other items necessary for compliance;
  - (d) climatic conditions;
  - (e) the degree of risk or potential risk; and
  - (f) any other relevant matter.
- (4) Any person who fails to comply with a Notice to Comply is guilty of an offence.

Penalty: 5 penalty units

## **12. POWER OF AUTHORISED OFFICERS TO ACT IN URGENT CIRCUMSTANCES**

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- (1) If:
  - (a) a person contravenes this Local Law; and
  - (b) the contravention is such as to give rise to a risk to the health or safety of any person, animal, property or the environment; and
  - (c) the time involved or difficulties associated with serving a Notice to Comply will exacerbate that risk,

an authorised officer may take such action as is required to abate or minimise the risk without issuing a Notice to Comply, provided that:

- (d) the Chief Executive Officer, Municipal Engineer, Municipal Building Surveyor or Municipal Environmental Health Officer, not being the authorised officer seeking to use this provision, approves of the proposed action;
  - (e) details of the urgent circumstances and action taken are as soon as possible forwarded to the person on whose behalf the action was taken; and
  - (f) the Council is advised as soon as practicable, and by such means as the authorised officer sees fit, of the action taken.
- (2) 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 to minimise, the risk or danger involved.
- (3) In determining whether urgent action is required, an authorised officer will have regard to:
- (a) the seriousness of the risk to health and safety;
  - (b) the ease with which the person who contravenes the Local Law can be found;
  - (c) the cost of remedying the contravention; and
  - (d) any other matter that the authorised officer considers relevant.

### **13. POWER OF AUTHORISED OFFICER TO IMPOUND**

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- (1) An authorised officer may seize and impound any thing which has been or is being used or possessed in contravention of this Local Law.
- (2) Where any thing has been impounded under this Local Law, the Council or an authorised officer must, as soon as possible after the impounding, serve notice of the impounding on the owner or person responsible for the item which has been impounded setting out the fees and charges payable and the time by which the item must be retrieved.
- (3) An impounded thing must be released to:
- (a) its owner; or
  - (b) a person acting on behalf of its owner who provides evidence to an authorised officer of his or her authority from the owner –  
on
  - (c) evidence being provided to an authorised officer of the owner's right to the thing; and
  - (d) payment of any fee determined by the Council or an authorised officer from time to time.
- (4) If after the time specified in a notice of impounding an impounded item is not retrieved, an authorised officer may dispose of the impounded item.
- (5) When the identity or whereabouts of the owner or person responsible for an impounded item is unknown, the authorised officer:
- (a) must take reasonable steps to ascertain the identity or whereabouts of that person; and

- (b) may proceed to dispose of the impounded item in accordance with sub-clause (4) only after:
  - (i) reasonable steps have been taken to identify and to contact the owner or person responsible for the impounded item; and
  - (ii) not less than 14 days has passed since the item was impounded.
- (6) Any proceeds from the disposal of impounded items will be paid to the owner except for the reasonable costs incurred by the Council in connection with its impounding and disposal.
- (7) In the event that the owner cannot be identified or located within 1 year of an impounded item being disposed of, any proceeds as described in sub-clause (6) may be paid into the municipal fund.
- (8) The Council may dispose of impounded items in the following manner:
  - (a) where the Chief Executive Officer or Municipal Engineer determines that the item has no saleable value, it may be disposed of in the most economical way, as determined by the Chief Executive Officer or Municipal Engineer; or
  - (b) where the Chief Executive Officer or Municipal Engineer determines that the item has some saleable value, the item may be disposed of by tender, public auction or private sale, as directed by the Chief Executive Officer or Municipal Engineer.

### **DIVISION 3 PERMITS**

#### **14. PERMIT APPLICATIONS**

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- (1) A person may apply to the Council for a permit under this Local Law.
- (2) The Council or an authorised officer may require an applicant to provide additional information to enable assessment and determination of their application.
- (3) The Council or an authorised officer may require an applicant to give notice of their application to specified persons, or a specified class of persons, who may be affected by the granting of the permit in such form as the Council or the authorised officer determines.
- (4) In considering an application for a permit, the Council or an authorised person, as the case may be, will have regard to any:
  - (a) applicable policy, code of practice or guideline approved by the Council from time to time;
  - (b) relevant written submission or comment received from any person or community organisation in respect of the application; and
  - (c) other relevant matter.
- (5) A permit may be refused or issued with or without conditions.
- (6) If a permit is issued with conditions, those conditions may include, but are not limited to, conditions concerning:
  - (a) the payment of a fee or charge;

- (b) a standard to be applied;
  - (c) a time limit to be applied either specifying the duration, commencement or completion date;
  - (d) the permit being subject to the happening of an event;
  - (e) the rectification, remedying or restoration of a situation or circumstance;
  - (f) where the applicant is not the owner of the subject property, obtaining the consent of the owner;
  - (g) the granting of some other permit which may be required whether under this Local Law or otherwise; and
  - (h) such other matters as the Council or an authorised officer thinks fit.
- (7) A person must comply with the conditions of any permit.
- Penalty: 5 penalty units

## **15. DURATION OF PERMITS**

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Unless otherwise provided in this Local Law or in the permit, a permit will operate from the date it is issued and will expire one year after the date of issue.

## **16. AMENDING, CANCELLING AND CORRECTING PERMITS**

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- (1) The Council or an authorised officer may amend or cancel a permit at any time if:
- (a) requested to do so by the permit holder; or
  - (b) there has been a:
    - (i) material misstatement or concealment of fact in the application;
    - (ii) material mistake in relation to the issuing of the permit;
    - (iii) material change of circumstances since the permit was issued; or
    - (iv) failure to comply with a permit condition or a Notice to Comply relating to the permit.
- (2) The Council or an authorised officer may correct a permit if the permit contains a:
- (a) clerical mistake or an error arising from any accident, slip or omission;
  - (b) material miscalculation of figures; or
  - (c) material mistake in the description of any person, thing or property referred to in the permit.
- (3) Except in the case of a minor correction that does not affect the operation of a permit, if the Council proposes to amend a condition of a permit, cancel a permit or correct a permit, it or they must:



- (a) give the permit holder an opportunity to make a submission on whether the amendment, cancellation or correction should occur; and
  - (b) take into account those submissions (if any) in deciding whether to amend a condition of a permit, cancel a permit or correct a permit.
- (4) If a permit holder is not the owner of land to which the permit relates, the owner of the land must be notified of any amendment, cancellation or correction of the permit.

## **17. STANDARDS FOR ISSUING PERMITS**

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- (1) When determining whether to issue a permit, the Council or an authorised officer will have regard to the matters outlined in clause 10 above as well as the:
- (a) location of any land the subject of an application;
  - (b) zoning of any land the subject of an application;
  - (c) proximity of any land the subject of an application to other properties;
  - (d) general amenity of the area in which any land the subject of an application is located;
  - (e) nature of any machinery, materials or other items to be used in connection with a permit;
  - (f) suitability of any land the subject of an application for the activity or use contemplated by the permit;
  - (g) existence of necessary permits, licences, approvals and authorisations under any other legislation; and
  - (h) any other matter that the Council or an authorised officer thinks relevant.

## **DIVISION 4 FEES, CHARGES AND COSTS**

### **18. SETTING FEES AND CHARGES**

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- (1) The Council may from time to time by resolution determine the fees and charges to apply under this Local Law.
- (2) Notice of fees and charges fixed under this clause 18 will be given annually in the Council's Fees and Charges Register included in the Budget.

### **19. PENALTIES**

---

Unless otherwise specified in this Local Law, the:

- (1) maximum penalty for an offence is 5 penalty units; and
- (2) infringement penalty for an offence is:
  - (a) two fifths of the relevant maximum penalty; or
  - (b) such other amount determined by the Council from time to time.

## **PART 2 - ENVIRONMENT**

### **DIVISION 1 SAFETY, PEOPLE AND PROPERTY**

#### **20. UNSIGHTLY AND DANGEROUS LAND**

---

- (1) An owner or occupier of land must not keep that land or allow that land to be kept in a manner which causes the land to become:
- (a) unsightly; or
  - (b) dangerous.
- (2) Without limiting the generality of sub-clause (1), land may be:
- (a) unsightly because of the presence of:
    - (i) unconstrained rubbish;
    - (ii) dead trees and/or excessive vegetation;
    - (iii) waste;
    - (iv) unregistered motor vehicles or any parts of them;
    - (v) scrap metal;
    - (vi) a disused excavation; or
    - (vii) a building or structure which is incomplete and not currently under construction; and
    - (viii) a building that is dilapidated or visually repugnant
  - (b) dangerous by being:
    - (i) a haven for vermin, noxious weeds, insects or excessive vegetation;
    - (ii) used without a permit for the storage of any substance which is dangerous or is likely to cause danger to life, property or personal property; or
    - (iii) otherwise kept in a state which is dangerous or is likely to cause danger to life, property or personal property.

Penalty: 5 penalty units.

#### **21. STORAGE OF MACHINERY OR SECOND-HAND GOODS ON PROPERTY**

---

- (1) A person must not, without a permit:
- (a) store or allow to be stored in the open on their property any machinery or second-hand goods of any kind; or

- (b) undertake or allow to be undertaken the assembly or dismantling of such machinery or goods.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council must have regard to the standards contained in clause 17 of this Local Law.

## **22. INCINERATORS**

---

- (1) No person may light, or on their property allow to be lit or remain alight, an incinerator in any part of the municipal district.

Penalty: 5 penalty units

- (2) Sub-clause (1) does not apply to land in a farming area.

## **23. OPEN AIR BURNING**

---

- (1) No person on their property may, without a permit, cause or allow any uncontained or open air burning in any part of the municipal district.

Penalty: 1<sup>st</sup> offence: 5 penalty units.

2<sup>nd</sup> and subsequent offences: 20 penalty units

- (2) Sub-clause (1) does not apply to:

- (a) land in a farming area; or

- (b) any barbeque, oven fire or other enclosed fire used, or intended, adapted or designed to be used, for the sole purpose of cooking food, heating or cultural purposes and which is not offensive.

- (3) Where a person has applied for a permit under this clause 23, and that application has been refused, that person is guilty of an offence if they contravene sub-clause (1).

Penalty: 20 penalty units

- (4) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:

- (a) any alternative means of disposing of any materials to be burned;

- (b) the type and volume of any materials to be burned;

- (c) whether the burning will be adequately supervised;

- (d) whether adequate measures will be implemented to control and extinguish the fire;

- (e) the degree to which any materials to be burned may produce offensive, toxic or unpleasant smells or smoke; and

- (f) any relevant policies of the Environment Protection Authority.

## **24. ADVERTISING, BILL POSTING AND JUNK MAIL**

---

- (1) A person must not, without a permit, distribute any handbills, place cards, notices, advertisements, books, pamphlets, goods, gifts or samples to any person on any road or municipal place.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
  - (a) the nature of the material to be distributed;
  - (b) the likelihood that the distribution will interfere with the free passage of any pedestrians or vehicles;
  - (c) the likelihood that the distribution will cause a nuisance; and
  - (d) the likelihood that the distribution will cause any other kind of detriment.

## **DIVISION 2 THE ENVIRONMENT**

### **25. CAMPING**

---

- (1) A person must not, without a permit, camp on any municipal place in a tent, caravan or any other temporary or makeshift structure unless they are within an area declared by the Council to be a camping area.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
  - (a) the suitability of the land for camping;
  - (b) the number of tents or other structures to be located on the land;
  - (c) the length of time the tents and other structures will be erected on the land;
  - (d) the availability of sanitary facilities to the land; and
  - (e) the likely damage to be caused to the land.

### **26. CARAVANS**

---

- (1) No owner or occupier of private land may, without a permit, place, or permit or suffer the placement of, more than one caravan on that land for the purposes of providing accommodation for a total of more than 30 days in any 12-month period.

Penalty: 5 penalty units

- (2) A person must not, without a permit, occupy any caravan placed on private land for a total of greater than 30 days in any 12-month period.

Penalty: 5 penalty units

- (3) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
- (a) the proposed location of the caravan on the land in relation to other dwellings (including a neighbour's dwelling) and public view;
  - (b) the written consent of the land owner;
  - (c) the availability of cooking and sanitary facilities on the land; and
  - (d) the potential for nuisance to arise.

## **27. BUSKING, CIRCUSES, CARNIVALS AND FESTIVALS**

---

- (1) A person must not, without a permit, busk within the municipal district.

Penalty: 5 penalty units

- (2) A person must not, without a permit, conduct a circus, carnival or other similar event within the municipal district.

Penalty: 10 penalty units

- (3) Any person with a permit to conduct a circus, carnival, or other similar event in the municipal district shall comply with the standards and guidelines contained in the "Good Neighbour" Code of Practice for a Circus or Carnival, April 1997, ("the Code of Practice for a Circus or Carnival").

Penalty: 10 penalty units

- (4) For the purposes of this Local Law and the accompanying standard, the words "carnival" and "circus" shall have the meaning ascribed to them in the Code of Practice for a Circus or Carnival.

- (5) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:

- (a) the suitability of the land for the proposed activity or event;
- (b) the duration of the proposed activity or event;
- (c) the proposed hours of operation for the proposed activity or event;
- (d) the availability of sanitary facilities to the land;
- (e) the likely damage to be caused to the land;
- (f) the availability of parking;
- (g) the likely effects on traffic in the area; and

- (h) in the case of a carnival or circus, the requirements and standards of the “Good Neighbour” Code of Practice for a Circus or Carnival, April 1997.

## **28. SALE OF GOODS**

---

- (1) A person must not, without a permit, use or allow to be used property to sell or offer for sale any goods unless the use is permitted under the Planning Scheme.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
- (a) the suitability of the property for the proposed activity;
  - (b) the duration of the sale;
  - (c) the proposed hours of operation;
  - (d) the availability of parking;
  - (e) the likely effects on traffic; and
  - (f) whether any other necessary consents have been obtained.

## **29. AMPLIFIED SOUND FROM SHOPS OR ON FOOTPATHS**

---

- (1) A person must not, without a permit, emit or allow to be emitted amplified sound from shops or on roadways within the municipal district.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
- (a) the proposed hours of during which amplified sound will be played; and
  - (b) whether any other necessary consents have been obtained.

## **DIVISION 3 ANIMALS**

### **30. KEEPING ANIMALS**

---

- (1) No owner or occupier of property may, without a permit, keep or house or allow to be kept or housed more than 4 different types of animals on that property at any time and must not keep or allow to be kept any more in number for each type of animal than as set out in the following table:

<b>Type of Animal</b>	<b>Maximum Allowed</b>
Dogs	2
Cats	2
Poultry (not including Roosters)	10
Roosters	Nil
Peafowl	Nil

Guineafowl	Nil
Domesticated Birds	100
Domestic Mice	10
Guinea Pigs	6
Ferrets	4
Domestic Rabbits	4
Domestic Fish	No maximum limit
Domestic Turtles, Tortoises, Frogs	No maximum limit
Horses, Donkeys, Mules	Nil
Cattle	Nil
Sheep	Nil
Goats	Nil
Pigs	Nil
Reptiles	Nil
Any other agricultural animals	Nil

Penalty: 5 penalty units

- (2) Sub-clause (1) does not apply to the housing or keeping of any animals where the use is permitted under the Planning Scheme.
- (3) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
- (a) the type and additional numbers of animals to be kept;
  - (b) the likely effects on adjoining owners or occupiers; and
  - (c) the adequacy of any enclosures or other shelters for the animals.
- (4) In determining the adequacy of any enclosures or other shelters, consideration should be given to:
- (a) the number and type of animals to be kept in or under it;
  - (b) the height of the proposed enclosure or other shelter;
  - (c) the distance of the proposed enclosure or other shelter from the street frontage of the property;
  - (d) the distance of the proposed enclosure or other shelter from any other street or road;
  - (e) the distance of the proposed enclosure or other shelter from the boundary of any adjoining property;
  - (f) the distance of the proposed enclosure or other shelter from any dwelling; and
  - (g) the overall method of confining animals to the property.
- (5) All enclosures or other shelters must be maintained so that:
- (a) all manure and other waste is removed and/or treated as often as necessary so that it does not cause a nuisance or offensive condition;

- (b) all manure and other waste is stored in a fly and vermin proof receptacle until removed from the premises or otherwise appropriately disposed of;
- (c) the ground surrounding the shelter is adequately drained;
- (d) all land within 3 metres of the enclosure or other shelter is kept free from dry grass, weeds, refuse, rubbish or other material capable of harbouring vermin;
- (e) all food, grain or chaff is kept in vermin proof receptacles; and
- (f) the enclosure or other shelter is thoroughly cleaned and maintained at all times in a clean and sanitary manner.

Penalty: 5 penalty units

### **31. PROHIBITED PLACES FOR DOGS AND CATS**

---

Dogs and cats are prohibited in a number of locations throughout the municipality as determined by Council from time to time. The specified locations are listed on Council's website.

Penalty: 5 penalty units

### **32. DOGS PERMITTED OFF LEASH**

---

Dogs are permitted off leash in a number of locations throughout the municipality as determined by Council from time to time. The specified locations are listed on Council's website.

Penalty: 5 penalty units

### **33. CONTROL OF CATS**

---

The owner of any cat must confine the cat to the owner's property either within the dwelling or within another escape proof building between the hours of sunset and sunrise.

Penalty: 5 penalty units

### **34. LITTERS OF ANIMALS**

---

For the purpose of calculating the maximum limit of the numbers of animals kept, the progeny of any dog or cat lawfully kept will be exempt for a period of 12 weeks after birth.

### **35. ANIMAL LITTER**

---

- (1) No person in charge of an animal may allow any part of the animal's excrement to remain on any road or municipal place.

Penalty: 5 penalty units

- (2) Any person in charge of an animal on a road or in a municipal place must have at all times in their possession bags, containers or other facilities suitable for removal of that animal's excrement from the road or municipal place and must produce such facilities upon the request of an authorised officer.



Penalty: 5 penalty units

### **36. KEEPING OF BEEHIVES**

---

- (1) A person must not, on their property, without a permit, keep or allow to be kept any more than the number of beehives specified in the Apiary Code of Practice as amended from time to time, (“the Apiary Code”).

Penalty: 5 penalty units

- (2) Any person keeping bees within the municipal district must comply with the Apiary Code.

Penalty: 5 penalty units

- (3) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:

- (a) the location and distance of the hives from the property's boundaries;
- (b) the numbers and types of boxes to be kept on the property;
- (c) whether activities of a commercial or industrial nature will be carried out on the property including the sale of honey and other consumable goods;
- (d) the likely nuisance or annoyance which could be caused to any person;
- (e) the availability and proximity of a permanent supply of water to the hives;
- (f) the ability to protect surrounding properties by a screen that is impenetrable to bees and which forms a continuous barrier around the hives;
- (g) whether the hives will comply with any relevant requirements of Agriculture Victoria; and
- (h) the provisions of the Apiary Code of Practice, May 1997 as amended from time to time.

### **37. CONTROL OF EUROPEAN WASPS**

---

Any owner or occupier of a property must destroy English, European or other non-native wasps nesting on the property.

Penalty: 5 penalty units

### **38. HORSES ON BEACHES**

---

A person must not, without a permit, allow any horse in that person’s charge to enter the foreshore reserve areas, including beaches, other than on the places and at the times determined by the Council from time to time.

Penalty: 5 penalty units

## **DIVISION 4 DISPOSAL OF WASTE**

### **39. DOMESTIC WASTE**

---

- (1) A person to whose property the Council (or any party contracted by the Council) provides a waste collection service must:
- (a) place all domestic waste in the mobile garbage bin supplied by the Council;
  - (b) place the mobile garbage bin out for collection not more than 24 hours before the time scheduled for waste collection and in the following manner:
    - (i) on the nature strip or, in the absence of a nature strip, on the footpath, adjacent to the property within one metre of the kerb;
    - (ii) to provide clearance from any structure, tree or vehicle of at least three metres above the lid and 500mm either side; and
    - (iii) with the hinges securing the lid facing away from the street and towards the property;
  - (c) return the mobile garbage bin to their private land within 24 hours after collection;
  - (d) not place any material which Council has specified as 'prohibited material' in the mobile garbage bin;
  - (e) not place any waste in a mobile garbage bin supplied to a property occupied by another person without that person's consent;
  - (f) not place any waste in a mobile garbage bin that prevents the lid from closing; and
  - (g) keep any mobile garbage bin supplied to the property in a clean and sanitary condition.

Penalty: 5 penalty units

- (2) A person must not, remove a mobile garbage bin from the property to which it has been supplied by the Council.

Penalty: 5 penalty units

- (3) A person must not remove or otherwise interfere with waste contained in a mobile garbage bin other than a mobile garbage bin that has been supplied to a property of which they are the occupier.

Penalty: 5 penalty units

### **40. TRADE WASTE AND WASTE SKIPS**

---

- (1) A person must not, without a permit, place any trade waste in any mobile garbage bin.

Penalty: 5 penalty units

- (2) A person must not, without a permit, place a skip on any road or municipal place.

Penalty: 5 penalty units

- (3) A person must not, without a permit, use any skip which does not comply with the requirements of this clause 37.

Penalty: 5 penalty units

- (4) A person must not, without a permit, deposit any trade waste in a skip other than that which is described on the notice displayed in accordance with sub-clause (8).
- (5) Skips used for the collection and storage of trade waste must:
- (a) be constructed of impervious material to prevent leakage or absorption of any refuse or rubbish that may be deposited in it;
  - (b) be water-tight, fly and vermin proof;
  - (c) contain a removable drainage plug for the purpose of cleaning;
  - (d) be fitted with a fly and vermin proof lid with overlapping flanges; and
  - (e) be locked when to in use.
- (6) Skips used for the collection of trade waste must be emptied at least weekly or more regularly if the contents become offensive.
- (7) The occupier of land on, or adjacent to, which a skip is located must ensure that:
- (a) the skip is stored and maintained in a clean, sanitary and inoffensive condition;
  - (b) any footway, pavement or ground surrounding the skip is kept clean at all times;
  - (c) the surface upon which the skip is stored is impervious, graded and drained to the sewer or an approved outlet with such silt traps or other treatment devices as the Council or an authorised officer requires;
  - (d) the land is supplied with a tap connection and hose; and
  - (e) the skip is cleaned thoroughly after each emptying.
- (8) Every skip 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: 5 penalty units

#### **41. TRANSPORTATION OF WASTE**

---

A person must not convey or cause to be conveyed in any vehicle on any road in the municipal district, any manure, dead animal or remains, offal, bones, hides, skins, offensive matter, refuse, rubbish or other waste matter unless the vehicle is constructed, fitted, loaded and covered so that:

- (1) no leakage occurs or material is dripped or deposited from the vehicle onto the road or an adjacent area; and
- (2) the possibility of escape of offensive odours is reduced.

Penalty: 5 penalty units

#### **42. DRAINAGE TAPPINGS**

---

- (1) A person must not, without a permit, tap into or interfere with any drain under the control of the Council.

Penalty: 5 penalty units

- (2) Sub-clause (1) does not apply where the Council has certified a plan of subdivision or given its approval under any other legislation administered by it for the drain to be tapped.

### **DIVISION 5 BUILDING SITES**

#### **43. OFF SITE DISCHARGES**

---

Where any building work is being carried out on any land, the builder engaged to carry out building work on the land must ensure that the building site is developed and managed to minimise the risk of run-off by chemicals, sediments, animal wastes or gross pollutants by adopting measures to:

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

Penalty: 5 penalty units

#### **44. WASTE DISPOSAL FACILITIES**

---

Where any building work (other than minor building work) is being carried out on any land, the owner of the land and the builder engaged to carry out building work on the land must, unless a permit is issued:

- (1) provide a refuse facility for the purpose of disposing of builder's refuse and, provided the facility contains all builder's refuse on the land, its size, design and construction will be at the discretion of the builder;
- (2) place the refuse facility on the land and keep it in place (except for such periods as are necessary to empty the refuse facility) until the building work is completed;
- (3) ensure that the refuse facility is kept covered or lidded except when in use;
- (4) not place the refuse facility on any Council land or road without a permit; and
- (5) empty the facility whenever full, and, if necessary, provide a replacement refuse facility during the emptying process.

Penalty: 5 penalty units

#### **45. CONTAINMENT OF WASTE**

---

The builder engaged to carry out building work must ensure that:

- (1) all builder's refuse which requires containment is placed in the refuse facility referred to in clause 41;
- (2) the builder's refuse is contained entirely within the building site and is not deposited in or on any other land other than in accordance with clause 41; and
- (3) the builder's refuse is not deposited in or over any part of the stormwater system.

Penalty: 5 penalty units

#### **46. DISPOSAL OF WASTE**

---

On any land where building work is being, or has been, carried out, the builder engaged to carry out the building work must remove and lawfully dispose of all builder's refuse, including, without limiting the generality of the above, the builders' refuse in the refuse facility referred to in clause 41, within seven (7) days of the building work being completed or an occupancy permit being issued, whichever occurs last.

Penalty: 5 penalty units

#### **47. SITE ACCESS**

---

The driver of any vehicle involved in placing or removing a refuse facility on or from a building site must access the building site by way of a temporary vehicle crossing, unless otherwise permitted by the Council and in accordance with that permission.

Penalty: 5 penalty units

#### **48. PROVISION OF TOILET FACILITIES**

---

The builder engaged to carry out the building work must not undertake or carry on, or cause, suffer or permit the undertaking or carrying on of, any building, engineering or other work necessitating the employment or engagement of persons on a building site unless a toilet is provided on the site which is serviced as required (but at least monthly) for the use of persons on that building site.

Penalty: 5 penalty units

#### **49. EXCEPTIONS**

---

No offence is committed under clause 45 if:

- (1) buildings are being constructed on adjacent building sites simultaneously by the same person; and
- (2) there is provided one toilet, provided that the toilet does not service more than three (3) building sites.

#### **50. WASTE MANAGEMENT PLANS**

---

If required by the Council, and before commencing any building work on any land, the owner of the land and the builder engaged to carry out building work on the land must prepare a waste management plan for approval by the Municipal Environmental Health Officer.

Penalty: 5 penalty units

## **51. COMPLIANCE WITH WASTE MANAGEMENT PLAN**

---

Where any building work is being carried out on any land, the owner of the land and the builder engaged to carry out building work on the land must:

- (1) comply with the waste management plan referred to in clause 47; and
- (2) ensure that all work is carried out on the building site in strict accordance with any waste management guidelines adopted by the Council from time to time.

Penalty: 5 penalty units

## **52. ASSET PROTECTION PERMITS**

---

- (1) If building work other than minor building work is to be carried out on any land the:
  - (a) owner of the relevant land;
  - (b) builder engaged to carry out the building work;
  - (c) agent appointed for the purpose; or
  - (d) demolition contractor engaged to carry out demolition as part of the building work

must:

- (e) not carry out, or allow to be carried out, any building work on that land unless an asset protection permit has been obtained;
- (f) not carry out, or allow to be carried out, any building work on that land in contravention of any conditions attached to the asset protection permit that has been obtained; and
- (g) pay any bond specified in the asset protection permit.

Penalty: 5 penalty units

- (2) The person to whom an asset protection permit is issued must notify the Council, in writing:
  - (a) of the proposed date for commencement of the building work at least 7 days prior to its commencement if it is different from that stated, or a commencement date was not specified, in the permit application; and
  - (b) prior to the commencement of works, of any damage to any road (including a road reserve, footpath or nature strip) or other public asset within the area of the asset protection permit existing at the time of that notice.

- (3) The person to whom an asset protection permit is issued must repair or reinstate any damaged road, drain, nature strip, kerb, channel, vehicle crossing or other asset vested in the Council which is within the area of the asset protection permit or which is otherwise affected by the building work, and any repairs must be performed to the satisfaction of the Council.

Penalty: 5 penalty units

- (4) Upon completion of the building work, the Council may:
- (a) retain all or part of the bond paid under the asset protection permit to offset the costs to the Council of repairing any damage to any public asset;
  - (b) upon being satisfied that no damage has been caused to any public asset, or that any damage has been repaired to the Council's satisfaction, refund the bond paid under the asset protection permit in full to the person who paid it; or
  - (c) refund to the person who paid the bond under the asset protection permit such portion of it as remains after the Council has undertaken work necessary to repair any damage to any public asset.
- (5) For the purposes of determining whether any damage to any road, drain, nature strip, kerb, channel, vehicle crossing or other asset vested in Council has been caused by, or otherwise resulted from, the execution of any building work, failure to provide notice of such damage under sub-clause (2) is prima facie proof that there was no existing damage to such public assets prior to the building work taking place.
- (6) The Council may, in its absolute discretion, accept an alternative form of security to bond under an asset protection permit.
- (7) Where a person to whom an asset protection permit is issued has caused damage to any public asset and the cost to repair the damage exceeds the amount of the bond paid, the Council may seek to recover the additional costs of repair from that person.

## **DIVISION 6 CONTROL OF STRUCTURES AND MOORING IN RIVERS**

### **53. ERECTION OF A WHARF OR JETTY**

---

A person must not, without a permit, erect, demolish, enlarge or re-erect on or adjacent to the foreshore or the bank of any watercourse any wharf, jetty, boat ramp or other structure, whether fixed or floating.

Penalty: 5 penalty units

### **54. COMMERCIAL OPERATORS**

---

A person must not, without a permit, operate a vessel or use a mooring for the conduct of a commercial enterprise or for any purpose connected directly or indirectly with that enterprise.

Penalty: 5 penalty units

### **55. USE OF JETTIES AND OTHER STRUCTURES**

---

- (1) A person must not, without a permit, fasten or moor any vessel, log or thing of any kind to any wharf, jetty, piles, steps, or to any pontoon, staging, shed, or other structure attached to or alongside any wharf or jetty or upon the foreshore or the bank of a watercourse within the area determined by the Council from time to time in a manner that prevents free access to that wharf, jetty, piles, steps, pontoon, staging, shed or other structure.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
- (a) the safety of other users;
  - (b) the passage of vessels;
  - (c) disturbance, annoyance or disruption to adjacent property owners or occupiers;
  - (d) arrangements, if any, for:
    - (i) waste water disposal;
    - (ii) litter and garbage disposal; and
    - (iii) lighting;
  - (e) duration; and
  - (f) location.

#### **56. LIMITATION OF TIME AT JETTIES AND OTHER STRUCTURES**

---

- (1) A person must not, without a permit, moor any vessel to any jetty or wharf for any period exceeding the time indicated on signage applicable to the jetty or wharf.
- Penalty: 5 penalty units
- (2) Where no signage applies to the jetty or wharf for the purposes of sub-clause (1), a person must not, without a permit, moor any vessel to any jetty or wharf for a period exceeding one hour.
- Penalty: 5 penalty units
- (3) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
- (a) the safety of other users;
  - (b) the passage of vessels;
  - (c) disturbance, annoyance or disruption to adjacent property owners or occupiers;
  - (d) arrangements, if any, for:
    - (i) waste water disposal;
    - (ii) litter and garbage disposal; and
    - (iii) lighting;
  - (e) duration; and
  - (f) location.



## **57. USE OF LAKE OR WATERCOURSE**

---

- (1) Notwithstanding clause 53, a person must not, without a permit, allow a vessel to remain on a lake or watercourse, other than on a jetty or mooring, for a continuous period exceeding 24 hours.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:

- (a) the safety of other users;
- (b) the passage of vessels;
- (c) disturbance, annoyance or disruption to adjacent property owners or occupiers;
- (d) duration; and
- (e) location.

## **DIVISION 7 MANAGEMENT OF ON-SITE WASTEWATER DISPOSAL SYSTEMS**

### **58. USE OF SEPTIC TANK SYSTEMS OR WASTEWATER MANAGEMENT SYSTEMS**

---

- (1) No person shall operate a septic tank system or a wastewater management system:

- (a) without a permit; and
- (b) contrary to any condition, limitation or restriction of the permit.

Penalty: 5 penalty units

- (2) The owner of a property where a septic tank system or a wastewater management system is installed must ensure that the system is de-sludged at least once in every three-year period.

Penalty: 5 penalty units

## PART 3 - MUNICIPAL PLACES

### DIVISION 1 BEHAVIOUR

#### 59. BEHAVIOUR IN MUNICIPAL PLACES

---

- (1) A person must not, without a permit, in any municipal place:
- (a) behave in a manner which is harmful or which causes, or is likely to cause, interference with the quiet enjoyment by any other person using the municipal place;
  - (b) behave in a manner which is, or is likely to be, detrimental to the municipal place or public assets;
  - (c) being an occupier of land adjacent to that municipal place, allow trees, plants or any other matter on that land to cause damage to or interference with that municipal place;
  - (d) use language or behave in a manner which is indecent, offensive or abusive or which annoys, disturbs, interrupts or obstructs any other person's enjoyment of that municipal place;
  - (e) act in a way which endangers any person;
  - (f) use any explosive or flammable matter;
  - (g) damage, destroy, write on, interfere with, remove or affix anything to any building, improvement or other structure of any kind;
  - (h) shoot, snare, injure or in any way harm or interfere with any bird or animal;
  - (i) use any life saving or fire fighting device unless during an emergency or with the approval of an authorised officer;
  - (j) act contrary to any conditions of use of the municipal place; or
  - (k) being a person who is the driver or operator of a moving or stationary vehicle in a municipal place, or a person responsible for or in control of any vehicle parked without a driver or operator present, must not cause or allow to be emitted from that vehicle amplified music or sound which is of an unreasonable volume.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
- (a) the safety of other users of the municipal place;
  - (b) the nature and ordinary use of the municipal place;
  - (c) the nature of the activity to be permitted;
  - (d) duration; and

- (e) location.

## **DIVISION 2 WHEELED TOYS**

### **60. USE OF WHEELED DEVICES**

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- (1) A person must not use a wheeled recreational device on any municipal place in the area bounded by Raglan Parade, Fairy Street, Timor Street and Banyan Street.

Penalty: 1.25 penalty units

- (2) The Council may, by resolution, declare a municipal place or part of a municipal place to be an area in which wheeled recreational devices are prohibited.
- (3) Signage will be erected on any municipal place or part of a municipal place which has been declared by the Council to be an area where wheeled recreational devices are prohibited.
- (4) A person must not use a wheeled recreational device on any municipal place or part of a municipal place which has been declared by the Council to be an area in which wheeled recreational devices are prohibited.

Penalty: 1.25 penalty units

### **61. CONDUCT WHEN USING A WHEELED DEVICE**

---

Any person who uses a wheeled recreational device or causes or authorises another person to use a wheeled recreational device in or on a municipal place must ensure that the use does not inconvenience, obstruct, hinder, endanger, alarm or prevent the use of that municipal place by any other person.

Penalty: 1.25 penalty units

### **62. MOTORISED RECREATIONAL VEHICLES**

---

- (1) A person must not, without a permit:

- (a) drive, ride on or otherwise use; or
- (b) cause or authorise another person to drive, ride on or otherwise use,

a motorised recreational vehicle on any municipal place unless the municipal place has been designated by the Council for that purpose.

Penalty: 5 penalty units

- (2) No person may use any motorised recreational vehicle in the municipal district on any fire ban day.

Penalty: 5 penalty units

- (3) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:

- (a) the number of motorised recreational vehicles for which the permit is required;

- (b) the days, times and hours the motorised recreational vehicles are to be used; and
- (c) the likely damage which may be caused to land as a result of the use of the motorised recreational vehicles.

### **DIVISION 3 GLASS CONTAINERS**

#### **63. GLASS CONTAINERS IN MUNICIPAL PLACES**

---

- (1) The Council may, by resolution, declare a municipal place or part of a municipal place to be a glass container free area.
- (2) Signage will be erected on any municipal place or part of a municipal place which has been declared by the Council to be a glass container free area.
- (3) A person must not, without a permit, take glass containers into or onto any municipal place or part of a municipal place which has been declared by the Council to be a glass container free area.

Penalty: 2.5 penalty units

- (4) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
  - (a) the nature of the event at which glass containers are to be used;
  - (b) the duration of the event at which glass containers are to be used;
  - (c) the location of the event at which glass containers are to be used;
  - (d) plans in place to ensure that glass containers are cleared from the municipal place; and
  - (e) the likelihood of any risk to safety arising from the use of glass containers.

### **DIVISION 4 CONSUMPTION OF LIQUOR**

#### **64. MUNICIPAL PLACES WHERE LIQUOR MAY NOT BE CONSUMED**

---

- (1) The Council may, by resolution, declare a municipal place or part of a municipal place to be a liquor free area during the times specified in the resolution.
- (2) Signage will be erected in any municipal place or part of a municipal place which has been declared by the Council to be a liquor free area.
- (3) A person must not, without a permit, consume or have in their possession or under their control any liquor, other than in a sealed container, in or on any municipal place or part of a municipal place which has been declared by the Council to be a liquor free area during the times specified.

Penalty: 2.5 penalty units

- (4) Where the Council fails to erect signage under sub-clause (2) no person will be prosecuted for an offence under this clause.

- (5) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
- (a) the nature of the event at which liquor is to be consumed;
  - (b) the duration of the event at which liquor is to be consumed;
  - (c) the location of the event at which liquor is to be consumed; and
  - (d) the effect that the consumption of liquor may have on the quiet enjoyment of people in the municipal place.

## **PART 4 - STREETS AND ROADS**

### **DIVISION 1 THE MANAGEMENT OF ROADS FOR TRAFFIC**

#### **65. TREES AND PLANTS NOT TO OBSTRUCT OR OBSCURE**

---

- (1) An occupier of land adjacent to a road must not allow any tree or plant in or growing on that land to obstruct or interfere with the passage of traffic by:
- (a) overhanging any footpath or other part of the road used by pedestrians so that there is a clearance of less than 2.4 metres from the ground;
  - (b) extending over any part of the road in such a way that it:
    - (i) obstructs the view between vehicles at an intersection;
    - (ii) obstructs the view between vehicles and pedestrians where they come close to each other;
    - (iii) obscures a traffic control item from the view of an approaching vehicle or pedestrian; or
    - (iv) obscures street lighting;
  - (c) obstructs the view between vehicles and trains at a railway level crossing which does not have gates, booms or flashing lights; or
  - (d) otherwise constitutes a danger to vehicles or pedestrians or compromises the safe and convenient use of the road.

Penalty: 5 penalty units

- (2) In determining whether there has been an infringement of sub-clause (1)(c) the Council must have regard to Australian Standard AS1742.7 Railway Crossings.

#### **66. PLACING OF SIGNS AND POSTS**

---

A person must not place a sign, post or other similar object in such a way that it causes an obstruction of a type referred to in sub-clauses (b), (c) and (d) of clause 62.

Penalty: 5 penalty units

#### **67. FENCES AT INTERSECTIONS**

---

An owner or occupier of property must not, without a permit, construct a boundary fence at an intersection of roads which interferes with or obstructs the clear visibility between vehicles and/or pedestrians at that intersection.

Penalty: 5 penalty units

## **68. PROPERTY NUMBERS TO BE DISPLAYED**

---

The owner or occupier of any property which has been allocated a property number must mark the property with the allocated number in a size and position, and made of such material and kept in such state of repair, to be clearly read from the road under normal lighting conditions.

Penalty: 5 penalty units

## **69. A VEHICLE CROSSING IS REQUIRED**

---

(1) The owner of land must ensure that each point of vehicular access from a carriageway on a road to the land has a properly constructed vehicle crossing.

Penalty: 5 penalty units

(2) For the purposes of this clause a vehicle crossing is properly constructed if:

- (a) it was constructed in accordance with the terms of an approval by the Council; or
- (b) the Council has approved in writing the method of construction of the particular vehicle crossing.

## **70. A PERMIT IS REQUIRED**

---

A person must not, without a permit, construct, install, remove or alter a vehicle crossing, whether temporarily or permanently.

Penalty: 5 penalty units

## **71. TEMPORARY VEHICLE CROSSINGS**

---

(1) Where it is likely that building work on a property will involve vehicles leaving the carriageway or entering the property, the person responsible for the works must obtain a permit for the construction of a temporary vehicle crossing which protects the existing road, kerb, drains and footpath.

Penalty: 5 penalty units

(2) Where an existing vehicle crossing, footpath, kerb or other part of the road may be damaged, the person responsible for the works must, when requested, obtain an asset protection permit under clause 49 and pay a bond to the Council.

## **72. REDUNDANT VEHICLE CROSSINGS**

---

(1) Where building work on a property involves the relocation or closure of a point of vehicular access, any redundant part of a vehicle crossing must be removed and the kerb, drain, footpaths, nature strip and any other part of the road must be reinstated to the satisfaction of the Council.

(2) The Council may require the owner or occupier of a property to remove any part of or all of a vehicle crossing for which there is no effective point of vehicle access and to reinstate the road and the requirement must be fulfilled within the time specified.

Penalty: 5 penalty units

## **DIVISION 2 CONTROL OF ANIMALS ON ROADS**

### **73. CONTROL OF LIVESTOCK ON ROADS**

---

- (1) A person in charge of livestock must not, without a permit, move, drive or graze livestock across, over, along or on a road or allow another person to do so unless:
- (a) the livestock is being driven or moved between two pieces of land forming part of a single farming enterprise; and
  - (b) the pieces of land are separated only by a road, railway line, waterway or other geographical feature; and
  - (c) the livestock leaves one piece of land at the point that is closest to the piece of land to which the livestock is being moved and enters the other piece of land at the point closest to the point where the livestock exited the piece of land from which the livestock was moved; and
  - (d) the safety of a road user is not adversely affected.

Penalty: 5 penalty units.

- (2) A permit issued by the Council under sub-clause (1) for the movement or driving of livestock may specify the route to be taken.
- (3) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
- (a) the number and type of livestock to be driven;
  - (b) in respect of moving or driving livestock, whether the most direct or practicable route from the point of departure to the destination is through or within the municipal district;
  - (c) in respect of moving or driving livestock, whether there will be adequate supervision of the livestock while they are camped overnight;
  - (d) whether appropriate reflective signs or flashing lights are necessary while livestock are camped overnight or should be displayed at the beginning and end of the herd while it is travelling along any street or road;
  - (e) in respect of moving or driving livestock, whether the livestock are capable of travelling the specified distance each day;
  - (f) whether it is necessary to have the health and fitness of the livestock certified by a stock inspector or veterinary;
  - (g) in respect of grazing livestock, the location of the proposed grazing; and
  - (h) the impact, if any, on other users of the road.

### **74. SPECIFIED ROADS**

---

- (1) The Council may specify roads in the municipal district which may be used for the driving of livestock without the need to obtain a permit under clause 70.



- (2) An authorised officer may, where practicality requires it or where hardship may be caused to the owner of any of the livestock, vary a specification made by the Council under sub-clause (1).

#### **75. DEPARTURE FROM ROUTE**

---

- (1) The route specified in any permit issued under clause 70 must not be departed from or varied without the consent of an authorised officer.

Penalty: 5 penalty units

- (2) Consent to any change or variation to the route must be endorsed on the permit.

#### **76. RESPONSIBILITY OF APPLICANT**

---

- (1) In considering an application for a permit to move or drive livestock under clause 70, an authorised officer may, if he or she is satisfied that the livestock may not be able to travel the minimum distance specified, require the applicant to make a declaration to the effect that the livestock are fit, healthy and free from disease and able to travel the minimum distance specified.

- (2) Any person making a false declaration under sub-clause (1) is guilty of an offence.

Penalty: 5 penalty units

### **DIVISION 3 CONTROL OF VEHICLES ON ROADS**

#### **77. TIME LIMIT FOR PARKING LONG VEHICLES ON ROADS**

---

- (1) A person must not, without a permit, park a vehicle longer than 7.5 metres (including any trailer and fittings) on any road for longer than one hour, unless the area is specifically designated by the Council for parking such vehicles.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:

- (a) the likely impact on the residential amenity of the neighbourhood as a result of:
- (i) the intrusion of long vehicle traffic;
  - (ii) excessive noise from long vehicles;
  - (iii) pedestrian and motorist safety;
  - (iv) the likely damage to be caused to Council assets and street trees; and
  - (v) fumes or related smells resulting from the parking of heavy vehicles;
- (b) the traffic function, traffic volume and width of other roads in the vicinity;
- (c) the unobstructed sight distance when exiting forward from nearby properties;

- (d) whether the manoeuvring requirements of the vehicle and the roadway width will enable the vehicle to be turned within a maximum crossing width of 4 metres; and
- (e) any load limit restriction in force on the relevant road.

#### **78. PARKING HEAVY VEHICLES ON PRIVATE PROPERTY IN RESIDENTIAL ZONES**

---

- (1) A person must not, without a permit, allow a vehicle weighing more than 4.5 tonne (including any load) to be parked, kept, stored or repaired on any land in a residential area.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
  - (a) the likely impact on the residential amenity of the neighbourhood as a result of:
    - (i) the intrusion of heavy vehicle traffic;
    - (ii) excessive noise from heavy vehicles;
    - (iii) pedestrian and motorist safety;
    - (iv) the likely damage to be caused to Council assets and street trees; and
    - (v) fumes or related smells resulting from the parking of heavy vehicles;
  - (b) the traffic function, traffic volume and width of other roads in the vicinity;
  - (c) whether the unobstructed sight distance when exiting forward from the property is a minimum of 80 metres;
  - (d) whether the manoeuvring requirements of the vehicle and the roadway width will enable the vehicle to be turned within a maximum crossing width of 4 metres;
  - (e) any load limit restriction in force on the relevant road; and
  - (f) whether the property is of sufficient size and layout to enable the vehicle to be properly garaged.

#### **DIVISION 4 SECONDARY ACTIVITIES ON ROADS**

##### **79. ERECTING OR PLACING ADVERTISING SIGNS**

---

- (1) A person must not, without a permit, erect or place, or cause to be erected or placed, an advertising sign on any part of a road.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
  - (a) the location of the advertising sign;

- (b) the width and height of the advertising sign;
- (c) any other advertising signs displayed for the applicant's premises or event; and
- (d) whether the construction of the advertising sign will create a hazard to pedestrians.

#### **80. ROADSIDE TRADING**

---

- (1) A person must not, without a permit, erect or place, or cause to be erected or placed, on any road a vehicle, caravan, trailer, table, stall or other similar structure for the purpose of selling or offering for sale any goods or services.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:

- (a) any impact on the safety of road users and the passage of traffic;
- (b) whether all necessary permits have been obtained;
- (c) whether the activity will disturb, annoy or disrupt adjacent property owners or occupiers; and
- (d) whether appropriate arrangements will be made for:
  - (i) waste water disposal;
  - (ii) litter and garbage disposal;
  - (iii) lighting; and
  - (iv) advertising signs.

#### **81. TRADING TO A PERSON ON A ROAD**

---

- (1) A person must not, without a permit, sell or offer for sale, or cause to be sold or offered for sale, any goods or services from a property or a municipal place adjacent to a road to any person who is on that road or municipal place.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:

- (a) any impact on the safety of road users and the passage of traffic;
- (b) whether all necessary permits have been obtained;
- (c) whether the activity will disturb, annoy or disrupt adjacent property owners or occupiers; and
- (d) whether appropriate arrangements will be made for:

- (i) waste water disposal;
- (ii) litter and garbage disposal;
- (iii) lighting; and
- (iv) advertising signs.

## **82. LOCATING GOODS FOR SALE**

---

- (1) A person must not, without a permit, place or display, or cause to be placed or displayed, any goods, including vehicles for sale, on:
- (a) any footpath;
  - (b) any part of a carriageway designed for the use of passing vehicles;
  - (c) within 700mm of an area where vehicles may stand; or
  - (d) any other part of a road including a road reserve and nature strip.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
- (a) whether the goods will be displayed outside the applicant's premises;
  - (b) whether adequate lighting of the display area can be achieved if the normal business hours include hours of darkness; and
  - (c) whether the goods or the display will be of such material, layout or construction as to create a hazard pedestrians or vehicles.

## **83. OUTDOOR EATING FACILITIES ON ROADS**

---

- (1) A person must not, without a permit, establish an outdoor eating facility on any footpath or other part of a road.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
- (a) whether the facility is conducted in conjunction with, and as an extension of, food premises located immediately abutting the facility, and the applicant is the person conducting such food premises;
  - (b) whether the food premises is registered in accordance with the *Food Act 1984*;
  - (c) whether the facility will obstruct visibility at an intersection;
  - (d) whether appropriate and safe pedestrian access can be maintained; and

- (e) whether the tables, chairs and other equipment to be used will be a hazard.

#### **84. REMOVAL OF OUTDOOR EATING FACILITY ON REQUEST**

---

The person responsible for an outdoor eating facility must move or remove the outdoor eating facility when requested to do so by an authorised officer.

Penalty: 5 penalty units

#### **85. BULK RUBBISH CONTAINERS ON ROADS**

---

- (1) A person must not, without a permit, place, or cause or permit to be placed, a bulk rubbish container on a road.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
  - (a) whether the placement will obstruct the passage of vehicles and pedestrians, obscure the view of motorists or present a physical hazard;
  - (b) whether the placement will contravene any traffic control signs;
  - (c) whether hazard lights can be securely attached on the side of the container nearest passing traffic or placed on a carriageway; and
  - (d) protection of any Council assets.

#### **86. OCCUPATION OF THE ROAD FOR WORKS**

---

- (1) A person must not, without a permit, on a road:
  - (a) occupy or fence off part of a road;
  - (b) erect a hoarding or overhead protective awning;
  - (c) use a mobile crane or travel tower for any building work;
  - (d) make a hole or excavation; or
  - (e) reinstate a hole or excavation.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
  - (a) the nature and duration of the works;
  - (b) the likely hazard that the works may constitute to users of the road; and
  - (c) the impact of the works on the amenity of the adjoining area.

## **87. REPAIR OF VEHICLES IS PROHIBITED**

---

- (1) A person must not, without a permit, dismantle, paint, carry out maintenance on or, except for the purpose of removing it, repair a vehicle or cause or authorise another person to do so.

Penalty: 5 penalty units

- (2) Sub-section (1) does not apply to running repairs undertaken as a result of breakdown.

## **88. SUBSTANCES FROM VEHICLES, ANIMALS AND LIVESTOCK**

---

- (1) A person must not permit any grease, oil, mud, sand, clay or other substance to fall or run off a vehicle or livestock onto a road into any drain on or under the road or permit or authorise another person to do so.

Penalty: 5 penalty units

- (2) A person in charge of a vehicle or livestock from which any substance has fallen or run onto a road must take all reasonable steps promptly to remove the substance, make good any damage and remove any consequent hazard.

Penalty: 5 penalty units

- (3) Where any damage or hazard remains, the person in charge of the vehicle or livestock from which the substance fell or ran must promptly notify the Council or member of the police force of the damage or hazard.

Penalty: 5 penalty units

## **89. STREET PARTIES, FESTIVALS AND PROCESSIONS**

---

- (1) A person must not, without a permit, hold a street party, street festival or procession on a road.

Penalty: 5 penalty units

- (2) An application for a permit under sub-clause (1) must be made at least 14 days before the event is to take place.

- (3) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:

- (a) whether the road can be closed to vehicular traffic for the duration of the street party;
- (b) necessary advice to owners or occupiers of all land with vehicular access via the section of road to be closed; and
- (c) whether the footpath on at least one side of the road can be kept clear of obstructions.

## **90. COLLECTIONS ON ROADS**

---

- (1) A person must not, without a permit, solicit for or collect anything, including waste materials, gifts of money or subscriptions, or cause or authorise another person to do so, on a road.

Penalty: 5 penalty units

- (2) In determining whether to grant a permit, the Council or an authorised officer must have regard to the matters outlined at clause 17 as well as the following:
- (a) the times and days it is proposed to collect;
  - (b) the matter or thing to be collected;
  - (c) the roads or areas in which the collections will take place;
  - (d) the impact on traffic and safety of pedestrians; and
  - (e) the age and capacity to supervise participants.