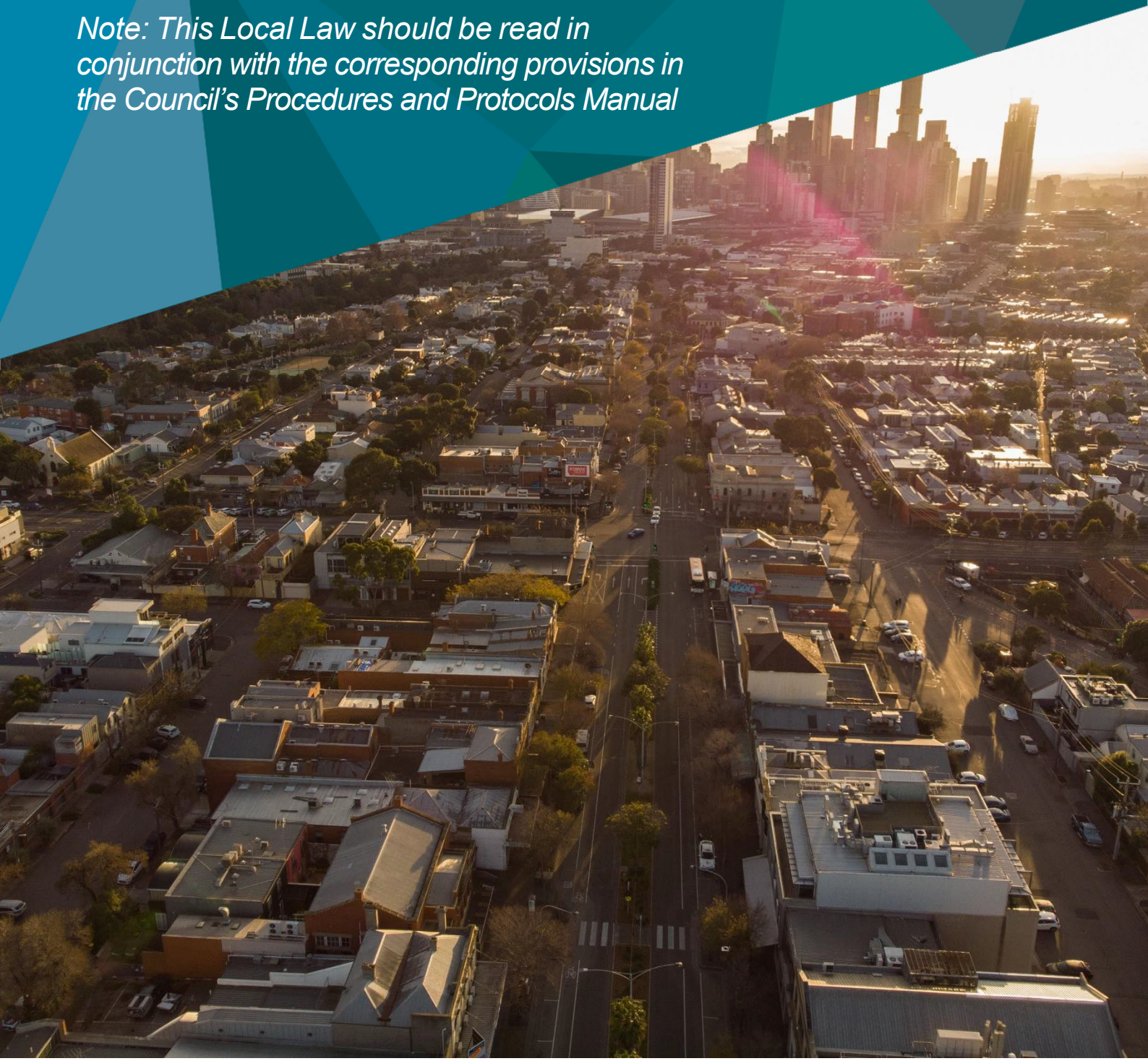
COMMUNITY AMENITY LOCAL LAW 2023

Date: 21 June 2023

Note: This Local Law should be read in conjunction with the corresponding provisions in the Council's Procedures and Protocols Manual



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Part 1 - Preliminary

1. Title

This is the Community Amenity Local Law 2023.

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;

b) impede free and safe access for people, in particular those with sight and movement impairment or disabilities;

c) cause damage to Council and community assets;

d) create a danger or expose others to risk;

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;

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;

(4) providing for the administration of Council's powers and functions;

(5) The Local Law has been developed so that the Local Law:

a) supports and enables the delivery of Council's core strategies and policies and where there may be conflict, that outcomes are balanced across strategies;

b) is practical and safe to implement and enforce;

c) reflects the value our community places on liveability and amenity;

d) responds to known and foreseeable amenity issues;

e) recognises the value of a partnered approach to managing the amenity of the municipality; and

f) supports Council's role as a regulator and enforcement agency by ensuring the local laws are necessary, consistent, compliant, enforceable, accessible, efficient, accountable, transparent, current and lawful.

3. Authorising Provision

This Local Law is made under Section 71 of the Local Government Act 2020 and Section 42 of the Domestic Animals Act 1994.

4. Commencement, revocation and area of operation

(1) This Local Law:

a) commences on 1 August 2023;

b) ceases to operate on 1 August 2033, unless revoked earlier; and

c) operates throughout the whole municipal district.

5. Revocation of other Local Laws

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

a) Community Amenity Local Law No. 1 of 2013.

6. Definitions of Words used in this Local Law

In this Local Law:

Word	Definition
Act	means the *Local Government Act* 1989.
advertising sign	means any placard, sign, pointer board, notice, poster, mobile billboards, banner, or projected image or other similar device whether portable or affixed or attached to any *land*, *building*, bicycle or *vehicle*, or otherwise displayed, which is used for the purposes of: • soliciting sales; • notifying the presence or location of a property where goods or services may be obtained; or • notifying the presence or location of a business which provides goods or services; or • the promotion of a person, political party, event or occasion; or • notifying an event or competition, including a community or recreational event; but does not include an advertising sign which requires and has been granted a permit under *Council's planning scheme*.

animal	includes every species of quadruped and every species of bird (including, without limitation, poultry).
appropriate fee	means the appropriate fee determined by *Council* in accordance with this Local Law.
audible intruder alarm	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 of 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.
authorised officer	means a person appointed pursuant to section 224 of the *Act* as an authorised officer for the purposes of this Local Law.
beach	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.
builder	Means: • the person who is nominated as the builder in a building permit under the *Building Act* 1993 granted for the *building works; and* • If the person nominated as the builder in the building permit is a company, the director of the company; and • the person in charge of any *building works* being carried out; and • the owner of a *building site*.
builder's refuse	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 *building works*.
building	includes any structure or building, whether temporary or permanent, or part of such building or structure.
building site	includes any *land* on which *building works* are being or are to be undertaken.
building works	includes work that is involved with: • the construction, demolition, renovation or removal of a *building*, including landscaping and concreting; and • the delivery of products or materials used or intended to be used in the construction,

demolition, renovation or removal of a *building*; and

- excavation, *road* making, drainage or other works relating to the *building site* where they are occurring.

bulk rubbish container	means a bulk bag, bin, container or other structure designed or used for holding a substantial quantity of rubbish that is unable to be lifted or relocated without mechanical assistance but does not include bins or containers used in connection with the regular collection of domestic, commercial, industrial or trade waste.
busk and *busking*	means 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.
Chief Executive Officer	means the Chief Executive Officer of *Council*.
clothing recycling bin	means a bin or similar container used for the collection of used clothing.
commercial fitness activities	means any individual or group fitness activities involving a *commercial fitness trainer* who derives a payment or reward, either directly or indirectly, in connection with such fitness activities, and includes (but is not limited to): • gym sessions (with or without weights, fit balls, skipping ropes or other personal fitness equipment); • boxing and pad training; • organised aerobic activities; • yoga, tai chi and pilates classes and like activities; • circuit training; • jogging; • soccer; and • any combination of the above.
commercial fitness trainer	means a person who conducts *commercial fitness activities.*
commercial premises	means premises used: primarily for commercial purposes; as a hostel, rooming house or student dormitory; or for short-term or other accommodation for commercial gain (including for the accommodation of backpackers).

community advertising sign	means a temporary *advertising sign* erected by a community group.
community group	includes (but is not limited to): • any non-profit aged care, disability, youth, art and culture group based in the municipality; • a school or preschool based in the municipality; or • a branch of a service club based in the municipality.
construction period	means the period during which *building works* are carried out.
container	means mobile garbage bin provided by *Council* for the collection of garbage or recyclable materials or a crate provided by *Council* for recyclable materials.
Council	means Port Phillip City Council.
Council assets and *public assets*	means footpath, kerb and channel, nature strip, parking signs, irrigation or sprinkler systems, trees, shrubs and other vegetation, street furniture, *vehicle crossings* or other *Council* property or works forming part of a *road* or *Council land*.
Council land	means *land*, *buildings* and facilities which are owned or occupied by or vested in *Council* or in respect of which *Council* has the care and management to which the public has access whether an entry fee is paid or not and includes a *public place*.
Council Reserve	means: • Wattie Watson Oval, Elwood Park; • Esplanade Oval/cricket ground 2, Elwood Park; • Head Street Grounds A & B, Elwood Park; • Peanut Farm Oval, Peanut Farm Reserve; • Alma Park Oval, Alma Park; • Lagoon Oval, Lagoon Reserve; • Anderson Oval 1, J.L. Murphy Reserve; • Anderson Oval 2, J.L Murphy Reserve; • G.S. Williams Oval, J.L. Murphy Reserve; • A.T. Aanensen Oval, J.L. Murphy Reserve; • J.M. Woodruff Oval, J.L. Murphy Reserve; and • North Port Oval, Port Melbourne Oval.
crane	means any appliance intended for raising or lowering a load and moving it horizontally

designate and *designated by Council*	means set out or having set out any matter or thing by resolution of *Council* or an *authorised officer* through the exercise of a delegated power or function, the details of which appear on *Council's* website.
footpath	means the area between the property boundary and the kerbside of a *road* that is provided for use by pedestrians.
footpath object	means an object listed in clause 24 of this Local Law that is placed on a *footpath*.
foreshore	means coastal Crown land within the meaning of the *Coastal Management Act* 1995.
foreshore waters	means the area of seawater from the high-water mark along the *beach* at any time that is within the municipal district and extending seawards 150 metres.
furniture	Furniture means the moveable articles required for use or ornament in a house, office or the like and includes bed frames, bed mattresses (other than rolled up camp mats, foam, a swag) chairs, tables, crates, kitchen appliances and the like.
Guidelines	means any guidelines made by Council under clause (1) of this Local Law.
heavy vehicle	has the same meaning as in rule 200 of the Road Safety Road Rules 2017.
incinerator	means a structure or device which: • 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; • is not licensed or otherwise subject to control under the provisions of any Act; and • is not a barbeque.
incorporated document	means any document identified by clause 7 of this Local Law as incorporated into this Local Law.
itinerant trading	means: • the offering free of charge; • the selling or offering for sale; • The hire of – goods, services, or any other item.
Land	*has the same meaning as in the Planning and Environment Act 1987.*

Litter Device	means an apparatus designed for the purpose of removing animal faeces and includes a paper or biodegradable plastic bag.
Liquor	means any alcoholic drink.
Local Access Only Zone	means the area *designated by Council* as the 'Local Access Only Zone' in accordance with the *Parking Permit Policy*.
market site	includes a stall or stand within a market operated by *Council* or a stall operated on *Council land*.
Middle Park Area	means the part of the *Local Access Only Zone designated by Council* as the Middle Park Area in accordance with the *Parking Management Policy*.
minor building works	means *building works* valued at less than $5,000 but excludes demolition and removal of *buildings* and other structures (regardless of value).
outdoor commercial recreational activity	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. Examples of *commercial recreational activities* include skydiving, kite-boarding instruction and hire, kayaking instruction and hire and *commercial fitness activities*. The term *commercial recreational activity* does not include a one-off or occasional event.
permit	means a permit issued under this Local Law which authorises that use or activity including an *asset protection permit, a residential parking permit, visitor parking permit and* in the case of a market operated by *Council* includes a licence or a lease.
personal watercraft	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.
place, placed, places, placing and placement	means permitting the relevant *footpath object* to remain on the *footpath*, as well as the actual act of putting the *footpath object* on the *footpath*.
Planning Scheme	means the Planning Scheme operating in the municipal district that is made under the *Planning and Environment Act* 1987.
planter boxes	means a container made of any material designed to display plants on *footpaths* or for segregating parts of the *footpath* (whether containing plants or not).
public place	has the same meaning as in the *Summary Offences Act* 1966.

race period	has the same meaning as in the *Australian Grand Prix Act* 1994.
redundant	means no longer required or of use, whether because of a change in the use of *land* in respect of which the *vehicle crossing* was constructed or otherwise.
refuse facility	means a suitable rubbish receptacle capable of retaining all waste material and *builder's refuse* within the *building site* and preventing removal by unauthorised persons or the intervention of wind or water.
registered	means, in respect of a *vehicle* or *trailer*, registered by Vic Roads under the *Road Safety Act* 1986 or by an equivalent registration authority in another State or Territory.
reserve	means any park, garden, reserve or other place of public recreation or resort.
residential parking area	means a *parking area* in which lawful parking is restricted, whether for the whole or a part of a day, to residents of a particular area.
residential parking permit	means a permit authorising a person to park in a *residential parking permit area.*
road	includes: • a street; and • a right of way; and • any *land* reserved or proclaimed as a street or *road* under the *Crown Land (Reserves) Act* 1978 or the *Land Act* 1958; and • a passage; and • a cul de sac; and • a by-pass; and • a bridge or ford; and • a *footpath*, bicycle path or nature strip; and • any culvert or kerbing or other *land* or works forming part of the *road*.
road related area	has the same meaning as in the *Road Safety Road Rules* 2017.
screen	means a covered frame or the like, movable or fixed, serving as a partition between the *footpath* and the road or segregating parts of the *footpath*.

security bond	means a payment or guarantee made to *Council* for the purposes of securing public assets and infrastructure from the cost of damage during *building works*.
senior officer	has the same meaning as in the *Local Government Act* 1989.
significant tree or palm	means a tree or a palm on private *land*: • with a trunk circumference of 150 centimetres or greater measured 1 metre from its base; • a multi-stemmed tree on private *land* where the circumference of its exterior stems equals or is greater than 150 centimetres when measured 1 metre from its base; or • if the tree has been removed a trunk circumference of 150 centimetres or greater measured at its base or the circumference of multi stems at its base.
smoke	means to smoke, hold or otherwise have control over an ignited *tobacco product,* or light a *tobacco product*.
smoke free area	means an area designated to be a *smoke free area* in accordance with clause 46.
special event	means an organised sporting, recreational, cultural, commercial or social gathering of twenty (20) or more people, or a market, promotional activity or wedding, which is held on a *road* or *Council land* other than the area designated by the *Australian Grand Prix Act* 1994 during the *race period*.
St. Kilda precinct	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 *foreshore*, including the *beach*.
standard condition	means any condition identified as a standard condition in an *incorporated document*.
stormwater system	means a system which provides for the conveyance of stormwater run-off, including kerb and channel, open channels, underground pipe systems and natural waterways.
temporary vehicle crossing	means a constructed form of wooden panels or other *Council* approved structure over a bed of sand, that extends from the boundary of *land* over any public assets such as footpaths, nature strips, kerbs and channels to the *road*, and is designed to minimise damage to assets caused by *vehicles* and materials entering and leaving the *land* during the currency of *building works*.
tobacco product	has the same meaning as the *Tobacco Act 1987*

trailer	has the same meaning as in the *Road Safety Act* 1986.
unregistered	means, in respect of a *vehicle* or *trailer*, a vehicle or trailer that is not *registered*.
vehicle	has the same meaning as 'motor vehicle' in the *Road Safety Act* 1986 but does not include a bicycle, motorised scooter or tram.
vehicle crossing	means an opening or artificial surface which allows or facilitates access from a *road* to *land* which abuts that *road*.
visitor parking permit	means a permit authorising a person to park in a residential parking permit area.

7. Incorporation of Documents

(1) The following documents as made by *Council* and published from time to time on Council's website, is hereby incorporated into this Local Law:

a) the document titled the document titled *Procedure and Protocol Manual*

b) the document titled the *Parking Management Policy*

c) the document titled *Footpath Trading Guidelines*

d) the document titled *Nature Strip Guidelines*

e) the document titled *Business Parklet Guidelines*.

8. Interpretation

Introductions to Parts and Notes do not form part of this Local Law. They are provided to assist understanding.

Part 2 -
Protection of Council Land

Division 1: Drains, Sewers, and Watercourses

9. Connecting into Council drains

(1) A person must not, without a permit, destroy, damage, interfere with, excavate or tap into any drain vested in Council.

(2) For the purpose of clause (1) above, drain includes any creek, gutter, culvert, or storm water system.

10. Maintenance of stormwater pipes

(1) An owner or occupier of land must ensure that:

a) a stormwater pipe does not accumulate leaves, dirt or other matter so that it causes a Council drain to become obstructed; and

b) the stormwater pipes to the council drain are maintained.

11. Ground water management for storm water system

An owner or occupier of land must not pump ground water into Council's storm water system.

Division 2: Vehicle Crossings

12. Vehicle crossings

(1) A *permit* is required to place or construct a temporary vehicle crossing on a road or road related area.

(2) A permit is required to amend, alter, repair or maintain a permanent vehicle crossing or to install or adapt an extension to the vehicle crossing.

(3) *Council* 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*.

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

(5) *Council* 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*:

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.

(6) An owner or occupier of *land* to whom a notice in writing is given under sub-clause (3) or (5) must comply with that notice.

Division 3: Protection of Council Land

13. The location of trees, plants, and signs

(1) An owner or occupier of land must not plant, locate or allow to be located a tree, plant, sign or other object that:

a) overhangs any *footpath* or other part of the *road* used by pedestrians at a height of less than 2.5 metres; or

b) extends over any part of the *road* in a way that it:

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

d) obstructs the view between *vehicles* and pedestrians; or

e) obstructs any *Council assets* including drains; or

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

g) obscures street lighting; or

h) constitutes a danger to *vehicles* or pedestrians or compromises the safe and convenient use of the *road*.

14. Interfering with Council Assets

(1) A person must not:

a) interfere with or use *Council assets* in such a way that causes damage or detriment; or

b) any other person could be injured or suffer loss as a result of that interference or use; and

c) attach anything to the Council asset.

(2) Notwithstanding sub-clause (1), a person may:

a) plant vegetation on; or

b) otherwise modify the appearance of the nature strip immediately outside land which they occupy if such planting or modification complies with the Nature Strip Guidelines or is approved by an *authorised officer*.

15. Asset Protection Permit

The *builder* must obtain an *asset protection permit* to carry out *building works* on *land*.

16. Damage from Adjoining Properties

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

Division 4: Use of Council Reserves and Council Land

17. Behaviour on Council Land

(1) A person must not on or in Council land, a road or a footpath:

(a) create a nuisance;

(b) behave in a manner which unreasonably interferes with another person on or in the Council land, road or footpath;

c) behaves in a manner which unreasonably interferes with another person occupying premises in close proximity to the Council land, road or footpath;

d) harass any person using the Council land, a road or footpath;

e) defecate or urinate except in a toilet or urinal (as the case may be) in a public convenience;

f) act contrary to any conditions or signs that contain conditions applying to the use of the Council land, road or footpath;

g) fail to comply with a reasonable direction of an Authorised Officer or Council staff member whilst on Council land.

(2) Council may erect any sign on Council land which imposes a condition or conditions that apply to the use of Council land.

18. Use of Council Reserves

A person must not, without a *permit,* use a *Council Reserve* for the purpose of organised training or conducting organised sporting activities.

19. Outdoor Commercial Recreational Activities

(1) A person must not, without a *permit,* conduct an *outdoor commercial recreational activity* on *Council land*.

(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.

20. Commercial dog walkers

A person must not, without a permit, walk, exercise or otherwise be in control of seven (7) or more dogs on Council land.

21. Horse Riding on Council Land

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

***22.* Hot Air Balloons and Skydiving**

(1) A person must not, without a permit, take off from, or land on *Council land* in a hot air balloon.

(2) A person must not, without a permit, skydive from an aeroplane or helicopter to land on *Council land*.

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

Division 5: Roads, Public Places and Council Land – Obstructions, Behaviour & Amenity

23. Shopping Trolleys

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

a) each shopping trolley has a perimeter constraint system attached to the shopping trolley and is maintained so that the shopping trolley is prevented from leaving the land on which the premises is situated; 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.

(2) Nothing in sub-clause (a) applies to a proprietor of premises which makes less than 30 shopping trolleys available for use.

(3) 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.

(4) A person must not leave or cause to be left or authorise another person to leave a shopping trolley on any *road* or *Council land* other than in an area specifically designated for the storage of shopping trolleys.

(5) An *authorised officer* or person engaged by Council may seize and impound any shopping trolley that is being made available for use, or which is being used, in contravention of this Local Law.

(6) As soon as practicable after the impoundment of any shopping trolley an *authorised officer* must, if the identity of the person who owns the shopping trolley can be identified, serve a notice of impoundment on that person.

(7) Any impounded shopping trolley must be returned to the owner of that shopping trolley after:

a) the payment of any fees, as determined from time to time by Council, have been paid in full; and

b) evidence of ownership of the shopping trolley is provided to the satisfaction of an authorised officer.

(8) Any impounded trolley not claimed by the owner within the time specified on the notice of impoundment or within 14 days of the impounding, where the owner of the trolley cannot be ascertained, may be disposed of by an *authorised officer*.

24. Activities on a Footpath

(1) A person must not, without a *permit, place,* cause to be *placed,* or allow to be *placed,* 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;

g) heaters or other device; or

h) other equipment ancillary to a business.

(2) If an object or objects are *placed* on a footpath in contravention of clause (1) above, the occupier of the *land* adjacent to the footpath is guilty of an offence.

(3) The *permit* holder must comply with the *Footpath Trading Guidelines.*

25. Activities on a Road

(1) A person must not, without a *permit*, *place,* cause to be *placed,* or allow to be *placed*, one or more of the following objects on a *road*:

a) tables;

b) chairs;

c) umbrellas;

d) screens;

e) planter boxes;

f) goods for sale;

g) heaters or other device; or

h) other equipment ancillary to a business.

(2) If an object or objects are *placed* on a road in contravention of clause (1) above, the occupier of the *land* adjacent to the *road* is guilty of an offence.

(3) The permit holder must comply with the *Business Parklet Guidelines*.

26. 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.*

27. Consumption of liquor

(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 their possession or control any *liquor* other than *liquor* in a sealed container in that part of the municipal district designated by Council.

(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 *liquor* in a sealed container in that part of the municipal district designated by Council, except where the possession is for the transport of liquor to premises referred to in sub-clause (4).

(3) Council may designate areas for purpose of this clause.

(4) 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*.

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

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

28. Occupation of Roads

(1) A *permit* is required to occupy (whether wholly or partially) a *road* or *road related area*:

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*, travel tower, concrete pump truck or other plant or equipment 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 the placement of any building paving or other construction materials or any tools, machinery, plant or equipment; or

c) for the placement of any cool room, storage unit, or other similar thing; or

d) for any other non-road purpose which does not involve a *special event*.

(2) The requirement to obtain a *permit* does not apply if the works are carried out by a service authority in an emergency or in circumstances which are urgent.

(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 sub-clause (2) or (3) exempts a person from complying with the *Road Management Act* 2004.

29. Bulk Rubbish Containers (Skip bins)

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

(2) 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.*

30. Clothing Recycling Bins

(1) A person must not, without a *permit*, place a *clothing recycling bin* on *Council land*.

(2) A person must not place a *clothing recycling bin* on land other than *Council land*.

31. Residential parking

(1) A person who lives in an area in which a residential parking permit scheme operates may make an application to Council for a *residential parking permit or a visitor parking permit.*

(2) A person who has been allocated a *residential parking permit* or a *visitor parking permit* must not sell, hire out, lease, license or lend to another person or offer to sell, hire out, lease , license or lend that *residential parking permit* or visitor parking permit to any other person.

(3) A person must not purchase, hire lease, license or receive, or offer to purchase, hire, lease, license or receive a *residential parking permit* or *visitor parking permit* from a person who has been allocated a *residential parking permit*.

(4) The owner and occupier of land on which an advertisement is displayed for the sale, hire, offer for purchase or offer for hire of a parking permit is guilty of an offence.

(5) A person who has been allocated a *residential parking permit* must:

a) comply with any conditions of the *residential parking permit*; and

b) comply with any requirements of the *Parking Management Policy*.

32. Parking offences

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

(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*.

(3) Sub-clause (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 their authorised activities.

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

(5) Council may impound any abandoned or *unregistered vehicle* or *trailer* in a *public place* in accordance with the provisions of the Act.

Part 3 -
Street Selling, Collections, and Distributions

33. Itinerant Trading

(1) A person must not, without a *permit,* 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 or road related area;

d) Council land;

e) a property or *public place* adjacent to a *road* or a person on a *road* or *public place*; or

f) any *beach* or in foreshore waters.

(2) A person who is exempt from the requirement of a *permit*, must comply with the requirements of the *Procedure and Protocol Manual*.

34. Itinerant trading from house to house

(1) A *permit* is required to engage in *itinerant trading* from door to door.

(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 the delivery has been requested by the occupier of the house;

d) the sale of fundraising products by persons authorised by an educational, cultural or recreational facility or organisation which is established within the municipal district.

35. Special events

(1) A *permit* is required to conduct a *special event* on a *road* or *road related area* or on *Council land*.

(2) A person must not, without a *permit*, place any furniture, heater, fire pit or other item on a *road*, or *road related area* or *Council land*.

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

36. St Kilda Festival activities

(1) A *permit* is required to conduct any of the following activities in the *St Kilda precinct* on the day(s) 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 goods or services for promotional purposes.

(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(s) of the St Kilda Festival.

37. Trading Sites

(1) 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*.

(2) *Council* may designate trading areas for the purpose of this clause.

38. Filming

A *permit* is required to film on a *road, road related area* or *Council land* where the film is for commercial, public or community purposes or public exhibition.

39. Busking, Fundraising and Street Stalls

(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 -

on a *road, road related area* 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.

(3) *Council* may *designate* areas where *busking*, a fundraising activity or promotional activities or any form of street stall is permitted or is limited or prohibited for the purpose of this clause.

40. Occupying Market Sites

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

(2) 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 licence or lease.

Part 4 - Protection of the Amenity of the Municipal District

Division 1: General

41. 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.

42. 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.

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

a) are homeless or in need of secure accommodation; or

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

43. Furniture and other items on Council Land and Footpaths

(1) A person must not on a footpath or access way, place or cause to be placed any *furniture* that obstructs that footpath or accessway.

(2) Council may direct a person to remove any of the items in subclause (1).

(3) If a person fails to remove any item after being directed to do so, Council may seize any item and impound it in accordance with clause 78.

44. Audible Intruder Alarms

An owner or occupier of premises must not:

a) install or cause to be installed; or

b) retain or cause to be retained -

on those premises any audible intruder alarm which emits a noise audible beyond the boundary of the premises which contravenes or fails to comply with the operating guidelines for audible intruder alarms specified in the *Procedures and Protocols Manual*.

45. Advertising Signs

(1) A *permit* is required to place an *advertising sign* and a *community 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.

(2) Where an *advertising sign* or a *community 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.

(3) If an *advertising sign* or a *community advertising sign* is placed in breach of this clause 45:

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

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

d) the person who is responsible for the placement, siting or distribution of the *advertising sign* or *community 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 or *community advertising sign* is identified or prosecuted.

(4) Council may designate:

a) *advertising signs* or *community 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.

46. No Smoking in Smoke Free Areas

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

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

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

(4) *Council* may *designate* any area within the municipality to be a *smoke free area* for the purpose of this clause.

(5) Council may erect a sign specifying no smoking in the designated area.

47. Incinerators, fires and open air burning

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

(2) The prohibition in sub-clause (1) does not apply to a fire which is approved by a permit for a special event.

(3) 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.

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

48. Fireworks

A person must not, without a *permit*, discharge or cause or allow to be discharged any fireworks from *Council land*.

49. Heavy Vehicles

An owner or occupier of residential land must not, without a *permit*, keep or allow to be kept a *heavy vehicle* on that residential *land*.

50. Political Signs

(1) A person must not affix, erect, install or otherwise display a political sign on Council Land or a building or structure or other thing on Council Land.

(2) For the purpose of sub-clause (1) a political sign means any sign which displays, promotes or otherwise identifies a political candidate or political party.

(3) Clause (1) does not apply if the signage is authorised under this or any other law.

Division 2: Premises – Unsightly or dangerous

51. 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.

(2) An owner or occupier of land must not allow the nature strip or footpath adjacent to that land to be unsightly or occupied with furniture or other objects.

(3) For the purpose of sub-clause (2), where the land adjacent to the nature strip or footpath has one or more owners corporation, the owner of land includes those owners corporation.

(4) Without limiting sub-clause (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 building or other structure to become dilapidated or further dilapidated,

b) must take all reasonable steps to secure the building or other structure and the *land* on which it is built from unauthorised access;

c) must maintain any building or other structure 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.

(5) A person is not guilty of an offence under sub-clause (1) or (4) 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.

Division 3: Building Activity

52. Managing Amenity on Building Sites

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

(2) A *builder* must not, without a *permit*, carry out *building works* on a *building site* other than between the following hours:

a) 7.00 am to 6.00 pm Monday to Friday; and

b) 9.00 am to 5.00 pm Saturday.

(3) If persons are on a *building site* other than between the hours in subsection (2) above and activities are carried out which detrimentally affects the amenity of the area, the *builder* is guilty of an offence.

(4) A *builder* must not, without a *permit*, carry out *building works* on a *building site* on a public holiday that is a public holiday under the *Public Holidays Act* 1993.

(5) Nothing in sub-clause (2) or (3) applies if the *building works* are carried out in an emergency.

(6) If noise, dust, vibration, or other thing is emitted from a *building site* as a result of the carrying out of *building works* which detrimentally affects the amenity of the area, the *builder* is guilty of an offence.

(7) The *builder* must ensure that any *vehicle* that enters or exits a *building site*, uses a *temporary vehicle crossing*.

(8) A *permit* is required for a *temporary vehicle crossing*.

(9) The *builder* of a *building site*, must ensure that: no mud, dirt, sand, soil, stones, concrete or other matter is deposited on the *road* or is washed into the *stormwater system*; or

(10) No water from the washing of equipment, machinery or other objects leaves the land or enters the *stormwater system*.

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

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.

(12) 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 (11);

b) the *builder's refuse* is not deposited in or on any *land* other than in accordance with sub-clause (11); and

c) the *builder's refuse* is not deposited in or over any part of the *stormwater system*.

(13) 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 *builder*s' *refuse* in the *refuse facility* referred to in sub-clause (11), within seven (7) days of completion of the *construction period* or issue of an occupancy permit, whichever occurs last.

(14) The *builder* of a *building site*, must ensure that prior to any building works being carried out a tree protection barrier is erected and maintained around any Council street tree adjacent to the building site.

(15) The tree protection barrier must be temporary fencing or other like structure which prevents access to the root zone of the tree.

(16) 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 Council land, adjoining *land* or Council street tree.

(17) If *Council* identifies any damage which appears to result from non-compliance with this Local Law, Council:

a) 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

b) 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.

53. Requirement for Fencing

In addition to any requirements for managing amenity on *building sites*, *building works* or dangerous or unsightly *land* Council may issue to the owner or occupier of the *land* a Notice to Comply requiring that temporary fencing be erected on the *land*.

54. Building Works on a Dwelling

(1) In addition to the hours specified in clause 52(2), 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 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.

Division 4: Protection of Trees

55. Significant Trees

(1) A person must not, without a *permit,* on private *land*:

a) remove, destroy, damage, interfere with or kill a *significant tree;*

b) direct, authorise, or allow another person to remove, destroy, damage, interfere with or kill a significant tree.

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

a) A person who is the holder of a permit issued for the removal, destruction or lopping of the *significant tree* under the *Planning Scheme;*

b) A person whose actions are required by any other legislation or by any other statutory authority or this *Local Law*; or

c) A person acting in accordance with an instruction or direction from an authorised officer.

(3) A person must not, without a permit, remove, destroy, damage, interfere with or kill any part of a *significant tree* that overhangs the private *land* of that person.

Part 5 -
Keeping of Animals

56. Keeping excess numbers of animals

(1) An owner or occupier of *land*, must not without a *permit*, keep or allow to be kept any more of each species or group of *animals* and birds than is specified in the *Procedures and Protocols Manual*.

(2) An owner or occupier of residential, commercial, or industrial *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.

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

57. Animal Litter

(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*.

(2) The owner or person for the time being in charge of an *animal* must carry a *litter device* suitable to clean up and remove any excrement left by their *animal* and must produce that *litter device* upon request of an *authorised officer*.

Part 6 -
Waste and Sanitation

58. General Requirements Applying to Industrial, Trade and Commercial Waste

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

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

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

(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).

(3) A person who collects waste in clause (1) above must not emit noise which damages the amenity of the area.

(4) The collection of industrial, trade or commercial waste (including the collection of recyclable materials) damages the amenity of the area if the 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).

(5) The Council may designate areas for the collection of industrial, trade and commercial waste outside of the hours permitted.

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

a) not kept on a *road* or *Council land* and is 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 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.

(7) 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.

(8) 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.

59. Additional Requirements Applying Commercial Premises

(1) An owner or occupier or person in charge of *commercial premises* must not allow the use of the premises to detrimentally affect the amenity of the neighbourhood, whether through the:

a) emission of noise;

b) odour;

c) the activities conducted on the premises;

d) the appearance of the premises; or

e) any other means.

(2) An owner or occupier or person in charge of *commercial premises* must not allow the use of the premises to detrimentally affect the amenity of the neighbourhood or create a nuisance.

(3) In circumstances where Council is of the opinion that unreasonable noise has been allowed to emanate from *commercial premises*, the *Council* 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.

(4) An owner, occupier or person in charge of *commercial premises* to whom a request is made in writing under sub-clause (3) must comply with that request.

(5) An owner, occupier or the person in charge of *commercial premises* must ensure compliance with the Amenity Management Plan that is approved by Council.

(6) The owner, occupier or person in charge of *commercial premises* must not, without a *permit*, store or allow to be stored any bin, hopper or trade waste bin on a *road*, *road related area* or *Council land*.

(7) The owner, occupier or person in charge of commercial premises, must if required by Council, submit a Waste Management Plan (incorporating adequate waste management arrangements) to *Council* for approval.

(8) The owner, occupier or person in charge must comply with a Waste Management Plan approved by Council..

(9) 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.

(10) 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.

(11) 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).

60. Domestic waste and recyclable materials

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

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 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 premises in a manner which causes no nuisance to neighbours or kept on the premises for recycling in accordance with a *Council* sponsored recycling program.

(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.

(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.

(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.

(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.

(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.

Part 7 - Protection of Amenity and Safety of Foreshore Areas

61. 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.

(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) A person must not launch from or come onto a beach or foreshore with a *personal watercraft* or hydrofoil vessel other than in an area designated area.

(4) The registered owner of any *personal watercraft* which is on the beach or foreshore other than in a designated area is guilty of an offence.

(5) *Council* may *designate* areas within which *personal watercraft* and hydrofoils may be launched or transferred from *foreshore waters* to land.

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

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:

a) hazard; or

b) danger -

to any person on the *beach*.

63. 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 designated by Council; and

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

(3) Council may designate areas prohibiting the taking of any glass container, bottle receptacle, vessel or like product for the purpose of this clause.

64. Inflatable Displays on Foreshore or Beaches

A person must not, without a *permit,* place or allow to remain on the *foreshore* or a *beach* any inflatable sign, inflatable display, inflatable banner, inflatable gantry, inflatable amusement devices or other inflatable object.

Part 8 - Administration and Enforcement

Division 1: Permits, Fees and Delegations

65. Applying for a permit

(1) A person may apply for a *permit* 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) Wherever in this Local Law a *permit* is required, *Council* may:

a) grant the *permit*;

b) refuse to grant the *permit*;

c) grant the *permit* subject to conditions; or

d) determine that no *permit* is required.

(3) *Council* may require the application to provide additional information before an application for a *permit* or for an exemption for a *permit* will be considered.

(4) *Council* may require a person making an application to give public notice of the application which will entitle a person to make a submission in relation to the application for a *permit*.

(5) A *permit* will be in the form approved by *Council* from time to time and may include any condition which *Council* considers to be reasonable and appropriate, including:

a) requirement that a security bond, release, indemnity and/or guarantee (in a form specified) be lodged with or given to *Council* to secure the proper performance of the *permit*;

b) a requirement that notice be given to *Council* as to when the activities or use authorised by the *permit* will be carried out or will occur;

c) a time limit on the *permit* or on the activities authorised by it;

d) provision for extension of the *permit*;

e) the payment of a fee or charge;

f) a standard to be applied;

g) that the *permit* is conditional on the happening of a certain event or prerequisite;

h) that the *permit* is conditional upon the rectification, remedying or restoration of any situation or circumstance;

i) any condition required in an incorporated document; or

j) where the applicant is not the *owner* of the relevant premises, that the consent of the *owner* be obtained.

(6) Unless otherwise stated in the *permit*, a *permit*:

a) (authorises only the person or persons named on the **permit** to carry out the activity authorised by the *permit*, including by engaging contractors or appointing agents; and

b) is not transferable.

66. Fees and Charges

(1) *Council* may, from time to time, by resolution determine a fee, charge, fare or rent in relation to any property, undertaking, good, service or other act, matter or thing.

(2) *Council* may impose:

a) specific fees;

b) maximum or minimum fees;

c) maximum and minimum fees;

d) (scales of fees according to the value of goods or services provided for the fees or the project being assessed;

e) the payment of fees either generally or under specified conditions or in specified circumstances; and

f) the reduction, waiver or refund in whole or in part of the fee.

(3) *Council* may in relation to a fee, reduce, waive or refund in whole or in part:

a) subject to specified conditions or in the discretion of any specified person or body;

b) either generally or specifically –

I. in respect of certain matters or transactions or classes of matters or transactions; or
II. in respect of certain documents or classes of documents; or
III. when an event happens; or
IV. in respect of certain persons or classes of persons; or
V. in respect of any combination of matters, transactions, documents, events or persons.

(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, 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.

(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 amendment the *permit*.

67. Cancellation of permit

(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*;

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

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

(4) in the circumstances, the *permit* should be cancelled.

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

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

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

(8) 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 to Comply and of the reason why it has been served.

68. Correction of permits

(1) *Council* may correct a permit in relation to:

a) an unintentional error or an omission; or

(2) an evident material miscalculation or an evident material mistake of description of a person, thing or property.

(3) 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*.

(4) 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.

69. Registers

(1) *Council* must maintain a record of *permits*, including details of corrections and cancellations.

(2) *Council* must maintain a record of determinations made and of guidelines or procedures prepared for the purposes of this Local Law.

70. 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, *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*;

(3) whether the grant of the exemption would be consistent with the purposes of this Local Law;

(4) any benefits or detriments that might arise from the grant of the exemption; and

(5) any other relevant matter.

(6) An exemption may be granted subject to conditions.

(7) A person must comply with the conditions of an exemption.

(8) An exemption may be amended, cancelled or corrected as if it were a *permit*.

71. 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.

72. Delegations

(1) In accordance with section 78 of the *Local Government Act 2020*:

a) *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 *Council*; and

b) Council hereby delegates to the Chief Executive Officer any and all powers of Council specified in the Local Law; and

c) Council hereby authorises the Chief Executive Officer to delegate a power referred to in paragraph (b) above to a member of Council staff who is the holder of an office or position of Council.

Division 2: Enforcement

73. 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.

74. Power of authorised officer

An *authorised officer* may, on behalf of Council, issue a warning, a Notice to 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.

75. Notices to comply

(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; and

c) any actions to be taken to remedy any consequences of the breach of the Local Law.

(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.

76. 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.

77. Power of authorised officer 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

(2) 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.

(3) 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 of sufferance the situation has arisen; or

II. the owner or the occupier of the premises or property affected; and

III. whether there is an urgent risk or threat to public health, public safety, the environment or *animal* welfare.

(4) 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.

(5) 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.

78. Power of authorised officer 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, 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 they do not intend to retrieve them, *Council* may dispose of them by the method identified in either sub-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 they are 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.

79. Infringement Notices

(1) 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 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.

80. Offences generally and failure to comply with permit conditions

(1) A person who contravenes or fails to comply with this Local Law is guilty of an offence.

(2) A person who is issued a *permit* and contravenes or fails to comply with a condition of that *permit* is guilty of an offence.

81. Penalties

(1) A person who fails to comply with or contravenes this local law is liable to a penalty not exceeding 20 penalty units.

(2) A person who continues to commit the same offence against the Local Law after a finding of guilt or conviction for a contravention of this Local Law is liable to a penalty not exceeding 2 penalty units for each day after the finding of guilt or conviction.

(3) A person who commits a subsequent contravention of the Local Law is liable to a penalty not exceeding 20 penalty units.

Schedule 1

Clause	Offence	Penalty Units
9	Connecting into Council drains	5
10	Failure to maintain stormwater pipes	5
11	Pump ground water into storm water system	5
12	Vehicle crossing constructed, altered without permission Fail to comply with direction Access land other than via a vehicle crossing	5 5 2
13	Tree, plant, sign or other object obstructing road	5
14	Interfere with Council asset	5
15	Fail to obtain an asset protection permit	5
16	Council land damaged from adjoining land	5
17	Behaviour on Council Land	1.5
18	Use of Council reserve	5
19	Outdoor commercial recreation activities without a permit/fail to produce a permit	5
20	Commercial dog walker without a permit	2.5
22	Hot air balloon and skydiving without a permit	5
23	Shopping trolleys	2.5
24 25	Footpath activities without a permit Road activities without a permit	5 5
26	Repair vehicle on a road	5
27 (1)(2)	Consumption of liquor/possess liquor	1
28	Occupation of a road without a permit	5
29	Bulk rubbish container without a permit	1.5
30	Clothing recycling bin without a permit	5
31(2)-(4)	Residential parking permits/failure to comply	2.5
32	Parking offences	2
33	Itinerant trading	2.5
34	Itinerant trading house to house	5
35(1)(2)	Special event without a permit	2.5
36	St Kilda festival without a permit	5
37	Trading sites	5
38	Filming without a permit	5
39	Busking, fundraising and street stalls	1
40	Occupying market sites without a permit	2
41	Failing to adequately display property numbers	2
42	Camping on council land	2
43	Furniture on council land	2
44	Audible intruder alarm	1

Clause	Offence	Penalty Units
45	Advertising sign without a permit	2
46	Smoking in no smoking area	2
47	Incinerators, fires and open air burning	1
48	Fireworks without a permit	1
49	Heavy vehicle on residential land	5
50	Political signs on Council land	5
51	Dangerous or unsightly land Dilapidated building	5 5
52	Fail to comply with building site requirements	5
53	Failure to comply with fencing requirement	2
54	Building works on a dwelling	5
55	Significant tree	5
56	Excess animals/fail to comply with requirements	2
57	Animal litter/fail to produce device	2
58	Failure to comply with sanitation requirements	5
59	Failure to comply with commercial sanitation requirements	5
60	Failure to comply with domestic waste requirements	1
61	Use of boats or other *personal watercraft* contrary to Local Law	2
62	Glass on a beach	1
63	Glass in glass free area	1
64	Inflatable display on foreshore without permit	5
65	Making false representation or omission of relevant information in application for a *permit* or exemption	2.5
73	Failing to comply with directions	5
76	Failing to comply with a Notice to Comply	5
80(2)	Fail to comply with a permit condition	5

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