

7.11 Sunset Review Amenity Local Law

Abstract

The Amenity Local Law is one of six Local Laws created by Council under the *Local Government Act 1989*. The purpose of the Amenity Local Law is to protect amenity, community safety and the local environment. The Amenity Local Law 2009 is due to sunset on 25 December 2019, necessitating a comprehensive review to inform its update and renewal.

The objectives of the review are:

- To explore feedback and the experiences of key stakeholders including the community and officers from Local Laws and other relevant departments in relation to the relevance, utility, clarity and enforceability of the Amenity Local Law; and
- To apply a best practice approach throughout the review process, including compliance with the *Local Government Act 1989* and other relevant legislation.

This report is brought to Council to consider adoption of the updated draft Amenity Local Law 2019 (**Attachment 1**). In accordance with section 119 of the *Local Government Act 1989*, the draft Amenity Local Law 2019 (**Attachment 2**) was publicly exhibited from 27 September to 24 October 2019. There were twenty-six (26) submissions received during this period which were presented to the Services Special Committee meeting on 11 November 2019. Of these submissions there were fourteen (14) submitters who presented to the Committee, however one (1) presenter did not formally present but instead expressed his views had been accurately represented by previous speakers.

The key issues raised by submitters to the proposed draft Amenity Local Law 2019, including consideration for (12) late submissions, are discussed within the report and can be summarised as follows:

1. The risk of undue regulation of filming and photography, especially for amateur filmmakers and photographers and those using drones for photography purposes;
2. Potential duplication of existing regulations for both 'model Aircraft' and 'drone' flying (enforced by the Civil Aviation Safety Authority - CASA);
3. Concern the regulation of advertising may restrict civil, political and religious discourse and freedoms, introducing potential issues in respect of the Human Rights Charter;
4. Concern regarding the potential health and environmental risk posed by smoke pollution should open air burning be permitted for heating purposes;
5. Concern the restriction placed on where a person may ride and/or park their bicycle is overly prohibitive, particularly for those learning to ride and a potential disincentive to families and children to be active through bike riding;
6. Concern regarding soil and sediment spilling onto footpaths;
7. Concern regarding the current controls for unsightly land and building rubble on footpaths adjoining building sites preventing pedestrian access;
8. Clause 25 - Behaviour Generally - specifically whether clause 25.1.4. as it relates to golf can be deleted due to the general provision controlling behaviour provided in Clause 25.1.1;

9. Concern the draft Amenity Local Law prohibits the free exercise of religion by requiring a permit for lit fires associated with cultural and religious ceremonies; and
10. The need to ensure the broadened impounding provision in 18.1. includes 'shopping trolleys'.

As a result of feedback received by the community, a number of clauses were further considered by officers, resulting in amendments to the draft publicly exhibited Amenity Local Law 2019. These amendments are shown in (**Attachment 3**) with tracked changes.

The amendments are discussed in the report and are summarised as follows:

- Amendments to clause 27.4 and 27.5 and inclusion of definitions for 'spruik' and 'commercial purposes' have been provided to enable community groups to communicate and sell goods for non-commercial purposes;
- Removal of permit controls relating to the handing out of advertising material (e.g flyers), through the deletion of Clause 28.2;
- To ensure there is no duplication of CASA controls, Clause 39 - Model aircraft including the supporting definition 'model aircraft' is deleted;
- The creation of an exemption for bicycles to be parked in an area that is not set aside for vehicle parking, provided it is done in a manner so as not to cause an obstruction;
- An exemption introduced to allow children and novice riders to ride on grassed areas in open space for the purposes of learning to ride;
- An amendment to the wording of Clause 33 removing the requirement to obtain a permit for filming or photography, where the occupation of Council-controlled land or road does not exceed 10 sqm, provided in doing so there will be no obstruction or hazard caused, or is part of a news crew engaged in reporting on news;
- In clause 44.1 - Open air burning, the word 'Health' has been replaced with 'Safety' to ensure no duplication or inconsistency with the *Public Health and Wellbeing Act 2008*, which is the substantive legislation dealing with nuisance and health matters;
- Minor amendment to Clause 18.1. to ensure the impounding of 'any item' captures items such as 'shopping trolleys' by including the words 'placed or left'; and
- Introduction of an exemption for lit fires for religious/cultural purposes.

As a result of these amendments and the deleted clause 39, all clauses that follow Clause 39 have been amended (e.g. Clause 40 will now become 39, Clause 41 will become 40 and so on).

In summary, the report presents the key issues raised during the community consultation period (including 12 late submissions) and other amendments to the draft Amenity Local Law 2019 to improve its clarity, utility, relevance, fairness and enforceability. Officers recommend adoption of the draft Local Law.

Officers' recommendation

That Council resolve to:

1. Adopt the draft Amenity Local Law 2019 as contained in **Attachment 1** of this report.
2. Thank submitters for their feedback on the proposed draft Amenity Local Law 2019.

**Responsible director: Shiran Wickramasinghe
City Planning**

1. Purpose

The purpose of this report is to present the draft Amenity Local Law 2019 to Council for consideration and adoption (**Attachment 1**). The updated draft Amenity Local Law 2019 presents amendments which reflect consideration of community feedback received and is designed to improve its clarity, utility, relevance, fairness and enforceability.

2. Policy implications and relevance to community plan and council plan

Council is committed to the maintenance of services, public areas, safety, amenity and the local environment. This commitment is demonstrated through the objectives of the proposed Amenity Local Law 2019. There is clear alignment between the purpose of the Amenity Local Law and the following strategic objectives of the Boroondara Community Plan:

Strategic Objective 1: Community Services and facilities are high quality, inclusive and meet a variety of needs now and into the future.

Strategy 1.6: Create and maintain public areas, facilities, amenities, footpaths and spaces that are inviting, clean and appropriately lit to increase social connection and improve perceptions of safety.

Strategy 1.10: Develop a strategic response to improving the safety of public places, Council's facilities and events and take action as required to help protect community participation.

Strategic Objective 4: Protect the heritage and respect the character of the City to maintain amenity and liveability, whilst recognising the need for appropriate, well-designed development for future generations.

Strategy 4.6: Engage with owners and developers to achieve a balance between development and protection of neighbourhood characters, heritage and amenity.

Strategic Objective 6: A vibrant local economy and shops that are accessible, attractive and a centre of community life.

Strategy 6.1: Improve and upgrade the amenity, accessibility and unique sense of place of shopping strip infrastructure and streetscapes to increase activation of local shopping areas.

3. Background

Under Section 111(1) of the *Local Government Act 1989*, Council may make local laws for or with respect to any act, matter or thing in respect of which the Council has a function or power under this or any other Act.

Council currently has in force six local laws, comprising:

- Protection of Council Assets and Control of Building Sites Local Law, which commenced operation on 1 September 2011;

- Tree Protection Local Law, which commenced operation on 26 November 2016;
- Meeting Procedure Local Law, which commenced operation on 7 April 2017;
- Amenity Local Law, which came into operation on 25 December 2009;
- Street Numbering Local Law, which came into operation on 6 August 2010; and
- Smoke-free Areas Local Law, which commenced operation on 28 August 2012.

The Amenity Local Law 2009 is due to sunset on 25 December 2019, necessitating this review to inform its renewal. As a result, a comprehensive review has been undertaken resulting in the proposed draft Amenity Local Law 2019.

The review looked to examine gaps, issues, challenges and opportunities, in addition to achieving improved drafting for the purpose of clarity in the application of the Local Law. The review was framed by best practice principles in the making of local laws (Local Government Victoria Guidelines for Local Laws Manual, 2010). Specifically, the review sought to understand the extent to which the Amenity Local Law meets standards of consistency, accessibility, transparency, efficiency, currency and enforceability. Furthermore, a key consideration related to the compatibility of the Local Law with national competition principles and human rights as described in the Victorian Charter for Human Rights and Responsibilities.

Importantly, there should also be no duplication or conflict with existing legislation. The specific objectives of the review were:

- To explore feedback and the experiences of key stakeholders including the community and officers from Local Laws and other relevant departments in relation to the relevance, utility, clarity and enforceability of the Amenity Local Law; and
- To apply a best practice approach throughout the review process, including compliance with the *Local Government Act* 1989 and other relevant legislation.

The review has been conducted with a staged approach, commencing with a comprehensive administrative review. There have been two rounds of internal consultation at either end of the process. The first round of consultations sought feedback on issues identified by different departments and how the local law could be improved to achieve its objectives and better support customer experience. The second and final round of internal consultation sought to validate and further understand these issues within a context of existing legislation and other available controls.

The review also responds to the needs of the community, as informed through service requests, customer interactions with officers when conducting infield duties (such as park patrols) and feedback gained through engagement opportunities. Other key stakeholders including local laws officers have been regularly consulted throughout the process of the review in order to understand any implementation issues/challenges/opportunities relevant to the Amenity Local Law and its enforcement.

Benchmarking with the local laws of other councils, including the City of Stonnington, City of Yarra and City of Port Phillip was undertaken during the review to compare approaches to regulation (the extent of use of permit approvals) and penalties for infringements.

The community was invited to make written submissions on the proposed draft Amenity Local Law 2019 from 27 September to 24 October 2019. A total of twenty-six (26) written submissions were received during the public consultation. In addition, twelve (12) late submissions were received between 10 and 21 November 2019.

In response to community feedback, officers considered a number of amendments to the draft Amenity Local Law 2019 and presented the results from the consultation process to the Services Special Committee meeting of Council on 11 November 2019. Thirteen (13) members of the community presented reiterating their written submissions, with a fourteenth presenter choosing not to formally address the Committee.

Eleven (11) presenters opposed with two (2) in favour of the proposed draft Amenity Local Law 2019. In addition, twelve (12) late submissions received following the close of public consultation are also included in the overall consideration of the proposed draft Amenity Local Law 2019.

The Special Services Committee resolved to refer the proposed draft Amenity Local Law to Council on 9 December 2019 for determination.

4. Outline of key issues/options

The issues presented to the Special Services Committee held on 11 November 2019, including the twelve (12) late submissions received prompted further consideration and response by officers of the following clauses:

- **Clause 27** - Trading Activities (specifically Clause 27.5. with linked reference also made to Clause 6 – definitions and Clause 8 - permits);
- **Clause 28** - Appeals and Collections (specifically Clause 28.2.);
- **Clause 33** - Filming and Photography on Council Land;
- **Clause 35** - Use of Vehicles on Council-controlled land, as it relates to bicycles (specifically Clauses 35.1.2.and 35.1.3.);
- **Clause 39** - Model Aircraft (drones);
- **Clause 43** - Dangerous and Unightly Land and Nuisances (specifically Clause 43.3.); and
- **Clause 44** - Open Air Burning (specifically Clause 44.2.).

In addition, following the Services Special Committee meeting held on 11 November 2019, a number of other issues were raised regarding the following clauses;

- **Clause 18** – Impounding - (specifically 18.1.);
- **Clause 25** - Behaviour Generally - (specifically 25.1.1. relating to Golf)
- **Clause 27** – Trading Activities (specifically 27.4.)

The key issues are summarised as follows and discussed below:

1. The risk of undue regulation of filming and photography, especially for amateur filmmakers and photographers and those using drones for photography purposes;
2. Potential duplication of existing regulations for drone flying (enforced by the Civil Aviation Safety Authority - CASA);
3. Concern the regulation of advertising may restrict civil, political and religious discourse and freedoms, introducing potential issues in respect of the Human Rights Charter;
4. Concern regarding the potential health and environmental risk posed by smoke pollution should open air burning be permitted for heating purposes;
5. Concern the restriction placed on where a person may ride and/or 'park' their bicycle is overly prohibitive, particularly for those learning to ride and a potential disincentive to families and children to be active through bike riding;
6. Concern regarding soil and sediment spilling onto footpaths;
7. Concern regarding the current controls for unsightly land and building rubble on footpaths adjoining building sites preventing pedestrian access;
8. Clause 25 - Behaviour Generally - specifically whether clause 25.1.4. as it relates to golf can be deleted due to the general provision controlling behaviour provided in Clause 25.1.1;
9. Concern the draft Amenity Local Law prohibits the free exercise of religion by requiring a permit for lit fires associated with cultural and religious ceremonies; and
10. The need to ensure the broadened impounding provision in 18.1. includes 'shopping trolleys'.

4.1. Filming and Photography on Council-controlled land

The introduction of the Clause does not establish any new requirements that are not already in place. Moreover, it gives specific visibility of controls relating to filming and photography in the Amenity Local Law 2019. Council has always required permits for any filming or commercial photography where items are placed on or there is exclusive occupation of Council-controlled land. Permits to occupy Council controlled land are issued for these purposes (in accordance with the requirements set out under Clause 33 of the existing Amenity Local Law 2009).

Community feedback raised concern regarding the over-regulation of filming and photography particularly with respect to amateur filmmakers and photographers.

Four (4) community members presented to the Committee opposed to the recommendations for filming and photography with two (2) in favour. It should be noted one presenter who spoke against the recommendations, later acknowledged to the Committee their support for the introduction of an exemption for tripods and the removal for the regulation of drones as it relates to photography.

The intention has not been to unduly regulate filming and photography, rather to capture circumstances of commercial filming and photography and/or those instances where equipment may cause a potential obstruction. Council's approach to filming is in step with other like councils and complies with the *Filming Approvals Act 2014*.

Nonetheless, the review process and the feedback received through the community consultation has given officers the opportunity to further consider a best practice approach to the regulation of this type of activity.

In line with Council's commitment to maintaining community participation in hobbies, arts and culture, officers are of the view a more balanced approach can be achieved. Revised wording is proposed to ensure the requirement for a permit is only triggered where the occupation of Council controlled land or road exceeds 10sqm or will impact community safety and amenity through obstructions or hazards caused to any person. In other words, the intent is to avoid capturing those circumstances where risk is negligible.

Through the review it was also identified the unintended consequence of capturing news crews reporting on news. Officers consider it unlikely a news crew would have the ability to plan such activity when reporting on extreme events (e.g. fires, accidents) to the community. Therefore an exemption from the requirement to obtain a permit is introduced for news crews engaged in reporting on news.

Further, to assist filmmakers and photographers to understand Council requirements, guidelines and a checklist will be developed and available via Council's website.

4.2. Model Aircraft and Drones

The proposal to introduce a requirement for a permit to fly Model Aircraft on, over or above Council-controlled land was based on the need to ensure such devices would not cause danger to, or unreasonably interfere with a person's use and enjoyment of Council land, or adversely impact amenity.

In response to community feedback received through public consultation, officers have reconsidered the requirement to regulate model aircraft including drones on the basis CASA regulates drones and other model aircraft including model aeroplanes.

While officers still note model planes can vary in size and weight and carry risk, it has been confirmed with CASA current controls address safety requirements and are enforced. Councils' lawyers confirm there is a conceivable risk any attempt at regulating model aircraft will render Local Law controls indirectly inconsistent with the existing Federal legislation administered by CASA which also regulates this activity. Therefore, officers have removed Clause 39, including the supporting definition 'model aircraft'.

As a result of the deleted Clause 39, all clauses that follow Clause 39 have been amended (e.g. Clause 40 will now become 39, Clause 41 will become 40 and so on).

4.3. Advertising signs

Clauses 27 and 28 relate to Trading Activities and Appeals and Collections on Council-controlled land or a road and are designed to control:

- the placement of advertising signs and associated items;
- the selling of goods and services;
- collections and the soliciting of custom;
- the distribution of advertising and / or promotional material; and
- Spruiking for commercial purposes.

Five (5) submitters presented to the Committee reiterating their written submissions concerning provisions relating to Trading Activities (Clause 27) and Appeals and Collections (Clause 28). The potential for the regulation of advertising, publicity materials and spruiking or promotional activities (as they relate to these Clauses) to restrict civil, political and religious discourse was raised. Specifically, concerns related to the implications of the provisions for the way local sporting, church-affiliated and other community-based organisations communicate and promote their messages to the community. These concerns were mirrored in nine (9) out of the twelve (12) late submissions.

The submitter suggested amendments to the definition of 'advertising sign' and to clauses 27.4 and 27.5. More specifically, they sought to allow community groups the right to communicate by door knocking private properties and spruiking on Council controlled land or roads without the need to obtain a permit. They also suggested a definition for the terms 'spruik' and 'solicit custom' to complement the certainty of such a change.

In response, officers do not support amending the definition for 'advertising sign' as proposed by the submitter. If amended, it would allow for signage to be displayed without restrictions. The submitters inclusion of the words "or other similar device itself" changes the definition to allow the excluded signs to be displayed when not attached to a vehicle or trailer.

In order to support community groups to communicate and sell goods for non-commercial purposes, officers propose to amend Clauses 27.4 and 27.5. by adding the words 'for commercial purposes' which is defined to mean 'something done directly or indirectly in connection with any business, or other undertaking intended for profit.'

Officers also recommend deletion of clause 27.4.2 to avoid any unintended consequences of capturing activities related to community based organisations. However the words 'seek subscriptions' has been inserted into the retained clause 27.4.1 to ensure commercial soliciting for subscriptions still requires a permit.

In support of clause 27.4 and 27.5 officers also propose to include a definition for 'spruik' to mean 'haranguing or addressing members of the public (whether directly or by the use of pre-recorded speech or messages) to encourage members of the public to enter commercial premises, purchase goods or both.' A definition was not provided for 'solicit custom' as it was not considered to provide any benefit to the provisions.

Amendments were also sought to allow community groups to hand out printed material without the need for a permit. In reviewing the submissions, officers have supported removal of clause 28.2.

Further, officers confirm none of these provisions breach the Charter of Human Rights. This is also the case with respect to those activities requiring a permit. Clause 8 - Permits, provides appropriate provisions on the administration of permits. Permit requirements do not prevent the activity, they seek to ensure the activities are conducted in accordance with conditions designed to protect community safety and amenity.

4.4. Open air burning

The existing Amenity Local Law 2009 only allows for open air burning for the purposes of cooking on a purpose-built device. The review has considered the need to recognise and accommodate the increasingly common use of devices such as braziers, chimineas, fire pits and pizza ovens for cooking and/or heating purposes. In addition, a late submission received gave rise to further consider exemptions for lit fires where it relates to religious and cultural practices. These issues are addressed separately below:

4.4.1. Open air burning for heating - health impact

A single submission received and presented to the Committee cautions against the permitting of open air burning for cooking and heating purposes, given the established health risks associated with smoke.

The Local Laws department has received requests to enable lit fires in the open air for heating purposes. The proposed Local Law specifies a range of devices that can be used to contain fires for heating purposes. It is noteworthy there is currently no prohibition for the use of fireplaces within dwellings.

Clause 44.1 as currently written in the draft Amenity Local Law 2019, prevents burning of any substance that endangers the *health* of any person or animal. This wording directly relates to causing a 'nuisance' under the *Public Health and Wellbeing Act 2008* which is the substantive legislation specifically regulating such matters. Further it is noteworthy the *Environment Protection Act 1970* controls environmental risks arising from open air burning.

It is considered inappropriate for the Local Law to attempt to encroach on the matters covered by that legislation and any provisions purporting to do so would likely be inconsistent and therefore inoperative. Therefore, officers propose to replace the word "health" with the word '*safety*' to satisfy this issue.

Subject to the abovementioned change officers support retention of the clauses allowing for open air burning for cooking and heating in purpose built devices.

4.4.2. Lit fires for religious/cultural purposes

Consideration was given to one late submission received concerning the lighting of a fire in the open air for religious and cultural practices. Officers, support the opportunity to allow for a broader range of circumstances such as the use of devices for cooking and heating and lighting of a fire where it forms part of a religious and cultural ceremony. The inclusion of a specific exemption for religious and cultural ceremonies will ensure the Local Law is not unduly incompatible with individual rights of cultural and religious expression.

4.5. Bicycles on Council-controlled land

Considerable concern was raised through the public consultation in relation to Clause 35.1. and the potential disincentive it may create for families and children to be active through bike riding.

One (1), submitter reiterated their written submission, opposing officers' recommendation for these provisions, in particular 35.1.2. 'riding on a formed path' and 35.1.3 stopping or parking a bicycle. The presenter suggested the provisions are overly restrictive in both cases.

Clause 35.1.2. is not designed to capture the circumstances whereby a cyclist may need to momentarily depart from a 'formed path' for practical reasons. In such circumstances, it is expected officers would apply 'reasonableness' by relying on the basic intent of the provision.

With that said, officers support the introduction of an exemption for children and novice riders to ride on grassed areas in open space for the purposes of learning to ride. This is conditional on the rider not interfering with another person's use or enjoyment of Council controlled land as provided in clause 35.2.3 of the draft Amenity Local Law 2019.

The purpose of clause 35.1.3. is to prevent vehicles from causing obstructions or creating a risk to others by stopping or parking in places that are not specifically designed for that purpose.

In order to achieve a more reasonable and practical application of this clause for bicycles, the draft Amenity Local Law 2019 provides an exemption for bicycles to stop and park, through the introduction of clause 35.2.2. provided no obstruction is caused. Officers believe the exemption addresses the concerns raised by the presenter and the community.

It was also suggested by the submitter that Council should adopt the City of Stonnington model and treat bicycles separately to other vehicles. Officers do not see a benefit to be gained by creating separate clauses for bicycles and other types of vehicles. The intent is to regulate various types of vehicles when travelling on Council-controlled land. Officers are satisfied the structure allows the clause to operate effectively.

Community education messages will be developed to support the implementation of this provision.

4.6. Dangerous and Unsightly Land and Nuisances

Two (2) submissions presented to the committee, raised concern with respect to the provisions relating to Dangerous and Unsightly Land and Nuisance. These matters are addressed separately below.

4.6.1 Soil and Sediment

Through the review officers identified the need to introduce a new provision under Dangerous and Unsightly Land and Nuisances to prevent the movement of soil and sediment from any land onto adjacent roads.

One presenter suggested the need to ensure this provision captures footpaths. In response, Officers do not believe it is necessary to include 'footpath' in clause 43.3. The draft Amenity Local Law 2019 includes 'road' as defined in the *Local Government Act 1989* which includes a footpath. Therefore no change is required.

4.6.2. Unsightly Land

Concerns were raised by one (1) presenter regarding the management of unsightly land. In particular, the resolution to an unsightly property containing rubbish and long grass taking 12 months. Another example of building rubble on footpaths adjoining building sites preventing pedestrian access was also raised.

Officers are of the view the relevant provisions of the draft Amenity Local Law 2019 provide appropriate and effective controls to remedy issues of this nature. Absentee owners and multiple changes in property ownership hindered resolution of the matter raised by the submitter in a timely manner.

In response, to the issue of building rubble, the Protection of Council Assets and Control of Building Sites Local Law 2011 is specifically designed to address matters associated with building sites. Officers believe a change is not necessary to the proposed draft Amenity Local Law 2019 provisions.

4.7. Other

As a result of further review of the draft Amenity Local Law 2019, a number of other issues were identified and are responded to below;

4.7.1 Behaviour Generally - Golf

The submitter questions whether Clause 25.1.4, prohibiting golf on Council controlled land, could be deleted due to the general provision controlling behaviour in clause 25.1.1

Golf involves the swinging of metal clubs, which propel golf balls at high speeds. If you're in the way of either the clubs or the balls, there is a level of exposure to danger. Council has received some reports raising concern about open space being used for golf practice.

Officers support the retention of clause 25.1.4 as it provides clear visibility of the controls for this activity to users of Council open space. It is considered the practice of golf in public open space imposes an unacceptable risk to the community. Further, the playing and practice of golf typically causes damage (divots) to playing surfaces.

4.7.2. Impounding clause to include 'Shopping Trolleys'

The proposed local law introduces an amendment to the impound Clause 18.1 allowing 'any thing' to be impounded if in contravention of the proposed draft Amenity Local Law 2019. A submitter has questioned whether the clause still captures items such as 'shopping trolleys'. To ensure clause 18.1 provides the appropriate clarity, officers support an amendment to the clause by adding the words 'placed or left'. This amendment provides clarity to the meaning of 'any item' to include 'shopping trolley' or other items that may be placed or left.

4.7.3. Amendments to Schedule 1 'Penalty table'

Benchmarking with other councils was undertaken in relation to the way in which Court penalties and infringement penalties are set for various provisions. It was identified that several Councils have adopted a penalty schedule model, rather than setting out the penalty values separately under each clause. The penalty schedule represents a list of the offences and the respective penalty values set for each. It was decided for the purpose of clarity and improved readability, to adopt this approach into the draft Amenity Local Law 2019.

Since the changes made to the draft Amenity Local Law 2019 after the Services Special Committee meeting 11 November it has been necessary to amend Schedule 1 (Penalty Table) to align with those changes.

5. Consultation/communication

From September 27 2019 to October 24 2019 and in accordance with Section 119 of the *Local Government Act* 1989, the opportunity was provided to the public to make written submissions on the proposed Amenity Local Law 2019. During the consultation period a total of twenty-six (26) written submissions were received including consideration for twelve (12) late submissions received following close of the consultation period.

A range of internal departments across Council have been consulted during the review, including Local Laws, Economic Development, Building Services, Parks and Infrastructure Services, Asset Management, Legal Services, Customer Service, Statutory Planning, Health, Active Ageing and Disability Services, Traffic and Transport, Environment and Sustainable Living and Governance.

In the event Council adopts the draft Amenity Local Law 2019, Notice will be published in the Government Gazette and the newspaper. In addition, a copy of the Amenity Local Law 2019 will be sent to the relevant Government Minister.

6. Financial and resource implications

There are no foreseeable financial and resource implications arising from this report. Should the Amenity Local Law 2019 be adopted by Council, any costs associated with the implementation of the Local Law would be met through the Local Laws Department operating budget.

7. Governance issues

The officers responsible for this report have no direct or indirect interests requiring disclosure.

No issues emerge from this matter in respect to the Human Rights Charter.

8. Social and environmental issues

The purpose of the Amenity Local Law 2019 is to protect amenity, community safety and the local environment. A number of issues were raised during the consultation period which may have social and environmental impacts.

In response, officers have given further consideration to these issues and propose changes to ensure the best application and outcomes of the Amenity Local Law 2019.

9. Evaluation and review

The making of local laws should be conceptualised as a cyclic process reflecting a quality improvement process of implementation and review. The periodic review of a Local Law ensures its ongoing relevance and appropriateness for the community and Council. Therefore, whilst the draft Amenity Local Law 2019 is not due to sunset until 2029, its implementation will be monitored and reviewed periodically over the next ten years in response to emerging issues and community needs and expectations. This may result in amendments in order to introduce new clauses and/or the deletion of clauses which have ceased to have relevance and impact.

10. Conclusion

The purpose of the Amenity Local Law 2019 is to protect amenity, community safety and the local environment. A number of issues were raised during the consultation period which may have social and environmental impacts. In response, officers have given further consideration to these issues and make suggestions for changes to ensure the best application and outcomes of the Amenity Local Law 2019.

In addition, the identified changes are designed to respond to feedback and to improve clarity, utility, relevance, fairness and enforceability of the proposed Local Law 2019.

Manager: Michael Somerville, Local Laws

Report officer: Louise Parzatka, Acting Coordinator Local Laws Projects and Strategy



CITY OF BOROONDARA
AMENITY LOCAL LAW

Date Resolved By Council: [] 2019

Commencement Date: 26 December 2019

Revocation Date: 26 December 2029

Responsible Directorate: Chief Executive Office

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PART A – PRELIMINARY
1. Local Law

- 1.1. This Local Law is called the 'Boroondara City Council Amenity Local Law' and is made under Part 5 of the *Local Government Act 1989*.

2. Objectives

This objectives of this Local Law are to provide for:

- 2.1. the peace, order and good government of the **municipality**;
- 2.2. a safe and healthy environment so that the community can enjoy a quality of life that meets its expectations;
- 2.3. the safe and equitable use and enjoyment of **public places**;
- 2.4. the protection and enhancement of the amenity and environment of the **municipality**;
- 2.5. the fair and reasonable use and enjoyment of **private land**; and
- 2.6. the uniform and fair administration of this Local Law.

3. Commencement

This Local Law commences on the day following the notice of its making being published in the Victoria Government Gazette.

4. Revocation Date

This Local Law ceases to operate on a date that is 10 years after its commencement date unless revoked earlier by **Council**.

5. Application of Local Law

This Local Law applies throughout the **municipality** unless specifically stated otherwise.

6. Definitions

Some of the words or terms in this Local Law are defined. They are identified in **bold** and have the following meanings in this Local Law:

active travel – includes walking, cycling and any other mode of non-motorised transport of people;

advertising sign – means any placard, board, poster, banner, sign, card, structure or other similar device, whether portable or affixed or attached to any land, **building**, **vehicle**, trailer, person or other thing, used for the purpose of soliciting goods or services or displaying information but excludes any placard, board, poster, banner, sign, card or similar device attached to or on any **vehicle** or trailer:

- (a) and used for the purpose of promoting a registered political party or a person's candidature or prospective candidature at an election; or

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- (b) if the use of the **vehicle** or trailer is ancillary to another use connected with activities being carried out on land (such as the use of a **vehicle** or trailer in connection with building or commercial activities being carried out on land);

alcohol – means a drink with an alcoholic content greater than 0.5% by volume at a temperature of 20 degrees Celsius;

alcohol-free zone – means an area prescribed by **Council** as an alcohol free zone;

animal – includes every species of quadruped and every species of bird (including, without limitation, poultry);

applicant – means a person who applies for a **permit** under this Local Law;

approved area – where used in clause 41 means either:

- (a) the boundaries of the premises from which the **retailer** conducts his or her business; or
- (b) such other area relating to the **retailer's** business that **Council** declares from time to time by resolution to be an approved area for the purposes of clause 41.

approved waste receptacle – means a household waste bin, a recycling waste bin, a green waste bin or other refuse receptacle supplied by, or on behalf of, **Council**, or otherwise approved by **Council**;

Authorised Officer – means a person appointed by **Council** under section 224 of the *Local Government Act 1989*;

bike share scheme – means any service in which bicycles are made available to individuals on a short-term basis for free or for a fee;

building – includes any building or structure whether temporary or permanent, or any part of a building or structure;

bulk rubbish container – includes trade waste storage bins, waste bins, mini-skips, shipping containers, pallets and any other structure designed to receive or store waste but does not include an **approved waste receptacle**;

charity bin – means a bin designed for the collection of clothing and other items, and identified as such, for charitable or other purposes;

commercial enterprise – means a business, partnership or an enterprise carried on for profit;

commercial purposes – means something done directly or indirectly in connection with any business or other undertaking intended for profit;

Council – means Boroondara City Council;

Council-controlled land – means any land which **Council**, owns, occupies, manages, has leased or licensed to another person or is otherwise under **Council's** control and management, other than a **road**;

Cypress Hedges Policy – means **Council's** 'Management of Cypress Hedges Policy' as adopted by **Council** on 24 October 2005 as amended or replaced from time to time;

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dilapidated – means a **building** fallen into a state of disrepair, decayed, deteriorated, broken down or a partial ruin through neglect, misuse or vandalism;

e-scooter – means a scooter that is or can be propelled by an electric motor;

e-scooter share scheme – means any service in which **e-scooters** are made available to individuals on a short-term basis for free or for a fee;

e-waste – means waste in the form of electrical or electronic equipment, devices or things (or materials or parts of such equipment, devices or things), the operation of which is dependent on, or designed for the generation, transfer or measurement of, an electric current or electromagnetic field;

event – means an organised recreational, cultural, commercial or social event or gathering of people, including a carnival, festival, street party, procession or any similar activity;

farm animal – means a hoofed animal, such as a cow, sheep, pig or similar animal;

fire hazard – means a material, substance or action that increases the likelihood of an accidental fire occurring;

formed path – means a path provided by **Council** and used for the purpose of **active travel** and includes a **shared path**;

graffiti – means an unauthorised mark or marks, whether written, drawn, sprayed, scratched or otherwise made, which cannot readily be removed by wiping with a damp cloth;

hard waste – means garden refuse, rubbish of a size, shape, nature or volume that cannot be contained in an **approved waste receptacle**, a brick, concrete, masonry or engine part and any other type of rubbish specified by **Council** from time to time;

heavy vehicle – has the same meaning as in the *Road Safety Road Rules 2017*;

incinerator – includes a structure, device or piece of equipment which is designed, adapted, used or capable of being used for the burning of any material or substance and which is not:

- (a) enclosed in any **building**;
- (b) a purpose-built or constructed a barbecue, grill, pizza oven, brazier, portable fire pit constructed of fire resistant materials or similar, being used for the purpose of cooking food or providing heat; or
- (c) licensed under the provisions of the *Environment Protection Act 1970*;

infringement notice – means an infringement notice issued by an **Authorised Officer** in respect of an **offence** against this Local Law;

licence – means a licence to use or occupy land granted by **Council** as the **owner**, **occupier** or manager of that land;

multi-residential dwelling – means a dwelling being part of two or more dwellings on a single lot;

municipality – means the municipal district of **Council**;

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non-residential building work – means building works not pertaining to a residential dwelling, outbuilding or other structure ancillary to a residential dwelling;

notice to comply – means a notice to comply issued under this Local Law;

nuisance – means any behaviour or condition which is or is liable to be dangerous to health or is noxious, annoying or injurious to personal comfort;

occupier – means the person who is for the time being in charge of land;

offence – means an offence against or a breach of a provision of this Local Law, or of a **permit**, **notice to comply** or direction issued under this Local Law;

open air – has the same meaning as in Division 3 of Part III of the *Country Fire Authority Act 1958*;

owner – means the person or persons for the time being entitled to be registered on Title as the owner of land and, where more than one person, each of them jointly and severally;

parking permit - means a **permit** issued under the **Parking Permit Policy**;

Parking Permit Holder – means a person to whom a **parking permit** has been issued;

Parking Permit Policy – means the Parking Permit Policy adopted by **Council** on 22 August 2016 as amended or replaced from time to time;

pavement light – means a device incorporated into the footpath or roadway adjacent to **private land** for the provision of natural light to those parts of a **building** on that **private land** below ground level;

Penalty Units – has the same meaning as in section 110(2) of the *Sentencing Act 1991*;

permit – means a permit issued under this Local Law;

planning permit – means a **permit** issued under the **Planning Scheme**;

Planning Scheme – means the Boroondara Planning Scheme;

private land – means all land other than **Council-controlled land** and **roads**;

public place – has the same meaning as in section 3 of the *Summary Offences Act 1966*;

residential area – means an area zoned as residential under the **Planning Scheme** and includes an area which is predominantly in a residential zone under the **Planning Scheme**;

residential land or premises – means land or premises that is or are developed or used predominately for residential purposes;

retailer – means a person who sells goods by retail and provides shopping trolleys to his or her customers;

road – has the same meaning as in the *Local Government Act 1989*;

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security bond – means a payment or guarantee made to **Council** for the purposes of defraying costs to repair damage to assets or as required under this Local Law;

shared path – has the same meaning as in the *Road Safety Road Rules 2017*;

spruik – means haranguing or addressing members of the public (whether directly or by the use of pre-recorded speech or messages) to encourage members of the public to enter commercial premises, purchase goods or services, or both;

storage container – means a form of container that is moveable and is used for the purposes of storage and includes a shipping container or vessel of a similar nature;

street furniture – means tables and chairs, stools and benches, umbrellas, goods or other items for sale, wind frames (barriers) and similar items which are placed on any **road** or **Council-controlled land**;

traffic controls – means the same as “traffic control devices” in the *Road Safety Road Rules 2017*;

unsightly land – means land the condition of which is detrimental to the amenity of the locality in which it is situated;

vacant land – means land on which there is no house or other structure approved for human occupation;

vehicle – has the same meaning as in *Road Safety Road Rules 2017*;

wheeled recreational device – has the same meaning as in *Road Safety Road Rules 2017*;

wheeled toy – has the same meaning as in *Road Safety Road Rules 2017*; and

work – includes any change to the natural or existing condition or topography of land including but not limited to trenching, digging, excavating or filling whether by mechanical or manual methods.

7. Conflict with Other Legislation

This Local Law does not apply where any act or thing is authorised by or under any other legislative instrument or the **Planning Scheme**.

PART B – ADMINISTRATION

8. Permits

8.1. Wherever in this Local Law a **permit** is required, **Council** may:

- 8.1.1. grant the **permit**;
- 8.1.2. refuse to grant the **permit**;
- 8.1.3. grant the **permit** subject to conditions; or
- 8.1.4. determine that no **permit** is required.

8.2. An application for a **permit** must be:

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- 8.2.1. made in writing and include the following particulars:
- 8.2.1.1. the name and address of the **applicant**;
 - 8.2.1.2. the capacity in which the **applicant** makes the application;
 - 8.2.1.3. a statement of the purpose for which the **permit** is sought;
 - 8.2.1.4. the location of the proposed activity;
 - 8.2.1.5. the day and the time when the proposed activity is to take place and its expected duration;
 - 8.2.1.6. the signature of the **applicant** or a person authorised to sign for and on behalf of the **applicant**; and
 - 8.2.1.7. such other particulars as **Council** may require;
- 8.2.2. true and correct;
- 8.2.3. forwarded to the person or office described on the application form with the fee, if any, payable to **Council** and in the amount as is fixed by **Council** from time to time; and
- 8.2.4. in the form approved by **Council** from time to time.
- 8.3. If required by **Council**, an **applicant** must provide such additional information as may be specified before the application for a **permit** will be processed and determined.
- 8.4. If required by **Council**, an **applicant** for a **permit** must give such notice of that application, or invite any person to make a submission, or do both, as may be specified.
- 8.5. In considering an application for a **permit**, **Council** must consider:
- 8.5.1. any policy or guideline adopted by **Council** relating to the subject matter of the application for the **permit**;
 - 8.5.2. any written objection, submission or comment received in respect of the application, where they are invited under clause 8.4; and
 - 8.5.3. any other relevant matter.
- 8.6. 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:
- 8.6.1. 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**;
 - 8.6.2. a requirement that notice be given to **Council** as to when the activities authorised by the **permit** will be carried out or will occur;
 - 8.6.3. a time limit on the **permit** or on the activities authorised by it;

- 8.6.4. provision for extension of the **permit**;
- 8.6.5. the payment of a fee or charge;
- 8.6.6. a standard to be applied;
- 8.6.7. that the **permit** is conditional on the happening of a certain event or prerequisite;
- 8.6.8. that the **permit** is conditional upon the rectification, remedying or restoration of any situation or circumstance; or
- 8.6.9. where the **applicant** is not the **owner** of the relevant premises, that the consent of the **owner** be obtained.
- 8.7. Unless otherwise stated in the **permit**, a **permit**:
 - 8.7.1. 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
 - 8.7.2. is not transferable.

9. Compliance with permits

Every person to whom a **permit** is granted must do every act and thing that may be necessary to ensure compliance with the **permit** and its conditions.

10. Correction, amendment, cancellation and suspension

- 10.1. **Council** may correct a **permit** if the **permit** contains:
 - 10.1.1. a clerical mistake or an error arising from any accident, slip or omission; or
 - 10.1.2. a material miscalculation of figures or a material mistake in the description of any person, premises, thing or property referred to in the **permit**.
- 10.2. **Council** may cancel, suspend or amend any **permit** at any time if:
 - 10.2.1. it is requested to do so by the **permit**-holder; or
 - 10.2.2. it considers that there has been:
 - 10.2.2.1. a material misrepresentation or concealment of fact in relation to the application for the **permit**;
 - 10.2.2.2. any material mistake in relation to the grant of the **permit**; or
 - 10.2.2.3. any material change of circumstances which has occurred since the grant of the **permit**; or
 - 10.2.2.4. the **permit**-holder or his or her agent for the **permit** defaults in payment of the **permit**.
- 10.3. **Council** may cancel or suspend a **permit** at any time if **Council** is satisfied that there has been a substantial failure to comply with a:

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- 10.3.1. **permit** condition; or
- 10.3.2. **notice to comply** relating to the premises, item or activity to which the **permit** relates.
- 10.4. **Council** may cancel or suspend a **permit** at any time where **Council** determines that the **permit** may result in a hazard, danger or inconvenience to any other person, premises, thing or property.

11. General permit provisions

- 11.1. The holding of a **permit** or compliance with a condition included in a **permit** does not of itself relieve the **permit**-holder from:
 - 11.1.1. compliance with any other legislation with respect to the subject matter of the **permit**; or
 - 11.1.2. liability for any damage sustained by any person as a result of an activity undertaken by or on behalf of the **permit**-holder pursuant to the **permit**.
- 11.2. A person applying for a **permit** or amendment of a **permit** must not make or allow to be made any false representation or declaration in or in relation to that application or **permit**.
- 11.3. A person who makes a false representation or declaration (whether oral or in writing), or who omits relevant information from an application for a **permit** or exemption, is guilty of an **offence**.
- 11.4. Except where expressly stated in this Local Law or in a **permit**, the **permit** will operate from the date it is granted and will expire on the following 30 June.

12. Fees and Charges

- 12.1. **Council** may from time to time by resolution determine:
 - 12.1.1. the quantum of any fees, charges, guarantee or bond to apply under this Local Law; and
 - 12.1.2. an administrative, inspection or processing fee or charge in addition to a standard fee, charge, guarantee or bond applying under this Local Law.
- 12.2. In determining a fee or charge, **Council** may establish a system or schedule of fees and charges, including a minimum or maximum fee or charge, if it considers it appropriate to do so.
- 12.3. **Council** may waive, reduce, alter or refund, in whole or in part, any fee, charge, bond or guarantee with or without conditions.

13. Powers of Council

- 13.1. Without affecting the operation of any particular provision of this Local Law, unless the contrary intention appears everything that:
 - 13.1.1. **Council** is capable of doing under this Local Law is also capable of being done by an **Authorised Officer**; and

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13.1.2. an **Authorised Officer** is capable of doing under this Local Law is also capable of being done by **Council**.

13.2. Clause 13.1.1 does not empower an **Authorised Officer** to exercise any power conferred by clause 12.3.

14. Notice to Comply

14.1. Where **Council** reasonably believes that a person has committed an **offence** against this Local Law, **Council** may issue to the person a written **notice to comply** which:

14.1.1. requires the person to stop the conduct constituting the **offence**;

14.1.2. contains a direction indicating what action is required to stop the conduct constituting the **offence**;

14.1.3. contains a direction indicating what action is required to achieve compliance with this Local Law; and/or

14.1.4. contains a direction to remedy any consequences arising from the conduct constituting the **offence**.

14.2. A **notice to comply** must include information about:

14.2.1. the name of the alleged offender (if known);

14.2.2. the **offence**, and the provision of this Local Law it infringes;

14.2.3. the action required to stop the conduct constituting the **offence**;

14.2.4. the action required to remedy any consequences arising from the conduct constituting the **offence**;

14.2.5. the time for compliance;

14.2.6. the date on which it was issued; and

14.2.7. the name and signature of the **Authorised Officer** or **Council** delegate issuing the **notice to comply**.

15. Reasonable time to comply

15.1. The time for compliance with a **notice to comply** issued under this Local Law must be reasonable in the circumstances, and what will be reasonable will vary depending on the matters to be remedied.

15.2. In determining what is reasonable, **Council** will consider:

15.2.1. the amount of work involved;

15.2.2. the degree of difficulty;

15.2.3. the availability of necessary materials or other items;

15.2.4. climatic conditions;

15.2.5. the degree of risk or potential risk to third parties and the public generally; and

15.2.6. any other relevant factors.

16. Failure to adhere to a notice to comply

Any person served with a **notice to comply** under this Local Law who fails or refuses to comply with it is guilty of an **offence**.

17. Power To Act in Urgent Circumstances

Council may act to remedy any circumstance which threatens a person's life, health or property, or an animal, or to prevent any danger to the environment or any **nuisance** arising, without serving a **notice to comply**, provided that:

- 17.1. the circumstance arises out of a person's use of **Council-controlled land** or a **road** or failure to comply with a provision of this Local Law;
- 17.2. **Council** considers the circumstance to be sufficiently urgent that the time necessary to serve, or the potential difficulty in serving, a **notice to comply** may place the person's life, health or property, or the animal or the environment at risk or in danger of substantial detriment;
- 17.3. the action taken is no more than the minimum reasonably necessary to remedy the urgent circumstance; and
- 17.4. the person on whom a **notice to comply** under clause 14 would have otherwise been served is as soon as possible notified of the urgent circumstance and the action taken to remedy it.

18. Impounding

- 18.1. **Council** may seize and impound any thing which is, has been or is being used, possessed, placed or left in contravention of this Local Law.
- 18.2. Where a thing has been impounded under this Local Law, **Council** must, if it is practicable to do so, serve notice of the impounding personally, by email or by ordinary post on the person who appears to be the **owner** of it.
- 18.3. On receipt of evidence that, to **Council's** reasonable satisfaction, shows that a person is the **owner** of an impounded thing, and on payment of a fee determined by **Council**, an impounded thing must be given back to:
 - 18.3.1. its **owner**; or
 - 18.3.2. a person who provides satisfactory evidence to **Council** of his or her authority from the thing's **owner** to act on the **owner's** behalf.
- 18.4. Where an impounded thing has not been claimed within 30 days of notice being given in accordance with clause 18.2, or within 30 days of the thing being impounded if it is not practicable to serve notice of the impoundment in accordance with clause 18.2, **Council** may:
 - 18.4.1. sell the impounded thing and retain any proceeds of sale as general revenue; or
 - 18.4.2. if the value of the impounded thing is less than the cost of selling it, donate it to a registered charity or local community group.

19. Appeals

- 19.1. A person may request that **Council** reviews an order, direction, decision or notice issued in relation to him or her under this Local Law.
- 19.2. Where a request for review has been made under clause 19.1, the person requesting the review must do everything practicable to cooperate in the prompt and speedy review of the order, direction, decision or notice.

20. Security Bonds

- 20.1. In deciding to grant a **permit**, **Council** may require the **applicant** to lodge with **Council** a **security bond** in such amount and in such a manner as **Council** determines.
- 20.2. In the event that a person to whom a **permit** is issued breaches the **permit** conditions attached to the **permit** or this Local Law, **Council** may apply so much of the **security bond** as is necessary to remedy that breach and repair any damage caused by that breach.
- 20.3. Upon expiry of a **permit**, **Council** must release any remaining **security bond** to the person who paid it.
- 20.4. If, after 12 months from the date that the **security bond** would be released under clause 20.3, **Council** cannot locate a person entitled to the release of any **security bond** or remaining **security bond**, **Council** may, subject to law, retain the **security bond** or remaining **security bond** and pay the money into its general revenue.

21. Incorporated Documents

The following documents are incorporated into this Local Law:

- 21.1. **Cypress Hedges Policy**; and
- 21.2. **Parking Permit Policy**.

PART C – ENFORCEMENT**22. Offences**

- 22.1. A person is guilty of an **offence** if the person:
 - 22.1.1. does something which a provision of this Local Law prohibits to be done or makes an **offence**;
 - 22.1.2. fails to do something which a provision of this Local Law requires to be done;
 - 22.1.3. engages in an activity without a **permit** where a provision of this Local Law requires that person to obtain a **permit** before engaging in that activity;
 - 22.1.4. breaches or fails to comply with a condition of a **permit** issued under this Local Law; or
 - 22.1.5. fails to comply with a **notice to comply** or a direction of **Council** under this Local Law.

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- 22.2. If a corporation is charged with an **offence** against this Local Law, any natural person who is concerned or takes part in the management of the corporation may also be charged with the same **offence**.
- 22.3. If a corporation is convicted of an **offence** against this Local Law, a natural person charged under clause 22.2 with the same **offence** may also be convicted of that **offence** and is liable to the penalty for that **offence** unless that natural person proves that the act or omission constituting the **offence** took place without his or her knowledge or consent.

23. Penalties

A person guilty of an **offence** under this Local Law is, where no other penalty is specified in Schedule 1 to this Local Law, liable to a penalty:

- 23.1. not exceeding 20 **Penalty Units**; and
- 23.2. for a continuing **offence**, not exceeding 2 **Penalty Units** for each day after the finding of guilt during which the contravention continues.

24. Infringement Notices

- 24.1. Where an **Authorised Officer** reasonably believes that a person has committed an **offence** against this Local Law, the **Authorised Officer** may issue and serve on that person an **infringement notice** as an alternative to a prosecution for that **offence**.
- 24.2. The infringement penalties fixed for **offences** against this Local Law are set out in Schedule 1 and, if no penalty is fixed for a particular **offence**, the penalty is two (2) **Penalty Units** for each **offence**.

PART D – ROADS AND COUNCIL-CONTROLLED LAND**25. Behaviour – Generally**

- 25.1. A person must not on any **Council-controlled land**:
- 25.1.1. interfere with another person's reasonable use and enjoyment of that **Council-controlled land**;
- 25.1.2. endanger or be likely to endanger a person's health, life or property or an animal;
- 25.1.3. without a **permit**, do anything contrary to a sign erected on the **Council-controlled land**; or
- 25.1.4. play or practise golf (whether by hitting a golf ball or other kind of ball, or by swinging a golf club or otherwise) except on **Council-controlled land** designated by **Council** as a golf course.
- 25.2. A person must not, without a **permit**, organise a function, **event** or entertainment on **Council-controlled land** or a **road** that:
- 25.2.1. substantially occupies the **Council-controlled land** or **road**; or
- 25.2.2. encroaches or impacts or is likely to encroach or impact, on another person's use and enjoyment of the **Council-controlled land** or **road**.

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- 25.3. A person must not, without a **permit** or **licence**, use any **Council-controlled land** or **road** for the purpose of conducting a business or for any other commercial purpose.

26. Consumption and Possession of Alcohol

- 26.1. A person or group of persons must not consume **alcohol** or have in his, her or their possession or control any open receptacle containing **alcohol**:
- 26.1.1. in a place which **Council** has resolved is an **alcohol-free zone** for the purposes of this Local Law; or
- 26.1.2. in any other place which **Council** resolves is a prescribed place for the purposes of this clause 26.
- 26.2. An **Authorised Officer** may, where that **Authorised Officer** reasonably believes that a person or group of persons has contravened or is contravening this clause 26, direct that person or group of persons to:
- 26.2.1. empty any open receptacle containing **alcohol** or reseal that open receptacle; or
- 26.2.2. surrender any open receptacle containing **alcohol** to the **Authorised Officer**.
- 26.3. A person or group of persons to whom a direction is given under clause 26.2 must comply.
- 26.4. If a person or group of persons to whom a direction is given under clause 26.2 does not comply with that direction the **Authorised Officer** may impound that open receptacle containing **alcohol**.
- 26.5. Notwithstanding the requirements of this clause 26, a person who consumes or possesses **alcohol** in any licensed premises or authorised premises as defined in *the Liquor Control Reform Act 1998* is exempt from the application of this clause 26.

27. Trading Activities

- 27.1. A person must not, without a **permit**, on or above **Council-controlled land** or a **road**:
- 27.1.1. place any **advertising sign**;
- 27.1.2. display or sell any goods;
- 27.1.3. place any **street furniture** or associated items;
- 27.1.4. place any structure for the purpose of selling or offering to sell any goods or services;
- 27.1.5. sell or trade, or offer for sale or trade, or display to give away, any:
- 27.1.5.1. **vehicle**; or
- 27.1.5.2. goods or services carried about or placed on the person or any other moveable thing.

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- 27.2. The person responsible for placement of an **advertising sign** contrary to clause 27.1.1 will, unless they can provide proof to the contrary, be the person who, or whose business, is identified on the **advertising sign**.
- 27.3. A person must not, without a **permit**, for **commercial purposes**, sell or offer for sale goods or services, seek subscriptions or solicit custom door to door, or permit or cause another person to do so, in a **residential area**.
- 27.4. A person must not, without a **permit**, engage in, or permit or cause another person to engage in, spruiking or the promotion of goods or services for **commercial purposes** on any **Council-controlled land** or **road**.

28. Appeals and Collections

- 28.1. A person must not, without a **permit**, solicit or collect any gifts, money or subscription, or permit or cause another person to do so, on any **Council-controlled land** or **road**.
- 28.2. A person must not, without a **permit**, erect or place, or permit or cause another person to erect or place, on any **Council-controlled land, road, any vehicle, caravan, trailer, table, stall** or similar structure for the purpose of selling or offering for sale any goods or services or conducting a raffle or lottery.
- 28.3. Notwithstanding clause 28.1 a person participating in highway collections approved under the *Road Safety Act 1986* does not require a **permit** from **Council**.

29. Charity Bins

A person must not, without a **permit**, place, or cause or allow to be placed, a **charity bin** on **Council-controlled land** or a **road**.

30. Obstructions on Council-controlled land

- 30.1. An **owner** or **occupier** of **private land** must not allow an **advertising sign** or any other object to:
- 30.1.1. extend over **Council-controlled land** or a **road** at a height less than 2.4 metres; or
- 30.1.2. remain on that **private land** or be placed on that **private land** so as to obstruct the clear view of **traffic controls** by a person on the **Council-controlled land** or **road**, or otherwise interfere with **vehicle** or pedestrian use of the **Council-controlled land** or **road**, or with street lighting.
- 30.2. An **owner** or **occupier** of **private land** must not allow any vegetation to:
- 30.2.1. extend over **Council-controlled land** or a **road** at a height less than 2.4 metres; or
- 30.2.2. remain on that **private land** or be placed on that **private land** so as to obstruct the clear view of **traffic controls** by a person on the **Council-controlled land** or **road**, or otherwise interfere with **vehicle** or pedestrian use of the **Council-controlled land** or **road**, or with street lighting,

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except where the vegetation is a cypress hedge within the meaning of the **Cypress Hedges Policy**.

- 30.3. Where the vegetation is a cypress hedge within the meaning of the **Cypress Hedges Policy**, an **owner** or **occupier** of that **private land** must take the action required under the **Cypress Hedges Policy**.
- 30.4. The **Cypress Hedges Policy** is hereby incorporated into this Local Law.

31. Obstructions on Roads

A person must not allow any **vehicle** or trailer whether or not registered with VicRoads or equivalent interstate road authorities, to be placed or remain on any **road** if the placement of such **vehicle** or trailer would cause a danger, hazard or substantially interfere with another **vehicle** or any person's use of the **road**, or obstruct the clear view of **traffic controls** by a person on the **road** or adjacent land.

32. Changes to and Occupation of Council-Controlled Land and Roads

- 32.1. A person must not, without a **permit** or **licence**:
- 32.1.1. cause any change to **Council-controlled land** or a **road** or anything on it; or
 - 32.1.2. remove anything from **Council-controlled land** or a **road**.
- 32.2. A person must not, without a **permit** or **licence**:
- 32.2.1. occupy any **Council-controlled land** or a **road** by storing on it any boat, trailer, caravan or **storage container**; or
 - 32.2.2. use a mobile vehicular or non-vehicular crane or travel tower or an extendable feed style concrete pump truck or other similar **vehicle** and/or machinery on, over or from **Council-controlled land** or a **road**.

33. Filming and Photography on Council Land

A person must not, without a **permit**, on any **Council-controlled land** or a **road**, conduct any filming or photography, unless the person:

- 33.1. occupies for the purpose an area not exceeding 10sqm and does not obstruct the **Council-controlled land** or **road** or otherwise create a hazard to any person on that **Council-controlled land** or **road**; or
- 33.2. is part of a news crew engaged in reporting on news.

34. Repair of Vehicles and Storage of Heavy Vehicles

- 34.1. A person must not perform any work to a **vehicle**, including to repair, service, wash, clean or dismantle a **vehicle**, on any **Council-controlled land** or a **road**, except running repairs necessary to enable the **vehicle** to be removed from the **Council-controlled land** or **road**.
- 34.2. A person must not, without a **permit**, on any **private land** or **Council-controlled land** in a **residential area**:
- 34.2.1. allow a **heavy vehicle** to be kept or stored; or

- 34.2.2. perform any work on a **heavy vehicle**, including to repair, service, wash, clean or dismantle a **heavy vehicle**, except running repairs necessary to remove the **heavy vehicle** from the **private land** or **Council-controlled land**.

35. Use of Vehicles on Council-controlled land

- 35.1. A person must not, on any **Council-controlled land**:
- 35.1.1. ride or drive any motor car, motorcycle or similar **vehicle** other than on a designated roadway or in an area set aside for **vehicle** parking; or
 - 35.1.2. ride any bicycle or similar **vehicle** other than on any **formed path** or in an area set aside for **vehicle** parking; or
 - 35.1.3. stop or park any motor car, motorcycle, bicycle or other **vehicle** other than in an area set aside for **vehicle** parking.
- 35.2. A person does not commit an **offence** against this clause 35 if that person:
- 35.2.1. is directed to ride, drive, stop or park on **Council-controlled land** by an **Authorised Officer** or by a member of the Police Force;
 - 35.2.2. parks a bicycle in an area that is not set aside for **vehicle** parking provided that in doing so the bicycle does not obstruct the free use of the area; or
 - 35.2.3. is a person who is learning to ride a bicycle, other than on a **formed path** or in an area set aside for **vehicle** parking, provided that the person does not interfere with another person's use or enjoyment of the relevant **Council-controlled land**.

36. Bike Share Scheme

- 36.1. A person who owns or operates a bicycle used for the purpose of a **bike share scheme** must not, without a **permit**, allow any bicycle owned or operated by that person to be within the **municipality**.
- 36.2. A person must not make available for use, or permit to be used, in the **municipality**, a bicycle used for the purpose of a **bike share scheme** that does not have a device which is attached to it and used so as to ensure the return of the bicycle to an area specifically designated for the storage of bicycles.
- 36.3. **Council** may exempt a person or a class of persons from the application of clause 36.1 if a bicycle used for the purpose of a **bike share scheme** is left or placed in an area designated by **Council**.
- 36.4. A person who owns or operates a bicycle used for the purposes of a **bike share scheme** is guilty of an **offence** if such a bicycle is:
- 36.4.1. left or placed in a way that unreasonably interferes with the use of any **road**, footpath or other place;
 - 36.4.2. left or placed in a place that detrimentally affects the amenity of that place.

- 36.5. A person who owns or operates a bicycle used for the purpose of a **bike share scheme** must:
- 36.5.1. remove within 24 hours of notification any bicycle in contravention of clause 36.3;
 - 36.5.2. remove within 24 hours of notification any bicycle that is damaged or missing any part; and
 - 36.5.3. comply with the conditions of a **permit**.

37. E-Scooter Share Scheme

- 37.1. A person who owns or operates an **e-scooter** used for the purpose of an **e-scooter share scheme** must not, without a **permit**, allow any **e-scooter** owned or operated by that person to be within the **municipality**.
- 37.2. A person must not make available for use, or permit to be used, in the **municipality**, an **e-scooter** used for the purpose of an **e-scooter share scheme** that does not have a device which is attached to it and used so as to ensure the return of the **e-scooter** to an area specifically designated for the storage of **e-scooters**.
- 37.3. **Council** may exempt a person or a class of persons from the application of clause 37.1 if an **e-scooter** used for the purpose of an **e-scooter share scheme** is left or placed in an area designated by **Council**.
- 37.4. A person who owns or operates an **e-scooter** used for the purposes of an **e-scooter share scheme** is guilty of an **offence** if such an **e-scooter** is:
- 37.4.1. left or placed in a way that unreasonably interferes with the use of any **road**, footpath or other place;
 - 37.4.2. left or placed in a place that detrimentally affects the amenity of that place.
- 37.5. A person who owns or operates an **e-scooter** used for the purpose of an **e-scooter share scheme** must:
- 37.5.1. remove within 24 hours of notification any **e-scooter** in contravention of clause 37.3;
 - 37.5.2. remove within 24 hours of notification any **e-scooter** that is damaged or missing any part; and
 - 37.5.3. comply with the conditions of a **permit**.

38. Wheeled Recreational Devices and Wheeled Toys

A person must not use any **wheeled recreational device**, **wheeled toy** or other similar device on any **Council-controlled land** so as to endanger, intimidate, obstruct or hinder a person, persons or **vehicle**.

39. Parking Permits

A **Parking Permit Holder** must not, and must ensure that his or her visitors, employees and sub-contractors do not:

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- 39.1. lease out, rent out, lend or sell a **parking permit** to another person or duplicate a **parking permit**;
- 39.2. charge any person a fee to use a **parking permit** or accept any consideration (monetary or otherwise) from a person for the use of a **parking permit**;
- 39.3. give or otherwise provide a **parking permit** to any person not entitled to use the **parking permit** under the **Parking Permit Policy**; or
- 39.4. allow or assist any other person, not entitled to use a **parking permit** under the **Parking Permit Policy**, to misuse the **parking permit** contrary to the **Parking Permit Policy**.

40. Caravans and Camping

- 40.1. A person must not, without a **permit**, have more than one caravan, campervan, motor home or similar **vehicle** on **private land** within a **residential area**.
- 40.2. A person must not, without a **permit**, occupy or allow another person or persons to occupy a caravan, campervan, motor home or similar **vehicle**, tent or any other temporary or makeshift structure on any **private land** for more than three weeks in any one calendar year.
- 40.3. A person must not occupy or allow another person to occupy a caravan, campervan, motor home or similar **vehicle**, or tent or any other temporary or makeshift structure on any **Council-controlled land**.

41. Shopping Trolleys

- 41.1. A person must not leave a shopping trolley on any **road** or **Council-controlled land** other than in an area specifically designated for the storage of shopping trolleys.
- 41.2. If a shopping trolley is left on a **road** or **Council-controlled land** in contravention of clause 41.1, the **retailer** who owns the shopping trolley is also guilty of an **offence**.
- 41.3. Subject to clause 41.4, a **retailer** must not provide or make available for use or permit to be used, a shopping trolley which does not have:
 - 41.3.1. attached to it a plate or other marking identifying the name, address and contact phone number of the **retailer**; and
 - 41.3.2. a fully operating mechanism which disables or otherwise prevents the shopping trolley from being taken beyond the boundaries of the **approved area**.
- 41.4. Upon an application by a **retailer**, **Council** may resolve in its absolute discretion to exempt a **retailer** from the application of clause 41.3, either in whole or in part, temporarily or permanently and subject to such conditions as **Council** may determine.
- 41.5. If a shopping trolley is left on a **road** or **Council-controlled land** in contravention of clause 41.1, **Council** may, by notice provided to the address depicted on the shopping trolley, direct the **retailer** to remove the shopping trolley and state:

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- 41.5.1. the period within which the shopping trolley is to be removed; and
 - 41.5.2. that it is an **offence** for the **retailer** not to remove the shopping trolley.
 - 41.6. On the first business day of each month, or as soon as possible thereafter, a list of shopping trolleys that have been impounded by **Council** will be forwarded to each **retailer** stating:
 - 41.6.1. the period within which the shopping trolleys must be claimed;
 - 41.6.2. that unclaimed shopping trolleys may be disposed of by **Council** after the period; and
 - 41.6.3. that it is an **offence** for a **retailer** to not claim an impounded shopping trolley.
 - 41.7. Any impounded shopping trolley may be claimed by the **retailer** that owns the shopping trolley after payment of the fee set by **Council**.
 - 41.8. Any impounded shopping trolley not claimed within the time specified on the list of impounded shopping trolleys issued under clause 41.6 may be disposed of by **Council** without further notice to any person.
 - 41.9. A **retailer** who does not remove a shopping trolley or claim an impounded shopping trolley within the period stated by **Council** under clauses 41.5 or 41.6 is guilty of an **offence**.
 - 41.10. Clause 18, other than clause 18.1, does not apply to shopping trolleys.

PART E – THE ENVIRONMENT**42. Dangerous and Unsightly Land and Nuisances**

- 42.1. An **owner** or **occupier** of **private land** must ensure that the **private land** and any **building** or other structure on the **private land**:
 - 42.1.1. is not a danger to health of any person or animal or property or likely to become a danger to health of any person or animal or property;
 - 42.1.2. does not constitute a **fire hazard**;
 - 42.1.3. does not contain grass or weeds in excess of 150 mm in height;
 - 42.1.4. is not unsightly, or detrimental to the general amenity of adjoining land or the neighbourhood, including through the presence of:
 - 42.1.4.1. stored unregistered or derelict **vehicles** or machinery or any parts of them;
 - 42.1.4.2. **storage containers**;
 - 42.1.4.3. scrap metal, timber, building materials or building refuse;
 - 42.1.4.4. waste paper, cardboard, bottles or other refuse;

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- 42.1.4.5. soil or similar materials;
 - 42.1.4.6. overgrown vegetation; or
 - 42.1.4.7. **buildings** on the land which have been damaged;
 - 42.1.5. is kept free of any **graffiti**; and
 - 42.1.6. is not used in any manner or left in any state that may cause a **nuisance** or become detrimental to the amenity of the immediate area.
- 42.2. An **owner** or **occupier** of **private land** must not allow any **building** or other structure on that **private land** to become **dilapidated**.
 - 42.3. An **owner** or **occupier** of **private land** must take reasonable steps to prevent the movement of soil, sediment and other substances from the **private land** to the adjoining **road**.
 - 42.4. An **owner** or **occupier** of **private land** which has the benefit of **pavement lights** must ensure that those **pavement lights** are maintained so as not to fall into a state of disrepair.
 - 42.5. Without limiting the generality of clause 14.2, a **notice to comply** issued by an **Authorised Officer** with respect to an **offence** against this clause 42 may include a direction that the **private land, building** or structure be:
 - 42.5.1. cleared of any substance, material or equipment;
 - 42.5.2. suitably fenced, screened or otherwise enclosed in the manner specified in the **notice to comply**;
 - 42.5.3. cleaned or painted in a manner that removes or obliterates **graffiti** specified in the **notice to comply**;
 - 42.5.4. boarded up or otherwise secured to prevent access or otherwise alleviate the danger, unsightliness, **nuisance**, detriment to general amenity or offending condition; and/or
 - 42.5.5. protected by warning signs or barriers to alert members of the public to the presence on the **private land** of a danger to persons entering the **private land**.
- 43. Open Air Burning and Incinerators**
- 43.1. A person must not burn or cause or allow to be burned any substance that is likely to cause a risk of fire to the area surrounding the fire or to endanger the safety of any person or animal.
 - 43.2. A person must not, without a **permit**, light a fire in the **open air**, or allow a fire to be lit or remain alight in the **open air**, unless the fire is lit:
 - 43.2.1. in a purpose-built or constructed barbeque, grill, pizza oven, chiminea, brazier or similar for the purpose of cooking food;
 - 43.2.2. in a brazier, chiminea or purpose built or portable fire pit constructed of fire resistant materials while its being used for heating; or
 - 43.2.3. for a religious or cultural ceremony.

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- 43.3. An **owner** or **occupier** of **private land** must not use an **incinerator** or allow an **incinerator** to be used on that **private land**.
- 43.4. An **owner** or **occupier** of **private land** on which a fire has been lit in breach of this Local Law, or a person who has lit a fire in breach of this Local Law, must immediately take all steps necessary to extinguish the fire:
- 43.4.1. on becoming aware of such a fire; or
- 43.4.2. on being directed to extinguish the fire by:
- 43.4.2.1. an **Authorised Officer**;
- 43.4.2.2. a member of the Police Force; or
- 43.4.2.3. a member of the Metropolitan Fire Brigade or the Emergency Services Board.
- 43.5. If a person who has breached this clause 43 is unable or unwilling to extinguish the fire, an **Authorised Officer** shall notify a member of the Metropolitan Fire Brigade or the Emergency Services Board.
- 44. Drains and Watercourses**
- 44.1. A person must not, on any **private land** without a **permit** or **licence**, interfere with, excavate, build, pave or landscape within or over an easement in **Council's** favour, or cause any change or obstruction or damage to a drain, sewer, watercourse or associated infrastructure which **Council** controls or manages.
- 44.2. An **owner** or **occupier** of **private land** must not, without a **permit**, damage or otherwise interfere with any part of **Council's** drainage infrastructure.
- 44.3. An **owner** or **occupier** of **private land** must ensure that any drain on that **private land** properly discharges to an approved point of discharge being **Council's** drainage infrastructure.
- 44.4. An **owner** or **occupier** of **private land** must not allow a drain located on that **private land** to become blocked or otherwise fall into disrepair.
- 44.5. An **owner** or **occupier** of **private land** on which a **Council**-maintained drain or associated infrastructure exists must notify **Council** if the drain or associated infrastructure becomes blocked, damaged or fails to operate effectively as soon as practicable after the **owner** or **occupier** becomes, or ought reasonably to have become, aware of the condition arising.
- 44.6. The requirement to obtain a **permit** or **licence** does not apply where **Council** has given its approval for the drain to be tapped into under legislation administered by it, except:
- 44.6.1. where construction has ceased or been completed; and
- 44.6.2. that this exemption does not permit an **owner** or **occupier** of **private land** to cause or sustain damage or blockage to a drain.

45. Household, Recycling and Organic Waste Storage

Where **Council** provides a waste collection service, the **owner** or **occupier** of **private land** must:

- 45.1. only use an **approved waste receptacle** for **Council**-provided waste collections;
- 45.2. not dispose of any **e-waste** in an **approved waste receptacle**;
- 45.3. ensure the lid of the **approved waste receptacle** is left closed after material is placed in or removed from it;
- 45.4. keep the **approved waste receptacle** in a clean, inoffensive and sanitary condition; and
- 45.5. store the **approved waste receptacle** on the **private land** to which the waste collection service is provided, except for a maximum of 24 hours prior to the scheduled collection and a maximum of 24 hours following it, when it may be placed in the adjacent footpath or nature-strip in accordance with **Council** guidelines as issued from time to time.

46. Hard Waste Collection

- 46.1. Where a **hard waste** collection has been booked by a resident or is otherwise provided by **Council**, a person must not place the items out for collection more than 48 hours prior to the scheduled collection and must comply with any written or verbal directions of **Council**.
- 46.2. A person must not deposit or allow to be deposited any **hard waste** contrary to the written or verbal directions pursuant to clause 46.1.

47. Bulk Rubbish and Trade Waste Storage

- 47.1. A person must not, without a **permit**, place, allow to be placed or cause to be placed on any **Council-controlled land** or a **road**:
 - 47.1.1. a **bulk rubbish container**;
 - 47.1.2. any other thing on **Council-controlled land** or a **road** which interferes with the use of the **Council-controlled land** or **road**.
- 47.2. Unless exempted by **Council**, the person to whom a **permit** is issued under this clause must ensure that the **bulk rubbish container** to which the **permit** relates is:
 - 47.2.1. constructed of impermeable material;
 - 47.2.2. watertight;
 - 47.2.3. fly and vermin proof;
 - 47.2.4. equipped with a removable drainage plug, if required by the **permit**;
 - 47.2.5. emptied at least every seven (7) days, or otherwise as required by the **permit**; and
 - 47.2.6. maintained in a clean, inoffensive and sanitary condition.

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- 47.3. If directed by **Council**, the person to whom a **permit** is issued under this clause 47 must ensure that the area to which the permit relates and in which the **bulk rubbish container** is placed:
- 47.3.1. has an impermeable surface;
 - 47.3.2. is drained to a sewer or other outlet approved by **Council**;
 - 47.3.3. is supplied with water from a tap and hose; and
 - 47.3.4. is maintained in a clean, inoffensive and sanitary condition.

48. Screening of Bins and Containers

Council may, by notice in writing, direct the **owner** or **occupier** of **private land** on which there is an **approved waste receptacle** or **bulk rubbish container** that is:

- 48.1. unsightly;
 - 48.2. dangerous, or likely to become dangerous, to the health of any person, **animal** or property; or
 - 48.3. detrimental to the general amenity of the neighbourhood;
- to:
- 48.4. install;
 - 48.5. repair;
 - 48.6. replace; or
 - 48.7. modify

a fence or other means of screening the **approved waste receptacle** or **bulk rubbish container** from public view.

49. Noise

- 49.1. In or adjacent to a **residential area** a person must not:
- 49.1.1. leave the engine of a stationary **heavy vehicle** running for more than five (5) continuous minutes;
 - 49.1.2. without a **permit**, deliver to, or collect from, or cause or allow a delivery to or collection from, a **commercial enterprise** any goods, or provide any services, including waste collection services, to a **commercial enterprise**, or allow a refrigeration unit mounted on a **vehicle** to run:
 - 49.1.2.1. before 9am or after 10pm on a public holiday;
 - 49.1.2.2. between 10pm on Friday and 9am the next day;
 - 49.1.2.3. between 10pm on Saturday and 7am the following Monday; or
 - 49.1.2.4. between 10pm on Monday, Tuesday, Wednesday or Thursday and 7am the next day.

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49.2. A person must not, without a **permit**, carry out or allow to be carried out **non-residential building work**:

49.2.1. on a public holiday;

49.2.2. between 5pm on Friday and 8am the next day;

49.2.3. between 5pm on Saturday and 7am the following Monday; or

49.2.4. between 6.30pm on any Monday, Tuesday, Wednesday or Thursday and 7am the next day;

unless the **non-residential building work** is necessary to protect life or property or unless a **planning permit** has provided approval to do so.

50. Wasp Nests and Bees

Upon becoming aware of the existence of:

50.1. a wasp nest; or

50.2. bee hives or bee swarms that do not comply with any relevant Apiary Code of Practice or are not otherwise permitted by the **Planning Scheme**

on **private land**, the **owner** or **occupier** of that **private land** must immediately take steps to cause the nest, hives or swarms to be removed by an appropriately qualified contractor.

PART F – ANIMALS

51. Keeping Domestic Animals

51.1. An **owner** or **occupier** of **private land** must not, without a **permit**, keep or allow to be kept on that **private land** any more than:

51.1.1. the number of **animals** specified in the table at clause 51.5; and

51.1.2. four different types of **animals**, in which case the numbers specified in the table at clause 51.5 are cumulative.

51.2. An **owner** or **occupier** of **private land** must not, without a **permit**, keep or allow to be kept on that **private land** any **animal** that is not specified in the table at clause 51.5.

51.3. Clauses 51.1 and 51.2 do not apply where:

51.3.1. a **planning permit** has been obtained for **private land** used for the purposes of **animal** boarding or breeding, or for any other purpose permitted by the **planning permit**; or

51.3.2. an **owner** or **occupier** of **private land** keeps more than the specified number of **animals** on that **private land** at the commencement of this Local Law, provided that:

51.3.2.1. those **animals** are kept in accordance with a **permit** issued under the previous Local Law (if one was required); and

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- 51.3.2.2. where one or more of those **animals** is permanently removed from the **private land**, that **animal**, or those **animals**, shall not be replaced unless a **permit** is first granted under this clause 51; or
- 51.3.3. an **owner** or **occupier** of **private land** keeps more than the specified number or type of **animals** on that **private land** for no more than 14 consecutive days for the purpose of caring for **animals**:
- 51.3.3.1. owned by another; and
- 51.3.3.2. which are ordinarily kept on land occupied by that other.
- 51.4. An **owner** of **vacant land** must not, without a **permit**, keep, or allow to be kept, any **animal** on that **vacant land**.
- 51.5. Number of **animals**:

Type of Animal	Maximum number of each type of animal permitted
Private land with a single dwelling	
Mammals (Domesticated)	
Dogs (over three months old)	2
Cats (over three months old)	2
Ferrets	2
Rabbits, guinea pigs, rats and mice	5
Farm animals	0
Birds	
Roosters, peafowl or guinea fowl	0
Chickens and pheasants	6
Turkeys, ducks and geese	2
Poultry other than that specified above	4
Domestic Birds (caged, non-poultry birds)	20
Private land with a multi-residential dwelling	
Mammals (Domesticated)	
Dogs (over three months old)	1
Cats (over three months old)	2

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Ferrets	0
Rabbits, guinea pigs, rats and mice	2
Farm animals	0
Birds	
Roosters, peafowl or guinea fowl	0
Chickens and pheasants	0
Turkeys, ducks and geese	0
Poultry other than that specified above	0
Domestic Birds (caged, non-poultry birds)	5

- 51.6. In determining whether to grant a **permit** for the keeping of **animals** where the number exceeds that determined by **Council** and which is set out in the table at clause 51.5, **Council** must take into account:
- 51.6.1. the zoning of the **private land**;
 - 51.6.2. the proximity of the area to adjoining **private land**;
 - 51.6.3. the amenity of the area in which the **private land** is located;
 - 51.6.4. the type and additional numbers of **animals** to be kept;
 - 51.6.5. the area of **private land** available for keeping the **animals**;
 - 51.6.6. the likely effects on adjoining **owners** or **occupiers**;
 - 51.6.7. the adequacy of **animal** shelters; and
 - 51.6.8. any other matter relevant to the circumstances associated with the application.
- 51.7. An **owner** or **occupier** of **private land** must:
- 51.7.1. ensure that any **animals** kept on the **private land** are contained to the **private land** at all times, unless the **animals** are removed from the **private land** for any reason, in which case the **animals** must be contained so as to prevent their escape while outside the **private land**;
 - 51.7.2. ensure that the area where **animals** are kept is thoroughly cleaned and maintained at all times in a clean and sanitary manner so as not to give rise to any **nuisance** or offensive condition;
 - 51.7.3. keep the area of **private land** within 3 metres of the area or structure in which **animals** are kept free from dry grass, weeds, refuse, rubbish or other material capable of harbouring vermin or which may cause a health or safety risk to persons, **animals** or property;

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51.7.4. keep all food or grain for **animals** on that **private land** in vermin-proof and fly-proof receptacles; and

51.7.5. drain the ground surrounding the place where **animals** are kept on that **private land**.

52. Treatment of Animals

Poultry must not be caged unless provided with ready access to an exercise run at least five metres long, two metres wide and one-and-a-half metres high.

53. Nuisances

An **owner** or **occupier** of **private land** must ensure that any **animal** or bird kept on that **private land** does not cause a **nuisance** to surrounding or neighbouring **owners** or **occupiers** of land.

54. Dogs

A person in charge of a dog on any **Council-controlled land** or a **road** must:

54.1. carry a receptacle or receptacles suitable for the removal of any excrement that may be deposited by the dog; and

54.2. not permit the excrement of the dog to remain on that **Council-controlled land** or **road**.

SCHEDULE 1

Infringement Notice value and Court penalty for contravention of this Local Law
(All values expressed in Penalty Units)

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
16	Failure to adhere to a Notice to Comply Fail to comply with a notice to comply or direction of an Authorised Officer	5	20
22.1.4.	Offences Fails to comply with a condition of a permit	2.5	20
25	Behaviour Generally Person contravenes behaviour requirements	2	20
25.3	Conducts business or commercial activities without a permit or licence	3	20
26	Consumption and Possession of Alcohol	2	20
27.1	Trading Activities Display of advertising sign , place any structure, street furniture to sell or trade any goods or services without a permit	5	20
27.3	Without a permit , for commercial purposes , sell or offer for sale goods or services, seek subscriptions or solicit custom door to door or permit or cause another person to do so, in a residential area	3	20

Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
27.4	Without a permit engage in, or permit or cause another person to engage in, spruiking or the promotion of goods or services for commercial purposes on any Council-controlled land or road	3	20
28.1	Appeals & Collections Without a permit , solicit or collect any gifts, money or subscriptions or permit or cause another person to do so on any Council-controlled land or road	3	20
28.2	Without a permit erect or place vehicle , caravan, trailer, table, stall or similar structure for purpose of selling goods or services or conducting a raffle or lottery	3	20
29	Charity Bins Place Charity Bin without a permit	5	20
30.1	Obstructions on Council-controlled land Advertising sign or other object obstructing Council-controlled land or other views	3	20
30.2	Vegetation obstructing Council-controlled land or other views	3	20
31	Obstructions on Roads Allowing a vehicle or trailer placed on any road to cause danger, hazard or interfere with use of a road or obstruct views	5	20
32.1	Changes to and Occupation of Council-Controlled Land Without a permit or licence cause change to or remove anything from Council-controlled land	5	20

Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
32.2.1	Without a permit or licence occupy any Council-controlled land or a road by storing on it any boat, trailer, caravan or storage container	3	20
32.2.2	Without a permit use a mobile crane, travel tower or other similar vehicle or machinery	5	20
33	Filming and Photography on Council Land Without a permit conduct any filming or photography on Council-controlled land or road	5	20
34.1	Repair of Vehicles and Storage of Heavy Vehicles Use Council-controlled land to repair, service or perform any work on a vehicle	5	20
34.2	Without a permit allow a heavy vehicle to be stored or perform any work on a heavy vehicle on land.	5	20
35.1	Use of Vehicles on Council-Controlled Land Use vehicles on Council-controlled land contrary to the requirements	3	20
36	Bike Share Scheme Own or operate Bicycle for the purpose of bike share scheme without a permit	3	20
37	E-Scooter Share Scheme Own or operate an e-scooter for the purpose of an e-scooter share scheme without a permit	3	20

Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
38	<p>Wheeled Recreational Devices and Wheeled Toys</p> <p>Use of wheeled recreational devices, wheeled toys or other similar devices on Council-controlled land to endanger, intimidate, obstruct and hinder</p>	3	20
39	<p>Parking Permits</p> <p>Fail to comply with obligations of a Parking Permit Holder</p>	3	20
40.1	<p>Caravans and Camping</p> <p>Place more than one (1) caravan, campervan, motor home on private land within a residential area without a permit</p>	3	20
40.2	<p>Occupy or allow another to occupy a caravan, campervan, motor home, tent or similar on private land more than 3 weeks in any one calendar year without a permit</p>	3	20
40.3	<p>Occupy or allow another to occupy a caravan, campervan, motorhome, tent or similar on Council-controlled land</p>	3	20
41.1	<p>Shopping Trolleys</p> <p>Person leaves a shopping trolley other than in proper area</p>	3	20
41.2	<p>Shopping Trolley of a retailer left on a road or Council-controlled land</p>	5	20
42.1	<p>Dangerous and Unsightly Land and Nuisance</p> <p>Owner or occupier allows dangerous and unsightly land and nuisance</p>	5	20
42.2	<p>Owner or occupier allows building or other structure to become dilapidated</p>	5	20

Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
42.3	Must take reasonable steps to prevent the movement of soil, sediment and other substances from private land to the adjoining road .	3	20
42.4	Must ensure pavement lights are maintained so as not to fall into a state of disrepair.	5	20
43.1	Open Air Burning and Incinerators Cause or allow to burn a substance that is likely to be offensive or cause fire risk or endanger the safety of any person or animal	4	20
43.2	light a fire in the open air without a permit	5	20
43.3	Use or allow an incinerator to be used	5	20
43.4	Fail to extinguish a fire	5	20
44.1 and 44.2	Drains and Watercourses Without a permit or licence interfere with a drain	5	20
44.3	Fail to ensure drain discharges to an approved point of discharge	5	20
44.4	Allow a drain to be blocked or fall in disrepair	5	20
44.5	Fail to notify Council if a drain or associated infrastructure becomes blocked, damaged or fails to operate	5	20
45	Household, Recycling and Organic Waste Storage Failure to comply with any of the waste collection requirements	3	20
46.1	Hard Waste Collection Failure to comply with the hard waste collection requirements	5	20

Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
46.2	Deposit or allow to deposit hard waste contrary to the directions of Council	5	20
47.1	Bulk Rubbish and Trade Waste Storage Without a permit place bulk rubbish container or any other thing on Council-controlled land or road .	5	20
47.2	Fail to comply with the correct sanitary conditions for a bulk rubbish container	5	20
47.3	Fail to ensure that the area which a permit related to bulk rubbish container is kept in accordance with Council direction	5	20
48	Screening Bins and Containers Fail to meet the conditions for approved waste receptacles or bulk rubbish container	5	20
49.1.1	Noise Leave the engine of a stationary heavy vehicle running	5	20
49.1.2	Without a permit deliver outside of hours	5	20
49.2	Without a permit carry out or allow to be carried out non-residential building work outside of hours	5	20
51.1	Keeping Domestic Animals Without a permit keeps excessive animals	2	20
51.2	Without a permit must not keep any animal that is not specified in table 51.5.	2	20
51.4	Without a permit must not keep any animal on vacant land .	2	20

Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
51.7	Fails to comply with the conditions where animals are kept	2	20
51.7.1	Must ensure any animals kept on private land are contained and prevented from escape	2	20
52.	Treatment of Animals Poultry kept contrary to requirements	2	20
53	Nuisances Animals or birds causing nuisance	2	20
54.1	Dogs Carry receptacle or receptacles suitable for removal of excrement	2	20
54.2	Allow excrement to remain on Council-controlled land	2	20

The Common Seal of the Boroondara City Council was hereunto affixed in the presence of:)
)
)

..... Mayor/Councillor

..... Chief Executive Officer

..... Date



CITY OF BOROONDARA
AMENITY LOCAL LAW

Date Resolved By Council: [] 2019

Commencement Date: 26 December 2019

Revocation Date: 26 December 2029

Responsible Directorate: Chief Executive Office

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PART A – PRELIMINARY**1. Local Law**

- 1.1. This Local Law is called the 'Boroondara City Council Amenity Local Law' and is made under Part 5 of the *Local Government Act 1989*.

2. Objectives

This objectives of this Local Law are to provide for:

- 2.1. the peace, order and good government of the **municipality**;
- 2.2. a safe and healthy environment so that the community can enjoy a quality of life that meets its expectations;
- 2.3. the safe and equitable use and enjoyment of **public places**;
- 2.4. the protection and enhancement of the amenity and environment of the **municipality**;
- 2.5. the fair and reasonable use and enjoyment of **private land**; and
- 2.6. the uniform and fair administration of this Local Law.

3. Commencement

This Local Law commences on the day following the notice of its making being published in the Victoria Government Gazette.

4. Revocation Date

This Local Law ceases to operate on a date that is 10 years after its commencement date unless revoked earlier by **Council**.

5. Application of Local Law

This Local Law applies throughout the **municipality** unless specifically stated otherwise.

6. Definitions

Some of the words or terms in this Local Law are defined. They are identified in **bold** and have the following meanings in this Local Law:

active travel – includes walking, cycling and any other mode of non-motorised transport of people;

advertising sign – means any placard, board, poster, banner, sign, card, structure or other similar device, whether portable or affixed or attached to any land, **building**, **vehicle**, trailer, person or other thing, used for the purpose of soliciting goods or services or displaying information but excludes any placard, board, poster, banner, sign, card or similar device attached to or on any **vehicle** or trailer:

- (a) and used for the purpose of promoting a registered political party or a person's candidature or prospective candidature at an election; or
- (b) if the use of the **vehicle** or trailer is ancillary to another use connected with activities being carried out on land (such as the use of a **vehicle** or trailer in connection with building or commercial activities being carried out on land);

Amenity Local Law

alcohol – means a drink with an alcoholic content greater than 0.5% by volume at a temperature of 20 degrees Celsius;

alcohol-free zone – means an area prescribed by **Council** as an alcohol free zone;

animal – includes every species of quadruped and every species of bird (including, without limitation, poultry);

applicant – means a person who applies for a **permit** under this Local Law;

approved area – where used in clause 42 means either:

- (a) the boundaries of the premises from which the **retailer** conducts his or her business; or
- (b) such other area relating to the **retailer's** business that **Council** declares from time to time by resolution to be an approved area for the purposes of clause 42.

approved waste receptacle – means a household waste bin, a recycling waste bin, a green waste bin or other refuse receptacle supplied by, or on behalf of, **Council**, or otherwise approved by **Council**;

Authorised Officer – means a person appointed by **Council** under section 224 of the *Local Government Act 1989*;

bike share scheme – means any service in which bicycles are made available to individuals on a short-term basis for free or for a fee;

building – includes any building or structure whether temporary or permanent, or any part of a building or structure;

bulk rubbish container – includes trade waste storage bins, waste bins, mini-skips, shipping containers, pallets and any other structure designed to receive or store waste but does not include an **approved waste receptacle**;

charity bin – means a bin designed for the collection of clothing and other items, and identified as such, for charitable or other purposes;

commercial enterprise – means a business, partnership or an enterprise carried on for profit;

Council – means Boroondara City Council;

Council-controlled land – means any land which **Council**, owns, occupies, manages, has leased or licensed to another person or is otherwise under **Council's** control and management, other than a **road**;

Cypress Hedges Policy – means **Council's** 'Management of Cypress Hedges Policy' as adopted by **Council** on 24 October 2005 as amended or replaced from time to time;

dilapidated – means a **building** fallen into a state of disrepair, decayed, deteriorated, broken down or a partial ruin through neglect, misuse or vandalism;

e-scooter – means a scooter that is or can be propelled by an electric motor;

e-scooter share scheme – means any service in which **e-scooters** are made available to individuals on a short-term basis for free or for a fee;

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e-waste – means waste in the form of electrical or electronic equipment, devices or things (or materials or parts of such equipment, devices or things), the operation of which is dependent on, or designed for the generation, transfer or measurement of, an electric current or electromagnetic field;

event – means an organised recreational, cultural, commercial or social event or gathering of people, including a carnival, festival, street party, procession or any similar activity;

farm animal – means a hoofed animal, such as a cow, sheep, pig or similar animal;

fire hazard – means a material, substance or action that increases the likelihood of an accidental fire occurring;

formed path – means a path provided by **Council** and used for the purpose of **active travel** and includes a **shared path**;

graffiti – means an unauthorised mark or marks, whether written, drawn, sprayed, scratched or otherwise made, which cannot readily be removed by wiping with a damp cloth;

hard waste – means garden refuse, rubbish of a size, shape, nature or volume that cannot be contained in an **approved waste receptacle**, a brick, concrete, masonry or engine part and any other type of rubbish specified by **Council** from time to time;

heavy vehicle – has the same meaning as in the *Road Safety Road Rules 2017*;

incinerator – includes a structure, device or piece of equipment which is designed, adapted, used or capable of being used for the burning of any material or substance and which is not:

- (a) enclosed in any **building**;
- (b) a purpose-built or constructed a barbecue, grill, pizza oven, brazier, portable fire pit constructed of fire resistant materials or similar, being used for the purpose of cooking food or providing heat; or
- (c) licensed under the provisions of the *Environment Protection Act 1970*;

infringement notice – means an infringement notice issued by an **Authorised Officer** in respect of an **offence** against this Local Law;

licence – means a licence to use or occupy land granted by **Council** as the **owner, occupier** or manager of that land;

model aircraft – includes any airborne device that is similar to a model aircraft and which is powered, such as a drone;

multi-residential dwelling – means a dwelling being part of two or more dwellings on a single lot;

municipality – means the municipal district of **Council**;

non-residential building work – means building works not pertaining to a residential dwelling, outbuilding or other structure ancillary to a residential dwelling;

notice to comply – means a notice to comply issued under this Local Law;

nuisance – means any behaviour or condition which is or is liable to be dangerous to health or is noxious, annoying or injurious to personal comfort;

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- occupier** – means the person who is for the time being in charge of land;
- offence** – means an offence against or a breach of a provision of this Local Law, or of a **permit, notice to comply** or direction issued under this Local Law;
- open air** – has the same meaning as in Division 3 of Part III of the *Country Fire Authority Act 1958*;
- owner** – means the person or persons for the time being entitled to be registered on Title as the owner of land and, where more than one person, each of them jointly and severally;
- parking permit** - means a **permit** issued under the **Parking Permit Policy**;
- Parking Permit Holder** – means a person to whom a **parking permit** has been issued;
- Parking Permit Policy** – means the Parking Permit Policy adopted by **Council** on 22 August 2016 as amended or replaced from time to time;
- pavement light** – means a device incorporated into the footpath or roadway adjacent to **private land** for the provision of natural light to those parts of a **building** on that **private land** below ground level;
- Penalty Units** – has the same meaning as in section 110(2) of the *Sentencing Act 1991*;
- permit** – means a permit issued under this Local Law;
- planning permit** – means a **permit** issued under the **Planning Scheme**;
- Planning Scheme** – means the Boroondara Planning Scheme;
- private land** – means all land other than **Council-controlled land** and **roads**;
- public place** – has the same meaning as in section 3 of the *Summary Offences Act 1966*;
- residential area** – means an area zoned as residential under the **Planning Scheme** and includes an area which is predominantly in a residential zone under the **Planning Scheme**;
- residential land or premises** – means land or premises that is or are developed or used predominately for residential purposes;
- retailer** – means a person who sells goods by retail and provides shopping trolleys to his or her customers;
- road** – has the same meaning as in the *Local Government Act 1989*;
- security bond** – means a payment or guarantee made to **Council** for the purposes of defraying costs to repair damage to assets or as required under this Local Law;
- shared path** – has the same meaning as in the *Road Safety Road Rules 2017*;
- storage container** – means a form of container that is moveable and is used for the purposes of storage and includes a shipping container or vessel of a similar nature;

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street furniture – means tables and chairs, stools and benches, umbrellas, goods or other items for sale, wind frames (barriers) and similar items which are placed on any **road** or **Council-controlled land**;

traffic controls – means the same as “traffic control devices” in the *Road Safety Road Rules 2017*;

unsightly land – means land the condition of which is detrimental to the amenity of the locality in which it is situated;

vacant land – means land on which there is no house or other structure approved for human occupation;

vehicle – has the same meaning as in *Road Safety Road Rules 2017*;

wheeled recreational device – has the same meaning as in *Road Safety Road Rules 2017*;

wheeled toy – has the same meaning as in *Road Safety Road Rules 2017*; and

work – includes any change to the natural or existing condition or topography of land including but not limited to trenching, digging, excavating or filling whether by mechanical or manual methods.

7. Conflict with Other Legislation

This Local Law does not apply where any act or thing is authorised by or under any other legislative instrument or the **Planning Scheme**.

PART B – ADMINISTRATION

8. Permits

8.1. Wherever in this Local Law a **permit** is required, **Council** may:

- 8.1.1. grant the **permit**;
- 8.1.2. refuse to grant the **permit**;
- 8.1.3. grant the **permit** subject to conditions; or
- 8.1.4. determine that no **permit** is required.

8.2. An application for a **permit** must be:

- 8.2.1. made in writing and include the following particulars:
 - 8.2.1.1. the name and address of the **applicant**;
 - 8.2.1.2. the capacity in which the **applicant** makes the application;
 - 8.2.1.3. a statement of the purpose for which the **permit** is sought;
 - 8.2.1.4. the location of the proposed activity;
 - 8.2.1.5. the day and the time when the proposed activity is to take place and its expected duration;

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- 8.2.1.6. the signature of the **applicant** or a person authorised to sign for and on behalf of the **applicant**; and
 - 8.2.1.7. such other particulars as **Council** may require;
 - 8.2.2. true and correct;
 - 8.2.3. forwarded to the person or office described on the application form with the fee, if any, payable to **Council** and in the amount as is fixed by **Council** from time to time; and
 - 8.2.4. in the form approved by **Council** from time to time.
 - 8.3. If required by **Council**, an **applicant** must provide such additional information as may be specified before the application for a **permit** will be processed and determined.
 - 8.4. If required by **Council**, an **applicant** for a **permit** must give such notice of that application, or invite any person to make a submission, or do both, as may be specified.
 - 8.5. In considering an application for a **permit**, **Council** must consider:
 - 8.5.1. any policy or guideline adopted by **Council** relating to the subject matter of the application for the **permit**;
 - 8.5.2. any written objection, submission or comment received in respect of the application, where they are invited under clause 8.4; and
 - 8.5.3. any other relevant matter.
 - 8.6. 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:
 - 8.6.1. 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**;
 - 8.6.2. a requirement that notice be given to **Council** as to when the activities authorised by the **permit** will be carried out or will occur;
 - 8.6.3. a time limit on the **permit** or on the activities authorised by it;
 - 8.6.4. provision for extension of the **permit**;
 - 8.6.5. the payment of a fee or charge;
 - 8.6.6. a standard to be applied;
 - 8.6.7. that the **permit** is conditional on the happening of a certain event or prerequisite;
 - 8.6.8. that the **permit** is conditional upon the rectification, remedying or restoration of any situation or circumstance; or
 - 8.6.9. where the **applicant** is not the **owner** of the relevant premises, that the consent of the **owner** be obtained.
 - 8.7. Unless otherwise stated in the **permit**, a **permit**:

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- 8.7.1. 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
- 8.7.2. is not transferable.

9. Compliance with permits

Every person to whom a **permit** is granted must do every act and thing that may be necessary to ensure compliance with the **permit** and its conditions.

10. Correction, amendment, cancellation and suspension

- 10.1. **Council** may correct a **permit** if the **permit** contains:
 - 10.1.1. a clerical mistake or an error arising from any accident, slip or omission; or
 - 10.1.2. a material miscalculation of figures or a material mistake in the description of any person, premises, thing or property referred to in the **permit**.
- 10.2. **Council** may cancel, suspend or amend any **permit** at any time if:
 - 10.2.1. it is requested to do so by the **permit**-holder; or
 - 10.2.2. it considers that there has been:
 - 10.2.2.1. a material misrepresentation or concealment of fact in relation to the application for the **permit**;
 - 10.2.2.2. any material mistake in relation to the grant of the **permit**; or
 - 10.2.2.3. any material change of circumstances which has occurred since the grant of the **permit**; or
 - 10.2.2.4. the **permit**-holder or his or her agent for the **permit** defaults in payment of the **permit**.
- 10.3. **Council** may cancel or suspend a **permit** at any time if **Council** is satisfied that there has been a substantial failure to comply with a:
 - 10.3.1. **permit** condition; or
 - 10.3.2. **notice to comply** relating to the premises, item or activity to which the **permit** relates.
- 10.4. **Council** may cancel or suspend a **permit** at any time where **Council** determines that the **permit** may result in a hazard, danger or inconvenience to any other person, premises, thing or property.

11. General permit provisions

- 11.1. The holding of a **permit** or compliance with a condition included in a **permit** does not of itself relieve the **permit**-holder from:
 - 11.1.1. compliance with any other legislation with respect to the subject matter of the **permit**; or

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- 11.1.2. liability for any damage sustained by any person as a result of an activity undertaken by or on behalf of the **permit**-holder pursuant to the **permit**.
- 11.2. A person applying for a **permit** or amendment of a **permit** must not make or allow to be made any false representation or declaration in or in relation to that application or **permit**.
- 11.3. A person who makes a false representation or declaration (whether oral or in writing), or who omits relevant information from an application for a **permit** or exemption, is guilty of an **offence**.
- 11.4. Except where expressly stated in this Local Law or in a **permit**, the **permit** will operate from the date it is granted and will expire on the following 30 June.

12. Fees and Charges

- 12.1. **Council** may from time to time by resolution determine:
 - 12.1.1. the quantum of any fees, charges, guarantee or bond to apply under this Local Law; and
 - 12.1.2. an administrative, inspection or processing fee or charge in addition to a standard fee, charge, guarantee or bond applying under this Local Law.
- 12.2. In determining a fee or charge, **Council** may establish a system or schedule of fees and charges, including a minimum or maximum fee or charge, if it considers it appropriate to do so.
- 12.3. **Council** may waive, reduce, alter or refund, in whole or in part, any fee, charge, bond or guarantee with or without conditions.

13. Powers of Council

- 13.1. Without affecting the operation of any particular provision of this Local Law, unless the contrary intention appears everything that:
 - 13.1.1. **Council** is capable of doing under this Local Law is also capable of being done by an **Authorised Officer**; and
 - 13.1.2. an **Authorised Officer** is capable of doing under this Local Law is also capable of being done by **Council**.
- 13.2. Clause 13.1.1 does not empower an **Authorised Officer** to exercise any power conferred by clause 12.3.

14. Notice to Comply

- 14.1. Where **Council** reasonably believes that a person has committed an **offence** against this Local Law, **Council** may issue to the person a written **notice to comply** which:
 - 14.1.1. requires the person to stop the conduct constituting the **offence**;
 - 14.1.2. contains a direction indicating what action is required to stop the conduct constituting the **offence**;

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- 14.1.3. contains a direction indicating what action is required to achieve compliance with this Local Law; and/or
- 14.1.4. contains a direction to remedy any consequences arising from the conduct constituting the **offence**.

14.2. A **notice to comply** must include information about:

- 14.2.1. the name of the alleged offender (if known);
- 14.2.2. the **offence**, and the provision of this Local Law it infringes;
- 14.2.3. the action required to stop the conduct constituting the **offence**;
- 14.2.4. the action required to remedy any consequences arising from the conduct constituting the **offence**;
- 14.2.5. the time for compliance;
- 14.2.6. the date on which it was issued; and
- 14.2.7. the name and signature of the **Authorised Officer** or **Council** delegate issuing the **notice to comply**.

15. Reasonable time to comply

- 15.1. The time for compliance with a **notice to comply** issued under this Local Law must be reasonable in the circumstances, and what will be reasonable will vary depending on the matters to be remedied.
- 15.2. In determining what is reasonable, **Council** will consider:
 - 15.2.1. the amount of work involved;
 - 15.2.2. the degree of difficulty;
 - 15.2.3. the availability of necessary materials or other items;
 - 15.2.4. climatic conditions;
 - 15.2.5. the degree of risk or potential risk to third parties and the public generally; and
 - 15.2.6. any other relevant factors.

16. Failure to adhere to a notice to comply

Any person served with a **notice to comply** under this Local Law who fails or refuses to comply with it is guilty of an **offence**.

17. Power To Act in Urgent Circumstances

Council may act to remedy any circumstance which threatens a person's life, health or property, or an animal, or to prevent any danger to the environment or any **nuisance** arising, without serving a **notice to comply**, provided that:

- 17.1. the circumstance arises out of a person's use of **Council-controlled land** or a **road** or failure to comply with a provision of this Local Law;

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- 17.2. **Council** considers the circumstance to be sufficiently urgent that the time necessary to serve, or the potential difficulty in serving, a **notice to comply** may place the person's life, health or property, or the animal or the environment at risk or in danger of substantial detriment;
- 17.3. the action taken is no more than the minimum reasonably necessary to remedy the urgent circumstance; and
- 17.4. the person on whom a **notice to comply** under clause 14 would have otherwise been served is as soon as possible notified of the urgent circumstance and the action taken to remedy it.

18. Impounding

- 18.1. **Council** may seize and impound any thing which is, has been or is being used or possessed in contravention of this Local Law.
- 18.2. Where a thing has been impounded under this Local Law, **Council** must, if it is practicable to do so, serve notice of the impounding personally, by email or by ordinary post on the person who appears to be the **owner** of it.
- 18.3. On receipt of evidence that, to **Council's** reasonable satisfaction, shows that a person is the **owner** of an impounded thing, and on payment of a fee determined by **Council**, an impounded thing must be given back to:
 - 18.3.1. its **owner**; or
 - 18.3.2. a person who provides satisfactory evidence to **Council** of his or her authority from the thing's **owner** to act on the **owner's** behalf.
- 18.4. Where an impounded thing has not been claimed within 30 days of notice being given in accordance with clause 18.2, or within 30 days of the thing being impounded if it is not practicable to serve notice of the impoundment in accordance with clause 18.2, **Council** may:
 - 18.4.1. sell the impounded thing and retain any proceeds of sale as general revenue; or
 - 18.4.2. if the value of the impounded thing is less than the cost of selling it, donate it to a registered charity or local community group.

19. Appeals

- 19.1. A person may request that **Council** reviews an order, direction, decision or notice issued in relation to him or her under this Local Law.
- 19.2. Where a request for review has been made under clause 19.1, the person requesting the review must do everything practicable to cooperate in the prompt and speedy review of the order, direction, decision or notice.

20. Security Bonds

- 20.1. In deciding to grant a **permit**, **Council** may require the **applicant** to lodge with **Council** a **security bond** in such amount and in such a manner as **Council** determines.
- 20.2. In the event that a person to whom a **permit** is issued breaches the **permit** conditions attached to the **permit** or this Local Law, **Council** may apply so

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much of the **security bond** as is necessary to remedy that breach and repair any damage caused by that breach.

- 20.3. Upon expiry of a **permit**, **Council** must release any remaining **security bond** to the person who paid it.
- 20.4. If, after 12 months from the date that the **security bond** would be released under clause 20.3, **Council** cannot locate a person entitled to the release of any **security bond** or remaining **security bond**, **Council** may retain the **security bond** or remaining **security bond** and pay the money into its general revenue.

21. Incorporated Documents

The following documents are incorporated into this Local Law:

- 21.1. **Cypress Hedges Policy**; and
- 21.2. **Parking Permit Policy**.

PART C – ENFORCEMENT

22. Offences

- 22.1. A person is guilty of an **offence** if the person:
- 22.1.1. does something which a provision of this Local Law prohibits to be done or makes an **offence**;
 - 22.1.2. fails to do something which a provision of this Local Law requires to be done;
 - 22.1.3. engages in an activity without a **permit** where a provision of this Local Law requires that person to obtain a **permit** before engaging in that activity;
 - 22.1.4. breaches or fails to comply with a condition of a **permit** issued under this Local Law; or
 - 22.1.5. fails to comply with a **notice to comply** or a direction of **Council** under this Local Law.
- 22.2. If a corporation is charged with an **offence** against this Local Law, any natural person who is concerned or takes part in the management of the corporation may also be charged with the same **offence**.
- 22.3. If a corporation is convicted of an **offence** against this Local Law, a natural person charged under clause 22.2 with the same **offence** may also be convicted of that **offence** and is liable to the penalty for that **offence** unless that natural person proves that the act or omission constituting the **offence** took place without his or her knowledge or consent.

23. Penalties

A person guilty of an **offence** under this Local Law is, where no other penalty is specified in Schedule 1 to this Local Law, liable to a penalty:

- 23.1. not exceeding 20 **Penalty Units**; and

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- 23.2. for a continuing **offence**, not exceeding 2 **Penalty Units** for each day after the finding of guilt during which the contravention continues.

24. Infringement Notices

- 24.1. Where an **Authorised Officer** reasonably believes that a person has committed an **offence** against this Local Law, the **Authorised Officer** may issue and serve on that person an **infringement notice** as an alternative to a prosecution for that **offence**.
- 24.2. The infringement penalties fixed for **offences** against this Local Law are set out in Schedule 1 and, if no penalty is fixed for a particular **offence**, the penalty is two (2) **Penalty Units** for each **offence**.

PART D – ROADS AND COUNCIL-CONTROLLED LAND**25. Behaviour – Generally**

- 25.1. A person must not on any **Council-controlled land**:
- 25.1.1. interfere with another person's reasonable use and enjoyment of that **Council-controlled land**;
 - 25.1.2. endanger or be likely to endanger a person's health, life or property or an animal;
 - 25.1.3. without a **permit**, do anything contrary to a sign erected on the **Council-controlled land**; or
 - 25.1.4. play or practise golf (whether by hitting a golf ball or other kind of ball, or by swinging a golf club or otherwise) except on **Council-controlled land** designated by **Council** as a golf course.
- 25.2. A person must not, without a **permit**, organise a function, **event** or entertainment on **Council-controlled land** or a **road** that:
- 25.2.1. substantially occupies the **Council-controlled land** or **road**; or
 - 25.2.2. encroaches or impacts or is likely to encroach or impact, on another person's use and enjoyment of the **Council-controlled land** or **road**.
- 25.3. A person must not, without a **permit** or **licence**, use any **Council-controlled land** or **road** for the purpose of conducting a business or for any other commercial purpose.

26. Consumption and Possession of Alcohol

- 26.1. A person or group of persons must not consume **alcohol** or have in his, her or their possession or control any open receptacle containing **alcohol**:
- 26.1.1. in a place which **Council** has resolved is an **alcohol-free zone** for the purposes of this Local Law; or
 - 26.1.2. in any other place which **Council** resolves is a prescribed place for the purposes of this clause 26.

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- 26.2. An **Authorised Officer** may, where that **Authorised Officer** reasonably believes that a person or group of persons has contravened or is contravening this clause 26, direct that person or group of persons to:
- 26.2.1. empty any open receptacle containing **alcohol** or reseal that open receptacle; or
- 26.2.2. surrender any open receptacle containing **alcohol** to the **Authorised Officer**.
- 26.3. A person or group of persons to whom a direction is given under clause 26.2 must comply.
- 26.4. If a person or group of persons to whom a direction is given under clause 26.2 does not comply with that direction the **Authorised Officer** may impound that open receptacle containing **alcohol**.
- 26.5. Notwithstanding the requirements of this clause 26, a person who consumes or possesses **alcohol** in any licensed premises or authorised premises as defined in *the Liquor Control Reform Act 1998* is exempt from the application of this clause 26.

27. Trading Activities

- 27.1. A person must not, without a **permit**, on or above **Council-controlled land** or a **road**:
- 27.1.1. place any **advertising sign**;
- 27.1.2. display or sell any goods;
- 27.1.3. place any **street furniture** or associated items;
- 27.1.4. place any structure for the purpose of selling or offering to sell any goods or services;
- 27.1.5. sell or trade, or offer for sale or trade, or display to give away, any:
- 27.1.5.1. **vehicle**; or
- 27.1.5.2. goods or services carried about or placed on the person or any other moveable thing.
- 27.2. The person responsible for placement of an **advertising sign** contrary to clause 27.1.1 will, unless they can provide proof to the contrary, be the person who, or whose business, is identified on the **advertising sign**.
- 27.3. Clause 27.1 does not apply to activities ancillary to residential use of **residential land or premises**.
- 27.4. A person must not, without a **permit**:
- 27.4.1. sell or offer for sale goods or services or solicit custom door to door, or permit or cause another person to do so, in a **residential area**; or
- 27.4.2. solicit custom or collect donations or subscriptions door to door, or permit or cause another person to do so, in a **residential area**.

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- 27.5. A person must not, without a **permit**, engage in, or permit or cause another person to engage in, spruiking or the promotion of goods or services on any **Council-controlled land or road**.

28. Appeals and Collections

- 28.1. A person must not, without a **permit**, solicit or collect any gifts, money or subscription, or permit or cause another person to do so, on any **Council-controlled land or road**.
- 28.2. A person must not, without a **permit**, hand out or distribute any handbill, placard, notice, pamphlet, book, paper, advertising material or similar thing, or permit or cause another person to do so, on any **Council-controlled land or road**.
- 28.3. A person must not, without a **permit**, erect or place, or permit or cause another person to erect or place, on any **Council-controlled land, road, any vehicle**, caravan, trailer, table, stall or similar structure for the purpose of selling or offering for sale any goods or services or conducting a raffle or lottery.
- 28.4. Notwithstanding clause 28.1 a person participating in highway collections approved under the *Road Safety Act 1986* does not require a **permit** from **Council**.

29. Charity Bins

A person must not, without a **permit**, place, or cause or allow to be placed, a **charity bin** on **Council-controlled land** or a **road**.

30. Obstructions on Council-controlled land

- 30.1. An **owner** or **occupier** of **private land** must not allow an **advertising sign** or any other object to:
- 30.1.1. extend over **Council-controlled land** or a **road** at a height less than 2.4 metres; or
- 30.1.2. remain on that **private land** or be placed on that **private land** so as to obstruct the clear view of **traffic controls** by a person on the **Council-controlled land or road**, or otherwise interfere with **vehicle** or pedestrian use of the **Council-controlled land or road**, or with street lighting.
- 30.2. An **owner** or **occupier** of **private land** must not allow any vegetation to:
- 30.2.1. extend over **Council-controlled land** or a **road** at a height less than 2.4 metres; or
- 30.2.2. remain on that **private land** or be placed on that **private land** so as to obstruct the clear view of **traffic controls** by a person on the **Council-controlled land or road**, or otherwise interfere with **vehicle** or pedestrian use of the **Council-controlled land or road**, or with street lighting,

except where the vegetation is a cypress hedge within the meaning of the **Cypress Hedges Policy**.

30.3. Where the vegetation is a cypress hedge within the meaning of the **Cypress Hedges Policy**, an **owner** or **occupier** of that **private land** must take the action required under the **Cypress Hedges Policy**.

30.4. The **Cypress Hedges Policy** is hereby incorporated into this Local Law.

31. Obstructions on Roads

A person must not allow any **vehicle** or trailer whether or not registered with VicRoads or equivalent interstate road authorities, to be placed or remain on any **road** if the placement of such **vehicle** or trailer would cause a danger, hazard or substantially interfere with another **vehicle** or any person's use of the **road**, or obstruct the clear view of **traffic controls** by a person on the **road** or adjacent land.

32. Changes to and Occupation of Council-Controlled Land and Roads

32.1. A person must not, without a **permit** or **licence**:

32.1.1. cause any change to **Council-controlled land** or a **road** or anything on it; or

32.1.2. remove anything from **Council-controlled land** or a **road**.

32.2. A person must not, without a **permit** or **licence**:

32.2.1. occupy any **Council-controlled land** or a **road** by storing on it any boat, trailer, caravan or **storage container**; or

32.2.2. use a mobile vehicular or non-vehicular crane or travel tower or an extendable feed style concrete pump truck or other similar **vehicle** and/or machinery on, over or from **Council-controlled land** or a **road**.

33. Filming and Photography on Council Land

A person must not, without a **permit**, conduct any filming or photography for commercial purposes, public exhibition or purposes associated with formal study which involves the placement or use of a tripod, other equipment or items or **vehicles** on any **Council-controlled land** or a **road**.

34. Repair of Vehicles and Storage of Heavy Vehicles

34.1. A person must not perform any work to a **vehicle**, including to repair, service, wash, clean or dismantle a **vehicle**, on any **Council-controlled land** or a **road**, except running repairs necessary to enable the **vehicle** to be removed from the **Council-controlled land** or **road**.

34.2. A person must not, without a **permit**, on any **private land** or **Council-controlled land** in a **residential area**:

34.2.1. allow a **heavy vehicle** to be kept or stored; or

34.2.2. perform any work on a **heavy vehicle**, including to repair, service, wash, clean or dismantle a **heavy vehicle**, except running repairs necessary to remove the **heavy vehicle** from the **private land** or **Council-controlled land**.

35. Use of Vehicles on Council-controlled land

- 35.1. A person must not, on any **Council-controlled land**:
- 35.1.1. ride or drive any motor car, motorcycle or similar **vehicle** other than on a designated roadway or in an area set aside for **vehicle** parking; or
 - 35.1.2. ride any bicycle or similar **vehicle** other than on any **formed path** or in an area set aside for **vehicle** parking; or
 - 35.1.3. stop or park any motor car, motorcycle, bicycle or other **vehicle** other than in an area set aside for **vehicle** parking.
- 35.2. A person does not commit an **offence** against this clause 35 if that person is directed to ride, drive, stop or park on **Council-controlled land** by an **Authorised Officer** or by a member of the Police Force.

36. Bike Share Scheme

- 36.1. A person who owns or operates a bicycle used for the purpose of a **bike share scheme** must not, without a **permit**, allow any bicycle owned or operated by that person to be within the **municipality**.
- 36.2. A person must not make available for use, or permit to be used, in the **municipality**, a bicycle used for the purpose of a **bike share scheme** that does not have a device which is attached to it and used so as to ensure the return of the bicycle to an area specifically designated for the storage of bicycles.
- 36.3. **Council** may exempt a person or a class of persons from the application of clause 36.1 if a bicycle used for the purpose of a **bike share scheme** is left or placed in an area designated by **Council**.
- 36.4. A person who owns or operates a bicycle used for the purposes of a **bike share scheme** is guilty of an **offence** if such a bicycle is:
- 36.4.1. left or placed in a way that unreasonably interferes with the use of any **road**, footpath or other place;
 - 36.4.2. left or placed in a place that detrimentally affects the amenity of that place.
- 36.5. A person who owns or operates a bicycle used for the purpose of a **bike share scheme** must:
- 36.5.1. remove within 24 hours of notification any bicycle in contravention of clause 36.3;
 - 36.5.2. remove within 24 hours of notification any bicycle that is damaged or missing any part; and
 - 36.5.3. comply with the conditions of a **permit**.

37. E-Scooter Share Scheme

- 37.1. A person who owns or operates an **e-scooter** used for the purpose of an **e-scooter share scheme** must not, without a **permit**, allow any **e-scooter** owned or operated by that person to be within the **municipality**.

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- 37.2. A person must not make available for use, or permit to be used, in the **municipality**, an **e-scooter** used for the purpose of an **e-scooter share scheme** that does not have a device which is attached to it and used so as to ensure the return of the **e-scooter** to an area specifically designated for the storage of **e-scooters**.
- 37.3. **Council** may exempt a person or a class of persons from the application of clause 37.1 if an **e-scooter** used for the purpose of an **e-scooter share scheme** is left or placed in an area designated by **Council**.
- 37.4. A person who owns or operates an **e-scooter** used for the purposes of an **e-scooter share scheme** is guilty of an **offence** if such an **e-scooter** is:
- 37.4.1. left or placed in a way that unreasonably interferes with the use of any **road**, footpath or other place;
- 37.4.2. left or placed in a place that detrimentally affects the amenity of that place.
- 37.5. A person who owns or operates an **e-scooter** used for the purpose of an **e-scooter share scheme** must:
- 37.5.1. remove within 24 hours of notification any **e-scooter** in contravention of clause 37.3;
- 37.5.2. remove within 24 hours of notification any **e-scooter** that is damaged or missing any part; and
- 37.5.3. comply with the conditions of a **permit**.

38. Wheeled Recreational Devices and Wheeled Toys

A person must not use any **wheeled recreational device**, **wheeled toy** or other similar device on any **Council-controlled land** so as to endanger, intimidate, obstruct or hinder a person, persons or **vehicle**.

39. Model Aircraft

- 39.1. A person must not, without a **permit**, operate any **model aircraft** on, over or from any **Council-controlled land**.
- 39.2. A person must not, without a **permit**, convene, or participate in, an organised group of persons operating **model aircraft** on, over or from any **Council-controlled land**.

40. Parking Permits

A **Parking Permit Holder** must not, and must ensure that his or her visitors, employees and sub-contractors do not:

- 40.1. lease out, rent out, lend or sell a **parking permit** to another person or duplicate a **parking permit**;
- 40.2. charge any person a fee to use a **parking permit** or accept any consideration (monetary or otherwise) from a person for the use of a **parking permit**;
- 40.3. give or otherwise provide a **parking permit** to any person not entitled to use the **parking permit** under the **Parking Permit Policy**; or

- 40.4. allow or assist any other person, not entitled to use a **parking permit** under the **Parking Permit Policy**, to misuse the **parking permit** contrary to the **Parking Permit Policy**.

41. Caravans and Camping

- 41.1. A person must not, without a **permit**, have more than one caravan, campervan, motor home or similar **vehicle** on **private land** within a **residential area**.
- 41.2. A person must not, without a **permit**, occupy or allow another person or persons to occupy a caravan, campervan, motor home or similar **vehicle**, tent or any other temporary or makeshift structure on any **private land** for more than three weeks in any one calendar year.
- 41.3. A person must not occupy or allow another person to occupy a caravan, campervan, motor home or similar **vehicle**, or tent or any other temporary or makeshift structure on any **Council-controlled land**.

42. Shopping Trolleys

- 42.1. A person must not leave a shopping trolley on any **road** or **Council-controlled land** other than in an area specifically designated for the storage of shopping trolleys.
- 42.2. If a shopping trolley is left on a **road** or **Council-controlled land** in contravention of clause 42.1, the **retailer** who owns the shopping trolley is also guilty of an **offence**.
- 42.3. Subject to clause 42.4, a **retailer** must not provide or make available for use or permit to be used, a shopping trolley which does not have:
- 42.3.1. attached to it a plate or other marking identifying the name, address and contact phone number of the **retailer**; and
- 42.3.2. a fully operating mechanism which disables or otherwise prevents the shopping trolley from being taken beyond the boundaries of the **approved area**.
- 42.4. Upon an application by a **retailer**, **Council** may resolve in its absolute discretion to exempt a **retailer** from the application of clause 42.3, either in whole or in part, temporarily or permanently and subject to such conditions as **Council** may determine.
- 42.5. If a shopping trolley is left on a **road** or **Council-controlled land** in contravention of clause 42.1, **Council** may, by notice provided to the address depicted on the shopping trolley, direct the **retailer** to remove the shopping trolley and state:
- 42.5.1. the period within which the shopping trolley is to be removed; and
- 42.5.2. that it is an **offence** for the **retailer** not to remove the shopping trolley.
- 42.6. On the first business day of each month, or as soon as possible thereafter, a list of shopping trolleys that have been impounded by **Council** will be forwarded to each **retailer** stating:
- 42.6.1. the period within which the shopping trolleys must be claimed;

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- 42.6.2. that unclaimed shopping trolleys may be disposed of by **Council** after the period; and
- 42.6.3. that it is an **offence** for a **retailer** to not claim an impounded shopping trolley.
- 42.7. Any impounded shopping trolley may be claimed by the **retailer** that owns the shopping trolley after payment of the fee set by **Council**.
- 42.8. Any impounded shopping trolley not claimed within the time specified on the list of impounded shopping trolleys issued under clause 42.6 may be disposed of by **Council** without further notice to any person.
- 42.9. A **retailer** who does not remove a shopping trolley or claim an impounded shopping trolley within the period stated by **Council** under clauses 42.5 or 42.6 is guilty of an **offence**.
- 42.10. Clause 18, other than clause 18.1, does not apply to shopping trolleys.

PART E – THE ENVIRONMENT**43. Dangerous and Unsightly Land and Nuisances**

- 43.1. An **owner** or **occupier** of **private land** must ensure that the **private land** and any **building** or other structure on the **private land**:
 - 43.1.1. is not a danger to health of any person or animal or property or likely to become a danger to health of any person or animal or property;
 - 43.1.2. does not constitute a **fire hazard**;
 - 43.1.3. does not contain grass or weeds in excess of 150 mm in height;
 - 43.1.4. is not unsightly, or detrimental to the general amenity of adjoining land or the neighbourhood, including through the presence of:
 - 43.1.4.1. stored unregistered or derelict **vehicles** or machinery or any parts of them;
 - 43.1.4.2. **storage containers**;
 - 43.1.4.3. scrap metal, timber, building materials or building refuse;
 - 43.1.4.4. waste paper, cardboard, bottles or other refuse;
 - 43.1.4.5. soil or similar materials;
 - 43.1.4.6. overgrown vegetation; or
 - 43.1.4.7. **buildings** on the land which have been damaged;
 - 43.1.5. is kept free of any **graffiti**; and
 - 43.1.6. is not used in any manner or left in any state that may cause a **nuisance** or become detrimental to the amenity of the immediate area.

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- 43.2. An **owner** or **occupier** of **private land** must not allow any **building** or other structure on that **private land** to become **dilapidated**.
- 43.3. An **owner** or **occupier** of **private land** must take reasonable steps to prevent the movement of soil, sediment and other substances from the **private land** to the adjoining **road**.
- 43.4. An **owner** or **occupier** of **private land** which has the benefit of **pavement lights** must ensure that those **pavement lights** are maintained so as not to fall into a state of disrepair.
- 43.5. Without limiting the generality of clause 14.2, a **notice to comply** issued by an **Authorised Officer** with respect to an **offence** against this clause 43 may include a direction that the **private land, building** or structure be:
- 43.5.1. cleared of any substance, material or equipment;
- 43.5.2. suitably fenced, screened or otherwise enclosed in the manner specified in the **notice to comply**;
- 43.5.3. cleaned or painted in a manner that removes or obliterates **graffiti** specified in the **notice to comply**;
- 43.5.4. boarded up or otherwise secured to prevent access or otherwise alleviate the danger, unsightliness, **nuisance**, detriment to general amenity or offending condition; and/or
- 43.5.5. protected by warning signs or barriers to alert members of the public to the presence on the **private land** of a danger to persons entering the **private land**.

44. Open Air Burning and Incinerators

- 44.1. A person must not burn or cause or allow to be burned any substance that is likely to cause a risk of fire to the area surrounding the fire or to endanger health of any person or animal.
- 44.2. A person must not, without a **permit**, light a fire in the **open air**, or allow a fire to be lit or remain alight in the **open air**, unless the fire is lit:
- 44.2.1. in a purpose-built or constructed barbeque, grill, pizza oven, chiminea, brazier or similar for the purpose of cooking food; or
- 44.2.2. in a brazier, chiminea or purpose built or portable fire pit constructed of fire resistant materials while its being used for heating.
- 44.3. An **owner** or **occupier** of **private land** must not use an **incinerator** or allow an **incinerator** to be used on that **private land**.
- 44.4. An **owner** or **occupier** of **private land** on which a fire has been lit in breach of this Local Law, or a person who has lit a fire in breach of this Local Law, must immediately take all steps necessary to extinguish the fire:
- 44.4.1. on becoming aware of such a fire; or
- 44.4.2. on being directed to extinguish the fire by:
- 44.4.2.1. an **Authorised Officer**;

44.4.2.2. a member of the Police Force; or

44.4.2.3. a member of the Metropolitan Fire Brigade or the Emergency Services Board.

44.5. If a person who has breached this clause 44 is unable or unwilling to extinguish the fire, an **Authorised Officer** shall notify a member of the Metropolitan Fire Brigade or the Emergency Services Board.

45. Drains and Watercourses

45.1. A person must not, on any **private land** without a **permit** or **licence**, interfere with, excavate, build, pave or landscape within or over an easement in **Council's** favour, or cause any change or obstruction or damage to a drain, sewer, watercourse or associated infrastructure which **Council** controls or manages.

45.2. An **owner** or **occupier** of **private land** must not, without a **permit**, damage or otherwise interfere with any part of **Council's** drainage infrastructure.

45.3. An **owner** or **occupier** of **private land** must ensure that any drain on that **private land** properly discharges to an approved point of discharge being **Council's** drainage infrastructure.

45.4. An **owner** or **occupier** of **private land** must not allow a drain located on that **private land** to become blocked or otherwise fall into disrepair.

45.5. An **owner** or **occupier** of **private land** on which a **Council**-maintained drain or associated infrastructure exists must notify **Council** if the drain or associated infrastructure becomes blocked, damaged or fails to operate effectively as soon as practicable after the **owner** or **occupier** becomes, or ought reasonably to have become, aware of the condition arising.

45.6. The requirement to obtain a **permit** or **licence** does not apply where **Council** has given its approval for the drain to be tapped into under legislation administered by it, except:

45.6.1. where construction has ceased or been completed; and

45.6.2. that this exemption does not permit an **owner** or **occupier** of **private land** to cause or sustain damage or blockage to a drain.

46. Household, Recycling and Organic Waste Storage

Where **Council** provides a waste collection service, the **owner** or **occupier** of **private land** must:

46.1. only use an **approved waste receptacle** for **Council**-provided waste collections;

46.2. not dispose of any **e-waste** in an **approved waste receptacle**;

46.3. ensure the lid of the **approved waste receptacle** is left closed after material is placed in or removed from it;

46.4. keep the **approved waste receptacle** in a clean, inoffensive and sanitary condition; and

46.5. store the **approved waste receptacle** on the **private land** to which the waste collection service is provided, except for a maximum of 24 hours prior to the

Amenity Local Law

scheduled collection and a maximum of 24 hours following it, when it may be placed in the adjacent footpath or nature-strip in accordance with **Council** guidelines as issued from time to time.

47. Hard Waste Collection

- 47.1. Where a **hard waste** collection has been booked by a resident or is otherwise provided by **Council**, a person must not place the items out for collection more than 48 hours prior to the scheduled collection and must comply with any written or verbal directions of **Council**.
- 47.2. A person must not deposit or allow to be deposited any **hard waste** contrary to the written or verbal directions pursuant to clause 47.1.

48. Bulk Rubbish and Trade Waste Storage

- 48.1. A person must not, without a **permit**, place, allow to be placed or cause to be placed on any **Council-controlled land** or a **road**:
- 48.1.1. a **bulk rubbish container**;
- 48.1.2. any other thing on **Council-controlled land** or a **road** which interferes with the use of the **Council-controlled land** or **road**.
- 48.2. Unless exempted by **Council**, the person to whom a **permit** is issued under this clause must ensure that the **bulk rubbish container** to which the **permit** relates is:
- 48.2.1. constructed of impermeable material;
- 48.2.2. watertight;
- 48.2.3. fly and vermin proof;
- 48.2.4. equipped with a removable drainage plug, if required by the **permit**;
- 48.2.5. emptied at least every seven (7) days, or otherwise as required by the **permit**; and
- 48.2.6. maintained in a clean, inoffensive and sanitary condition.
- 48.3. If directed by **Council**, the person to whom a **permit** is issued under this clause 48 must ensure that the area to which the permit relates and in which the **bulk rubbish container** is placed:
- 48.3.1. has an impermeable surface;
- 48.3.2. is drained to a sewer or other outlet approved by **Council**;
- 48.3.3. is supplied with water from a tap and hose; and
- 48.3.4. is maintained in a clean, inoffensive and sanitary condition.

49. Screening of Bins and Containers

Council may, by notice in writing, direct the **owner** or **occupier** of **private land** on which there is an **approved waste receptacle** or **bulk rubbish container** that is:

- 49.1. unsightly;

Amenity Local Law

49.2. dangerous, or likely to become dangerous, to the health of any person, **animal** or property; or

49.3. detrimental to the general amenity of the neighbourhood;

to:

49.4. install;

49.5. repair;

49.6. replace; or

49.7. modify

a fence or other means of screening the **approved waste receptacle** or **bulk rubbish container** from public view.

50. Noise

50.1. In or adjacent to a **residential area** a person must not:

50.1.1. leave the engine of a stationary **heavy vehicle** running for more than five (5) continuous minutes;

50.1.2. without a **permit**, deliver to, or collect from, or cause or allow a delivery to or collection from, a **commercial enterprise** any goods, or provide any services, including waste collection services, to a **commercial enterprise**, or allow a refrigeration unit mounted on a **vehicle** to run:

50.1.2.1. before 9am or after 10pm on a public holiday;

50.1.2.2. between 10pm on Friday and 9am the next day;

50.1.2.3. between 10pm on Saturday and 7am the following Monday; or

50.1.2.4. between 10pm on Monday, Tuesday, Wednesday or Thursday and 7am the next day.

50.2. A person must not, without a **permit**, carry out or allow to be carried out **non-residential building work**:

50.2.1. on a public holiday;

50.2.2. between 5pm on Friday and 8am the next day;

50.2.3. between 5pm on Saturday and 7am the following Monday; or

50.2.4. between 6.30pm on any Monday, Tuesday, Wednesday or Thursday and 7am the next day;

unless the **non-residential building work** is necessary to protect life or property or unless a **planning permit** has provided approval to do so.

51. Wasp Nests and Bees

Upon becoming aware of the existence of:

- 51.1. a wasp nest; or
- 51.2. bee hives or bee swarms that do not comply with any relevant Apiary Code of Practice or are not otherwise permitted by the **Planning Scheme**

on **private land**, the **owner** or **occupier** of that **private land** must immediately take steps to cause the nest, hives or swarms to be removed by an appropriately qualified contractor.

PART F – ANIMALS

52. Keeping Domestic Animals

- 52.1. An **owner** or **occupier** of **private land** must not, without a **permit**, keep or allow to be kept on that **private land** any more than:
 - 52.1.1. the number of **animals** specified in the table at clause 52.5; and
 - 52.1.2. four different types of **animals**, in which case the numbers specified in the table at clause 52.5 are cumulative.
- 52.2. An **owner** or **occupier** of **private land** must not, without a **permit**, keep or allow to be kept on that **private land** any **animal** that is not specified in the table at clause 52.5.
- 52.3. Clauses 52.1 and 52.2 do not apply where:
 - 52.3.1. a **planning permit** has been obtained for **private land** used for the purposes of **animal** boarding or breeding, or for any other purpose permitted by the **planning permit**; or
 - 52.3.2. an **owner** or **occupier** of **private land** keeps more than the specified number of **animals** on that **private land** at the commencement of this Local Law, provided that:
 - 52.3.2.1. those **animals** are kept in accordance with a **permit** issued under the previous Local Law (if one was required); and
 - 52.3.2.2. where one or more of those **animals** is permanently removed from the **private land**, that **animal**, or those **animals**, shall not be replaced unless a **permit** is first granted under this clause 52; or
 - 52.3.3. an **owner** or **occupier** of **private land** keeps more than the specified number or type of **animals** on that **private land** for no more than 14 consecutive days for the purpose of caring for **animals**:
 - 52.3.3.1. owned by another; and
 - 52.3.3.2. which are ordinarily kept on land occupied by that other.
- 52.4. An **owner** of **vacant land** must not, without a **permit**, keep, or allow to be kept, any **animal** on that **vacant land**.
- 52.5. Number of **animals**:

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Type of Animal	Maximum number of each type of animal permitted
Private land with a single dwelling	
Mammals (Domesticated)	
Dogs (over three months old)	2
Cats (over three months old)	2
Ferrets	2
Rabbits, guinea pigs, rats and mice	5
Farm animals	
Birds	
Roosters, peafowl or guinea fowl	0
Chickens and pheasants	6
Turkeys, ducks and geese	2
Poultry other than that specified above	4
Domestic Birds (caged, non-poultry birds)	20
Private land with a multi-residential dwelling	
Mammals (Domesticated)	
Dogs (over three months old)	1
Cats (over three months old)	2
Ferrets	0
Rabbits, guinea pigs, rats and mice	2
Farm animals	
Birds	
Roosters, peafowl or guinea fowl	0
Chickens and pheasants	0
Turkeys, ducks and geese	0
Poultry other than that specified above	0
Domestic Birds (caged, non-poultry birds)	5

Amenity Local Law

- 52.6. In determining whether to grant a **permit** for the keeping of **animals** where the number exceeds that determined by **Council** and which is set out in the table at clause 52.5, **Council** must take into account:
- 52.6.1. the zoning of the **private land**;
 - 52.6.2. the proximity of the area to adjoining **private land**;
 - 52.6.3. the amenity of the area in which the **private land** is located;
 - 52.6.4. the type and additional numbers of **animals** to be kept;
 - 52.6.5. the area of **private land** available for keeping the **animals**;
 - 52.6.6. the likely effects on adjoining **owners** or **occupiers**;
 - 52.6.7. the adequacy of **animal** shelters; and
 - 52.6.8. any other matter relevant to the circumstances associated with the application.
- 52.7. An **owner** or **occupier** of **private land** must:
- 52.7.1. ensure that any **animals** kept on the **private land** are contained to the **private land** at all times, unless the **animals** are removed from the **private land** for any reason, in which case the **animals** must be contained so as to prevent their escape while outside the **private land**;
 - 52.7.2. ensure that the area where **animals** are kept is thoroughly cleaned and maintained at all times in a clean and sanitary manner so as not to give rise to any **nuisance** or offensive condition;
 - 52.7.3. keep the area of **private land** within 3 metres of the area or structure in which **animals** are kept free from dry grass, weeds, refuse, rubbish or other material capable of harbouring vermin or which may cause a health or safety risk to persons, **animals** or property;
 - 52.7.4. keep all food or grain for **animals** on that **private land** in vermin-proof and fly-proof receptacles; and
 - 52.7.5. drain the ground surrounding the place where **animals** are kept on that **private land**.

53. Treatment of Animals

Poultry must not be caged unless provided with ready access to an exercise run at least five metres long, two metres wide and one-and-a-half metres high.

54. Nuisances

An **owner** or **occupier** of **private land** must ensure that any **animal** or bird kept on that **private land** does not cause a **nuisance** to surrounding or neighbouring **owners** or **occupiers** of land.

55. Dogs

A person in charge of a dog on any **Council-controlled land** or a **road** must:

Amenity Local Law

- 55.1. carry a receptacle or receptacles suitable for the removal of any excrement that may be deposited by the dog; and
- 55.2. not permit the excrement of the dog to remain on that **Council-controlled land or road**.

DRAFT

SCHEDULE 1

Infringement Notice value and Court penalty for contravention of this Local Law
(All values expressed in Penalty Units)

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
16	Failure to adhere to a Notice to Comply Fail to comply with a notice to comply or direction of an Authorised Officer	5	20
22.1.4.	Offences Fails to comply with the conditions of a permit	2.5	20
25	Behaviour Generally Person contravenes behaviour requirements	2	20
25.3	Conducts business or commercial activities without a permit or licence	3	20
26	Consumption and Possession of Alcohol	2	20
27.1	Trading Activities Display of advertising sign , place any structure, street furniture to sell or trade any goods or services without a permit	5	20
27.4	Selling goods or services or collect donations or subscriptions from door to door	3	20
28.1	Appeals & Collections Without a permit , solicit or collect any gifts, money or subscriptions from door to door	3	20
28.2	Without a permit hand out or distribute advertising material	3	20

Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
28.3	Without a permit erect or place vehicle , caravan, trailer, table, stall or similar structure for purpose of selling goods or services or conducting a raffle or lottery	3	20
29	Charity Bins Place Charity Bin without a permit	5	20
30.1	Obstructions on Council-controlled land Advertising sign or other object obstructing Council-controlled land or other views	3	20
30.2	Vegetation obstructing Council-controlled land or other views	3	20
31	Obstructions on Roads Allowing a vehicle or trailer placed on any road to cause danger, hazard or interfere with use of a road or obstruct views	5	20
32.1	Changes to and Occupation of Council-Controlled Land Without a permit or licence cause change to or remove anything from Council-controlled land	5	20
32.2.1	Without a permit or licence occupy or put anything on Council-controlled land	3	20
32.2.2	Without a permit use a mobile crane or travel tower	5	20
33	Filming and Photography on Council-Controlled Land Without a permit conduct filming or photography which involves placement of equipment or other items on Council-controlled land	5	20

Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
34.1	Repair of Vehicles and Storage of Heavy Vehicles Use Council-controlled land to repair, service or perform any work on a vehicle	5	20
34.2	Without a permit allow a heavy vehicle to be stored or perform any work on a heavy vehicle on land.	5	20
35.1	Use of Vehicles on Council-Controlled Land Use vehicles on Council-controlled land contrary to the requirements	3	20
36	Bike Share Scheme Own or operate Bicycle for the purpose of bike share scheme without a permit	3	20
37	E-Scooter Share Scheme Own or operate an e-scooter for the purpose of an e-scooter share scheme without a permit	3	20
38	Wheeled Recreational Devices and Wheeled Toys Use of wheeled recreational devices , wheeled toys or other similar devices on Council-controlled land to endanger, intimidate, obstruct and hinder	3	20
39.1	Model Aircraft Without a permit operate model aircraft on, over or from any Council-controlled land	2	20
39.2	Without a permit convene or participate in an organised group operating model aircraft on, over or from Council-controlled land	2	20

Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
40.2	Parking Permits Fail to comply with obligations of a Parking Permit Holder	3	20
41.1	Caravans and Camping Place more than one (1) caravan, campervan, motor home on private land without a permit	3	20
41.2.	Occupy caravan, campervan, motor home, tent or similar on private land more than 3 weeks without a permit	3	20
41.3	Occupy or allow another to occupy a caravan, campervan, motorhome, tent or similar on Council-controlled land	3	20
42.1	Shopping Trolleys Person leaves a shopping trolley other than in proper area	3	20
42.2	Shopping Trolley of a retailer left on a road or Council-controlled land	5	20
43.1	Dangerous and Unsightly Land and Nuisance Owner or occupier allows dangerous and unsightly land and nuisance	5	20
43.2	Owner or occupier allows building or other structure to become dilapidated	5	20
43.3	Must take reasonable steps to prevent the movement of soil, sediment and other substances from private land to the adjoining road .	3	20
43.4	Must ensure pavement lights are maintained so as not to fall into a state of disrepair.	5	20

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Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
44.1	Open Air Burning and Incinerators Cause or allow to burn a substance that is likely to be offensive or cause fire risk or endanger health of person or animal	4	20
44.2	light a fire in the open air without a permit	5	20
44.3	Use or allow an incinerator to be used	5	20
44.4	Fail to extinguish a fire	5	20
45.1 and 45.2	Drains and Watercourses Without a permit or licence interfere with a drain	5	20
45.3	Fail to ensure drain discharges to an approved point of discharge	5	20
45.4	Allow drain to be in disrepair	5	20
45.5	Fail to notify Council if a drain or associated infrastructure becomes blocked, damaged or fails to operate	5	20
46	Household, Recycling and Organic Storage Failure to comply with any of the waste collection requirements	3	20
47.1	Hard Waste Collection Failure to comply with the hard waste collection requirements	5	20
47.2	Deposit or allow to deposit litter contrary to the requirements	5	20
48.1	Bulk Rubbish and Trade Waste Storage Without a permit place bulk rubbish container or any other thing on Council-controlled land or road ,	5	20

Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
48.2	Fail to comply with the correct sanitary conditions for a bulk rubbish container	5	20
48.3	Fail to ensure that the area which a permit related to bulk rubbish container is kept in accordance with Council direction	5	20
49	Screening Bins and Containers Fail to meet the conditions for approved waste receptacles or bulk rubbish container	5	20
50.1.1	Noise Leave the engine of a stationary heavy vehicle running	5	20
50.1.2	Without a permit deliver outside of hours	5	20
50.2	Without a permit carry out or allow to be carried out non-residential building work outside of hours	5	20
52.1	Keeping Domestic Animals Without a permit keeps excessive animals	2	20
52.2	Without a permit must not keep any animal that is not specified in table 52.5.	2	20
52.4	Without a permit must not keep any animal on vacant land .	2	20
52.7	Fails to comply with the conditions where animals are kept	2	20
52.7.1	Must ensure any animals kept on private land are contained and prevented from escape	2	20
53.	Treatment of Animals Poultry kept contrary to requirements	2	20

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Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
54	Nuisances Animals or birds causing nuisance	2	20
55.1	Dogs Carry receptacle or receptacles suitable for removal of excrement	2	20
55.2	Allow excrement to remain on Council-controlled land	2	20

The Common Seal of the Boroondara City Council was hereunto affixed in the presence of:)
)
)

..... Mayor/Councillor

..... Chief Executive Officer

..... Date



CITY OF BOROONDARA
AMENITY LOCAL LAW

Date Resolved By Council: [] 2019

Commencement Date: 26 December 2019

Revocation Date: 26 December 2029

Responsible Directorate: Chief Executive Office

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PART A – PRELIMINARY

1. Local Law

- 1.1. This Local Law is called the 'Boroondara City Council Amenity Local Law' and is made under Part 5 of the *Local Government Act 1989*.

2. Objectives

This objectives of this Local Law are to provide for:

- 2.1. the peace, order and good government of the **municipality**;
- 2.2. a safe and healthy environment so that the community can enjoy a quality of life that meets its expectations;
- 2.3. the safe and equitable use and enjoyment of **public places**;
- 2.4. the protection and enhancement of the amenity and environment of the **municipality**;
- 2.5. the fair and reasonable use and enjoyment of **private land**; and
- 2.6. the uniform and fair administration of this Local Law.

3. Commencement

This Local Law commences on the day following the notice of its making being published in the Victoria Government Gazette.

4. Revocation Date

This Local Law ceases to operate on a date that is 10 years after its commencement date unless revoked earlier by **Council**.

5. Application of Local Law

This Local Law applies throughout the **municipality** unless specifically stated otherwise.

6. Definitions

Some of the words or terms in this Local Law are defined. They are identified in **bold** and have the following meanings in this Local Law:

active travel – includes walking, cycling and any other mode of non-motorised transport of people;

advertising sign – means any placard, board, poster, banner, sign, card, structure or other similar device, whether portable or affixed or attached to any land, **building, vehicle**, trailer, person or other thing, used for the purpose of soliciting goods or services or displaying information but excludes any placard, board, poster, banner, sign, card or similar device attached to or on any **vehicle** or trailer:

- (a) and used for the purpose of promoting a registered political party or a person's candidature or prospective candidature at an election; or
- (b) if the use of the **vehicle** or trailer is ancillary to another use connected with activities being carried out on land (such as the use of a **vehicle** or trailer in connection with building or commercial activities being carried out on land);

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alcohol – means a drink with an alcoholic content greater than 0.5% by volume at a temperature of 20 degrees Celsius;

alcohol-free zone – means an area prescribed by **Council** as an alcohol free zone;

animal – includes every species of quadruped and every species of bird (including, without limitation, poultry);

applicant – means a person who applies for a **permit** under this Local Law;

approved area – where used in clause 41~~42~~ means either:

- (a) the boundaries of the premises from which the **retailer** conducts his or her business; or
- (b) such other area relating to the **retailer's** business that **Council** declares from time to time by resolution to be an approved area for the purposes of clause 41~~42~~.

approved waste receptacle – means a household waste bin, a recycling waste bin, a green waste bin or other refuse receptacle supplied by, or on behalf of, **Council**, or otherwise approved by **Council**;

Authorised Officer – means a person appointed by **Council** under section 224 of the *Local Government Act 1989*;

bike share scheme – means any service in which bicycles are made available to individuals on a short-term basis for free or for a fee;

building – includes any building or structure whether temporary or permanent, or any part of a building or structure;

bulk rubbish container – includes trade waste storage bins, waste bins, mini-skips, shipping containers, pallets and any other structure designed to receive or store waste but does not include an **approved waste receptacle**;

charity bin – means a bin designed for the collection of clothing and other items, and identified as such, for charitable or other purposes;

commercial enterprise – means a business, partnership or an enterprise carried on for profit;

commercial purposes – means something done directly or indirectly in connection with any business or other undertaking intended for profit;

Council – means Boroondara City Council;

Council-controlled land – means any land which **Council**, owns, occupies, manages, has leased or licensed to another person or is otherwise under **Council's** control and management, other than a **road**;

Cypress Hedges Policy – means **Council's** 'Management of Cypress Hedges Policy' as adopted by **Council** on 24 October 2005 as amended or replaced from time to time;

dilapidated – means a **building** fallen into a state of disrepair, decayed, deteriorated, broken down or a partial ruin through neglect, misuse or vandalism;

e-scooter – means a scooter that is or can be propelled by an electric motor;

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e-scooter share scheme – means any service in which **e-scooters** are made available to individuals on a short-term basis for free or for a fee;

e-waste – means waste in the form of electrical or electronic equipment, devices or things (or materials or parts of such equipment, devices or things), the operation of which is dependent on, or designed for the generation, transfer or measurement of, an electric current or electromagnetic field;

event – means an organised recreational, cultural, commercial or social event or gathering of people, including a carnival, festival, street party, procession or any similar activity;

farm animal – means a hooved animal, such as a cow, sheep, pig or similar animal;

fire hazard – means a material, substance or action that increases the likelihood of an accidental fire occurring;

formed path – means a path provided by **Council** and used for the purpose of **active travel** and includes a **shared path**;

graffiti – means an unauthorised mark or marks, whether written, drawn, sprayed, scratched or otherwise made, which cannot readily be removed by wiping with a damp cloth;

hard waste – means garden refuse, rubbish of a size, shape, nature or volume that cannot be contained in an **approved waste receptacle**, a brick, concrete, masonry or engine part and any other type of rubbish specified by **Council** from time to time;

heavy vehicle – has the same meaning as in the *Road Safety Road Rules 2017*;

incinerator – includes a structure, device or piece of equipment which is designed, adapted, used or capable of being used for the burning of any material or substance and which is not:

- (a) enclosed in any **building**;
- (b) a purpose-built or constructed a barbecue, grill, pizza oven, brazier, portable fire pit constructed of fire resistant materials or similar, being used for the purpose of cooking food or providing heat; or
- (c) licensed under the provisions of the *Environment Protection Act 1970*;

infringement notice – means an infringement notice issued by an **Authorised Officer** in respect of an **offence** against this Local Law;

licence – means a licence to use or occupy land granted by **Council** as the **owner**, **occupier** or manager of that land;

~~**model aircraft** – includes any airborne device that is similar to a model aircraft and which is powered, such as a drone;~~

multi-residential dwelling – means a dwelling being part of two or more dwellings on a single lot;

municipality – means the municipal district of **Council**;

non-residential building work – means building works not pertaining to a residential dwelling, outbuilding or other structure ancillary to a residential dwelling;

notice to comply – means a notice to comply issued under this Local Law;

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nuisance – means any behaviour or condition which is or is liable to be dangerous to health or is noxious, annoying or injurious to personal comfort;

occupier – means the person who is for the time being in charge of land;

offence – means an offence against or a breach of a provision of this Local Law, or of a **permit, notice to comply** or direction issued under this Local Law;

open air – has the same meaning as in Division 3 of Part III of the *Country Fire Authority Act 1958*;

owner – means the person or persons for the time being entitled to be registered on Title as the owner of land and, where more than one person, each of them jointly and severally;

parking permit - means a **permit** issued under the **Parking Permit Policy**;

Parking Permit Holder – means a person to whom a **parking permit** has been issued;

Parking Permit Policy – means the Parking Permit Policy adopted by **Council** on 22 August 2016 as amended or replaced from time to time;

pavement light – means a device incorporated into the footpath or roadway adjacent to **private land** for the provision of natural light to those parts of a **building** on that **private land** below ground level;

Penalty Units – has the same meaning as in section 110(2) of the *Sentencing Act 1991*;

permit – means a permit issued under this Local Law;

planning permit – means a **permit** issued under the **Planning Scheme**;

Planning Scheme – means the Boroondara Planning Scheme;

private land – means all land other than **Council-controlled land** and **roads**;

public place – has the same meaning as in section 3 of the *Summary Offences Act 1966*;

residential area – means an area zoned as residential under the **Planning Scheme** and includes an area which is predominantly in a residential zone under the **Planning Scheme**;

residential land or premises – means land or premises that is or are developed or used predominately for residential purposes;

retailer – means a person who sells goods by retail and provides shopping trolleys to his or her customers;

road – has the same meaning as in the *Local Government Act 1989*;

security bond – means a payment or guarantee made to **Council** for the purposes of defraying costs to repair damage to assets or as required under this Local Law;

shared path – has the same meaning as in the *Road Safety Road Rules 2017*;

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spruik – means haranguing or addressing members of the public (whether directly or by the use of pre-recorded speech or messages) to encourage members of the public to enter commercial premises, purchase goods or services, or both;

storage container – means a form of container that is moveable and is used for the purposes of storage and includes a shipping container or vessel of a similar nature;

street furniture – means tables and chairs, stools and benches, umbrellas, goods or other items for sale, wind frames (barriers) and similar items which are placed on any **road** or **Council-controlled land**;

traffic controls – means the same as “traffic control devices” in the *Road Safety Road Rules 2017*;

unsightly land – means land the condition of which is detrimental to the amenity of the locality in which it is situated;

vacant land – means land on which there is no house or other structure approved for human occupation;

vehicle – has the same meaning as in *Road Safety Road Rules 2017*;

wheeled recreational device – has the same meaning as in *Road Safety Road Rules 2017*;

wheeled toy – has the same meaning as in *Road Safety Road Rules 2017*; and

work – includes any change to the natural or existing condition or topography of land including but not limited to trenching, digging, excavating or filling whether by mechanical or manual methods.

7. Conflict with Other Legislation

This Local Law does not apply where any act or thing is authorised by or under any other legislative instrument or the **Planning Scheme**.

PART B – ADMINISTRATION

8. Permits

8.1. Wherever in this Local Law a **permit** is required, **Council** may:

- 8.1.1. grant the **permit**;
- 8.1.2. refuse to grant the **permit**;
- 8.1.3. grant the **permit** subject to conditions; or
- 8.1.4. determine that no **permit** is required.

8.2. An application for a **permit** must be:

- 8.2.1. made in writing and include the following particulars:
 - 8.2.1.1. the name and address of the **applicant**;
 - 8.2.1.2. the capacity in which the **applicant** makes the application;

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- 8.2.1.3. a statement of the purpose for which the **permit** is sought;
 - 8.2.1.4. the location of the proposed activity;
 - 8.2.1.5. the day and the time when the proposed activity is to take place and its expected duration;
 - 8.2.1.6. the signature of the **applicant** or a person authorised to sign for and on behalf of the **applicant**; and
 - 8.2.1.7. such other particulars as **Council** may require;
 - 8.2.2. true and correct;
 - 8.2.3. forwarded to the person or office described on the application form with the fee, if any, payable to **Council** and in the amount as is fixed by **Council** from time to time; and
 - 8.2.4. in the form approved by **Council** from time to time.
 - 8.3. If required by **Council**, an **applicant** must provide such additional information as may be specified before the application for a **permit** will be processed and determined.
 - 8.4. If required by **Council**, an **applicant** for a **permit** must give such notice of that application, or invite any person to make a submission, or do both, as may be specified.
 - 8.5. In considering an application for a **permit**, **Council** must consider:
 - 8.5.1. any policy or guideline adopted by **Council** relating to the subject matter of the application for the **permit**;
 - 8.5.2. any written objection, submission or comment received in respect of the application, where they are invited under clause 8.4; and
 - 8.5.3. any other relevant matter.
 - 8.6. 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:
 - 8.6.1. 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**;
 - 8.6.2. a requirement that notice be given to **Council** as to when the activities authorised by the **permit** will be carried out or will occur;
 - 8.6.3. a time limit on the **permit** or on the activities authorised by it;
 - 8.6.4. provision for extension of the **permit**;
 - 8.6.5. the payment of a fee or charge;
 - 8.6.6. a standard to be applied;
 - 8.6.7. that the **permit** is conditional on the happening of a certain event or prerequisite;

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- 8.6.8. that the **permit** is conditional upon the rectification, remedying or restoration of any situation or circumstance; or
- 8.6.9. where the **applicant** is not the **owner** of the relevant premises, that the consent of the **owner** be obtained.
- 8.7. Unless otherwise stated in the **permit**, a **permit**:
 - 8.7.1. 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
 - 8.7.2. is not transferable.

9. Compliance with permits

Every person to whom a **permit** is granted must do every act and thing that may be necessary to ensure compliance with the **permit** and its conditions.

10. Correction, amendment, cancellation and suspension

- 10.1. **Council** may correct a **permit** if the **permit** contains:
 - 10.1.1. a clerical mistake or an error arising from any accident, slip or omission; or
 - 10.1.2. a material miscalculation of figures or a material mistake in the description of any person, premises, thing or property referred to in the **permit**.
- 10.2. **Council** may cancel, suspend or amend any **permit** at any time if:
 - 10.2.1. it is requested to do so by the **permit**-holder; or
 - 10.2.2. it considers that there has been:
 - 10.2.2.1. a material misrepresentation or concealment of fact in relation to the application for the **permit**;
 - 10.2.2.2. any material mistake in relation to the grant of the **permit**; or
 - 10.2.2.3. any material change of circumstances which has occurred since the grant of the **permit**; or
 - 10.2.2.4. the **permit**-holder or his or her agent for the **permit** defaults in payment of the **permit**.
- 10.3. **Council** may cancel or suspend a **permit** at any time if **Council** is satisfied that there has been a substantial failure to comply with a:
 - 10.3.1. **permit** condition; or
 - 10.3.2. **notice to comply** relating to the premises, item or activity to which the **permit** relates.
- 10.4. **Council** may cancel or suspend a **permit** at any time where **Council** determines that the **permit** may result in a hazard, danger or inconvenience to any other person, premises, thing or property.

11. General permit provisions

- 11.1. The holding of a **permit** or compliance with a condition included in a **permit** does not of itself relieve the **permit**-holder from:
- 11.1.1. compliance with any other legislation with respect to the subject matter of the **permit**; or
 - 11.1.2. liability for any damage sustained by any person as a result of an activity undertaken by or on behalf of the **permit**-holder pursuant to the **permit**.
- 11.2. A person applying for a **permit** or amendment of a **permit** must not make or allow to be made any false representation or declaration in or in relation to that application or **permit**.
- 11.3. A person who makes a false representation or declaration (whether oral or in writing), or who omits relevant information from an application for a **permit** or exemption, is guilty of an **offence**.
- 11.4. Except where expressly stated in this Local Law or in a **permit**, the **permit** will operate from the date it is granted and will expire on the following 30 June.

12. Fees and Charges

- 12.1. **Council** may from time to time by resolution determine:
- 12.1.1. the quantum of any fees, charges, guarantee or bond to apply under this Local Law; and
 - 12.1.2. an administrative, inspection or processing fee or charge in addition to a standard fee, charge, guarantee or bond applying under this Local Law.
- 12.2. In determining a fee or charge, **Council** may establish a system or schedule of fees and charges, including a minimum or maximum fee or charge, if it considers it appropriate to do so.
- 12.3. **Council** may waive, reduce, alter or refund, in whole or in part, any fee, charge, bond or guarantee with or without conditions.

13. Powers of Council

- 13.1. Without affecting the operation of any particular provision of this Local Law, unless the contrary intention appears everything that:
- 13.1.1. **Council** is capable of doing under this Local Law is also capable of being done by an **Authorised Officer**; and
 - 13.1.2. an **Authorised Officer** is capable of doing under this Local Law is also capable of being done by **Council**.
- 13.2. Clause 13.1.1 does not empower an **Authorised Officer** to exercise any power conferred by clause 12.3.

14. Notice to Comply

- 14.1. Where **Council** reasonably believes that a person has committed an **offence** against this Local Law, **Council** may issue to the person a written **notice to comply** which:
- 14.1.1. requires the person to stop the conduct constituting the **offence**;
 - 14.1.2. contains a direction indicating what action is required to stop the conduct constituting the **offence**;
 - 14.1.3. contains a direction indicating what action is required to achieve compliance with this Local Law; and/or
 - 14.1.4. contains a direction to remedy any consequences arising from the conduct constituting the **offence**.
- 14.2. A **notice to comply** must include information about:
- 14.2.1. the name of the alleged offender (if known);
 - 14.2.2. the **offence**, and the provision of this Local Law it infringes;
 - 14.2.3. the action required to stop the conduct constituting the **offence**;
 - 14.2.4. the action required to remedy any consequences arising from the conduct constituting the **offence**;
 - 14.2.5. the time for compliance;
 - 14.2.6. the date on which it was issued; and
 - 14.2.7. the name and signature of the **Authorised Officer** or **Council** delegate issuing the **notice to comply**.

15. Reasonable time to comply

- 15.1. The time for compliance with a **notice to comply** issued under this Local Law must be reasonable in the circumstances, and what will be reasonable will vary depending on the matters to be remedied.
- 15.2. In determining what is reasonable, **Council** will consider:
- 15.2.1. the amount of work involved;
 - 15.2.2. the degree of difficulty;
 - 15.2.3. the availability of necessary materials or other items;
 - 15.2.4. climatic conditions;
 - 15.2.5. the degree of risk or potential risk to third parties and the public generally; and
 - 15.2.6. any other relevant factors.

16. Failure to adhere to a notice to comply

Any person served with a **notice to comply** under this Local Law who fails or refuses to comply with it is guilty of an **offence**.

17. Power To Act in Urgent Circumstances

Council may act to remedy any circumstance which threatens a person's life, health or property, or an animal, or to prevent any danger to the environment or any **nuisance** arising, without serving a **notice to comply**, provided that:

- 17.1. the circumstance arises out of a person's use of **Council-controlled land** or a **road** or failure to comply with a provision of this Local Law;
- 17.2. **Council** considers the circumstance to be sufficiently urgent that the time necessary to serve, or the potential difficulty in serving, a **notice to comply** may place the person's life, health or property, or the animal or the environment at risk or in danger of substantial detriment;
- 17.3. the action taken is no more than the minimum reasonably necessary to remedy the urgent circumstance; and
- 17.4. the person on whom a **notice to comply** under clause 14 would have otherwise been served is as soon as possible notified of the urgent circumstance and the action taken to remedy it.

18. Impounding

- 18.1. **Council** may seize and impound any thing which is, has been or is being used ~~or~~, possessed, placed or left in contravention of this Local Law.
- 18.2. Where a thing has been impounded under this Local Law, **Council** must, if it is practicable to do so, serve notice of the impounding personally, by email or by ordinary post on the person who appears to be the **owner** of it.
- 18.3. On receipt of evidence that, to **Council's** reasonable satisfaction, shows that a person is the **owner** of an impounded thing, and on payment of a fee determined by **Council**, an impounded thing must be given back to:
 - 18.3.1. its **owner**; or
 - 18.3.2. a person who provides satisfactory evidence to **Council** of his or her authority from the thing's **owner** to act on the **owner's** behalf.
- 18.4. Where an impounded thing has not been claimed within 30 days of notice being given in accordance with clause 18.2, or within 30 days of the thing being impounded if it is not practicable to serve notice of the impoundment in accordance with clause 18.2, **Council** may:
 - 18.4.1. sell the impounded thing and retain any proceeds of sale as general revenue; or
 - 18.4.2. if the value of the impounded thing is less than the cost of selling it, donate it to a registered charity or local community group.

19. Appeals

- 19.1. A person may request that **Council** reviews an order, direction, decision or notice issued in relation to him or her under this Local Law.
- 19.2. Where a request for review has been made under clause 19.1, the person requesting the review must do everything practicable to cooperate in the prompt and speedy review of the order, direction, decision or notice.

20. Security Bonds

- 20.1. In deciding to grant a **permit**, **Council** may require the **applicant** to lodge with **Council** a **security bond** in such amount and in such a manner as **Council** determines.
- 20.2. In the event that a person to whom a **permit** is issued breaches the **permit** conditions attached to the **permit** or this Local Law, **Council** may apply so much of the **security bond** as is necessary to remedy that breach and repair any damage caused by that breach.
- 20.3. Upon expiry of a **permit**, **Council** must release any remaining **security bond** to the person who paid it.
- 20.4. If, after 12 months from the date that the **security bond** would be released under clause 20.3, **Council** cannot locate a person entitled to the release of any **security bond** or remaining **security bond**, **Council** may, [subject to law](#), retain the **security bond** or remaining **security bond** and pay the money into its general revenue.

21. Incorporated Documents

The following documents are incorporated into this Local Law:

- 21.1. **Cypress Hedges Policy**; and
- 21.2. **Parking Permit Policy**.

PART C – ENFORCEMENT**22. Offences**

- 22.1. A person is guilty of an **offence** if the person:
 - 22.1.1. does something which a provision of this Local Law prohibits to be done or makes an **offence**;
 - 22.1.2. fails to do something which a provision of this Local Law requires to be done;
 - 22.1.3. engages in an activity without a **permit** where a provision of this Local Law requires that person to obtain a **permit** before engaging in that activity;
 - 22.1.4. breaches or fails to comply with a condition of a **permit** issued under this Local Law; or
 - 22.1.5. fails to comply with a **notice to comply** or a direction of **Council** under this Local Law.
- 22.2. If a corporation is charged with an **offence** against this Local Law, any natural person who is concerned or takes part in the management of the corporation may also be charged with the same **offence**.
- 22.3. If a corporation is convicted of an **offence** against this Local Law, a natural person charged under clause 22.2 with the same **offence** may also be convicted of that **offence** and is liable to the penalty for that **offence** unless that natural person proves that the act or omission constituting the **offence** took place without his or her knowledge or consent.

23. Penalties

A person guilty of an **offence** under this Local Law is, where no other penalty is specified in Schedule 1 to this Local Law, liable to a penalty:

- 23.1. not exceeding 20 **Penalty Units**; and
- 23.2. for a continuing **offence**, not exceeding 2 **Penalty Units** for each day after the finding of guilt during which the contravention continues.

24. Infringement Notices

- 24.1. Where an **Authorised Officer** reasonably believes that a person has committed an **offence** against this Local Law, the **Authorised Officer** may issue and serve on that person an **infringement notice** as an alternative to a prosecution for that **offence**.
- 24.2. The infringement penalties fixed for **offences** against this Local Law are set out in Schedule 1 and, if no penalty is fixed for a particular **offence**, the penalty is two (2) **Penalty Units** for each **offence**.

PART D – ROADS AND COUNCIL-CONTROLLED LAND**25. Behaviour – Generally**

- 25.1. A person must not on any **Council-controlled land**:
 - 25.1.1. interfere with another person's reasonable use and enjoyment of that **Council-controlled land**;
 - 25.1.2. endanger or be likely to endanger a person's health, life or property or an animal;
 - 25.1.3. without a **permit**, do anything contrary to a sign erected on the **Council-controlled land**; or
 - 25.1.4. play or practise golf (whether by hitting a golf ball or other kind of ball, or by swinging a golf club or otherwise) except on **Council-controlled land** designated by **Council** as a golf course.
- 25.2. A person must not, without a **permit**, organise a function, **event** or entertainment on **Council-controlled land** or a **road** that:
 - 25.2.1. substantially occupies the **Council-controlled land** or **road**; or
 - 25.2.2. encroaches or impacts or is likely to encroach or impact, on another person's use and enjoyment of the **Council-controlled land** or **road**.
- 25.3. A person must not, without a **permit** or **licence**, use any **Council-controlled land** or **road** for the purpose of conducting a business or for any other commercial purpose.

26. Consumption and Possession of Alcohol

- 26.1. A person or group of persons must not consume **alcohol** or have in his, her or their possession or control any open receptacle containing **alcohol**:

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- 26.1.1. in a place which **Council** has resolved is an **alcohol-free zone** for the purposes of this Local Law; or
- 26.1.2. in any other place which **Council** resolves is a prescribed place for the purposes of this clause 26.
- 26.2. An **Authorised Officer** may, where that **Authorised Officer** reasonably believes that a person or group of persons has contravened or is contravening this clause 26, direct that person or group of persons to:
 - 26.2.1. empty any open receptacle containing **alcohol** or reseal that open receptacle; or
 - 26.2.2. surrender any open receptacle containing **alcohol** to the **Authorised Officer**.
- 26.3. A person or group of persons to whom a direction is given under clause 26.2 must comply.
- 26.4. If a person or group of persons to whom a direction is given under clause 26.2 does not comply with that direction the **Authorised Officer** may impound that open receptacle containing **alcohol**.
- 26.5. Notwithstanding the requirements of this clause 26, a person who consumes or possesses **alcohol** in any licensed premises or authorised premises as defined in *the Liquor Control Reform Act 1998* is exempt from the application of this clause 26.

27. Trading Activities

- 27.1. A person must not, without a **permit**, on or above **Council-controlled land** or a **road**:
 - 27.1.1. place any **advertising sign**;
 - 27.1.2. display or sell any goods;
 - 27.1.3. place any **street furniture** or associated items;
 - 27.1.4. place any structure for the purpose of selling or offering to sell any goods or services;
 - 27.1.5. sell or trade, or offer for sale or trade, or display to give away, any:
 - 27.1.5.1. **vehicle**; or
 - 27.1.5.2. goods or services carried about or placed on the person or any other moveable thing.
- 27.2. The person responsible for placement of an **advertising sign** contrary to clause 27.1.1 will, unless they can provide proof to the contrary, be the person who, or whose business, is identified on the **advertising sign**.

~~27.3. Clause 27.1 does not apply to activities ancillary to residential use of residential land or premises.~~

~~27.4. A person must not, without a **permit**:~~

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~~27.4.1.~~ for commercial purposes, sell or offer for sale goods or services, seek subscriptions or solicit custom door to door, or permit or cause another person to do so, in a **residential area**; ~~or~~

~~27.4.2;27.3.~~ solicit custom or collect donations or subscriptions door to door, or permit or cause another person to do so, in a residential area.

~~27.5;~~ 27.4. A person must not, without a **permit**, engage in, or permit or cause another person to engage in, spruiking or the promotion of goods or services for commercial purposes on any **Council-controlled land** or **road**.

28. Appeals and Collections

28.1. A person must not, without a **permit**, solicit or collect any gifts, money or subscription, or permit or cause another person to do so, on any **Council-controlled land** or **road**.

~~28.2.~~ A person must not, without a permit, hand out or distribute any handbill, placard, notice, pamphlet, book, paper, advertising material or similar thing, or permit or cause another person to do so, on any Council-controlled land or road.

~~28.3;~~ 28.2. A person must not, without a **permit**, erect or place, or permit or cause another person to erect or place, on any **Council-controlled land, road**, any **vehicle**, caravan, trailer, table, stall or similar structure for the purpose of selling or offering for sale any goods or services or conducting a raffle or lottery.

~~28.4;~~ 28.3. Notwithstanding clause 28.1 a person participating in highway collections approved under the *Road Safety Act* 1986 does not require a **permit** from **Council**.

29. Charity Bins

A person must not, without a **permit**, place, or cause or allow to be placed, a **charity bin** on **Council-controlled land** or a **road**.

30. Obstructions on Council-controlled land

30.1. An **owner** or **occupier** of **private land** must not allow an **advertising sign** or any other object to:

30.1.1. extend over **Council-controlled land** or a **road** at a height less than 2.4 metres; or

30.1.2. remain on that **private land** or be placed on that **private land** so as to obstruct the clear view of **traffic controls** by a person on the **Council-controlled land** or **road**, or otherwise interfere with **vehicle** or pedestrian use of the **Council-controlled land** or **road**, or with street lighting.

30.2. An **owner** or **occupier** of **private land** must not allow any vegetation to:

30.2.1. extend over **Council-controlled land** or a **road** at a height less than 2.4 metres; or

30.2.2. remain on that **private land** or be placed on that **private land** so as to obstruct the clear view of **traffic controls** by a person on the **Council-controlled land** or **road**, or otherwise interfere with

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vehicle or pedestrian use of the **Council-controlled land or road**, or with street lighting,

except where the vegetation is a cypress hedge within the meaning of the **Cypress Hedges Policy**.

- 30.3. Where the vegetation is a cypress hedge within the meaning of the **Cypress Hedges Policy**, an **owner** or **occupier** of that **private land** must take the action required under the **Cypress Hedges Policy**.
- 30.4. The **Cypress Hedges Policy** is hereby incorporated into this Local Law.

31. Obstructions on Roads

A person must not allow any **vehicle** or trailer whether or not registered with VicRoads or equivalent interstate road authorities, to be placed or remain on any **road** if the placement of such **vehicle** or trailer would cause a danger, hazard or substantially interfere with another **vehicle** or any person's use of the **road**, or obstruct the clear view of **traffic controls** by a person on the **road** or adjacent land.

32. Changes to and Occupation of Council-Controlled Land and Roads

- 32.1. A person must not, without a **permit** or **licence**:
- 32.1.1. cause any change to **Council-controlled land** or a **road** or anything on it; or
- 32.1.2. remove anything from **Council-controlled land** or a **road**.
- 32.2. A person must not, without a **permit** or **licence**:
- 32.2.1. occupy any **Council-controlled land** or a **road** by storing on it any boat, trailer, caravan or **storage container**; or
- 32.2.2. use a mobile vehicular or non-vehicular crane or travel tower or an extendable feed style concrete pump truck or other similar **vehicle** and/or machinery on, over or from **Council-controlled land** or a **road**.

33. Filming and Photography on Council Land

A person must not, without a **permit**, on any **Council-controlled land** or a **road**, conduct any filming or photography ~~for commercial purposes, public exhibition or purposes associated with formal study which involves,~~ unless the placement person:

- 33.1. occupies for the purpose an area not exceeding 10sqm and does not obstruct the **Council-controlled land** or ~~use~~ **road** or otherwise create a hazard to any person on that **Council-controlled land** or **road**; or
- 33.2. is part of a ~~tripod, other equipment or items or vehicles on any Council-controlled land or a road.~~ news crew engaged in reporting on news.

34. Repair of Vehicles and Storage of Heavy Vehicles

- 34.1. A person must not perform any work to a **vehicle**, including to repair, service, wash, clean or dismantle a **vehicle**, on any **Council-controlled land** or a **road**, except running repairs necessary to enable the **vehicle** to be removed from the **Council-controlled land** or **road**.

- 34.2. A person must not, without a **permit**, on any **private land** or **Council-controlled land** in a **residential area**:
- 34.2.1. allow a **heavy vehicle** to be kept or stored; or
- 34.2.2. perform any work on a **heavy vehicle**, including to repair, service, wash, clean or dismantle a **heavy vehicle**, except running repairs necessary to remove the **heavy vehicle** from the **private land** or **Council-controlled land**.

35. Use of Vehicles on Council-controlled land

- 35.1. A person must not, on any **Council-controlled land**:
- 35.1.1. ride or drive any motor car, motorcycle or similar **vehicle** other than on a designated roadway or in an area set aside for **vehicle** parking; or
- 35.1.2. ride any bicycle or similar **vehicle** other than on any **formed path** or in an area set aside for **vehicle** parking; or
- 35.1.3. stop or park any motor car, motorcycle, bicycle or other **vehicle** other than in an area set aside for **vehicle** parking.

35.2. A person does not commit an **offence** against this clause 35 if that person:-

~~35.2.~~35.2.1. is directed to ride, drive, stop or park on **Council-controlled land** by an **Authorised Officer** or by a member of the Police Force.;

35.2.2. parks a bicycle in an area that is not set aside for vehicle parking provided that in doing so the bicycle does not obstruct the free use of the area; or

35.2.3. is a person who is learning to ride a bicycle, other than on a formed path or in an area set aside for vehicle parking, provided that the person does not interfere with another person's use or enjoyment of the relevant Council-controlled land.

36. Bike Share Scheme

- 36.1. A person who owns or operates a bicycle used for the purpose of a **bike share scheme** must not, without a **permit**, allow any bicycle owned or operated by that person to be within the **municipality**.
- 36.2. A person must not make available for use, or permit to be used, in the **municipality**, a bicycle used for the purpose of a **bike share scheme** that does not have a device which is attached to it and used so as to ensure the return of the bicycle to an area specifically designated for the storage of bicycles.
- 36.3. **Council** may exempt a person or a class of persons from the application of clause 36.1 if a bicycle used for the purpose of a **bike share scheme** is left or placed in an area designated by **Council**.
- 36.4. A person who owns or operates a bicycle used for the purposes of a **bike share scheme** is guilty of an **offence** if such a bicycle is:

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- 36.4.1. left or placed in a way that unreasonably interferes with the use of any **road**, footpath or other place;
 - 36.4.2. left or placed in a place that detrimentally affects the amenity of that place.
 - 36.5. A person who owns or operates a bicycle used for the purpose of a **bike share scheme** must:
 - 36.5.1. remove within 24 hours of notification any bicycle in contravention of clause 36.3;
 - 36.5.2. remove within 24 hours of notification any bicycle that is damaged or missing any part; and
 - 36.5.3. comply with the conditions of a **permit**.

37. E-Scooter Share Scheme

- 37.1. A person who owns or operates an **e-scooter** used for the purpose of an **e-scooter share scheme** must not, without a **permit**, allow any **e-scooter** owned or operated by that person to be within the **municipality**.
- 37.2. A person must not make available for use, or permit to be used, in the **municipality**, an **e-scooter** used for the purpose of an **e-scooter share scheme** that does not have a device which is attached to it and used so as to ensure the return of the **e-scooter** to an area specifically designated for the storage of **e-scooters**.
- 37.3. **Council** may exempt a person or a class of persons from the application of clause 37.1 if an **e-scooter** used for the purpose of an **e-scooter share scheme** is left or placed in an area designated by **Council**.
- 37.4. A person who owns or operates an **e-scooter** used for the purposes of an **e-scooter share scheme** is guilty of an **offence** if such an **e-scooter** is:
 - 37.4.1. left or placed in a way that unreasonably interferes with the use of any **road**, footpath or other place;
 - 37.4.2. left or placed in a place that detrimentally affects the amenity of that place.
- 37.5. A person who owns or operates an **e-scooter** used for the purpose of an **e-scooter share scheme** must:
 - 37.5.1. remove within 24 hours of notification any **e-scooter** in contravention of clause 37.3;
 - 37.5.2. remove within 24 hours of notification any **e-scooter** that is damaged or missing any part; and
 - 37.5.3. comply with the conditions of a **permit**.

38. Wheeled Recreational Devices and Wheeled Toys

A person must not use any **wheeled recreational device**, **wheeled toy** or other similar device on any **Council-controlled land** so as to endanger, intimidate, obstruct or hinder a person, persons or **vehicle**.

~~39.~~ Model Aircraft

~~39.1.~~ A person must not, without a **permit**, operate any **model aircraft** on, over or from any **Council-controlled land**.

~~39.2.~~ A person must not, without a **permit**, convene, or participate in, an organised group of persons operating **model aircraft** on, over or from any **Council-controlled land**.

~~40.~~39. Parking Permits

A **Parking Permit Holder** must not, and must ensure that his or her visitors, employees and sub-contractors do not:

~~40.1.~~~~39.1.~~ lease out, rent out, lend or sell a **parking permit** to another person or duplicate a **parking permit**;

~~40.2.~~~~39.2.~~ charge any person a fee to use a **parking permit** or accept any consideration (monetary or otherwise) from a person for the use of a **parking permit**;

~~40.3.~~~~39.3.~~ give or otherwise provide a **parking permit** to any person not entitled to use the **parking permit** under the **Parking Permit Policy**; or

~~40.4.~~~~39.4.~~ allow or assist any other person, not entitled to use a **parking permit** under the **Parking Permit Policy**, to misuse the **parking permit** contrary to the **Parking Permit Policy**.

~~41.~~40. Caravans and Camping

~~41.1.~~~~40.1.~~ A person must not, without a **permit**, have more than one caravan, campervan, motor home or similar **vehicle** on **private land** within a **residential area**.

~~41.2.~~~~40.2.~~ A person must not, without a **permit**, occupy or allow another person or persons to occupy a caravan, campervan, motor home or similar **vehicle**, tent or any other temporary or makeshift structure on any **private land** for more than three weeks in any one calendar year.

~~41.3.~~~~40.3.~~ A person must not occupy or allow another person to occupy a caravan, campervan, motor home or similar **vehicle**, or tent or any other temporary or makeshift structure on any **Council-controlled land**.

~~42.~~41. Shopping Trolleys

~~42.1.~~~~41.1.~~ A person must not leave a shopping trolley on any **road** or **Council-controlled land** other than in an area specifically designated for the storage of shopping trolleys.

~~42.2.~~~~41.2.~~ If a shopping trolley is left on a **road** or **Council-controlled land** in contravention of clause 41.1, the **retailer** who owns the shopping trolley is also guilty of an **offence**.

~~42.3.~~~~41.3.~~ Subject to clause 41.4, a **retailer** must not provide or make available for use or permit to be used, a shopping trolley which does not have:

~~42.3.1.~~~~41.3.1.~~ attached to it a plate or other marking identifying the name, address and contact phone number of the **retailer**; and

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~~42.3.2~~~~41.3.2~~ a fully operating mechanism which disables or otherwise prevents the shopping trolley from being taken beyond the boundaries of the **approved area**.

~~42.4~~~~41.4~~ Upon an application by a **retailer**, **Council** may resolve in its absolute discretion to exempt a **retailer** from the application of clause 41.3, either in whole or in part, temporarily or permanently and subject to such conditions as **Council** may determine.

~~42.5~~~~41.5~~ If a shopping trolley is left on a **road** or **Council-controlled land** in contravention of clause 41.1, **Council** may, by notice provided to the address depicted on the shopping trolley, direct the **retailer** to remove the shopping trolley and state:

~~42.5.1~~~~41.5.1~~ the period within which the shopping trolley is to be removed; and

~~42.5.2~~~~41.5.2~~ that it is an **offence** for the **retailer** not to remove the shopping trolley.

~~42.6~~~~41.6~~ On the first business day of each month, or as soon as possible thereafter, a list of shopping trolleys that have been impounded by **Council** will be forwarded to each **retailer** stating:

~~42.6.1~~~~41.6.1~~ the period within which the shopping trolleys must be claimed;

~~42.6.2~~~~41.6.2~~ that unclaimed shopping trolleys may be disposed of by **Council** after the period; and

~~42.6.3~~~~41.6.3~~ that it is an **offence** for a **retailer** to not claim an impounded shopping trolley.

~~42.7~~~~41.7~~ Any impounded shopping trolley may be claimed by the **retailer** that owns the shopping trolley after payment of the fee set by **Council**.

~~42.8~~~~41.8~~ Any impounded shopping trolley not claimed within the time specified on the list of impounded shopping trolleys issued under clause 41.6 may be disposed of by **Council** without further notice to any person.

~~42.9~~~~41.9~~ A **retailer** who does not remove a shopping trolley or claim an impounded shopping trolley within the period stated by **Council** under clauses 41.5 or 41.6 is guilty of an **offence**.

~~42.10~~~~41.10~~ Clause 18, other than clause 18.1, does not apply to shopping trolleys.

PART E – THE ENVIRONMENT

~~43.42~~ Dangerous and Unsightly Land and Nuisances

~~43.1~~~~42.1~~ An **owner** or **occupier** of **private land** must ensure that the **private land** and any **building** or other structure on the **private land**:

~~43.1.1~~~~42.1.1~~ is not a danger to health of any person or animal or property or likely to become a danger to health of any person or animal or property;

~~43.1.2~~~~42.1.2~~ does not constitute a **fire hazard**;

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- ~~43.1.3.~~42.1.3. does not contain grass or weeds in excess of 150 mm in height;
- ~~43.1.4.~~42.1.4. is not unsightly, or detrimental to the general amenity of adjoining land or the neighbourhood, including through the presence of:
- ~~43.1.4.1.~~42.1.4.1. stored unregistered or derelict **vehicles** or machinery or any parts of them;
 - ~~43.1.4.2.~~42.1.4.2. **storage containers**;
 - ~~43.1.4.3.~~42.1.4.3. scrap metal, timber, building materials or building refuse;
 - ~~43.1.4.4.~~42.1.4.4. waste paper, cardboard, bottles or other refuse;
 - ~~43.1.4.5.~~42.1.4.5. soil or similar materials;
 - ~~43.1.4.6.~~42.1.4.6. overgrown vegetation; or
 - ~~43.1.4.7.~~42.1.4.7. **buildings** on the land which have been damaged;
- ~~43.1.5.~~42.1.5. is kept free of any **graffiti**; and
- ~~43.1.6.~~42.1.6. is not used in any manner or left in any state that may cause a **nuisance** or become detrimental to the amenity of the immediate area.
- ~~43.2.~~42.2. An **owner** or **occupier** of **private land** must not allow any **building** or other structure on that **private land** to become **dilapidated**.
- ~~43.3.~~42.3. An **owner** or **occupier** of **private land** must take reasonable steps to prevent the movement of soil, sediment and other substances from the **private land** to the adjoining **road**.
- ~~43.4.~~42.4. An **owner** or **occupier** of **private land** which has the benefit of **pavement lights** must ensure that those **pavement lights** are maintained so as not to fall into a state of disrepair.
- ~~43.5.~~42.5. Without limiting the generality of clause 14.2, a **notice to comply** issued by an **Authorised Officer** with respect to an **offence** against this clause 42 may include a direction that the **private land, building** or structure be:
- ~~43.5.1.~~42.5.1. cleared of any substance, material or equipment;
 - ~~43.5.2.~~42.5.2. suitably fenced, screened or otherwise enclosed in the manner specified in the **notice to comply**;
 - ~~43.5.3.~~42.5.3. cleaned or painted in a manner that removes or obliterates **graffiti** specified in the **notice to comply**;
 - ~~43.5.4.~~42.5.4. boarded up or otherwise secured to prevent access or otherwise alleviate the danger, unsightliness, **nuisance**, detriment to general amenity or offending condition; and/or

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~~43.5.5.~~~~42.5.5.~~ protected by warning signs or barriers to alert members of the public to the presence on the **private land** of a danger to persons entering the **private land**.

44.43. Open Air Burning and Incinerators

~~44.1.~~~~43.1.~~ A person must not burn or cause or allow to be burned any substance that is likely to cause a risk of fire to the area surrounding the fire or to endanger ~~health~~~~the safety~~ of any person or animal.

~~44.2.~~~~43.2.~~ A person must not, without a **permit**, light a fire in the **open air**, or allow a fire to be lit or remain alight in the **open air**, unless the fire is lit:

~~44.2.1.~~~~43.2.1.~~ in a purpose-built or constructed barbeque, grill, pizza oven, chiminea, brazier or similar for the purpose of cooking food; ~~or~~

~~44.2.2.~~~~43.2.2.~~ in a brazier, chiminea or purpose built or portable fire pit constructed of fire resistant materials while its being used for heating; ~~or~~

~~43.2.3.~~ for a religious or cultural ceremony.

~~44.3.~~~~43.3.~~ An **owner** or **occupier** of **private land** must not use an **incinerator** or allow an **incinerator** to be used on that **private land**.

~~44.4.~~~~43.4.~~ An **owner** or **occupier** of **private land** on which a fire has been lit in breach of this Local Law, or a person who has lit a fire in breach of this Local Law, must immediately take all steps necessary to extinguish the fire:

~~44.4.1.~~~~43.4.1.~~ on becoming aware of such a fire; or

~~44.4.2.~~~~43.4.2.~~ on being directed to extinguish the fire by:

~~44.4.2.1.~~~~43.4.2.1.~~ an **Authorised Officer**;

~~44.4.2.2.~~~~43.4.2.2.~~ a member of the Police Force; or

~~44.4.2.3.~~~~43.4.2.3.~~ a member of the Metropolitan Fire Brigade or the Emergency Services Board.

~~44.5.~~~~43.5.~~ If a person who has breached this clause 43 is unable or unwilling to extinguish the fire, an **Authorised Officer** shall notify a member of the Metropolitan Fire Brigade or the Emergency Services Board.

45.44. Drains and Watercourses

~~45.1.~~~~44.1.~~ A person must not, on any **private land** without a **permit** or **licence**, interfere with, excavate, build, pave or landscape within or over an easement in **Council's** favour, or cause any change or obstruction or damage to a drain, sewer, watercourse or associated infrastructure which **Council** controls or manages.

~~45.2.~~~~44.2.~~ An **owner** or **occupier** of **private land** must not, without a **permit**, damage or otherwise interfere with any part of **Council's** drainage infrastructure.

~~45.3.~~~~44.3.~~ An **owner** or **occupier** of **private land** must ensure that any drain on that **private land** properly discharges to an approved point of discharge being **Council's** drainage infrastructure.

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~~45.4.44.4.~~ An **owner** or **occupier** of **private land** must not allow a drain located on that **private land** to become blocked or otherwise fall into disrepair.

~~45.5.44.5.~~ An **owner** or **occupier** of **private land** on which a **Council**-maintained drain or associated infrastructure exists must notify **Council** if the drain or associated infrastructure becomes blocked, damaged or fails to operate effectively as soon as practicable after the **owner** or **occupier** becomes, or ought reasonably to have become, aware of the condition arising.

~~45.6.44.6.~~ The requirement to obtain a **permit** or **licence** does not apply where **Council** has given its approval for the drain to be tapped into under legislation administered by it, except:

~~45.6.1.44.6.1.~~ where construction has ceased or been completed; and

~~45.6.2.44.6.2.~~ that this exemption does not permit an **owner** or **occupier** of **private land** to cause or sustain damage or blockage to a drain.

~~46.45.~~ **Household, Recycling and Organic Waste Storage**

Where **Council** provides a waste collection service, the **owner** or **occupier** of **private land** must:

~~46.1.45.1.~~ only use an **approved waste receptacle** for **Council**-provided waste collections;

~~46.2.45.2.~~ not dispose of any **e-waste** in an **approved waste receptacle**;

~~46.3.45.3.~~ ensure the lid of the **approved waste receptacle** is left closed after material is placed in or removed from it;

~~46.4.45.4.~~ keep the **approved waste receptacle** in a clean, inoffensive and sanitary condition; and

~~46.5.45.5.~~ store the **approved waste receptacle** on the **private land** to which the waste collection service is provided, except for a maximum of 24 hours prior to the scheduled collection and a maximum of 24 hours following it, when it may be placed in the adjacent footpath or nature-strip in accordance with **Council** guidelines as issued from time to time.

~~47.46.~~ **Hard Waste Collection**

~~47.1.46.1.~~ Where a **hard waste** collection has been booked by a resident or is otherwise provided by **Council**, a person must not place the items out for collection more than 48 hours prior to the scheduled collection and must comply with any written or verbal directions of **Council**.

~~47.2.46.2.~~ A person must not deposit or allow to be deposited any **hard waste** contrary to the written or verbal directions pursuant to clause 46.1.

~~48.47.~~ **Bulk Rubbish and Trade Waste Storage**

~~48.1.47.1.~~ A person must not, without a **permit**, place, allow to be placed or cause to be placed on any **Council-controlled land** or a **road**:

~~48.1.1.47.1.1.~~ a **bulk rubbish container**;

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~~48.1.2~~~~47.1.2~~ any other thing on **Council-controlled land** or a **road** which interferes with the use of the **Council-controlled land** or **road**.

~~48.2~~~~47.2~~ Unless exempted by **Council**, the person to whom a **permit** is issued under this clause must ensure that the **bulk rubbish container** to which the **permit** relates is:

~~48.2.1~~~~47.2.1~~ constructed of impermeable material;

~~48.2.2~~~~47.2.2~~ watertight;

~~48.2.3~~~~47.2.3~~ fly and vermin proof;

~~48.2.4~~~~47.2.4~~ equipped with a removable drainage plug, if required by the **permit**;

~~48.2.5~~~~47.2.5~~ emptied at least every seven (7) days, or otherwise as required by the **permit**; and

~~48.2.6~~~~47.2.6~~ maintained in a clean, inoffensive and sanitary condition.

~~48.3~~~~47.3~~ If directed by **Council**, the person to whom a **permit** is issued under this clause 47 must ensure that the area to which the permit relates and in which the **bulk rubbish container** is placed:

~~48.3.1~~~~47.3.1~~ has an impermeable surface;

~~48.3.2~~~~47.3.2~~ is drained to a sewer or other outlet approved by **Council**;

~~48.3.3~~~~47.3.3~~ is supplied with water from a tap and hose; and

~~48.3.4~~~~47.3.4~~ is maintained in a clean, inoffensive and sanitary condition.

~~49.48~~ Screening of Bins and Containers

Council may, by notice in writing, direct the **owner** or **occupier** of **private land** on which there is an **approved waste receptacle** or **bulk rubbish container** that is:

~~49.1~~~~48.1~~ unsightly;

~~49.2~~~~48.2~~ dangerous, or likely to become dangerous, to the health of any person, **animal** or property; or

~~49.3~~~~48.3~~ detrimental to the general amenity of the neighbourhood;

to:

~~49.4~~~~48.4~~ install;

~~49.5~~~~48.5~~ repair;

~~49.6~~~~48.6~~ replace; or

~~49.7~~~~48.7~~ modify

a fence or other means of screening the **approved waste receptacle** or **bulk rubbish container** from public view.

50.49. Noise

~~50.1.49.1.~~ In or adjacent to a **residential area** a person must not:

~~50.1.1.49.1.1.~~ leave the engine of a stationary **heavy vehicle** running for more than five (5) continuous minutes;

~~50.1.2.49.1.2.~~ without a **permit**, deliver to, or collect from, or cause or allow a delivery to or collection from, a **commercial enterprise** any goods, or provide any services, including waste collection services, to a **commercial enterprise**, or allow a refrigeration unit mounted on a **vehicle** to run:

~~50.1.2.1.49.1.2.1.~~ before 9am or after 10pm on a public holiday;

~~50.1.2.2.49.1.2.2.~~ between 10pm on Friday and 9am the next day;

~~50.1.2.3.49.1.2.3.~~ between 10pm on Saturday and 7am the following Monday; or

~~50.1.2.4.49.1.2.4.~~ between 10pm on Monday, Tuesday, Wednesday or Thursday and 7am the next day.

~~50.2.49.2.~~ A person must not, without a **permit**, carry out or allow to be carried out **non-residential building work**:

~~50.2.1.49.2.1.~~ on a public holiday;

~~50.2.2.49.2.2.~~ between 5pm on Friday and 8am the next day;

~~50.2.3.49.2.3.~~ between 5pm on Saturday and 7am the following Monday; or

~~50.2.4.49.2.4.~~ between 6.30pm on any Monday, Tuesday, Wednesday or Thursday and 7am the next day;

unless the **non-residential building work** is necessary to protect life or property or unless a **planning permit** has provided approval to do so.

51.50. Wasp Nests and Bees

Upon becoming aware of the existence of:

~~51.1.50.1.~~ a wasp nest; or

~~51.2.50.2.~~ bee hives or bee swarms that do not comply with any relevant Apiary Code of Practice or are not otherwise permitted by the **Planning Scheme**

on **private land**, the **owner** or **occupier** of that **private land** must immediately take steps to cause the nest, hives or swarms to be removed by an appropriately qualified contractor.

PART F – ANIMALS**52.51. Keeping Domestic Animals**

~~52.1.51.1.~~ An **owner** or **occupier** of **private land** must not, without a **permit**, keep or allow to be kept on that **private land** any more than:

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~~52.4.1.~~51.1.1. the number of **animals** specified in the table at clause 51.5; and

~~52.4.2.~~51.1.2. four different types of **animals**, in which case the numbers specified in the table at clause 51.5 are cumulative.

~~52.2.~~51.2. An **owner** or **occupier** of **private land** must not, without a **permit**, keep or allow to be kept on that **private land** any **animal** that is not specified in the table at clause 51.5.

~~52.3.~~51.3. Clauses 51.1 and 51.2 do not apply where:

~~52.3.1.~~51.3.1. a **planning permit** has been obtained for **private land** used for the purposes of **animal** boarding or breeding, or for any other purpose permitted by the **planning permit**; or

~~52.3.2.~~51.3.2. an **owner** or **occupier** of **private land** keeps more than the specified number of **animals** on that **private land** at the commencement of this Local Law, provided that:

~~52.3.2.1.~~51.3.2.1. those **animals** are kept in accordance with a **permit** issued under the previous Local Law (if one was required); and

~~52.3.2.2.~~51.3.2.2. where one or more of those **animals** is permanently removed from the **private land**, that **animal**, or those **animals**, shall not be replaced unless a **permit** is first granted under this clause 51; or

~~52.3.3.~~51.3.3. an **owner** or **occupier** of **private land** keeps more than the specified number or type of **animals** on that **private land** for no more than 14 consecutive days for the purpose of caring for **animals**:

~~52.3.3.1.~~51.3.3.1. owned by another; and

~~52.3.3.2.~~51.3.3.2. which are ordinarily kept on land occupied by that other.

~~52.4.~~51.4. An **owner** of **vacant land** must not, without a **permit**, keep, or allow to be kept, any **animal** on that **vacant land**.

~~52.5.~~51.5. Number of **animals**:

Type of Animal	Maximum number of each type of animal permitted
Private land with a single dwelling	
Mammals (Domesticated)	
Dogs (over three months old)	2
Cats (over three months old)	2
Ferrets	2

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Rabbits, guinea pigs, rats and mice	5
Farm animals	0
Birds	
Roosters, peafowl or guinea fowl	0
Chickens and pheasants	6
Turkeys, ducks and geese	2
Poultry other than that specified above	4
Domestic Birds (caged, non-poultry birds)	20
Private land with a multi-residential dwelling	
Mammals (Domesticated)	
Dogs (over three months old)	1
Cats (over three months old)	2
Ferrets	0
Rabbits, guinea pigs, rats and mice	2
Farm animals	0
Birds	
Roosters, peafowl or guinea fowl	0
Chickens and pheasants	0
Turkeys, ducks and geese	0
Poultry other than that specified above	0
Domestic Birds (caged, non-poultry birds)	5

[52-6-51.6.](#) In determining whether to grant a **permit** for the keeping of **animals** where the number exceeds that determined by **Council** and which is set out in the table at clause 51.5, **Council** must take into account:

[52-6-4-51.6.1.](#) the zoning of the **private land**;

[52-6-2-51.6.2.](#) the proximity of the area to adjoining **private land**;

[52-6-3-51.6.3.](#) the amenity of the area in which the **private land** is located;

[52-6-4-51.6.4.](#) the type and additional numbers of **animals** to be kept;

[52-6-5-51.6.5.](#) the area of **private land** available for keeping the **animals**;

[52-6-6-51.6.6.](#) the likely effects on adjoining **owners** or **occupiers**;

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~~52.6.7.~~51.6.7. the adequacy of **animal** shelters; and

~~52.6.8.~~51.6.8. any other matter relevant to the circumstances associated with the application.

~~52.7.~~51.7. An **owner** or **occupier** of **private land** must:

~~52.7.1.~~51.7.1. ensure that any **animals** kept on the **private land** are contained to the **private land** at all times, unless the **animals** are removed from the **private land** for any reason, in which case the **animals** must be contained so as to prevent their escape while outside the **private land**;

~~52.7.2.~~51.7.2. ensure that the area where **animals** are kept is thoroughly cleaned and maintained at all times in a clean and sanitary manner so as not to give rise to any **nuisance** or offensive condition;

~~52.7.3.~~51.7.3. keep the area of **private land** within 3 metres of the area or structure in which **animals** are kept free from dry grass, weeds, refuse, rubbish or other material capable of harbouring vermin or which may cause a health or safety risk to persons, **animals** or property;

~~52.7.4.~~51.7.4. keep all food or grain for **animals** on that **private land** in vermin-proof and fly-proof receptacles; and

~~52.7.5.~~51.7.5. drain the ground surrounding the place where **animals** are kept on that **private land**.

~~53.~~52. Treatment of Animals

Poultry must not be caged unless provided with ready access to an exercise run at least five metres long, two metres wide and one-and-a-half metres high.

~~54.~~53. Nuisances

An **owner** or **occupier** of **private land** must ensure that any **animal** or bird kept on that **private land** does not cause a **nuisance** to surrounding or neighbouring **owners** or **occupiers** of land.

~~55.~~54. Dogs

A person in charge of a dog on any **Council-controlled land** or a **road** must:

~~55.1.~~54.1. carry a receptacle or receptacles suitable for the removal of any excrement that may be deposited by the dog; and

~~55.2.~~54.2. not permit the excrement of the dog to remain on that **Council-controlled land** or **road**.

SCHEDULE 1

Infringement Notice value and Court penalty for contravention of this Local Law
(All values expressed in Penalty Units)

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
16	Failure to adhere to a Notice to Comply Fail to comply with a notice to comply or direction of an Authorised Officer	5	20
22.1.4.	Offences Fails to comply with the conditions a condition of a permit	2.5	20
25	Behaviour Generally Person contravenes behaviour requirements	2	20
25.3	Conducts business or commercial activities without a permit or licence	3	20
26	Consumption and Possession of Alcohol	2	20
27.1	Trading Activities Display of advertising sign , place any structure, street furniture to sell or trade any goods or services without a permit	5	20
27.4.1.1	Selling Without a permit, for commercial purposes, sell or offer for sale goods or services or collect donations or , seek subscriptions from or solicit custom door to door or permit or cause another person to do so, in a residential area	3	20

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Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
27.4 28.4	Appeals & Collections Without a permit , solicit engage in, or collect any gifts, money permit or subscriptions from door cause another person to door engage in, <u>spruiking or the promotion of goods or services for commercial purposes on any Council-controlled land or road</u>	3	20
28.1 28.2	Without a permit hand out or distribute advertising material <u>Without a permit, solicit or collect any gifts, money or subscriptions or permit or cause another person to do so on any Council-controlled land or road</u>	3	20
28.2	Without a permit erect or place vehicle , caravan, trailer, table, stall or similar structure for purpose of selling goods or services or conducting a raffle or lottery	3	20
29	Charity Bins Place Charity Bin without a permit	5	20
30.1	Obstructions on Council-controlled land Advertising sign or other object obstructing Council-controlled land or other views	3	20
30.2	Vegetation obstructing Council-controlled land or other views	3	20
31	Obstructions on Roads Allowing a vehicle or trailer placed on any road to cause danger, hazard or interfere with use of a road or obstruct views	5	20

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Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
32.1	Changes to and Occupation of Council-Controlled Land Without a permit or licence cause change to or remove anything from Council-controlled land	5	20
32.2.1	Without a permit or licence occupy or put anything on <u>any Council-controlled land or a road by storing on it any boat, trailer, caravan or storage container</u>	3	20
32.2.2	Without a permit use a mobile crane or <u>travel tower or other similar vehicle or machinery</u>	5	20
33	Filming and Photography on Council-Controlled Land Without a permit conduct <u>any</u> filming or photography which involves placement of equipment or other items on Council-controlled land <u>or road</u>	5	20
34.1	Repair of Vehicles and Storage of Heavy Vehicles Use Council-controlled land to repair, service or perform any work on a vehicle	5	20
34.2	Without a permit allow a heavy vehicle to be stored or perform any work on a heavy vehicle on land.	5	20
35.1	Use of Vehicles on Council-Controlled Land Use vehicles on Council-controlled land contrary to the requirements	3	20
36	Bike Share Scheme Own or operate Bicycle for the purpose of bike share scheme without a permit	3	20

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Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
37	E-Scooter Share Scheme Own or operate an e-scooter for the purpose of an e-scooter share scheme without a permit	3	20
38	Wheeled Recreational Devices and Wheeled Toys Use of wheeled recreational devices , wheeled toys or other similar devices on Council-controlled land to endanger, intimidate, obstruct and hinder	3	20
39.1	Model Aircraft Without a permit operate model aircraft on, over or from any Council-controlled land	2	20
39.2	Without a permit convene or participate in an organised group operating model aircraft on, over or from Council-controlled land	2	20
40.239	Parking Permits Fail to comply with obligations of a Parking Permit Holder	3	20
40.1	Caravans and Camping Place more than one (1) caravan, campervan, motor home on private land within a residential area without a permit	3	20
40.2.	Occupy <u>or allow another to occupy a</u> caravan, campervan, motor home, tent or similar on private land more than 3 weeks <u>in any one calendar year</u> without a permit	3	20
40.3	Occupy or allow another to occupy a caravan, campervan, motorhome, tent or similar on Council-controlled land	3	20

Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
41.1	Shopping Trolleys Person leaves a shopping trolley other than in proper area	3	20
41.2	Shopping Trolley of a retailer left on a road or Council-controlled land	5	20
42.1	Dangerous and Unsightly Land and Nuisance Owner or occupier allows dangerous and unsightly land and nuisance	5	20
42.2	Owner or occupier allows building or other structure to become dilapidated	5	20
42.3	Must take reasonable steps to prevent the movement of soil, sediment and other substances from private land to the adjoining road .	3	20
42.4	Must ensure pavement lights are maintained so as not to fall into a state of disrepair.	5	20
43.1	Open Air Burning and Incinerators Cause or allow to burn a substance that is likely to be offensive or cause fire risk or endanger health the safety of any person or animal	4	20
43.2	light a fire in the open air without a permit	5	20
43.3	Use or allow an incinerator to be used	5	20
43.4	Fail to extinguish a fire	5	20
44.1 and 44.2	Drains and Watercourses Without a permit or licence interfere with a drain	5	20
44.3	Fail to ensure drain discharges to an approved point of discharge	5	20

Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
44.4	Allow a drain to be <u>blocked or fall</u> in disrepair	5	20
44.5	Fail to notify Council if a drain or associated infrastructure becomes blocked, damaged or fails to operate	5	20
45	Household, Recycling and Organic Waste Storage Failure to comply with any of the waste collection requirements	3	20
46.1	Hard Waste Collection Failure to comply with the hard waste collection requirements	5	20
46.2	Deposit or allow to deposit the <u>hard waste</u> contrary to the <u>requirements</u> <u>directions of Council</u>	5	20
47.1	Bulk Rubbish and Trade Waste Storage Without a permit place bulk rubbish container or any other thing on Council-controlled land or road ,	5	20
47.2	Fail to comply with the correct sanitary conditions for a bulk rubbish container	5	20
47.3	Fail to ensure that the area which a permit related to bulk rubbish container is kept in accordance with Council direction	5	20
48	Screening Bins and Containers Fail to meet the conditions for approved waste receptacles or bulk rubbish container	5	20
49.1.1	Noise Leave the engine of a stationary heavy vehicle running	5	20
49.1.2	Without a permit deliver outside of hours	5	20

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Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
49.2	Without a permit carry out or allow to be carried out non-residential building work outside of hours	5	20
51.1	Keeping Domestic Animals Without a permit keeps excessive animals	2	20
51.2	Without a permit must not keep any animal that is not specified in table 51.5.	2	20
51.4	Without a permit must not keep any animal on vacant land .	2	20
51.7	Fails to comply with the conditions where animals are kept	2	20
51.7.1	Must ensure any animals kept on private land are contained and prevented from escape	2	20
52.	Treatment of Animals Poultry kept contrary to requirements	2	20
53	Nuisances Animals or birds causing nuisance	2	20
54.1	Dogs Carry receptacle or receptacles suitable for removal of excrement	2	20
54.2	Allow excrement to remain on Council-controlled land	2	20

The Common Seal of the Boroondara City Council was hereunto affixed in the presence of:

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..... Mayor/Councillor

Amenity Local Law

..... Chief Executive Officer

..... Date

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