



## **CITY OF BOROONDARA**

### **AMENITY LOCAL LAW**

Incorporating amendments made by the:

**Miscellaneous Amendments Local Law**  
gazetted on 1 September 2011.

**Amenity (Amendments) Local Law 2012**  
gazetted on 31 May 2012

**Amenity (Unightly Land Amendment) Local Law 2012** gazetted  
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<b>Responsible Directorate:</b>	Chief Executive Office

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## PART A – PRELIMINARY

### 1. Local Law

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

The objectives of this Local Law are to provide for:

- 2.1. The peace, order and good governance 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 of Local Laws

On the commencement of this Local Law the following local laws will be revoked:

- Local Law 1A Administration and Enforcement of Local Laws;
- Local Law 1B Caretaking Community Resources;
- Local Law 1C Protecting Health, Safety and Access;
- Local Law 1D Supporting Community Standards; and
- Local Law 1G Graffiti Prevention and Control of Aerosol Spray Paint Containers.

### 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:

**advertising sign** – means any portable sign, notice, structure, banner or other similar device used for the purpose of soliciting goods or services or displaying information;

**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;

**approved area** - where used in clause 39 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 39.

**approved waste receptacle** – means a bin or other refuse receptacle supplied by or on behalf of Council or approved by Council;

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

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

**bulk rubbish container** – includes a trade waste storage bin, waste bin, mini-skip, shipping container and pallet;

**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 occupies, manages, has leased or licensed to another person or Council otherwise controls;

**Cypress Hedges Policy** – means Council's 'Management of Cypress Hedges Policy' as adopted by Council on 24 October 2006 as amended from time to time;

**event** – means an organised recreational, cultural, commercial or social event or gathering of people which is held on a road and includes a procession, festival and street party;

**garden waste** – includes all tree branches, leaves, prunings, lawn clippings and weeds;

**gross vehicle mass** – has the same meaning as contained in the *Road Safety Act 1986*;

**household refuse** – means all refuse and rubbish produced or accumulated in or about a dwelling but does not include bricks, chemicals, hard waste, trade waste, garden waste, medical waste, furniture, fittings or machinery;

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

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

**municipal building** – means any building occupied, managed or otherwise controlled by Council, and includes Council's offices, libraries, recreational centres and community facilities;

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

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

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

**permit** – means a permit issued under this Local Law;

**private land** – means all land other than public land;

**public land** – means all land owned, leased, managed or occupied by a public body, including Council;

**public notice** – means a notice appearing in a newspaper generally circulating within the municipality;

**reserve** – means any Council-controlled land which is outdoors and set aside as open space or available for sporting or other recreational purposes;

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

**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;

**storage container** - means any form of container that is movable and used for 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, advertising signs, wind frames (barriers) and similar articles and which are placed on any road, reserve or Council-controlled land;

**vehicle** – has the same meaning as in Road Safety Road Rules 2009 as amended from time to time;

**wheeled recreational device** – has the same meaning as in Road Safety Road Rules 2009 as amended from time to time;

**wheeled toy** – has the same meaning as in Road Safety Road Rules 2009 as amended from time to time; and

**works** – 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 legislative instrument or Planning Scheme.

## PART B – ADMINISTRATION

### 8. Permits

- 8.1. Wherever in this Local Law a **permit** is required, **Council** may grant or refuse to grant the **permit** or grant it subject to conditions, or 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;
    - 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 a fee payable to **Council** and in the amount as is fixed by **Council**; and
  - 8.2.4. in a form approved by **Council** or an **Authorised Officer**.
- 8.3. If required to do so by **Council**, an applicant must provide additional information before **Council** processes an application for a **permit**.
- 8.4. If required to do so by **Council**, an applicant for a **permit** must give notice of that application or invite any person to make a submission or do both.
- 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 or written submission received in respect of the application;
  - 8.5.3. any written comment made in respect of the application by any public body or community organisation; and
  - 8.5.4. any other relevant matter.



- 8.6. A **permit** will be in the form approved by **Council** or an **Authorised Officer** and may include any condition which **Council** considers to be reasonable and appropriate, including:
- 8.6.1. a requirement that a **security deposit** or bond or a release, indemnity 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 activity authorised by the **permit** will be carried out or will occur;
  - 8.6.3. a time limit on the **permit** and on the activity authorised by it;
  - 8.6.4. provision for extension of the **permit**;
  - 8.6.5. a condition that the **permit** runs with or attaches to the premises in respect of which the activity is authorised by the **permit**;
  - 8.6.6. the payment of a fee or charge;
  - 8.6.7. a standard to be applied;
  - 8.6.8. that the **permit** is conditional on the happening of a certain event or prerequisite;
  - 8.6.9. that the **permit** is conditional upon the rectification, remedying or restoration of any situation or circumstance; or
  - 8.6.10. 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. is personal and authorises only the person named in the **permit** or, failing that, the applicant, to carry out the activity authorised by the permit; and
  - 8.7.2. is not transferable without **Council's** consent.

## 9. **Compliance with permits**

Every person to whom a **permit** is granted must do every act and thing as 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:
    - 10.2.3. a material mis-statement or concealment of fact in relation to the application for the **permit**;
    - 10.2.4. any material mistake in relation to the issue of the **permit**; or
    - 10.2.5. any material change of circumstances which has occurred since the grant of the **permit**;
    - 10.2.6. the applicant 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** believes 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 other 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 in 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. Powers of Council

Without affecting the operation of any particular provision of this Local Law, everything an **Authorised Officer** or any other specified person is capable of doing under this Local Law is also capable of being done by **Council** or its delegate.

## 13. Notice to Comply

13.1. Where an **Authorised Officer** reasonably believes that a person has committed an offence against this Local Law, the **Authorised Officer** may issue to the person a written **notice to comply**, requiring that person to stop committing the offence.

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

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

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

13.2.3. the action required to stop committing the offence;

13.2.4. the time for compliance;

13.2.5. the date on which it was issued; and

13.2.6. the name and signature of the **Authorised Officer**.

## 14. Reasonable time to comply

The time required by a **notice to comply** served under this Local Law must be reasonable in the circumstances, and what will be reasonable will vary depending on the matters to be remedied, but should take the following into account if applicable:

14.1. the amount of work involved;

14.2. the degree of difficulty;

14.3. the availability of necessary materials or other necessary items;

14.4. climatic conditions;

14.5. the degree of risk or potential risk; and

14.6. any other relevant factor.

## 15. Failure to adhere to a notice to comply

15.1. Any person served with a **notice to comply** under this Local Law who fails or refuses to comply with the requirements of the **notice to comply** within the time specified in it is guilty of an offence against this Local Law.

- 15.2. If a person on whom a **notice to comply** is served fails to comply with the requirements of that **notice to comply**, **Council** or an **Authorised Officer** or any employee or any other person authorised in writing by **Council**, may enter upon any **private land** or **public land** on which there is any such failure to comply and do all such acts, matters or things that are required to comply with the **notice to comply**.
- 15.3. All costs and expenses incurred by **Council** in carrying out any acts, matters or things described in sub-clause 15.2 are a debt due to **Council** from the person on whom the **notice to comply** was served.

## 16. Power of Authorised Officer – Urgent Circumstances

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

- 16.1. the circumstance arises out of a person's use of **Council-controlled land**, a **reserve**, a **municipal building** or a **road** or failure to comply with a provision of this Local Law;
- 16.2. **Council** or the **Authorised Officer** considers the circumstance to be sufficiently urgent and 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;
- 16.3. the action taken is no more than the minimum reasonably necessary to remedy the urgent circumstance; and
- 16.4. the person on whom a **notice to comply** under clause 13 would have otherwise been served is as soon as possible notified of the urgent circumstance and the action taken to remedy it.

## 17. Impounding

- 17.1. An **Authorised Officer** may impound any item where permitted to do so under this Local Law.
- 17.2. Where an item has been impounded under this Local Law, **Council** or an **Authorised Officer** must, if it is practicable to do so, serve notice of the impounding in person or by certified mail on the person who appears to be the owner.
- 17.3. On evidence to an **Authorised Officer's** satisfaction that a person is the owner of an impounded item, and on payment of a fee determined by **Council** or an **Authorised Officer**, an impounded item must be given back to:
  - 17.3.1. its owner; or
  - 17.3.2. a person who provides satisfactory evidence to an **Authorised Officer** of his or her authority from the item's owner to act on the owner's behalf.

17.4. An impounded item may be donated to a registered charity or local community group, or may be sold, or may be destroyed if **Council** or an **Authorised Officer** considers the value of the item is less than the cost of selling it, if:

17.4.1. the impounded item has not been claimed within 30 days of notice being given in accordance with clause 17.2 to the person who appears to be the owner; or

17.4.2. the impounded item has not been claimed within 30 days after the impoundment of the item, where it is not practicable to serve notice of the impoundment in accordance with clause 17.2.

## 18. Appeals

18.1. A person may request **Council** or an **Authorised Officer** to review an order, direction or notice issued in relation to him or her under a Local Law.

18.2. Where a request for review has been made under clause 18.1, the person requesting the review must do everything practicable to cooperate in the prompt and speedy review of the order, direction or notice.

## 19. Security Bonds

19.1. 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** deems reasonable in the circumstances.

19.2. **Council** may use a **security bond** to remedy a breach of that **permit** or repair any damage caused by any **works** under a **permit**.

19.3. On satisfactory completion of any **works** under a **permit**, **Council** must release any **remaining security bond**.

19.4. If after 12 months from the date entitled to release the **security bond** **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.

## PART C – ENFORCEMENT

### 20. Offences

A person is guilty of an offence if the person:

20.1. does something which a provision of this Local Law prohibits to be done or makes an offence;

20.2. fails to do something which a provision of this Local Law requires to be done;

20.3. engages in activity without a **permit** where a provision of this Local Law requires that person obtain a **permit** before engaging in that activity;

20.4. breaches or fails to comply with a condition of a **permit** issued under this Local Law; or

20.5. fails to comply with a **notice to comply** or a direction of an **Authorised Officer** under this Local Law.

## 21. Penalties

If no penalty is specifically provided for in a provision of this Local Law, a person found guilty of an offence under this Local Law is liable to a penalty not exceeding:

- (a) 2 penalty units for a first offence; and
- (b) 20 penalty units for each second or subsequent offence.

## 22. Additional Penalty

In addition to any penalty imposed pursuant to this Local Law, a penalty not exceeding 2 penalty units will apply for each day after conviction for an offence during which a contravention of this Local Law continues.

## 23. Costs Incurred by Council

A person who is guilty of an offence under this Local Law must pay **Council** all reasonable costs incurred by **Council** in remedying the offence.

## 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 the offence.

24.2. The penalty fixed for an infringement notice under this Local Law is 2 penalty units for each offence.

## 25. [Deleted Clause]

[This clause was deleted as a consequence of the Miscellaneous Amendments Local Law 2001]

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**PART D – ROADS, COUNCIL-CONTROLLED LAND, RESERVES and MUNICIPAL BUILDINGS**

**26. Behaviour – Generally**

26.1. A person must not on **Council-controlled land**, a **reserve** or in a **municipal building**:

26.1.1. interfere with another person's reasonable use and enjoyment of that **Council-controlled land, reserve or municipal building**;

26.1.2. endanger or be likely to endanger a person's health, life or property or an animal;

26.1.3. do anything contrary to a sign erected on the **Council-controlled land, reserve or municipal building**.

26.2. A person must not, without a **permit** organise a function, **event** or entertainment on **Council-controlled land** or a **reserve** that:

26.2.1. substantially occupies the **Council-controlled land** or **reserve**; or

26.2.2. encroaches or impacts on another person or persons' use and enjoyment of the **Council-controlled land** or **reserve** or is likely to encroach or impact on that use and enjoyment.

**27. Consumption and Possession of Alcohol**

27.1. 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**:

27.1.1. on **Council-controlled land** or a **reserve**, if his, her or their consumption or possession of **alcohol** or behaviour generally, interferes with the reasonable use and enjoyment of the **Council-controlled land** or **reserve** by another person;

27.1.2. in a place which **Council** has resolved is an **alcohol-free zone** for the purposes of this Local Law; or

27.1.3. in any other place which **Council** resolves is a prescribed place for the purposes of this clause 27.

**Penalty: 5 Penalty Units**

27.2. An **Authorised Officer** may, where that **Authorised Officer** reasonably believes, that a person or group of persons has contravened or is contravening this clause 27 direct that person or group of persons to:

27.2.1. empty any open receptacle containing **alcohol** or reseal that open receptacle; or

27.2.2. surrender any open receptacle containing **alcohol** to the **Authorised Officer**.

27.3. A person or group of persons to whom a direction is given under this clause 27 must comply.

- 27.4. If a person or group of persons to whom a direction is given under this clause 27 to surrender any open receptacle containing **alcohol** does not comply with that direction the **Authorised Officer** may impound that open receptacle containing **alcohol**.
- 27.5. Notwithstanding the requirements of this clause 27, 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 requirements of this Local Law.

## 28. Trading Activities

- 28.1. A person must not, without a **permit**, on **Council-controlled land**, a **road** or a **reserve** or from land or premises adjacent to **Council-controlled land** a **road** or a **reserve**:
- 28.1.1. place any **advertising sign**;
  - 28.1.2. display or sell any goods;
  - 28.1.3. place any **street furniture** or associated items;
  - 28.1.4. place any structure for the purpose of selling or offering to sell any goods or services;
  - 28.1.5. sell or offer for sale any:
    - 28.1.5.1. **vehicle**; or
    - 28.1.5.2. goods or services carried about or placed on the person or any other moveable thing or do so from land or premises adjacent to **Council-controlled land** a **road** or a **reserve**.

### **Penalty: 5 Penalty Units**

- 28.2. A person must not without a **permit**:
- 28.2.1. sell or offer for sale goods or services or solicit custom from door to door or authorise another person to do so in a **residential area**; or
  - 28.2.2. solicit custom or collect donations or subscriptions from door to door or authorise another person to do so.

### **Penalty: 5 Penalty Units**

## 29. Commercial and Charitable Activities on Roads

- 29.1. A person must not, without a **permit**, erect or place on any **Council-controlled land**, **reserve** or a **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;
- 29.2. A person must not, without a **permit**, sell or offer for sale on any **Council-controlled land**, **reserve** or a **road**, any goods carried about on a person or animal;



- 29.3. A person must not, without a **permit**, engage in spruiking or promoting goods or services or permit another person to engage in spruiking or promoting goods or services on any **Council-controlled land, reserve or road**.

**Penalty: 5 Penalty Units**

**30. Appeals and Collections**

- 30.1. A person must not, without a **permit**, solicit or collect any gifts, money or subscription or authorise or cause another person to solicit or collect any gifts, money or subscription, from house to house or on any **Council-controlled land, reserve, municipal building or road**.

- 30.2. A person must not, without a **permit**, hand out or distribute printed publicity material.

**Penalty: 5 Penalty Units**

- 30.3. Notwithstanding sub-clause 30.1 a person participating in highway collections approved under the authority of the *Road Safety Act 1986* does not require a **permit** from **Council**.

**31. Obstructions on Council-controlled land**

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

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

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

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

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

- 31.2.1.1. remain on that **private land** or be placed on **private land** so as to obstruct the clear view of traffic controls by a person on the adjacent **road** or footpath, or substantially interfere with **vehicle** or pedestrian use of **Council-controlled land**, or with street lighting except where the vegetation is a cypress hedge within the meaning of the **Cypress Hedges Policy**.

- 31.2.1.2. 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**.

31.3. The **Cypress Hedges Policy** as formulated from time to time is hereby incorporated into this Local Law.

**Penalty: 5 Penalty Units**

## 32. Obstructions on Roads

32.1. 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.

**Penalty: 5 Penalty Units**

## 33. Changes and Occupation of Council-Controlled Land

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

33.1.1. cause any change to **Council-controlled land** or anything on it; or

33.1.2. remove anything from **Council-controlled land**.

**Penalty: 10 Penalty Units**

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

33.2.1. occupy or put anything on **Council-controlled land**, including but not limited to, boats, cars, trailers, caravans; or

33.2.2. use a mobile crane or travel tower for work on or from **Council-controlled land**.

**Penalty: 5 Penalty Units**

33.3. **Council** or an **Authorised Officer** may by a notice to comply require the reinstatement of **Council-controlled land** and anything on it, or the removal of things placed on it, or may impound things placed on it, if any actions described in this clause have been carried out without a **permit** or **licence** or in breach of a **permit** or **licence** condition.

**Penalty: 10 Penalty Units**

## 34. Repair of Vehicles

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

**Penalty: 5 Penalty Units**

**35. Use of Vehicles in Reserves or on Council-controlled land**

35.1. A person must not, in any reserve or on Council-controlled land:

35.1.1. ride or drive any motor car, motorcycle or similar vehicle other than on any 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 designated bicycle pathway 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.

***Penalty: 5 Penalty Units***

35.1.4. A person does not commit an offence against this clause 35 if that person is directed to ride, drive, stop or park in a **reserve** or on **Council-controlled land** by an **Authorised Officer** or by a member of the Police Force.

**36. Wheeled Recreational Devices and Wheeled Toys**

36.1. A person must not use any **wheeled recreational device, wheeled toy** or other similar device in any area of the **municipality** so as to endanger, intimidate, obstruct or hinder a person, persons or **vehicle**.

***Penalty: 5 Penalty Units***

36.2. **Council** or an **Authorised Officer** may impound any **wheeled recreational device, wheeled toy** or other similar device used in contravention of clause 36.1.

**37. Council Signs**

A person must comply with any **Council** sign erected in a **reserve** or on **Council-controlled land** or a **road**.

**38. Caravans and Camping**

38.1. 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**;

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

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

### 39. Drains and Watercourses

- 39.1. On any land, a person must not, without a **permit or licence**, build over or cause any change to a drain, sewer, watercourse or associated infrastructure which **Council** controls or manages;
- 39.2. An **owner** or **occupier** of **private land** must not allow a drain which is located on that **private land** to be in disrepair.

### 40. Shopping Trolleys

- 40.1. A person must not leave a shopping trolley on any **road, reserve** or on **Council-controlled land** other than an area specifically designated for the storage of shopping trolleys.
- 40.2. Any shopping trolley left on any **road, a reserve** or on **Council-controlled land** in an area not designated for the storage of shopping trolleys may be removed and impounded by **Council** or an **Authorised Officer**.
- 40.3. If a shopping trolley is left on a **road, reserve** or on **Council-controlled land** in contravention of clause 40.1, the **Retailer** who owns the shopping trolley is also guilty of an offence.
- 40.4. Subject to clause 40.5, a **Retailer** must not provide or make available for use or permit to be used, a shopping trolley which does not have:
  - 40.4.1. attached to it a plate or other marking identifying the name, address and contact phone number of the **Retailer**, and
  - 40.4.2. a fully operating mechanism which disables or otherwise prevents the shopping trolley from being taken beyond the boundaries of the **approved area**.
- 40.5. Upon an application by the **Retailer**, Council may resolve in its absolute discretion to exempt a **Retailer** from the application of clause 40.4, either fully or partly, temporarily or permanently and subject to such condition as Council may determine.
- 40.6. If an **authorised officer** observes a shopping trolley on a **road, reserve** or **Council-controlled land** in contravention of clause 40.1, the **authorised officer** may, by notice provided to the address depicted on the shopping trolley, direct the **Retailer** to remove the shopping trolley and stating:
  - 40.6.1. the period within which the shopping trolley is to be removed, which would normally be within 48 hours; and
  - 40.6.2. that it is an offence for the **Retailer** not to remove the shopping trolley.
- 40.7. 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:

- 40.7.1. the period within which the shopping trolleys must be claimed;
- 40.7.2. that unclaimed shopping trolleys may be disposed of by Council after the period; and
- 40.7.3. that it is an offence for a **Retailer** to not claim an impounded shopping trolley.
- 40.8. Any impounded shopping trolley may be claimed by the **Retailer** that owns the shopping trolley after payment of the fee set by Council. The fee set by Council must not exceed an amount that reasonably represents the cost to Council of impounding, moving, keeping and releasing the shopping trolley including any relevant overhead and other indirect costs.
- 40.9. Any impounded shopping trolley not claimed within the time specified on the list of impounded shopping trolleys issued under clause 40.7 may be disposed of by Council without further notice to any person.
- 40.10. A **Retailer** who does not remove a shopping trolley or claim an impounded shopping trolley within the period stated by the **authorised officer** or Council (as the case may be) under clauses 40.6 or 40.7 is guilty of an offence.
- Penalty: 20 Penalty Units***
- 40.11. Clause 17, other than clause 17.1, does not apply to shopping trolleys impounded pursuant to this clause 40.

## PART E – THE ENVIRONMENT

### 41. Dangerous and Unsightly Land and Nuisances

41.1. An **owner** or **occupier** of **private land** must ensure that the **private land** and any **building** or other structure on the **private land**:

41.1.1. is not a danger to health or property or likely to become a danger to health or property;

41.1.2. does not constitute a fire hazard;

41.1.3. does not contain grass or weeds in excess of 150 mm in height;

41.1.4. is not unsightly, or detrimental to the general amenity of adjoining land or the neighbourhood, including through the presence of:

41.1.4.1. stored unregistered or derelict **vehicles** or machinery or any parts of them;

41.1.4.2. storage containers;

41.1.4.3. scrap metal, second-hand timber, or building materials or building refuse;

41.1.4.4. waste paper, bottles or other refuse;

41.1.4.5. soil or similar materials;

41.1.4.6. overgrown vegetation; or

41.1.4.7. **buildings** on the land which have been damaged;

41.1.5. is kept free of any graffiti; and

41.1.6. 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.

41.2. An **owner** or **occupier** of **private land** must not allow any **building** or other structure on that **private land** to:

41.2.1. become dilapidated;

41.2.2. be in a state of disrepair; or

41.2.3. be defaced.

**Penalty:** For a first or subsequent offence - **20 Penalty Units**. For each day after a finding of guilt or conviction for an offence during which the contravention continues - **2 Penalty Units**.

41.3. Without limiting the generality of clause 13.2, a **notice to comply** issued by an **Authorised Officer** with respect to an offence against clause 41.1 or 41.2 may include a direction that the **private land, building** or structure be:

41.3.1. cleared of any substance, material or equipment;

41.3.2. suitable fenced, screened or otherwise enclosed in the manner specified in the **notice to comply**;

41.3.3. cleaned or painted in a manner that removes or obliterates graffiti specified in the **notice to comply**;

41.3.4. boarded up or otherwise secured to prevent access or otherwise alleviate the danger, unsightliness, nuisance, detriment to general amenity or offending condition; or

41.3.5. 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**.

## **42. Open Air Burning and Incinerators**

42.1. A person must not burn or cause to burn or allow to burn any substance that is likely to cause a fire risk or to endanger health or which is offensive in any part of the **municipality**.

42.2. A person must not light a fire in the open air or allow a fire to be lit or remain alight unless the fire is lit:

42.2.1. in a purpose-built or constructed barbeque for the purpose of cooking food; or

42.2.2. in accordance with a **permit**.

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

42.4. 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:

42.4.1. on becoming aware of such a fire;

42.4.2. on being directed to extinguish the fire by:

42.4.2.1. an **Authorised Officer**;

42.4.2.2. a member of the Police Force; or

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

**Penalty: 5 Penalty Units**

- 42.5. If a person who has breached this clause 42 is unable or unwilling to extinguish the fire, an **Authorised Officer** shall notify a staff member of the Metropolitan Fire Brigade or the Emergency Services Board.

#### **43. Drains and Watercourses**

- 43.1. On any **private land**, a person must not, without a **permit** or **licence**, build over or cause any change to a drain, sewer, watercourse or associated infrastructure which **Council** controls or manages.
- 43.2. An **owner** or **occupier** of **private land** must not allow a drain located on that **private land** to be in disrepair.

**Penalty: 10 Penalty Units**

#### **44. Household Waste Storage**

Where **Council** provides a waste collection service, an **owner** of **private land** on which there are multiple dwelling units, and an **owner** or **occupier** of other **private land**, must:

- 44.1. only use an **approved waste receptacle** for **Council**-provided waste collections;
- 44.2. ensure the lid of the **approved waste receptacle** is left closed after refuse is placed in or removed from it;
- 44.3. keep the **approved waste receptacle** in a clean, inoffensive and sanitary condition;
- 44.4. 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; and
- 44.5. remove from adjacent **Council-controlled land** refuse which has spilled from an **approved waste receptacle** ordinarily located on the **private land** of the **owner** or **occupier**.

#### **45. Hard Waste and Recyclable Goods Collection**

Where **Council** or an **Authorised Officer** has given **public notice** that a recyclable goods collection or hard waste collection will be provided, a person must only place any items out for collection in accordance with the directions of **Council** or an **Authorised Officer**.

#### **46. Bulk Rubbish and Trade Waste Storage**

- 46.1. A person must not, without a **permit**, place, allow to be placed or cause to be placed on any **Council-controlled land, road** or **reserve**:
- 46.1.1. a **bulk rubbish container**;



46.1.2. any other thing on **Council-controlled land, road or reserve** which interferes with the full use of the **Council-controlled land, road or reserve**;

46.2. Unless exempted by **Council** or an **Authorised Officer**, the person to whom a **permit** is issued under this clause must ensure that the **bulk rubbish container** to which the **permit** relates is:

46.2.1. constructed of impermeable material;

46.2.2. watertight;

46.2.3. fly and vermin proof;

46.2.4. equipped with a removable drainage plug, if required by an **Authorised Officer**;

46.2.5. emptied at least every seven (7) days and when an **Authorised Officer** so directs; and

46.2.6. maintained in a clean, inoffensive and sanitary condition.

***Penalty: 10 Penalty Units***

46.3. If directed by **Council** or an **Authorised Officer**, the person to whom a **permit** is issued under this clause must ensure that the area where the **bulk rubbish container** to which the **permit** relates is placed:

46.3.1. has an impermeable surface;

46.3.2. is drained to a sewer or other outlet approved by **Council** or an **Authorised Officer**;

46.3.3. is supplied with water from a tap and hose; and

46.3.4. is maintained in a clean, inoffensive and sanitary condition.

***Penalty: 10 Penalty Units***

**47. Screening of Bins and Containers**

**Council** or an **Authorised Officer** 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:

47.1. unsightly;

47.2. dangerous or likely to become dangerous to health or property; or

47.3. detrimental to the general amenity of the neighbourhood;

to:

47.4. install;

47.5. repair;

47.6. replace; or

47.7. modify

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

**Penalty: 10 Penalty Units**

#### 48. Noise

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

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

48.1.2. deliver or collect goods or provide services to a **commercial enterprise**, or allow a refrigeration unit mounted on a **vehicle** to run:

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

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

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

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

**Penalty: 10 Penalty Units**

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

48.2.1. on a public holiday;

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

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

48.2.4. 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.

**Penalty: 10 Penalty Units**

## PART F – ANIMALS

### 49. Keeping Domestic Animals

49.1. An **owner** or **occupier** of **private land** must not, without a **permit**, keep or allow to be kept more than four different types of animals on that **private land** at any time or allow to be kept on that **private land** any more in number for each type of animal than as set out in the table immediately following sub-clause 49.2.

49.2. Sub-clause 49.1 does not apply where a planning permit has been obtained for **private land** used for the purposes of animal boarding or breeding.

Type of Animal	Maximum number of each type of animal permitted
<b>Mammals</b>	
Dogs (over three months old)	<b>2</b>
Cats (over three months old)	<b>2</b>
Ferrets	<b>2</b>
Rabbits, Guinea Pigs and Mice	<b>5</b>
Rats	<b>0</b>
Farm animals	<b>0</b>
<b>In total, no more than 5 mammals</b>	
<b>Birds</b>	
Roosters, peafowl or guinea fowl	<b>0</b>
Chickens and pheasants	<b>6</b>
Turkeys, ducks and geese	<b>2</b>
Poultry other than those specified above	<b>4</b>
Domestic Birds – caged, non-poultry birds	<b>20</b>
<b>In total, no more than 20 birds</b>	
Other animals	<b>0</b>

49.3. 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 above, **Council** must take into account:

- 49.3.1. the zoning of the **private land**;
  - 49.3.2. the proximity of the area to adjoining **private land**;
  - 49.3.3. the amenity of the area to that of adjoining **private land**;
  - 49.3.4. the type and additional numbers of animals to be kept;
  - 49.3.5. the area of **private land** available for keeping the animals;
  - 49.3.6. the likely effects on adjoining owners or occupiers;
  - 49.3.7. the adequacy of animal shelters; and
  - 49.3.8. any other matter relevant to the circumstances associated with the application.
- 49.4. An **owner** or **occupier** of **private land** must:
- 49.4.1. 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 and to the satisfaction of an **Authorised Officer**;
  - 49.4.2. 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 harboring vermin or which may cause a health or safety risk to persons, animals or property;
  - 49.4.3. keep all food or grain for animals on that **private land** in vermin-proof and fly-proof receptacles; and
  - 49.4.4. drain the ground surrounding the place where animals are kept on that **private land** to the satisfaction of **Council** or an **Authorised Officer**.

**Penalty: 5 Penalty Units**

**50. Treatment of Animals**

- 50.1. A person must not exhibit for profit, or allow or cause to perform for profit, animals other than horses and dogs;
- 50.2. 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.

**51. 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 neighboring owners or occupiers of land.

**52. Dogs**

- 52.1. A person in charge of a dog on any **Council-controlled land, reserve or road** must ensure that the dog is secured by a chain, chord or leash,

unless the **Council-controlled land, reserve or road** is specifically exempted.

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

52.2.1. carry a device or devices suitable for the removal of any excrement that may be deposited by the dog; and

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

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

..... Mayor/Councillor

..... Chief Executive Officer

..... Date

ENDNOTES:

This document does not bear Council's Common Seal as it is a consolidated version of Council's Amenity Local Law, incorporating amendments made by the:

1. Miscellaneous Amendments Local Law
2. Amenity (Amendment) Local Law
3. Amenity (Unsightly Land Amendment) Local Law

The **Amenity Local Law** was originally adopted by Council on 17 December 2009 and commenced on 25 December 2009.

The **Miscellaneous Amendments Local Law** was adopted by Council on 15 August 2011 and commenced on 2 September 2011 and made amendments to:

Clause 5	Clause 21	Clause 22
Clause 23	Clause 24	

The **Amenity (Amendment) Local Law** was adopted by Council on 26 March 2012 and commenced 1 June 2012 and made amendments to:

Clause 39(3)	Clause 39(11)
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The **Amenity (Unsightly Land Amendment) Local Law** was adopted by Council on 27 August 2012 and commenced 21 September 2012 and made amendments to:

Clause 25	Clause 30	Clause 35
Clause 36	Clause 40	

Copies of Local Laws can be obtained by contacting the Governance Department on 9278 4471.