



Melbourne City Council

Environment Local Law 2024

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Part 1 - Preliminary

Title

1.1 This Local Law is called the “Environment Local Law 2024”.

What are the objectives of this Local Law?

1.2 The objectives of this Local Law are to:

- (a) provide for the peace, order and good government of the *municipality*;
- (b) control, protect and conserve the environment;
- (c) control, protect and maintain the amenity of the *municipality*;
- (d) provide standards and conditions for certain activities in relation to the physical and visual environment within the *municipality*;
- (e) repeal the Environment Local Law 2019; and
- (f) adopt, apply and ensure compliance with the *Council’s Environment Management Plan*.

1.3 This Local Law contributes to Council's long term and responsible approach to the ongoing health, vitality, prosperity, security and welfare of the city's residents, businesses and environment.

What authorises this Local Law?

1.4 This Local Law is made under the provisions of Division 3 of Part 3 of the *Local Government Act 2020*.

When does this Local Law commence?

1.5 This Local Law commences on the date notice of its making is publishing in the Victorian Government Gazette

Repeal of the Environment Local Law 2019

1.6 The Council’s Environment Local Law 2019 is repealed from the commencement of this Local Law.

To what part of the *municipality* does this Local Law apply?

1.7 Subject to clauses 1.10 and 1.11 this Local Law applies throughout the whole of the *municipality*.

1.8 Clauses 2.3 and 2.4 do not apply to premises during the period when any *building works* are being carried out at the premises provided that a *Construction Management Plan* approved by Council for the *premises* is in place.

Are there any exemptions from this Local Law?

- 1.11 The Council may *prescribe* specified *persons, premises* or *areas* within the *municipality* to be exempt from all or any of the provisions of this Local Law for a specified time and on specified conditions.

Definitions

- 1.12 The words identified in italics throughout this Local Law and *Environment Management Plan* are intended to have the following meaning:

"*Act*" means the *Local Government Act 1989*.

"*Activities Local Law*" means the Melbourne City Council *Activities Local Law 2024* as amended from time to time.

"*Appropriate site*" means a site approved by the *Council* for the storage of *waste* and any re-useable containers.

"*approved green infrastructure*" means green infrastructure permitted or authorised pursuant to clauses 7.1(a) or (b) of the *Activities Local Law*.

"*Authorised officer*" means a person appointed by the *Council* to be an *authorised officer* under section 224 of the Act.

"*Building works*" has the same meaning as in the *Activities Local Law*.

"*Construction Management Plan*" has the same meaning as in the *Activities Local Law*.

"*Council*" means the Melbourne City Council.

"*Direction to Vary*" is a direction given under clause 4.1 of this Local Law.

"*Environment Management Plan*" means the document incorporated into this Local Law by clause 2.2 of this Local Law.

"*green infrastructure*" has the same meaning as in the *Activities Local Law*.

"*Green Waste*" includes:

- (a) manageable bundles of vines, creepers and weeds;
- (b) leaves, lawn clippings, flowers, branches, prunings or trunks not greater than 20cm in diameter;
- (c) prunings tied in bundles of no more than one metre in length and thirty centimetres in diameter.

“*Hard Waste*” includes white goods, broken furniture, electrical goods, hot water services, televisions and mattresses up to a maximum of one cubic metre per household, but does not include car parts or building materials.

“*Hazardous waste*” includes all kitchen, bathroom, workshop, garden, commercial and industrial chemicals such as pharmaceuticals, paints, poisons and motor fluids.

“*Liquid Waste*” includes grey water, sewerage, oil used for cooking purposes and hazardous waste that is also in a liquid form;

“*Municipality*” means the municipal district of the *Council*.

“*Notice to Comply*” is a notice given under clause 5.9 of this Local Law.

the “*Occupier*” of premises means the following:

- (a) a *person* having the charge, management or control of the premises, and
- (b) in the case of *premises* that are let out in separate occupancies or a lodging house that is let out to lodgers, the person receiving the rent from the tenants or lodgers.

the “*Owner*” of premises means the following:

- (a) where the *premises* are Crown land, the *owner* of the *premises* is the lessee or licensee of the land from the Crown,
- (b) where the *premises* are other than Crown land, the *owner* of the *premises* is:
 - (i) every *person* who is jointly or severally entitled to the freehold estate of the land, and
 - (ii) every such *person* who is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits of the land, whether as beneficial *owner*, trustee, mortgagee in possession or otherwise.

“*Person*” includes an individual, a corporation, an association incorporated under the *Associations Incorporation Reform Act 2021*, a partnership and an unincorporated association.

“*Premises*” includes the whole or part of any land, building or building under construction.

“*Prescribe and Prescribed*” includes decided or specified by the *Council*.

“*Recyclable material*” includes glass bottles and jars, aluminium and steel cans, gable top and square cartons, plastic bottles identified as being recyclable and paper cardboard, but does not include ceramics, window glass, mirrors, light globes, pyrex, waxed cardboard, batteries, plastic bags and clingwrap.

“*Tobacco Waste*” includes all waste and litter produced by any tobacco product or items associated with such tobacco products.

"*Tobacco Waste Container*" means a receptacle approved by the *Council* for the collection of tobacco waste".

"*Waste*" has the same meaning as in the *Environment Protection Act 2017*.

Part 2 – Environment Management Plan

Introduction: This Part contains provisions that aim to promote responsible land management throughout the *municipality* via the *Council's Environment Management Plan* which sets performance standards designed to involve the least burden and the greatest advantage on the community. The *Environment Management Plan* is incorporated into this Local Law.

What is the *Environment Management Plan*

2.1 The *Environment Management Plan*:

- (a) was adopted by the *Council* as the *Environment Management Plan* for the purposes of this Local Law,
- (b) sets Objectives, Performance Requirements and Prescribed Requirements for activities that may affect the environment of the neighbourhood in which the activities are conducted and may include:
 - waste management and disposal;
 - burning of material in the open and open fires;
 - the generation of noise; and
 - the generation of offensive odours and fumes,
- (c) is available by visiting the Council's web site at www.melbourne.vic.gov.au.

2.2 The whole of the *Environment Management Plan* is incorporated into and forms part of this Local Law.

How does the *Environment Management Plan* apply to premises?

2.3 Unless the *Environment Management Plan* is varied in relation to specific premises under Parts Three or Four of this Local Law, the *Environment Management Plan* applies to all *premises* within the *municipality*.

2.4 Subject to clause 2.5, the *occupier of premises* must, in relation to those *premises*:

- (a) comply with the Performance Requirements and Prescribed Requirements of the *Environment Management Plan*,
- (b) ensure compliance with the Performance Requirements and Prescribed Requirements of the *Environment Management Plan*, and
- (c) not allow a *person* to breach the Performance Requirements and Prescribed Requirements of the *Environment Management Plan*.

2.5 Where:

- (a) the *occupier* of *premises* cannot, after reasonable enquiry, be located, or
- (b) the *occupier* no longer occupies the *premises*, or
- (c) the *premises* are unoccupied,

then the *owner* of the *premises* must, in relation to those *premises*:

- (d) comply with the Performance Requirements and Prescribed Requirements of *the Environment Management Plan*,
- (e) ensure compliance with the Performance Requirements and Prescribed Requirements of the *Environment Management Plan*, and
- (f) not allow a person to breach the Performance Requirements and Prescribed Requirements of the *Environment Management Plan*.

Amending the *Environment Management Plan*

2.6 The *Council* may amend the *Environment Management Plan* from time to time.

2.7 An amendment to the *Environment Management Plan* does not take effect until notice of the *Council's* decision to amend the *Environment Management Plan* is published in the Government Gazette.

Part 3 – Variations to the Environment Management Plan

Introduction: This Part contains provisions to allow for variations to be made to the *Environment Management Plan* in relation to specific *premises* at the request of the *owner* or *occupier* of the *premises*.

Application for a variation to the Environment Management Plan by an owner or occupier

3.1 Where the *owner* or the *occupier* of *premises* believes that, because of the nature of the activities conducted at the *premises*, the *Environment Management Plan* applying to the *premises* is not appropriate, the *owner* or *occupier* may apply to the *Council* to vary the *Environment Management Plan* that applies to his *premises*.

How is an application for variation made?

3.2 Where an application to vary the *Environment Management Plan* is made by the *occupier* of the *premises*, the application must be accompanied by evidence that the *owner* of the *premises* consents to the variation of the *Environment Management Plan*.

3.3 An application under clause 3.1 must be in a form approved by the *Council* and be accompanied by the fee (if any) determined by the *Council*.

3.4 The *Council* may from time to time set or alter the fee to apply to an application under clause 3.1.

3.5 The *Council* may waive, reduce or alter the fee with or without conditions.

3.6 The *Council* may require a *person* making an application under clause 3.1 to:

- (a) give notice of the application to persons whom the *Council* considers may be affected by the grant of the variation, or
- (b) publish notice of the application in a newspaper circulating generally within the *municipality*.

3.7 The *Council* may require an applicant to provide such information as required and to provide additional information before dealing with an application under clause 3.1.

What matters will the Council take into account?

3.8 In considering whether to vary the *Environment Management Plan* in relation to the applicant's *premises*, the *Council* may consider:

- (a) the reason or reasons given by the applicant for making the application,
- (b) any report on the application by an *authorised officer*,
- (c) any submission made by a *person* to whom notice of the application was given,
- (d) the applicant's particular circumstances,

- (e) the nature of the activities conducted on the applicant's *premises*,
- (f) the environment of the neighbourhood within which the applicant's *premises* are located, and
- (g) any other matter the *Council* considers relevant.

The *Council* may grant permission subject to conditions

3.9 A variation to the *Environment Management Plan* in relation to the applicant's premises may be granted subject to such conditions as the *Council* determines, including conditions relating to:

- (a) the payment of a fee or charge,
- (b) a standard to be applied,
- (c) a time limit to be applied, specifying either the duration, commencement or completion date,
- (d) the linking of the variation to the happening of an event, and
- (e) the rectification, remedying or restoration of a situation or circumstance.

What is the effect of the *Council* granting a variation to the *Environment Management Plan*?

3.10 Upon the *Council* granting a variation to the *Environment Management Plan* in relation to the applicant's *premises*, the *Environment Management Plan* applying to the applicant's *premises* is the *Environment Management Plan* in its varied form.

3.11 The provisions of clauses 2.4 and 2.5 apply to the *owner* and the *occupier* of the *premises* as if the reference to the *Environment Management Plan* means the *Environment Management Plan* in its varied form.

3.12 The *Council* must:

- (a) keep a record of all variations granted under this Part, and
- (b) make the record available to be inspected by members of the public.

Part 4 – Variation of the *Environment Management Plan* by an *authorised officer*

Introduction: This Part contains provisions that allow for variations to be made to the *Environment Management Plan* in relation to specific *premises* at the direction of an *authorised officer*.

Direction to vary the Environment Management Plan by an authorised officer

- 4.1 Where, because of the nature of the activities conducted on *premises*, an *authorised officer* considers that the *Environment Management Plan* applying to those *premises* does not adequately protect the environment in the vicinity of the *premises*, the *authorised officer* may give to the *owner* and the *occupier* of the *premises* a *Direction to Vary* in accordance with this Part.
- 4.2 A *Direction to Vary* under clause 4.1 must be in writing and be in a form approved by the *Council*.
- 4.3 A *Direction to Vary* under clause 4.1 may require the *owner* and the *occupier* to:
- (a) give reasons in the manner specified and within a specified time as to why the *Environment Management Plan* applying to the *premises* should not be varied in the manner specified in the *Direction to Vary*, or
 - (b) submit to the *Council* in the manner specified and within a specified time an alternative *Environment Management Plan* to substitute for the *Environment Management Plan* applying to the *premises*.
- 4.4 The times specified in a *Direction to Vary* under clause 4.1 must be reasonable in the circumstances and what will be reasonable will depend on the nature of the requirement being placed on the *person* receiving the *Direction to Vary*, but should take into account:
- (a) the amount of work required to achieve compliance,
 - (b) the degree of difficulty in achieving compliance,
 - (c) the availability of resource materials and expertise to achieve compliance,
 - (d) the impact of the *Direction to Vary* on the *person* receiving the *Direction to Vary*, and
 - (e) any other relevant factor.

What is the effect of a *Direction to Vary* under clause 4.3(a)?

- 4.5 If a *Direction to Vary* under clause 4.1 requires the *person* receiving the *Direction to Vary* to give reasons in accordance with clause 4.3(a), the *person* receiving the *Direction to Vary* must give the reasons in the manner specified and within the time specified.
- 4.6 If:
- (a) no reasons are given to the *authorised officer* in accordance with clause 4.5, or

- (b) the reasons given are not in the manner specified or the time specified in the *Direction to Vary*, or
- (c) in the opinion of the *authorised officer*, the reasons given are not sufficient to not vary the *Environment Management Plan* in the manner specified in the *Direction to Vary*,

the *Environment Management Plan* applying to the *premises* is deemed to be varied in the manner specified in the *Direction to Vary*.

- 4.7 The provisions of clauses 2.4 and 2.5 apply to the *owner* and the *occupier* of the *premises* referred to in clause 4.6 as if the reference to the *Environment Management Plan* means the *Environment Management Plan* in its varied form.

What is the effect of a *Direction to Vary* under clause 4.3(b)?

- 4.8 If a *Direction to Vary* under clause 4.1 requires the *person* receiving the *Direction to Vary* to submit to the *Council* an alternative *Environment Management Plan*, the *person* receiving the *Direction to Vary* must submit to the *Council* an alternative *Environment Management Plan* in the manner specified and within the time specified.

- 4.9 A *person* who fails to comply with clause 4.8 is guilty of an offence.

How many times may *Directions to Vary* be given in relation to particular premises?

- 4.10 An *authorised officer* may give more than one *Direction to Vary* under clause 4.1 in relation to *premises* and compliance with one *Direction to Vary* does not preclude the *authorised officer* or another *authorised officer* from giving another *Direction to Vary* under clause 4.1 should, in the opinion of the *authorised officer*, the circumstances warrant it.

Can a *person* appeal against a *Direction to Vary*?

- 4.11 A *person* who is aggrieved about being given a *Direction to Vary* under clause 4.1 may appeal in writing to the *Council* to be heard and may make a written submission for consideration by the *Council*.
- 4.12 An appeal under clause 4.11 must be made within 7 days of being given the *Direction to Vary*.
- 4.13 The *Council* must consider any written submission made to it under clause 4.11 (provided the application is made within 7 days of the *Direction to Vary* being given) and then make its determination in writing.
- 4.14 If an appeal is made under clause 4.11, the *Direction to Vary* which is the subject of the appeal (including any time limits specified in the *Direction to Vary*) does not take effect until the *Council* has given a written determination under clause 4.13.

Part 5 - Enforcement

Introduction: This Part provides a means for enforcing this Local Law.

Offences

5.1 A *person* who:

- (a) fails to comply with this Local Law (including the *Environment Management Plan* incorporated into this Local Law),
- (b) fails to comply with a condition of a variation granted under this Local Law, or
- (c) knowingly submits erroneous or misleading information in an application or an appeal made under this Local Law,

is guilty of an offence.

Court fines

5.2 A *person* who is guilty of an offence is liable to a penalty:

- (a) for the offence, not exceeding 20 penalty units, and
- (b) for a continuing offence, not exceeding 2 penalty units for each day after the conviction for an offence during which the contravention continues.

Infringement Notices

5.3 As an alternative to prosecution, an *authorised officer* may serve an infringement notice on a *person* who:

- (a) has done one of the things described in clause 5.1, or
- (b) is reasonably suspected of having done one of the things described in clause 5.1.

5.8 The penalties fixed for an infringement notice under this Local Law are as follows:

- (a) where the offence is a failure to comply with a Category 1 requirement of the *Environment Management Plan*, the penalty is 20 penalty units;
- (b) where the offence is a failure to comply with a Category 2 requirement of the *Environment Management Plan*, the penalty is 10 penalty units;
- (c) where the offence is a failure to comply with a Category 3 requirement of the *Environment Management Plan*, the penalty is 5 penalty units;

- (d) where the offence is a failure to comply with a *Direction to Vary* (clause 4.8), the penalty is 5 penalty units;
- (e) where the offence is a failure to comply with a *Notice to Comply* (clause 5.9), the penalty is 5 penalty units;
- (f) for all other offences, the penalty is 5 penalty units.

Note: The Environment Management Plan contains notes which specify whether a requirement is a Category 1 requirement, a Category 2 requirement or a Category 3 requirement. By referring to the notes contained in the Environment Management Plan a person can ascertain what the infringement notice penalty is should there be a failure to comply with the requirement.

Notices to comply

- 5.9 Either as an alternative or in addition to an infringement notice, an *authorised officer* may serve a *Notice to Comply* under this clause on a person who the *authorised officer* reasonably suspects to be in breach of this Local Law.
- 5.10 A *Notice to Comply* under clause 5.9 must be in writing and be in a form approved by the Council.
- 5.11 A *Notice to Comply* under clause 5.9 must do one or more of the following things:
 - (a) direct the *person* to comply with the Local Law,
 - (b) direct the *person* to stop within such time as specified in the notice the conduct which constitutes the breach of the Local Law,
 - (c) direct the *person* to deliver up to the *authorised officer* or to some specified *person* or some specified location any item or property of the person which constitutes the breach of the Local Law,
 - (d) direct the *person* to carry out the works specified in the notice within the time specified in the notice.
- 5.12 A *notice to comply* under clause 5.9 must specify the time and date by which the *person* specified in the *notice to comply* must comply with the directions in clause 5.11.
- 5.13 The time required by a *notice to comply* under clause 5.9 must be reasonable in the circumstances having regard to:
 - (a) the amount of work involved; and
 - (b) the degree of difficulty; and
 - (c) the availability of necessary materials or other necessary items; and

- (d) climatic conditions; and
- (e) the degree of risk or potential risk; and
- (f) any other relevant factor.

5.14 A *person* served with a *Notice to Comply* under clause 5.9 must comply with a direction contained in the notice.

Power of *authorised officer* to act in urgent circumstances

5.15 Any *authorised officer* may in urgent circumstances arising as a result of a failure to comply with this Local Law, take action to remove, remedy or rectify a situation without the necessity to serve a *notice to comply* provided:

- (a) the *authorised officer* considered the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a *notice to comply*, may place a *person, animal*, property or thing at risk or in danger; and
- (b) details of the circumstances and remedying action are forwarded as soon as practicable to the *person* on whose behalf the action was taken.

5.16 The action taken by an *authorised officer* under clause 5.15 must not extend beyond what is necessary to cause the immediate abatement of or to minimise the risk or danger involved.

Offences by Corporations

5.17 If a *person* charged with an offence against this Local Law is a corporation, any *person* who is concerned or takes part in the management of that corporation may be charged with the same offence.

5.18 If the corporation is convicted of an offence against this Local Law, a *person* charged under clause 5.17 with the same offence may also be convicted of the offence and is liable to the penalty for that offence unless that *person* proves that the act or omission constituting the offence took place without their knowledge or consent.

Part 6 - Delegations

6.1 The *Council* may by instrument of delegation delegate each of the powers, functions and duties under this Local Law to any member of its staff.

6.2 A reference in an instrument of delegation to a delegate by way of the delegate's position with the *Council* includes:

- (a) a *person* authorised to carry out the powers, duties and functions of that position at the *Council*,
- (b) a *person* acting in that capacity, or

- (c) if that position at the *Council* ceases to exist, any *person* exercising any power, duty or function which was previously a power, duty or function of the previous position.

This document is issued by the Melbourne City Council.

The City of Melbourne's
Environment Management Plan
Under the Environment Local Law 2024

1 Purpose of the Environment Management Plan

The Environment Management Plan (“**EMP**”) for the City of Melbourne is the cornerstone of the Council’s Environment Local Law. The intention is to provide a better urban environment for the *municipality* by setting out specific commitments for *owners* and *occupiers* of *premises* through the EMP. It allows for variations to the EMP as it applies to particular *premises* to suit individual situations.

Note: Practical models providing assistance as to how an *owner* or *occupier* or *premises* can comply with the requirements of the *Environment Management Plan* are available by visiting the Council's web site at www.melbourne.vic.gov.au his . Please telephone the Council for further information.

2 Objectives of the Environment Management Plan

The objectives of the EMP are to:

- (a) set performance standards designed to maintain a high level of community amenity and the ecosystems that support it;
- (b) facilitate and promote a safe, clean and healthy environment for all people living, working in and visiting the *municipality*;
- (c) facilitate and promote responsible land, water, atmosphere, noise and *waste* management throughout the *municipality*;
- (d) support approved *green infrastructure* throughout the *municipality*.

3 Performance Requirements of the Environment Management Plan

Note: This clause sets out performance standards. An *owner* or *occupier* is required to comply with such standards but the manner in which compliance is achieved is at the discretion of the *owner* or *occupier*. Contact the *Council* if you require any information on how you can ensure compliance with the performance requirements.

- 3.1 *Waste* material must be stored so as to prevent leakage, be watertight and be impervious to rodents and insects. (**Category 3 offence**).
- 3.2 *Waste* material must be stored in such a way that it does not detrimentally affect the neighbourhood by reason of smell, visual pollution, air pollution, noise pollution and the like. (**Category 3 offence**).
- 3.3 All necessary steps must be taken to ensure that all *recyclable material* and *green waste* is separated from other *waste* material. (**Category 3 offence**).
- 3.4 The area:
 - (a) immediately surrounding the container in which the *waste* material is stored; and
 - (b) immediately adjacent to the *premises*

must be maintained in a clean and hygienic state. **(Category 3 offence)**.

- 3.5 Any equipment used on the *premises* from which gas emissions may occur must be regularly and properly serviced and maintained. **(Category 2 offence)**.
- 3.6 The stormwater drainage connection from the *premises* must be maintained in good order and repair and free from blockages. **(Category 3 offence)**.
- 3.7 In relation to *premises* all necessary steps must be taken to ensure any adverse impact on the amenity of the adjoining areas arising from:
- (a) *nuisances* caused or constituted by the storage and disposal of *waste* and *recyclable material*; or
 - (b) noise and emissions,
- as a result of the use or operation of *premises* is controlled and prevented. **(Category 1 offence)**.

4 Prescribed Requirements of the Environment Management Plan for Non Residential Premises

Note: The requirements detailed in these clauses 4 and 5 are mandatory. An owner and an occupier must comply with these requirements in the manner specified.

- 4.1 Deliveries of any goods to or collections of any goods from any *premises* must only be made on such days and at such times as are prescribed by the *Council*. **(Category 1 offence)**
- 4.2 *Waste* containers and any re-useable containers must be stored within the premises, or at an *appropriate site* outside of collection periods. **(Category 3 offence)**
- 4.3 Sufficient *tobacco waste containers* must be provided to contain all *tobacco waste* generated as a result of the use or operation of the *premises*. **(Category 3 offence)**
- 4.4 *Hazardous waste* must not be placed on the roadside for collection regardless of the type of collection service employed. **(Category 1 offence)**
- 4.5 *Liquid waste* must not be placed directly in a *waste* collection container. **(Category 1 offence)**
- 4.6 *Waste* material must not be poured, emptied, swept, thrown or otherwise discharged onto a *road* or into a stormwater drain. **(Category 2 offence)**
- 4.7 *Waste* material must not be incinerated or otherwise burned in the open on any premises. **(Category 2 offence)**

5 Prescribed Requirements of the Environment Management Plan for Residential Premises

- 5.1 *Waste material and recyclable material* must be stored in a container approved by the *Council* for such purposes.
- 5.2 *Waste containers and any re-useable containers* must be stored within the *premises*, or at an *appropriate site* outside of collection periods. **(Category 3 offence)**
- 5.3 *Hazardous waste* must not be placed on the roadside for collection regardless of the type of collection service employed. **(Category 1 offence)**
- 5.4 *Liquid waste* must not be placed directly into a *waste* collection container. **(Category 1 offence)**
- 5.5 *Waste material* must not be poured, emptied, swept, thrown or otherwise discharged onto a road or into a stormwater drain. **(Category 2 offence)**
- 5.6 *Waste material* must not be incinerated or otherwise burned in the open on any *premises*. **(Category 2 offence)**

6. Council Guidelines

- 6.1 In addition to any Performance Requirements and Prescribed Requirements, any guidelines *prescribed* by the *Council* for:
 - 6.1.1 the storage and collection of *waste*;
 - 6.1.2 the burning of material in the open;
 - 6.1.3 the use of open fires;
 - 6.1.4 the management of noise;
 - 6.1.5 supporting *approved green infrastructure*; or
 - 6.1.6 any other matter that it considers appropriate

must be complied with.

This document is issued by the Melbourne City Council.