

**Report to the Future Melbourne (Finance and Governance) Committee**

Agenda item 6.3

**Proposal to remake Council's current local laws**

5 February 2019

**Presenter:** Kim Wood, Acting Manager Governance and Legal

**Purpose and background**

1. The purpose of this report is to seek approval to commence the statutory process proposing to make the *Activities Local Law 2019*, the *Environment Local Law 2019* and the *Conduct of Meetings Local Law 2019* (proposed local laws) in the same substantive form as the *Activities Local Law 2009*, the *Environment Local Law 2009* and the *Conduct of Meetings Local Law 2010* (current local laws).

**Key issues**

2. Section 122 of the *Local Government Act 1989* (the Act) provides that, unless earlier revoked, a local law automatically revokes (sunsets) 10 years after the day it came into operation.
3. Of the three current local laws made by the Council, the *Activities Local Law 2009* and the *Environment Local Law 2009* will sunset on 30 June 2019 and new replacement local laws need to be made.
4. The *Conduct of Meetings Local Law 2010* does not sunset until 2020 but it is seen as opportune to simultaneously revoke and replace that local law early, to align all three local laws into the future.
5. The process to make a new local law requires:
  - 5.1. endorsement of the proposed new local law
  - 5.2. a statutory public notice (in *The Age* and the *Victorian Government Gazette*) and submission process in accordance with sections 119 and 223 of the Act
  - 5.3. an independent competitive neutrality review process on the impact
  - 5.4. an assessment of its compatibility with the *Charter of Human Rights and Responsibilities Act 2006*
  - 5.5. a further notice in *The Age* and the *Victorian Government Gazette* of the making of the local law.
6. Once a new local law is made, it is necessary to create appropriate sub-delegations, authorisations and prescriptions as well as updating permits and related paraphernalia.
7. In light of:
  - 7.1. the substantial statutory process to make new local laws
  - 7.2. uncertainty as to when the new *Local Government Bill* will be introduced to Parliament and how it will compare with the *Local Government Bill 2018* that lapsed before the State electionmanagement recommends that the substance of the proposed local laws reflect the current local laws.
8. The proposed local laws identifying the changes from the current local laws are at Attachments 2–4. The *Conduct of Meetings Local Law 2019* will continue to incorporate the separate Meeting Procedures Code (Attachment 5). Whilst no changes are recommended to the Code itself, as part of the consultation process, it will be made available to the public with the proposed *Conduct of Meetings Local Law 2019*.

**Recommendation from management**

9. That the Future Melbourne Committee:
  - 9.1. notes the Council's *Activities Local Law 2009* and *Environment Local Law 2009* sunset on 30 June 2019
  - 9.2. pursuant to Part 5 of the *Local Government Act 1989* (the Act), proposes to make:
    - 9.2.1. the *Activities Local Law 2019*, in accordance with the proposed *Activities Local Law* at Attachment 2
    - 9.2.2. the *Environment Local Law 2019*, in accordance with the proposed *Environment Local Law* at Attachment 3
    - 9.2.3. the *Conduct of Meetings Local Law 2019*, in accordance with the proposed *Conduct of Meetings Local Law* at Attachment 4

(proposed local laws)
  - 9.3. notes the substance of the proposed local laws reflect the Council's current local laws and any future changes to the proposed local laws will require a separate statutory public engagement process
  - 9.4. endorses management carrying out the necessary steps to progress the proposal in accordance with the Act
  - 9.5. notes that if no submissions are received in respect to one or more of the proposed local laws, the relevant local law will be made under delegation.

**Attachments:**

1. Supporting Attachment (Page 3 of 94)
2. Proposed *Activities Local Law 2019* (Page 4 of 94)
3. Proposed *Environment Local Law 2019* (Page 47 of 94)
4. Proposed *Conduct of Meetings Local Law 2019* (Page 70 of 94)
5. Meeting Procedures Code (Page 82 of 94)

## Supporting Attachment

---

### Legal

1. Council's powers to make local laws are set out in Part 5 of the Act. The procedure for making a local law is set out in Section 119 of the Act.

Prior to making a local law a Council must publish a notice in a newspaper circulating in the Council district and in the Government Gazette stating:

- the purpose and general purport of the proposed local law.
  - that a copy of the proposed local law can be obtained from the Council.
  - that any person affected by the proposed local law may make a submission pursuant to section 223 of the Act.
2. Any person who makes a written submission has a right to be heard by the Council's Submissions (section 223) Committee which has the role of considering any submissions received and making a recommendation to the Council. If no submissions are received, the local law can be made under delegation. When a local law is made, a further notice must be published in the newspaper and the Government Gazette.

### Finance

3. The cost of placing notices in the newspaper (The Age) and the Government Gazette will be absorbed within the current budget.

### Conflict of interest

4. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

### Occupational Health and Safety

5. Local laws are one of the key methods available to a local government to regulate and control activities and behaviour within the municipality to protect the health and safety of its community.

### Stakeholder consultation

6. The proposed local laws will be the subject of a statutory public notice and submission process.

### Environmental sustainability

7. Local laws allow a local government to regulate and control activities and behaviour within the municipality. The proposed *Environment Local Law 2019* and *Activities Local Law 2019* are used to regulate multiple environmental issues.



# Melbourne City Council

## Activities Local Law 20109

~~(Incorporating Amendments up to and including the  
Activities (Miscellaneous Amendments) Local Law 2015)~~

## Contents

<b>Part 1 Preliminary</b> .....	<b>5</b>
Title .....	5
What are the objectives of this Local Law? .....	5
What authorises this Local Law?.....	5
When does this Local Law commence?.....	6
To what part of the <i>municipality</i> does this Local Law apply? .....	6
Are there any exemptions from this Local Law? .....	6
Definitions .....	7
<b>Part 2 Behaviour</b> .....	<b>13</b>
Prohibited activities in <i>public places</i> .....	13
<i>Toy vehicles</i> .....	13
Protection of <i>trees</i> .....	14
Camping in <i>public places</i> .....	14
Fencing vacant land .....	14
Fences at intersections.....	14
<b>Part 3 Consumption of <i>Liquor</i></b> .....	<b>16</b>
Consumption and possession of <i>liquor</i> is prohibited in certain circumstances .....	16
<b>Part 3A No Smoking in <i>Smoke Free Areas</i></b> .....	<b>17</b>
Prohibition on smoking .....	17
<i>Council may prescribe smoke free areas</i> .....	17
<b>Part 3B Animals</b> .....	<b>18</b>
Application of Part 3B .....	18
Keeping of <i>animals</i> .....	18
<i>Animals</i> in a public place .....	18
<b>Part 4 Advertising and Use of Shopfronts and <i>Public Places</i></b> .....	<b>19</b>
Authorisation required for <i>advertising sign</i> or other thing on or between <i>buildings</i> .....	19
Authorisation required for <i>street art</i> in, or within view from, a <i>public place</i> .....	19
Authorisation required for portable <i>advertising signs</i> or other things in <i>public places</i> .....	20
Authorisation required for <i>goods</i> in a <i>public place</i> .....	20
<b>Part 5 Street Trading and <i>Special Events</i></b> .....	<b>21</b>
<i>Permit</i> required for the soliciting of money etc. ....	21
Soliciting trade and similar activities.....	21
<i>Permit</i> required for selling in a <i>public place</i> .....	21
<i>Permit</i> required for handbills.....	21
<i>Permit</i> required for filming and <i>special events</i> .....	21

<i>Permit</i> required for busking .....	21
Causing obstruction .....	22
Furniture in a <i>public place</i> .....	22
<b>Part 6 Works on Roads</b> .....	<b>23</b>
<i>Permit</i> required for <i>road</i> interference .....	23
<b>Part 7 Building Standards</b> .....	<b>24</b>
Compliance with Code .....	24
Compliance with the <i>design and construction standards</i> .....	24
Notification of the Office of Gas Safety .....	24
<b>Part 8 Water Activities</b> .....	<b>25</b>
Prohibition on water activities .....	25
Mooring .....	25
Behaviour .....	25
<b>Part 9 Building Works (Nuisance Abatement)</b> .....	<b>26</b>
Notice to be given before commencing <i>building works</i> .....	26
<i>Building works</i> are confined to certain times and places .....	26
<i>Building works</i> on a dwelling are confined to certain times and places .....	26
Wheels of <i>vehicles</i> to be kept clean .....	27
<i>Nuisances</i> .....	27
Directions by <i>authorised officer</i> .....	27
<b>Part 10 Dilapidated, Dangerous and Unsightly Premises</b> .....	<b>28</b>
Dilapidated <i>premises</i> .....	28
Dangerous and unsightly <i>premises</i> .....	28
Compliance with a Notice .....	29
<b>Part 11 Naming of Roads and Numbering of Premises</b> .....	<b>30</b>
Naming of <i>roads</i> .....	30
Allocation of numbering .....	30
Requirement to number <i>premises</i> .....	30
<i>Council</i> may number <i>premises</i> .....	30
Interfering with numbers and street signs .....	30
Removal of unlawful sign or number .....	30
<b>Part 12 Miscellaneous</b> .....	<b>31</b>
Authorisation required for discharges .....	31
Prohibition on <i>vehicles</i> remaining in <i>public places</i> .....	31
Repairing <i>vehicles</i> .....	31
Interfering with a <i>pedestrian service sign</i> .....	31

Removal of unlawful signs .....	32
General obstructions .....	32
Prohibition against causing excessive noise .....	32
Deliveries to and collections of <i>goods</i> from <i>premises</i> .....	32
<i>Waste</i> .....	32
<b>Part 13 Permits .....</b>	<b>34</b>
When is a <i>permit</i> required under this Local Law? .....	34
Fee required .....	34
Further information may be required .....	34
Notice may be required .....	34
Duration of <i>permit</i> .....	34
Correction of <i>permits</i> .....	34
Exemptions .....	34
Cancellation of a <i>permit</i> .....	35
<b>Part 14 Enforcement.....</b>	<b>36</b>
Offences .....	36
Infringement notices .....	36
Offences by Corporations.....	36
Court fines .....	36
Costs incurred by the <i>Council</i> to be paid.....	37
<i>Notice to Comply</i> and directions.....	37
Power of <i>authorised officer</i> to act in urgent circumstances.....	38
Power of <i>authorised officer</i> to confiscate .....	38
<b>Part 15 Delegations .....</b>	<b>39</b>
<b>Schedule 1 .....</b>	<b>40</b>
<b>Schedule 2.....</b>	<b>42</b>
<b>Annexure (Plan).....</b>	<b>43</b>

## Melbourne City Council

### Activities Local Law 2019

~~(Incorporating Amendments up to and including the Activities  
(Miscellaneous Amendments) Local Law 2015)~~

#### Part 1

#### Preliminary

##### Title

1.1 This Local Law is called the “Activities Local Law 2019”.

##### What are the objectives of this Local Law?

1.2 The objectives of this Local Law are to:

- (a) promote a physical and social environment free from hazards to health, in which the residents of and visitors to the *municipality* can enjoy a quality of life that meets the general expectations of the community;
- (b) control noise, behaviour, *liquor* consumption, *animals*, *spruiking*, busking, *advertising sign*, works and obstructions on *roads*, street trading, the use of *toy vehicles* and other activities;
- (c) protect the use of *public places* and control activities in or near them;
- (d) provide for safety in *public places*;
- (e) regulate and manage the legitimate display of *street art*, in or within view from, a *public place* so as to facilitate a vibrant urban culture;
- (f) provide for, control and manage the use of *premises* and *vehicles* in particular circumstances;
- (g) regulate the number and manner of keeping of *animals*;
- (h) control, prevent and abate *nuisances*; and
- (i) provide for the peace, order and good government of the *municipality*.

1.3 This Local Law contributes to the 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 Part 5 of the *Local Government Act 1989*.



### When does this Local Law commence?

1.5 This Local Law commences on the first day of July 20~~19~~19.

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

1.6 Subject to clauses 1.7, 1.8 and 1.9, this Local Law applies throughout the whole of the *municipality*.

1.7 Clauses 3.1 to 3.3 inclusive apply as follows:

- (a) to that part of the *municipality* which is *prescribed* by the *Council* for the purposes of this clause 1.7(a), throughout the whole of each year; and
- (b) to that part of the *municipality* which is prescribed by the *Council* for the purposes of this clause 1.7(b), during:
  - (i) prescribed days or periods; or
  - (ii) on each day during the race period within the meaning of the *Australian Grand Prix Act 1994* (or its successor legislation) and to 8.00 a.m. on the day immediately following the last day of the race period; or
  - (iii) on any day during the period specified in a notice signed by the *Council's* Chief Executive Officer as being the period during which Melbourne Moomba Waterfest or any other festival is to occur and to 8.00 a.m. on the day immediately following the last day of the period specified in the notice.

### Are there any exemptions from this Local Law?

1.8 Nothing in this Local Law prevents a member, officer or employee of:

- (a) the Commonwealth or State Government;
- (b) the Victoria Police;
- (c) the Metropolitan Fire Brigade;
- (d) the Ambulance Service - Victoria;
- (e) any first-aid or emergency service organisation;
- (f) any military or civil-defence force; or
- (g) a *public body* other than the *Council*;

from performing any of the duties he or she is lawfully entitled or required to perform while engaged in those duties, provided that:

- (i) 48 hours notice of the person's intention to perform the activity is given to the *Council* beforehand, or
- (ii) in the event of an emergency, notice is given as soon as practicable after the activity has been carried out.

- 1.9 Nothing in this Local Law relating to an *animal* prevents:
- (a) a blind or deaf *person* being entitled at all times and in all places to be accompanied by a guide dog; or
  - (b) a member of the Victoria Police in charge of a police dog or police horse from carrying out police duties.
- 1.10 The *Council* may *prescribe* specified *persons*, *premises* or areas within the *municipality* to be exempt from a provision of this Local Law for a specified time and on specified conditions.

## Definitions

- 1.11 The words identified in italics throughout this Local Law are intended to have the following meaning:

"*acceptable no smoking sign*" has the same meaning as in the *Tobacco Act 1987*.

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

"*advertising sign*" includes any letter, figure, symbol, device, poster, sign, banner or message used for notifying:

- (a) the existence of the sale or use of any *goods* or services; or
- (b) the holding of an event or function; or
- (c) the promotion of any person, company, organisation or thing.

"*animal*" includes a bird, fish and reptile.

"*authorised officer*" means:

- (a) a *person* appointed by the *Council* to be an authorised officer under section 224 of the *Act*; or
- (b) in respect to the enforcement of Part 3 of this Local Law, upon the *Council* publishing a notice in the Government Gazette under section 224A of the *Act*, any police officer.

"*bicycle*" has the same meaning as in the *Road Safety Road Rules 2017*.

"*body of water*" includes a cascade, fountain, pond, pool and watercourse but does not include a *swimming pool*.

"*building*" includes a part of a building and the whole or any part of a structure, temporary building or structure, fence, gate, wall, *pavement light*, outbuilding, service installation, mast, pole and other appurtenance of a building.

"*building works*" includes works, activities, events and practices for or in connection with the construction, alteration, demolition or removal of a building.

"*central city*" means the area depicted in the *Plan*.

"*child care centre*" means *premises* located on *Council land* used by a person to care for 4 or more children under the age of 13 years, in the absence of their parents or guardians, for the payment of a fee or other consideration.

"*children's playground*" means *Council land* set aside or used for the predominant purpose of a children's play area.

"*Code*" means the Code of Good Practice for Construction Sites adopted by the former Docklands Authority on 22 March 2002, as amended from time to time by the *Council*.

"*construction management plan*" means a description of the proposed strategy to be implemented in relation to the *building works* to ensure:

- (a) public amenity and safety are maintained;
- (b) *Council* and community assets are protected;
- (c) *nuisances* are controlled and prevented;
- (d) compliance with the provisions of the *Environment Local Law*;
- (e) disruptions to traffic are minimised;
- (f) *waste* is managed appropriately; and
- (g) appropriate environmental controls are in place.

"*Council*" means the Melbourne City Council.

"*Council land*" means land, buildings and facilities which are owned or occupied by or vested in the *Council* or in respect of which the *Council* has the care and management to which the public has access whether an entry fee is paid or not.

"*crossing*" means a crossing for *vehicles* on or over a *road* for the purposes of enabling access to be gained to land next to a *road*.

"*designated sound level*" is the maximum sound level *prescribed* by the *Council* for the purposes of any part of this Local Law.

For the avoidance of doubt the *Council* may:

- (a) set more than one *designated sound level* based on factors including the location, the nature of the sound, the activity resulting in the sound; and
- (b) *prescribe* the method by which compliance with the *designated sound level* is measured.

"*design and construction standards*" means the Design and Construction Standards for Public Infrastructure Works in the Docklands Area as amended from time to time by the *Council*.

"*encroachment*" includes any object or thing projecting from a *building* on, over or in a *public place*.

"*Environment Local Law*" means the *Council's* Environment Local Law 201~~0~~9 as amended from time to time.

"*gas regulator vent stack*" means any ventilation stack used to vent gas located in a *public place* as *prescribed* by the *Council*.

"*goods*" includes food.

"*green waste*" has the same meaning as in the *Environment Local Law*.

"*handbill*" includes a placard, notice, book, pamphlet, paper and advertisement other than an advertisement affixed to any *building* abutting any *road* or public highway, but does not include a newspaper, magazine or book sold by a newsvendor or other *person* authorised by the *Council* nor any *handbill* containing material of an exclusively political nature distributed by hand to any *person*.

"*hard waste*" has the same meaning as in the *Environment Local Law*.

"*liquor*" means a beverage intended for human consumption with an alcoholic content of 0.5 per centum by volume or greater.

"*minor building work*" means *building work* valued at less than \$5,000.00 but excludes demolition and removal of buildings and structures (regardless of value).

"*moor*" means to hold, tether, berth or secure a *vessel* in a location by a cable, chain, anchor or other means.

"*municipality*" means the municipality of the *Council*.

"*Notice to Comply*" means a notice given under clause 14.9 of this Local Law.

"*nuisance*" has its ordinary common meaning in this Local Law, except for Part 9, where it is also to include:

- (a) any *building works* that emit dust, odour, waste, noxious gases or other *wind blown refuse* beyond the construction site;
- (b) the leaving of open and unguarded pits, excavations or basements on a building site which may constitute a risk to public safety or property;
- (c) any temporary structure, material, condition or practice constituting a fire hazard or impairing the extinguishing of any fire;
- (d) any *building works* that exceed the *designated sound level* prescribed by the *Council*;
- (e) any vibrations exceeding the level *prescribed* by the *Council*.

"*occupier*" of *premises* means:

- (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.

"*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 *person* who is, or would be, entitled to receive, or is in receipt of, the rents and profits of the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise.

"*pavement light*" means a device incorporated into the footpath or roadway adjacent to *premises* for the provision of natural light to those areas of the *premises* below ground level.

"*pedestrian service signs*" means signs for the benefit of pedestrians and includes-

- (a) identification signs indicating names of areas and precincts;
- (b) directional signs indicating direction to areas, attractions and features;
- (c) civic maps and maps of an area; and
- (d) historical signs, historical plaques, walls and information panels.

"*permit*" means a permit granted under Part 13 of this Local Law.

"*person*" includes an individual, a corporation, an association incorporated under the *Associations Incorporation Act 1981*, a partnership and an unincorporated association.

"*place*" when used as a verb includes allow to remain.

"*Plan*" means the plan appended to this Local Law.

"*Planning Scheme*" means an applicable planning scheme under the *Planning and Environment Act 1987*.

"*premises*" includes the whole or part of any land, a lot on a plan of subdivision and a *building* or *building* under construction.

"*prescribe*" and "*prescribed*" includes decided or specified by the *Council*.

"*proprietor*" means the *owner, occupier, lessee, licensee, manager* or any other *person* in control or charge of any place or *premises*.

"*public body*" means any government department or municipal council or body established for a public purpose by legislation.

"*public place*" has the same meaning as in the *Summary Offences Act 1966* and, to the extent that it does not include the following, also includes:

- (a) any place *prescribed* by the *Council* as a public place, other than an interior part of a *building* which is not occupied by the *Council* or a *public body* unless that part has been *prescribed* by the *Council*;
- (b) any place to which the public whether upon or without payment for admittance have or are permitted to have access, but does not include a shopping centre;
- (c) any park, garden, reserve or other place of public recreation or resort;
- (d) any vacant land or vacant space adjoining any *road*;
- (e) any wharf, pier or jetty; and
- (f) a *Council building*.

"*recyclable material*" has the same meaning as in the *Environment Local Law*.

"*road*" has the same meaning as in the *Act*.

"*sailboard*" means a surfboard or other light weight device equipped with a sail designed to be propelled on water and includes a windsurfer.

"*segway*" means a two-wheeled, self-balancing electric form of transportation.

"*sell*" includes:

- (a) barter, offer or attempt to sell, receive for sale, have in possession for sale, expose for sale, send, forward or deliver for sale, or allow to be sold or offered for sale; and
- (b) sell for re-sale.

"*ski*" includes a water ski, jet ski and surf ski.

"*smoke*" means to:

- (a) smoke, hold or otherwise have control over an ignited *tobacco product*; or
- (b) light a *tobacco product*.

"*smoke free area*" means an area:

- (a) identified in Part A of Schedule 2 to this Local Law; or
- (b) *prescribed* to be a *smoke free area* in accordance with clause 3A.3.

"*special event*" means an organised sporting, recreational, cultural, commercial or social gathering of people which is held on a *road* or any other *public place prescribed* by the *Council*.

"*spruik*" includes 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 *premises*, purchase *goods* or both.

"*street art*" means artwork in the form of a mural but excludes graffiti such as tagging or stand-alone stencils.

"*swimming pool*" means a facility owned by, vested in or used or arranged by the *Council* for public bathing or swimming purposes, whether managed directly by the *Council* or by others and includes areas of land associated with that facility including all forms of exercise, recreational and associated areas within the enclosure which houses the swimming pool and associated facilities.

"*tobacco product*" has the same meaning as in the *Tobacco Act 1987*.

"*tout*" includes soliciting business to *premises* whether by addressing members of the public directly or the emission of music or other noise calculated to attract business to *premises*.

"*toy vehicle*" means equipment designed to be propelled on land by human power and includes a skateboard, scooter, roller skates and in-line skates but does not include a *bicycle*.

"*traffic control item*" means any sign, mark, structure or device displayed or erected for the purpose of controlling, directing, guiding, regulating or warning drivers or pedestrians, and includes a *traffic control signal*.

"*traffic control signal*" means a device, however operated, which uses words symbols or lights to control or regulate traffic.

"*tree*" includes the trunk, branches, canopy and root system of the tree.

"*vehicle*" means a conveyance which is designed to be or is propelled or drawn by any means, but does not include a train, tram, wheelbarrow, supermarket or shopping trolley, *bicycle*, *toy vehicle* or *wheelchair*.

"*vesse*" means a craft for travelling on water and includes a boat, dinghy, yacht and catamaran but does not include a *sailboard* or *ski*.

"*waste*" has the same meaning as in the *Environment Protection Act 1970*.

"*waste container*" means a bin, cart or other receptacle of a kind approved by the *Council* for the purpose of *waste* collection within the *municipality* or part of the *municipality*.

"*wheelchair*" means a vehicle capable of a speed of no greater than 10 kilometres per hour propelled by human or mechanical power used for personal mobility by a *person* with a disability.

"*wind blown refuse*" means refuse from a building site which is, if left outdoors, capable of or susceptible to being blown away without any human intervention by winds of a strength ordinarily encountered within the municipality in the course of a year.

- 1.12 Where a word or phrase has a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning.

## Part 2 Behaviour

Introduction: This Part contains provisions which aim to protect the amenity of *public places* for all citizens by controlling behaviour in *public places* and by prohibiting persons from causing damage to *public places* or acting in a socially unacceptable manner.

### Prohibited activities in *public places*

2.1 A *person* must not in, on or within the hearing or sight of a *public place*:

- (a) cause or commit any *nuisance*;
- (b) adversely affect the amenity of that *public place*;
- (c) interfere with the use or enjoyment of that *public place* or the personal comfort of another *person* in or on that *public place*;
- (d) annoy, molest or obstruct any other *person* in or on that *public place*;
- (e) defecate or urinate except in a toilet or urinal (as the case may be) in a public convenience; or
- (f) commit an indecent or offensive act; or
- (g) use any threatening, abusive or insulting words.

2.2 A *person* must not in or on a *public place*:

- (a) destroy, damage, alter, mark, deface or remove any property or thing;
- (b) walk on or over any plant bed, plant box or garden plot except with the consent of the *proprietor*;
- (c) cause risk of personal injury or damage to property by climbing or walking on or over, sitting on or sliding down any structure, *building*, fixture, free standing object, appliance or equipment (other than play equipment or recreation and fitness equipment installed by the *Council*) except with the consent of the *proprietor*;
- (d) after having been directed to leave by an *authorised officer*, enter or remain in any area, place, *building* or structure that is not open to the public; or
- (e) enter any area, place, *building* or structure in respect of which the *Council* has *prescribed* an entry fee, unless the entry fee has been paid to an *authorised officer* or authorised representative of the *Council* or the *person* enters in accordance with the written consent of the *Council* or the *proprietor*.

### Toy vehicles

2.3 A *person* must not:

- (a) use or allow to be used a *toy vehicle* so as to endanger, intimidate or unduly obstruct or hinder any other *person* or *vehicle* lawfully using or intending to use the same area; or



- (b) ride a *toy vehicle* in an area *prescribed* by the *Council* in accordance with Clause 2.4 or in breach of a *prescription* made by the *Council* under Clause 2.5.

- 2.4 The *Council* may *prescribe* a *public place* (other than a road or road related area) within the *municipality* for the purposes of this Clause 2.4 where it considers that the riding of *toy vehicles* is reasonably likely to cause physical damage to infrastructure located within the area to be *prescribed*.
- 2.5 The *Council* may *prescribe* a *public place* (other than a road or road related area) within the *municipality* where the riding of a *toy vehicle* is restricted at specified times and on specified conditions where it considers that the riding of *toy vehicles* is reasonably likely to interfere with the use and enjoyment of the locality by pedestrians and other members of the public.
- 2.6 For the purposes of Clauses 2.4 and 2.5, the terms “road” and “road related area” have the meaning as in the *Road Safety Act 1986*.

Note: Maps showing the prescribed area or areas where the riding of a *toy vehicle* is prohibited or restricted are available from the Front Desk, Melbourne Town Hall or by visiting the *Council’s* web site at [www.melbourne.vic.gov.au](http://www.melbourne.vic.gov.au)

### Protection of *trees*

- 2.7 Unless in accordance with a permit, a *person* must not in or on *Council Land* destroy, damage, remove or otherwise interfere with a *tree* or allow any *person* to destroy, damage, remove or otherwise interfere with a *tree*.

### Camping in *public places*

- 2.8 Unless in accordance with a *permit*, a *person* must not camp in or on any *public place* in a *vehicle*, tent, caravan or any type of temporary or provisional form of accommodation.

### Fencing vacant land

- 2.9 An *owner* or *occupier* of vacant land which is wholly or partially unfenced must, as soon as practicable after being directed to do so by the *Council* or an *authorised officer*, fence or cause to be fenced all or that portion of the vacant land which was the subject of the *Council’s* or the *authorised officer’s* direction.

### Fences at intersections

- 2.10 The *owner* or *occupier* of any land situated at an intersection must not erect any fence on the land so as to obstruct the clear view:
  - (a) by a driver, of any:
    - (i) Pedestrian;
    - (ii) *vehicle*; or
    - (iii) *traffic control item*; or
  - (b) by a pedestrian, of any:
    - (i) *vehicle*; or

(ii) *traffic control item.*

- 2.11 If an *owner* or *occupier* of land has erected a fence in breach or apparent breach of clause 2.9 or 2.101, a *Notice to Comply* may require the *owner* or *occupier* of the land to remove the fence or reconstruct the fence in the manner specified in the *Notice to Comply*.

## Part 3

### Consumption of *Liquor*

Introduction: This Part aims to provide for the responsible management of *public places* so as to enhance the enjoyment of them by the general public, especially during major events. The provisions control the consumption of *liquor* in *public places* and other places within certain areas of the *municipality* and during certain periods of the year. Clause 1.7 identifies the areas and the periods during the year to which this Part applies.

#### Consumption and possession of *liquor* is prohibited in certain circumstances

3.1 A *person* must not:

- (a) in or at a *public place*; or
- (b) in or on a *vehicle* which is on or at a *public place*,

consume any *liquor* or have in his or her possession or control any *liquor* other than *liquor* in a sealed container in that part of the *municipality* *prescribed* by the *Council* pursuant to clause 1.7 of this Local Law.

Note: A map showing the *prescribed* area or areas where the consumption of *liquor* is prohibited throughout the year is available from the Front Desk, Melbourne Town Hall or by visiting the *Council's* web site at [www.melbourne.vic.gov.au](http://www.melbourne.vic.gov.au) To find out details of the area or areas where the consumption of *liquor* may be restricted at other times of the year contact the *Council* or visit the *Council's* web site at [www.melbourne.vic.gov.au](http://www.melbourne.vic.gov.au)

3.2 Clause 3.1 does not apply to a *person*:

- (a) taking part in a festival or event in respect of which the *Council* has granted a *permit* for *persons* to consume *liquor* or to have in their possession or control any *liquor* other than *liquor* in a sealed container; or
- (b) within authorised premises or licensed premises under the *Liquor Control Reform Act 1998* or any subsequent legislation relating to the serving and consumption of *liquor*.
- (c) who has been granted a *permit* to take *liquor* into an area *prescribed* by the *Council* pursuant to clause 1.7.

3.3 Where an *authorised officer* believes on reasonable grounds that a *person* is contravening or has contravened clause 3.1, the *authorised officer* may direct the *person* to seal any container or dispose of the contents of any unsealed container.

## Part 3A

### No Smoking in *Smoke Free Areas*

Introduction: This Part aims to provide for the responsible management of *public places* so as to enhance the enjoyment of them by the general public. The following clauses prohibit smoking *tobacco products* in *smoke free areas* within the *municipality*.

#### Prohibition on smoking

- 3A.1 A *person* must not *smoke* a *tobacco product* in a *smoke free area*.
- 3A.2 Where an *authorised officer* believes on reasonable grounds that a *person* is contravening or has contravened clause 3A.1, the *authorised officer* may direct the *person* to extinguish and then dispose of the *tobacco product*.

#### *Council may prescribe smoke free areas*

- 3A.3 In addition to the *smoke free areas* identified in Part A of Schedule 2 to this Local Law, the *Council* may *prescribe* any other area within the *municipality* to be a *smoke free area*.
- 3A.4 The *Council* must follow the guidelines incorporated in Part 2 of Schedule 2 to this Local Law when deciding whether to prescribe an area as a *smoke free area* under clause 3A.3.
- 3A.5 The *Council* or an *authorised officer* may erect, or cause to be erected, an *acceptable no smoking sign* in a *smoke free area*.

Note: maps showing *smoke free areas* are available from the Front Desk, Melbourne Town Hall or by visiting [www.melbourne.vic.gov.au](http://www.melbourne.vic.gov.au)

## Part 3B Animals

Introduction: This Part aims to provide for the responsible care and management of *animals* within the *municipality* including regulating the number and types of *animals* a *person* may keep without a *permit*.

### Application of Part 3B

3B.1 This Part does not apply to any land:

- (a) on which a pet shop is located;
- (b) on which an animal hospital or veterinary practice is located; or
- (c) if the use of the land for this purpose is permitted under the Planning Scheme.

### Keeping of *animals*

3B.2 A *person* must not, without a *permit*, keep or allow to be kept any more of each species or group of *animal* than *prescribed* by the *Council*.

3B.3 Any structure used for housing an *animal* must be maintained:

- (a) in a clean, inoffensive and sanitary condition;
- (b) so as not to cause any *nuisance*; and
- (c) to the satisfaction of the *Council*.

### *Animals* in a public place

3B.4 A *person* must not feed or leave food for an *animal* in a *public place*.

3B.5 Whenever an *animal* is in or on a *public place*, the owner of the *animal* must have in his or her possession means for the effective collection and removal of any excrement that may be deposited by the *animal*.

3B.6 The owner of an *animal* must immediately collect and remove all excrement deposited by the *animal* in a *public place*.

3B.7 For the purposes of clauses 3B.5 and 3B.6:

- (a) the owner of an *animal* includes the *person* who has the *animal* in his or her care for the time being whether the *animal* is restrained, confined or at large; and
- (b) *animal* does not include a bird, fish or reptile.

## Part 4

### Advertising and Use of Shopfronts and *Public Places*

Introduction: This Part contains provisions which aim to enhance the appearance of streets and *public places* by controlling the placement of *advertising signs* in *public places* and on and between *buildings* and *street art* in, or within view from, a *public place* within the *municipality* and the placement of *goods* and the like in *public places*.

#### Authorisation required for *advertising sign* or other thing on or between *buildings*

4.1 Unless:

- (a) in accordance with a *permit*; or
- (b) to do so is specifically authorised by and in accordance with legislation or the *Planning Scheme* or a planning permit issued under it; or
- (c) no part of the *advertising sign* or other thing is in, on or over a *public place*,

a person must not hang, *place* or affix any *advertising sign* or other thing on or between any part of a *building*, plant, pole, post or other structure or allow that to occur.

#### Authorisation required for *street art* in, or within view from, a *public place*

4.2 Unless:

- (a) in accordance with a *permit*; or
- (b) to do so is specifically authorised by and in accordance with a planning permit issued under the *Planning Scheme*,

a person must not apply *street art*, or allow or suffer to allow, *street art* on any part of an outside wall of a *building* such that the *street art* is in, or within view from, a *public place*.

Note: Nothing in this clause is intended to affect the operation of the *Graffiti Prevention Act 2007*.

4.3 Where *street art* is on a *building* in breach of clause 4.2, in addition to any other powers the *Council* has under this Local Law, the *Council* may serve a *Notice to Comply* on the *owner* or *occupier* of the *building* requiring the removal of the *street art*.

4.4 If the person served with a notice under clause 4.3 fails to comply with the notice to the *Council's* satisfaction, the *Council* can take whatever action it considers is necessary to bring the *building* into compliance with the notice.

4.5 Any costs incurred by the *Council* in taking action under clause 4.4, unless otherwise agreed by the *Council*, must be paid by the person served with the notice under clause 4.4 and until such costs are paid with any interest payable, the costs will remain a charge on the *premises* on which the *building* is situated.

**Authorisation required for portable *advertising signs* or other things in *public places***

4.6 Unless:

- (a) in accordance with a *permit*; or
- (b) to do so is specifically authorised by and in accordance with the *Planning Scheme* or a planning permit issued under it,

a *person* must not *place* or erect a portable *advertising sign* or other thing in, on or over a *public place* or allow that to occur.

**Authorisation required for *goods* in a *public place***

4.7 Subject to clause 4.8, a *person* must not hang, pile or place any *goods* or allow that to occur:

- (a) on the roof of or other portion of a verandah; or
- (b) on any shopfront or outside wall of *premises*.

4.8 Clause 4.7 does not apply if the placement of an item:

- (a) does not protrude over or into a *public place* or cause an obstruction or risk of injury to a *person* or damage to property; or
- (b) is specifically authorised by and in accordance with the *Planning Scheme* or a planning permit issued under it.

4.9 Unless in accordance with:

- (a) a *permit*, and
- (b) the consent of the *proprietor* of that place,

a *person* must not place or allow to be placed in a *public place* any planter or similar structure or thing.

## Part 5 Street Trading and *Special Events*

Introduction: This Part contains provisions which aim to manage and facilitate responsible trading and entertainment on streets and *public places* to increase the attractiveness and comfort of these places, by controlling the soliciting of gifts and money, busking, *selling* and other behaviour on *public places*.

### **Permit required for the soliciting of money etc.**

- 5.1 Unless in accordance with a *permit*, a *person* must not solicit or collect a gift of money or subscription or *sell* a raffle ticket in or on a *public place*.

### **Soliciting trade and similar activities**

- 5.2 Unless in accordance with a *permit*, a *person* must not in a *public place* or from *premises* adjacent to a *public place*, offer to *sell goods* or solicit or try to attract trade or business or *tout* or *spruik* or allow any *person* to solicit or try to attract trade or business or *tout* or *spruik*.

### **Permit required for selling in a *public place***

- 5.3 Unless in accordance with a *permit*, a *person* must not *sell* any *good* or service on or in a *public place* or from *premises* adjacent to a *public place* to a *person* in a *public place*.

### **Permit required for handbills**

- 5.4 Unless in accordance with a *permit*, a *person* must not display or distribute to any *person* any *handbill* in or on a *public place* or allow that to occur.

### **Permit required for filming and *special events***

- 5.5 Unless in accordance with a *permit*, a *person* must not in or on a *road* or any other *public place* prescribed by the *Council*:
- (a) conduct any *special event*.
  - (b) conduct any filming where the film is for a commercial purpose, public exhibition or as part of a course conducted by a tertiary institution.

Note: The *Council* will take into account the *Filming Approval Act 2014* in considering an application for a *permit* under clause 5.5(b).

### **Permit required for busking**

- 5.6 Unless in accordance with a *permit*, a *person* must not in or on a *public place*:
- (a) sound or play a musical instrument, sing, give a recitation or perform any conjuring, juggling, puppetry, mime or dance or other entertainment or do any of those things concurrently; or
  - (b) draw any message, picture or representation on a wall or pavement surface.



- 5.7 Unless in accordance with a *permit* or in accordance with clause 12.8, a *person* must not make any noise or allow it to be made by the use or operation of an amplifier or noise-making or enhancing device:
- (a) in a *public place*; or
  - (b) in *premises* adjacent to the *public place* if the noise is capable of being heard in the *public place*.
- 5.8 Clause 5.7(b) does not apply where the noise involved would not contravene clauses (a) and (b) of clause 12.8.

### **Causing obstruction**

- 5.9 A *person* must not:
- (a) without a *permit*, unreasonably obstruct or interfere with the passage of pedestrian or vehicular traffic in or on a *public place*; or
  - (b) invite, encourage or allow the congregation of *persons* so as to unreasonably obstruct or interfere with the passage of pedestrian or vehicular traffic in or on a *public place*.

### **Furniture in a *public place***

- 5.10 Unless in accordance with a *permit*, a *person* must not place or cause to be placed any furniture in or on a *public place*.

## Part 6 Works on Roads

Introduction: This Part contains provisions which aim to minimise the impact of works on roads on the amenity of the *municipality* and its residents by ensuring that obstructions do not interfere with the public's reasonable use of roads.

### **Permit required for road interference**

- 6.1 Unless in accordance with a *permit*, a *person* must not:
- (a) erect a hoarding or overhead protective awning on a *road*;
  - (b) install a temporary or permanent *crossing*;
  - (c) occupy or fence off part of a *road*;
  - (d) use a mobile crane, travel tower, lift or tackle on or above a *road*;
  - (e) make a hole in, excavate, damage or remove part of any *road*; or
  - (f) install, alter or remove:
    - (i) a *pavement light*;
    - (ii) any object including a sign, tactile indicator or planter box on in or over a *road*;
    - (iii) a fence, gate or retaining wall on or in a *road*;
    - (iv) an *encroachment*.
  - (g) enter or leave a site where *building works* are being conducted from a point other than a temporary or permanent *crossing*.
- 6.2 A *person* who breaches clause 6.1(e) shall be liable to repair, replace or reconstruct the *road* within 30 days of being requested to do so by an *authorised officer*.

## **Part 7 Building Standards**

### **Compliance with Code**

7.1 A *person* must comply with any obligation imposed by the *Code*.

### **Compliance with the *design and construction standards***

7.2 A *person* to whom the *design and construction standards* apply must comply with any obligation imposed by the *design and construction standards*.

### **Notification of the Office of Gas Safety**

7.3 Prior to considering an application for a *permit* or licence for any structure, event or occupation of any area within 39 metres of a *gas regulator vent stack*, the applicant for the *permit* or licence must refer the application to the Office of Gas Safety, which may require the refusal of the *permit* or licence or inclusion of conditions in any *permit* or licence issued. Details of the application must also be notified to Gasnet, VicGas and TXU.

7.4 The *Council* will consider any requirement of the Office of Gas Safety before deciding whether to grant or refuse an application of the type described in clause 7.3.

## Part 8 Water Activities

### Prohibition on water activities

- 8.1 Unless in accordance with a *permit*, a *person* must not in or on a *public place*:
- (a) bathe, paddle, swim or wade in any *body of water* or allow an *animal* to do so, unless the *body of water* has been *prescribed* for that purpose; or
  - (b) deposit, throw or otherwise place anything on or into any *body of water*.

### Mooring

- 8.2 A *person* must not, without a *permit*, *moor* any *vessel* on or along any *body of water*.

### Behaviour

- 8.3 A *person* must not, while aboard a *vessel* on a *body of water*:
- (a) engage in any activity which is dangerous to any other *person*;
  - (b) use an amplifier or electronic device so as to interfere with the use or enjoyment of the *body of water* or any adjacent land by any other *person* except as permitted by the *Council* or an *authorised officer*; or
  - (c) interfere with the reasonable use and enjoyment of a *body of water* or any adjacent land by any other *person*.
- 8.4 A *person* must not take a *sailboard* or *ski* onto a *body of water* other than in an area *prescribed* by the *Council* as being an area set aside for *sailboards* or *skis*.

## Part 9

### **Building Works (Nuisance Abatement)**

Introduction: This Part contains provisions which aim to improve the amenity of the *municipality*, in particular residential areas, by preventing *nuisances* caused by *building works*.

#### **Notice to be given before commencing *building works***

9.1 A *person* must not commence to carry out *building works* (other than *minor building works*) unless he or she gives at least 48 hours written notice to the *Council* of his or her intention to do so.

9.2 A notice under clause 9.1 must be in the form *prescribed* by the *Council* and if requested, include a *construction management plan* which must be approved by the *Council* prior to commencement of *building works*.

Note: The *Council* requires a person to notify it prior to commencing any *building works* in order to ensure that all matters associated with the proposed *building works* are dealt with. This is to control and prevent potential damage to the environment and minimise any *nuisance* to those people in the vicinity of the *building works*.

9.3 A *construction management plan* may be modified with the consent of the *Council*.

9.4 A *person* involved in the carrying out of *building works* must comply with a *construction management plan* approved under clause 9.2 or modified under clause 9.3.

#### **Building works are confined to certain times and places**

9.5 Except in the case of an emergency or in accordance with a *permit*, a *person* must not carry out *building works* or cause *building works* to be carried out unless the works are carried out between the hours of:

- (a) 7.00am and 7.00pm Monday to Friday; and
- (b) 8.00am and 3.00pm on Saturday.

#### **Building works on a dwelling are confined to certain times and places**

9.6 Notwithstanding clause 9.5, a *person* may carry out *building works* or cause *building works* to be carried out on a dwelling:

- (a) if the works are carried out on any day between the hours of:
  - (i) 7.00am and 7.00pm Mondays to Fridays;
  - (ii) 8.00am and 6.00pm on Saturdays;
  - (iii) 9.00am and 6.00pm on Sundays; and
- (b) the *person* is the *owner* or *occupier* carrying out the *building works* himself or herself and no other person is engaged for fee or reward; and
- (c) the *person* is complying or observing any direction, notice or order of the *Council*, *authorised officer* or any public authority.

- 9.7 Notwithstanding clause 9.6, a *person* may carry out *minor building work* on a dwelling at times other than those specified in clause 9.6(a) provided that the works do not exceed the *designated sound level prescribed* by the *Council*.

#### **Wheels of *vehicles* to be kept clean**

- 9.8 A *person* must not drive a *vehicle* on to any *road* from *premises* upon which any filling, excavation, landscaping, *building works* or demolition operation is being or has recently been carried out unless the wheels and undercarriage of the *vehicle* are clean.

#### **Nuisances**

- 9.9 A *person* must not carry out *building works* or cause *building works* to be carried out so as to create a *nuisance*.

#### **Directions by *authorised officer***

- 9.10 An *authorised officer* may, either orally or in writing, direct any *person*:
- (a) found carrying out or suspected of carrying out *building works* in contravention of this Local Law or a *permit* granted under this Local Law; or
  - (b) apparently in charge of *premises* where *building works* are being or are suspected of being carried out in contravention of this Local Law or a *permit* granted under this Local Law,
  - (c) to cease carrying out those *building works* immediately or as soon as practicable.

## Part 10

### Dilapidated, Dangerous and Unsightly Premises

Introduction: This Part contains provisions which aim to ensure that the appearance of *buildings* in the *municipality* are consistent with an image of the *municipality* that is safe, attractive and well maintained by controlling *premises* that have been allowed to reach a dilapidated, unsightly or dangerous condition.

#### Dilapidated premises

10.1 Where in the opinion of the *Council*, *premises* are in a dilapidated state, including where:

- (a) the exterior of any *building* is in a state of disrepair or has been damaged or defaced so as to affect the visual amenity of the property or the area in which it is located;
- (b) any architectural features of the *building* are not properly maintained; or
- (c) *pavement lights*, tactile indicators or other *encroachments* are in a state of disrepair which may be dangerous or likely to cause a danger to any *person*,

the *Council* may serve a *Notice to Comply* in accordance with clause 14.9 of this Local Law specifying the work required to correct the dilapidated state.

#### Dangerous and unsightly premises

10.2 An *owner* or *occupier* of *premises* must ensure that all necessary steps are taken to prevent fires and minimise the possibility of the spread of fire by regularly minimising the build-up of grass, weeds, scrub, undergrowth and any other material or substance on or in the *premises* and ensuring that there is no storage of such material likely to assist in the spread of fire.

10.3 Where the *Council* is of the opinion that the condition of any *premises* may contribute to the spread of fire, the *Council* may serve a *Notice to Comply* in accordance with clause 14.9 of this Local Law specifying the work required to correct the condition of the *premises*.

10.4 An *occupier* of *premises* must not cause or allow his or her *premises* –

- (a) to be kept in a manner which in the opinion of the *Council* is dangerous or likely to cause danger to health or property; or
- (b) to contain, in the opinion of the *Council*, noxious weeds, insects, excessive vegetation growth or be a haven for vermin.

10.5 Where the *Council* is of the opinion that the condition of any *premises* is as described in Clause 10.4 the *Council* may serve a *Notice to Comply* in accordance with clause 14.9 of this Local Law specifying the work required to correct the condition of the *premises*.

10.6 An *occupier* of *premises* must not cause or allow his or her *premises* to be kept in a condition which in the opinion of the *Council* is unsightly or is detrimental to the general amenity of the neighbourhood.

10.7 Where the *Council* is of the opinion that the *premises* –

- (a) contains unconstrained rubbish; or
- (b) contains disused excavation or *waste* material;

- (c) for any other reason that may be determined by the *Council* from time to time is unsightly or detrimental to the general amenity of the neighbourhood,

the *Council* may serve a *Notice to Comply* in accordance with clause 14.9 of this Local Law specifying the work required to correct the condition of the *premises*.

### Compliance with a Notice

10.8 A *Notice to Comply* is to be served on the *occupier* of the *premises* or, if one of the following circumstances exist, on the *owner* of the *premises*:

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

10.9 In addition to any other means of enforcement provided by this Local Law, if the *person* served with a notice under clauses 10.1, 10.3, 10.5 and 10.7 fails to comply with the notice to the *Council's* satisfaction, the *Council* can take whatever action it considers is necessary to bring the *premises* into compliance with the notice.

10.10 Any costs incurred by the *Council* in taking action under clause 10.9 (including, without limitation, the cost of carrying out *building work*, the erection of hoardings and barricades and the removal of material from the *premises*), must be paid by the *person* served with the notice under clause 10.1, 10.3, 10.5 and 10.7 and until such costs are paid with any interest payable, the costs will remain a charge on the *premises*.



## Part 11

### Naming of *Roads* and Numbering of *Premises*

Introduction: This Part contains provisions to provide for the making of clear signage of *road* names and street numbers to assist in the management of the *municipality* and assist emergency services.

#### Naming of *roads*

11.1 No person may give, approve or allot a name to any *road* without the approval of the *Council*.

#### Allocation of numbering

11.2 The *Council* may allot to *premises* within the *municipality* such numbers as it considers necessary to identify these *premises* and may from time to time make such changes as it deems fit.

#### Requirement to number *premises*

11.3 The *owner* of *premises* must clearly mark his or her *premises* with the numbers allotted by the *Council* and must renew the numbers as often as may be necessary.

11.4 Where the *Council* is unable to find or identify the *owner* of *premises*, the *occupier* of those *premises* must comply with clause 11.3.

#### *Council* may number *premises*

11.5 The *Council* may where *premises* are not marked by the *owner* or *occupier* with the number allotted, cause the *premises* to be numbered and recover the cost of doing so from the *owner* or *occupier* (as the case may be) as a debt due to the *Council*.

#### Interfering with numbers and street signs

11.6 A *person* must not:

- (a) destroy, pull down, obliterate or deface the name of any *road*, or the name or number of any *premises*; or
- (b) paint, affix or set up any name to any *road*, or any name or number to any *premises*, contrary to the provisions of this Local Law.

#### Removal of unlawful sign or number

11.7 The *Council* may cause a *road* name or number unlawfully or incorrectly painted, affixed or set up to be removed, obliterated or destroyed.

## Part 12 Miscellaneous

Introduction: This Part contains provisions that aim to regulate and prohibit activities in *public places* not elsewhere covered by this Local Law to improve the amenity of the *municipality* and to protect other assets of the *Council* (such as *pedestrian service signs*).

### Authorisation required for discharges

12.1 Unless:

- (a) in accordance with a *permit*; or
- (b) to do so is specifically authorised by and in accordance with legislation or approval issued under it,

a *person* must not allow any material including dust, wastewater, *waste*, mud, concrete, paint, oil or chemicals to be blown, conveyed, deposited or discharged in, on or across any *public place* (whether from a *building* in the course of construction, alteration, demolition or otherwise).

### Prohibition on *vehicles* remaining in *public places*

12.2 Unless in accordance with a *permit*, a *person* must not:

- (a) bring a *vehicle* into or on or allow it to remain in or on a *public place*; or
- (b) ride a *segway* or *bicycle* in or on a *public place*,

except:

- (c) where that *public place* is a road or road related area; or
- (d) in the case of a *bicycle*, where that *public place* is a pathway designated for use by *bicycles*.

12.3 In clause 12.2(c), road and road related area have the meanings as defined in the *Road Safety Act 1986*.

### Repairing *vehicles*

12.4 A *person* must not dismantle, paint, carry out maintenance or repair a *vehicle* on a road except where it is necessary to enable the *vehicle* to be removed or so that it can be driven away within one hour of a request by an *authorised officer*.

### Interfering with a *pedestrian service sign*

12.5 A *person* must not:

- (a) destroy, remove, paint, obliterate or deface a *pedestrian service sign*; or
- (b) install or cause to be installed a *pedestrian service sign* without the approval of the *Council*.

### Removal of unlawful signs

- 12.6 The *Council* may cause any unlawfully erected *pedestrian service sign* to be removed and disposed of.

### General obstructions

- 12.7 A *person* must not allow any vegetation, *building* or thing to protrude from *premises* so as to obstruct or interfere with the passage of pedestrians or vehicular traffic in or on a *public place*.

### Prohibition against causing excessive noise

- 12.8 Unless specifically authorised by and in accordance with legislation, a *person* must not in, on or over a *public place* or in *premises* adjacent to such a *public place* make or allow the making of a noise which:

- (a) is capable of interfering with the reasonable comfort of any *person* who may be in the vicinity in that *public place*; or
- (b) at a point:
  - (i) if the noise comes from *premises* adjacent to a *public place*:
    - (A) not less than 3 metres from but outside and adjacent to the frontage of the *premises*; or
    - (B) outside but near the rear boundary of the *premises*; or
    - (C) outside but near the side boundary or extension of the side boundary of the *premises*; or
  - (ii) if the noise comes from a *public place*, not less than 3 metres from the source of the noise,  
exceeds the *designated sound level* when measured on sound level measuring equipment.

### Deliveries to and collections of goods from premises

- 12.9 Deliveries of any *goods* to or collections of any *goods* from any non-residential *premises* must only be made on such days and at such times as are *prescribed* by the *Council*.

### Waste

- 12.10 *Waste* including *hard waste*, *green waste* and *recyclable material* from any *premises* must only be collected on such days and at such times as are *prescribed* by the *Council*.
- 12.11 A *person* must not collect *waste* or allow *waste* to be collected from an area *prescribed* by the *Council* between 11.01pm and 5.59am on the following day.
- 12.12 A *person* must not, unless in accordance with a *permit*, collect *waste* or allow *waste* to be collected from:

- (a) an area *prescribed* by the *Council* between 6.00am and 11.00pm on the same day; or
  - (b) any part of the *central city*.
- 12.13 A *permit* granted under clause 12.12 may contain conditions requiring the holder of the *permit* to:
- (a) ensure that each *waste container* left out for collection is marked with a unique identification number and details of the frequency with which *waste* is intended to be collected from the *waste container*;
  - (b) maintain a database of *waste containers*, showing the occupier of *premises* in respect of which each *waste container* was issued; and
  - (c) ensure that the *permit* or a copy of the *permit* is at all times prominently displayed on each *vehicle* used in the collection of the *waste*.
- 12.14 A *person* must not leave or allow to be left a *waste container* in or on a *public place* unless it is:
- (a) marked with the address of the *premises* in respect of which it was issued and a telephone contact number;
  - (b) clean on all external surfaces including being free from visible food matter and other debris;
  - (c) airtight, securely closed and sealed; and
  - (d) for the purpose of having *waste* collected and not before 6.00pm the evening before the collection day.
- 12.15 Further to the requirement in clause 12.14 a *person* must not leave or allow to be left a *waste container* in or on an area *prescribed* by the *Council* unless it is locked, provided that the *Council* takes into account the following matters before *prescribing* such an area:
- (a) pedestrian and vehicular traffic;
  - (b) safety;
  - (c) noise;
  - (d) any other consideration it deems relevant.
- 12.16 Between the hours of 7am and 7pm, once *waste* has been collected from a *waste container*, a *person* must not keep or allow that *waste container* to remain in or on a *public place* other than an area *prescribed* by the *Council* for the storage of *waste containers*, for more than 3 hours in the *central city* or other area *prescribed* by the *Council* and 24 hours in all other locations.

## Part 13

### Permits

#### When is a *permit* required under this Local Law?

- 13.1 Where in this Local Law a *person* is prohibited from doing a thing “unless in accordance with a *permit*”, a *person* who does the thing which is prohibited to be done without first obtaining a *permit* from the *Council* under this Part is guilty of an offence.
- 13.2 The *Council* may grant a *permit* subject to such conditions as it thinks fit.

#### Fee required

- 13.3 The fee payable for the granting of a *permit* is the fee that is *prescribed* by the *Council*.

#### Further information may be required

- 13.4 The *Council* may require an applicant to provide it with more information before it deals with the application for a *permit*.

#### Notice may be required

- 13.5 The *Council* may require the applicant to give notice of the application for a *permit* in the manner *prescribed* by the *Council*.

#### Duration of *permit*

- 13.6 Except where expressly stated in this Local Law or in a *permit*, a *permit* operates from the date it is issued and expires one year after the date of issue.

#### Correction of *permits*

- 13.7 The *Council* may correct a *permit* if that *permit* contains:
- (a) an unintentional error or an omission; or
  - (b) a material miscalculation or a material mistake in the description of a *person*, thing or property.
- 13.8 The *Council* must notify a *permit* holder in writing of any correction under clause 13.7.

#### Exemptions

- 13.9 The *Council* may by written notice exempt any *person* or class of *persons* from the requirement to have a *permit*, either generally or at specified times;
- 13.10 An exemption under clause 13.9 may be granted subject to conditions.
- 13.11 A *person* must comply with the conditions of an exemption under clause 13.9.
- 13.12 An exemption under clause 13.9 may be cancelled or corrected as if it were a permit.

**Cancellation of a *permit***

13.13 The *Council* may cancel a *permit* if it considers that:

- (a) there has been a serious or ongoing breach of the conditions of the *permit*;
- (b) a *Notice to Comply* has been issued, but not complied with within seven days after the time specified in the *Notice to Comply*;
- (c) there was a significant error or misrepresentation in the application for the *permit*; or
- (d) in the circumstances, the *permit* should be cancelled.

13.14 Before it cancels a *permit* under clause 13.13, the *Council* must provide to the *permit* holder an opportunity to make comment on the proposed cancellation.

## Part 14 Enforcement

### Offences

14.1 A *person* who:

- (a) fails to comply with this Local Law; or
- (b) fails to comply with a condition of a *permit*; or
- (c) fails to do anything directed to be done under this Local Law; or
- (d) knowingly submits erroneous, inaccurate or misleading information in an application for a *permit*; or
- (e) refuses or fails to obey directions of an *authorised officer* to leave a *public place* where in the opinion of that *authorised officer* the person has failed to comply or is failing to comply with this Local Law; or
- (f) fails to comply with a sign erected by the *Council*,

is guilty of an offence.

### Infringement notices

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

- (a) has done one or more of the things described in clause 14.1; or
- (b) is reasonably suspected of having done one or more of the things described in clause 14.1.

14.3 The fixed penalty in respect of an infringement notice is the amount set out in the Schedule to this Local Law. For offences not specified in Schedule 1 the penalty is 1 penalty unit.

### Offences by Corporations

14.4 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.

14.5 If the corporation is convicted of an offence against this Local Law, a *person* charged under clause 14.4 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 his or her knowledge or consent.

### Court fines

14.6 A *person* guilty of an offence against this Local Law is liable to a penalty:

- (a) not exceeding 20 penalty units; and

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

### **Costs incurred by the Council to be paid**

- 14.7 All costs incurred by the Council under this Local Law must be paid by the *owner* or *occupier* of the *premises* concerned and until such costs are paid with any interest payable, the costs remain a charge on the *premises*.

### **Notice to Comply and directions**

- 14.8 An *authorised officer* may either orally or in writing direct a *person* to leave a *public place* if in the opinion of the *authorised officer* the *person* is failing to comply or has failed to comply with this Local Law.
- 14.9 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.
- 14.10 A *Notice to Comply* under clause 14.9 must be in writing and in a form approved by the Council.
- 14.11 A *Notice to Comply* under clause 14.9 may do one or more of the following things:
- (a) direct the *person* to comply with this Local Law;
  - (b) direct the *person* to stop the conduct which constitutes the breach of this 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 this Local Law;
  - (d) direct the *person* to remove or cause to be removed any item, *goods*, equipment or other thing that constitutes a breach of this Local Law;
  - (e) direct the *person* to leave an area within the time specified in the notice that constitutes a breach of this Local Law.
- 14.12 A *Notice to Comply* under clause 14.9 must specify the time and date by which the *person* specified in the *Notice to Comply* must comply with the directions in clause 14.11.
- 14.13 The time required by a *Notice to Comply* under clause 14.9 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.



14.14 A *person* served with a *Notice to Comply* under clause 14.9 must comply with a direction contained in the notice.

#### **Power of *authorised officer* to act in urgent circumstances**

14.15 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) he or she 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.

14.16 The action taken by an *authorised officer* under 14.15 must not extend beyond what is necessary to cause the immediate abatement of or to minimise the risk or danger involved.

#### **Power of *authorised officer* to confiscate**

14.17 Where a *person* owning or responsible for items, *goods, equipment, vessel, bicycle* or other property or thing has ignored a direction from an *authorised officer* to remove them, the items, *goods, equipment, vessel, bicycle* or other property or thing may be confiscated and impounded.

14.18 If an *authorised officer* has confiscated anything in accordance with this Local Law, the *Council* may refuse to release it until the appropriate fee or charge *prescribed* by the *Council* for its release has been paid to the *Council*.

14.19 As soon as it is reasonably practicable to do so, the *authorised officer* must serve a written notice in a form that is prescribed by the *Council* from time to time on the *owner* or person responsible for the confiscated item setting out the fees and charges payable and time by which the item must be retrieved.

14.20 If after the time required in a notice a confiscated item is not retrieved, an *authorised officer* may take action to dispose of the confiscated item according to the following principles:

- (a) where the item has no saleable value, it may be disposed of in the most economical way; and
- (b) where the item has some saleable value the item may be disposed of either by tender, public auction or private sale but failing sale may be treated as in sub-clause (a);
- (c) where the *owner* has advised the *Council* in writing that the *Council* may dispose of the *goods* because he or she does not intend to retrieve them, the *Council* may dispose of them by the method identified in sub-clauses (a) and (b).

## Part 15 Delegations

- 15.1 The *Council* may by instrument of delegation delegate any of its powers, functions and duties under this Local Law to a member of its staff.
- 15.2 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.

## Activities Local Law

### Schedule 1

#### Penalties Fixed for Infringements

Clause	Offence	Penalty (Penalty Units)
2.1; 2.2	Prohibited activities in <i>public places</i>	2.5
2.3	Misuse of <i>toy vehicles</i>	1
2.7	Destroying or causing damage to <i>trees</i>	5
2.8	Camping in <i>public places</i>	2.5
2.9	Fencing vacant land	5
2.10	Fences at intersections	2
3.1; 3.3	Consumption / possession of <i>liquor</i> in prohibited area	1
3A.1	<i>smoke</i> in a <i>smoke free area</i>	1
3B.2	Keeping of <i>animals</i>	2.5
3B.3	Housing of <i>animals</i>	2.5
3B.4	Feeding of <i>animals</i> in a <i>public place</i>	1
3B.5; 3B.6	<i>animal waste</i> disposal	2.5
4.1	Unauthorised <i>advertising sign</i> or thing on or between <i>buildings</i>	5
4.2	Unauthorised display of <i>street art</i> in, or within view from, a <i>public place</i>	10
4.6	Unauthorised portable <i>advertising sign</i> or other thing in <i>public place</i>	2.5
4.7; 4.9	Unauthorised display of <i>goods</i> in a <i>public place</i>	5
5.1	Soliciting/collecting for money or subscription or <i>selling</i> a raffle ticket without a <i>permit</i>	2.5
5.2	Soliciting trade, or <i>touting</i> or <i>spruiking</i> without a <i>permit</i>	5
5.3	<i>selling</i> without a <i>permit</i> in a <i>public place</i>	5
5.4	Distribution/display of <i>handbills</i> without a <i>permit</i>	5
5.5	Filming or conducting a <i>special event</i> without a <i>permit</i>	5
5.6	Busking without a <i>permit</i>	5
5.7	Causing excessive noise	5
5.9	Causing pedestrian / vehicular obstruction	5
5.10	Placing furniture in a <i>public place</i> without a <i>permit</i>	10
6.1	<i>road works</i> undertaken without a <i>permit</i>	10
7.1	Failure to comply with the <i>Code</i>	20

Clause	Offence	Penalty (Penalty Units)
7.2	Failure to comply with the <i>design and construction standards</i>	20
7.3	Failure to refer application to the Office of Gas Safety	10
8.1	Water activities without a <i>permit</i>	2.5
8.2	<i>mooring</i> without a <i>permit</i>	10
8.3	Prohibited behaviour on a <i>vessel</i>	5
8.4	Prohibited activities on water	5
9.1	Failure to give 48 hours notice before commencing <i>building works</i>	10
9.4	Failure to comply with a <i>construction management plan</i>	20
9.5	<i>building works</i> out of hours without a <i>permit</i>	20
9.6	<i>building works</i> on a dwelling out of hours	5
9.7	<i>building works</i> carried out on a dwelling exceeding the <i>designated sound level</i>	10
9.8	Dirty wheels / undercarriage of construction <i>vehicles</i>	10
9.9	<i>building works</i> creating a <i>nuisance</i>	10
11.1	Unauthorised naming of <i>roads</i>	2.5
11.3; 11.4	Failure to clearly number <i>premises</i>	2.5
11.6	Interference with numbers or street signs	2.5
12.1	Unauthorised discharge of material in a <i>public place</i>	10
12.2	<i>vehicle, bicycle</i> or <i>segway</i> without a <i>permit</i> in or on a <i>public place</i>	2.5
12.4	Repairing a <i>vehicle</i> on a <i>road</i>	5
12.5	Interfering with a <i>pedestrian service sign</i>	2.5
12.7	General obstructions from <i>premises</i> into a <i>public place</i>	2.5
12.8	Causing excessive noise	5
12.9	Delivery or collection of <i>goods</i> causing a <i>nuisance</i>	20
12.10	Collection of <i>waste</i> from <i>premises</i>	20
12.11	Collection of <i>waste</i> from <i>prescribed area</i>	20
12.12	Collection of <i>waste</i> from <i>prescribed area</i> or <i>central city</i>	20
12.14	Leaving <i>waste container</i> in or on <i>public place</i>	10
12.15	requiring <i>waste container</i> be locked in <i>prescribed areas</i>	10
12.16	Leaving <i>waste container</i> for more than the permitted time	10
2.11,14.9, 14.14	Failure to comply with a <i>Notice to Comply</i>	10

## Schedule 2

### Part A – Smoke Free Areas

The following areas are *smoke free areas* for the purposes of clause 3A of this Local Law:

1. any *children's playground*, and any area abutting such *children's playground*, *prescribed* by the *Council*; and
2. any parcel of land on which a *child care centre* is located, and any area abutting such parcel of land, *prescribed* by the *Council*.

### Part B – Guidelines for Prescribing Smoke Free Areas

When determining whether to *prescribe* a *smoke free area* for the purposes of clause 3A.3 of this Local Law, the *Council* must have regard to the following factors:

1. the size of the proposed *smoke free area*;
2. the opinions of any *Person* who is the *Owner* or *Occupier* of any part of the proposed *smoke free area* or the area immediately adjoining the proposed *smoke free area*;
3. the proximity of the proposed *smoke free area* to a *public place*, part or all of which is not in a *smoke free area*;
4. the extent and outcome of any public consultation on the proposed *smoke free area*;
5. any benefits to the community which would be achieved by the *Council* *prescribing* the proposed *smoke free area*; and
6. any detriments to the community which would be caused by the *Council* *prescribing* the proposed *smoke free area*.

Annexure (Plan)



This document is issued by the Melbourne City Council.

# MELBOURNE CITY COUNCIL

## ENVIRONMENT LOCAL LAW 2019

~~(INCORPORATING AMENDMENTS UP TO AND INCLUDING THE ACTIVITIES  
(CONSEQUENTIAL AMENDMENT) LOCAL LAW 2010)~~

## Contents

# Melbourne City Council Environment Local Law 2019

---

<b>PART 1</b>	<b>4</b>
<b>PRELIMINARY</b>	<b>4</b>
Title	4
What are the objectives of this Local Law?	4
What authorises this Local Law?	4
When does this Local Law commence?	4
To what part of the <i>municipality</i> does this Local Law apply?	5
Are there any exemptions from this Local Law?	5
Definitions	5
<b>PART 2</b>	<b>8</b>
<b>ENVIRONMENT MANAGEMENT PLAN</b>	<b>8</b>
What is the <i>Environment Management Plan</i>	8
How does the <i>Environment Management Plan</i> apply to premises?	8
Amending the <i>Environment Management Plan</i>	9
<b>PART 3</b>	<b>10</b>
<b>VARIATIONS TO THE ENVIRONMENT MANAGEMENT PLAN</b>	<b>10</b>
Application for a variation to the <i>Environment Management Plan</i> by an <i>owner</i> or <i>occupier</i>	10
How is an application for variation made?	10
What matters will the <i>Council</i> take into account?	10
The <i>Council</i> may grant permission subject to conditions	11
What is the effect of the <i>Council</i> granting a variation to the <i>Environment Management Plan</i> ?	11
<b>PART 4</b>	<b>12</b>
<b>VARIATION OF THE ENVIRONMENT MANAGEMENT PLAN BY AN AUTHORISED OFFICER</b>	<b>12</b>
Direction to vary the <i>Environment Management Plan</i> by an <i>authorised officer</i>	12
What is the effect of a <i>Direction to Vary</i> under clause 4.3(a)?	13
What is the effect of a <i>Direction to Vary</i> under clause 4.3(b)?	13
How many times may Directions to Vary be given in relation to particular <i>premises</i> ?	13
Can a <i>person</i> appeal against a <i>Direction to Vary</i> ?	13



<b>PART 5</b>	<b>15</b>
<b>ENFORCEMENT</b>	<b>15</b>
Offences	15
Court fines	15
Infringement Notices	15
Notices to comply	16
Power of <i>authorised officer</i> to act in urgent circumstances	17
Offences by Corporations	17
<b>PART 6</b>	<b>17</b>
<b>DELEGATIONS</b>	<b>17</b>
<b>ENVIRONMENT MANAGEMENT PLAN UNDER THE ENVIRONMENT LOCAL LAW 2019</b>	

MELBOURNE CITY COUNCIL

ENVIRONMENT LOCAL LAW 20~~10~~<sup>19</sup>

~~(INCORPORATING AMENDMENTS UP TO AND INCLUDING THE ACTIVITIES  
(CONSEQUENTIAL AMENDMENT) LOCAL LAW 2010)~~

PART 1

PRELIMINARY

**Title**

1.1 This Local Law is called the “Environment Local Law 20~~10~~<sup>19</sup>”.

**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*; and
- (e) 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 Part 5 of the **Local Government Act 1989**.

**When does this Local Law commence?**

1.5 This Local Law commences on the first day of July 20~~10~~<sup>19</sup>.

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

- 1.8 Subject to clauses 1.9 and 1.10 this Local Law applies throughout the whole of the *municipality*.
- 1.9 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?**

- 1.10 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**

- 1.11 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 2019** 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.

“*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 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 Act 1981**, 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 1970**.

## 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 for inspection at the Town Hall Information Counter and all *Council Service Centres*.

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 his *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 \$2,000.00, and
  - (b) for a continuing offence, not exceeding \$200.00 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.
- 5.4 A *person* served with an infringement notice may pay the penalty specified in the notice to the cashier of the *Council*, within 28 days of service, failing which a prosecution can be instituted against that *person*.
- 5.5 Any *person* served with an infringement notice is entitled to disregard the notice and defend any subsequent prosecution in court.
- 5.6 The *Council* may, following consideration of correspondence from any *person* served with an infringement notice, waive the notice (even if the penalty has been paid).
- 5.7 If the penalty shown on the infringement notice is paid in the manner described in clause 5.4 or before the *Council* issues a Charge and Summons in respect of the offence, no further proceedings may be taken in respect of the offence.

- 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) he or she 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 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 his or her 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 20109**

CONTENTS THE ENVIRONMENT MANAGEMENT PLAN  
UNDER THE ENVIRONMENT LOCAL LAW  
2019

---

- 1 Purpose of the Environment Management Plan
- 2 Objectives of the Environment Management Plan
- 3 Performance Requirements of the Environment Management Plan
- 4 Prescribed Requirements of the Environment Management Plan

# THE ENVIRONMENT MANAGEMENT PLAN UNDER THE ENVIRONMENT LOCAL LAW 2019

## 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 from the Front Desk Town Hall Swanston Street, Melbourne. 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*.

## 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 deleted

4.2 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)**

4.3 *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)**

4.4 deleted

4.5 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)**

4.6 *Hazardous waste* must not be placed on the roadside for collection regardless of the type of collection service employed. **(Category 1 offence)**

4.7 *Liquid waste* must not be placed directly in a *waste* collection container. **(Category 1 offence)**

- 4.8 *Waste material must not be poured, emptied, swept, thrown or otherwise discharged onto a road or into a stormwater drain. (Category 2 offence)*
- 4.9 *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 deleted
- 5.2 *Waste material and recyclable material must be stored in a container approved by the Council for such purposes.*
- 5.3 *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)*
- 5.4 deleted
- 5.5 *Hazardous waste must not be placed on the roadside for collection regardless of the type of collection service employed. (Category 1 offence)*
- 5.6 *Liquid waste must not be placed directly into a waste collection container. (Category 1 offence)*
- 5.7 *Waste material must not be poured, emptied, swept, thrown or otherwise discharged onto a road or into a stormwater drain. (Category 2 offence)*
- 5.8 *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; or
  - 6.1.5 any other matter that it considers appropriate
- must be complied with.

This document is issued by the Melbourne City Council.

# MELBOURNE CITY COUNCIL

## CONDUCT OF MEETINGS LOCAL LAW 20190

~~(INCORPORATING THE CONDUCT OF MEETINGS (MISCELLANEOUS  
AMENDMENTS) LOCAL LAW 2012~~

# Melbourne City Council

## Conduct of Meeting Local Law 201~~90~~<sup>99</sup>

---

<b>CONDUCT OF MEETINGS LOCAL LAW 201<del>90</del><sup>99</sup></b>	4
<b>SECTION A</b>	4
<b>PART 1</b>	4
PRELIMINARY	4
Title	4
What are the objectives of this Local Law?	4
What authorises this Local Law?	4
When does this Local Law commence?	4
When does this Local Law cease to operate?	4
Definitions	4
<b>PART 2</b>	6
<b>COUNCIL MEETINGS</b>	6
Types of meetings	6
Date, time and place of meetings	6
Special meetings	6
Public notice of meetings	6
Order of business	7
Meetings to be open to the public	7
Chairperson of Council meetings	8
Quorum	8
<b>PART 3</b>	8
<b>SPECIAL COMMITTEE MEETINGS</b>	8
Types of meetings	8
Date, time and place of meetings	8
Special meetings	8
Public notice of meetings	9
Order of business	9
Meetings to be open to the public	9
Chairperson of Special Committee meetings	10
Quorum	10
<b>PART 4</b>	10

OFFENCES	10
<b>PART 5</b>	10
SUSPENSION OF LOCAL LAW	10
<b>PART 6</b>	11
COMMON SEAL	11
<b>PART 7</b>	11
CONDUCT OF MEETINGS LOCAL LAW 20 <u>10</u>	11
<b>PART 8</b>	12
COUNCILLOR CODE OF CONDUCT	12



MELBOURNE CITY COUNCIL

CONDUCT OF MEETINGS LOCAL LAW 201~~90~~  
~~(INCORPORATING THE CONDUCT OF MEETINGS (MISCELLANEOUS  
AMENDMENTS) LOCAL LAW 2012~~

SECTION A

PART 1

PRELIMINARY

**Title**

1.1 This Local Law is called the “Conduct of Meetings Local Law 201~~90~~”.

**What are the objectives of this Local Law?**

1.2 The objectives of this Local Law are to:

- (a) govern the conduct of meetings of the Council and its Special Committees;
- (b) regulate the use of the Common Seal and prohibit its unauthorized use; and
- (c) repeal ~~the Local Law No.1 of 2001~~ (Conduct of Meetings Local Law 200~~10~~).

**What authorises this Local Law?**

1.3 This Local Law is made under section 91 and Part 5, in particular section 111, of the *Local Government Act 1989* (“the Act”).

**When does this Local Law commence?**

1.4 This Local Law commences ~~at the beginning of the day on which it is made in accordance with Section 121(1) of the Act~~ on the first day of July 2019.

**When does this Local Law cease to operate?**

1.5 This Local Law ceases to operate on the 10<sup>th</sup> anniversary of its commencement.

**Definitions**

1.6 The words below are intended to have the following meaning throughout this Local Law:

“*Act*” means the *Local Government Act 1989* (as amended from time to time).

“*Agenda*” means the notice of a meeting setting out the business to be transacted at the meeting.

“*Chairperson*” means the Chairperson of a meeting and includes an acting, a temporary and a substitute Chairperson.

“*Chief Executive Officer*” means the person appointed by the Council to be its Chief Executive Officer or any person acting in that position.

“*City of Melbourne*” means the municipal district of the Council.

“*Common Seal*” means the Common Seal of Melbourne City Council.

“*Council*” means the Melbourne City Council.

“*Councillor*” means a person who is an elected member of the Council.

“*Council meeting*” includes an Ordinary meeting and a Special meeting of Council.

“*Deputy Lord Mayor*” means the Deputy Lord Mayor of the City of Melbourne and includes any elected member of the Council acting as Deputy Lord Mayor.

“*Lord Mayor*” means the Lord Mayor of the City of Melbourne and includes any elected member of the Council acting as Lord Mayor.

“*Ordinary meeting*” means a meeting at which general business of the Council or Special Committee may be transacted.

“*Special meeting*” means a meeting at which the business specified in the notice calling the meeting may be transacted. Special meetings are held outside the adopted schedule of ordinary meetings.

“*Special Committee*” means a Committee constituted solely of Councillors established by the Council under section 86 of the Act.

“*minutes*” means the collective record of proceedings of a meeting of the Council or one of its Special Committees and must:

- (a) contain details of the proceedings and resolutions made;
- (b) be clearly expressed;
- (c) be self explanatory; and
- (d) in relation to resolutions recorded in the minutes, incorporate relevant reports or a summary of the relevant reports considered in the decision making process.

“*municipal district*” means the district under the local government of the Melbourne City Council.

“*offence*” means an act or default contrary to this Local Law.

“*penalty units*” has the meaning ascribed to it in section 110 of the *Sentencing Act 1991*.

“*public notice*” means a notice published in a newspaper generally circulating in the municipal district of the Council.

“*written*” includes duplicated, lithographed, photocopied, photographed, printed and typed.

- 1.7 Where a word or phrase has a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning.

## PART 2

### COUNCIL MEETINGS

#### Types of meetings

- 2.1 The Council may hold-
- (a) Ordinary meetings at which general business of the Council may be transacted; and
  - (b) Special meetings at which the business specified in the notice calling the meeting may be transacted.

#### Date, time and place of meetings

- 2.2 The dates, times and places of meetings are within the discretion of Council.
- 2.3 Council should, by resolution at its first Ordinary meeting, determine the day and time upon which any Ordinary meetings will be held and may by further resolution alter any such dates, times or places.
- 2.4 A Council meeting may only be rescheduled or cancelled by a resolution of Council.

#### Special meetings

- 2.5 The Council may by resolution call a Special meeting of the Council. The resolution must specify the date and time of the Special meeting and the business to be transacted.
- 2.6 The Lord Mayor or at least three Councillors may call a Special meeting of Council. The notice must specify the date and time of the Special meeting and the business to be transacted.
- 2.7 The Chief Executive Officer must call the Special meeting as specified in the notice or resolution.
- 2.8 Unless all Councillors are present and unanimously agree to deal with another matter, only the business specified in the notice or resolution is to be transacted.

#### Public notice of meetings

- 2.9 Unless urgent or extraordinary circumstances apply, Council must at least 7 days before the holding of-
- (a) an ordinary Council meeting; or
  - (b) a special Council meeting-
- give public notice of the meeting.

- 2.10 If urgent or extraordinary circumstances prevent a Council from complying with paragraph 2.9 above, the Council must-
- (a) give such public notice as is practicable; and
  - (b) specify the urgent or extraordinary circumstances which prevented the Council from complying with paragraph 2.9 above in the minutes of the meeting.

**Order of business**

- 2.11 The following order of business on the Agenda should be followed at an Ordinary meeting unless Council resolves otherwise:
- (a) Apologies;
  - (b) Disclosure of conflicts of interest;
  - (c) Confirmation of minutes of the previous meeting/s;
  - (d) Matters arising from the minutes of the previous meeting/s;
  - (e) Reports of committee/s;
  - (f) Reports from management;
  - (g) General business;
  - (h) Urgent business; and
  - (i) Confidential business.

**Meetings to be open to the public**

- 2.12 Any meeting of Council must be open to members of the public, unless the Council resolves that the meeting be closed to members of the public because the meeting will be discussing any of the following:
- (a) personnel matters;
  - (b) the personal hardship of any resident or ratepayer;
  - (c) industrial matters;
  - (d) contractual matters;
  - (e) proposed developments;
  - (f) legal advice;
  - (g) matters affecting the security of Council property;
  - (h) any other matter which the Council considers would prejudice the Council or any person;
  - (i) a resolution to close the meeting to members of the public.
- 2.13 If Council resolves to close a meeting to members of the public the reason must be recorded in the minutes of the meeting.

### **Chairperson of Council meetings**

- 2.14 In accordance with Part 4 of the *City of Melbourne Act 2001*, the Lord Mayor must chair all meetings of the Council at which he or she is present.
- 2.15 If the Lord Mayor is absent from a meeting of the Council, the Deputy Lord Mayor must chair the meeting if he or she is present.
- 2.16 If both the Lord Mayor and Deputy Lord Mayor are absent from a meeting of the Council, the Councillors who are present at the meeting must appoint one of their number to chair the meeting.

### **Quorum**

- 2.17 A quorum at a meeting of the Council must be at least a majority of the members of the Council.

## **PART 3**

### **SPECIAL COMMITTEE MEETINGS**

#### **Types of meetings**

- 3.1 A Special Committee formed under section 86 of the Act, may hold-
- (a) Ordinary meetings at which general business of the Special Committee may be transacted; and
  - (b) Special meetings at which the business specified in the notice calling the meeting may be transacted.

#### **Date, time and place of meetings**

- 3.2 The dates, times and places of meetings are within the discretion of the Special Committee.
- 3.3 Council should, by resolution at its first Ordinary meeting after a general election, determine the day and time upon which any ordinary Special Committee meetings will be held. The relevant Special Committee will then ratify the meeting dates and times at its first meeting.
- 3.4 A Special Committee meeting may only be rescheduled or cancelled by a resolution of the Council or Special Committee.

#### **Special meetings**

- 3.5 The Council may by a resolution call a Special meeting of the Special Committee. The resolution must specify the date and time of the Special meeting and the business to be transacted.
- 3.6 The Lord Mayor or at least three Councillors may call a Special meeting of a Special Committee. The notice must specify the date and time of the Special meeting and the business to be transacted.

- 3.7 The Chief Executive Officer must call the Special meeting as specified in the notice or resolution.
- 3.8 Unless all Councillors are present and unanimously agree to deal with another matter, only the business specified in the notice or resolution is to be transacted.

**Public notice of meetings**

- 3.9 Unless urgent or extraordinary circumstances apply, Council must at least 7 days before the holding of a meeting of a Special Committee comprised solely of Councillors, give public notice of the meeting.
- 3.10 If urgent or extraordinary circumstances prevent a Council from complying with paragraph 3.9 above, the Council must-
- (a) give such public notice as is practicable; and
  - (b) specify the urgent or extraordinary circumstances which prevented the Council from complying with paragraph 3.9 above in the minutes of the meeting.

**Order of business**

- 3.11 The following order of business on the Agenda should be followed at an Ordinary meeting unless the Special Committee resolves otherwise:
- (a) Apologies;
  - (b) Disclosure of conflicts of interest;
  - (c) Confirmation of minutes of the previous meeting/s;
  - (d) Matters arising from the minutes of the previous meeting/s;
  - (e) Reports from management;
  - (f) General business;
  - (g) Urgent business;
  - (h) Public questions; and
  - (i) Confidential business.

**Meetings to be open to the public**

- 3.12 Any meeting of a Special Committee must be open to members of the public, unless the Special Committee resolves that the meeting be closed to members of the public because the meeting will be discussing any of the following:
- (a) personnel matters;
  - (b) the personal hardship of any resident or ratepayer;
  - (c) industrial matters;
  - (d) contractual matters;
  - (e) proposed developments;

- (f) legal advice;
- (g) matters affecting the security of Council property;
- (h) any other matter which the Council or Special Committee considers would prejudice the Council or any person;
- (i) a resolution to close the meeting to members of the public.

3.13 If a Special Committee resolves to close a meeting to members of the public the reason must be recorded in the minutes of the meeting.

#### **Chairperson of Special Committee meetings**

3.14 Special Committees are established under section 86 of the Act by an instrument of delegation from the Council. The Council may appoint Chairpersons to Special Committees.

#### **Quorum**

3.15 A quorum at a meeting of a Special Committee must be at least a majority of the members of the Special Committee.

### **PART 4**

#### **OFFENCES**

- 4.1 It is an offence:
- (a) for a Councillor to not withdraw an expression which is considered by the Chairperson to be defamatory, indecent, abusive, offensive, disorderly or objectionable, and to not satisfactorily apologise when called upon twice by the Chairperson to do so. The penalty is 20 penalty units;
  - (b) for any person, not being a Councillor, who is guilty of any improper or disorderly conduct to not leave the meeting when requested by the Chairperson to do so. The penalty is 20 penalty units;
  - (c) for any person to fail to obey a direction of the Chairperson relating to the conduct of the meeting and the maintenance of order. The penalty is 20 penalty units; and
  - (d) for a Councillor to refuse to leave the room on suspension. The penalty is 20 penalty units.

### **PART 5**

#### **SUSPENSION OF LOCAL LAW**

5.1 Any provisions of this Local Law applicable to a Council meeting, or a Special Committee meeting may be suspended upon the affirmative vote of the majority of members present.

## PART 6

### COMMON SEAL

- 6.1 The Common Seal of Council may only be used with the authority of Council.
- 6.2 The Chief Executive Officer must keep the Common Seal in safe custody.
- 6.3 Every document to which the Common Seal is affixed must be signed by the Lord Mayor and the Chief Executive Officer.
- 6.4 No person may use the Common Seal or any device resembling the Common Seal without the authority of Council.
- 6.5 It is an offence for any person to use the Common Seal of Council or any device resembling the Common Seal without the authority of Council. The penalty is 20 penalty units.

## PART 7

### CONDUCT OF MEETINGS LOCAL LAW 2010

- 7.1 ~~Local Law 1 of 2001 (The Conduct of Meetings Local Law 2010)~~ is hereby repealed from the beginning of the day on which the Conduct of Meetings Local Law 2010 ~~commences made in accordance with Section 121(1) of the Act.~~



**PART 8**

**COUNCILLOR CODE OF CONDUCT**

- 8.1 Council's Meeting Procedures Code and Councillor Code of Conduct are to be applied in the conduct of meetings held in accordance with Council's Conduct of Meetings Local Law.
- 8.2 A copy of the Council's Meeting Procedure Code must be made available for inspection at the same locations as the *Principal Local Law*.

This document is issued by the Melbourne City Council.

## **MEETING PROCEDURES CODE**

### **PART 1**

#### **INTRODUCTION**

- 1.1 All meetings of Council and its Special Committees are to be conducted in accordance with Council's Conduct of Meetings Local Law and this Meeting Procedures Code.
- 1.2 This Code may be altered from time to time by resolution of Council.

### **PART 2**

#### **PURPOSE**

- 2.1 The purpose of this Code is to provide comprehensive guidelines for the conduct of meetings of Council and Special Committees, which can be amended from time to time to best suit Council's circumstances; to provide for the orderly, efficient and equitable conduct of meetings; and to provide for peace, order and good government of the municipal district of the City of Melbourne.
- 2.2 Definitions of words used in the Conduct of Meetings Local Law (the Local Law) shall apply to this Code.

### **PART 3**

#### **COUNCIL AND SPECIAL COMMITTEE MEETINGS**

##### **Time in which quorum must be present**

- 3.1 If a quorum is not present within 45 minutes of the time appointed for the commencement of a Council or Special Committee meeting, the meeting shall be deemed to have lapsed.
- 3.2 If a Council or Special Committee meeting lapses, the Chairperson must convene another Council or Special Committee meeting and ensure that the Agenda for such meeting is identical to the Agenda for the meeting which is deemed to have lapsed.
- 3.3 The Chief Executive Officer must give all Councillors notice of the meeting convened by the Chairperson.

##### **Notice of meeting for Councillors**

- 3.4 The Chief Executive Officer must ensure that the Agenda for all Council or Special Committee meetings, together with all available reports and the like to be considered at the meeting, is sent to every Councillor at least 48 hours before the Council or Special Committee meeting.
- 3.5 No business can be transacted at a Council or Special Committee meeting unless it appears on the Agenda, except in instances where a majority of councillors present resolve that the matter:

- (a) relates to or arises out of a matter which has arisen since distribution of the Agenda; and
- (b) cannot safely or conveniently be deferred until the next Council or Special Committee meeting.

3.6 A matter of an urgent nature which has arisen since circulation of the Agenda may be considered under Urgent Business.

### **Open meetings**

3.7 Subject to paragraph 3.8, all meetings of Council or Special Committees must be open to members of the public.

3.8 Council or a Special Committee may resolve that its meeting be closed to members of the public if the meeting is discussing any of the following:

- (a) personnel matters;
- (b) the personal hardship of any resident or ratepayer;
- (c) industrial matters;
- (d) contractual matters;
- (e) proposed developments;
- (f) legal advice;
- (g) matters affecting the security of Council property;
- (h) any other matter which Council considers would prejudice Council or any person; or
- (i) a resolution to close the meeting to members of the public.

3.9 If Council or a Special Committee resolves to close a meeting to members of the public the reason must be recorded in the minutes of the meeting.

### **Minutes**

3.10 The Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend the meeting and to take the minutes of such meeting) must record the minutes of each meeting and those minutes shall include:

- (a) the date, place, time and nature of the meeting;
- (b) the names of the Councillors and whether they are present, an apology or on leave of absence (please note – if no apology has been received and the Councillor is not in attendance, the Councillor will not be listed);
- (c) details of any disclosure of interest made by a Councillor and the time the Councillor left the room and returned to the room;
- (d) arrivals and departures (including temporary departures) of Councillors during the course of the meeting;

- (e) the mover and seconder of each motion or amendment;
  - (f) the vote cast by each Councillor;
  - (g) each motion carried or lost;
  - (h) in relation to resolutions recorded in the minutes, relevant reports or a summary of the relevant reports considered in the decision making process;
  - (i) details of any submissions received;
  - (j) the time of any adjournment of the meeting and resumption, or suspension of standing orders;
  - (k) details of failure to achieve or maintain a quorum;
  - (l) where applicable, the reason/s for moving into closed session; and
  - (m) the time the meeting concluded.
- 3.11 The Council must keep minutes of each meeting of the Council and Special Committees.
- 3.12 The minutes of a Council meeting or Special Committee meeting must be submitted to the next meeting of Council or Special Committee for confirmation.
- 3.13 If the minutes are confirmed, the Chairperson at the meeting must sign the minutes and certify that they have been confirmed.
- 3.14 Minutes of Council meetings will be signed by the Lord Mayor or person from time to time acting in that position.

### **Manner of dealing with order of business**

- 3.15 The following items listed on an Agenda should be dealt with in the manner described:
- (a) APOLOGIES
    - (i) Apologies shall be read by the Chairperson.
  - (b) CONFLICTS OF INTEREST
    - (i) In every case where a Councillor discloses a conflict of interest at a meeting, a statement recording the type and nature of the interest and the time the Councillor left and returned to the room shall be included in the minutes (refer paragraph 3.17(a)).
  - (c) MINUTES
    - Open Council or Special Committee meeting*
      - (i) When the minutes of a Council or Special Committee meeting are to be confirmed, they shall be taken as read unless there is a motion to the contrary.

- (ii) No discussion shall be permitted on a motion for confirmation of the minutes, except as to their accuracy as a record of proceedings.
- (iii) Once the minutes are confirmed they shall be signed by the Chairperson. The minutes of meetings will be made available for inspection by members of the public at Council offices during business hours and on the City of Melbourne website at [www.melbourne.vic.gov.au](http://www.melbourne.vic.gov.au)

*Closed Council or Special Committee meeting*

- (iv) The minutes of a closed Council or Special Committee meeting shall not be made available to members of the public.
  - (v) The minutes of closed Council or Special Committee shall be confirmed in closed Council or Special Committee.
- (d) PUBLIC QUESTIONS (only applies to Special Committee Meetings)
- (i) Members of the public may ask questions at Ordinary Special Committee Meetings.
  - (ii) A 15 minute period shall be provided for questions which should not be greater than 90 seconds in duration.
  - (iii) If a question is allowed, the Chairperson will, where practical, refer the question to the relevant portfolio holder. In responding to any question, a Councillor may call on a Council officer to answer the question, or elect to answer the question him/herself or may take the question on notice to seek additional information on the issue.
  - (iv) The Chairperson of the meeting may disallow any question on the ground that it is repetitive of a question already asked, objectionable, irrelevant, raises an issue of a confidential nature, is asked to embarrass a Councillor or member of Council staff.
  - (v) No provision for questions from members of the public will be made at meetings of the Council.

(e) REPORTS

*Committee reports (only applies to Council meetings)*

- (i) Matters considered by a Special Committee which cannot be dealt with under delegation, must proceed to Council for decision.

*Reports from management*

- (ii) Management shall present their reports to a Special Committee or Council in the order in which they appear on the Agenda, unless the meeting resolves to change the order of the Agenda.

(f) SUBMISSIONS FROM MEMBERS OF THE PUBLIC

*Requests to be heard at a Special Committee meeting*

- (i) A person may request to be heard at a Special Committee meeting in relation to a matter listed on the Agenda for that meeting.
- (ii) A person wishing to be heard at a Special Committee meeting must make a written request to the Chief Executive Officer or his/her nominee by no later than noon on the day of the meeting. The request should specify the name and contact details of the person requesting to be heard and identify the item/s on the Agenda to which he or she wishes to speak.
- (iii) Any person wishing to be heard at a Special Committee meeting shall be granted a period of three minutes to speak.
- (iv) No provision is made for members of the public to address Council meetings.

*Items of correspondence (applies to Council and Special Committee meetings)*

- (v) With the exception of submissions from tenderers, or agents acting on behalf of tenderers, written submissions received no later than noon on the day of the meeting, in relation to a matter listed on the agenda for that meeting will be:
    - (a) forwarded to Councillors
    - (b) formally acknowledged in the minutes of the Council or Future Melbourne Committee meeting.
  - (vi) Written submissions from tenderers, or agents acting on behalf of tenderers, will be forwarded to the Manager Governance and Legal who will circulate them to Councillors following the decision to award the tender.
- (g) GENERAL BUSINESS
- (i) General Business may include Notices of Motion from Councillors, Post Travel Reports by Councillors or receipt of petitions.
  - (ii) General Business may also include Questions without Notice from Councillors at the discretion of the Chairperson.
  - (iii) A Notice of Motion from a Councillor may only be included on a published Agenda where the motion is seconded by another Councillor and it is received by the Office of the Chief Executive Officer no later than 10am on the Thursday before the scheduled meeting.
- (h) PETITIONS AND JOINT LETTERS
- (i) A petition is a document signed by a group of people requesting the Council take some action in relation to a particular issue. Traditionally petitions commence with a prayer and contain the name, address and signature of at least one person.
  - (ii) A joint letter is an item of correspondence signed by more than one person. Whilst a joint letter does not commence with a prayer, it

should contain the name, address and signatures of the persons identified.

- (iii) Petitions or joint letters must be tabled by a Councillor at an ordinary Council or Special Committee meeting. A Councillor must move a motion that the petition or joint letter be received.
  - (iv) It is incumbent on every Councillor presenting a petition or joint letter to acquaint himself or herself with the contents of the petition or joint letter and ensure it is not derogatory or defamatory.
  - (v) Following a meeting at which a petition or joint letter is received, the Chief Executive Officer will determine whether a report will be prepared for consideration at the next Council or Special Committee meeting or whether a briefing note will be prepared for Councillors.
- (i) URGENT BUSINESS
- (i) Business must not be admitted as urgent business unless it:
    - (A) relates to or arises out of a matter which has arisen since distribution of the Agenda; and
    - (B) cannot safely or conveniently be deferred until the next Council or Special Committee meeting.
- (j) PUBLIC QUESTIONS (only applies to Special Committee meetings)
- (i) Members of the public may ask questions at Ordinary Special Committee meetings.
  - (ii) A 15 minute period shall be provided for questions which should not be greater than 90 seconds in duration.
  - (iii) If a question is allowed, the Chairperson will, where practical, refer the question to the relevant portfolio holder. In responding to any question, a Councillor may call on a Council officer to answer the question, or elect to answer the question him/herself or may take the question on notice to seek additional information on the issue.
  - (iv) The Chairperson of the meeting may disallow any question on the ground that it is repetitive of a question already asked, objectionable, irrelevant, raises an issue of a confidential nature, is asked to embarrass a Councillor or member of Council staff.
  - (v) No provision for questions from members of the public will be made at meetings of the Council.
- (k) CONFIDENTIAL BUSINESS
- (i) Confidential business may be transacted in a meeting which is closed in accordance with the Act and paragraph 3.8 of this Code.

### **Availability of meeting documentation**

3.16 Documentation for Council and Special Committee meetings:

- (a) will be circulated internally to Councillors and executives six days prior to a scheduled meeting; and
- (b) will be available to members of the public electronically, via Council's website, and in hard copy, from 2pm five days prior to a scheduled meeting.

### **Conduct of Meetings**

3.17 Meetings shall be conducted in the following manner:

(a) **CONFLICTS OF INTEREST**

- (i) In accordance with section 79 of the Act, if a Councillor has a conflict of interest in a matter which is to be, or is likely to be, considered or discussed at a meeting of the Council or Special Committee, the Councillor must:
  - (A) make a full disclosure of that interest by advising of the type and nature of the interest, to either the Council or Special Committee immediately before the matter is considered at the meeting, or in writing to the Chief Executive Officer. Where the disclosure is made to the Chief Executive Officer in writing, the Councillor must only disclose the type of interest to the meeting, immediately before the matter is considered;
  - (B) while the matter is being considered or any vote taken, the Councillor must leave the room (after notifying the Chairperson he or she is doing so), remain outside the room or gallery or other area in view or hearing of the room and only return after the matter has been considered and the vote taken.

(b) **MOTIONS IN MEETINGS**

- (i) A motion must:
  - (A) be moved and seconded;
  - (B) relate to the powers or functions of Council;
  - (C) be in writing, if requested by the Chairperson; and
  - (D) except in the case of urgent business, be relevant to an item of business on the Agenda.
- (ii) A motion must not be defamatory or objectionable in language or nature.
- (iii) The procedure upon any motion is that:
  - (A) the mover shall read the motion without speaking to it and shall briefly state its nature and intent;
  - (B) if a motion is seconded, the Chairperson shall allow Councillors to speak to the motion;



(C) with the exception of the mover who has a right of reply, all other Councillors may only speak once to the motion; and

(D) the Chairperson must then put the motion to the vote.

(iv) The mover or seconder of a motion cannot move an amendment to it.

(v) A motion can only be withdrawn by the mover.

(c) AMENDMENTS

(i) No notice need be given of any amendment to a motion.

(ii) An amendment to a motion must:

(A) be moved and seconded;

(B) relate to the powers or functions of Council;

(C) be in writing, if requested by the Chairperson; and

(D) not be in opposition to the intent of the motion on the table.

(iii) The mover of an amendment has no right of reply.

(iv) An amendment can only be withdrawn by the mover.

(v) The procedure upon any amendment to a motion is that:

(A) the mover shall read the amendment and speak to it;

(B) if the amendment is seconded, the Chairperson shall allow Councillors to speak to it;

(C) the mover has no right of reply and Councillors may only speak once to it; and

(D) the Chairperson must then put the amendment to the vote.

(vi) A second or subsequent amendment cannot be moved until the immediately preceding amendment is disposed of.

(vii) If an amendment is adopted, the amended motion becomes the substantive motion and is dealt with in accordance with paragraphs 3.17(b)(iii)(B),(C) and (D).

(viii) A Councillor cannot move more than two amendments in succession.

(d) FORESHADOWED MOTIONS

(i) When a motion is being debated, any Councillor may give notice that they intend to move an alternative motion in the event that the substantive motion fails. This notification is deemed to be a

foreshadowed motion and will only be considered if the substantive motion fails.

- (ii) No debate is allowed on a foreshadowed motion.
- (iii) A foreshadowed motion does not require a seconder.

(e) RESCISSION MOTIONS

- (i) No resolution at any meeting of the Council or Special Committee shall be revoked or altered in any subsequent meeting unless notice of the intention to propose such revocation or alteration is given to each Councillor at least 48 hours before the meeting.
- (ii) A notice to rescind or alter a previous resolution cannot be submitted more than three months following the resolution, except after a general election in which case no more than six months.
- (iii) A notice of motion to rescind or alter a previous resolution of Council or a Special Committee:
  - (A) must be given to the Chief Executive Officer in sufficient time to enable the Chief Executive Officer to give at least 48 hours notice to all Councillors prior to the meeting;
  - (B) must be signed by four Councillors;
  - (C) shall be deemed to have been withdrawn if not moved at the next meeting at which such business may be transacted; and
  - (D) if it is a second or subsequent notice to revoke or alter an earlier resolution, it must not be accepted by the Chief Executive Officer until a period of one month has elapsed since the date of the meeting at which the first or last motion for revocation or alteration was dealt with.

(f) TIME LIMIT FOR MEETINGS

- (i) A Council or Special Committee meeting must not continue after 11pm unless a majority of Councillors present vote in favour of its continuance.
- (ii) In the absence of such continuance, the meeting must stand adjourned to a time, date and place to be then and there announced by the Chairperson.
- (iii) The Chief Executive Officer must give notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.

(g) INTERRUPTIONS, INTERJECTIONS AND RELEVANCE

- (i) A Councillor must not be interrupted except by the Chairperson or upon a point of order or personal explanation.
  - (ii) If a Councillor is interrupted by the Chairperson or upon a point of order or personal explanation, he or she must remain silent until the Chairperson has ceased speaking, the point of order has been determined or the personal explanation has been given (as appropriate).
  - (iii) A Councillor must not digress from the subject-matter of the motion or business under discussion.
  - (iv) The mover of a motion must not introduce fresh matter when exercising any right of reply.
- (h) PRIORITY OF ADDRESS
- (i) In the case of competition for the right to speak, the Chairperson must decide the order in which the Councillors concerned will be heard.
  - (ii) Except that the mover of a motion (other than a motion amending another motion) has the right of reply and that any Councillor may take a point of order or offer a personal explanation, no Councillor may speak more than once to the same motion or amendment.
- (i) RESUMPTION OF ADJOURNED DEBATE
- (i) If a debate is adjourned by motion, the Councillor moving the adjournment has the right to be the first speaker upon the resumption of debate unless he or she has already spoken to the motion or amendment.
- (j) TIME LIMITS
- (i) Unless granted an extension by the meeting:
    - (A) a Councillor may speak to a motion or amendment for no longer than three minutes; and
    - (B) the mover of a motion, who has a right of reply, may speak for no longer than a total of five minutes.

REPEATING MOTION

- (i) Before any matter is put to the vote, a Councillor may require that the motion or amendment be read again.

(k) VOTING

- (i) Each Councillor present at a meeting of the Council or a Special Committee who is entitled to vote:
  - (A) is entitled to one vote; and
  - (B) the vote must be by show of hands.

(l) CASTING VOTE

- (i) Subject to section 90 of the Act, if there is an equal division of votes upon any question, the Chairperson at such meeting shall, in addition to his or her own vote as a Councillor, have a second or casting vote.

(m) DECLARATION OF VOTE

- (i) The Chairperson must declare the result of the vote as soon as it is taken.

(n) RECORDING OF OPPOSITION TO MOTION

- (i) Any Councillor may ask that his or her reasons for opposition to a motion adopted by the meeting be recorded in the minutes.

(o) POINTS OF ORDER

- (i) A point of order is an objection that the motion, amendment or statement made is any of the following:
  - (A) contrary to the Conduct of Meetings Local Law and this Code;
  - (B) defamatory or disloyal;
  - (C) irrelevant, irreverent or obscene; or
  - (D) outside Council's legal powers.
- (ii) A point of order can be called against any Councillor (including the Chairperson).
- (iii) If called to order, a Councillor must remain silent until the point of order is decided unless he or she is requested by the Chairperson to provide an explanation.
- (iv) The Chairperson may adjourn the meeting to consider a point of order but must otherwise rule upon it as soon as it is taken.
- (v) The Chairperson must when ruling on a point of order give reasons for the ruling.

(vi) The Chairperson is the arbiter on all points of order, including points of order against the Chair.

(vii) The Chairperson's ruling shall be final.

(p) CHAIRPERSON MAY SPEAK

(i) The Chairperson may address a meeting upon any matter under discussion.

(ii) The Chairperson may vacate the Chair for the duration of any item under discussion whereupon a temporary Chairperson, either the deputy chair or in the deputy's absence a member elected by the meeting, shall take the Chair.

(q) PERSONAL EXPLANATION

(i) A Councillor may, at a time convenient to the Council or Special Committee meeting, make a brief personal explanation.

(A) A personal explanation is used to:

- correct statements a Councillor has made in debate;
- apologise to the meeting for inappropriate comments or actions;
- explain when the media have misquoted the Councillor;
- explain how another Councillor misrepresented the Councillor; or
- explain how any public comment made personally affects the Councillor.

(B) A personal explanation:

- is required to be in writing on a template as approved from time to time by the Chief Executive Officer;
- must contain a clear explanation of what affect the statement made had on the Councillor giving the personal explanation;
- is not to be used to make argument or comment or to raise new issues;
- must be provided in written form to all Councillors and the Manager Governance and Legal at the meeting where the personal explanation is to be made and read out word for word;
- is to be no longer than three minutes in duration;

- will be appended to the minutes of the meeting at which the personal explanation is made without the need for further commentary in the minutes.
- (r) CRITICISM OF MEMBERS OF COUNCIL STAFF
- (i) A member of Council staff is entitled to briefly address a meeting of Council or a Special Committee in respect of any statement made affecting him or her as a member of council staff or any member of Council staff under his or her control when such statement is made at a Council or Special Committee meeting, or in the media.
  - (ii) A statement under sub-clause (i) must be made at such time and during such meeting at which the member of council staff desires to bring it forward and as the Chairperson thinks appropriate.
- (s) ORDERING WITHDRAWAL OF REMARK
- (i) The Chairperson may require a Councillor to withdraw any remark which is defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature.
  - (ii) A Councillor required to withdraw a remark must do so immediately without qualification or explanation.
- (t) SUSPENSIONS
- (i) The Chairperson may suspend from a meeting, and for the balance of the meeting, any Councillor whose actions have disrupted the business of Council, and have impeded its orderly conduct.
- (u) RECORDING PROCEEDINGS
- (i) The Chief Executive Officer (or other person authorised by the Chief Executive Officer) may record on suitable audio recording equipment the proceedings of a Council or Special Committee meeting.
  - (ii) Audio recordings of Special Committees and Council meetings shall be made available through the City of Melbourne website [www.melbourne.vic.gov.au](http://www.melbourne.vic.gov.au).
  - (iii) The Council and Special Committee is authorised to resolve that audio recordings of meetings be edited by the deletion of comments from the public which the Committee/Council considers to be objectionable, offensive, defamatory or inappropriate.

### **Variation to Code for purposes of a particular meeting**

- 3.18 A meeting of Council or a Special Committee may resolve to vary or modify this Code for the purposes of a particular meeting, as circumstances require, by majority vote of the meeting.