

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

Agenda item 6.2

Homelessness and public amenity

7 February 2017

Presenter: Martin Cutter, Acting Chief Executive Officer

Purpose and background

1. The purpose of this report is to provide an update on strategies to address homelessness in the City of Melbourne (CoM) and seek support for the draft Activities (Public Amenity and Security) Local Law 2017 (refer Attachment 2) which would broaden the definition of camping and better respond to items left unattended in a public place.
2. Victoria Police has publically requested that Council review its *Activities Local Law 2009* in order to strengthen the response to a range of circumstances throughout Melbourne.
3. The 2016 CoM Homelessness Street Count recorded an increase in Melbourne's homeless population from 142 to 247, an increase of 74 per cent over the two year time frame. Council has invested an additional \$2 million to deliver the *Pathways Innovation Package*. The package will deliver a full spectrum of activities including assertive outreach, safe night time spaces, funding for housing programs and support for businesses throughout the municipality.
4. For many years Council has had a dual role in working with people sleeping rough, delivering welfare and support programs through the *Pathways Homelessness Strategy* at the same time as Council officers undertaking compliance activities in the central city and parks. It is not illegal to be homeless. In the past two years the presentation of rough sleeping in the central city has changed. There has been a shift in locations of where people sleep rough with higher numbers of people located in prominent pedestrian thoroughfares in the central city.

Key issues

5. In December 2016 the Council commenced convening the Hotspots weekly meeting which brings together homelessness services, Council compliance officers, the Melbourne Homelessness Service Coordination Project, Victoria Police and Department of Health and Human Services. The meeting monitors prominent locations across CoM and how to best address issues of public safety, amenity and pathways out of homelessness.
6. To add further strength to this, it is also proposed that Council appoint Mr Bernie Geary, an experienced community advocate, whose duties would include convening the weekly Hotspots meeting as well as attending the Service Coordination Project meetings and liaising with stakeholders and service providers.
7. The Council has also experienced a significant rise in the numbers of customer contacts raising concerns regarding amenity, pedestrian flow, the open use of drug paraphernalia and aggressive begging. These numbers are 52 contacts were received in 2014, 150 contacts in 2015 and 630 in 2016 and for the month of January 2017, 118 contacts were received. Disability groups and individuals have also raised concerns about restricted accessibility of footpaths.
8. Coupled with the number of customer contacts, Council officers routinely remove an average amount of 100–150 kilograms per week of accumulated belongings to landfill. The situation is exacerbated by donations of goods to people sleeping rough. A communication campaign will need to be developed to inform and educate the public about the impact of donated goods.
9. The increased number of customer contacts, the monitoring of significantly more locations, management of accumulated belongings of those sleeping rough and the ongoing removal of abandoned belongings by Council staff has led to a need for additional resources to manage this demand across a number of work areas. This matter will be brought to the Council meeting in February.
10. In light of the above, management recommends Council propose amending the Council's *Activities Local Law 2009* to broaden the definition of camping and provide a process for

responding to items left unattended in a public place. This will assist in responding to the impact of materials being brought into public places and obstructing use and access to footpaths and parks including by people with disabilities (See Attachment 3 for marked up version of the *Activities Local Law 2009* showing the proposed changes in context).

Recommendation from Management

11. That the Future Melbourne Committee:
 - 11.1. pursuant to Part 5 of the *Local Government Act 1989*, proposes to make the Activities (Public Amenity and Security) Local Law 2017 at Attachment 2 for the purposes of the statutory public notice and submission process
 - 11.2. notes that an assessment will be made in respect to the Amending Local Law and its compatibility with the human rights set out in part 2 of the *Charter of Human Rights and Responsibilities Act 2006*
 - 11.3. notes that a communication campaign will be developed to inform and educate the public about the impact of donating to people sleeping rough
 - 11.4. notes that the matter of additional resourcing will be referred to 28 February 2017 Council meeting for consideration
 - 11.5. appoints Mr Bernie Geary to support Council in relation to homelessness initiatives as outlined in the report.

Attachments:

1. Supporting Attachment
2. Activities (Public Amenity and security) Local Law 2017
3. Activities Local Law 2009

Supporting Attachment

Legal

1. Council's powers to make local laws are set out in Part 5 of the Local Government Act 1989 (Act). The procedure for making a local law is set out in Section 119 of the Act.
2. 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:
 - 2.1. the purpose and general purport of the proposed local law.
 - 2.2. that a copy of the proposed local law can be obtained from the Council.
 - 2.3. that any person affected by the proposed local law may make a submission pursuant to section 223 of the Act.
3. 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

4. The cost of placing notices regarding amending the local law in the newspaper (The Age) and the Government Gazette will be absorbed within the current budget.

Conflict of interest

5. 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.

Stakeholder consultation

6. The Lord Mayor, Deputy Lord Mayor and Minister for Housing convened a meeting of relevant service providers to discuss a range of issues relating to homelessness on 23 January 2017.
7. There will be an extraordinary meeting of the City of Melbourne Homelessness Advisory Committee in February to consider the *Amending Local Law*. Justice Connect Homeless Law will be invited to attend the meeting. The Expert Advisor would also attend the meeting.
8. A Participate Melbourne webpage will be established to support the statutory public notice and submission process to occur in accordance with the Act.

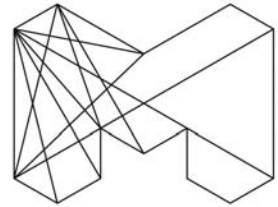
Relation to Council policy

9. Pathways Homelessness Strategy 2014-17.

Environmental sustainability

10. Environmental sustainability principles will be included wherever possible in implementing the *Pathways Homelessness Strategy*.

Attachment 2
Agenda item 6.2
Future Melbourne Committee
7 February 2017



CITY OF MELBOURNE

MELBOURNE CITY COUNCIL

**ACTIVITIES (PUBLIC AMENITY AND
SECURITY) LOCAL LAW 2017**

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ACTIVITIES (PUBLIC AMENITY AND SECURITY) LOCAL LAW 2017

PART 1

PRELIMINARY

Title

1.1 This Local Law is called the "*Activities (Public Amenity and Security) Local Law 2017*".

What are the objectives of this Local Law?

1.2 The objectives of this Local Law are to:

- (a) amend the objectives of the *Activities Local Law 2009*
- (b) amend provisions in the *Activities Local Law 2009* in respect to camping and unattended items in a *public place*
- (c) provide for the peace, order and good government of the *municipality*.

What authorizes 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 from the day following its making.

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

1.6 This Local Law applies throughout the whole of the *municipality*.

Definitions

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

"*Council*" means the Melbourne City Council.

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

"*Principal Local Law*" means the *Activities Local Law 2009*.

"*public place*" has the same meaning as in the *Principal Local Law*.

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

PART 2

AMENDMENTS TO PRINCIPAL LOCAL LAW

Introduction: This Part contains provisions which amend the *Principal Local Law*.

Amended Objective

- 2.1 In clause 1.2 of the *Principal Local Law*:
- (a) insert the words “amenity and” before the word “use” in sub-clause (c)
 - (b) insert a new sub-clause (d):
 - (d) support the Council’s disability action plan prepared under section 38 of the *Disability Act 2006*;
 - (c) renumber the existing sub-clauses (d)-(i) as a consequence of the new sub-clause (d).

Amended Provisions in Part 2 of the *Principal Local Law*

- 2.2 In the introduction:
- (a) insert the words “use and” after the word “amenity”;
 - (b) insert the words “and provide for safety in” before the first reference to “*public places*”; and
 - (c) insert the words “, by providing for security measures to be taken in *public places*” before the words “and by prohibiting”.
- 2.3 In clause 2.8, delete the words “in a *vehicle*, tent, caravan or any type of temporary or provisional form of accommodation”.
- 2.4 Insert a new clause 2.12:

Unattended item in a *Public Place*

- 2.12.1 Unless in accordance with a *permit*, a *person* must not leave any item unattended in a *public place*.
- 2.12.2 If any item is left unattended in contravention of this Local Law, an *authorised officer* may confiscate and impound the item in accordance with this clause.
- 2.12.3 Any item confiscated and impounded under clause 2.12.2 will be returned to its owner on payment of any fee or charge *prescribed* by the *Council* for its release.
- 2.12.4 If the owner of the item has not paid any fee or charge required for its release, the *Council* may sell, destroy or give away the item.
- 2.12.5 Before exercising the power conferred by clause 2.12.4, the *Council* must take reasonable steps to notify the owner of the item that the item has been impounded and may be sold, destroyed or given away unless the specified fee or charge is paid within 14 days.

Amendment to the Schedule to the Principal Local Law

2.4 In the Schedule to the *Principal Local Law*:

- (a) immediately after the reference to clause 12.10 and before the reference to clauses 3.1; 3.3, insert:

2.12	Item unattended in a <i>public place</i>	2.5
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Melbourne City Council

Activities Local Law 2009

(Incorporating Amendments up to and including the
Activities (Miscellaneous Amendments) Local Law 2015
[and changes proposed by the Activities \(Public Amenity
and Security\) Local Law 2017](#))

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Melbourne City Council

Activities Local Law 2009

(Incorporating Amendments up to and including the Activities (Miscellaneous Amendments) Local Law 2015 and changes proposed by the Activities (Public Amenity and Security) Local Law 2017)

Part 1 Preliminary

Title

1.1 This Local Law is called the “Activities Local Law 2009”.

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 *amenity and* use of *public places* and control activities in or near them;
- (d) *support the Council's disability action plan prepared under section 38 of the Disability Act 2006;*
- (e) provide for safety in *public places*;
- (f) 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;
- (g) provide for, control and manage the use of *premises* and *vehicles* in particular circumstances;
- (h) regulate the number and manner of keeping of *animals*;
- (i) control, prevent and abate *nuisances*; and
- (j) 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 2009.

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 2009*.

"*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 2009 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 and use of and provide for safety in *public places* for all citizens by controlling behaviour in *public places*, by providing for security measures to be taken 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

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*.

Unattended item in a Public Place

2.12.1 Unless in accordance with a *permit*, a *person* must not leave any item unattended in a *public place*.

2.12.2 If any item is left unattended in contravention of this Local Law, an *authorised officer* may confiscate and impound the item in accordance with this clause.

2.12.3 Any item confiscated and impounded under clause 2.12.2 will be returned to its owner on payment of any fee or charge prescribed by the *Council* for its release.

2.12.4 If the owner of the item has not paid any fee or charge required for its release, the *Council* may sell, destroy or give away the item.

2.12.5 Before exercising the power conferred by clause 2.12.4, the *Council* must take reasonable steps to notify the owner of the item that the item has been impounded and may be sold, destroyed or given away unless the specified fee or charge is paid within 14 days.

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 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

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

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
2.12	Item unattended in a <i>public place</i>	2.5
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

Clause	Offence	Penalty (Penalty Units)
7.1	Failure to comply with the <i>Code</i>	20
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

Clause	Offence	Penalty (Penalty Units)
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.

Ben Rimmer
Chief Executive Officer
and the Melbourne City Council's duly appointed delegate.