



**GENERAL LOCAL LAW
2003**

No. 7

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GENERAL LOCAL LAW 2003 – No 7.

Frankston City Council resolves:

PART 1 - PRELIMINARY

1.1 Local Law

This General Local Law is a local law made under Part 5 of the Local Government Act 1989 and Part 3 of the Domestic (Feral and Nuisance) Animals Act 1994.

1.2 Objectives

The objectives of this Local Law are to provide for –

- (a) the peace, order and good government of the municipality;
- (b) a safe and healthy environment so that the community within the municipality can enjoy a quality of life that meets its expectations;
- (c) the safe and fair use and enjoyment of public places;
- (d) the protection and enhancement of the amenity and environment of the municipality;
- (e) the fair and reasonable use and enjoyment of private land; and
- (f) the uniform and fair administration of this Local Law.

1.3 Commencement

This Local Law commences on the day following the gazettal of the Local Law in the Victoria Government Gazette.

1.4 Revocation of Local Law

On the commencement of this Local Law, the General Local Law 1999 (Local Law No. 2) is revoked.

1.5 Application of Local Law

This Local Law applies throughout the municipality.

1.6 Definitions

In this Local Law –

“accessible to the public” means accessible to any member of the public without assistance from a person described in clause 3.1B(2)(b) or an employee or agent of such person;

*Inserted by
No. 11/2006
C.1.6*

“asset protection permit” means a written permit issued by Council for the protection of public assets and infrastructure during building works;

*Inserted by
No. 8/2006
C.1.6*

“authorised officer” means a person appointed by Council under section 224 of the Local Government Act 1989;

“building site” means any land prepared for and on which building works are carried out;

“building works” includes any activities, events and practices for or in connection with the construction, renovation, alteration, demolition, relocation or removal of a building or any excavation works (i.e. pool construction);

*Inserted by
No. 8/2006
C.1.6*

“bulk rubbish container” includes waste bins, miniskips, shipping containers, pallets and their contents;

“Council” means the Frankston City Council;

“code” means the Building and Works Code of Practice incorporated in to and forming part of this Local Law;

“garden waste” means all tree branches, leaves, prunings, lawn clippings & weeds;

“graffiti” means any writing, painting or other defacement applied to the exterior surfaces of a premises by a person without the prior consent of the owner and/or occupier;

“gross vehicle mass” of a vehicle has the same meaning as contained in the Road Safety Act 1986, namely it is the maximum loaded mass of the vehicle –

- (a) as specified by the vehicle's manufacturer; or
- (b) as specified by the Corporation if –
 - (i) the manufacturer has not specified a maximum loaded mass; or
 - (ii) the manufacturer cannot be identified; or
 - (iii) the vehicle has been modified to the extent that the manufacturer's specification is no longer appropriate.

“habitable room” means any room other than a kitchen, storage area, bathroom, laundry, toilet or pantry;

*Inserted by
No. 12/2007
C.1.6*

“hard waste” means dry and hard rubbish and waste but does not include household refuse, trade waste or recyclable material;

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

“land” includes structures permanently fixed to the land;

"livestock" has the same meaning as defined in the *Impounding of Livestock Act, 1994*, namely an animal (including a bird) of any species used in connection with primary production or kept for recreational purposes, other than a dog or cat;

"minor building works" means building works valued at less than \$20,000 or pool construction valued at less than \$10,000, but excludes demolition and removal of buildings and structures (regardless of value);

*Inserted by
No. 8/2006
C.1.6*

"motor cycle" means any wheeled conveyance, powered by a liquid fuel driven motor, that is not registered under the provisions of the Road Safety Act 1986.

*Inserted by
No. 12/2007
C.1.6*

"motorized vehicles " means and includes all mini-bikes, trail bikes, motor bikes, motor cars, four-wheel drive vehicles, motor scooters, go-carts and any other vehicles which may be propelled by a motor or by mechanical means;

"municipality" means the municipal district of the Frankston City Council;

"municipal place" means land or any asset, excluding a road, which is owned, occupied or managed or controlled by Council;

"occupier" means the person who is for the time being the owner, occupier or other person in charge of a dwelling;

"permit" means a permit, including any conditions, issued under this local law;

"person in charge" in relation to clause 3.6.6 means the person or persons whether natural or incorporated, who has or have management responsibility for building works or a building site and includes the owner of land on which the building works are being carried out or the building site is located;

*Amended by
No. 8/2006
C.1.6*

"public place" has the same meaning as defined in the *Summary Offences Act 1966*;

"public reserve" means a municipal place which is outdoors and available for recreational purposes;

"refuse receptacle" means a wheeled mobile refuse receptacle of the type issued or approved by Council;

"road" has the same meaning as defined in the *Local Government Act 1989* namely –

- (a) a street;
- (b) a right of way;
- (c) any land reserved or proclaimed as a street or road under the *Crown Land (Reserves) Act 1978* or the *Land Act 1958*;
- (d) a passage;
- (e) a cul de sac;
- (f) a by-pass;
- (g) a bridge or ford;
- (h) a footpath, bicycle path or nature strip; and
- (i) any culvert or kerbing or other land or works forming part of the road;

“security deposit” means a payment or guarantee made to Council for the purpose of securing the cost of repairing damage incurred to assets and infrastructure as a result of building works.

*Inserted by
No. 8/2006
C.1.6*

1.7 Conflict with Other Legislation

This Local Law does not apply where any act or thing is authorised by any Act, Rule, Regulation or Planning Scheme.

PART 2 - ROADS AND MUNICIPAL PLACES

2.1 Behaviour

A person must not behave in a municipal place or on a road in such a manner as to—

- (a) interfere with another person's reasonable use and enjoyment of that municipal place or road; or
- (b) endanger or be likely to endanger health, life or property; or
- (c) destroy, damage or interfere with any building, fence, property improvements, sign, structure, chattel, tree, shrub or plants, garden bed, bird or animal or bird/animal habitat thereon.

2.2 Council Signs

A person must comply with any Council sign erected in a municipal place or on a road.

2.3 Liquor

Without a permit or unless otherwise authorised in writing by Council or a delegated officer, a person must not consume, or have in his or her possession in an unsealed container, any liquor –

- (a) on a road or in a municipal or public place other than within a public reserve; or
- (b) between sunset and sunrise within a public reserve.

2.4 Trading Activities

Without a permit a person must not on a road or in a municipal place –

- (a) place any advertising sign;
- (b) display any goods;
- (c) place any outdoor eating furniture or associated facilities;
- (d) place any structure for the purpose of selling or offering to sell any goods or services;
- (e) sell or offer for sale any
 - (i) motor vehicle; or
 - (ii) goods or services carried about or placed on the person or any other moveable thing,or do so from land adjacent to a road or a municipal place;
- (f) solicit or collect any waste materials, gifts of money, or subscriptions, or do so from premises to premises adjacent to a road;
- (g) busk; or

(h) hold a promotion;
or cause or authorise another person to do so.

2.5 Clothing Bins

Without a permit a person must not place a clothing bin in a municipal place or on a road.

2.6 Repair of Vehicles

Without a permit a person must not do any work to a vehicle on a road or in a municipal place, except to enable the vehicle to be removed from the road.

2.7 Occupation of Road for Works

Without a permit a person must not carry out any works on a road or occupy a road for the purpose of carrying out works.

2.8 Container Left on a Road

- (a) A bulk rubbish container must not be left on any part of a road without a permit or in contravention of any conditions of a permit.
- (b) Any bulk rubbish container left on any part of a road in contravention of 2.8(a) may be removed by an authorised officer.
- (c) Where a bulk rubbish container has been impounded the provisions of Clause 5.4 must be complied with.

2.9 Noise

A person must not in a municipal place or on a road –

- (a) spruik; or
- (b) emit, or allow to be emitted, any other noise which causes or is calculated to cause interference with a person's use or enjoyment of adjacent or nearby premises.

2.10 Playing of Golf

A person must not drive or putt golf balls in any municipal place other than an area specifically set aside for that sole purpose.

2.11 Use of Vehicles in or on Municipal Places, Public Places and Roads

- (a) A person must not ride or drive any motor car, motor cycle registered under the provisions of the Road Safety Act 1986, bicycle or other vehicle in or on any municipal place other than in an area set aside for vehicle parking or any designated roadway or, in the case of a bicycle, a bicycle pathway.
- (b) A person must not in or on a public place or road ride or cause or allow to be ridden any motor cycle.

*Inserted by
No. 12/2007
C.1.7*

*Amended by
No. 13/2008
C.1.6*

- (c) The parent or guardian of a person under the age of 17 years who uses a motor cycle in contravention of clause 2.11(b) is guilty of an offence unless the Court is satisfied that the motor cycle was being used without the knowledge or consent of that parent or guardian.

2.12 Property Numbers to be displayed

The owner or occupier of each property that has been allocated a street number by Council must mark the property with the allocated number. The property number must be:

- (a) at least 90 mm in height;
- (b) located on the front boundary alignment;
- (c) in a contrasting colour to their background;
- (d) located as near as practical to the driveway and letterbox;
- (e) visible from both directions

2.13 Excessive Vehicle Noise and Air Pollution

- (a) A person must not, on a road or any area set aside for vehicle use, operate a motor vehicle in such a manner as to cause the vehicle to undergo a sustained loss of traction by one or more of the driving wheels of the vehicle.

- (d) A person must not, on a road or any area set aside for vehicle use, operate a motor vehicle in such a manner as to cause noise and/or air pollution through sustained loss of traction by one or more of the driving wheels of the vehicle.

2.14 Parked Motor Vehicles Interfering with Council Functions

The owner of a motor vehicle parked on a road must move or cause to be moved the vehicle in accordance with a notice from Council served on the owner if Council is of the opinion that the presence of the motor vehicle interferes with any Council function.

PART 3 - ENVIRONMENT

3.1 Dangerous and Unsightly Land and Nuisances

An owner or occupier of land must ensure that the land or any structure on the land—

- (a) does not constitute a danger to health or property;
- (b) is not deemed unsightly by an authorised officer by excessive growth of grass, noxious weeds or undergrowth;
- (c) is not unsightly, detrimental or adversely affects the general amenity of adjoining land or the neighborhood by the appearance of any stored unregistered motor vehicles or machinery or any parts of them or the storing of scrap metal, second-hand timber, second-hand building materials, waste paper, rags, bottles, soil or similar materials;
- (d) is kept free of any graffiti; and
- (e) is not used in any manner that may cause a nuisance or become detrimental to the amenity of the immediate area.

*Inserted by
No. 13/2008
C. 1.7*

3.1A Dilapidated Building

An owner or an occupier of land must not permit a building located on the land to:

- (a) become dilapidated; or
- (b) become further dilapidated

and must maintain any such building in a state of good repair.

*Inserted by
No. 9/2006
C. 1.6*

3.1B Aerosol Spray Paint Containers

3.1B.1 A person must not on land which is not a public place possess an aerosol spray paint container unless he or she has the consent of:

- (a) the owner; or
- (b) the occupier

of the land.

3.1B.2 A person who:

- (a) offers for sale any aerosol spray paint container; or
- (b) owns, operates or manages a business from premises on which an aerosol spray paint container is offered for sale

must not on these premises

- (a) store or display;
- (b) cause to be stored or displayed; or
- (c) allow to be stored or displayed

*Inserted by
No. 11/2006
C. 1.7*

any aerosol spray paint container in an area which is accessible to the public.

3.1B.3 A person must not:

- (a) sell;
- (b) deliver;
- (c) give; or
- (d) cause to be sold, delivered or given

to a person who is under the age of 18 years any aerosol spray paint container unless the first mentioned person is:

- (a) a parent and the second mentioned person is his or her child;
- (b) a guardian and the second mentioned person is his or her ward;
- (c) an employer and the second mentioned person is his or her employee;
- (d) the agent of an employer and the second mentioned person is the employee of that employer; or
- (e) a teacher and the second mentioned person is his or her pupil.

3.2 Open Air Burning

3.2.1 Without a permit a person must not burn any material that would emit fumes or odours that are offensive or are dangerous to health.

3.2.2 A person must not light, nor an owner or occupier of land allow to be lit, a fire in an incinerator.

3.2.3 Without a permit a person must not light a fire in the open air unless the fire is lit -

- (a) for the purpose of cooking food in a barbeque; or
- (b) on private land of more than 2 hectares in total area located in a rural zone under the Frankston Planning Scheme.

3.2.4 In any event, without a permit a person must not light a fire in the open air between 1 December and 30 April in any year unless the fire is lit in accordance with clause 3.2.3(a) above.

3.2.5 An owner or occupier of land on which a fire has been lit in breach of this local law, or a person who has lit a fire in breach of this Local Law, must immediately on becoming aware of such a fire take all steps necessary to extinguish the fire.

3.3 Council Drains, Pits or Footpaths

3.3.1 A person must not, without a permit, destroy, damage or tap into any drain, culvert or sewer vested in Council.

3.3.2 A person must not:

*Clause 3.3
amended by
No. 8/2006
C.1.7*

- 3.3.2.1 allow any drain vested in him or her and located on land which he or she owns or occupies to fall into disrepair or a condition which is dangerous to health; or
- 3.3.2.2 perform any act in relation to a drain into which he or she has been permitted to tap or to which he or she has been permitted to connect which causes the drain to fall into disrepair or develop a condition which is dangerous to health.
- 3.3.3 A person must not intentionally permit or allow a tree, shrub, bush or other vegetation to hinder, obstruct, or interfere with the operation of any drains, pits or footpaths vested in or under Council's management or control.
- 3.3.4 Where the Council or an authorized officer can provide evidence that any tree, shrub, bush or vegetation hinders, obstructs or interferes or is likely to hinder, obstruct or interfere with the operation of any drains, pits or footpaths vested in or under Council's management or control an authorised officer may serve a notice on the owner or occupier of the land requiring removal of the offending tree, shrub, bush or vegetation or such other action that Council or an authorised officer may require.
- 3.3.5 No person shall in any way –
- (a) interfere with access to any stormwater pit,
 - (b) construct or place any material, dirt, or other matter on a pit lid so as to conceal its location or accessibility.
- 3.3.6 Any person who fails to comply with a notice served under clause 3.3.4 in addition to any penalty under this local law shall be liable for all subsequent repair and maintenance costs and will, if not paid, become a charge on the property to bear interest at the rate prescribed from time to time by order of the Governor in Council.

3.4 Camping and caravans

- 3.4.1 A person who owns or occupies land in an area zoned residential under Frankston Planning Scheme shall not park more than one caravan on such land.
- 3.4.2 A person must not, without a permit, occupy or allow another person to occupy a caravan, tent or similar structure on land he or she owns or occupies, for more than four (4) weeks in a calendar year.

3.5 Heavy and Unregistered Vehicles

Without a permit a person must not –

- (a) park, keep or repair a vehicle weighing more than 4.5 tonnes gross vehicle mass;
- (b) keep more than two (2) unregistered vehicles;

on land zoned residential under the Frankston Planning Scheme.

*Amended by
No. 13/2008
C.1.8*

3.6 Building and Works Code of Practice

*Clause 3.6
amended by
No. 8/2006
C.1.8*

- 3.6.1 The Building and Works Code of Practice has been adopted by Council for the purposes of this Local Law and has the objectives of:
- (a) providing an environment where activity on and related to building sites and building works complement the safety and amenity of the public and the community;
 - (b) protecting public assets and infrastructure during building works; and
 - (c) providing for a permit system (Asset Protection Permit), including payment of a security deposit.
- 3.6.2 The whole of the Code is incorporated into and forms part of this Local Law.
- 3.6.3 The Code is available for inspection at the Council's offices and service centres during business hours.
- 3.6.4 Council may amend the Code from time to time in accordance with the provisions contained in the Code.
- 3.6.5 An amendment does not take effect until notice of Council's decision to amend the Code is published in the Government Gazette.
- 3.6.6 The person in charge of building works or a building site must ensure that: -
- (a) An Asset Protection Permit is applied for and issued prior to commencing, or allowing to be commenced, any such building works; and
 - (b) Council's Code is complied with.
- 3.6.7 Clause 3.6.6 does not apply to minor building works.
- 3.6.8 In considering an application for an Asset Protection Permit under sub-clause 3.6.6, Council must have regard to the requirements of the Code.

3.7 Motorised Vehicles

- 3.7.1 Without a permit a person must not use a motorised vehicle for recreational purposes on any land including a municipal place.
- 3.7.2 The parent or guardian of a person under the age of 17 years who uses a motorized vehicle for recreational purposes on any land including a municipal place without a permit is guilty of an offence unless the Court is satisfied that the motorised vehicle was being used without the knowledge or consent of that parent or guardian.

3.8 Regulation of Household Refuse

A person must not place out for collection any household refuse unless it is contained within a refuse receptacle.

3.9 Prohibited Wastes Placed in a Refuse Receptacle

A person must not place in a refuse receptacle any-

- (a) slops or liquid waste;
- (b) moist refuse unless the moist refuse has previously been strained and securely wrapped in paper or a tied plastic bag so as to prevent its escape or leakage;
- (c) dust from any vacuum cleaner, hair or other substances unless the dust, hair or other substance has first been securely wrapped so as to prevent its escape;
- (d) shredded paper unless wrapped;
- (e) ash or ashes (unless such ash or ashes have been effectively dampened so as to be non combustible and free from any heat generating particles and has been securely wrapped to prevent its escape);
- (f) glass or other sharp object unless the glass or other sharp object is wrapped or secured in such a manner as to render it harmless and inoffensive;
- (g) concrete, masonry, bricks, building debris, soil or machinery, engine or vehicle parts;
- (h) trade waste;
- (i) hazardous chemicals;
- (j) radioactive material;
- (k) volatile, explosive or flammable substance;
- (l) nightsoil (except that disposable nappies may be placed or caused to be placed in a refuse receptacle if they are wrapped in impervious material);
- (m) the carcass of a deceased animal or bird;
- (n) oil, solvents, flammable liquids or paint (other than paint residue contained in a closed container);
- (o) waste of a shape, size or weight that cannot be contained in such a refuse receptacle.
- (p) household refuse or waste matter of any kind, the combined weight of which exceeds 30 kilograms;
- (q) needles or syringes;
- (r) medical or infectious waste;
- (s) garden waste;
- (t) any recyclable material; or
- (u) any other object or matter which is or may be injurious to health.

3.10 Occupier to Maintain Refuse Receptacle

An occupier of a dwelling who utilises Council's refuse collection service must:-

- (a) keep and maintain upon or about the dwelling a refuse receptacle in which the occupier shall, from time to time, deposit all household refuse produced or accumulated in or around the dwelling;
- (b) keep each such refuse receptacle in good order and a clean, sanitary and inoffensive condition;

- (c) ensure that any damage to a refuse receptacle is promptly reported to Council or an agent appointed by Council;
- (d) not paint, number or write on the refuse receptacle; and
- (e) ensure that any report of a stolen refuse receptacle is supported by a statutory declaration.

3.11 Collection of Household Refuse

- 3.11.1 To enable collection of household refuse, an occupier of a dwelling who utilises Council's refuse collection service may, during such hours and on such days as may be determined by Council or a delegated officer, place their refuse receptacle on the naturestrip or road reserve nearest the dwelling or in such other location as may be approved or permitted by Council or a delegated officer, but so as not to interfere with the free movement of pedestrian or vehicular traffic, in accordance with published collection information and in such a manner as to facilitate the mechanical collection of refuse.
- 3.11.2 An occupier must return or cause to be returned their refuse receptacle to their dwelling as soon as practicable on the day of collection after its contents have been emptied.
- 3.11.3 A person (other than the occupier of the dwelling who placed it out for collection) must not add, remove, or interfere with the contents of any such refuse receptacle except with the prior written consent of Council, a delegated officer or resident to whom the receptacle belongs.

3.12 Collection of Hard Waste, Garden Waste and Recyclable Materials

- 3.12.1 Upon being placed out for collection by Council's refuse collection service, any hard waste, garden waste and recyclable materials shall become the unencumbered property of Council or the agent appointed by the Council.
- 3.12.2 A person must not remove or interfere with any hard waste or recyclable materials placed out for collection except with the consent of either the resident who placed the waste material out for collection or the Council or a delegated officer.

In giving such consent Council or its delegated officer will view favourably instances where:

- a) material being removed is to be used for the personal use of the person requesting such consent, and
- b) materials are left in a safe and tidy manner.

3.13 Noise

- (a) A person must not on any land emit or cause or allow to be emitted any unreasonable noise which causes or is considered to cause an interference with or to another person's use or enjoyment of adjacent or nearby land.

*Inserted by
No. 12/2007
C.1.8*

- (b) For the purpose of Clause 3.13 (a), in determining whether any noise is unreasonable regard must be had to -
- (i) the volume, intensity or duration of the noise; and
 - (ii) the time, place and other circumstances in which the noise is emitted.
- (c) Without limiting the generality of Clause 3.13 (a), a person must not on any land emit or cause or allow to be emitted any noise that can be heard by another person in a habitable room (regardless of whether or not any door or window giving access to that room is open) from any of the items during any of the prohibited times as set out in the following table -

Group	Items	Prohibited Times
1	A motor vehicle (except a vehicle moving in or out of premises), lawn mower or other grass cutting device and any equipment or appliance not falling within Group 2 having an internal combustion engine.	Monday to Friday: before 7am and after 8pm. Weekends and public holidays: before 9am and after 8pm.
2	An electric power tool, chain or circular saw, gas or air compressor, pneumatic power tool, hammer and any other impacting tool, grinding equipment.	Monday to Friday: before 7am and after 8pm. Weekends and public holidays: before 9am and after 8pm.
3	A domestic air conditioner, swimming pool pump, spa pump, domestic heating equipment (including central heating and hot water systems) and a domestic vacuum cleaner.	Monday to Friday: before 7am and after 10pm. Weekends and public holidays: before 9am and after 10pm.
4	A musical instrument and any electrical amplified sound reproducing equipment including a stereogram, radio, television and public address system.	Monday to Thursday: before 7am and after 10pm. Friday: before 7am and after 11pm. Saturday and public holidays: before 9am and after 11pm. Sunday: before 9am and after 10pm.
5	Any electric equipment or appliance not falling within Group 2, Group 3, or Group 4, including electric gardening equipment.	Monday to Friday: before 7am and after 8pm. Weekends and public holidays: before 9am and after 8pm

PART 4 - ANIMALS

4.1 Numbers

Without a permit an owner or occupier of land must not keep any rooster or peafowl or more than –

- (a) 2 cats;
- (b) 2 dogs;
- (c) 5 rodents;
- (d) 30 birds; and
- (e) 6 poultry.

4.2 Keeping of Livestock

Without a permit a person must not keep livestock on land less than one (1) hectare. This clause shall not apply to livestock specified in clause 4.1 (d) and (e).

4.3 Pigeons

A person must not –

- (a) exercise pigeons other than during 2 hours after sunrise or 2 hours before sunset; or
- (b) race pigeons except at organised events.

4.4 Housing

Any structure used for animal, poultry or bird housing must be –

- (a) free standing;
- (b) maintained in a clean and inoffensive condition; and
- (c) maintained to the satisfaction of Council or an authorised officer.

4.5 Adequate Fencing

An owner or occupier of land on which an animal is kept must ensure that the land is adequately fenced so as to prevent the animal's escape from the land.

4.6 Protection of Other Animals and Native Fauna and Flora

An owner of an animal, or an occupier or owner of land on which the animal is kept, must ensure that the animal does not harm or kill, or destroy, any native fauna or flora, or any other animal, other than on the animal owner's property.

4.7 Nuisances

An owner or occupier of land must ensure that any animal or bird kept on the land does not cause a nuisance to surrounding and neighbouring landowners.

4.8 Dog Excrement

A person in charge of a dog on a road or in a municipal place must –

- (a) not permit the excrement of the dog to remain on that road or in that municipal place;
- (b) carry a device suitable for the removal of any excrement that may be deposited by the dog; and
- (c) produce the device on demand by an authorised officer.

4.9 Horses on Reservations

4.9.1 Without a permit a person must not ride or lead a horse on a footpath or naturestrip in an area zoned residential under the Frankston Planning Scheme.

4.9.2 Council or an authorized officer may exempt a person from the requirement under this Local Law to obtain a permit.

PART 5 - ADMINISTRATION

5.1 Permits

- 5.1.1 An application for a permit under this Local Law must be in a form approved by Council and accompanied by the appropriate fee as prescribed by Council.
- 5.1.2 Council may waive, reduce or alter any fee.
- 5.1.3 Council may require an applicant to supply additional information or to give public notice of the application.
- 5.1.4 Council may issue a permit, with or without conditions, and may subsequently revoke a permit.
- 5.1.5 Council may exempt a person from the requirement under this Local Law to obtain a permit.

5.2 Direction of Authorised Officer

An authorised officer may, by written notice, or in the form of schedule 1 make any reasonable direction to a person –

- (a) in respect of any matter under this Local Law; or
- (b) a person's use of a municipal place or a road.

5.3 Power of Authorised Officer – Urgent Circumstances

An authorised officer may act to remedy any circumstance which threatens a person's life, health or property, or an animal, without serving a notice under clause 5.2, provided that –

- (a) the circumstance arises out of a person's use of a municipal place or failure to comply with a provision of this Local Law;
- (b) the action taken is no more than the minimum reasonably necessary to remedy the urgent circumstance; and
- (c) the person to whom a notice under clause 5.2 would have otherwise been served is as soon as possible notified of the urgent circumstance and the action taken to remedy it.

5.4 Impounding

5.4.1 An Authorised Officer may -

- (a) impound any item that unlawfully encroaches on or obstructs the free use of a road or a municipal place or which has been or is being possessed in contravention of this Local Law;
- (b) impound a motor cycle being used in contravention of Clause 2.11(b) of this Local Law;
- (c) release the item or motor cycle to its owner on payment of a fee determined by Council, which is not to exceed an

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C.1.9*

amount that reasonably represents the cost to Council of impounding, keeping and releasing the item or motor cycle, provided that the owner of a motor cycle shall not be entitled to release of an impounded motor cycle for -

- (i) in the case of a first offence, a term of six months from the date of impoundment; or
 - (ii) in the case of a second or subsequent offence, a term of twelve months from the date of impoundment.;
- (d) sell, destroy, dispose of or give away any item impounded under the provisions of Sub Clause (a) if the owner of the item has not paid the fee within 14 days of service of the notice under Clause 5.4.2 or compliance by Council with Clause 5.4.3;
- (e) sell, destroy, dispose of or give away any motor cycle impounded under the provisions of Sub Clause (b) if the owner of the motor cycle has not paid the fee within 7 days of service of the notice under Clause 5.4.2 or compliance by Council with Clause 5.4.3.

5.4.2 If an Authorised Officer impounds an item or motor cycle under this Local Law Council must serve on the owner by prepaid post a notice in a form approved by Council, as soon as possible after the impounding.

5.4.3 If the identity or whereabouts of the owner of an item or motor cycle impounded under this Local Law is unknown, Council must take reasonable steps to ascertain the owner's identity and/or whereabouts prior to exercising its powers under Clauses 5.4.1 (c), (d) or (e).

5.4.4 Council is entitled to retain from the proceeds of sale of any impounded item or motorcycle its reasonable costs incurred in impounding, keeping and selling the item or motor cycle.

5.5 Appeals

5.5.1 A person may appeal to Council or a Council delegate for a review of an order, direction or notice made in relation to her or him under this Local Law within 14 days of the order, direction or notice being made.

5.5.2 Where an appeal is to be heard under this clause the person appealing must do all that is necessary to cooperate in the prompt and speedy hearing of the appeal.

5.6 Bonds

- 5.6.1 In deciding to grant a Permit, Council may require the applicant to lodge with Council a bond of such amount and in such a manner as Council deems reasonable in the circumstances.
- 5.6.2 Council may use a Permit bond to remedy a breach of that permit or repair any damage caused by any work under a Permit.
- 5.6.3 On satisfactory completion of any works under a Permit, Council must release any applicable bond.
- 5.6.4 If after 12 months Council cannot locate a person entitled to the release of any bond, Council may retain the bond and pay the money into its general revenue.

5.7 Delegation

The powers of Council under this Local Law to –

- (a) issue, refuse or revoke a Permit;
- (b) require an applicant for a Permit to lodge with Council a bond for such amount and in such a manner as Council deems reasonable in the circumstances;
- (c) exempt a person from the requirement to obtain a Permit;
- (d) issue, sign, revoke, exempt, require or cancel any notice, order or agreement;
- (e) enforce any matter; and
- (f) use a Permit bond to remedy a breach of that Permit or repair any damage caused by any work carried out under that Permit;

are delegated to the Chief Executive Officer and to authorised officers.

PART 6 - ENFORCEMENT

6.1 Offences

A person is guilty of an offence if the person –

- (a) does something which a provision of this Local Law prohibits to be done;
- (b) fails to do something which a provision of this Local Law requires to be done;
- (c) engages in activity without a current permit where a provision of this Local Law requires that person obtain a permit before engaging in that activity;
- (d) breaches or fails to comply with a condition of a permit issued under this Local Law; or
- (e) fails to comply with a direction of an authorised officer under this Local Law.

6.2 Infringement Notice

6.2.1 Where an authorised officer reasonably believes that a person has committed an offence against this Local Law, the officer may issue to that person an infringement notice, in a form approved by Council, as an alternative to a prosecution for the offence.

6.2.2 A person to whom an infringement notice has been issued must pay to Council the amount specified in the notice within 28 days.

6.2.3 The amount to be paid under an infringement notice is -

- (a) Clause 2.11(b) Use of Vehicles in or on Public Places and Roads, Clause 3.1A Dilapidated Building, Clause 3.1B Aerosol Spray Paint Containers and Clause 3.6 Building and Works Code of Practice -
 - (i) First Offence – 2 penalty units; and
 - (ii) Second Offence – 5 penalty units.
- (b) Clause 3.12.2 Collection of Hard Waste, Garden Waste and Recyclable Materials and Clause 3.13 Noise – 5 penalty units
- (c) Any other infringement – 2 penalty units.

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No. 12/2007
C.1.10 and
Amended by
No. 13/2008
C.1.9*

6.3 Penalties

A person guilty of an offence under this Local Law is subject to the following penalties:

- (a) First offence – 4 penalty units; and
- (b) Second offence – 20 penalty units.



NOTICE TO COMPLY

TO: Name:

Address:

You have, in the opinion of Frankston City Council or an authorised officer of the Council,
Committed a breach of clause.....of the Council's
General Local Law No.7 2003 by.....

To remedy the breach, within.....days from the date of this notice you must –
.....
.....
.....
.....

If you require further information you may contact.....
.....

at the Municipal Offices,.....

Between the hours of and

If you fail to comply with this Notice you will be guilty of an offence under the law and liable
to pay the penalty of \$..... The Council will then carry out the
works, for the cost of which, in addition to the penalty, you will be liable.

Date:

Name of authorised officer:

Telephone No.:

Signature of authorised officer:

Note: If this notice relates to a contravention of a permit and you do not comply with the
Notice, the permit may be cancelled. If you do not wish to have the permit cancelled you
should comply with the directions in this Notice or show cause to the Council in writing why
the permit should not be cancelled.

Resolution for the making of this Local Law was agreed to by Council on 27 January 2004.

THE COMMON SEAL of)
FRANKSTON CITY COUNCIL)
was affixed in the presence of:)

_____ Councillor

_____ Chief Executive Officer

This _____ day of _____ 2004

Notice of the proposal to make and of the making of this Local Law were included in the Victorian Government Gazette, dated 12 February, 2004.

Public Notice of the proposal to make and confirmation of the making of this Local Law were inserted in The Independent Newspaper dated 10 February, 2004.

TABLE OF AMENDMENTS

This version of Local Law No. 7 incorporates amendments made by the following Local Laws:

Local Law No. 8 – commencement date 2 June, 2006
Local Law No. 9 – commencement date 29 September, 2006
Local Law No. 11 – commencement date 8 December 2006
Local Law No. 12 – commencement date 12 October 2007
Local Law No. 13 – commencement date 18 April 2008