



GENERAL LOCAL LAW 2016

NO. 8

Table of Contents

GENERAL LOCAL LAW 2016 – No. 8	1
PART 1 – PRELIMINARY	1
1.1 Authorising Provisions	1
1.2 Objectives.....	1
1.3 Commencement	1
1.4 Recovation of Earlier Local Laws	1
1.5 Revocation Date	1
1.6 Application of Local Law	1
1.7 Definitions.....	1
1.8 Conflict with other Legislation	4
PART 2 – ROADS AND MUNICIPAL PLACES	5
2.1 Behaviour	5
2.2 Council Signs.....	6
2.3 Use of Vehicles in or on Municipal Places and Public Places	6
2.4 Control of Vehicles	6
2.5 Parked Vehicles Interfering with Council Functions.....	6
2.6 Shopping Trolleys.....	6
2.7 Playing of Golf	8
2.8 Property Numbers to be displayed	8
2.9 Trading Activities including Busking	8
2.10 Itinerant Trading	9
2.11 Street Parties, Festivals and Processions	9
2.12 Vehicle Crossing.....	10
2.13 Clothing Bins	10
2.14 Repair of Vehicles	11
2.15 Storage of Vehicles	11
2.16 Occupation of Road for Works.....	11
2.17 Container Left on a Road	11
2.18 Use of Municipal place	11
2.19 Access to Municipal places.....	12
2.20 Permits	12
PART 3 – MUNICIPAL AMENITY	14
3.1 Dangerous and Unsightly Land and Nuisances.....	14

3.2 Dilapidated Building.....	14
3.3 Aerosol Spray Paint Containers.....	15
3.4 Building and Works Code of Practice	16
3.5 Household Refuse Receptacles	16
3.6 Occupier to maintain Refuse Receptacle	17
3.7 Collection of Household Refuse, Recyclable Waste and Garden Waste.....	18
3.8 Collection of Hard Waste.....	18
3.9 Noise	18
3.10 Open Air Burning and Chimneys	19
3.11 Council Drains, Pits or Footpaths	22
3.12 Camping and Caravans.....	23
3.13 Heavy and Unregistered Vehicles	23
3.14 Motorised Vehicles	23
3.15 Liquor	23
3.16 No Smoking in Smoke Free Areas	24
3.17 Major Environmental Weed Species.....	24
3.18 Collecting of Firewood	24
3.19 Nature Strips.....	24
3.20 Shipping Containers	25
3.21 Old, Used or Second Hand Machinery, Materials Goods and Vehicles.....	25
3.22 Fences Between Private and Municipal places	25
PART 4 – ANIMALS.....	26
4.1 Numbers.....	26
4.2 Keeping of Livestock	26
4.3 Pigeons	26
4.4 Housing	26
4.5 Adequate Fencing	27
4.6 Protection of Other Animals and Native Flora and Fauna	27
4.7 Animal Nuisances.....	27
4.8 Dog and Horse Excrement	27
4.9 Horses on Reservations	27
4.10 Feeding of Birds and Feral Pigeons and Uncaged Birds.....	27
4.11 Sale or Rehousing of Dogs and Cats	27
4.12 Vermin	28

PART 5 – ADMINISTRATION.....	29
5.1 Applications for and Issue of Permits	29
5.2 Bonds	29
5.3 Correction of Permits.....	30
5.4 Revocation of Permits	30
5.5 Registers	30
5.6 Notice to Comply / Direction of Authorised Officer.....	30
5.7 Power of Authorised Officer – Urgent Circumstances	31
5.8 Impounding and Destruction or Disposals of Impounded Thing	31
5.9 Review of Decisions	32
PART 6 – ENFORCEMENT.....	33
6.1 Offences.....	33
6.2 Offences by Corporations.....	33
6.3 Costs Incurred By the Council To Be Paid	33
6.4 Penalties.....	33
6.5 Infringement Notice	33
SCHEDULE 1 - Notice to Comply.....	34
SCHEDULE 2 - Penalties fixed for Infringement Notices	35

GENERAL LOCAL LAW 2016 – No. 8

PART 1 – PRELIMINARY

1.1 Authorising Provisions

This General Local Law is a local law made under Section 111(1) of the *Local Government Act 1989* and Section 42 of the *Domestic 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 day on which notice of its making was published in the *Victoria Government Gazette*.

1.4 Revocation of Earlier Local Laws

On the commencement of this Local Law, the General Local Law 2012 No. 7 is revoked.

1.5 Revocation Date

Unless sooner revoked, this Local Law ceases to operate on the tenth anniversary of its commencement.

1.6 Application of Local Law

This Local Law applies throughout the *municipality*.

1.7 Definitions

In this Local Law:

"**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 placard, inflatable sign, portable electric sign, illuminated, revolving, spinning or flashing sign, flag, banner, A-frame structure and other object or similar sign that can be securely and safely positioned, being of a fixed or transient nature including being affixed to a vehicle, trailer, bicycle, tricycle, trolley or other object;

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

“**Authorised Officer**” means a person appointed by **Council** under section 224 of the **Act**;

“**authorised token**” means any object the same size as an Australian Currency one dollar (\$1.00) or two dollar (\$2.00) coin approved by a retailer to release a trolley from a coin mechanism, other than an Australian Currency one dollar (\$1.00) or two dollar (\$2.00) coin;

“**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 (e.g. pool construction);

“**bulk rubbish container**” includes waste bin, miniskip, shipping container, pallet and their contents or other container used for the deposit of waste (including trade waste, building waste and other bulk waste) but excludes a garbage bin, garden organics bin and recyclable bin used in connection with Council’s waste or garbage collection service;

“**busk**” includes sounding or playing a musical instrument, singing, giving a recital, creating pavement art or performing any conjuring, juggling, puppetry, mime or dance act;

“**caravan**” includes a mobile home and moveable dwelling;

“**clothing bin**” means a bin or similar container used for the collection of used clothing;

“**coin deposit and release mechanism**” means a coin operated lock that operates with the insertion of an Australian Currency one dollar (\$1.00) or two dollar (\$2.00) coin or equivalent **authorised token** of the same size;

“**Council**” means Frankston City Council;

“**Code**” has the meaning set out in clause 3.4(a);

“**Feral Pigeon**” means the species *Columba livia domestica*, also known as city dove, city pigeon or street pigeon;

“**garden waste**” includes garden prunings, grass clippings, weeds, leaves and small logs not exceeding 10 centimeters in diameter as specified by **Council** from time to time;

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

“**green waste receptacle**” means a **Council** approved green waste receptacle specifically intended for the collection of garden waste only;

“**gross vehicle mass**” of a **vehicle** has the same meaning as in the *Road Safety Act 1986*;

“**habitable room**” means any room other than a kitchen, storage area, bathroom, laundry,

toilet or pantry;

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

“**household refuse**” means all refuse, waste, garbage, rubbish and surplus materials produced or accumulated in or about a dwelling which is not considered to be **hard waste**, **garden waste** or **recyclable materials** and is only placed in a **household refuse receptacle**;

“**household refuse receptacle**” means a **Council** approved refuse receptacle specifically intended for the collection of **household refuse**;

“**Itinerant trading**” means selling or offering for sale or hire goods or services from a temporary location, from place to place or from a vehicle or from door to door;

“**land**” includes structures permanently fixed to the land;

“**livestock**” has the same meaning as in the *Impounding of Livestock Act 1994*;

“**major environmental weed species**” has the same meaning as in the *Tree Protection Local Law 2016 – No.22*;

“**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);

“**motorised vehicles**” 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;

“**Municipal Fire Prevention Officer**” has the same meaning as in the *Country Fire Authority Act 1958*;

“**municipality**” means the municipal district of **Council**;

“**municipal place**” means land or any asset, excluding a **road**, which is vested in, owned, occupied, managed or controlled by **Council**;

“**occupier**” includes any person who is for the time being in charge of land;

“**permit**” means a permit, including any conditions, issued under this Local Law;

“**person**” includes a corporation and a corporation has the same meaning as in the *Corporation Act 2001*;

“**person in charge**” in relation to clause 3.4(f) 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;

“**prescribed**” means specified in a resolution made by **Council**, the general purport of which is set out in a newspaper generally circulating in the **municipality**;

“**public place**” has the same meaning as in the *Summary Offences Act 1966*;

“**public reserve**” means a *municipal place*, which is located outdoors and available for recreational purposes;

“**recreational vehicle**” means any wheeled conveyance, powered by a motor, that is not registered under the provisions of the *Road Safety Act 1986*;

“**recyclable materials**” means glass bottles and jars (whether broken or unbroken), polyethylene terephthalate (PET), high density polyethylene (HDPE), polyvinyl chloride (PVC), hard plastics coded or uncoded, aluminum cans and foil, steel cans, clean paper and cardboard, liquid paper board and any other materials *prescribed* by **Council**;

“**recyclable materials receptacle**” means a **Council** approved recyclable material receptacle specifically intended for the collection of *recyclable materials* only;

“**refuse receptacle**” means a refuse receptacle of the type issued or approved by **Council** for the collection of non-recyclable refuse, *garden waste* and *recyclable materials*;

“**retailer**” means a *person* who sells goods by retail and provides shopping trolleys to their customers;

“**road**” has the same meaning as in the *Act*;

“**Seagull**” has the same meaning as in the *Wildlife Act 1975*;

“**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*;

“**shopping trolley**” means a hand operated wheeled conveyance provided by retailers for use primarily for the carriage of goods by customers;

“**smoke**” means to:

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

“**tobacco product**” has the same meaning as in the *Tobacco Act 1987*;

“**vehicle**” has the same meaning as in the *Road Safety Act 1986* and includes:

- (a) a vehicle designed to be propelled by human power including a scooter, skate board, roller skates, roller blades and like toys;
- (b) a remote control aircraft or vehicle; and
- (c) a mobility scooter or similar vehicle.

“**Vermin**” means an animal that has been proclaimed under the *Catchment and Land Protection Act 1994*, including cockroaches and bedbugs.

1.8 Conflict with other Legislation

The provisions in this Local Law apply to the extent that they are not inconsistent with any Act, Regulation or Planning Scheme applicable to the **Council** or its *municipality*.

PART 2 – ROADS AND MUNICIPAL PLACES

2.1 Behaviour

A **person** must not:

- (a) enter or remain on a **road** or in a **municipal place** while intoxicated or under the influence of any illegal drug;
- (b) sell alcohol on a **road** or in a **municipal place**, without the consent of **Council** or an **Authorised Officer**;
- (c) commit any nuisance on a **road** or in a **municipal place**;
- (d) interfere with another person's reasonable use and enjoyment on a **road** or in a **municipal place**;
- (e) endanger or do anything likely to endanger any person on a **road** or in a **municipal place**;
- (f) behave in an indecent, offensive, insulting or riotous manner on a **road** or in a **municipal place**;
- (g) engage in any rough or boisterous play or conduct on a **road** or in a **municipal place**;
- (h) spit, defecate or urinate on a **road** or in a **municipal place**;
- (i) without the consent of **Council** or an **Authorised Officer** :
 - (i) destroy, damage, interfere with or deface a **municipal place** or **road**;
 - (ii) destroy, damage, interfere with or deface anything located at, on or in a **municipal place** or **road**; or
 - (iii) remove anything from a **municipal place** or **road**;
- (j) except for a child under the age of eight (8) years in the care of a responsible person, enter or use any dressing room, shower, convenience or other area in a **municipal place** which has been appropriated for persons of the opposite gender;
- (k) erect, affix or place any **advertising sign** on a **road** or in a **municipal place** without the consent of **Council** or an **Authorised Officer**;
- (l) obstruct, hinder or interfere with any member of staff of **Council** in the performance of his or her duties;
- (m) act contrary to any lawful direction of an **Authorised Officer** or member of staff of **Council**, including, without limitation, a direction to leave a **road** or a **municipal place**, whether or not a fee for admission has been paid;
- (n) use or interfere with any lifesaving or emergency device located within a **municipal place** or on a **road**, unless:

- (i) using the device in an emergency; or
- (ii) participating in instruction approved by **Council** or an **Authorised Officer**; or
- (o) make any wager for money or engage in any form of gambling on a **road** or in a **municipal place**, without the consent of **Council** or an **Authorised Officer**.

2.2 Council Signs

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

2.3 Use of Vehicles in or on Municipal places and Public Places

- (a) A **person** must not ride or drive a **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 a **public place** or **municipal place**, ride or cause or allow to be ridden any **recreational vehicle**.

2.4 Control of Vehicles

A **person** must not use or allow another **person** to use a **vehicle** in a **municipal place** or on a **road** in such a way as to obstruct, inconvenience, hinder, interfere with the passage of or cause annoyance or danger to any **person** on or using the **municipal place** or **road**.

2.5 Parked Vehicles Interfering with Council Functions

- (a) If **Council** or an **Authorised Officer** is of the opinion that the presence of a **vehicle** on a **road** is interfering or will interfere with any road works on that **road**, it may serve a notice on the owner of that **vehicle**.
- (b) The owner of a **vehicle** must move or cause to be moved the **vehicle** in accordance with any notice served under clause 2.5(a).

2.6 Shopping Trolleys

- (a) *Shopping Trolley / Containment Systems*
 - (i) Subject to clause 2.6(a)(ii), a **retailer** must not make available for use, or allow to be used, a **shopping trolley** which:
 - does not have a fully functioning **coin deposit and release mechanism** attached to it; or
 - is not secured to premises by a **Council** approved perimeter containment system.
 - (ii) Clause 2.6(a)(i) does not apply when a **retailer** makes available for use, or allow to be used, 25 **shopping trolleys** or less.

(b) *Shopping Trolleys left on a road or in a municipal place*

A **person** must not leave a **shopping trolley** on a **road** or in a **municipal place** except in an area designated for that purpose.

(c) *Exemptions*

- (i) A **retailer** may apply in writing to **Council** for an exemption from the application of clause 2.6(a)(i).
- (ii) **Council** may decide in its absolute discretion to exempt any **retailer** from the application of clause 2.6(a)(i), in respect of all **shopping trolleys**, or particular types of **shopping trolleys**, provided by that **retailer**, either temporarily or permanently.

(d) *False Representation*

A **retailer** must not obtain or attempt to obtain an exemption by willfully making or causing to be made any false representation.

(e) *Impounding*

- (i) An **Authorised Officer**, or a **person** engaged by **Council** for this purpose, may seize and impound any **shopping trolley** which is being made available for use, or which is being used or has been left on a **road** or in a **municipal place**, in contravention of this Local Law.
- (ii) On the first business day of each month or as soon as possible thereafter a list of **shopping trolleys** that have been impounded by **Council** will be forwarded to each **retailer** stating:
 - the period within which the **shopping trolleys** must be claimed;
 - that unclaimed **shopping trolleys** may be disposed of by **Council** after the period; and
 - that it is an offence for a **retailer** to not claim an impounded **shopping trolley**.
- (iii) Any impounded **shopping trolley** may be claimed by the **retailer** that owns the trolley after payment of the pound release fee set by **Council** which must not exceed an amount that reasonably represents the cost to **Council** of impounding, moving, keeping and releasing the **shopping trolley** (including any relevant overhead and other indirect costs).
- (iv) Any impounded **shopping trolley** not claimed within the time specified in the list of impounded **shopping trolleys** as in clause 2.6(e)(ii) may be disposed of by **Council**.
- (v) **Council** may recover an impound fee incurred as a result of a failure to claim any impounded shopping trolley.
- (vi) It is an offence for a **retailer** not to claim an impounded **shopping trolley** within the period stated by **Council** in the list of impounded **shopping trolleys** forwarded to that **retailer**.

- (vii) The disposal of a **shopping trolley** under clause 2.6(e)(iv) does not preclude an **Authorised Officer** issuing an infringement notice to a **retailer** who has not collected the **shopping trolley** and who has thereby committed an offence against clause 2.6(e)(vi).

2.7 Playing of Golf

A **person** must not drive or putt golf balls in any **municipal place** other than in an area specifically set aside as a golf course or golf driving range.

2.8 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 100mm 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; and
- (e) visible from both directions.

2.9 Trading Activities including Busking

- (a) A **person** must not, without a **permit** on a **road** or in a **municipal place**:
- (i) place any **advertising sign**;
 - (ii) display any goods;
 - (iii) place any outdoor dining furniture or associated facilities;
 - (iv) place any structure for the purpose of selling or offering to sell any goods or services;
 - (v) sell or offer for sale any:
 - **vehicle**; or
 - goods or services carried about or placed on the person or any other movable thing;
 - (vi) solicit or collect any waste materials, gifts of money, or subscriptions, or do so from premises to premises adjacent to a **road**; or
 - (vii) hold a promotion,
- or cause or authorise another **person** to do so.
- (b) **Council** has adopted **Kerbside Trading Guidelines** for the purposes of this Local Law, which identify principles to be upheld when considering applications for permits, to

ensure a practical balance between the needs and interests of pedestrians and adjoining businesses.

- (c) The whole of the Guidelines is incorporated into and forms part of this Local Law.
- (d) **Council** may amend the Guidelines from time to time. An amendment does not take effect until notice of the amendment is published in the *Victoria Government Gazette*.
- (e) The Guidelines must be made available for inspection at the Council's offices and service centres during normal business hours.
- (f) A **person** must not, without a **permit**, **busk** on a **road** or in a **public place**.
- (g) **Council** has adopted a busking code of conduct for the purposes of this Local Law, which identify principles to be upheld when considering applications for permits, to ensure a practical balance between the needs and interests of pedestrians and adjoining businesses.
- (h) The whole of the code of conduct is incorporated into and forms part of this Local Law.
- (i) **Council** may amend the code of conduct from time to time. An amendment does not take effect until notice of the amendment is published in the *Victoria Government Gazette*.
- (j) The code of conduct must be made available for inspection at the Council's offices and service centres during normal business hours.

2.10 Itinerant Trading

A **person** must not, without a **permit**, engage in itinerant trading on a **road** or in a **municipal place**.

2.11 Street Parties, Festivals and Processions

- (a) A **person** must not, without a **permit**, hold a street party, festival or a procession in any **public place**.
- (b) In determining whether or not to issue a **permit** in respect of this clause, **Council** or an **Authorised Officer** must take into account:
 - (i) whether appropriate traffic management planning has been prepared for the event;
 - (ii) whether there should be notification to property **occupiers** within a reasonable radius of the event;
 - (iii) if applicable, whether an appropriate food safety management plan has been prepared;
 - (iv) whether the agreement of the Victoria Police and the responsible road authority has been obtained and their requirements met, including an appropriate traffic detour signing scheme;
 - (v) whether an emergency management plan is required;

- (vi) the group of people or the organisation on whose behalf the application is being made;
 - (vii) the streets which are sought to be closed;
 - (viii) the date and times for the event;
 - (ix) those who are being invited to the event;
 - (x) any proposals for fireworks to be included in the event;
 - (xi) proposed arrangements for cleaning and returning the area to its pre-event condition; and
 - (xii) any other relevant consideration.
- (c) Where an application is to conduct a street party, festival or procession in a **public place**, the application must be made forty-five (45) days before the event is to take place.
- (d) A **permit** may be subject to conditions in respect of any of the matters set out in clause 2.11(b).

2.12 Vehicle Crossing

- (a) The owner or **occupier** of **land** must not, or must not allow any **person** to, access the **land** by vehicle other than over a **Council** approved vehicle crossing.
- (b) A **person** must not, without a **permit**, construct a vehicle crossing.
- (c) Every vehicle crossing must be constructed and sited to the satisfaction of **Council**.
- (d) **Council** may by notice in writing to the owner or **occupier** of **land** require the construction of a satisfactory vehicle crossing to any **land** with the full cost of such works to be borne by the owner or **occupier**.
- (e) **Council** may by notice in writing to the owner or **occupier** of land require the repair of a vehicle crossing which is in a state of disrepair with the full cost of such works to be borne by the owner or **occupier**.
- (f) **Council** may by notice in writing to the owner or **occupier** of **land** require the removal of a vehicle crossing and reconstruction of the kerb and channel and footpath where the vehicle crossing, in the opinion of **Council** is no longer required with the full cost of such works to be borne by the owner of **occupier**.
- (g) The owner of **occupier** of **land** must comply with any notice issued by **Council** under clause 2.12(d), (e) or (f).

2.13 Clothing Bins

A **person** must not, without a **permit**, place a **clothing bin** on a **road** or in a **municipal place**.

2.14 Repair of Vehicles

A **person** must not, without a **permit**, 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** or **municipal place**.

2.15 Storage of Vehicles

A **person** must not, without a **permit**, store or park on a **road** or in a **municipal place** a:

- (a) boat;
- (b) trailer;
- (c) **caravan**; or
- (d) **vehicle**, whether registered or not, which is in a dilapidated state for more than seven (7) consecutive days or for more than eight (8) days in any period of 14 days.

2.16 Occupation of Road for Works

- (a) A **person** must not, without a **permit**, carry out any works on a **road** or occupy a **road** for the purpose of carrying out works.
- (b) Nothing in clause 2.16(a) applies to anything for which the consent of a coordinating road authority is obtained under section 63 of the *Road Management Act 2004*.

2.17 Container Left on a Road

- (a) A **person** must not, without a **permit**, leave a **bulk rubbish container** on a **road** or in a **municipal place**.
- (b) Any **bulk rubbish container** left on any part of a **road** or in a **municipal place** in breach of clause 2.17(a) may be impounded by an **Authorised Officer**.
- (c) Where a **bulk rubbish container** has been impounded, the provisions of clause 5.8 must be complied with.

2.18 Use of Municipal Place

A **person** must not, without the consent of **Council** or an **Authorised Officer** :

- (a) act contrary to any conditions of entry applicable to a **municipal place**;
- (b) enter a **municipal place** without paying any fee or charge applicable to that **municipal place** for the hire or use of the **municipal place**;
- (c) hire or use any **Council** property in connection with a **municipal place** without first paying any fee or charge which is applicable;
- (d) remain on a **municipal place** after being directed to leave by an **Authorised Officer**, or
- (e) enter a **municipal place**, after having been directed to leave that **municipal place** by an **Authorised Officer**, until he or she is granted written permission to do so by **Council** or an **Authorised Officer**.

2.19 Access to Municipal Places

- (a) **Council** or an **Authorised Officer** may determine the hours when any **municipal place** will be open to the public.
- (b) A **person** must not, without the consent of **Council** or an **Authorised Officer**.
 - (i) enter a **municipal place** other than through an entrance provided for that purpose;
 - (ii) enter or remain in a **municipal place** during hours when the **municipal place** is not open to the public;
 - (iii) bring any animal into, or allow any animal under his or her control to remain in, a **municipal place**, except for a guide dog being used by a visually impaired person or a hearing dog being used by a hearing impaired person; or
 - (iv) bring any **vehicle** or wheeled toy into a **municipal place**, except for:
 - (aa) a pram or pusher being used to convey a child; or
 - (bb) a wheelchair being used by a physically disabled person; or
 - (cc) a person using a mobility scooter.

2.20 Permits

- (a) In considering an application for a **permit** in respect of any of the activities referred to in clause 2.10, 2.12 to 2.17 **Council** or an **Authorised Officer** must consider, as appropriate:
 - (i) whether the proposal will impact upon the safety of pedestrians or motorists;
 - (ii) whether the proposal is compatible with existing streetscapes and street furniture; and
 - (iii) any other relevant matter.
- (b) **Permits** issued in respect of any of the activities may contain conditions relating to the:
 - (i) specific location of the activity;
 - (ii) size, style and condition of any items permitted;
 - (iii) amount of space allowed for a particular activity;
 - (iv) prohibition on any obstruction to:
 - the safe, continuous and dignified access of pedestrian traffic along the footpath;
 - the movement or safe operations of vehicular traffic along a **road** or intersection; and

- visibility or lines of sight at an intersection of a **road** (or private access);
- (v) **permit** holders removing any items that are the subject of the **permit**, to facilitate access for works by **Council**, utility providers or emergency services or to facilitate public events;
- (vi) maintaining cleanliness and the appearance of the permit area;
- (vii) the removal of items when as requested by **Council** or an **Authorised Officer**;
- (viii) colour contrasting of items to ensure that they do not blend into the surrounds;
and
- (ix) any other relevant matter.

PART 3 – MUNICIPAL AMENITY

3.1 Dangerous and Unsightly Land and Nuisances

- (a) An owner or **occupier** of **land** must ensure that the **land** and any structure on the **land**:
- (i) does not constitute a danger to health or property;
 - (ii) is kept free of any **graffiti**;
 - (iii) is not used in any manner so as to cause a nuisance or become detrimental to the amenity of the immediate area; and
 - (iv) does not, through a lack of effective maintenance, misuse or ageing, fall into a state which is unsightly and which detracts from or does not complement the amenity of the surrounding area.
- (b) Without limiting clause 3.1(a)(iv), **land** or a structure on the **land** may be unsightly or detract from or not complement the amenity of the surrounding area by reason of the presence of:
- (i) unconstrained rubbish;
 - (ii) dead trees and/or excessive growth of vegetation;
 - (iii) waste material;
 - (iv) unregistered motor vehicles or machinery or any parts of them;
 - (v) scrap metal, second-hand timber or second-hand building materials;
 - (vi) a disused excavation;
 - (vii) a building which is incomplete and not currently being constructed; or
 - (viii) a building or other structure or thing which is detrimental to the amenity of the surrounding area.
- (c) For the purposes of this clause, a building includes an out building and any other capital improvement on the **land**.

3.2 Dilapidated Building

- (a) An owner or an **occupier** of **land** must not allow a building located on the **land** to:
- (i) become dilapidated; or
 - (ii) become further dilapidated,

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

- (b) For the purposes of clause 3.2(a), a building is dilapidated if it is in a state of disrepair or has deteriorated or fallen into a state of partial ruin as a result of age, neglect, poor maintenance or misuse.

3.3 Aerosol Spray Paint containers

- (a) A **person** must not on any **land** not occupied by that **person** possess an aerosol spray paint container unless:
- (i) he or she has the consent of the owner or the **occupier** of the **land**; or
 - (ii) he or she has a lawful excuse for the possession of the aerosol spray paint container.
- (b) Clause 3.3(a) does not apply if the **person** is in possession of an aerosol spray container in the course of engaging in, or carrying out any functions in relation to, his or her employment, occupation, business trade or profession.
- (c) A **person** who:
- (i) offers for sale any aerosol spray paint container; or
 - (ii) owns, operates or manages a business from premises on which an aerosol spray paint container is offered for sale must not:
 - (iii) store or display;
 - (iv) cause to be stored or displayed; or
 - (v) allow to be stored or displayed any aerosol spray paint container in an area which is accessible to the public.
- (d) A **person** must not:
- (i) sell;
 - (ii) deliver;
 - (iii) give; or
 - (iv) 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 parent and the second mentioned **person** is his or her child;
 - is a guardian and the second mentioned **person** is his or her ward;
 - is an employer and the second mentioned **person** is his or her employee;
 - is the agent of an employer and the second mentioned **person** is the employee of that employer;
 - is a teacher and the second mentioned **person** is his or her pupil; or
 - sells the aerosol spray paint container to the second mentioned **person** and the sale is permitted under section 10 of the *Graffiti Prevention Act 2007*.

3.4 Building and Works Code of Practice

- (a) The Building and Works Code of Practice (the **Code**) has been adopted by **Council** for the purposes of this Local Law and has the objectives of:
 - (i) 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;
 - (ii) protecting public assets and infrastructure during **building works**; and
 - (iii) providing for a **permit** system, including payment of a **security deposit**.
- (b) The whole of the **Code** is incorporated into and forms part of this Local Law.
- (c) The **Code** is available for inspection at the Council's offices and service centres during business hours.
- (d) **Council** may amend the **Code** from time to time in accordance with the provisions contained in the **Code**.
- (e) An amendment does not take effect until notice of Council's decision to amend the **Code** is published in the *Victoria Government Gazette*.
- (f) The **person in charge** of **building works** or a **building site** must ensure that:
 - (i) an **asset protection permit** is applied for and issued prior to commencing, or allowing to be commenced, any such **building works**; and
 - (ii) the **Code** is complied with.
- (g) Clause 3.4(f) does not apply to **minor building works**.
- (h) In considering an application for an **asset protection permit** under clause 3.4(f), **Council** must have regard to the requirements of the **Code**.

3.5 Household Refuse Receptacles

- (a) The **occupier** of premises supplied by **Council** with receptacles for different classes of refuse (including, but not limited to, **household refuse**, **recyclable materials** and **garden waste**) must use the receptacles (including **green waste receptacle** and **recyclable material receptacle**) only for the purposes for which they were provided.
- (b) The **occupier** of premises to which **Council** provides a **household refuse receptacle** must not place, or allow to be placed, in the receptacle any:
 - (i) slops or liquid waste;
 - (ii) 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;
 - (iii) 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;

- (iv) shredded paper unless wrapped;
 - (v) 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);
 - (vi) 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;
 - (vii) concrete, masonry, bricks, building debris, soil or machinery, engine or vehicle parts;
 - (viii) trade waste;
 - (ix) hazardous chemicals;
 - (x) radioactive material;
 - (xi) volatile, explosive or flammable substance;
 - (xii) night soil (except that disposable nappies may be placed or caused to be placed in a **refuse receptacle** if they are wrapped in impervious material);
 - (xiii) the carcass of a deceased animal or bird;
 - (xiv) oil, solvents, flammable liquids or paint (other than paint residue contained in a closed container);
 - (xv) waste of a shape, size or weight that cannot be contained in such a **refuse receptacle**;
 - (xvi) needles or syringes;
 - (xvii) medical or infectious waste;
 - (xviii) **garden waste** other than in a **refuse receptacle** specifically intended for the collection of **garden waste**;
 - (xix) any **recyclable materials** other than in a **refuse receptacle** specifically intended for the collection of **recyclable waste**; or
 - (xx) any other object or matter which is or may be injurious to health.
- (c) The **occupier** of premises to which **Council** provides a **household refuse receptacle** must not place out for collection a receptacle of a gross weight of more than 75 kilograms.

3.6 Occupier to maintain Refuse Receptacle

An **occupier** of premises who utilises Council's refuse collection service must:

- (a) deposit, or cause to be deposited, all **household refuse** produced or accumulated in or around the premises in the **refuse receptacle**;
- (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, write on or place any label or sticker on a **refuse receptacle** provided by **Council**; and
- (e) ensure that any report of a stolen **refuse receptacle** is supported by a statutory declaration confirming that the **refuse receptacle** has been stolen.

3.7 Collection of Household Refuse, Recyclable Waste and Garden Waste

- (a) An **occupier** of premises may, during such hours and on such days as are appointed by **Council** from time to time for a particular type of receptacle, place the receptacle out for emptying on the nature strip or **road** reserve nearest the premises or in such other location as may be approved or permitted by **Council**, 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.
- (b) An **occupier** must not leave a receptacle out in accordance with clause 3.7(a) for more than one (1) day before or after the designated collection day, unless permitted to do so by an **Authorised Officer**.
- (c) A **person** (other than the **occupier** of the premises who placed it out for collection) must not add, remove, or interfere with the contents of any such receptacle except with the prior written consent of **Council** or the **occupier** of the premises to whom the receptacle has been supplied.

3.8 Collection of Hard Waste

- (a) A **person** must not, without **Council's** or an **Authorised Officer's** approval, place **hard waste** on a nature strip other than on days published by **Council** for such placement as part of a **hard waste** collection service; and in accordance with any written conditions published by **Council**.
- (b) A **person** must not remove or interfere with any **hard waste** placed out for collection except with the consent of either the **person** who placed the **hard waste** out for collection or **Council** or an **Authorised Officer**.
- (c) The **person** or **Council** or an **Authorised Officer** can give consent under clause 3.8(b) only when:
 - (i) **hard waste** being removed is to be used for the personal use of the person requesting such consent; and
 - (ii) the remaining **hard waste** is left in a safe and tidy manner.

3.9 Noise

- (a) A **person** must not:
 - (i) spruik; or

- (ii) cause unreasonable and substantial noise or knowingly allow or suffer unreasonable and substantial noise to exist on or emanate from any **land** owned or occupied by that **person**.
- (b) In considering what constitutes unreasonable and substantial noise for the purposes of clause 3.9(a)(ii), an **Authorised Officer** must have regard to the following:
 - (i) the likelihood of the noise causing disturbance or annoyance to others;
 - (ii) the volume, intensity or duration of the noise;
 - (iii) the time and place of the noise;
 - (iv) reasons why the noise is occurring; and
 - (v) any other relevant circumstances.

3.10 Open Air Burning and Chimneys

- (a) In this clause 3.10, “in the open air” has the same meaning as that contained in Division 3 of Part III of the *Country Fire Authority Act 1958*.
- (b) A **person** must not light a fire in the open air on any **land** within the **municipality**.
- (c) Clause 3.10(b) does not apply to:
 - (i) a barbecue, pizza oven or other properly constructed appliance while it is being used for cooking food;
 - (ii) a fire in a brazier or chimenea while it is being used for heating;
 - (iii) a tool of trade while being used for the purpose for which it was designed;
 - (iv) a fire lit during the course of duty by a member of a fire and emergency services agency; or
 - (v) a **person** to whom **Council** or an **Authorised Officer** has granted a **permit** because it considers that the specific circumstances of the case justify it enabling open air burning to take place.
- (d) On **land** greater than 1,600 square metres (0.39 acres) in total size, but less than 20,000 square metres (5 acres) in total size and the **land** is subject to a bushfire prone area or bushfire management overlay under the relevant planning scheme and where **Council** or an **Authorised Officer** has granted a **permit** because it considers that the specific circumstances of the case justify it enabling open air burning to take place:
 - (i) a fire may be lit or allowed to remain alight only on a Friday or a Saturday and not before 9am or after 4pm;
 - (ii) no more than 5 cubic metres of vegetation can be burnt at any one time;
 - (iii) the fire must not spread within 20 metres of any neighbouring dwelling; and
 - (iv) the fire must be lit and remain alive in accordance with clause 3.10(n).

- (e) On **land** greater than 20,000 square metres (5 acres) in total size and where **Council** or an **Authorised Officer** has granted a **permit** because it considers that the specific circumstances of the case justify it enabling open air burning to take place:
- (i) the fire must be lit and allowed to remain alight only on a Friday or a Saturday and not before 9am or after 4pm;
 - (ii) no more than 5 cubic metres of vegetation can be burnt at any one time;
 - (iii) the fire must not spread within 100 metres of any neighbouring dwelling; and
 - (iv) the fire must be lit and remain alive in accordance with clause 3.10(n).

Removal of Restrictions on Open Air Burning

- (f) The **Municipal Fire Prevention Officer** may remove some restrictions on open air burning contained within this clause 3.10 for a period of up to four (4) weeks to enable landowners to light a fire in the open air for the fire prevention purposes only, in which case **Council** will give public notice of the extent of the removal during this period.

Applying for a Permit to Burn

- (g) A **person** can apply for a **permit** under clause 3.10(c)(v) by:
- (i) lodging an application with **Council** in a form approved by **Council** or an **Authorised Officer**, and
 - (ii) paying to **Council** the appropriate application fee, if applicable.

Issue of Permits to Burn

- (h) **Council** or an **Authorised Officer** may issue a **permit** with conditions or refuse to issue a **permit** based on the specific circumstances of the case, having due regard to:
- (i) the size of the **land**;
 - (ii) the ability of the landowner to remove the vegetation via more appropriate methods;
 - (iii) the proximity to other landowners and risk of smoke nuisance; and
 - (iv) any other relevant thing.
- (i) The conditions of the **permit** must be set out in the **permit**.
- (j) A **person** who undertakes open air burning for which **Council** or an **Authorised Officer** has issued a **permit** must comply with the conditions in the **permit** and comply with clause 3.10(d) or (e), as applicable.
- (k) No **permit** to burn will be issued, nor will any **permit** issued be valid, during the fire danger period or on a day of total fire ban as declared by the Country Fire Authority or a smog alert day as declared by the Environment Protection Authority.
- (l) All **permits** issued by **Council** or an **Authorised Officer** will expire as of November 30

each year it was issued, unless otherwise stipulated by the **Municipal Fire Prevention Officer**.

- (m) No **permit** application will be accepted by **Council** during the Country Fire Authority Declared Fire Danger Period.

General Provisions

- (n) A **person** who has lit or allowed a fire to remain alight must do so in accordance with the following general provisions:
- (i) the fire must be supervised by an adult present at all times;
 - (ii) sufficient fire protection equipment must be available to extinguish the fire if required, including at a minimum a hose attached to a reticulated water supply (either tank or mains) or a vessel containing at least ten (10) litres of water is available at the site of the fire at all times that the fire is alight;
 - (iii) the vegetation to be burnt must be dead and dry prior to lighting it; and
 - (iv) at the site of the fire, the wind speed must not exceed 20 kilometres per hour.
- (o) A **person** must not light a fire on any **land** by using any of the following materials:
- (i) green or wet material;
 - (ii) non timber based building materials;
 - (iii) rubber or plastic, including plastic mulch, plant pots and packaging materials;
 - (iv) furnishings and carpet;
 - (v) manufactured chemicals;
 - (vi) petroleum or oil products;
 - (vii) paint, including any container in which paint is kept;
 - (viii) food waste;
 - (ix) manure and straw;
 - (x) carcasses or dead animals or birds, unless prescribed by the Department of Environment and Primary Industries (or any other Department with operational responsibility for such matters) as the only means of disposal;
 - (xi) other offensive, noxious or toxic matter as determined by an **Authorised Officer** and published on **Council's** website.

Extinguishing Fires

- (p) A **person** who has lit or allowed a fire to remain alight contrary to the provisions of this clause 3.10 or any condition contained in a **permit** must extinguish the fire immediately on being directed to do so by **Council** or an **Authorised Officer**.

Nuisance Burning

- (q) A **person** must not light a fire on any **land** in the open air that:
- (i) is offensive or a nuisance to another **person** in the vicinity, or beyond the property boundary;
 - (ii) may cause a hazard to a person's health;
 - (iii) has an adverse impact on visibility beyond the property boundary, including reducing the visibility of motorists and other users of a **road**; or
 - (iv) creates a hazard on or near a **road**.

Chimneys

- (r) An owner or **occupier** of **land** must not allow any chimney on that **land** to discharge grit, ash, smoke or dust to such an extent that it becomes a public nuisance, or is dangerous or is likely to be dangerous to the health and safety of any **person** or animal, or is harming or likely to be harmful to the environment.
- (s) In determining whether there has been a breach of clause 3.10(r), **Council** or an **Authorised Officer** must have regard to:
- (i) the nature of any complaint received;
 - (ii) any observations of the **Authorised Officer** or any other **Authorised Officer**, including the level of observable dust, grit, ash, smoke substance or odour;
 - (iii) any diary entries made by any person detailing the particulars of the complaint;
 - (iv) whether the chimney and any heating devices comply with any relevant Australian Standard;
 - (v) the nature of the fuel used in the heating device; and
 - (vi) must be used for personal comfort or heating.

3.11 Council Drains, Pits or Footpaths

- (a) A **person** must not, without a **permit**, destroy, damage or tap into any drain, culvert or sewer vested in **Council**.
- (b) A **person** must not:
- (i) 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
 - (ii) 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.
- (c) A **person** must not 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**

management or control.

- (d) Where any tree, shrub, bush or vegetation hinders, obstructs or interferes or is likely to hinder, obstruct or interfere with the operation of any infrastructure (including but not limited to drains, pits or footpaths) vested in or under **Council** management or control, an **Authorised Officer** may serve a notice on the owner or **occupier** of the **land** requiring the owner or **occupier** to take such remedial action as is specified in the notice.
- (e) A **person** must not:
 - (i) interfere with access to any storm water pit;
 - (ii) construct or place any material, dirt, or other matter on a pit lid so as to conceal its location or accessibility; or
 - (iii) cause any material or other debris to enter a storm water drain.
- (f) Any **person** who fails to comply with a notice served under clause 3.11(d) will, in addition to any penalty under this Local Law, be liable for all subsequent repair and maintenance costs incurred by **Council**.

3.12 Camping and Caravans

- (a) A **person** who owns or occupies **land** in an area zoned residential under the Frankston Planning Scheme must not park more than one **caravan** on such **land**.
- (b) Subject to clause 3.12(c), an owner or **occupier** of **land** must not, without a **permit**, occupy or allow another **person** to occupy a **caravan**, tent or similar structure on such **land** for a period greater than 48 hours.
- (c) Notwithstanding clause 3.12(b), a **caravan**, tent or similar structure may be occupied for a period of 4 weeks by a bona fide visitor or a dependant of the **person** who owns or occupies the **land**.
- (d) A **person** must not, without a **permit**, camp in a tent, **caravan**, motor home or other temporary structure on a **road** or in a **municipal place**.

3.13 Heavy and Unregistered Vehicles

A **person** who owns or occupies **land** in an area zoned residential under the Frankston Planning Scheme must not or allow any other person on such **land**, without a **permit** to:

- (a) park, keep or repair a **vehicle** weighing more than 4.5 tonnes gross **vehicle** mass; or
- (b) park, keep or repair an unregistered **vehicle**.

3.14 Motorised Vehicles

A **person** must not, without a **permit**, use a **motorised vehicle** for recreational purposes on any **land**, including a **municipal place**.

3.15 Liquor

- (a) A **person** must not, without a **permit**.

- (i) in or at a **municipal place**;
- (ii) in or at a **public place**; or
- (iii) on a vacant private **land**.

consume any liquor or have in his or her possession or control any liquor other than liquor in a sealed container.

- (b) Clause 3.15(a)(iii) does not apply to a **person** who is the owner or **occupier** of vacant private **land** or who is upon such vacant private **land** at the invitation or with the permission of its owner or **occupier**.
- (c) An **Authorised Officer** may direct the **person** to dispose of the contents of any container containing liquor, which is unsealed.
- (d) A **person** to whom a direction is given under clause 3.15(c) must comply with that direction.
- (e) If a **person** fails to comply with a direction under clause 3.15(c) within a reasonable time, an **Authorised Officer** may seize the container and dispose of its contents.

3.16 No Smoking in Smoke Free Areas

- (a) A **person** must not **smoke** a **tobacco product** in a smoke free area.
- (b) Where an **Authorised Officer** believes on reasonable grounds that a **person** is contravening or has contravened clause 3.16(a), the **Authorised Officer** may direct the **person** to extinguish and then dispose of the **tobacco product**.
- (c) A **person** to whom a direction is given under clause 3.16(b) must comply with that direction.
- (d) **Council** may prescribe any area within the **municipality** to be a smoke free area.

3.17 Major Environmental Weed Species

- (a) An owner or **occupier** of **land** must not allow any **major environmental weed** species to be present on that **land**.
- (b) A **person** to whom a direction is given under clause 3.17 (a) must comply with that direction.

3.18 Collecting of Firewood

A **person** must not collect and remove firewood, including dead trees and fallen branches, from a **municipal place** or on a **road**.

3.19 Nature Strips

- (a) An owner or **occupier** of **land** must ensure that the nature strip adjacent to or otherwise referable to that **land**:
 - (i) is maintained in a neat and tidy condition; and
 - (ii) does not contain grass, stubble, scrub or undergrowth exceeding 30 centimetres in height.

- (b) A **person** to whom a direction is given under clause 3.19(a) must comply with that direction.
- (c) A **person** must not without a **permit**:
 - (i) plant or remove vegetation from a nature strip or undertake any landscaping on a nature strip or on a **road** or on **municipal land**; or
 - (ii) remove soil from a nature strip or a **road** or a **municipal place**.

3.20 Shipping Containers

A **person** must not keep, store, repair, or in any other manner use any shipping container including as accommodation on any **land** in a residential zone except in accordance with a **permit**.

3.21 Old, Used or Second Hand Machinery, Materials, Goods and Vehicles

Unless permitted under a Planning Scheme applicable to the **land**, a **person** must not, without a **permit**:

- (a) use any **land** for the storage, assembly or dismantling of any old, used or second hand machinery, materials and goods; or
- (b) use any **land** for the storage, assembling or dismantling of any old or second hand **vehicles**.

3.22 Fences between Private and Municipal places

- (a) An owner or **occupier** of **land** adjoining a **municipal place** must not, without a **permit**, construct or otherwise effect an opening or construct or install a gate in any fence on the boundary between the **land** and the **municipal place**.
- (b) A **person** to whom a direction is given under clause 3.22(a) must comply with that direction.

PART 4 – ANIMALS

4.1 Numbers

- (a) An owner or **occupier** of **land** must not, without a **permit**, keep on that **land** any rooster or peafowl or more than:
 - (i) 2 cats;
 - (ii) 2 dogs;
 - (iii) 5 rodents, includes rats, mice and guinea pigs;
 - (iv) 4 rabbits;
 - (v) 4 ferrets;
 - (vi) 30 birds; or
 - (vii) 8 poultry.
- (b) The desexing of rodents, rabbits and ferrets is mandatory whenever the specified number allowed in accordance with clause 4.1(a) is exceeded.
- (c) Unless permitted under a Planning Scheme applicable to the **land** or an Act, a **person** must not, without a **permit**, keep an animal of a species not listed in clause 4.1(a) on any **land**.
- (d) Clauses 4.1(a) and (c) do not apply to those persons licensed pursuant to the *Wildlife Act 1975* and who comply with the *Wildlife Act 1975* and *Wildlife Regulations 2002*.

4.2 Keeping of Livestock

- (a) A **person** must not keep **livestock** on **land** which has an area of half a hectare or less, unless in accordance with a planning permit issued under the provisions of the Frankston Planning Scheme.
- (b) Clause 4.2(a) does not apply to **livestock** specified in clause 4.1(a) (vi) and (vii).

4.3 Pigeons

- (a) A **person** must not:
 - (i) exercise pigeons other than during 2 hours after sunrise or 2 hours before sunset;
or
 - (ii) race pigeons except at organised events.
- (b) Nothing in clause 4.3(a) applies to a **person** who is a member of a pigeon racing club or association and who keeps pigeons for racing or homing pigeons, if that **person** is exempted by **Council** in writing from the requirements of clause 4.3(a) following a process of consultation with owners or **occupiers** of **land** in the immediate vicinity of the **land** on which the pigeons are kept.

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 Flora and Fauna

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.

4.7 Animal Nuisances

An owner of an animal or an **occupier** or owner of any **land** on which any animal is kept must not allow any noise, smell or other nuisance from the animal to emanate which interferes with the reasonable comfort or convenience of persons who occupy adjacent or nearby **land**.

4.8 Dog and Horse Excrement

A **person in charge** of a dog or horse on a **road** or in a **municipal place** must:

- (a) not allow the excrement of the dog or horse 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 or horse;
- (c) produce the device on demand by an **Authorised Officer**; and
- (d) dispose of all excrement of the dog or horse into a refuse receptacle.

4.9 Horses on Reservations

A **person** must not ride or lead a horse:

- (a) on a footpath or nature strip in an area zoned residential under the Frankston Planning Scheme; or
- (b) in or on a municipal reserve, except in or on any designated equestrian area of that municipal reserve.

4.10 Feeding of Birds, Feral Pigeons and Uncaged Birds

- (a) A **person** must not feed or leave food for a **Seagull** or a **Feral Pigeon** or an Uncaged Bird.
- (b) A **person** to whom a direction is given under clause 4.10(a) must comply with that direction.

4.11 Sale or Rehousing of Dogs and Cats

- (a) A **person**, unless exempted under the *Domestic Animal Act 1994*, must not sell or give away to any **person** any dog or cat that has not been desexed.

- (b) A **person** who sells or give away a dog or cat must on the request of an **Authorised Officer** provide details of the new owner.

4.12 Vermin

An owner or **occupier** of **land** must not allow **vermin** to exist on that **land**.

PART 5 – ADMINISTRATION

5.1 Applications for and Issue of Permits

- (a) 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**.
- (b) **Council** may waive, reduce or alter any fee.
- (c) **Council** may require an applicant to supply additional information and / or to give public notice of the application.
- (d) Every public notice given must consist of:
 - (i) a true copy or summary of the application;
 - (ii) an indication that **Council** will consider the application after the expiry of 14 days following the giving of publication of the notice;
 - (iii) an indication that all persons affected by the grant of an application may send to **Council** any written submissions they wish to make in relation to the application; and
 - (iv) an indication that all written submissions received within 14 days of the date of the notice will be taken into account in the determination of the application.
- (e) In determining whether to grant a **permit**, the matters to which **Council** may have regard include whether the application complies with any policy, code of practice, standards or guidelines adopted by **Council**.
- (f) **Council** may issue a **permit**, with or without conditions, or may refuse to issue a **permit** and may subsequently revoke a **permit**.
- (g) **Council** may make any modifications or changes to a permit and or permit conditions and may subsequently revoke a **permit**.
- (h) A **permit** will remain in force until the expiry date indicated on the **permit**, unless it is revoked before the expiry date and if no expiry date is indicated, for a period of 12 months from the date of its issue.
- (i) **Council** may exempt a **person** from the requirement under this Local Law to obtain a **permit**.

5.2 Bonds

- (a) 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.
- (b) **Council** may use a bond to remedy a breach of the **permit**, or repair any damage caused by any work under the **permit**, pursuant to which the bond was lodged.
- (c) On satisfactory completion of any works under a **permit**, **Council** must release any applicable bond.

- (d) 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.

5.3 Correction of Permits

- (a) **Council** may correct any **permit** in relation to:
 - (i) a clerical error or an error arising from any accident, slip or omission; or
 - (ii) an evident and material miscalculation of figures or a material mistake in the description of a person, thing or property referred to in the **permit**.
- (b) **Council** must give written notice of any correction to the permit holder.

5.4 Revocation of Permits

Council may revoke a **permit** if it considers that:

- (a) a permit holder has failed to comply with any conditions of the permit;
- (b) a Notice to Comply has been issued but not complied with within the time specified in the Notice to Comply;
- (c) there was a significant error or misrepresentation in the application for the **permit**; or
- (d) there has been a material change of circumstances since the grant of the **permit**.

5.5 Registers

- (a) **Council** must keep a register of all **permits** issued under this Local Law, including details of corrections and cancellations.
- (b) **Council** must maintain a register of any guidelines prepared for the purposes of this Local Law.

5.6 Notice to Comply / Direction of Authorised Officer

- (a) An **Authorised Officer** may, by a direction or in a Notice to Comply in the form of Schedule 1, give any reasonable direction to an owner and or **occupier of land** and or a **person**:
 - (i) in respect of any matter under this Local Law; or
 - (ii) a person's use of a **municipal place** or a **road**.
- (b) The direction or Notice to Comply may direct the owner and or **occupier of land** and or a **person** to do something or refrain from doing something to ensure compliance with the relevant matter.
- (c) An owner and or **occupier of land** and or a **person** to whom a direction is given or a Notice to Comply is served must do the thing or refrain from doing the thing (as the case may be) in accordance with the direction or Notice to Comply and do so in any manner and on or before any date which is described in the direction or Notice to Comply.

- (d) **Council** may undertake any works required to be carried out to ensure compliance and recover any costs incurred as a result of a failure to comply with a direction and or a Notice to Comply.
- (e) An owner and or **occupier of land** and or a **person** who fails to comply with a direction or a Notice to Comply by an **Authorised Officer** is guilty of an offence under this Local Law.
- (f) In the event that a direction or Notice to Comply is not complied with, an **Authorised Officer** may issue an infringement notice or prosecute the owner and or **occupier of land** or a **person** in the Magistrates' Court.

5.7 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 giving a direction or serving a Notice to Comply under clause 5.6, 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 direction or Notice to Comply would have otherwise been served is as soon as possible notified of the urgent circumstance and the action taken to remedy it.

5.8 Impounding and Destruction or Disposals of Impounded Thing

- (a) An **Authorised Officer** may seize and impound any thing in contravention of this Local Law.
- (b) Where a thing has been impounded under this Local Law, the **Authorised Officer** must, as soon as possible, serve notice of the impounding personally or by mail on the person who appears to be the owner of the impounded thing.
- (c) If the identity or whereabouts of the owner of a thing impounded under this Local Law is unknown, the **Authorised Officer** must take reasonable steps to ascertain the owner's identity and/or whereabouts prior to exercising the powers under clause 5.8(f).
- (d) An impounded thing must be surrendered to its owner, or to a **person** acting on behalf of its owner who provides evidence to the satisfaction of an **Authorised Officer** of his or her authority from the owner, upon the provision of evidence to the satisfaction of the **Authorised Officer** of the owner's right to the thing; and payment of any fee determined by **Council** or payment of any costs to **Council** of impounding, keeping and releasing of the thing.
- (e) Clause 5.8(d) does not apply to the impounding of alcohol or any **shopping trolley** under this Local Law or other things where the nature of the thing impounded is such that it would be impracticable to return the thing to the **person** from whom it was impounded or the owner.

- (f) If an impounded thing has not been surrendered to its owner or a person acting on the owner's behalf within 14 days of the notice of impounding being served or, if no notice of impounding has been served of the act of impounding, **Council** may, at its discretion:
- (i) sell;
 - (ii) dispose of as **Council** thinks fit; or
 - (iii) destroy,
- the impounded thing.
- (g) **Council** is entitled to retain from the proceeds of the sale or disposal of any impounded thing its reasonable costs incurred in impounding and keeping the thing.

5.9 Review of Decisions

- (a) A **person** may apply in writing to **Council** or a **Council** delegate for an internal review of a direction given or Notice to Comply issued to that **person** under this Local Law within 14 days of the relevant direction being given or Notice to Comply being issued.
- (b) Until the **person** is advised in writing of **Council's** or **Council's** delegate's decision following an internal review, the **person** is not required to comply with the direction or Notice to Comply.

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; or
- (d) breaches or fails to comply with a condition of a **permit** issued under this Local Law.

6.2 Offences by Corporations

- (a) 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.
- (b) If the corporation is convicted of an offence against this Local Law, a **person** charged under clause 6.2(a) 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.

6.3 Costs Incurred by the Council to be Paid

The owner or **occupier** of the premises concerned must pay all costs incurred by the **Council** under this Local Law and until such costs are paid, including any interest payable, the costs remain a charge on the premises

6.4 Penalties

- (a) The penalty for a breach of any provision of this Local Law is:
20 penalty units; and
- (b) not exceeding 2 penalty units for each day after the conviction that the contravention continues.

6.5 Infringement Notices

- (a) As an alternative to prosecution an **Authorised Officer** may serve an Infringement Notice.
- (b) The fixed penalty for an Infringement Notice purposes is the amount set out in Schedule 2.

SCHEDULE 1 - NOTICE TO COMPLY



TO: Name:
Address:.....

You have, in my opinion, being an **Authorised Officer** of Frankston City Council,

committed a breach of clause.....of the Council’s General
Local Law 2016 - No.8

by.....
.....

You are directed to remedy the breach by 5.00pm on [insert date] by undertaking or refraining from
undertaking the following:

.....
.....

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 and liable to pay a penalty of
\$..... , **Council** may proceed to carry out any works required, and you will
be liable for the cost of the works, in addition to the penalty.

If you wish to apply to have the Notice to Comply internally reviewed by **Council** or a Council
delegate, you or a **person** acting on your behalf may do so in writing within 14 days of the Notice
to Comply being issued.

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.

SCHEDULE 2 – PENALTIES FIXED FOR INFRINGEMENT NOTICES

Clause	Offence	Penalty Units
	PART 2 – ROADS AND MUNICIPAL PLACES	
2.1(a)-(d) & (g) –(o)	Behaviour	2
2.1(e) and (f)	Behaviour	First Offence – 5 Second Offence – 10
2.2	Council Signs	2
2.3(a)	Use of Vehicles in or on Municipal Places and Public Places	2
2.3(b)	Use of Recreational Vehicles in or on Municipal Places and Public Places	First Offence – 5 Second Offence – 10
2.4	Control of Vehicles	5
2.5	Parked Vehicles Interfering with Council Functions	2
2.6	Shopping Trolleys	2
2.7	Playing of Golf	2
2.8	Property Numbers to be displayed	2
2.9	Trading Activities including Busking	2
2.9(a)(vii)	Hold promotion without a permit	5
2.10	Itinerant Trading	5
2.11	Street Parties, Festivals and Processions	5
2.12	Vehicle Crossing	5
2.13	Clothing Bins	2
2.14	Repair of Vehicles	5
2.15	Storage of Vehicles	5
2.16	Occupation of Road for Works	5
2.17	Container Left on a Road	5
2.18	Use of Municipal Places	5
2.19	Access to Municipal Places	5

	PART 3 – MUNICIPAL AMENITY	
3.1	Dangerous and Unsightly Land and Nuisances	First offence – 10 Second offence - 20
3.2	Dilapidated Building	First offence – 10 Second offence - 20
3.3	Aerosol Spray Paint Containers	First Offence – 5 Second Offence – 10
3.4	Building and Works Code of Practice	10
3.5(a) & (c)	Household Refuse Receptacles	2
3.5(b)	Usage of household refuse receptacle	5
3.6	Occupier to Maintain Refuse Receptacle	2
3.7	Collection of Household Refuse, Recyclable Waste and Garden Waste	5
3.8	Collection of Hard Waste	5
3.9	Noise	5
3.10	Open Air Burning and Chimneys	10
3.11	Council Drains, Pits or Footpaths	5
3.12	Camping and caravans	5
3.13	Heavy and Unregistered Vehicles	5
3.14	Motorised Vehicles	2
3.15	Liquor	2
3.16	No Smoking in Smoke Free Areas	2
3.17	Major Environmental Weed Species	5
3.18	Collecting of Firewood	5
3.19	Nature Strips	5
3.20	Shipping Containers	5
3.21	Old, Used or Second Hand Machinery, Materials Goods and Vehicles	5
3.22	Fences between Private and Municipal Places	5

	PART 4 - ANIMALS	
4.1	Numbers	2
4.2	Keeping of Livestock	2
4.3	Pigeons	2
4.4	Housing	2
4.5	Adequate Fencing	10
4.6	Protection of Other Animals and Native Fauna and Flora	2
4.7	Animal Nuisances	2
4.8	Dog and Horse Excrement	2
4.9	Horses on Reservations	2
4.10	Feeding of Birds, Feral Pigeons and Uncaged Birds	2
4.11	Sale or Rehousing of Dogs and Cats	2
4.12	Vermin	5
	PART 5 - ADMINISTRATION	
5.6(e)	Fail to comply with a direction or Notice to Comply	10

General Local Law 2016 No. 8

The resolution for the making of this Local Law was made by Council on 29 August 2016.

Notices of the proposal to make, and of the making of this Local Law, were included in the *Victoria Government Gazette* dated 21 July 2016 and 22 September 2016.

Public Notices of the proposal to make, and confirmation of the making of this Local Law, were inserted in editions of the Frankston Leader dated 25 July 2016 and 19 September 2016.