

# Hepburn

SHIRE COUNCIL

## GENERAL LOCAL LAW NO. 2 OF 2019 – COMMUNITY AMENITY AND MUNICIPAL PLACES



## Preamble

Hepburn Shire Council's Local Law No.2 (LL2) is designed to secure community safety, protect public assets and enhance neighbourhood amenity. LL2 is consistent with principles of justice and fairness and reflects our commitment to preserving the enjoyment of public spaces by those who live, visit or work in the Shire. Hepburn Shire is becoming a part of Melbourne's peri-urban fringe, and this impacts how public spaces can be enjoyed. LL2 seeks to balance the pressures and diversity of needs by users of public spaces, with safety and amenity.

The LL2 will be underpinned by a number of guidance documents which clearly articulate how the local laws are to be interpreted and applied, with the intent of making the local law transparent and practical.

Council have incorporated changes in the LL2 that reflect community feedback, including changes to the use of the term public place, foraging, riding horses and vehicle repair. We acknowledge the community's desire to improve environmental outcomes, and we maintain our commitment to sustainability.

The *Local Government Act 1989* authorises Victorian Councils to make local laws to assist with the performance of their various functions in their communities. Hepburn Shire Council has adopted the *Community Amenity and Municipal Places Local Law* to protect and enhance the public health, safety and amenity of the Hepburn community comprising its residents, workers, businesses and visitors. The Local Law is designed to ensure that the actions of an individual or group do not have an adverse impact on the rest of the community. Specified documents have been incorporated into the Local Law to give helpful and practical guidance to affected persons.

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## Part 1 – Introduction

### 1.1 Title

This Local Law is titled the General Local Law No. 2 of 2019 – Community Amenity and Municipal Places.

### 1.2 Purpose

The purpose of this Local Law is to provide for the peace, order and good government of the municipal district by:

- (a) managing, regulating and controlling activities on and uses of land which may be dangerous, cause a nuisance or be detrimental to the amenity of the area or the environment;
- (b) promoting a healthy and safe environment in which residents and visitors to the municipal district can enjoy;
- (c) regulating and controlling behaviour which causes detriment to the amenity and environment of the municipality or could compromise public safety on Council land and assets; and
- (d) providing uniform and fair administration of this Local Law.

### 1.3 Authorising Provision

This Local Law is made under section 111 of the *Local Government Act 1989* and section 42 of the *Domestic Animals Act 1994*.

### 1.4 Commencement and Revocation

This Local Law:

- (a) commences on 2 March 2020;
- (b) ceases to operate ten years from the date it commences, unless earlier revoked; and
- (c) operates throughout the municipal district.

### 1.5 Other Legislation

Anything allowed under any Act, Regulation or the Planning Scheme is not affected by any prohibition, requirement or restriction under this Local Law.

### 1.6 Definitions

In this Local Law the following words have the meaning given to them unless stated otherwise:

Act	means the <i>Local Government Act 1989</i>
abandoned vehicle	means a vehicle that has not been moved for 2 months as referred to in clause 3(4) of Schedule 11 of the Act.
advertising sign	means a board, notice, banner or similar device used for

	the purposes of soliciting sales, notifying people where goods and services may be obtained, advising or directing people to an event or festival or promoting elections or political campaigns
alcohol	means a beverage intended for human consumption with an alcohol content greater than 0.5 per centum by volume at a temperature of 20 degrees Celsius
alcohol free area	means an area of, or in, any Municipal Place, which has been declared by the Council as an "alcohol free" area and has appropriate signage erected
animal	includes every species of quadruped and every species of bird and includes a kangaroo, ostrich and emu
Authorised Officer	means a person appointed as an Authorised Officer under section 224 of the Act and includes any police officer appointed in accordance with section 224.
barbecue	means any fixed or portable device designed exclusively for meals preparation fired by gas, electricity or other flammable materials
bird	includes poultry
bulk rubbish container	means a container, bin, skip, hopper or other receptacle which is designed or used for holding refuse or rubbish and is unlikely to be moved without mechanical assistance, but does not include a rubbish receptacle used in connection with the Council's collection service for domestic waste
built up area	means an area in which there is urban development or where street lighting is provided on roads
busk / busking	means to perform to the public, whether by acting, juggling, dancing, singing, mime, statue, drawing, playing a musical instrument or otherwise entertain passer-by, with or without collecting money
camp / camping	means erecting and occupying a tent or other similar structure but does not include a caravan or motorhome.
caravan	means a vehicle used or adapted for living and designed to be towed by another vehicle and includes vehicles without wheels or axles and whether it is resting directly on the ground or on blocks or other supports, and any structure, awning, veranda, lean-to, carport or other enclosed or partly enclosed area used in conjunction with a caravan while it is stationary
Chief Executive Officer	means the person appointed as the Chief Executive Officer of the Council
clause	means a clause of this Local Law, and sub-clause has a

	corresponding meaning
clothing bin	means any receptacle designed for the collection of donated clothing or goods for recycling
commercial zone	means land zoned commercial under the Planning Scheme
commercial waste	means any rubbish, refuse, sludge, slurry, liquid, hard garbage or other matter whatsoever arising from any trade, industry or commercial undertaking
Council	means the Hepburn Shire Council
delegated officer	means a staff member of the Council delegated by the Council to perform a duty or function or to exercise a power conferred by this Local Law, whether by direct delegation from the Council or by delegation from the Chief Executive Officer
domestic birds	means small birds such as canaries, finches, budgerigars and the like
domestic waste	means any rubbish or garbage resulting from the use of a dwelling
droving of livestock	means a single driving of livestock in or through the Municipal District, or from one location to another for the purpose of changing the grazing area, or for the movement of livestock or the grazing livestock
event	means an organised recreational, cultural, commercial or social gathering of a large number of people or set of inclusive activities undertaken at predetermined date/s and time/s on a temporary basis which tends to require effective management of potential detrimental impacts on the community and includes a procession, festival or street party but excludes a social gathering where there would be no disruption to the use of the municipal place by other person.
farm animal	means any horse, cattle, camel, donkey, mule, sheep, deer, goat, ox, ostrich, emu, alpaca or llama or pig.
fence	means any enclosure by design or intent that is used for the confinement of an animal, or for security, privacy, amenity or boundary marking, and includes (but is not limited to ) a gate, grid or similar structure
footpath	means a pathway or other area constructed or developed by a public authority for use by pedestrians
graffiti	means any defacement of property, whether written, drawn, sprayed, scratched or otherwise marked on a wall or other surface, which is not readily removable by wiping with a dry cloth, is detrimental to the visual

	amenity of the neighbourhood and is not part of any approved artistic exhibition
green waste	means all types of organic waste produced or accumulated on any land that the Council designates as acceptable waste for any green waste collection as described by the Council on its website or in any newspaper generally circulating in the Municipal District
heavy vehicle	has the same meaning as the <i>Road Safety Road Rules 2017</i> and means a vehicle with a gross vehicle mass of 4.5 tonnes
incinerator	means a structure, device, contraption (not enclosed in a building) which is <ul style="list-style-type: none"> <li>a) used or intended, adapted, or designed to be used or capable of being used for the purpose of burning anything;</li> <li>b) not licensed or otherwise subject to control under the provisions of any other legislation; and</li> <li>c) not a barbecue.</li> </ul>
Infringement notice	means an Infringement Notice issued by the Council or by an Authorised Officer or Delegated Officer under this Local Law
large bird	means any cockatoo, parrot or similar sized or larger bird but does not include <i>poultry, or domestic birds</i>
livestock	means an animal (including a bird) of any species used in connection with primary production or kept or used for recreational purposes other than a dog, cat or bees.
licensed premises	has the same meaning as in the <i>Liquor Control Reform Act 1998</i> and means the premises in respect of which a licence (other than a pre-retail licence) or BYO permit is granted but does not include premises referred to in section 13(1)(b) (vigneron's licence) of the <i>Liquor Control Reform Act 1998</i>
motorhome	means a motor vehicle on a purpose built chassis and designed to serve as self-contained living quarters for recreational travel also referred to as an "RV" or recreational vehicle.
motorised recreational vehicle	means all mini bikes, trail bikes, motor bikes, motor scooters, go- karts, motor cars and any other bike or vehicle propelled by a motor which is normally used for recreational purposes, but does not include any vehicle used primarily in respect of primary production, construction or maintenance or motor homes or buses.

motor vehicle	has the same meaning as “motor vehicle” in section 3 of the <i>Road Safety Act 1986</i> and means a vehicle that is used or intended to be used on a highway and that is built to be propelled by a motor that forms part of the vehicle but does not include – <ul style="list-style-type: none"> <li>a) a vehicle intended to be used on a railway or tramway;</li> <li>b) a motorised wheel-chair capable of a speed of not more than 10 kilometres per hours which is used solely for the conveyance of an injured or disabled person; or</li> <li>c) a vehicle that is not a motor vehicle by virtue of a declaration under subsection (2)(b) of the <i>Road Safety Act 1986</i></li> </ul>
municipal district	means the municipal district of the Council
municipal fire prevention officer	means an authorised Council officer responsible for issuing permits to burn during the fire danger period, fire prevention notices for hazard removal to private landowners in the Council municipality
municipal place	means a public place which is owned, occupied or controlled by, or vested in, the Council in respect of which the Council has the care and management, to which the public has access whether or not on payment of an admittance fee
Notice to Comply	means a Notice to Comply referred to in this Local Law
open air	has the same meaning as Section 34A of the <i>Country Fire Authority Act 1958</i> and means lighting a fire, authorising the lighting of a fire or allowing a fire to remain alight in the open air. A fire is in the open if it is in any place other than with a permanent structure consisting of a roof and fully enclosed on all sides; including a caravan
penalty unit	has the same meaning as section 110 of the <i>Sentencing Act 1991</i> and means a number of dollars equal to the product obtained by multiplying \$100 by the number of penalty units
permit	means a permit issued by Council under this Local Law
Planning Scheme	means the Planning Scheme operating in the Hepburn Shire Council made under the <i>Planning and Environment Act 1987</i>
poultry	means a fowl of any age including ducks, geese, pheasants, turkeys and guinea fowl
public place	has the same meaning as the <i>Summary Offences Act</i>

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recreation zone	means land zoned public park and recreation under the Planning Scheme
recyclable material	means material in respect of which a separate Council, or Council authorised collection service applies
reserve	means a parcel of land which is primarily used for recreational purposes and includes a streamside reserve, public playground and sports ground
residential zone	means land zoned residential under the Planning Scheme
road	has the same meaning as in the Act and applies to roads for which the Council has responsibility under the <i>Road Management Act 2004</i> but does not include a State road under the Road Management Act unless a provision in the Local Law is expressly applied to a State road.
rural zone	means land zoned rural under the Planning Scheme
trade waste	means any refuse, rubbish, slops or other waste matter arising from or generated by any trade, industry or commercial undertaking
total fire ban day	means a day declared either totally or partially in accordance with the <i>Country Fire Act 1958</i> or the <i>Metropolitan Fire Brigades Act 1958</i>
vehicle crossing	means the constructed surface between the road pavement to the property boundary for vehicle access, including any footpath section, crossing culverts, kerb and channel or layback
wheeled toy vehicle	includes a scooter, skate board, roller skates, roller blades and a remote control aircraft or vehicle used for recreational purposes but excludes a bicycle

## Part 2 – Municipal Places and Roads

### 2.1 Behaviour in Municipal Places

A person must not in a municipal place:

- (a) interfere with another person's reasonable use and enjoyment of that place;
- (b) act in a manner which endangers any person or animal;
- (c) destroy, damage or interfere with any building, fence, property improvements, sign, structure, chattel, tree, shrub or plant, garden bed, bird or animal;
- (d) enter on any area, road or track that is specifically designed for land or vegetation establishment and for which entry is prohibited;
- (e) light a fire unless it is in a barbecue;
- (f) light, cause or allow to be lit any fireworks without a permit;
- (g) act contrary to any signs that contain conditions that apply to the use of the area; or
- (h) act contrary to any direction given by an Authorised Officer.

### 2.2 Damaging or interfering with roads or Municipal Places

A person must not destroy, damage, remove, interfere with, attach to or change in any way anything in, on or under a road, footpath or municipal place.

### 2.3 Drains and storm water discharge

2.3.1 A person must not, without a permit, alter, modify, tap into, damage or destroy any public drain.

2.3.2 A person must not allow any stormwater drainage system:

- (a) which carries stormwater runoff mainly from roofs or pavements within their land, or located on land which they own or occupy to fall into disrepair or a condition which is dangerous to health or constitutes a nuisance;
- (b) located outside the land which they own or occupy which carries stormwater runoff mainly from roofs or pavements within their land to fall into disrepair or a condition which is dangerous to health or constitutes a nuisance; or
- (c) into which they have been permitted to tap into or connect, to fall into disrepair or a condition which is dangerous to health or constitutes a nuisance.

2.3.3 An owner and occupier of land must seek to eliminate the risks of stormwater pollution on the land, through the contamination of run-off by chemicals, sediments, animal waste or gross pollutants by adopting measures to:

- (a) minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting roads or washed into the stormwater drainage system; and
- (b) prevent building clean-up, wash-down or other waste, refuse or pollutants being discharged off site or allowed to enter the stormwater drainage system.

2.3.4 A person must not:

- (a) interfere with access to any pit; or
- (b) construct or place any material, dirt, soil or other matter on a pit lid so as to conceal its location or accessibility; or obstruct the flow of stormwater to a drain or pit.

## 2.4 Use of motor vehicles in a municipal place

A person must not, without a permit, ride or drive any motor car, motor cycle, or other motor vehicle in any municipal place other than in an area set aside for motor vehicle parking or any designated roadway.

## 2.5 Festivals, carnivals and circuses

- 2.5.1 A person must not, without a permit, conduct a festival, carnival, circus, parade or other similar activity in a municipal place.
- 2.5.2 A person, must not, without a permit, hold a street party, procession, or event, in a municipal place.

Note: An event which is defined in subclause 1.6 (Definitions) does not include a social gathering where there would be no disruption to the use of the municipal place by other persons. For example, a children's birthday party with approximately 30 guests (or similar) would not be seen as a disruption unless activities at the party included a jumping castle or petting zoo or similar.

## 2.6 Clothing Bins

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

## 2.7 Busking

A person must not, without a permit, busk in a municipal place.

## 2.8 Motor vehicle crossings

- 2.8.1 A person must not, without a permit, including temporarily, construct, install, remove or alter a motor vehicle crossing.
- 2.8.2 The owner of land must ensure that at each point of any motor vehicular access from a carriageway on a road to the land there is a motor vehicle crossing that is constructed and maintained in accordance with Council's *Procedures for Vehicle Crossings* being a document incorporated by reference into this Local Law.

## 2.9 Use of wheeled toy vehicles and bicycles

- 2.9.1 Any person who uses or allows another person to use a wheeled toy vehicle or bicycle in a municipal place must ensure that the use does not inconvenience, obstruct, hinder, endanger, alarm or prevent the free passage of any pedestrian or other user of the municipal place.
- 2.9.2 Council may declare any road, municipal place or reserve to be an area where wheeled toy vehicles or bicycles must not be used or may only be used during specified times.

2.9.3 The following designated footpaths are declared areas where wheeled toy vehicles and bicycles must not be ridden at any time:

- (a) Vincent Street, Daylesford between Albert Street and Central Springs Road.

## 2.10 Sale of motor vehicles

A person must not park a motor vehicle in a municipal place for the purposes of promoting the vehicle for sale.

## 2.11 Motor vehicle repair

A person must not, without a permit, dismantle, repair or carry out maintenance on a motor vehicle in a municipal place unless it is necessary for its removal.

## 2.12 Outdoor eating facilities

A person must not, without a permit, place on a road, footpath or municipal place any tables and/or chairs, or any associated equipment, for the purpose of allowing food and drink to be sold to or consumed by any member of the public.

## 2.13 Occupation of roads, footpaths and Municipal Places

2.13.1 A person must not, without a permit:

- (a) occupy;
- (b) fence off;
- (c) leave or store equipment or materials on;
- (d) erect a hoarding or scaffolding on;
- (e) use any plant or equipment on; or
- (f) place, leave or keep a bulk rubbish container on – any road or footpath or on any municipal place.

2.13.2 A person must not, without a permit, on a road under the control of the Council:

- (a) carry out works involving, or from, that road; or
- (b) do anything in relation to works, which affects or is likely to affect the use of the road.

## 2.14 Collections

A person must not, without a permit, solicit, cause or authorise another person to collect a subscription, gift of money, goods or sell raffle tickets in a municipal place.

## 2.15 Trading in a Municipal Place

A person must not without a permit in a municipal place:

- (a) sell, offer or display for sale any goods or services; or
- (b) erect, place or in any other way, leave any structure or physical thing for the purposes of selling, displaying or offering for sale any goods or services.

## 2.16 Soliciting trade and similar activities

A person must not without a permit:

- (a) in a municipal place, solicit or try to attract trade or business or tout or spruik; or
- (b) in or on premises adjacent to a municipal place, solicit or try to attract trade or business or tout or spruik unless the activity cannot be heard or seen by or does not have an influence on a person on or in that municipal place except by way of a written advertisement or a display or goods in or on those adjacent premises.

## 2.17 Advertising Signs

A person must not, without a permit, place a portable advertising sign in, on or over a municipal place or allow that to occur.

## 2.18 Firewood collection on roads and Municipal Places

A person must not, without a permit, remove firewood, including dead trees and fallen branches, from a road reserve or municipal place, unless permitted to do so by Council signage.

## 2.19 Consumption of alcohol in Municipal Places

2.19.1 Council may declare any municipal place to be an area where alcoholic beverages must not be consumed or held in open containers or may only be consumed or held during specified times or in accordance with a permit.

2.19.2 A person must not consume or hold any alcoholic beverage in an open container in any area or place which is subject to a declaration under sub-clause 2.19.1.

NOTE: This clause does not apply to any place which is subject to controls, or is licensed, under the *Liquor Control Reform Act 1998*.

## 2.20 Obstructions to the safe use of a road

An owner or occupier of land must ensure that any vegetation, sign, structure or the condition of anything on their land does not:

- (a) obstruct and interfere with the safe and fair use of a road by pedestrians and vehicles by limiting visibility of the road, traffic control items or other users of the road;
- (b) cause a hazard to pedestrians and vehicles because of its location, condition or because it is unsafe; or
- (c) encroach over any municipal place, footpath or road at a height less than 3 metres.

NOTE: In this clause, the term, "road interference" means interference with the safe and fair use of roads by people and includes interference with traffic, including pedestrians and vehicles, traffic control items and street lighting.

## 2.21 Planting vegetation on roads

A person must not, without a permit, plant any trees or other vegetation on any part of a road other than in compliance with Council's Planting Vegetation on Roads Policy being a document incorporated by reference into this Local Law.

## 2.22 Property numbers to be displayed

- 2.22.1 The owner or occupier of a property that has been allocated a street or rural road address number by Council, must mark the property with the allocated number.
- 2.22.2 The number must be of sufficient size, appropriately positioned, made of robust materials and kept in good repair for it to be clearly read from a road at all times, and where a property is situated on a corner, the number must be displayed on the side that the property is addressed.

## Part 3 – Animals and Birds

### 3.1 Keeping of animals and birds

3.1.1 Except with a permit, or in accordance with the following table, a person must not keep or allow to be kept on land occupied by that person any animal or bird.

Type of Animal	Maximum number allowed in a residential area having a land size under 2500sq metres	Maximum number allowed in a residential area having a land size between 2500 and 4000sq metres	Maximum number allowed in a residential area having a land size between 4000sq metres and 2 hectares	Maximum number allowed in non-residential areas regardless of land size
Dogs	2	2	4	4
Cats	2	2	2	2
Pigeons	20	50	50	No Permit Required
Poultry	10	15	20	No Permit Required
Domestic Birds	20	40	50	100
Large Birds	2	5	5	10
Horses/ donkeys	0	Permit Required	2	No Permit Required
Cattle	0	0	2	No Permit Required
Sheep	Permit Required	4	10	No Permit Required
Goats	Permit Required	4	10	No Permit Required
Pigs	0	0	Permit Required	No Permit Required
Other Agricultural Animals	0	Permit Required	Permit Required	No Permit Required

3.1.2 The requirements of sub-clause 3.1.1 will not apply where:

- (a) a planning permit under the Planning Scheme has been issued for animal keeping as defined in the Planning Scheme;
- (b) dogs are actively used in farming on properties which are entitled to the farm rate; or
- (c) farm animals are on the land for not more than 3 months and are being used for fire prevention or weed management purposes.

- 3.1.3 For the purpose of calculating the maximum limit of the numbers of animals kept, the progeny of any dog, cat or poultry lawfully kept will be exempt for a period of twelve weeks after their birth.

### 3.2 Animal excrement

A person in charge of an animal must not allow any of the animal's excrement to remain in a public place within a municipal place.

### 3.3 Poultry

The owner or person in charge of poultry which is kept on land zoned residential under the Planning Scheme, must ensure that those poultry are kept in accordance with the applicable Code of Practice.

### 3.4 Bird enclosures

- 3.4.1 Unless in accordance with a permit, a bird enclosure on any premises must be at least three meters from the boundary of any adjoining premises.
- 3.4.2 Bird enclosures containing a rooster must be a minimum of fifty meters from a dwelling on any adjoining premises.
- 3.4.3 Unless in accordance with a permit, every bird enclosure, excluding pigeon enclosures, must comply with the Victorian Code of Practice for the Housing of Caged Birds.
- 3.4.4 Pigeon owners must comply with the Victorian Code of Practice for the Keeping and Racing of Pigeons.

### 3.5 Livestock Control

- 3.5.1 Unless in accordance with a permit, a person:
- (a) must not drive livestock for a distance greater than two kilometres along any road;
  - or
  - (b) in charge of livestock must not allow the livestock to graze on a road.
- 3.5.2 Any movement of livestock must be in accordance with Council's Movement of Livestock Policy being a document that is incorporated by reference into this Local Law.

### 3.6 Riding horses

- 3.6.1 A person must not ride or lead a horse, or allow another person to ride or lead a horse in a municipal place, including on a road reserve or footpath, if:
- (a) the activity causes a nuisance to any person;
  - (b) if the place has been signposted as being not available for horses; or
  - (c) if the activity causes damage.
- 3.6.2 A person must not, in a municipal place, including on a road, leave a horse unattended or in the control of another person unless that person is competent in controlling the horse.

## Part 4 – Community Amenity and Safety

### 4.1 Incinerators and Open Air Fires

4.1.1 A person who lights a fire in the open air or uses an incinerator must ensure that:

- (a) the fire is supervised by an adult at all times;
- (b) suitable fire protection equipment is available to extinguish the fire if required;
- (c) any vegetation to be burnt is dead and dry prior to lighting it;
- (d) the fire is not offensive or causes a nuisance to any other person;
- (f) the fire does not create a hazard;
- (g) the fire does not have an adverse impact on visibility beyond the property boundary, including reducing the visibility of motorists and other users of a road; and
- (h) the fire does not contain any of the following materials:
  - (i) green or wet materials;
  - (ii) non-timber based building materials;
  - (iii) rubber or plastic, including plastic mulch, plant pots and packaging materials;
  - (iv) furnishings or carpet;
  - (v) manufactured chemicals;
  - (vi) petroleum or oil products;
  - (vii) paint, including any container in which paint is kept;
  - (viii) food waste unless in an incinerator for the purposes of creating biochar or bonechar;
  - (IX) treated or painted timber;
  - (X) household waste; or
  - (XI) offensive, noxious or toxic matter.

4.1.2 A person must not light a fire in the open air:

- (a) in a municipal place without a permit;
- (b) on any day of smog alert declared by Environment Protection Authority Victoria;
- (c) on any day of total fire ban declared by the Country Fire Authority; or
- (d) during a fire danger period declared under the *Country Fire Authority Act 1958* without first obtaining a permit from the Municipal Fire Prevention Officer or Country Fire Authority.

4.1.3 A person who lights or allows a fire to remain alight contrary to the provisions contained within this Local Law, must extinguish the fire immediately on being directed to do so by an Authorised Officer.

### 4.2 Camping and Caravan Occupation

4.2.1 A person must not, without a permit:

- (a) camp in a tent, caravan, mobile home or other temporary or makeshift structure in a municipal place; or
- (b) use a caravan, mobile home or other temporary or makeshift structure for the purpose of habitation.

- 4.2.2 The owner or occupier of land must not, without a permit, camp, or allow or suffer any other person to camp, on the land:
- (a) in a manner that causes a nuisance; or
  - (b) for any more than 4 consecutive weeks; or
  - (c) for any more than a total of 3 months in any calendar year.

NOTE: This subclause does not apply to camping or the use of a caravan or mobile home in a Council registered caravan park or an area determined by the Council to be available for camping.

### 4.3 Dangerous or unsightly land

The owner or occupier of land must not cause or allow that land to be kept:

- (a) in a manner which is dangerous or likely to cause danger to life or property because of the materials or substances that are kept on the land; or
- (b) in an unsightly or detrimental condition to the general amenity of the neighbourhood because of the appearance of the land

NOTE: For the purposes of this clause, the term unsightly means land which may contain:

- (a) unconstrained rubbish such as paper, cardboard, plastic bags, styrene, house hold rubbish, second hand containers;
- (b) unconstrained second hand timber or second hand building material;
- (c) discarded, rejected, surplus or abandoned solid or liquid materials;
- (d) unregistered motor vehicles or parts of motor vehicles;
- (e) graffiti;
- (f) anything being built which is left incomplete and constitutes a detriment to the appearance of the surrounding area;
- (g) any other thing making the land visually repugnant; or
- (h) anything which is detrimental to the general amenity to the area but excludes an enclosed building or structure on the land which complies with regulations made under the *Building Act 1993* or the *Planning and Environment Act 1987*.

### 4.4 Damage or nuisance caused by trees or plants

An owner or occupier of land must not allow a tree, shrub, bush or other vegetation on that land to hinder, obstruct, damage or interfere with the operation of any drain, pit or footpath vested in or under Council's management or control.

### 4.5 Wasp nests

The owner and occupier of land must not allow an English or European wasp nest to exist on the land and must take action to have it removed and destroyed.

#### 4.6 Bee hives

An owner or occupier of any land who keeps bees on that land must do so in accordance with the Planning Scheme and the relevant Apiary Code of Practice.

#### 4.7 Scavenging and Salvaging

A person must not search through or remove any articles of rubbish, recyclables or items:

- (a) from a transfer station, unless in compliance with any Council signage displayed at the transfer station; or
- (b) left for collection in a municipal place.

#### 4.8 Use of tip or Transfer station

A person must not use a municipal tip except in accordance with the directions of an Authorised Officer or Transfer Station attendant and any applicable signage.

#### 4.9 Domestic Waste

4.9.1 All domestic waste must be placed in an approved container.

4.9.2 A person must not place the following material in a container for collection by Council:

- (a) liquid waste or offensive material;
- (b) ashes, hair or other similar matter or moist refuse, unless it has been securely wrapped in paper or some other impermeable cover or container to prevent its escape;
- (c) glass or other sharp objects unless they are properly contained or wrapped in such a way as to render them harmless and inoffensive;
- (d) oil, paint, solvents or similar substance or any other substance which may damage the bin or reduce its strength or effectiveness;
- (e) disposable nappies unless they have been cleaned of solids and securely wrapped in impervious material prior to being placed in the bin; or
- (f) trade waste of any kind.

#### 4.10 Material for recycling

4.10.1 All material for recycling collection by Council shall be placed in an approved container.

4.10.2 Containers must be placed outside the premises for collection in accordance with directions given by Council and returned to the premises by the owner or occupier when emptied.

#### 4.11 Trade Waste

4.11.1 The owner and occupier of premises where trade waste is generated, whether or not a service for the collection and disposal of domestic or commercial waste is provided must ensure that the trade waste is placed in an approved bin, waste hopper or recycling bin ready for collection.

- 4.11.2 All containers used for the collection of trade waste must
- (a) be constructed of impervious material to prevent leakage, absorption or escape of waste; and
  - (b) be water tight, fly and vermin proof with a lid which is continuously kept closed when the container is not being used or emptied; and if not a mobile bin, must have a drain and plug for cleaning purposes.
- 4.11.3 Trade waste containers must be located on the premises to allow for easy access and weekly collection of contents or more regular collection if the contents are likely to become offensive.
- 4.11.4 Trade waste containers must be maintained by the owner and occupier of the premises in a clean, tidy and safe condition; and thoroughly cleaned after each emptying.
- 4.11.5 Trade waste containers must display a sign which indicates the type of waste permitted to be deposited in it; and that it is an offence to deposit material contrary to the sign.
- 4.11.6 A person must not deposit any waste in a trade waste container contrary to a sign on the container.

## 4.12 Bulk rubbish containers

A person must not, without a permit, place or allow the placement of a bulk rubbish container in a municipal place.

## 4.13 Shopping trolleys

- 4.13.1 A person must not leave a shopping trolley in any municipal place or premises except in an area designated for the purpose.
- 4.13.2 An Authorised Officer may impound any trolley found in any place where sub-clause 4.13.1 does not permit it to be left.

## Part 5 - Permits

### 5.1 Permits

- 5.1.1 Council or an Authorised Officer may issue a permit under this Local Law, with or without conditions, or may refuse to issue a permit.
- 5.1.2 If this Local Law requires a permit to be obtained, the application for the permit must:
- (a) be made to Council in writing using the appropriate form; and
  - (b) be accompanied by the fee prescribed by Council.
- 5.1.3 The Council or an Authorised Officer may:
- (a) waive payment of the permit fee;
  - (b) require an applicant for a permit to give notice of the application; or
  - (c) require an applicant for a permit to provide Council with more information before Council or the Authorised Officer considers the permit application.
- 5.1.4 Council may amend or revoke a permit granted under this Local Law.
- 5.1.5 A permit expires on the date specified in the permit or if no such date is specified the permit will expire 1 year after the date of issue.
- 5.1.6 A person who has applied for a permit may appeal in writing to Council's Appeals Panel against a decision to refuse to grant a permit within 21 days of being notified of the decision.

## Part 6 – Enforcement

### 6.1 Powers of Authorised Officers

If an Authorised Officer considers that there has been a breach of this Local Law, including a breach of any condition of a permit, the Authorised Officer may:

- (a) warn the person who is breaching the Local Law, which may also be an official warning issued in accordance with the requirements of the *Infringements Act 2006*;
- (b) direct the person to cease the activity breaching the Local Law;
- (c) serve a notice to comply to remedy the breach; and
- (d) issue an infringement notice.

### 6.2 Impounding objects

- 6.2.1 Where any goods, items, or equipment which have been placed or left in any municipal place, road or land in contravention of this Local Law or a permit issued under this Local Law, an Authorised Officer may impound those items.
- 6.2.2 Where any item has been impounded under this Local Law, an Authorised Officer must serve a written notice on the person who appears to be the owner of the impounded item if it is practicable to do so.
- 6.2.3 An Authorised Officer may:
  - (a) return the impounded item to its owner or a person acting on behalf of the owner, on payment of the prescribed fee; or
  - (b) sell, dispose or destroy the item if the owner has not paid the prescribed fee within 7 days of impounding.
- 6.2.4 In the case that the impounded items are perishable and will not survive the period specified in sub-clause 6.2.3(b) the Authorised Officer may dispose of the items sooner.
- 6.2.5 Council may retain from the proceeds of sale of any impounded item its reasonable costs incurred in impounding, keeping and selling the item.

### 6.3 Offences

- 6.3.1 A person who:
  - (a) contravenes or fails to comply with any provision of this Local Law or any document incorporated by reference into this Local Law;
  - (b) contravenes or fails to comply with any condition contained in a permit issued under this Local Law;
  - (c) knowingly provides false information in support of an application for a permit under this Local Law;
  - (d) knowingly supplies false or misleading information to an Authorised Officer;
  - (e) fails to comply with a verbal direction issued, or a Notice to Comply served, by an Authorised Officer;
  - (f) fails to comply with a sign erected by Council; or

- (g) makes or attempts to make any agreement with an Authorised Officer to induce that Authorised Officer to compromise his or her duty –
  - is guilty of an offence and is liable to –
    - (i) maximum penalty of 20 penalty units; and
    - (iii) a further penalty of 2 penalty units for each day after a finding of guilt or conviction for an offence during which the contravention continues.

## 6.4 Notice to Comply

- 6.4.1 Where an Authorised Officer reasonably believes that a person has committed an offence against this Local Law, the officer may issue a written direction called a Notice to Comply requiring that person to stop offending and do anything necessary to rectify the offence.
- 6.4.2 A Notice to Comply must state the time and date by which the person specified in the Notice to Comply must comply with the specified directions.
- 6.4.3 The period required to comply with a Notice to Comply must be reasonable in the circumstances having regard to:
  - (a) the amount of work involved;
  - (b) the degree of difficulty;
  - (c) the availability of necessary materials or other necessary items;
  - (d) climatic conditions;
  - (e) the degree of risk or potential risk; and
  - (f) any other relevant matter.

## 6.5 Power to Act in Urgent Circumstances

In any urgent circumstance arising under this Local Law, an Authorised Officer may take any reasonable action to remedy the situation or circumstance without first serving a Notice to Comply.

## 6.6 Infringement Notices

- 6.6.1 As an alternative to prosecution, an Authorised Officer may serve an infringement notice for a penalty of 2 penalty units on any person who has contravened this Local Law.
- 6.6.2 A person to whom an infringement notice has been issued must pay to Council the amount specified within the notice within 28 days.