



Bayside
CITY COUNCIL

**LOCAL LAW NO. 3
STREETS AND ROADS**

November 2005

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Bayside City Council

Local Law No. 3 – Streets and Roads

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BAYSIDE CITY COUNCIL

LOCAL LAW NO. 3

STREETS AND ROADS

PART 1 - PRELIMINARY

1. TITLE

This Local Law is the BAYSIDE CITY COUNCIL Local Law No. 3 - Streets and Roads and is referred to below as 'this Local Law'.

2. OBJECTIVES OF THIS LOCAL LAW

The objectives of this Local Law are:

- (1) to provide for the control and management of traffic, use of roads by persons, vehicles and animals and to regulate the parking of vehicles for the safety and fair use by people in the Municipal District;
- (2) to provide for the peace, order and well being of people in the Municipal District;
- (3) in Part 5, to provide for the physical features of roads and adjacent properties to be managed in a way which attends to the safety and convenience of people travelling on or using roads (whether on foot or by vehicle);
- (4) in Part 6,
 - (a) to control various types of vehicles and animals for the safety and convenience of road users; and
 - (b) to preserve and protect as far as possible the Council's assets from damage which may be caused from extraordinary use of roads within the Municipal District;
- (5) in Part 7,
 - (a) to control and regulate secondary activities on roads including:
 - (i) trading;
 - (ii) the placing of goods and equipment;

- (iii) repairs to vehicles;
- (iv) parties, festivals and processions; and
- (v) busking and collections –

in a fair, equitable and safe manner which does not compromise the primary need for the passage and repassage of people and goods; and
- (b) to provide free and safe access for people with sensory and mobility impairment or disabilities; and
- (c) (i) to provide for the regulation of the collection of used clothing and other goods in charitable recycling bins;
- (ii) to ensure that residents and other persons who wish to make clothing and other goods available for the purposes of charities are able to do so and for that purpose to minimise or eliminate the possibility that such persons might be deceived as to the purposes for which donated clothing and goods are to be put;
- (iii) to establish a system of control for the location in the Municipal District of recycling clothing bins used by certain charities to ensure:
 - (aa) that recycling clothing bins are located on sites which are easily accessible and visible to the public;
 - (bb) that the sites on which the bins are located are kept in a clean condition and that the amenity of the area is not affected by their presence;
 - (cc) that the bins are located in a way that they do not cause an obstruction or a potentially dangerous situation; and
 - (dd) that a nuisance is not caused to owners or occupiers or users of land on which bins are located or land adjacent;
- (6) in Part 8,
 - (a) to provide for the safe and efficient management and control of parking on roads in the Municipal District; and
 - (b) to provide mechanisms to manage and control parking so as to cause minimal disruption, danger or nuisance to users of the Council’s parking facilities.

- (7) to provide for the administration of the Council’s powers and functions; and
- (8) to revoke any redundant Local Laws.

3. AUTHORISING PROVISIONS

The Council’s authority to make this Local Law is contained in section 111 of the Local Government Act 1989 and section 87(4) of the Road Safety Act 1986.

4. COMMENCEMENT

This Local Law operates from the day following its making.

5. DATE THIS LOCAL LAW CEASES OPERATION

Unless this Local Law is revoked sooner, its operation will cease on the tenth anniversary of its making.

6. REVOCATION OF OTHER LOCAL LAWS

The application of the following Local Law to the Municipal District of the Council is revoked.

7. SCOPE OF THIS LOCAL LAW

This Local Law applies to the whole of the Municipal District except where it is apparent from its wording that a clause or schedule applies to a specific area. Where it applies to a road, it includes all parts of the road. Its provisions apply to the extent that they are not inconsistent with any Act, Regulation or Planning Scheme applicable to the Council or its Municipal District.

8. HOW TO READ THIS LOCAL LAW, MARGINAL NOTES, GUIDELINES AND REFERRED DOCUMENTS

- (1) Marginal notes are located against the right hand margin and contain references to either the Local Government Act 1989, a guideline within Schedule 1, another Schedule or Local Law provision. The marginal notes operate as follows:

Any reference to “LGA” alerts the reader to the fact that regard should also be had to that reference in the Local Government Act 1989.

For example:

LGA 91 Refers to Local Government Act 1989, section 91.

SCH1(3) Refers to Guidelines 3 in Schedule 1 of this Local Law.

SCH4 Refers to Schedule 4 of this Local Law.

12 Refers to clause 12 of this Local Law.

Parts 1 to 9 of this Local Law set out the provisions for meeting the objectives of this Local Law, whereas Schedule 1 sets out guidelines to which the Council and its officers must have regard to in exercising discretions under this Local Law. Forms are also set out in the Schedules.

- (2) Reference is also made to the following documents:
- (a) Australian Standard AS1742.5, Street Name and Community Facility Signs, as amended from time to time.
 - (b) Australian Standards AS1742.7 Railway Crossings, as amended from time to time.
 - (c) Road Rules – Victoria 1999, as amended from time to time.
 - (d) Code for the Disabled Person Parking Scheme, as amended from time to time; and
 - (e) Traffic Management Devices Guidelines, as amended from time to time.

9. DEFINITIONS

In this Local Law, unless the context or subject-matter indicates otherwise the following words and phrases have the respective meanings assigned:

WORDS AND PHRASES

MEANING OR EXTENDED MEANING

Act	Means the Local Government Act 1989.
Advertising Sign	Means any board, notice, structure, banner or other similar device used for the purposes of soliciting sales or notifying people of the presence of an adjacent property where goods or services may be obtained.
Abandoned Vehicle	A Vehicle left on Council Land that has, in the opinion of an Authorised Officer, been abandoned.
Applicant	Means a person who applies for a Permit under this Local Law.
Appropriate Fee	Means the fee determined by the Council in accordance with clause 30.
Arterial Road	Means any Road the main function of which is to provide for through Traffic movements the main function but excludes Collector Roads and freeways.
Authorised Officer	Means an Authorised Officer appointed under section 224 of the Act.
Building Works	Means work for or in connection with the construction, demolition or removal of a building in respect of which a building permit is required under the <i>Building Act</i> 1993.
Built up Area	In relation to a length of Road, means an area in which there are buildings on land next to the Road, or there is street lighting, at intervals not over 100 metres for a distance of at least 500 metres or, if the Road is shorter than 500 metres, for the whole Road.
Bulk Rubbish Container	Means a bin, container or other structure designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance but excludes containers used in connection with the Council's regular domestic rubbish collections.

Chief Executive Officer	Means the person appointed by the Council to be its Chief Executive Officer or any person acting in that position.
Clothing Recycling Bin	Means a bin or similar structure used for the collection of used clothing (whether or not it is also used for the collection of other goods).
Collector Road	Means a Road which distributes Traffic between an Arterial Road and a Local Street.
Council	Means the BAYSIDE CITY COUNCIL.
Council Land	Means any land either vested in or under the control of the Council including Roads, reserves, watercourses, reservations and the like.
Footpath	Means an area open to the public that is designated for, or has as one of its main uses, use by pedestrians.
GVM	Gross Vehicle Mass of a Vehicle means the maximum loaded mass of the Vehicle – (a) as specified by the Vehicle’s manufacturer; or (b) as specified by the Roads Corporation if – (i) the manufacturer has not specified a maximum loaded mass; or (ii) the manufacturer cannot be identified; or (iii) the Vehicle has been modified to the extent that the manufacturer’s specification is no longer appropriate.
Heavy Vehicle	Means a Vehicle with a GVM of 4.5 tonnes or more.
Housebound Resident	Means an occupier of a dwelling who, due to permanent illness, frailty or disability, is unable to leave the dwelling without medical or paramedical assistance.
Livestock	Means animals (including birds) of any species used in connection with primary production or kept for recreational purposes, other than dogs and cats.
Local Street	Means a Road which is not an Arterial Road or Collector Road, the main function of which is to provide access to abutting properties.

Long Vehicle	Means a Vehicle that, together with any load or projection, is 7.5 metres long, or longer.
Manager Street Services	Means the Manager Street Services appointed by the Council from time to time.
Municipal Building Surveyor	Means the Municipal Building Surveyor appointed by the Council from time to time.
Municipal District	Means the Council's municipal district.
Municipal Environmental Health Officer	Means any Municipal Environmental Health Officer appointed by the Council from time to time.
Municipal Place	Means a Public Place within the Municipal District which is owned or occupied by the Council or in respect of which the Council has the control or management and to which the public has access (whether an admittance fee is required or not) including a Municipal Reserve, Library or Building and Road.
Municipal Planning Scheme	Means a planning scheme approved under the Planning and Environment Act 1987 that operates within the Municipal District.
Nominated Officer	Means a person delegated by the Council to perform a function or exercise a power conferred by this Local Law.
Notice to Comply	Means a Notice to Comply issued by the Council or an Authorised Officer under this Local Law.
Outdoor Eating Facility	Means any tables and/or chairs located out of doors at which food or drinks are served and may be consumed.
Penalty Unit	Means a penalty unit under the Sentencing Act 1991, section 110(2) and/or Monetary Units Act 2004 of which currently fixes the value of \$100 per penalty unit and includes any amendments to that amount.
Permit	Means a permit issued by the Council under this Local Law.

Permit Holder	Is a person to whom a Permit has been issued under this Local Law.
Primary Arterial Road	Means an Arterial Road, the main function of which is to form the principal avenue of communication for metropolitan traffic movements not catered for by freeways.
Private Property	Means land other than Council Land.
Procession	Means an organised group of people along a Road or gathering for a ceremony or function and includes a fun run and bicycle event.
Public Place	Has the meaning ascribed to it in section 3 of the Summary Offences Act 1966.
Reservation	Means anything constructed or located on a Road that divides the Road longitudinally, but excludes a line or series of lines marked on a Road.
Road	Has the meaning ascribed to it in section 3 of the Act and includes a public highway.
Road Related Area	Has the meaning ascribed to it in Road Rules – Victoria.
Senior Officer	Has the meaning ascribed to it in section 3 of the Act.
Service Authority	Means a State or Federal Government Service Authority or any other Service Authority that is incapable of being bound by this Local Law.
Street Festival	Means an organised recreational, cultural, commercial or social gathering of people that is held on a Road.
Street Party	Means an organised social gathering of people from one or several adjacent Roads that is held on a Road.
Traffic	Means the movement of people by foot or in or on Vehicles along, across or within a Road.

Traffic Control Item	Means a major traffic control item or a minor traffic control item, within the meaning of the Road Safety (Road Rules) Regulations 1999 as amended from time to time.
Vehicle	<p>(1) Means a conveyance that is designed to be propelled or drawn by any means, whether or not capable of being so propelled or drawn, and includes –</p> <ul style="list-style-type: none">- a motor vehicle, trailer or tram; and- a bicycle; and- an air-cushion vehicle –- but does not include a train. <p>(2) However, a reference in the Road Rules - Victoria or this Local Law to a vehicle –</p> <p>(a) includes a reference to –</p> <ul style="list-style-type: none">(i) an animal that is being ridden or is drawing a vehicle; and(ii) a combination; <p>(b) but does not include a reference to –</p> <ul style="list-style-type: none">(i) a wheelchair other than a motorised wheelchair capable of a speed of 10 kilometres per hour or more;(ii) a Wheeled Recreational Device; or(iii) a Wheeled Toy.
Wheeled Recreational Device	Means a wheeled device, built to transport a person propelled by human power or gravity, and ordinarily used for recreation or play and –
	<p>(a) includes rollerblades, rollerskates, skateboards and similar wheeled devices; but</p> <p>(b) excludes a golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or Wheeled Toy.</p>
Wheeled Toy	Means a child's pedal car, scooter or tricycle or similar toy, but only when it is being used solely by a child that is under 12 years old.

PART 2 - ADMINISTRATION OF THIS LOCAL LAW

10. EXERCISE OF DISCRETIONS

- (1) In exercising any discretion contained in this Local Law, the Council will have regard to:
 - (a) the objectives of this Local Law;
 - (b) the guidelines, as appropriate, contained in Schedule 1; and
 - (c) any policies adopted by the Council from time to time.
- (2) The Council may from time to time prepare policies for use by the Council, Council staff and other persons for the purposes of the Local Law.
- (3) Policies adopted by the Council must not be inconsistent with the objectives of this Local Law or with the guidelines contained in Schedule 1.
- (4) In preparing guidelines the Council must have regard to the objectives of this Local Law and the standards contained in Schedule 1.

11. REGISTER OF DETERMINATIONS

- (1) Any determinations made or policies adopted by the Council for the purposes of this Local Law must be maintained by the Council in a register kept for that purpose.
- (2) The register kept for the purposes of this clause must be made available for inspection at the office of the Council during normal office hours.

12. POWER OF AUTHORISED OFFICER TO DIRECT – NOTICE TO COMPLY LGA224 SCH2

Any Authorised Officer may by serving a Notice in the form of Schedule 2 direct any owner, occupier or other relevant person to remedy any situation that constitutes a breach of this Local Law.

13. POWER TO OBTAIN NECESSARY INFORMATION

The Council or a Nominated Officer may require additional information in conjunction with an application for a Permit and for the purposes of administering and enforcing the provisions of this Local Law.

14. TIME TO COMPLY

A Notice to Comply must state the time within which the breach (to which the Notice to Comply relates) must be remedied.

15. REASONABLE TIME TO COMPLY

The time specified in a Notice to Comply served under this Local Law must be reasonable in the circumstances, and what will be reasonable will vary depending on the matters to be remedied but should take into account, if applicable:

- (a) the amount of work to be performed in order to observe the Notice;
- (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 factor.

16. FAILURE TO ADHERE TO A NOTICE TO COMPLY

LGA225

A person who fails to remedy a situation in accordance with a Notice to Comply served on that person under this Local Law is guilty of an offence.

Penalty: 10 Penalty Units

17. POWER OF AUTHORISED OFFICERS TO ACT IN URGENT CIRCUMSTANCES

SCH1(1)

- (1) In urgent circumstances arising as a result of a failure to comply with this Local Law, an Authorised Officer may take action to remove, remedy or rectify the failure without the necessity to serve a written warning, Notice to Comply, or take other action, provided:
 - (a) he or she considers the need to take action to be sufficiently urgent, and that the time involved or difficulties associated with the serving of a written warning or Notice to Comply may place a person, or any animal, property or thing at risk or in danger;
 - (b) wherever practicable, a Senior Officer is given prior notice of the proposed action; and
 - (c) details of the failure and remedying action are, as soon as possible, forwarded to the person on whose behalf the action was taken.
- (2) The action taken by an Authorised Officer under sub-clause (1) must not extend beyond what is necessary to cause the immediate abatement of or to minimise the risk or danger involved.
- (3) An Authorised Officer who takes action under sub-clause (1) must ensure that, as soon as practicable, a report of the action taken is submitted to the Chief Executive Officer.

18. POWER OF AUTHORISED OFFICER TO IMPOUND

- (1) If an Authorised Officer detects an animal or thing being used contrary to the provisions of this Local Law, and, in the opinion of that Authorised Officer, the continuation of that use presents a potential hazard or risk to any person or property, the Authorised Officer may impound that animal or thing.
- (2) If an Authorised Officer has impounded an animal or other thing in accordance with this Local Law, the Council may refuse to release it until the appropriate fee or charge for its release has been paid to the Council.
- (3) As soon as possible after the impounding and where it is practicable to do so, the Authorised Officer will serve a Notice of Impounding in a form of Schedule 3 on the owner or persons responsible for the animal or thing which has been impounded setting out the fees and charges payable and time by which the animal or thing must be retrieved.
- (4) If an impounded animal or thing is not retrieved within the time specified in the Notice of Impounding, an Authorised Officer may take action to dispose of the impounded animal or thing in accordance with the guidelines contained in Schedule 1.

SCH1(2)

- (5) If the identity or whereabouts of the owner or person responsible for the impounded animal or thing is unknown, the Authorised Officer must take reasonable steps to ascertain the identity or whereabouts of that person and may proceed to dispose of the impounded item in accordance with paragraph (4) once he or she is satisfied that all reasonable efforts have been made to contact the owner or person responsible for the impounded animal or thing.
- (6) Any proceeds from the disposal of an impounded animal or thing under this Local Law will be paid to the owner or the person who, in the opinion of the Council, appears to be authorised to receive the money less the reasonable costs and expenses incurred by the Council in the administration of this clause.
- (7) In the event that the person described in paragraph (6) cannot be identified or located within six (6) months of serving the Notice of Impounding, any proceeds described in that paragraph cease to be payable and may be retained for municipal purposes.

19. APPEALS

- (1) Any person who is aggrieved by any matter under this Local Law may make a written submission for consideration by the Council within twenty-eight (28) days of the date of the incident, notice or matter concerned, but the making of any submission will not in any way remove that person's obligation to act in accordance with any directions or notices which are applicable under this Local Law.
- (2) Sub-clause (1) does not confer a right for a person to make a submission under section 223 of the Act.

PART 3 - PERMITS

20. APPLICATION FOR PERMIT

- (1) The form of an application for a Permit under this Local Law is set out in Schedule 4 except where another form of application is specifically stated. SCH4
- (2) Despite sub-clause (1) a written application contrary to Schedule 4 may be accepted by Council or the Nominated Officer if it is considered that the appropriate information has been supplied.
- (3) An application must be accompanied by the appropriate fee.
- (4) The Council or a Nominated Officer may require a person making an application for a Permit to give public notice of such application inviting submissions. LGA223

21. PERMIT MAY BE CONDITIONAL

A Permit under this Local Law may be issued subject to the Council or a Nominated Officer determining the conditions on which it, he or she is prepared to issue the Permit, including conditions relating to:

- (a) the payment of a fee or charge;
- (b) the application of any guidelines in Schedule 1;
- (c) a time limit to be applied by specifying the duration, commencement or completion date;
- (d) the Permit being subject to the happening of an event;
- (e) the rectification, remedying or restoration of a situation or circumstance;
- (f) where the applicant is not the owner of the property for which the Permit is sought, the consent of the owner; and
- (g) the granting of some other Permit which may be required by the Council whether under this Local Law or otherwise.

22. ADDITIONAL INFORMATION

The Council or an Nominated Officer may require any applicant to provide additional information before dealing with an application for a Permit or an exemption.

23. DURATION OF PERMITS

Except where otherwise expressly stated in this Local Law or in the Permit, a Permit will operate from the date it is issued until 30 June next following that date.

24. SERVICE AUTHORITY

- (1) A Service Authority or a person employed by or acting on behalf of a Service Authority, is not required to obtain a Permit in respect of work which is for the purposes of the Service Authority.
- (2) A person who would, but for this clause, be required to obtain a Permit in respect of any activity must notify the Council of the activity prior to its commencement.

25. CANCELLATION OF PERMITS

- (1) A Permit may be cancelled or suspended by the Council or Nominated Officer at any time, if in the opinion of the Council or the Nominated Officer:
 - (a) there has been any material misstatement or concealment in relation to the application for a permit; or
 - (b) there has been a failure to comply with any condition or conditions subject to which the Permit was issued.
- (2) Where paragraph (a) of sub-clause (1) applies, the Permit may be suspended upon seven (7) days notice of the decision to propose cancellation and of advice that an appeal may be lodged with the Council. If an appeal is lodged within seven (7) days, continuation or cancellation of the Permit will depend on the outcome of any appeal to the Council.
- (3) Where paragraph (b) of sub-clause (1) applies, any cancellation must not take place unless:

SCH1(2)

- (a) a Notice to Comply in accordance with Part 2 of this Local Law has been served upon the Permit Holder;
 - (b) there has been a failure to comply with the Notice to Comply within the time required; and
 - (c) the failure to comply continues for a period of seven (7) days after the time specified in the Notice.
- (4) Where the Permit Holder is not the owner of the property to which the Permit applies and the owner's consent was required to be given to the application for the Permit, the owner must be notified of the Notice to Comply and the reasons why it has been served on the Permit Holder.

26. CORRECTION OF PERMITS

- (1) The Council reserves the right to correct any Permit in relation to:
- (a) a clerical mistake or other error arising unintentionally or an omission; or
 - (b) an evident material miscalculation of figures or an evident material mistake in description of any person, thing or property referred to in the Permit.
- (2) The Council must give notice of any correction of a Permit to the Permit Holder.

27. REGISTER OF PERMITS

- (1) A record any Permits issued by the Council for the purpose of this Local Law must be maintained by the Council in a register kept for that purpose.
- (2) Any cancellations or corrections of Permits which have been issued under this Local Law are to be recorded in the register.

28. EXEMPTION FROM PERMIT

- (1) The Council may by written notice exempt any person or class of person or any body from the need to pay any permit fee.
- (2) An exemption from the requirement to pay a Permit fee may be cancelled or corrected in the same way as a Permit.

29. OFFENCE TO FALSIFY APPLICATION

A person who makes any false representation or declaration (whether oral or in writing) in, or who omits any relevant information from, an application for a Permit or exemption is guilty of an offence.

Penalty: 20 Penalty Units

PART 4 - FEES, CHARGES AND COSTS

30. SETTING FEES AND CHARGES

- (1) The Council may from time to time by resolution determine the fees and charges to apply under this Local Law and may include an administration or processing fee or charge. The Council must give public notice of its resolution to set or alter fees and charges.
- (2) Where a Permit is issued part way through the financial year and is to operate for the balance of that financial year, the Council may vary the normal annual fee or charge by applying a fee or charge which is proportionate to the period for which the Permit will apply corrected to the next higher quarter of that year.

31. DIFFERENTIAL OR STRUCTURED FEES AND CHARGES

In determining any fees and charges the Council may establish a system or structure of fees and charges, including a minimum or maximum fee or charge, if it considers it is appropriate to do so.

32. WAIVER ALTERATION TO FEES AND CHARGES

LGA113

The Council may waive, reduce or alter any fee or charge with or without conditions upon receipt of a written submission from the applicant stating reasons why any such fee or charge should be reconsidered.

PART 5 - THE MANAGEMENT OF ROADS FOR TRAFFIC

DIVISION 1 – OBSTRUCTIONS TO THE FREE PASSAGE OF PEOPLE AND GOODS

33. TREES AND PLANTS NOT TO OBSTRUCT OR OBSCURE

- (1) A person must not, without a Permit, allow any tree or plant in or growing on land owned or occupied by him or her to obstruct or interfere with the passage of Traffic by:
 - (a) overhanging any Footpath at a height of less than 2.4 metres, or any other part of any Road at a height less than 4.5 metres;
 - (b) extending over any part of a Road in such a way that it:
 - (i) obstructs the view between drivers of Vehicles at an intersection;
 - (ii) obstructs the view between drivers of Vehicles and pedestrians where they come close to each other;
 - (iii) obscures a Traffic Control Item from the driver of an approaching Vehicle or a pedestrian;
 - (iv) obscures street lighting; or
 - (v) obstructs vehicular traffic; or
 - (c) otherwise constitutes a danger to Vehicles or pedestrians or compromises the safe and convenient use of a Road.

Penalty: 20 Penalty Units

- (2) In determining whether there has been an infringement of sub-clause (1)(b), an Authorised Officer must have regard to the guidelines set out in Schedule 1 of this Local Law.

DIVISION 2 – ROAD NAMES AND PROPERTY NUMBERS

34. COUNCIL TO APPROVE ROAD NAMES

- (1) A person must not apply a name to a Road without the consent of the Council.
- (2) When considering the allocation of a name for a road, the Council is to have regard to the guidelines set out in Schedule 1 of this Local Law. SCH1(4)
- (3) Nothing in sub-clause (1) applies to the Roads Corporation in relation to any Road which is a State road within the meaning of the Road Management Act 2004.

35. PROPERTY NUMBERS

- (1) The Council may allocate a property number to each property in the Municipal District and, from time to time, may make changes to property numbers. 12
SCH2
16
- (2) For each property that has been allocated a property number under this Division, the owner of the property must mark the property with the number allocated, which number must be of sufficient size, in such a position, made of such material and kept in such state of repair as to be clearly readable from the nearest Road under all normal lighting conditions.

Penalty: 10 Penalty Units
- (3) In determining whether there has been compliance with sub-clause (2), regard is to be had to the guidelines in Schedule 1 of this Local Law. SCH1(5)

DIVISION 3 – VEHICLE CROSSINGS

36. A VEHICLE CROSSING IS REQUIRED

- (1) The owner of land must ensure that each point of vehicle access from a Road to the land has a properly constructed vehicle crossing, between the Road and the boundary of such property abutting the Road. 12
SCH2
16

Penalty: 20 Penalty Units

- (2) Any such vehicle crossing must be properly constructed at the cost of the property owner and in accordance with the Council’s specifications.
- (3) For the purposes of this clause, a vehicle crossing is properly constructed if:
 - (a) it was constructed by or in accordance with the terms of an approval by the Council; or
 - (b) the Council has approved in writing the method of construction of the particular vehicle crossing.
- (4) The owner of the land must ensure that the vehicle crossing is properly maintained at the cost of the property owner.

37. CONSTRUCTING VEHICLE CROSSING

- (1) A person must not, without a Permit, construct, install, remove or alter a vehicle crossing, whether temporarily or permanently.

Penalty: 20 Penalty Units

- (2) A person must not, without a Permit, remove, prune or damage any street tree as a result of a vehicle crossing construction, installation, removal or alteration.

Penalty: 20 Penalty Units

38. TEMPORARY VEHICLE CROSSINGS

- (1) Where it is likely that Building Works on a property will involve Vehicles leaving the Road or entering the property or the property abuts a Road, the owner of the property or the person responsible for the Building Works must obtain a Permit for the construction of a temporary crossing, pay any inspection fee and protect all of the existing Road including the kerb, drains, street trees, Footpaths, nature strip and any other part of the Road.
- (2) The owner of the property on which the Building Works have been carried out must repair any damage to the kerb, drains, Footpath, street tree or existing Road caused during the carrying out of the Building Works to the satisfaction of the Council.

LGA225

- (3) Where, in the opinion of an Authorised Officer, an existing driveway crossing, Footpath, kerb, street tree or other part of the Road has been damaged as a result of or arising out of the Building Works, the owner of the property on which the Building Works have been carried out must repair the damage or, when requested to do so reimburse the Council for the cost and expense of the repair of such damage.
- (4) The amount of such repairs under sub-clause (3) must be proportionate to the cost of repairing any damage.

Penalty: 20 Penalty Units

39. REDUNDANT VEHICLE CROSSINGS

- (1) Where works at a property involve the relocation or closure of a point of vehicular access, the owner and the occupier of the land must ensure that any redundant part of a vehicle crossing is removed and the kerb, drain, Footpaths, nature strip and/or other part of the Road are reinstated to the satisfaction of an Authorised Officer.

Penalty: 20 Penalty Units

- (2) An Authorised Officer may require the owner of a property to remove any part of or all of a vehicle crossing for which there is no effective point of Vehicle access and to reinstate the Road.
- (3) An owner of a property must comply with any requirement under sub-clause (2).

12
SCH2
16

Penalty: 20 Penalty Units

DIVISION 4 – FENCES TO CONTAIN ANIMALS

40. NOTICE TO PROVIDE EFFECTIVE FENCING

The owner or occupier of land used for the grazing of Livestock must ensure that fencing on that land is adequate for the purpose of preventing Livestock from straying onto any adjacent Road.

12
SCH2
16
LGA225

Penalty: 20 Penalty Units

DIVISION 5 – PROTECTION OF COUNCIL ASSETS

41. BUILDING WORKS ON PRIVATE PROPERTY

- (1) A person must not cause or allow any Building Works to commence on Private Property without:
 - (a) giving written advice to the Council of the general nature of the works to be undertaken;
 - (b) paying an inspection fee to the Council;
 - (c) giving an opportunity for an Authorised Officer to inspect the Roads, Council Land and Council assets in the vicinity of the land; and;
 - (d) obtaining an Asset Protection Permit from the Council.

Penalty: 20 Penalty Units

- (2) If, by reason of:
 - (a) the nature of the proposed Building Works;
 - (b) the duration of the Building Works;
 - (c) the condition of the Roads, land and assets; or
 - (d) any other relevant matter

an Authorised Officer is of the opinion that there is a risk of damage to the Roads, Council Land or Council assets in the vicinity of the Private Property on which the Building Works are proposed, the Authorised Officer may issue a written notice to the owner or occupier of the Private Property requiring the delivery to the Council of a guarantee or bond satisfactory to the Authorised Officer.

- (3) A notice given under sub-clause (2) must specify -
 - (a) the guarantee or bond which is satisfactory to the Authorised Officer;
 - (b) the amount of the guarantee or bond; and
 - (c) the period within which the guarantee or bond must be delivered to the Council.

- (4) A person must not commence Building Works until the expiration of five (5) days (not being Saturdays, Sundays or public holidays) from the date of payment of the inspection fee described in sub-clause (1)(b).
- (5) Where pursuant to a notice under sub-clause (2) a guarantee or bond is required and a person commences or permits any Building Works to commence without complying with such notice, that person shall be guilty of an offence.

Penalty: 20 penalty points

- (6) When the Building Works have been completed the owner or occupier of the Private Property must advise the Council in writing and the Council may arrange for a Nominated Officer to inspect the Roads, Council Land and other Council assets in the vicinity of the Private Property.
- (7) If in the opinion of the Nominated Officer the Building Works or activities associated with the Building Works have caused -
 - (a) damage to Roads, Council Land or other Council assets; or
 - (b) to be deposited residue, dirt or mud on Roads, Council Land or other Council assets

Cl. 41(7)(a) & (b)
Amended by Local
Law 7

the Nominated Officer may serve a Notice to Comply on a person requiring a person to repair the damage or remove the material.

- (8) If the person on whom the Notice to Comply is served fails to repair the damage or remove the material as required by the Notice to Comply, an Authorised Officer may apply the guarantee or bond towards the cost of repairing the damage or removing the material.
- (9) If -
 - (a) in the opinion of the Nominated Officer, there is no damage to repair or material to remove; or
 - (b) a Nominated Officer does not carry out an inspection referred to in sub-clause (6)

the guarantee or bond must be returned.

- (10) A person must not cause or permit any Building Works to commence on Private Property without ensuring that the Private Property is properly fenced whether permanent or temporary and remains so for the duration of the building works.

Cl. 41(10)
amended
by Local
Law 7.

Penalty: 20 Penalty Units

- (11) For the purposes of sub-clause (10) the Private Property is properly fenced if it is fenced in a manner which:
- (a) restricts access from Council Land by the general public to the Private Property at which the Building Works are being undertaken;
 - (b) retains any refuse and debris from the Building Works being undertaken at the Private Property within the boundaries of the Private Property; and
 - (c) is constructed and installed in accordance with any written direction of the Council or a Nominated Officer.
- (12) A person must not cause or permit any Building Works to commence on Private Property without ensuring that a protective barrier is installed around any tree which is located on a Road or other Council Land and which is located within 30 metres of the Building Works.
- Penalty: 20 Penalty Units
- (13) A tree which requires a protective barrier under this sub-clause (12) will be referred to as a “protected tree” for the purposes of this clause 41.
- (14) Any such protective barrier must be properly constructed and installed at the cost of a person and in accordance with the Council’s specifications or as directed by a Nominated Officer.
- (15) For the purposes of this clause 41, a protective barrier is properly constructed and installed if –
- (a) it is outside the drip line of the protected tree or it is in a position as directed by the Council or a Nominated Officer;
 - (b) it provides such protection for the roots, foliage and trunk of the protected tree as is reasonably necessary having regard to the nature and extent of the Building Works on the Private Property; and
 - (c) the Council has approved in writing the method of construction and the installation of the protective barrier.
- (16) For the purposes of this clause 41, a protective barrier is not required in respect of a particular tree if a person has been advised in writing by the Council that a barrier is not required for that tree.
- (17) A person carrying out Building Works on Private Property must:
- (a) not allow building clean-up, wash-down, slurry or other wastes to enter the Council’s stormwater system;

- (b) ensure that the Private Property is provided with site identification as to:
 - (i) the name and address of the person carrying out the Building Works;
 - (ii) the street and lot number relevant to the Private Property; and
 - (iii) a 24 hour contract telephone number or numbers of the person carrying out the Building Worksin a manner approved by a Nominated Officer; and
- (c) provide, upon being requested by a Nominated Officer to do so, a traffic management plan adequately addressing any parking or traffic issues referable to the Building Works which have been identified by the Nominated Officer.

Penalty: 20 Penalty Units

**PART 6 - CONTROL OF VEHICLES AND ANIMALS
ON ROADS**

DIVISION 1 – HEAVY VEHICLES ON ROADS

**42. PERMITS FOR HEAVY VEHICLES USE OF RESTRICTED USE
ROADS**

- (1) If the Council is of the opinion that a Road or part of a Road is likely to be damaged by a particular class of Vehicle and it resolves to prohibit owners and drivers of such Vehicles to use, or cause to be used, these Vehicles on the Road or part of the Road, it must erect a sign or signs at the entry to the Road or part of the Road advising of the prohibition.
- (2) A person must not, without a Permit, use a Road or part of a Road contrary to any sign erected with reference to it under sub-clause (1).

Penalty: 20 Penalty Units

- (3) An application for a Permit must be in the form of Schedule 5. SCH5
- (4) In determining whether to grant a Permit, the Council may have regard to any guidelines in Schedule 1 of this Local Law. SCH1(6)

DIVISION 2 – SHOPPING TROLLEYS

43. LEAVING SHOPPING TROLLEYS

- (1) A person must not leave a shopping trolley:
 - (a) on any Council Land or vacant land; or
 - (b) on any Private Property which he or she does not occupy, unless he or she has the consent or is acting with the authority of the occupier,

or cause or authorise another person to do so.

Penalty: 10 Penalty Units

- (2) A person does not commit an offence under sub-clause (1) if he or she leaves a shopping trolley in an area specifically sign posted by Council for that purpose.

44. ABANDONED SHOPPING TROLLEYS

- (1) Any shopping trolley left on Council Land or vacant land, except in an area sign posted by the Council for the purpose, may be removed by an Authorised Officer and impounded.
- (2) When a shopping trolley has been impounded, there must be compliance with the provisions of clause 18.
- (3) The Council is under no obligation to provide or require the provision of any sign posted areas for the leaving of shopping trolleys.

DIVISION 3 – CONTROL OF WHEELED RECREATIONAL DEVICES & WHEELED TOYS

45. USE OF WHEELED RECREATIONAL DEVICES & WHEELED TOYS

- (1) The Council may designate areas in which Wheeled Recreational Devices and/or Wheeled Toys must not be used.
- (2) If the Council designates areas in which Wheeled Recreational Devices and/or Wheeled Toys must not be used, it must cause signs to be erected in or on the areas designated by it indicating that Wheeled Recreational Devices or Wheeled Toys (as the case may be) must not be used in such areas.
- (3) A person must not use a Wheeled Recreational Device and/or Wheeled Toy in an area designated by the Council as an area in which the use of such is prohibited.

Penalty: 20 Penalty Units

- (4) Where the Council fails to erect and maintain signs as required under sub-clause (2), no person may be prosecuted for an offence under this Division.

46. USE IN NON DESIGNATED AREAS

- (1) Where any person continues to use a Wheeled Recreational Device or Wheeled Toy in contravention of this Division and after an Authorised Officer has issued a warning to the user, the Wheeled Recreational Device or Wheeled Toy (as the case may be) may be removed by an Authorised Officer and impounded.
- (2) When a Wheeled Recreational Device or Wheeled Toy has been impounded, there must be compliance with the provisions of clause 18.

DIVISION 4 – HORSES ON COUNCIL LAND

47. RIDING HORSES ON COUNCIL LAND

- (1) A person must not, without a Permit or unless the person is a member of the Victoria Police acting in the course of his or her duties, ride or lead a horse or cause or authorise another person to ride or lead a horse upon any Council Land.

Penalty: 20 Penalty Units

- (2) A Nominated Officer may issue a Permit for a horse to be ridden or led upon Council Land where it is reasonably necessary for this to take place and there is no reasonable and safe alternative.
- (3) A Permit given by the Nominated Officer may contain any conditions that the Nominated Officer considers necessary.

DIVISION 5 – STATIONARY HEAVY VEHICLES

48. PARKING ON PRIVATE PROPERTY OR RESIDENTIAL PROPERTY

- (1) A person must not, without a Permit, park or authorise the parking, of any Heavy Vehicle or Long Vehicle on any property which is zoned Residential in the Municipal Planning Scheme or on any Road which is located within such a Residential Zone for more than one hour.

Penalty: 20 Penalty Units

- (2) An application for a Permit for purposes of sub-clause (1) must be in the form of Schedule 4. SCH4
- (3) In determining whether to grant a Permit for purposes of sub-clause (1), the Council or a Nominated Officer must have regard to any guidelines in Schedule 1 of this Local Law. SCH1(7)

PART 7 - SECONDARY ACTIVITIES ON ROADS AND ROAD RELATED AREAS

DIVISION 1 – TRADING FROM A ROAD OR TO A PERSON ON A ROAD OR PERFORMING ON COUNCIL LAND

49. ROADSIDE TRADING OR PERFORMING

- (1) A person must not, without a Permit, erect or place on any Road or Council Land a Vehicle, caravan, trailer, table, stall or other similar structure for the purpose of selling or offering for sale any goods or services. SCH4

Penalty: 20 Penalty Units

- (2) A person, must not, without a Permit, on any Road or Council Land sing to the public to the public or play any musical instrument or deliver any public address or use any sound amplification equipment. SCH4

Penalty: 20 Penalty Units

- (3) Sub-clause (2) does not apply to any sounds within a motor vehicle which cannot be heard outside that motor vehicle or any sound or noise conveyed through any headphones which sound or noise is not audible to a person other than the wearer of the headphones.

Penalty: 10 Penalty Units SCH4

- (4) In determining whether to grant a Permit, the Council or a Nominated Officer must have regard to any guidelines in Schedule 1 of this Local Law. SCH1(9)

50. REGULATION OF TRADING SITES

- (1) If the Council has entered into an agreement (by way of lease, licence or otherwise) in relation to trading from a particular site, a person other than the person with whom the Council has the agreement must not trade from that site whether or not that person has a Permit.

Penalty: 20 Penalty Units

- (2) In addition to any other power which it has, the Council may, by resolution, determine a fee, charge, fare or rent in relation to the selling or offering for sale of any goods or services from a property or Public Place adjacent to a Road or to any person who is on that Road or in that Public Place.

51. IMPOUNDING OF GOODS AND EQUIPMENT

- (1) Where the use of a site or the contravention of any conditions on a Permit issued under this Division continues after a Notice to Comply has been served on a person, any goods and associated equipment used by that person may be removed from the site by an Authorised Officer and impounded. SCH1(10)
12
SCH2
16
- (2) Where any goods and equipment have been impounded, there must be compliance with the provisions of clause 18. 18

DIVISION 2 – DISPLAY OF GOODS FOR SALE

52. DISPLAYING GOODS FOR SALE

- (1) A person must not, without a Permit, place or display any goods for sale or cause or allow another person under his or her control to do so on any Council Land.

Penalty: 20 Penalty Units
- (2) In determining whether to grant a Permit, a Nominated Officer may have regard to the Council’s Footpath Trading Policy as amended from time to time. SCH1(10)
12
SCH2
16
- (3) Any goods left or displayed on any part of a Road contrary to this Division or displayed in contravention of any conditions of a Permit may be removed by an Authorised Officer and impounded.
- (4) Where any goods have been impounded, there must be compliance with the provisions of clause 18. 18

DIVISION 3 – OUTDOOR EATING FACILITIES ON ROADS

53. ESTABLISHING OUTDOOR EATING FACILITIES

- (1) A person must not, without a Permit, establish an Outdoor Eating Facility on any Footpath or other part of a Road.

Penalty: 20 Penalty Units
- (2) In determining whether to grant a Permit, a Nominated Officer must have regard to Schedule 1 of this Local Law and the Council’s Footpath Trading Policy as amended from time to time. SCH1(9)
- (3) Any tables, chairs, umbrellas or other equipment in an Outdoor Eating Facility used in contravention of this Division or of any conditions of a Permit may be removed by an Authorised Officer and impounded. 12
SCH2
16,21
- (4) Where any tables, chairs, umbrellas or other equipment have been impounded, there must be compliance with the provisions of clause 18. 18

54. REMOVING THE FACILITY

The Permit Holder must move or remove the Outdoor Eating Facility to which the Permit relates when requested to do so for the purposes of public safety by an Authorised Officer or a member of the Victoria Police or an emergency service.

Penalty: 20 Penalty Units

DIVISION 4 – BULK RUBBISH CONTAINERS ON ROADS

55. PLACING BULK RUBBISH CONTAINERS

- (1) A person must not, without a Permit, place or cause or allow another person to place a Bulk Rubbish Container on a Road.

Penalty: 20 Penalty Units
- (2) In determining whether to grant a Permit, a Nominated Officer must have regard to the guidelines set out in Schedule 1 of this Local Law. SCH1(10)

12
SCH2
16, 21

- (3) Any Bulk Rubbish Container placed on any part of a Road contrary to this Division or in contravention of any conditions of a Permit may be removed by an Authorised Officer and impounded.
- (4) Where a Bulk Rubbish Container has been impounded, there must be compliance with the provisions of clause 18.

18

DIVISION 5 – REPAIR AND DEPOSITED SUBSTANCE

56. REPAIR OF VEHICLES IS PROHIBITED

A person must not dismantle, paint, carry out maintenance on or, except for the purpose of removing it, repair a Vehicle on a Road, or allow or authorise another person to do so.

Penalty: 20 Penalty Units

57. SUBSTANCES FROM VEHICLES, ANIMALS AND LIVESTOCK

- (1) Subject to sub-clause (2), a person must not permit any grease, oil, mud, clay or other substance to fall or run off a Vehicle or Livestock onto a Road into any drain on or under the Road or allow or authorise another person to do so.

Penalty: 20 Penalty Units

- (2) A person in charge of a Vehicle or Livestock from which any substance has fallen or run off onto a Road:
 - (a) must take all reasonable steps to promptly remove the substance, make good any damage and remove any consequent hazard; and
 - (b) where any such damage or hazard remains, must promptly notify the Council or a member of the Victoria Police of the damage or hazard.

Penalty: 10 Penalty Units

**DIVISION 6 – STREET PARTIES, STREET
FESTIVALS AND PROCESSIONS**

58. PERMITTED ROADS

- (1) Subject to this Local Law
 - (a) a Street Party may be held on a Local Street; or
 - (b) on a Collector Roadbut must not be held on an Arterial Road.
- (2) Subject to this Local Law a Street Festival or Procession may be held on any type of Road except that it must not be held on a Primary Arterial Road unless the written consent of both the Chief Commissioner of Police and the Roads Corporation has been obtained.

59. PERMIT FOR STREET PARTIES

- (1) A person must not, without a Permit, hold a Street Party, Street Festival or Procession on a Road. SCH4

Penalty: 20 Penalty Units
- (2) In determining whether to grant a Permit for a Street Party, Street Festival or Procession, the Council or a Nominated Officer must have regard to the guidelines in Schedule 1 of this Local Law. SCH1(11)
SCH1(12)
- (3) Where an application is to conduct an event on a local Road, the application must be made 21 days before the event is to take place. SCH4
- (4) Where an application is to conduct an event on any other Road, the application must be made 21 days before the event is to take place. SCH4

DIVISION 7 – COLLECTIONS ON ROADS

60. COLLECTIONS

- (1) A person must not, without a Permit, 13
SCH1
(a) solicit or collect any waste materials, gifts of money or 16, 21
subscriptions; or
(b) distribute any handbills
from any Footpath or Council Land or from house to house adjacent to
any Road or cause or authorise another person to do so.
Penalty: 10 Penalty Units
- (2) Paragraph (a) of sub-clause (1) does not apply to any solicitation or
distribution of printed electoral material relating to any Federal, State or
Local Government election.
- (3) Paragraph (a) of sub-clause (1) includes the distribution of information
brochures, books and solicitation of anything from members of the
general public in any Municipal Place.
- (4) An application for a Permit must be in the form of Schedule 4. SCH4
- (5) In determining whether to grant a Permit, a Nominated Officer must have
regard to any guidelines in Schedule 1 of this Local Law.

DIVISION 8 – CLOTHING RECYCLING BINS

61. CLOTHING RECYCLING BINS, PLACEMENT, PERMIT AND CONDITIONS

- (1) A person must not, without a Permit, place a Clothing Recycling Bin on a
Road or other Council Land.
- (2) An application for a Permit must be in the form of Schedule 6.
Penalty: 20 Penalty Units
- (3) In addition to any other conditions, a Permit for the placing of Clothing
Recycling Bins will specify:

- (a) that all Permit Holders must hold public liability insurance of not less than \$A10 million while any Clothing Recycling Bin remains on a Road or other Council Land, evidence of which shall be available on request by an Authorised Officer;
- (b) the type, design, construction, colour or finish of any Clothing Recycling Bin used for the collection of recycled clothing;
- (c) that all and/or any Clothing Recycling Bin bear the name and telephone number of the Permit Holder and of any organisation for which funds are being collected;
- (d) that the Clothing Recycling Bins be maintained in a good condition and that it be cleared regularly;
- (e) specify that all graffiti and other material detrimental to the appearance of any Clothing Recycling Bin be removed within three (3) working days of a direction to do so.
- (f) require that the area surrounding any Clothing Recycling Bin be kept in a clean condition;
- (g) limit the number of Clothing Recycling Bins which may be placed pursuant to the Permit; and
- (h) restrict the location or locations in which bins may be placed.

62. INTERFERRING WITH BINS

- (1) A person must not:
 - (a) interfere with;
 - (b) deposit rubbish in; or
 - (c) remove the contents from
a Clothing Recycling Bin.
Penalty: 20 Penalty Units
- (2) Sub-clause (1) does not apply to:
 - (a) the person on whose behalf the Clothing Recycling Bin was placed;
 - (b) an employee or agent of the person on whose behalf the Clothing Recycling Bin was placed; or
 - (c) an Authorised Officer.

DIVISION 9 – ERECTING OR PLACING ADVERTISING SIGNS

62A. ERECTING OR PLACING ADVERTISING SIGNS

Cl. 62A
inserted by
Local Law 7.

- (1) A person must not, except in accordance with a Permit, erect or place an advertising sign on any part of a road or other Council controlled land, or cause or in any way authorise another person to do so.

Penalty: 20 Penalty Units

- (2) (2) In determining whether to grant a Permit the Nominated Officer must have regard to any guidelines set out in Schedule 1 of this Local Law.
- (3) (3) Where any advertising sign is erected or placed in any location contrary to this Division or in contravention of any Permit conditions, it may be removed by an Authorised Officer and impounded provided the Authorised Officer has first issued a warning to the person who owns or who has placed the sign on any part of a road, unless in the Authorised Officer's opinion an emergency situation occurs, the sign may be impounded immediately and if practicable notices served as soon as possible on the owner after impoundment.
- (4) (4) Where an advertising sign has been impounded, there must be compliance with the provisions of clause 18.

PART 8 - VEHICLES AND OBSTRUCTIONS

63. DERELICT AND ABANDONED VEHICLES

- (1) A person must not, without a Permit, leave any derelict, abandoned or unregistered vehicle on any Council Land, whether temporarily or permanently.

Penalty: 20 Penalty Units

- (2) Any Vehicle found on Council Land and considered by an Authorised Officer to be derelict, abandoned or unregistered may be dealt with under the provisions of Schedule 11 of the Act.

63A. LONG VEHICLES AND SHIPPING CONTAINERS

Cl. 63A inserted
by Local Law 7.

A person must not, except in accordance with a Permit:

- (1) keep, store or repair any Heavy or Long Vehicle; or
(2) keep, store, repair or in any other manner use any shipping container;

upon any Private Property or Council controlled land.

Penalty: 20 Penalty Units

64. OBSTRUCTIONS ON COUNCIL LAND

Where, in the opinion of an Authorised Officer, a rubbish container, movable structure, device, material or other object on Council Land (other than a Road) is:

- (a) causing an unlawful obstruction;
(b) a danger to persons; or
(c) in the way of or likely to obstruct traffic;

the rubbish container, movable structure, device, material or other object will be dealt with in accordance with Schedule 11 of the Act, and the owner, occupier and / or person(s) responsible for the placement and location of the object deemed guilty of an offence under this Local Law.

Penalty: 20 Penalty Units.

PART 9 - ENFORCEMENT AND PENALTIES

65. OFFENCES

- (1) Where any provision in this Local Law prohibits any act or thing, any person who contravenes such provision is guilty of an offence.
- (2) Where any provision in this Local Law prohibits any act or thing between specified hours of the day or night or during specified months of the year or on certain days or in or at specified locations or specified parts of those locations, any person who contravenes such provisions is guilty of an offence.
- (3) Where any provision in this Local Law requires that a person obtain a Permit before engaging in a particular activity, that person is guilty of an offence if that person engages in that activity without a Permit authorising that activity (unless the Council in its discretion has granted an exemption from, or waived the requirement for a Permit).
- (4) Where any Permit, or exemption from a Permit, issued under this Local Law contains conditions any person who contravenes or fails to comply with such a condition is guilty of an offence.
- (5) Where any provision in this Local Law requires an act or thing to be done, any person who contravenes such provision is guilty of an offence.
- (6) Any person who is guilty of an offence against this Local Law is liable to the penalty indicated in respect of that offence, or if no such penalty is indicted, a penalty of:
 - (a) five (5) Penalty Units for a first offence; and
 - (b) ten (10) Penalty Units for any second or subsequent offence.

66. PENALTIES

Schedule 7 of this Local Law sets out penalties for Infringement Notice purposes which may be issued as an alternative to prosecution in respect of non-compliance with this Local Law where the Council or an Authorised Officer determines to proceed by Infringement Notice.

SCH7

67. INFRINGEMENT NOTICES

- (1) An Authorised Officer may serve an Infringement Notice on a person whom the Authorised Officer believes has committed an infringement referred to in Schedule 7 requiring the person to pay the penalty for that offence within 28 days of the issue of the Infringement Notice. SCH8
- (2) If the Infringement Notice is not withdrawn and the person pays to the Council the amount referred to in the Infringement Notice within the period of 28 days or such further period as the Council or an Authorised Officer may allow, no conviction will be recorded against that person for the alleged infringement;
- (3) If a person issued with an Infringement Notice makes a written representation, within 28 days of the issue of an Infringement Notice, to the Council, the Chief Executive Officer, a Senior Officer or to any other member of Council's staff, the representation must be brought to the attention of a Nominated Officer.
- (4) A Nominated Officer may consider any written representations and any other relevant information and must consider any such material brought to his or her attention within 28 days of the issue of the Infringement Notice to which it relates.
- (5) Subject to sub-clause (11), the decision of the Nominated Officer. (whichever has the matter referred to him or her on any representations received will be final.
- (6) The Council or a Nominated Officer may at any time withdraw an Infringement Notice either as a result of consideration of any representations made or with a view to prosecuting for an offence.
- (7) Where an Infringement Notice is withdrawn, the person upon whom it was served is entitled to a refund of any payment that that person has made on the Infringement Notice.
- (8) If the penalty referred to in an Infringement Notice has been paid within 28 days of its issue and no representation has been received by the Council or its officers, no decision may be made to withdraw the Infringement Notice and prosecute the offence after the expiry of 28 days from the issue of the Infringement Notice.
- (9) Any withdrawal of an Infringement Notice may be served in accordance with section 234 of the Act. LGA234

- (10) In the event of the failure of a person served with an Infringement Notice to pay the amount specified within 28 days of the issue of the notice or such further time as the Council or a Nominated Officer may permit, the Council or the Nominated Officer may pursue the matter by prosecuting for an offence or by taking any steps which may be available for enforcing penalties by registration of Infringement Notices.
- (11) Any person served with an Infringement Notice is entitled to disregard the notice and defend the prosecution in Court.

68. DELEGATION

In accordance with section 114 of the Act, the Council:

LGA114

- (a) delegates to the Chief Executive Officer, each Senior Officer and to any person for the time being acting for such persons all the powers, discretions, authorities and considerations of Council under this Local Law including (but not limited to) the powers, discretions and authority to issue or refuse Permits, fix conditions and durations relevant to such Permits, cancel Permits, require additional information, apply guidelines of policies of Council, consider appeals and waive the need for any Permit or waive or fix or reduce any fee or charge or to do any act, matter or thing necessary or incidental to the performance or exercise of any function or power by the Council;
- (b) delegates to the Municipal Environmental Health Officer and any Nominated Officer and to any person for the time being acting for these persons the power to issue or refuse Permits and apply conditions, exercise discretions, require additional information and apply guidelines or policies of Council in respect of Permit applications, exemptions and waivers; and
- (c) delegates to each Authorised Officer the powers, discretions and authorities to act on behalf of the Council in exercising any discretion of the Council in accordance with the guidelines specified in this Local Law, the issue of Infringement Notices and the undertaking of prosecutions.

SCHEDULE 1 - GUIDELINES

BAYSIDE CITY COUNCIL

LOCAL LAW NO. 3 – STREETS AND ROADS

SCHEDULE 1

GUIDELINES

1. URGENT CIRCUMSTANCES

What is regarded as urgent circumstances will depend on the circumstances of each situation. Factors to be taken into consideration may include:

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- (1) Where:
 - (a) the person by whose default, permission or sufferance the situation has arisen; or
 - (b) the owner or the occupier of the premises or property affected;
is not known or cannot be found.
- (2) Where, in the opinion of the Authorised Officer, there exists an urgent risk or threat to:
 - (a) public health;
 - (b) public safety;
 - (c) the environment; or
 - (d) animal welfare.

2. DISPOSAL OF IMPOUNDED ITEMS

The Council's policy for the disposal of unrecovered impounded items is as follows:

- (1) Where the item is declared by the Nominated Officer to have no saleable value, it may be disposed of in the most economical way, as determined by the Nominated Officer.

- (2) Where the item is declared by the Nominated Officer to have some saleable value, the item may be disposed of by tender, public auction or private sale, but failing sale may be given away or disposed of at the discretion of that Nominated Officer.

3. REQUIREMENTS FOR A CLEAR VIEW AT INTERSECTIONS, PEDESTRIAN/VEHICLE CONFLICT AREAS AND TRAFFIC CONTROL ITEMS

(1) The view between vehicles at intersections

In determining whether an offence has/is being committed an Authorised Officer must give consideration to the following guidelines:

Plants, fences and other obstructions must, wherever practicable, be kept to a maximum height of one (1) metre in the following areas:

- (a) at signalised intersections

(A triangular area between the corner of each property at the intersection and a line drawn between points 3m back from the intersection.)

- (b) at major/minor intersections and roundabouts

(A triangular area in both directions from a minor Road, or to the right only at a roundabout as described below and in the diagram.)

(2) The view between vehicles and pedestrians

Where pedestrians are likely to cross a Road or be in close proximity to a Road, plants must be no higher than 600mm above the ground for a distance of two (2) metres from the Road, except that trees with narrow, clean trunks may be planted (subject to any other requirements for safety and visibility), so long as their foliage is no lower than two (2) metres above the ground.

4. REQUIREMENTS FOR SELECTING A NAME FOR A ROAD

- (1) In determining whether to allow a person to apply a name to a Road or whether to give a name to a Road or whether to change the name of a Road, the Council must take into account:

- (a) whether the name is likely to be confused with the name of another Road in the area;

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- (b) whether the name would duplicate the name of another separate Road in the same post code area;
 - (c) whether a loop Road is named in such a way that two separate intersections involve Roads with the same two names or similar names; and
 - (d) whether the same name would apply to separate lengths of Road which are separated by physical obstruction to vehicular travel, within the same postcode area.
- (2) In a case described in sub-clause (1)(b), the Council must also take into account the principle that the same first part of the name, but with a different second part (eg. street, avenue etc) may be used in the same postcode area, where one Road leads directly to another.

5. SUFFICIENCY OF SIZE, LOCATION AND VISIBILITY OF PROPERTY NUMBERS

In determining whether a property number meets the requirements of clause 40(2), the Council must take into account:

- (a) the size of the property number;
- (b) the accuracy and completeness of the property number;
- (c) the state of repair of the property number having regard to its visibility;
- (d) the colour of the property number;
- (e) the legibility of the property number from the road immediately adjacent to the front boundary of the property having regard to all or any of:
 - (i) its size, accuracy and completeness;
 - (ii) its state of repair;
 - (iii) its colour;
 - (iv) its distinction from its background; and
 - (v) its freedom from obstruction; and
- (f) any other matter considered relevant.

6. VEHICLES LIKELY TO DAMAGE THE ROAD

In determining whether to grant a Permit to use a Road contrary to any sign erected on it, the Council must take into account: 42

- (a) the amount of the damage likely to be caused to the Road by the Vehicle requiring the permit;
- (b) the type and weight of vehicle;
- (c) the goods to be transported and the weight of those goods;
- (d) alternative Roads which are available;
- (e) the necessity to impose speed limits; and
- (f) any other matter relevant to the circumstances of the application.

7. CONDITIONS UNDER WHICH COUNCIL WILL PERMIT A HEAVY VEHICLE TO BE PARKED ON A ROAD FOR LONGER THAN TWO HOURS 48

In determining whether to grant a Permit for the parking of a Heavy Vehicle on any property which is zoned residential in the Municipal Planning Scheme or on any Road which is located in a residential area for more than two (2) hours, the Council must take into account:

- (a) whether the Road is in one of the following areas described in the Planning Scheme:
 - (i) a Primary or Secondary Arterial Road; or
 - (ii) a residential, business, office, commercial or similar zone;
- (b) whether the Road carries less than 5,000 Vehicles per day;
- (c) whether the Vehicle would be clearly visible to approaching motorists at a safe distance, given the speed and nature of Traffic if left during hours of darkness;
- (d) whether the requirements of regulations regarding Vehicle lighting are understood; and
- (e) any other matter relevant to the circumstances of the application. 60

8. ROADSIDE TRADING OR PERFORMANCES

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In determining whether to grant a Permit to allow trading from a Road or to a person on a Road, a Nominated Officer must have regard to:

- (a) whether the safety of Road users or the passage of Vehicles will be affected by the placement;
- (b)
 - (i) whether Permits required by the Health Act 1958, Food Act 1984 or any other legislation have been obtained;
 - (ii) whether the activity will disturb, annoy or disrupt adjacent property owners or occupiers;
 - (iii) whether the activity will be detrimental to the amenity of the area;
 - (iv) whether appropriate arrangements can be made for:
 - waste water disposal;
 - litter and garbage;
 - lighting; and
 - advertising signs;
- (c) whether the consent of the Roads Corporation has been obtained where the road is the State road within the meaning of the Road Management Act 2004;
- (d) whether any indemnity/guarantee has been provided to the Council;
- (e) any other matter relevant to the circumstances of the application; and
- (f) whether the activity will be detrimental to local businesses in the vicinity.

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9. REQUIREMENTS FOR OUTDOOR EATING FACILITIES ON ROADS

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In determining whether to grant a Permit for Outdoor Eating Facilities on a Road, a Nominated Officer must have regard to the Council's Footpath Trading Policy as amended from time to time.

10. BULK RUBBISH CONTAINERS ON A ROAD

In determining whether to grant a Permit for the placement of a Bulk Rubbish Container on a Road, a Nominated Officer must have regard to:

- (a) whether the placement will obstruct the passage of Vehicles and pedestrians, obscure the view of motorists or present a physical hazard;
- (b) whether the placement will contravene any traffic control signs;
- (c) whether hazard lights can be securely attached on the side nearest passing Traffic or placed on a Road or Road Related Area, so that an approaching motorist can identify the extent and form of the Bulk Rubbish Container;
- (d) protection of any Council assets;
- (e) any requirements under the provisions of the Road Management Act 2004;
- (f) whether an indemnity/guarantee has been provided to the Council; and
- (g) any other matter relevant to the circumstances of the application.

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11. REQUIREMENTS FOR A STREET PARTY

In determining whether to grant a Permit for a Street Party, a Nominated Officer must have regard to:

- (a) whether the Road can be closed to vehicular traffic for the duration of the Street Party;
- (b) whether all owners or occupiers of all properties with any immediate vehicular access via the section of Road to be closed have been advised by letter and given seven (7) days to comment or object;
- (c) whether a person on behalf of the applicant has been nominated to erect and remove the barriers which close the Road at locations and times specified by the Council or the Nominated Officer;
- (d) whether the Footpath on at least one side of the Road can be kept clear of obstructions;
- (e) any and/or all conditions in the Street Party Permit Application Form, Guidelines and Conditions; and
- (f) any other matter relevant to the circumstances of the application.

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12. REQUIREMENTS FOR A STREET FESTIVAL OR PROCESSION

In determining whether to grant a Permit for a Street Festival or Procession or a Street Party on a Connector Road, the Council must have regard to:

- (a) whether the Road can be closed to vehicular traffic, or partly closed with safe and effective separation of vehicular traffic and Street Festival/Procession patrons and equipment;
- (b) whether the agreement of the Victoria Police and the Roads Corporation has been obtained and their requirements met, including an appropriate traffic detour signing scheme;
- (c) whether all owners or occupiers of properties with any immediate vehicular access via the section of Road to be closed have been advised by letter and given seven days to comment or object/or other arrangements to the Council's satisfaction have been put in place to alert relevant owners and occupiers of properties; and
- (d) any other matter relevant to the circumstances of the application.

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13. COLLECTIONS ON ROADS

In determining whether to grant a Permit to allow collections, an Authorised Officer must have regard to:

- (a) the times and days it is proposed to collect;
- (b) the matter or thing to be collected;
- (c) the Roads or areas in which the collections would take place;
- (d) the impact on Traffic and safety of pedestrians;
- (e) the age of the participants and the capacity for them to be supervised;
- (f) whether an indemnity/guarantee has been provided to the Council;
- (g) any view of the Victoria Police or Roads Corporation (where relevant) concerning the proposed location or conduct of any collection; and
- (h) any other matter relevant to the circumstances of the application.

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14. ADVERTISING SIGNS ON ROADS – PROHIBITED LOCATIONS

Cl. 14
inserted by
Local Law 7.

(1) The erection or placing of advertising signs on the following parts of roads is not permitted:

- a) Any Council land that is not directly adjacent to the business it is promoting;
- b) Adjacent to any property line on a footpath;
- c) On any vehicle parked or left standing on a road; or
- d) In any other location which, in the opinion of an Authorised Officer, is likely to obstruct motorists' lines of sight or cause danger to any road user.

(2) In determining whether to grant a Permit to allow advertising signs to be placed on roads, the Nominated Officer must have regard to:

- a) the width and height of the sign not exceeding 600 mm and 1200 mm respectively;
- b) any other signs for the applicant's premises;
- c) whether the construction or erection of the sign will create a hazard to pedestrians;
- d) whether an indemnity/guarantee in the form contained in the Bayside Footpath Trading Policy 2005 has been provided to the Council;
- e) any relevant requirements of the Bayside Footpath Trading Policy 2005
- f) any other matter relevant to the circumstances of the application.

SCHEDULE 2 - NOTICE TO COMPLY

BAYSIDE CITY COUNCIL

LOCAL LAW NO. 3 – STREETS AND ROADS

SCHEDULE 2 (Clause 12)

NOTICE TO COMPLY

TO: _____
(Name)

(Address)

The following constitutes a breach under clause _____ of the Council’s Local Law No. 3 – Streets and Roads. To remedy the breach you must carry out the following work, within _____ days from the date of this notice.

Work to be done _____

You should contact the undersigned at the Municipal Offices during business hours for any further information about this Notice.

If you fail to comply with this Notice you will be guilty of an offence and liable for payment of the penalty of \$_____ (penalty) for the offence. Additionally, an Authorised Officer may proceed to have any required work carried out, in which case, you will be liable for the cost of such works in addition to the above penalty.

Date _____ (Insert Date) _____ (Name of Authorised Officer)

Telephone _____ (Signature of Authorised Officer)

NOTE: If this notice relates to a contravention of a Permit there is no compliance 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 3 - NOTICE OF IMPOUNDING

BAYSIDE CITY COUNCIL

LOCAL LAW NO. 3 – STREETS AND ROADS

SCHEDULE 3 (Clause 18)

NOTICE OF IMPOUNDING

TO: _____
(Name)

(Address)

The following thing(s) has/have been impounded in accordance with clause 18 of the Council’s Local Law No. 3 - Streets and Roads.

(Describe thing(s) impounded) _____

You may collect the thing(s) by attending at the municipal offices during normal business hours and paying the following:

Details of Fees and Charges	\$
_____	_____
_____	_____
_____	_____
_____	_____
TOTAL	\$ _____

If you fail to collect the thing(s) and pay the required fees and charges by _____ (date), the Council’s Authorised Officer will proceed to dispose of the thing(s) in accordance with Council policy.

Date _____ (Insert Date) _____ (Name of Authorised Officer)

Telephone _____ (Signature of Authorised Officer)

SCHEDULE 4 - APPLICATION FOR PERMIT

BAYSIDE CITY COUNCIL

LOCAL LAW NO. 3 – STREETS AND ROADS

SCHEDULE 4 (Clause 20)

APPLICATION FOR PERMIT

I, _____
(Name of applicant)

of _____
(Address)

hereby apply for a _____ permit.
(Type of permit)

The relevant details are as follows:

I apply to _____

For further information I may be contacted on _____(telephone)
between the following times: _____ and _____

Date _____
(Signed by Applicant)

Fees: \$ _____
(Signature of Owner where required)

Paid ____/____/____
(Name of Owner)

Receipt No _____
(Address of Owner)

**SCHEDULE 5 - APPLICATION FOR A PERMIT TO
DRIVE A HEAVY VEHICLE ON A ROAD WITH A
SIGNED RESTRICTION**

BAYSIDE CITY COUNCIL

LOCAL LAW NO. 3 – STREETS AND ROADS

SCHEDULE 5 (Clause 42)

**APPLICATION FOR A PERMIT TO DRIVE A HEAVY VEHICLE ON A
ROAD WITH A SIGNED RESTRICTION**

I, _____
(Insert Full Name in BLOCK LETTERS)

of _____
(Insert Full Address)

wish to apply for a permit to allow the following vehicles:

VEH TYPE	MAKE	REGISTERED NO	DRIVER'S NAME
Veh 1 _____	_____	_____	_____
Veh 2 _____	_____	_____	_____

(Attach a list if more vehicles are included in the application)

to be driven on the following lengths of road:

from _____ (date) to _____ (date)

The number of trips each vehicle is likely to make EACH DAY over these roads is:

_____.

The vehicles need to be driven along these roads for the following reasons (include any reasons to support your application):

Signed _____ Date _____

SCHEDULE 6 - CLOTHING RECYCLING BINS

BAYSIDE CITY COUNCIL

LOCAL LAW NO. 3 – STREETS AND ROADS

SCHEDULE 6 (Clause 61)

CLOTHING RECYCLING BINS

I, _____ (Name of applicant)

of _____ (Address)

wish to apply for _____ (Type of permit)

Further information to be provided:

1. For what purposes are the goods to be collected?

2. If the applicant is a charitable organisation provide details

3. Is the applicant affiliated with any charitable organisation?

YES

NO

4. Name the organisation

5. If the applicant is not a charitable organisation, describe how any profit is to be applied or distributed?

6. If the applicant is acting as the agent for another person or body, what is the name of that other person or body?

7. Has a permit been issued under the Fundraising Appeals Act 1984 that authorises the activity for which this permit is sought? If so, provide the date of issue and permit number.

**SCHEDULE 7 - PENALTIES FOR INFRINGEMENT
NOTICE PURPOSES IN RESPECT TO
NON COMPLIANCE WITH THIS LOCAL LAW**

BAYSIDE CITY COUNCIL

LOCAL LAW NO. 3 - STREETS AND ROADS

SCHEDULE 7

**PENALTIES FOR INFRINGEMENT NOTICE PURPOSES IN RESPECT TO
NON-COMPLIANCE WITH THIS LOCAL LAW**

Unless the relevant offence is set out below (in which case the infringement penalty is that listed for the relevant offence), the infringement penalty for any offence against this Local Law is two (2) Penalty Units.

Clause		Penalty Units
16	Failure to adhere to a Notice to Comply	5
29	Falsify information on an application for a Permit or exemption	5
33	Trees or plants obstructing or obscuring	2
35	Failure to provide a suitable property number	2
36	Failure to provide a properly constructed vehicle crossing	5
37	Construct, install, remove or alter a vehicle crossing without first obtaining a Permit to do so	5
41	Building Works contrary to requirements	5
42	Permits for Heavy Vehicles Use of Restricted Use Roads	2
43(1)	Leaving a shopping trolley other than in designated areas	2
45(3)	Using a toy vehicle in a restricted area	2
47(1)	Riding horses on Council Land	2
48(1)	Parking a Heavy Vehicle on a Road	2
49	Roadside trading or performances	5
52	Display of goods for sale on a Road	5
53	Establishing an Outdoor Eating Facility	5
54	Removing the Facility	5
55	Bulk rubbish containers on a Road	2
56	Repair of vehicles on Roads	2
57	Allowing substances to remain on Roads	2
59	Holding a Street Party, Street Festival or Procession	5
60	Collecting money, materials or subscriptions	2
61	Clothing Recycling Bins, Placement, Permit and Conditions	5
62	Interfering with bin contrary to Local Law	1
63	Leave a derelict, abandoned or unregistered vehicle on Council Land	5
64	Obstructions on Council Land	5
65(3)	Failure to obtain a Permit where required by this Local Law	5
65(4)	Failure to comply with a condition of a Permit or exemption	5

SCHEDULE 8 – INFRINGEMENT NOTICE

BAYSIDE CITY COUNCIL

LOCAL LAW NO. 3 – STREETS AND ROADS

SCHEDULE 8 (Clause 67)

INFRINGEMENT NOTICE

Date of Notice _____ No. of Notice _____

To: Surname or _____

Organisation _____

Other Names _____

Address _____

Reg. No of any Vehicle _____

State _____

I, _____ being a duly authorised officer of the above Council have reason to
(Full Name of Authorised Officer)
believe that you have committed an offence against the Local Laws of the Council. The nature of the alleged
offence and the amount of the penalty is indicated below:

Local Law Number	Clause Number	Nature of Infringement	Applicable* Penalty Units
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Other particulars of alleged offence:

Date: _____ Time: _____ Location: _____

If you pay the penalty indicated within 28 days from the date of this notice to BAYSIDE CITY COUNCIL:

by CHEQUE or MONEY ORDER for the FULL AMOUNT posted to
PO Box 27, Sandringham, 3191.

by CHEQUE, MONEY ORDER or CASH to Municipal Offices at
Royal Avenue, Sandringham, 3191.

this matter will not be brought to Court and no conviction will be recorded.

You are entitled to disregard this Infringement Notice and defend the prosecution for the offence in Court following written notification to Council.

Should you wish to make any submission concerning this Infringement Notice contact should be made within 28 days.

(Signed by Authorised Officer)

* Section 110(2) of the Sentencing Act provides that the value of each penalty unit is \$100.00.

Resolution for the making of this Local Law was agreed to by the Council on the**21st**..... day of**November**..... 2005.

The COMMON SEAL of the)
BAYSIDE CITY COUNCIL)
was affixed this**12th**..... day)
of**December**..... 2005)
in the presence of:)

.....(**Signed**)..... Mayor

.....(**Signed**)..... Councillor

.....(**Signed**)..... Chief Executive Officer

Notices of the proposal to make and of the making of this Local Law were included in the Victorian Government Gazette dated**25 August**..... 2005 and**1 December**..... 2005 respectively.

Public Notice of the proposal to make and confirmation of the making of this Local Law were inserted in The Age on**23 August**..... 2005 and**30 November**..... 2005 respectively.

A copy of this Local Law was sent to the Minister for Local Government on **4 January 2006**.

CERTIFICATION OF LOCAL LAW NO. 3

This is to certify that the matter above in writing contained on 63 pages of paper is a true copy of the Local Law of the BAYSIDE CITY COUNCIL and that we informed ourselves of the legislative requirements necessary to giving validity to such Local Law and as to their observance and belief that such requirements have been fulfilled. And we further certify that such Local Law came into force on the**21st**..... day of**November**..... 2005.

Sealed in our presence this**25th**..... day of**November**..... 2005.

.....(**Craig Tucker**)..... Mayor

.....(**Derek Wilson**)..... Councillor

.....(**Catherine Dale**)..... Chief Executive Officer

(SEAL)