



Bayside

CITY COUNCIL

LOCAL LAW NO. 2 ENVIRONMENT

November 2005

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Bayside City Council

Local Law No. 2 - Environment

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BAYSIDE CITY COUNCIL

LOCAL LAW NO. 2

ENVIRONMENT

PART 1 - PRELIMINARY

1. TITLE

This Local Law is the BAYSIDE CITY COUNCIL Local Law No. 2 - Environment and is referred to below as 'this Local Law'.

2. OBJECTIVES OF THIS LOCAL LAW

The objectives of this Local Law are -

- (a) to provide a safe and healthy environment in which the residents of the Municipal District enjoy a quality of life that meets the general expectations of the community;
- (b) to prohibit, regulate and control activities which may be dangerous, unsafe or detrimental to the quality of life in the environment of the Municipal District;
- (c) to facilitate the provision of general public services, health and other community services, property services, recreational and cultural services, and other services in a way which enhances the environment and quality of life in the Municipal District;
- (d) to control nuisances and noise, odour and smoke emissions, and other discharges to the environment which may adversely affect the enjoyment of life within the Municipal District or the health, safety and welfare of persons within the Municipal District;
- (e) in a way which is consistent with, and in furtherance of, the objectives specified in paragraphs (a) to (d) of this clause, to prohibit, regulate and control activities and circumstances associated with:
 - (i) smoke emission, particularly emission from burning material;
 - (ii) the use of recreational vehicles, particularly recreational vehicles which are not used on appropriate land or reserves or which emit excessive noise or air pollution;
 - (iii) fire hazards;
 - (iv) dangerous and unsightly land;

- (v) advertising and bill posting;
 - (vi) camping;
 - (vii) circuses, carnivals and festivals;
 - (viii) water quality, including interference with water courses;
 - (ix) animals, including animal numbers and the keeping and control of animals; and
 - (x) disposal of waste including behaviour associated with tips;
- (f) to prohibit, regulate and control activities which may endanger any identified significant tree and to protect existing tree canopies on private properties within the Municipal District, ensuring they are maintained in accordance with the urban character and local amenity;
- (g) to regulate the destruction, damage, removal, cutting, trimming and pruning of identified significant trees and other tree canopies on private property within the Council's municipal district, and maintain the urban character and local amenity of the Council's municipal district;
- (h) to provide for the peace, order and good government of the Municipal District; and
- (i) to provide for the administration of the Council's powers and functions.

3. AUTHORISING PROVISION

The Council's authority to make this Local Law is contained in section 111 of the Local Government Act 1989.

4. COMMENCEMENT

The 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(s) in the municipal district of the Council is revoked.

Local Law No 2

ENVIRONMENT (1995)

7. SCOPE OF THIS LOCAL LAW

This Local Law applies in the whole of the Municipal District except where it is apparent from its wording that a clause or schedule applies to a specific area or areas. 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 AND SCHEDULES

- (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 a 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:

LGA91 Refers to Local Government Act 1989, section 91.

SCH1(3) Refers to Guideline 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.

- (2) Parts 1 to 9 of this Local Law set out the legal obligations with which there must be compliance. Schedule 1 of this Local Law sets out guidelines to which persons exercising discretions under this Local Law must have regard.

SCH1

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.

Animals

Includes but is not limited to any variety of species listed in the first column of the table in clause 45(1).

Applicant

Means the person who applies for a Permit under this Local Law.

Appropriate Fee	Means the fee determined by the Council in accordance with clause 30.
Approved Toilet System	Means an existing toilet facility connected to the sewerage or a temporary system as defined by the Council's Environmental Health Section Guidelines from time to time.
Audible Intruder Alarm	Means a device, installed or retained in a property by the owner or occupier of that property or at the direction of the owner or occupier of the property, which is designed to be (or which has the effect when switched on of being) activated by an intruder to the property so as to emit noise capable of being heard beyond the boundary of the property in which it is installed.
Authorised Officer	Means an Authorised Officer appointed under section 224 of the Act.
Barbecue	Means a device used for the cooking of food outdoors constructed predominantly of metal or other non flammable material whether powered by gas, electricity, liquid or solid fuel or any combination of them, and includes a device for spit roasting when used outdoors.
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 Building Act 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.
Camping Area	Means land that has been declared by the Council to be a "camping area" for the purposes of this Local Law.
Chief Executive Officer	Means the person appointed by Council to be its Chief Executive Officer and any person acting in that position.
Combined Trunk Circumference	Means the aggregate circumference of two or more trunks of a Tree.
Combined Trunk Diameter	Means the aggregate diameter of two or more trunks of a Tree.
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.

Diameter Tape	Means a tape that has on one side converted the circumference of a shape into a diameter measurement and includes a tape commonly known as a "PT Tape".
Domestic Birds	Means small birds such as canaries, finches, budgerigars and the like.
Detection Device	Means a device designed to activate an audible intruder alarm.
Dwelling	Means any structure that is designed to be used for human habitation and that is capable of being so used, and includes a motor vehicle or trailer that is so designed and capable.
Fire Ban Day	Means a day declared as either a partial or Total Fire Ban Day in accordance with the Metropolitan Fire Brigade Act 1958.
Ground Level	Means the highest point where a Tree meets the soil.
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; (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 any motor vehicle with a GVM of 4.5 tonnes or more.
Incinerator	Means a structure, device or contraption (not enclosed in a building) which is - (a) used or intended, adapted or designed to be used or capable of being used for the purpose of burning any matter, material or substance; (b) not licensed or otherwise subject to control under the provisions of any other Act; and (c) not a Barbecue.
Infringement Notice	Means an Infringement Notice issued by the Council or an Authorised Officer under this Local Law.
Junk Yard	Means land set aside for the collecting, storing or selling of redundant scrap metal, second hand timber, second hand building materials, motor vehicles or machinery (or parts thereof), second hand containers, waste paper, rags, bottles or

	similar materials or household waste in circumstances where the amenity of neighbouring land is adversely affected.
Large Birds	Means any roosters, cockatoos, parrots, pheasant, geese or turkeys and other similar sized birds but does not include poultry, pigeons or small birds.
Litter Device	Means an apparatus designed for the purpose of removing Animal excrement and includes a paper or plastic bag.
Long Vehicle	Means a Vehicle that, together with any load or projection, is 7.5 metres long, or longer.
Motor Bike	Means a motor vehicle with two (2) wheels, and includes – (a) a 2-wheeled motor vehicle with a sidecar attached to it that is supported by a third wheel; and (b) a motor vehicle with three (3) wheels that is ridden in the same way as a motor vehicle with two (2) wheels.
Motor Trike	Means a motor vehicle with three (3) wheels that is ridden in the same way as a motor vehicle with two (2) wheels but does not include a two (2) wheeled motor vehicle with a sidecar attached to it that is supported by a third wheel.
Municipal Building Surveyor	Means the Municipal Building Surveyor appointed by the Council from time to time.
Municipal Environmental Health Officer	Means any Environmental Health Officer appointed by the Council from time to time.
Municipal District	Means the Council's municipal district.
Municipal Planning Scheme	Means a planning scheme approved under the Planning and Environment Act 1987 that operates within the Municipal District.
Municipal Transfer Station	Means an area approved by the Council for the depositing of waste.
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.
Noxious Weed	Has the meaning ascribed to it by section 3 of the Catchment and Land Protection Act 1994.

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.
Poultry	Means fowls, bantams and ducks, but does not include roosters.
Private Property	Means land other than Council Land.
Recyclable Material	Means any recyclable material in respect of which a separate Council or Council authorised or approved collection service applies.
Residential Area	Means land which has been zoned “residential” in the Municipal Planning Scheme.
Road	Has the meaning ascribed to it in section 3 of the Act and includes a public highway.
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 authority providing a service that is incapable of being bound by this Local Law.
Significant Tree	Means a Tree that is recorded on the Council’s significant tree register.
Smog Alert Day	Means a day declared by the Environment Protection Authority as a Smog Alert Day and which affects the Municipal District.
Tree	Means any perennial plant having one or more permanent, woody, self supporting trunks and with branches forming a crown, and includes all parts of the plant whether above or below ground.
Trunk	Means the main structural member of a Tree that is supported by and directly attached to the roots, and which, in turn, supports the branches.

Trunk Diameter

Means the measurement obtained by dividing the trunk circumference by 3.142 or the measurement obtained by using a Diameter Tape.

- Trunk Circumference** Means the measurement obtained by measuring the outer surface of a trunk, including the bark and any outward extending abnormalities (such as knots), but excluding any inwardly extending abnormalities or indentations in the outer surface.
- Urban Premises** Means any residential, industrial, commercial or trade premises within the Municipal District located adjacent to any Road at a point or location where there exists provision for lighting by means of street lamps.
- Vehicle**
- (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 –
 - a motor vehicle, trailer or tram; and
 - a bicycle; and
 - an air-cushion vehicle –
 - but does not include a train.
 - (2) However, a reference in the Road Rules - Victoria or this Local Law to a vehicle –
 - (a) includes a reference to –
 - (i) an animal that is being ridden or is drawing a vehicle; and
 - (ii) a combination;
 - (b) but does not include a reference to –
 - (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 -
 - (a) includes rollerblades, rollerskates, skateboards and similar wheeled devices; but
 - (b) excludes a golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or Wheeled Toy.
- Wheeled Toy only** Means a child’s pedal car, scooter or tricycle or similar toy, but when it is being used solely by a child who 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 this 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

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.

SCH2

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 observe any requirement specified in a Notice to Comply served 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 a Senior Officer.

18. POWER OF AUTHORISED OFFICERS 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 the form of Schedule 3 on the owner or person 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.
- (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 sub-clause (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.

SCH1(2)

SCH1(2)

- (7) In the event that the person described in sub-clause (6) cannot be identified or located within six (6) months of serving the Notice of Impounding, any proceeds described in that sub-clause 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 written 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. SCH4
- (2) An application must be accompanied by the appropriate fee.
- (3) 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 guideline 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 a Nominated Officer may require an 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 AUTHORITIES

- (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 that 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 a 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:
 - (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.

SCH1

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 of 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 that 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 for any Permit or may exempt all persons from the need for any Permit at any specified time or times.
- (2) Despite any provision in this Local Law requiring a Permit to undertake any particular activity, a person who has been exempted from the requirement to hold a Permit for the purpose of undertaking that activity does not commit an offence in doing so, so long as that person complies with any conditions subject to which the exemption was granted.
- (3) An exemption from a Permit 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: 10 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.
- (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 OR 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 – SAFETY – PEOPLE AND PROPERTY

33. FIRE HAZARDS

An owner or occupier of land must ensure that:

- (a) all necessary steps are taken to prevent fires on that land and minimise the possibility of the spread of fire from that land; and
- (b) the land is kept free of undergrowth, scrub, bracken, ferns, weeds, stubble and grass (whether alive or dead exceeding 300mm in height and whether standing or not standing) and any other material or substance likely to assist in the spread of fire, whether of a similar kind to that mentioned or not.

Penalty: 20 Penalty Units

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SCH2

34. DANGEROUS LAND

An owner or occupier of land must not cause or allow the land to be kept in a manner which is dangerous or likely to cause danger to life or property, including land which is:

- (a) a haven for vermin, Noxious Weeds, or insects;
- (b) used without a Permit for the storage of any substance which is dangerous or is likely to cause danger to life or property;
- (c) occupied by an unsecured hole or excavation; or
- (d) in any other condition determined by the Council from time to time to be dangerous or likely to cause danger to life or property and notified by the Council to the owner or occupier.

Penalty: 20 Penalty Units

35. UNSIGHTLY LAND

(1) An owner or occupier of land must not cause or allow the land to be kept in a manner which is unsightly or detrimental to the general amenity of the neighbourhood in which it is located, including land which:

- (a) harbours unconstrained rubbish;
- (b) contains disused excavation or waste material;

- (c) has undergrowth exceeding 300mm in height; or
- (d) for any other reason is determined by the Council from time to time to be unsightly or detrimental to the general amenity of the neighbourhood in which it is located and notified by the Council to the owner or occupier.

Penalty: 20 Penalty Units

- (2) An owner or occupier of land must not allow any graffiti to remain on any building, wall, fence, post or other structure or object erected on his or her land.

Penalty: 20 Penalty Units

- (3) A person or legal entity who owns or has vested in it, or who has the control and management of any building, wall, fence, post or other structure or object, or any asset, located on Council Land must not allow any graffiti to remain on that building, wall, fence, post or other structure or object, or asset.

Penalty: 20 Penalty Units

36. TREE PROTECTION

- (1) A person must not, except in accordance with a Permit,
 - (a) destroy, damage or remove or allow to be destroyed, damaged or removed on any Private Property; or
 - (b) cut, trim, lop or prune or allow to be cut, trimmed, lopped or pruned on any Private Property:
 - (i) an Identified Significant Tree; or
 - (ii) any Tree with a single Trunk Circumference or Combined Trunk Circumference greater than one hundred and fifty five (155) centimetres, measured at one metre above Ground Level

Cl. 36(1) amended by Local Law No. 6

Penalty: 20 Penalty Units

- (2) If a Tree is:
 - (a) destroyed, damaged or removed or allowed to be destroyed, damaged or removed in breach of sub-clause (1)(a); or

- (b) cut, trimmed or pruned or allowed to be cut, trimmed or pruned in breach of sub-clause (1)(b),

the owner of the Private Property is also guilty of an offence whether or not the person who destroyed, damaged or removed or allowed to be destroyed, damaged or removed, or cut, trimmed or pruned or allowed to be cut, trimmed or pruned, is identified or prosecuted.

Penalty: 20 Penalty Units

- (3) In determining whether to grant a Permit, the Council or a Nominated Officer must have regard to any guidelines adopted by the Council from time to time for the purposes of this Local Law.
- (4) "Notwithstanding anything contained elsewhere in this Local Law, any Permit granted may contain a condition stipulating that upon removal of a Tree another Tree (whether or not of a specified type) must be planted (whether or not in a specified location), and sub-clause (1) does not apply when a person:
 - (a) destroys, damages or removes or allows to be destroyed, damaged or removed; or
 - (b) cuts, trims, lops or prunes or allows to be cut, trimmed, lopped or pruned,

on the Private Property an Identified Significant Tree or a Tree with a single Trunk Circumference or Combined Trunk Circumference greater than one hundred and fifty five (155) centimetres, measured at one metre above Ground Level, solely for the purpose of complying with sub-clause (1)."

- (5) If a Permit which has been granted contains a condition of the type described in sub-clause (4)), a person must not, except in accordance with another Permit granted by the Council or a Nominated Officer:
 - (a) destroy, damage or remove or allow to be destroyed, damaged or removed; or
 - (b) cut, trim, lop or prune or allow to be cut, trimmed, lopped or pruned,any Tree planted under that condition.

Penalty: 20 Penalty Units

- (6) If a Tree is:
 - (a) destroyed, damaged or removed or allowed to be destroyed, damaged or removed; or

Cl. 36(4) amended by Local Law No. 6

Cl. 36(5)(b) amended by Local Law No. 6

- (b) cut, trimmed, lopped or pruned or allowed to be cut, trimmed, lopped or pruned,

in breach of sub-clause (5), the owner of the Private Property is also guilty of an offence whether or not the person who destroyed, damaged or removed or allowed to be destroyed, damaged or removed, or cut, trimmed or pruned or allowed to be cut, trimmed or pruned, is identified or prosecuted.

Penalty: 20 Penalty Units

- (7) For the purposes of sub-clauses (1) and (4), “measured” means a measurement taken and recorded of the Trunk Circumference or Trunk Diameter, the instrument used for measurement being placed at a 90 degree angle to the growth direction of the Trunk.

37. STORAGE OF MACHINERY OR SECOND HAND GOODS ON PROPERTY

An owner or occupier of any land must not cause or allow the land to be used as a Junk Yard.

Penalty: 20 Penalty Units

38. INCINERATORS

A person must not, without a Permit, light or allow to be lit any fire in an Incinerator unless the fire is authorised or directed to be lit under the provisions of any Act or regulations or the Municipal Planning Scheme.

Penalty: 20 Penalty Units

39. BURNING OF MATERIALS

- (1) A person must not, without a Permit, burn in the open or cause to burn any matter, materials or substance in any part of the Municipal District, except in a permanent or portable Barbecue.
- (2) A person must not, without a Permit, burn or cause to burn any offensive materials, whether in the open air or in any fireplace, brazier, woodheater, pot-bellied stove or similar device of otherwise, offensive materials include any substance containing any:
 - (a) manufactured chemical;
 - (b) rubber or plastic;

- (c) petroleum or oil;
- (d) paint or receptacle which contains or which contained paint;
- (e) food waste, fish or other offensive or noxious matter; or
- (f) other material as determined by the Council from time to time to be offensive materials.

Penalty: 20 Penalty Units

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

40. MOTOR BIKES AND MOTOR TRIKES

- (1) A person must not, without a Permit, use a Motor Bike or Motor Trike on any part of Council Land unless the part of Council Land has been designated for that purpose.

Penalty: 10 Penalty Units

- (2) A person must not, without a Permit, use a Motor Bike or Motor Trike on any Private Property other than for the purpose of directly accessing that Private Property.

Cl. 40(2) Amended by LocalLaw No.6

Penalty: 10 Penalty Units

- (3) 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(5)

- (4) A person must not use any Motor Bike or Motor Trike on Council Land on any Smog Alert Day or Fire Ban Day.

Penalty: 10 Penalty Units

41. STORING OR REPAIRS TO HEAVY OR LONG VEHICLE/S

- (1) A person must not, without a Permit, keep, store or repair any Heavy Vehicle or Long Vehicle(s) upon land within a Residential Area.

Penalty: 10 Penalty Units

- (2) In determining whether to grant a permit, the Council or a Nominated Officer must have regard to any guidelines set out in Schedule 1 of this Local Law. SCH1(7)

42. BUILDING SITES

A person must not erect, demolish, repair or renovate any domestic dwelling or commercial building unless an Approved Toilet System is provided on the land on which the dwelling or building is, or is to be, located.

Penalty: 20 Penalty Units

43. AUDIBLE INTRUDER ALARMS

- (1) An owner or occupier of any Urban Premises must not install or allow to be installed or cause to be retained and active at or upon any such Urban Premises any form of intruder alarm which emits a noise audible beyond the boundary of such Urban Premises unless such an alarm is so constructed or regulated as to ensure that –
 - (a) whenever a Detection Device is activated the Audible Intruder Alarm is automatically rendered inaudible beyond the boundary of the Urban Premises within five (5) minutes of being activated; and
 - (b) the Audible Intruder Alarm cannot reactivate following the operation of that single detection device until the alarm condition has been manually reset.
- (2) Despite the above provisions, an Audible Intruder Alarm may operate for a further period of five (5) minutes should an alarm be activated by a different detection device following the cessation of the Audible Intruder Alarm in accordance with sub-clause (1)(a).

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SCH2

Penalty: 10 Penalty Units

- (3) Where the Council receives any complaint that an Audible Intruder Alarm operates in any Urban Premises in a way which does not comply with sub-clause (1)(a) (whether modified by sub-clause (2) or not), it may investigate the complaint.
- (4) If the owner or occupier of the Urban Premises housing the Audible Intruder Alarm or other evidence confirms a failure to comply with sub-clause (1), an Authorised Officer may by Notice to Comply require that the Audible Intruder Alarm be:
 - (a) adjusted to comply with this clause;
 - (b) replaced with a complying Audible Intruder Alarm;
 - (c) switched off; or

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SCH2

(d) disconnected.

PART 6 – THE ENVIRONMENT

44. CAMPING

- (1) A person, must not, without a Permit, camp on Council Land or Private Property in a tent, caravan or other temporary or makeshift structure unless such person is within a licensed caravan park or an area determined to be available for camping purposes by the Council.

Penalty: 10 Penalty Units.

- (2) In determining whether to grant a Permit, the Council or a Nominated Officer must have regard to any guidelines set out in Schedule 1 of this Local Laws. SCH1(6)
- (3) Sub-clause (1) does not apply to occupation of a caravan on Private Property for a period of up to twenty-eight (28) days in any year provided that sanitation and laundry facilities of a dwelling on the property are available to the occupants of the caravan. 12
SCH2

PART 7 – ANIMALS

45. KEEPING ANIMALS

- (1) An owner or occupier of land, must not, without a Permit, keep or allow to be kept more than six (6) different types of Animals on any one parcel of land at any time and must not keep or allow to be kept any more in number for each type of Animal than is set out in the following table:

Cats	2
Cattle	Zero
Dogs	2
Domestic Birds	20
Domestic Fish	No maximum limit
Domestic Mice	20
Domestic Rabbits	4
Domestic Turtles, Tortoises, Frogs and the like	No maximum limit
Goats	Zero
Guinea Pigs	4
Horses/Donkeys and the like	Zero
Large Birds	Zero
Pigeons	Zero
Pigs	Zero
Poultry	10
Sheep	Zero
Any other agricultural animals	Zero

Penalty: 20 Penalty Units

- (2) Sub-clause (1) does not apply where a planning permit has been obtained for land use for the purposes of Animal boarding or breeding.
- (3) In determining whether to grant a Permit, the Council or a Nominated Officer must have regard to any guidelines set out in Schedule 1 of this Local Law.

SCH1(9)

46. LITTERS OF ANIMALS

For the purpose of calculating the numbers of Animals kept, the progeny of any dog or cat lawfully kept will be counted from 12 weeks after their birth.

47. ANIMAL SHELTERS

The owner or occupier of any land on which Animals are kept must provide shelter in accordance with the guidelines in Schedule 1 of this Local Law.

SCH1(9)

48. ANIMAL EXCREMENT

- (1) A person in charge of any Animal must not allow any part of the Animal's excrement to remain on any Council Land.

Penalty: 20 Penalty Units

- (2) A person in charge of any Animal on Council Land must carry a Litter Device suitable to clean up any excrement left by his or her Animal and must produce such Litter Device upon request of any Authorised Officer.

Penalty: 10 Penalty Units

49. ANIMAL NOISE

- (1) The occupier of any premises where any Animal or bird, except a dog or cat, is kept or permitted to remain must not allow that Animal or bird to be a nuisance.

Penalty: 20 Penalty Units

- (2) An Animal or bird is to be regarded as a nuisance for the purposes of sub-clause (1) if it creates a noise, by any means, which persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any other premises.

50. WASP NEST(S) TO BE REMOVED

An owner or occupier of land must, upon becoming aware of the existence of a wasp's nest or nests on the land, immediately take steps to cause that nest or those nests to be removed.

Penalty: 20 Penalty Units

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SCH2
LGA225

PART 8 – DISPOSAL OF WASTE

51. REMOVING OR INTERFERING WITH RECYCLABLE MATERIAL

- (1) A person must not remove or interfere with any Recyclable Material left on a Road, or at any other collection point, for collection in accordance with any instructions determined by the Council.

Penalty: 10 Penalty Units

- (2) Sub-clause (1) does not apply to a person authorised by the Council to remove such Recyclable Material or any employee of such a person in the course of his or her employment, the person placing the Recyclable Material for collection or an Authorised Officer in the course of his or her employment.

52. DOMESTIC WASTE

The occupier of every dwelling or other land where the Council provides a garbage service must comply with the guidelines in Schedule 1 of this Local Law.

SCH1(10)

Penalty: 20 Penalty Units

53. TRADE WASTE AND WASTE HOPPERS (INCLUDING ALL RECYCLING BINS OTHER THAN CLOTHING BINS)

- (1) An occupier of land may arrange for the collection of trade waste from, or for the placement of a waste hopper or recycling bin on, that land subject to compliance with the guidelines in Schedule 1 of this Local Law.

SCH1(11)

Penalty: 10 Penalty Units

- (2) A person must not place any waste or material in a trade waste bin, waste hopper or recycling bin contrary to the notice on the hopper or recycling bin required by the guidelines in Schedule 1.

SCH1(11)

Penalty: 10 Penalty Units

- (3) All trade waste and waste hoppers, including recycling bins other than recycled clothing bins, must be kept on land of the person on which the waste is generated, except for the period from twelve(12) hours before to (4) four hours following collection.

Penalty: 10 Penalty Units

54. TRANSPORTATION OF WASTE

A person must not convey or cause to be conveyed in any vehicle on any Road any manure, dead animal or Animal remains, offal, bones, hides, skins, offensive matter, refuse, rubbish or other waste matter unless the vehicle is constructed, fitted, loaded and covered so that:

- (a) no leakage occurs and no material there from is dropped or deposited on any Road or adjacent area from the vehicle; and
- (b) the possibility of escape of offensive odours is minimised.

Penalty: 20 Penalty Units

55. USE OF MUNICIPAL TRANSFER STATION BY RESIDENTS AND RATEPAYERS

- (1) The Municipal Transfer Station will be available to residents and ratepayers of the Municipal District for the disposal of waste generated from within the Municipal District, subject to the fees, charges, terms and conditions applicable to such Municipal Transfer Station as determined by the Council from time to time.
- (2) A resident or ratepayer using the Municipal Transfer Station must comply with the fees, charges, terms and conditions determined by the Council from time to time.

Penalty: 20 Penalty Units

56. USE OF MUNICIPAL TRANSFER STATION BY NON-RESIDENTS AND NON-RATEPAYERS

- (1) If the Council considers that it is reasonably practicable to allow non-residents and non-ratepayers to use the Municipal Transfer Station having regard to traffic conditions, available space, facilities and level of demand from residents and ratepayers, it may allow persons other than residents and ratepayers to use the Municipal Transfer Station.
- (2) A person who is permitted to use the Municipal Transfer Station under sub-clause (1) must pay the fees and charges and comply with the terms and conditions determined by the Council for use of the Municipal Transfer Station by such persons.

Penalty: 10 Penalty Units

- (3) The Council may refuse entry to a person who fails to pay the required fee or charge or who fails to comply with the terms and conditions of use of the Municipal Transfer Station.

57. DEPOSITING OF WASTE AT MUNICIPAL TRANSFER STATION

A person using the Municipal Transfer Station must deposit waste in accordance with the directions of the Municipal Transfer Station attendant and any signs erected at the Municipal Transfer Station.

Penalty: 20 Penalty Units

58. DUMPING OF ICE CHESTS, TRUNKS OR SIMILAR CONTAINERS

A person must not place or leave or allow to remain a disused refrigerator, ice-chest, ice-box, trunk, chest or any other similar article having a compartment which has a capacity of 0.4 cubic metres or more on any land without first:

- (a) removing every door and lid;
- (b) removing every lock, catch and hinge attached to a door or lid; or
- (c) otherwise rendering every door and lid incapable of being fastened.

Penalty: 10 Penalty Units

59. SCAVENGING AT MUNICIPAL TRANSFER STATION

- (1) A person must not, without a Permit, remove material of any kind which has been deposited at the Municipal Transfer Station.

Penalty: 10 Penalty Units

- (2) In determining whether to grant a Permit, the Council must have regard to any guidelines in Schedule 1 of this Local Law.

SCH1(12)

60. DRAINAGE TAPPINGS

A person must not, without a Permit, tap into or interfere with any drain under the control of the Council.

Penalty: 20 Penalty Units

PART 9 – ENFORCEMENT AND PENALTIES

61. OFFENCES

- (1) Where any provision of 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 indicated, a penalty of:
 - (a) five (5) Penalty Units for a first offence; and
 - (b) ten (10) Penalty Units for any second or subsequent offence.

62. PENALTIES

Schedule 5 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.

SCH5

63. INFRINGEMENT NOTICES

- (1) An Authorised Officer may serve an Infringement Notice in the form of Schedule 6 on a person whom the Authorised Officer believes has committed an infringement referred to in Schedule 5 requiring the person to pay the penalty for that offence within 28 days of the issue of the Infringement Notice. SCH6
- (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. SCH6
- (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, 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 following written notification to Council.

64. DELEGATION

LGA114

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

- (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 Permit, 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 discretion, require additional information and apply guidelines or policies of the 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. 2 - ENVIRONMENT

SCHEDULE 1

GUIDELINES

1. URGENT CIRCUMSTANCES

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

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

2. DISPOSAL OF IMPOUNDED ITEMS

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The Council's policy for the disposal of impounded Animals and things is as follows:

- (a) Where the Animal or thing 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.
- (b) Where the Animal or thing 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. STORAGE OF MACHINERY OR SECOND HAND GOODS ON PROPERTY

37

In determining whether to grant a Permit for a Junk Yard, the Council or Nominated Officer must take into account:-

- (a) the zoning of the land;
- (b) the proximity to adjoining properties;
- (c) the amenity of the area;
- (d) the capacity to screen the proposed use from adjoining land or from any street;
- (e) the nature of the materials stored; and
- (f) any other matter relevant to the circumstances associated with the application.

4. BURNING OF MATERIALS

39

In determining whether to grant a Permit for the burning of any matter/material/substance, the Council or a Nominated Officer must take into account:-

- (a) the location of the proposed burning in proximity to adjoining land;
- (b) the zoning of the land on which the burning is to take place;
- (c) any alternative means of disposal;
- (d) any adequate means of supervising the burning;
- (e) any adequate means of controlling and extinguishing the spread of fire;
- (f) the degree to which the material to be burned may produce offensive, toxic or unpleasant smells or smoke;
- (g) the purpose stated for the burning and available alternative disposal mechanisms;
- (h) any policies of the Environment Protection Authority; and
- (i) any other matter relevant to the circumstances associated with the application.

5. RECREATION VEHICLES

40

In determining whether to grant a Permit for the use of a Motor Bike or Motor Trike, the Council or a Nominated Officer must take into account:-

- (a) the location of the Council Land or Private Property where the vehicle is to be used;
- (b) the zoning of the land within a 500 metre radius of the Council Land, or of the private property (as the case may be);
- (c) the suitability of the land for use by Motor Bikes or Motor Trikes (as the case may be);
- (d) the number of vehicles for which the Permit is required;
- (e) the days, times and hours such vehicles are to be used;
- (f) the likely effect on the amenity of the area;
- (g) the likely damage which may be caused to the Council Land or any Council Land (as the case may be); and
- (h) any other matter relevant to the circumstances associated with the application.

6. CAMPING

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In determining whether to grant a Permit to allow camping in an area which is not a licensed caravan park and has not been declared by the Council to be a Camping Area, the Council or a Nominated Officer must take into account:-

- (a) the location of the land;
- (b) the zoning of the land;
- (c) the suitability of the land for camping;
- (d) the number of tents or other structures to be located on the land;
- (e) the length of time the tents and other structures will be erected on the land;
- (f) the availability of sanitary facilities to the land;
- (g) the likely damage to be caused; and
- (h) any other matter relevant to the circumstances associated with the application.

7. STORING OR REPAIRS OF HEAVY VEHICLES

41

In determining whether to grant a Permit for the storing or repairing of Heavy Vehicles, consideration must be given to-

- (a) the zoning of the land;
- (b) the proximity to adjoining properties;
- (c) the likely effect on adjoining owners;
- (d) the distance from dwellings; and
- (e) any other matter relevant to the circumstances associated with the application.

8. KEEPING OF ANIMALS

45

In determining whether to grant a Permit for the keeping of Animals where the number exceeds that determined by the Council and which is set out in the table to clause 45(1), the Council or a Nominated Officer must take into account-

- (a) the zoning of the land;
- (b) the proximity to adjoining properties;
- (c) the amenity of the area;
- (d) the type and additional numbers of Animals to be kept;
- (e) the likely effects on adjoining owners;
- (f) the adequacy of Animal shelters; and
- (g) any other matter relevant to the circumstances associated with the application.

9. ACCOMMODATION FOR ANIMALS – SHELTER

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- (a) In determining what may be reasonable shelter, consideration must be given to:-
 - (i) the type of Animals to be kept;
 - (ii) the height of the shelter;
 - (iii) the location of the shelter having regard to the amenity of the area;

- (iv) the size of the shelter in terms of its adequacy to house the proposed number and type of Animals;
 - (v) the security of the shelter in terms of the Animals to be housed in it; and
 - (vi) any other matter/issue pertaining to the shelter considered to be relevant.
- (b) All Animal shelters must be maintained in accordance with the following guidelines so that:
- (i) all excreta and other waste are removed and/or treated as often as necessary so that they does not cause a nuisance or offensive condition;
 - (ii) all excreta and other waste are stored in a fly and vermin proof receptacle until removed from the premises or otherwise disposed of to the satisfaction of the Municipal Environmental Health Officer;
 - (iii) the ground surrounding the shelter is drained to the satisfaction of the Municipal Environmental Health Officer;
 - (iv) the area of land within three (3) metres of the area or structure in which the animal is kept free from dry grass, weeds, refuse, rubbish or other material capable of harbouring vermin;
 - (v) all food, grain or chaff is kept in vermin proof receptacles; and
 - (vi) the area where Animals are kept is thoroughly cleaned and maintained at all times in a clean and sanitary manner to the satisfaction of the Municipal Environmental Health Officer.

10. DOMESTIC WASTE

(1) Use of Bins

All domestic waste must be placed in rubbish bins ready for collection in accordance with these requirements and on the days from time to time specified by the Council.

(2) Storage of Bins

All domestic waste bins must be stored and maintained in a clean and sanitary condition on the property to which they have been issued.

(3) Construction of Bins

The bins used should be in accordance with the Council's policy and procedures as determined by the Council from time to time.

(4) Prohibited Waste

The following material is prohibited from being placed in rubbish bins for collection by the Council:

- (a) slops, liquid waste or offensive material;
- (b) dirt, dust, or other matter from any vacuum cleaner, 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) ashes or other like matter unless they have been mixed with water to form a consistency of a stiff paste before being wrapped and placed in the bin;
- (d) glass or other sharp objects unless they are properly contained or wrapped in such a way as to render them harmless and inoffensive;
- (e) oil, paint, solvents, acids or similar substance or any other substance which may damage the bin or reduce its strength or effectiveness;
- (f) trade wastes of any kind; and
- (g) any other matter identified by the Council by notice to occupiers of a property.

(5) Recycling and Hard Garbage Collection

Where the Council has notified occupiers of properties of a recycling or hard garbage collection, the material to be recycled and the hard garbage to be collected must be left for collection in accordance with the Council's instructions.

(6) Removal of Bins and any Spillage

Once the waste has been collected by the Council, the empty bins must be returned to the property by the owner or occupier and any waste which has spilled onto the Road, nature-strip or surrounding area must be removed by the owner or occupier responsible for the bin within twenty-four (24) hours of collection.

(7) Cleanliness

Bins must be maintained in a clean and tidy manner so as not to cause any health threat or be offensive to any person.

11. TRADE WASTE AND WASTE HOPPERS (INCLUDING RECYCLING BINS)

(1) Construction of Bins

Waste hoppers or bins used for the collection and storage of trade waste must:

- (a) be constructed of approved impervious material to the satisfaction of the Municipal Environmental Health officer to prevent leakage, absorption or accumulation of any refuse or rubbish that may be deposited in it;
- (b) be water-tight, fly and vermin proof;
- (c) if its capacity exceeds 500 litres, contain a removable drainage plug for the purpose of cleaning; and
- (d) be fitted with fly and vermin proof lid with overlapping flanges which must be kept continuously closed; except when being used for the immediate receipt of waste material.

(2) **Emptying of Trade Waste Bins**

Waste hoppers or bins used for the collection and storage of trade waste must be emptied at least weekly or more regularly if the contents become offensive.

(3) **Cleanliness and Storage of Bins**

The occupier of land must ensure that, in relation to bin used for the collection and storage of trade waste:

- (a) the bin is stored and maintained in a clean, sanitary and inoffensive condition and must clean and at all times keep clean any footway, pavement or ground adjoining the storage area, to the satisfaction of the Municipal Environmental Health Officer;
- (b) the surface upon which the bin is stored is impervious, and graded and drained to the sewer or an approved outlet with such silt traps or other treatment devices as required by the Municipal Environmental Health Officer;
- (c) the storage site is supplied with a tap connection and hose of a size approved by the Municipal Environmental Health Officer to the satisfaction of the Municipal Environmental Health Officer;
- (d) the bin is screened in such a way and with such material as approved by the Municipal Environmental Health Officer;
- (e) the bin is adequately fenced or constructed in such a way so as to deny access to the public; and
- (f) the bin is stored and maintained in a clean and sanitary condition on the land to which it relates.

(4) **Notice of Materials to be Deposited**

Every waste hopper or recycling bin used for the collection of waste or Recyclable Material must display a notice indicating the type of waste or material which is permitted and stating that it is an offence to deposit any material contrary to the notice.

12. SCAVENGING AT MUNICIPAL TRANSFER STATION

59

In determining whether to grant a Permit for scavenging at the Municipal Transfer Station, the Council must take into account:-

- (a) the nature of the material to be scavenged;
- (b) the recyclable value of the materials to the Council;
- (c) the number of other current Permits issued for the same purpose; and
- (d) any other matter relevant to the circumstances associated with the application.

SCHEDULE 2 – NOTICE TO COMPLY

BAYSIDE CITY COUNCIL

LOCAL LAW NO. 2 - ENVIRONMENT

SCHEDULE 2

NOTICE TO COMPLY

TO:

(Name)

(Address)

The following constitutes a breach under clause _____ of the Council's Local Law No. 2 - Environment. 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 and 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. 2 - ENVIRONMENT

SCHEDULE 3 (Clause 18)

NOTICE OF IMPOUNDING

TO:

(Name)

(Address)

The following animal/thing has/have been impounded in accordance with clause 18 of the Council’s Local Law No. 2 - Environment.

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

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

Telephone: _____
(Signature of Authorised Officer)

SCHEDULE 4 – APPLICATION FOR PERMIT

BAYSIDE CITY COUNCIL
LOCAL LAW NO. 2 - ENVIRONMENT
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 – PENALTIES FOR INFRINGEMENT NOTICE PURPOSES IN RESPECT TO OFFENCES AGAINST THE LOCAL LAW

BAYSIDE CITY COUNCIL

LOCAL LAW NO. 2 - ENVIRONMENT

SCHEDULE 5

PENALTIES FOR INFRINGEMENT NOTICE PURPOSES IN RESPECT TO OFFENCES AGAINST THE 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 application for a Permit or exemption	5
33	Failure to keep land free from fire hazards	5
34	Land kept in a dangerous manner	5
35	Permitting unsightly land detrimental to amenity	5
36(1)(a)	Destruction, damage or removal of Trees	5
36(1)(b)	Cutting, trimming or pruning of Trees	2
38	Illegal use of an Incinerator	2
39(2)	Burning of materials	2
40	Use of Motor Bikes and Motor Trikes contrary to Local Law	2
41	Storing or repairing Heavy Vehicle	2
42	Building Works without approved toilet facilities	5
43	Audible Intruder Alarm used contrary to Local Law	2
44	Camping contrary to Local Law	2
45	Keeping Animals contrary to Local Law	2
48	Animal excrement	2
49	Allow an Animal to create a nuisance via noise or other means	2
50	Failure to remove Wasp Nest when directed to do so	2
51(1)	Removing or Interfering with Recyclable Material	2
52	Failure to comply with domestic waste guidelines	2
53(1)	Collection/placement of trade waste bins contrary to Local Law	2
53(2)	Placing of trade waste contrary to requirements	2
53(3)	Failure to store waste container on property as required.	2
54	Material dropped from vehicle	2
55	Non complying use of Municipal Transfer Station by residents and ratepayers	2
56	Non complying, use of Municipal Transfer Station by non residents and non ratepayers	2

Clause		Penalty Units
57	Deposit of Waste at Municipal Transfer Station contrary to direction or sign	2
58	Dumping of ice chests, trunks and similar items contrary to Local Law	2
59	Scavenging at Municipal Transfer Station without a permit	2
60	Tap into or interfere with a drain under the control of Council	5
61(3)	Failure to obtain Permit	5
61(4)	Failure to comply with a condition of a Permit or exemption	2

SCHEDULE 6 – INFRINGEMENT NOTICE

BAYSIDE CITY COUNCIL

LOCAL LAW NO. 2 - ENVIRONMENT

SCHEDULE 6 (Clause 63)

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. 2

This is to certify that the matter above in writing contained on 52 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)