



Bayside

CITY COUNCIL

LOCAL LAW NO. 4 MUNICIPAL PLACES

November 2005

Bayside City Council

Local Law No. 4 – Municipal Places

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BAYSIDE CITY COUNCIL

LOCAL LAW NO. 4

MUNICIPAL PLACES

PART 1 - PRELIMINARY

1. TITLE

This Local Law is the BAYSIDE CITY COUNCIL Local Law No. 4 – Municipal Places and is referred to below as 'this Local Law'.

2. OBJECTIVES OF THIS LOCAL LAW

The objectives of this Local Law are:

- (a) to allow and protect the quiet enjoyment by people of Municipal Places within the Municipal District;
- (b) to enable people in the Municipal District to carry out their day to day activities and to enjoy their recreational pursuits without having their peace and enjoyment interfered with or destroyed;
- (c) to recognise and respond to community expectations relating to the quality of life they expect and require and are capable of influencing;
- (d) to control and prevent behaviour which is a nuisance, or which may be detrimental to health and safety or which affects the enjoyment of recreational or other facilities;
- (e) to enable the community and visitors and their families who use Municipal Places that are available to the public to be confident in their choice of the use of those facilities or places;
- (f) to protect Council and community assets and facilities on or in Municipal Places;
- (g) in a way which is consistent with, and in furtherance of, the objectives specified in paragraphs (i) to (vi) of this clause, to prohibit, regulate and control:

- (a) behaviour in Municipal Places which is boisterous or harmful or intimidating;
- (b) behaviour in Municipal Places which is offensive, dangerous or threatening or which, for other reasons, is inappropriate in a Municipal Place;
- (c) the place and times at which alcohol may be consumed; and
- (d) smoking in specified circumstances and places;
- (h) to provide generally 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 PROVISIONS

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

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

Local Law No 4 (1995)

MUNICIPAL PLACES

7. SCOPE OF THIS LOCAL LAW

This Local Law applies to the whole of the Municipal District except that in respect of the Foreshore Reserve it extends to the low water mark from time to time adjacent to the northern most seaward boundary of the Council's municipal district. Some other provisions are specifically worded to apply to a particular 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

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 224 Refers to Local Government Act 1989, section 224.

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

SCH3 Refers to Schedule 3 of this Local Law.

12 Refers to clause 12 of this Local Law.

Parts 1 to 8 of this Local Law set out the provisions for meeting the objectives of this Local Law. Schedule 1 of this Local Law sets out guidelines to which persons exercising discretions under this Local Law must have regard. Forms and other referenced matters are included in the remaining schedules.

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.
Appropriate Fee	Means the fee determined by the Council in accordance with clause 30.
Authorised Officer	Means an Authorised Officer appointed under section 224 of the Act.
Bathing Box	Means a building on a Foreshore Reserve used primarily or substantially as a bathing box.
Chief Executive Officer	Means the person appointed by the Council to be its Chief Executive Officer or any person acting in that position.
Council	Means 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.
Filming	Means the recording of a single image, or series of images, via use of a strip or sheet of plastic or other flexible base coated with light-sensitive emulsion for exposure in a still or motion picture camera, or the capture or recording of that image or images via digital or other technology.
Foreshore Reserve	Means the area of land adjacent to the waters of Port Phillip Bay from the sea wall to the low water mark from time to time stretching from an extension seaward of the northern most seaward boundary of the Municipal District to extension seaward of the southern most seaward boundary of the Municipal District but extending also landward of the seawall to include the whole of the Municipal Reserve adjacent to Port Phillip Bay.
Infringement Notice	Means an Infringement Notice issued by the Council or an Authorised Officer under this Local Law.
Licensed Premises	Means premises for which a licence or permit has been granted under the Liquor Control Reform Act 1998.

Liquor	Means a beverage intended for human consumption with an alcoholic content greater than 0.5 per centum by volume at a temperature of 20 degrees celsius.
Manager	Means the person or persons from time to time appointed by the Council to manage any Municipal Building or any person or persons from time to time appointed or authorised by the Council to do with or act with regard to any matters or things required or authorised to be dealt with or acted in regard to by the Manager under this Local Law.
Municipal Building	Means any building (and its grounds) under the control of management of the Council.
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 an 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 admission fee is required or not) including a Municipal Reserve, Library, Municipal Building and Road.
Municipal Reserve	Means an off street vegetated or turfed area 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 admission fee is required or not) and includes a Foreshore Reserve.
Nominated Officer	Means a person delegated by the Council to perform any functions or exercise any powers conferred on the Council under this Local Law
Notice to Comply	Means a Notice to Comply issued by the Council or an Authorised Officer under this Local Law.

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 at \$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.
Public Place	Has the meaning ascribed to it in section 3 of Summary Offences Act 1966.
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 Service Authority that is incapable of being bound by this Local Law.
Smoke Free Area	Means an area of or in a Municipal Place which has been declared by the Council as a “smoke free” or “no smoking” area.
Unlawful Games	Has the meaning ascribed to it in section 11 of the Lotteries, Gaming and Betting Act 1966.
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> <ul style="list-style-type: none">(a) includes a reference to –<ul style="list-style-type: none">(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

Means a child’s pedal car, scooter or tricycle and 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 prepared 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 policies, the Council must have regard to the objectives of this Local Law and the guidelines 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

An Authorised Officer may be serving a Notice in the form of Schedule 2 direct any owner, occupier or other relevant person to remedy any situation which is considered to that officer to constitute 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

- (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 with the necessity to serve a written warning, Notice to Comply, or take other action as required, provided:

SCH1(1)

- (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.
- (2) 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.
 - (3) 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.

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. SCH1(2)
- (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. SCH3
- (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 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.
- (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 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 and must be accompanied by the appropriate fee. 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) 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 a 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:
 - (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 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 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: 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. 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.
- (3) Any licence fee fixed by the Council must be fixed in the same way as a Permit fee or charge and may include a transfer fee.

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 - PROTECTION OF MUNICIPAL PLACES

33. INTERFERENCE WITH A WATER COURSE ETC

A person must not, without a Permit, destroy, damage or interfere with a water course, ditch, creek, gutter, drain, tunnel, bridge, levee, culvert or fence which is vested in or under the control of the Council.

Penalty: 20 Penalty Units

34. DAMAGING/DEFACING A MUNICIPAL PLACE

A person must not, without a Permit:

- (a) destroy, damage or interfere with a Municipal Place;
- (b) destroy, damage, remove or interfere with any trees or plants on or within a Municipal Place;
- (c) remove anything belonging to the Council from any Municipal Place unless allowed by the Council, whether under this Local Law or otherwise; or
- (d) destroy, damage or interfere with any Council property or assets owned or managed by the Council and located on or in any Municipal Place.

Penalty: 20 Penalty Units

35. LIGHTING FIRES

- (1) A person must not, without a Permit, light or cause to be lit any fire on or in any Municipal Place.
- (2) A person must not, without a Permit, use or congregate around a fire which has been lit on or in any Municipal Place.
- (3) A person who has connived in the lighting of a fire by another on or in a Municipal Place must not allow that fire to remain alight.

Penalty: 20 Penalty Units

36. TREES OR PLANTS CAUSING DAMAGE TO A MUNICIPAL PLACE

A person must not allow any tree or plant on his or her land to cause damage to or interference with any fixture or other erection in a Municipal Place or drain vested in or under the control of the Council.

Penalty: 20 Penalty Units

37. BEHAVIOUR IN MUNICIPAL PLACES

(1) A person must not behave in a Municipal Place in a manner which is boisterous or harmful and which interferes with the quiet enjoyment by any person using the Municipal Place or any neighbouring residential premises.

Penalty: 20 Penalty Units

(2) A person must not behave in a Municipal Place in a way that is detrimental to the Municipal Place or other public assets.

Penalty: 20 Penalty Units

(3) A person must not in a Municipal Place:

- (a) use language or behave in a manner which is indecent, offensive or abusive or which annoys, disturbs, interrupts, molests or obstructs any person's enjoyment of a Municipal Place;
- (b) access any pornography on any computer;
- (c) act in a way which endangers any person;
- (d) use any volatile, explosive or flammable matter;
- (e) damage, destroy, write on, interfere with, remove or affix anything to any building, improvement or other structure of any kind;
- (f) carry firearms unless specifically authorised to do so, except if that person is a member of the Victoria Police acting in the course of his or her duties or a person falling within the scope of section 29D(4) of the Firearms Act 1958;
- (g) shoot, snare, molest, injure or in any way harm or interfere with any bird or animal;

- (h) use any life saving or fire fighting device unless during an emergency or with the approval of a person in charge or an Authorised Officer; or
- (i) act contrary to any sign or conditions of use applying to that Municipal Place.

Penalty: 20 Penalty Units

38. FILMING ON COUNCIL LAND

- (1) A person must not, without a Permit, undertake any filming on any Road or Council Land, where the film is for commercial purposes or public exhibition.
- (2) In addition to the requirement to obtain a Permit to film on Roads or Council Land, all requirements contained in any Permit, policy or protocol adopted by the Council and relevant to that activity must be complied with.

Penalty: 20 Penalty Units

PART 6 - USE OF COUNCIL LAND

DIVISION 1 – MUNICIPAL BUILDINGS

39. MANAGEMENT COMMITTEES

The Council may appoint an advisory committee or special committee, known as a Management Committee, to advise the Council on the management of any Municipal Building.

40. HOURS

- (1) Municipal Buildings will be open to the public during such hours as the Council determines.
- (2) The Council may at any time close a Municipal Building or any part of it for any purpose, including maintenance and cleaning.
- (3) Subject to clause 41, the Council may restrict or prohibit normal entry to a Municipal Building when it chooses to do so.

41

41. AVAILABILITY AND HIRE

- (1) A person must not organise or undertake any event in a Municipal Building without the consent of the Council.
- (2) The Council or a Manager may from time to time hire out a Municipal Building or any designated part or parts of it to such organisations or groups and for such purposes as the Council or Manager deems fit.
- (3) During any period for which a Municipal Building or any part of it has been hired out, the Manager may refuse admission to it to any person who is not connected with the hiring purpose.
- (4) The Council or a Manager may impose such conditions on any hiring as is deemed fit.

42. PROHIBITION ON ENTRY

- (1) A person must not:
 - (a) enter or remain in a Municipal Building while intoxicated or under the influence of any illegal drug or bring any illegal drug into a Municipal Building;
 - (b) bring any animal into a Municipal Building or allow any animal under his or her control to remain in a Municipal Building;
 - (c) re-enter a Municipal Building within 24 hours after being directed by the Manager or an attendant to leave for any breach of this Local Law or any other law;
 - (d) enter or remain in a Municipal Building otherwise than during the hours in which the Municipal Building is open to the public, without the approval of the Manager or Chief Executive Officer;
 - (e) enter a Municipal Building otherwise than through an entrance provided for the purpose of public entry;
 - (f) enter or remain in any part of a Municipal Building not set aside for public use; or
 - (g) be admitted to a Municipal Building if under the age of 8 years unless in the care of an adult.

Penalty: 20 Penalty Units

- (2) The provisions of sub-clause (1)(a) do not apply to a person attending a function in a Municipal Building organised with the approval of the Council or the Manager in accordance with a liquor licence or Permit or to a person delivering Liquor to the building in accordance with an order of the Council.
- (3) The provisions of sub-clause (1)(b) do not apply to a sight or hearing impaired person accompanied by a guide dog or to a person attending a Council approved function involving the showing of animals.
- (4) The provisions of sub-clause (1)(d), (e) and (f) do not apply to a member of Council staff in the course of his or her duties or to a person engaged by the Council in the course of performing the function for which he or she was engaged.

43. BEHAVIOUR IN A MUNICIPAL BUILDING

A person must not:

- (a) deposit any litter in a Municipal Building except in receptacles provided for that purpose;
- (b) enter or use, within a Municipal Building, any dressing room, shower, convenience or any passage leading thereto which has been appointed or appropriated to persons of the opposite sex, unless that person is a child under the age of six(6) years who is in the care of a responsible adult;
- (c) hawk, sell, offer for sale or hire out any goods, articles or services in a Municipal Building without the Council's or Manager's prior written consent; or
- (d) obstruct, hinder or interfere with the Manager, any attendant, any other member of Council staff or any person employed at the Municipal Building in the performance of his or her duties.

Penalty: 20 Penalty Units

44. PROHIBITED ARTICLES

A person must not, without the consent of the Council or the Manager, bring into or cause or allow to be brought into or remain in any part of a Municipal Building:

- (a) any Wheeled Recreational Device or Wheeled Toy other than a pram or pusher with a child or a wheelchair or other apparatus for the purpose of assisting a disabled person or a trolley or other similar device in the process of assisting the delivery or removal of goods; or
- (b) any chemical, substance, liquid or powder which is dangerous to health or has the potential to foul, pollute or soil any part of a Municipal Building or to cause discomfort to any persons in a Municipal Building whether by offensive or noxious smell or otherwise.

Penalty: 20 Penalty Units

DIVISION 2 – MUNICIPAL RESERVES

45. ACCESS TO MUNICIPAL RESERVES

- (1) Except as determined otherwise by the Council, all Municipal Reserves are to be open to the Public from sunrise to sunset free of charge on any day.
- (2) The Council may, in the case of any Municipal Reserve, by resolution set aside days and times upon which charges or entrance fees may be made for the use of the Municipal Reserve.
- (3) The Council may grant permission to use a Municipal Reserve on such terms and conditions as it thinks fit.
- (4) The Council may from time to time resolve that certain land or parts of such land be provided as a Municipal Reserve or withdrawn from use as a Municipal Reserve.
- (5) Entry to any Municipal Reserve must be via designated access points (where applicable).

46. MANAGEMENT COMMITTEES

The Council may appoint an advisory committee or special committee, known as a Management Committee, to advise the Council on the management and use of any Municipal Reserve.

47. USE OF MUNICIPAL RESERVES

- (1) A person must not, without a Permit, in or upon any Municipal Reserve:
 - (a) camp or pitch, erect or occupy any camp, tent or temporary shelter;
 - (b) sell any intoxicating Liquor to any person or persons;
 - (c) hold any circus, carnival or fair;
 - (d) conduct or celebrate any wedding;
 - (e) erect, fix or place any advertisement for commercial, charitable, cultural or community purposes;

- (f) organise, hold or attend any rally, procession, demonstration or other public gathering;
- (g) conduct or organise to participate in any competitive game or sport;
- (h) engage in, play or practise cricket, football, bowls, tennis, lacrosse, golf, archery or any like game that may interfere with the use and enjoyment of the Municipal Reserve or any part of it by any other person;
- (i) sell, expose or offer for sale any article of food or drink or any other article or operate or cause to be operated any amusement for which a charge is made or make a collection of money for any purpose;
- (j) ride or drive any horse or motor car, motor cycle or other Vehicle or any bicycle, Wheeled Recreational Device or Wheeled Toy except for or on (as the case may be):
 - (i) the parking of any motor car, motor cycle, bicycle or other Vehicle in any parking area set aside for that purpose by the Council;
 - (ii) the wheeling of bicycles, prams, wheelchairs, child or baby carriages and children's toys;
 - (iii) the riding of a bicycle, Wheeled Recreational Device or Wheeled Toy in such a manner that does not interfere with the use or enjoyment of the Municipal Reserve or any part of it by any other person;
- (iv) any Authorised Officer or employee of the Council acting in the course of his or her duties; and
- (v) any designated roadway or bicycle pathways;
- (k) allow any animal owned by him or her of which he or she is in charge to be in or upon any Municipal Reserve or any area or water in or adjacent to a Municipal Reserve unless in the case of a dog such dog is controlled by leash, chain or cord;
- (l) fly or permit to be flown any model aeroplane, aircraft or similar apparatus of any kind (excluding a kite) over such Municipal Reserve;
- (m) being a person other than a player, official or competitor at any sports gathering authorised under this Division, enter or remain within or upon the playing arena of a Municipal Reserve during the progress of such sports match or sports gathering;

- (n) being a person other than an employee of the Council or a member of the relevant Management Committee, enter any plots or areas which are set aside for the planting or growing of plants;
 - (o) swim in, wade through, or enter for recreation purposes or fish in any lake, pond, or excavation containing water or attempt to catch, injure or kill any animal at that place;
 - (p) install or permit to be installed a gateway or other means of access to or from the Municipal Reserve;
 - (q) moor or place or leave any boat or use, place or leave any boat on any mooring or other rope or chain in such a manner as to cause an obstruction to any person using the Municipal Reserve; or
 - (r) undertake any organised activities where the activity is undertaken as part of a commercial gain. CL. 47(1)(r)
inserted by
Local Law 8.
- (2) In addition to the requirement to obtain a Permit to do any of the things outlined in (a) to (r) above; all requirements contained in any permit, policy or protocol adopted by Council and relevant to that activity must be complied with. CL. 47(2)
inserted by
Local Law 8.

Penalty: 20 Penalty Units

48. BEHAVIOUR/LITTER WITHIN A MUNICIPAL RESERVE

A person must not, in or upon any Municipal Reserve:

- (a) interfere with any structure, notice, building or part of it, seat, tree or plant;
- (b) walk on flower beds or borders, climb trees, steep banks or cliff faces, or enter any prohibited areas as designated by the Council from time to time;
- (c) get on or over any fence or gate or post bills or advertisements on any of the fences, gates, walls, seats of other structures;
- (d) roll or throw stones or missiles;
- (e) leave in the Municipal Reserve or in any building on it any litter except in receptacles provided;
- (f) spit or expectorate upon or otherwise foul any path or structure;

- (g) use any amplifier, musical instrument, public address or sound broadcasting equipment likely to disturb other persons;
- (h) play any Unlawful Game or make any wager for money or carry on any form of gambling or, by any unseemly or indecent conduct or otherwise, interfere with the comfort or enjoyment of other persons;
- (i) interfere with or in any way hinder or interrupt any employee of the Council or Authorised Officer in carrying out their duties;
- (j) behave in a disorderly manner;
- (k) create or take part in any fight or disturbance;
- (l) enter or remain while in an intoxicated condition or while under the influence of any hallucinatory drug;
- (m) remain at any time when lawfully directed to leave the same by any Authorised Officer or employee of the Council notwithstanding that a fee or charge for admission may have been paid;
- (n) where children’s playgrounds have been established by the provision of playground equipment such as swings or are indicated by a notice as being children’s playgrounds, use any swing or other appliance erected in such an area for a longer period than five (5) minutes if any other person is waiting to use such equipment;
- (o) act contrary to any lawful direction of any member of Council staff or an Authorised Officer, including a direction to leave the Municipal Reserve;
- (p) act to endanger any person;
- (q) act contrary to any notice or sign; or
- (r) cause to fly in or over that Municipal Reserve a kite to the annoyance of any person.

Penalty: 20 Penalty Units

49. RESTRICTIONS ON DOGS IN MUNICIPAL RESERVES

- (1) If the Council makes an Order under section 26 of the Domestic (Feral and Nuisance) Animals Act 1994 in respect of any area, it must cause such area to be signposted for the purpose.
- (2) The signposting must include the words “Dog area – unleashing permitted – owner liability applies” or words to similar effect.

DIVISION 3 – BATHING BOXES

50. CONTROL OF BATHING BOXES

- (1) A person must not erect, place, establish, maintain or keep or cause to be placed, erected, established, maintained or kept in a Municipal Reserve any Bathing Box unless such person is the holder of a licence from the Council.
- (2) Any licence for a Bathing Box expires at 30 September next following its issue.
- (3) A licence may be refused to any person who is not a bona fide owner or occupier of a dwelling within the Municipal District.
- (4) The Council may refuse any application for a licence or by giving one (1) month's notice in writing to the holder of any such licence cancel the licence if it considers it is necessary in the interests of the public so to do and no compensation shall be payable by the Council by reason of such cancellation.
- (5) The holder of any licence must pay the fee fixed by the Council in every year by the date determined by the Council.
- (6) Upon any application for a transfer of any licence, the applicant for the transfer must pay the transfer fee fixed by the Council and the transfer must be refused until the fee is paid to the Council.

Penalty: 20 Penalty Units

PART 7 - SMOKING AND THE CONSUMPTION OF LIQUOR

DIVISION 1 – SMOKING IN A MUNICIPAL PLACE

51. SMOKING IN MUNICIPAL PLACES

- (1) The Council may declare a Municipal Place or part of a Municipal Place to be a Smoke Free Area.
- (2) The Council must erect or cause to be erected signs in any Municipal Place or part of a Municipal Place which has been declared a Smoke Free Area.
- (3) A person must not smoke in or on any Municipal Place or part of a Municipal Place that has been declared by the Council to be a Smoke Free Area.

Penalty: 20 Penalty Units

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

DIVISION 2 – CONSUMPTION OF LIQUOR

52. CONSUMPTION AND POSSESSION OF LIQUOR ON ROADS

A person must not at any time on a Road:

- (a) consume any Liquor; or
- (b) have in his or her possession or control any Liquor other than in a container with an unbroken seal.

Penalty: 20 Penalty Units

53. CONSUMPTION AND POSSESSION ON MUNICIPAL RESERVES

Between sunset and sunrise, a person must not, in or on any Municipal Reserve whether it be a Road within a Municipal Reserve or not, or in any motor vehicle within a Municipal Reserve:

- (a) consume any Liquor; or
- (b) have in his or her possession or control any Liquor other than Liquor in a container with an unbroken seal.

Penalty: 20 Penalty Units

54. EXEMPTION

Despite clauses 52 and 53, a person who consumes Liquor or has in his or her possession Liquor in an unsealed container does not commit an offence if:

- (a) he or she is taking part in a procession, function, street party or other activity on a Road or on or in a Municipal Reserve in respect of which the Council has granted permission and in accordance with any other permit or licence required under any Act; or
- (b) he or she is in Licensed Premises or an extension of Licensed Premises in respect of which consumption and possession of Liquor in unsealed containers is permitted.

PART 8 - ENFORCEMENT AND PENALTIES

55. 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. LGA115(2)
- (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.

56. 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

57. 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.
- (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 or an Authorised Officer, 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 clause 18, the decision of the Nominated Officer 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.

SCH5
SCH6

LGA234

58. DELEGATION

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

LGA114

- (a) delegates to the Chief Executive Officer, every Senior Officer, every Nominated 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. 4 – MUNICIPAL PLACES

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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- (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 or 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:
 - (a) public health;
 - (b) public safety;
 - (c) the environment; or
 - (d) animal welfare.

2. DISPOSAL OF IMPOUNDED ITEMS

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Subject to complying with any relevant provisions of the Impounding of Livestock Act 1994 in respect of impounded animals and the Domestic (Feral and Nuisance) Animals Act 1994 in respect of impounded dogs and cats, the Council's policy for the disposal of an impounded animal or 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.

SCHEDULE 2 - NOTICE TO COMPLY

BAYSIDE CITY COUNCIL
LOCAL LAW NO. 4 – MUNICIPAL PLACES
SCHEDULE 2 (Clause 12)
NOTICE TO COMPLY

TO: _____
(Name)

(Address)

The following constitutes a breach under clause _____ of the Council’s Local Law No. 4 – Municipal Places. 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. 4 – MUNICIPAL PLACES

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. 4 – Municipal Places.

(Describe item(s) impounded) _____

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 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. 4 – MUNICIPAL PLACES

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 wish to be able 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 OF
NON COMPLIANCE WITH THIS LOCAL LAW**

BAYSIDE CITY COUNCIL

LAW NO. 4 – MUNICIPAL PLACES

SCHEDULE 5 (Clause 56)

**PENALTIES FOR INFRINGEMENT NOTICE PURPOSES IN RESPECT OF
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 application for Permit or exemption	5
33	Interference with watercourse	5
34	Damaging/defacing a Municipal Place	5
35	Lighting a fire on a Municipal Place	5
36	Allowing trees or plants to cause damage	5
37	Contrary behaviour in a Municipal Place	2
38	Filming on Council Land without a Permit	5
42	Breaking entry prohibitions	2
43	Contrary behaviour in a Municipal Building	2
44	Prohibited articles in Municipal Building	2
47	Contrary use of a Municipal Reserve	5
48	Contrary behaviour in a Municipal Reserve	2
50	Control of Bathing Boxes	5
51	Smoking in Municipal Places contrary to signs	2
52	Consumption and possession of Liquor on Roads	2
53	Consumption and possession of Liquor on Municipal Reserves	2
55(3)	Failure to obtain a Permit where required by Local Law	5
55(4)	Failure to comply with a condition of a Permit or exemption	5

SCHEDULE 6 - INFRINGEMENT NOTICE

BAYSIDE CITY COUNCIL

LAW NO. 4 – MUNICIPAL PLACES

SCHEDULE 6 (Clause 57)

INFRINGEMENT NOTICE

Date of Notice _____ No. of Notice _____

To: Surname of _____

Organisation _____

Other Names _____

Address _____

Reg No. of any Vehicle _____

State _____

I, _____ (full name of Authorised Officer) being a duly authorised officer of the above Council have reason to 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
()			
()			

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 the Corporate Centre 76 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.

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

(Signed by Authorised Officer)

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. 4

This is to certify that the matter above in writing contained on 42 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)