

Frankston City Council

# Community Local Law 2020



*Lifestyle Capital of Victoria*

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## PART 1 – PRELIMINARY

### 1.1 Authorising Provisions

This Community Local Law is a local law made under section 111(1) of the *Local Government Act 1989* and section 42 of the *Domestic Animals Act 1994*.

### 1.2 Objectives

The objectives of this Local Law are to regulate uses and activities to:

- (a) provide for the peace, order and good governance of the Frankston **municipality**;
- (b) promote a physical and social environment in which residents and visitors to the municipality can enjoy a quality of life that meets the reasonable expectations of the community;
- (c) prevent and minimise nuisances which may adversely affect the enjoyment of life within the Frankston **municipality** or the health, safety and welfare of **persons** within the Frankston **municipality**;
- (d) prohibit, regulate and control activities which may be dangerous, unsafe or detrimental to a **person's** health, amenity or the environment;
- (e) provide for fair access and use of **Council** and community assets and prescribe measures to protect those assets; and
- (f) prescribe requirements for the administration and enforcement of the Local Law.

### 1.3 Operation Date

This Local Law commences on the day following the day on which notice of its making is published in the *Victoria Government Gazette*.

### 1.4 Revocation of Earlier Local Laws

On the commencement of this Local Law, the General Local Law 2016 No.8 is revoked.

### 1.5 Revocation Date

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

### 1.6 Application of Local Law

This Local Law applies and has operation throughout the whole of the Frankston **municipality**.

## 1.7 Definitions

In this Local Law:

<b>“Act”</b>	means the <i>Local Government Act 1989</i> ;
<b>“advertising sign”</b>	includes any placard, inflatable sign, portable electric sign, illuminated, revolving, spinning or flashing sign, flag, banner, A-frame structure and other object or similar sign that can be securely and safely positioned, being of a fixed or transient nature including being affixed to a <b>vehicle</b> , trailer, bicycle, tricycle, trolley or other object;
<b>“asset protection permit”</b>	means a written permit issued by <b>Council</b> for the protection of public assets and infrastructure during <b>building works</b> ;
<b>“Authorised Officer”</b>	means a <b>person</b> appointed by <b>Council</b> under section 224 of the <b>Act</b> ;
<b>“authorised token”</b>	means any object the same size as an Australian Currency one dollar (\$1.00) or two dollar (\$2.00) coin approved by a retailer to release a trolley from a <b>coin deposit and release mechanism</b> , other than an Australian Currency one dollar (\$1.00) or two dollar (\$2.00) coin;
<b>“building site”</b>	includes any land being prepared for <b>building works</b> or on which <b>building works</b> are being carried out;
<b>“building works”</b>	includes any activities, events and practices for or in connection with the construction, renovation, alteration, demolition, relocation or removal of a building or any excavation works (e.g. pool construction);
<b>“busk”</b>	includes sounding or playing a musical instrument, singing, giving a recital, creating pavement art or performing any conjuring, juggling, puppetry, mime or dance act;
<b>“caravan”</b>	includes a mobile home and moveable dwelling;
<b>“clothing/donation bin”</b>	means a bin or similar container used for the collection of used clothing;
<b>“coin deposit and release mechanism”</b>	means a coin operated lock that operates with the insertion of an Australian currency one dollar (\$1.00) or two dollar (\$2.00) coin or equivalent <b>authorised token</b> of the same size;
<b>“Council”</b>	means Frankston City Council;
<b>“Code”</b>	has the meaning set out in subclause 3.4 (a);
<b>“dilapidated”</b>	in subclause 2.20(b) means unroadworthy or so badly damaged as to be unsightly;
<b>“e-cigarette”</b>	has the same meaning as in the <i>Tobacco Act 1987</i> ;
<b>“Feral Pigeon”</b>	means the species <i>Columbia livia domestica</i> , also known as city dove, city pigeon or street pigeon;

<b>“food/garden waste”</b>	includes garden prunings, grass clippings, weeds, leaves and small logs not exceeding 10 centimetres in diameter as well as fruit and vegetable scraps and food leftovers such as meat scraps, bones and the like as <b>prescribed</b> by <b>Council</b> from time to time;
<b>“graffiti”</b>	means any writing, painting or other defacement applied to the exterior surfaces of a premise or article by a <b>person</b> without the prior consent of the owner and/or <b>occupier</b> ;
<b>“gross vehicle mass”</b>	of a <b>vehicle</b> has the same meaning as in the <i>Road Safety Act 1986</i> ;
<b>“habitable room”</b>	means any room other than a kitchen, storage area, bathroom, laundry, toilet or pantry;
<b>“hard waste”</b>	means dry and hard rubbish and waste but does not include residential and non-residential <b>refuse</b> collected in a <b>receptacle</b> or trade waste;
<b>“hoon event”</b>	means one or more <b>vehicles</b> being driven on a <b>road</b> or in a <b>public place</b> in a manner involving: <ul style="list-style-type: none"> <li>(a) the loss of traction;</li> <li>(b) racing;</li> <li>(c) time trials; or</li> <li>(d) the emission of undue noise or smoke;</li> </ul>
<b>“itinerant trading”</b>	means selling or offering for sale or hire any goods or services from a <b>road</b> or <b>municipal place</b> or other temporary location, from place to place or from a <b>vehicle</b> or from door to door;
<b>“land”</b>	has the same meaning as the <i>Interpretation Legislation Act 1984</i> and includes any <b>Council</b> land or private property in separate ownership or occupation;
<b>“liquor”</b>	has the same meaning as that contained within section 3 of the <i>Liquor Control Reform Act 1998</i> ;
<b>“livestock”</b>	includes any animal traditionally kept for agriculture or farming purposes and includes but is not limited to pigs, cattle, horses, donkeys, sheep, goats, llamas, miniature pigs and alpacas;
<b>“major environmental weed species”</b>	has the same meaning as in the <i>Tree Protection Local Law 2016 – No 22</i> ;
<b>“minor building works”</b>	means <b>building works</b> valued at less than \$20,000.00 or pool construction valued at less than \$10,000.00 but excludes demolition and removal of buildings and structures (regardless of value);
<b>“motorised vehicle”</b>	includes all mini- bikes, trail bikes, motor bikes, motor cars, four-wheel drive vehicles, motor scooters, go-carts and any other <b>vehicles</b> which may be propelled by a motor or by mechanical means;

<b>“Municipal Fire Prevention Officer”</b>	has the same meaning as in the <i>Country Fire Authority Act 1958</i> ;
<b>“municipality”</b>	means the municipal district of <b>Council</b> ;
<b>“municipal place”</b>	means <b>land</b> or any asset (excluding a <b>road</b> ) which is vested in, owned, occupied, managed or controlled by <b>Council</b> ;
<b>“occupier”</b>	includes any <b>person</b> who is for the time being in charge of land;
<b>“permit”</b>	means a permit (including any permit containing conditions), issued under this Local Law;
<b>“person”</b>	includes a corporation, and a ‘corporation’ has the same meaning as in the <i>Corporations Act 2001</i> ;
<b>“person in charge”</b>	in relation to subclause 3.4(f) means the <b>person</b> or <b>persons</b> , whether natural or incorporated, who has or have management responsibility for <b>building works</b> or a <b>building site</b> and includes the owner of <b>land</b> on which the <b>building works</b> are being carried out or the <b>building site</b> is located;
<b>“prescribed”</b>	means specified in a resolution made by <b>Council</b> , the general purport of which is set out in a newspaper generally circulating in the <b>municipality</b> ;
<b>“public place”</b>	has the same meaning as in the <i>Summary Offences Act 1966</i> but does not in subclauses 2.4(b), 2.5(a) and 3.17(a) include any <b>land</b> that is a <b>municipal place</b> ;
<b>“public reserve”</b>	means a <b>municipal place</b> which is located outdoors and available for recreation purposes;
<b>“receptacle”</b>	means a container specifically intended for the collection of different classes of <b>refuse</b> such as garbage, <b>recyclable materials</b> and <b>food/garden waste</b> ;
<b>“recreational vehicle”</b>	means any wheeled conveyance, powered by a motor, that is used for recreational purposes;
<b>“recyclable materials”</b>	includes glass bottles and jars (whether broken or unbroken), polyethylene terephthalate (PET), high density polyethylene (HDPE), polyvinyl chloride (PVC), hard plastics coded or un-coded, aluminium cans and foil, steel cans, clean paper and cardboard, liquid paper board and any other materials <b>prescribed</b> by <b>Council</b> ;
<b>“refuse”</b>	means all garbage, <b>recyclable materials</b> and <b>food/garden waste</b> that is produced or accumulated in or about a property which is not considered to be <b>hard waste</b> and has a specific <b>receptacle</b> for its disposal;
<b>“retailer”</b>	means a <b>person</b> who sells goods by retail and who may provide <b>shopping trolleys</b> to their customers;
<b>“road”</b>	has the same meaning as in the <b>Act</b> ;



<b>“Seagull”</b>	has the same meaning as in the <i>Wildlife Act 1975</i> ;
<b>“security deposit”</b>	means a payment or guarantee made to <b>Council</b> for the purpose of securing the cost of repairing damage incurred to assets and infrastructure as a result of <b>building works</b> ;
<b>“shopping trolley”</b>	means a hand operated wheeled conveyance provided by <b>retailers</b> for use, primarily for the carriage of goods by customers;
<b>“smoke”</b>	means to: <ul style="list-style-type: none"> <li>(a) smoke, hold or otherwise have control over an ignited <b>tobacco product</b>;</li> <li>(b) light a <b>tobacco product</b>; or</li> <li>(c) use an <b>e-cigarette</b> or to inhale the smoke of any other lit product;</li> </ul>
<b>“tobacco product”</b>	has the same meaning as in the <i>Tobacco Act 1987</i> ;
<b>“use”</b>	in sub-clauses 2.4 and 2.7 includes park or leave standing;
<b>“utility”</b>	means a provider of gas services, electricity, , water, telecommunications or the like;
<b>“vehicle”</b>	has the same meaning as in the <i>Road Safety Act 1986</i> and includes: <ul style="list-style-type: none"> <li>(a) a vehicle designed to be propelled by human power including a scooter, skate board, roller skates, roller blades and like toys;</li> <li>(b) a remote controlled aircraft or vehicle; and</li> <li>(c) a mobility scooter or similar vehicle; and</li> </ul>
<b>“vermin”</b>	means an animal that has been proclaimed under the <i>Catchment and Land Protection Act 1994</i> , including cockroaches, bedbugs, European wasps and rats that are destructive, annoying or injurious to health.

## 1.8 Conflict with other Legislation

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

## PART 2 – ROADS AND MUNICIPAL PLACES

### 2.1 Behaviour

A **person** must not:

- (a) enter or remain on a **road** or in a **municipal place** while intoxicated or under the influence of an illegal drug;
- (b) commit any nuisance on a **road** or in a **municipal place**;
- (c) interfere with another **person's** reasonable use and enjoyment on a **road** or in a **municipal place**;
- (d) endanger or do anything likely to endanger any **person** on a **road** or in a **municipal place**;
- (e) behave in an indecent, offensive, threatening, insulting or riotous manner on a **road** or in a **municipal place**;
- (f) engage in any rough or boisterous play or conduct on a **road** or in a **municipal place**;
- (g) spit, defecate or urinate on a **road** or in a **municipal place**;
- (h) destroy, damage, interfere with or deface a **road** or **municipal place**;
- (i) except for a child under the age of ten years in the care of a responsible **person**, enter or use any dressing room, shower, convenience or other area in a **municipal place** which has been appropriated for **persons** of the opposite gender;
- (j) while on a **road** or in a **public place** obstruct, hinder or interfere with any member of staff of **Council** or a **Council** contractor in the execution of their duties;
- (k) while on a **road** or in a **public place** abuse, harass, intimidate or threaten any member of staff of **Council** or a **Council** contractor through any form of communication, be it electronic, written, verbal or physical;
- (l) while on a **road** or in a **public place** act contrary to any lawful direction of an **Authorised Officer** or member of staff of **Council**, including, without limitation, a direction to leave a **road** or a **municipal place**, whether or not a fee for admission has been paid;
- (m) use or interfere with any lifesaving or emergency device located within a **road** or a **municipal place** unless:
  - i) using the device in an emergency; or
  - ii) participating in instruction approved by **Council** or an **Authorised Officer**; or
- (n) make any wager for money or engage in any form of gambling on a **road** or in a **municipal place**, without the consent of **Council** or an **Authorised Officer**.

### 2.2 Obstruction on Roads and Council Land

- (a) A **person** must not without a **permit** allow, place, store or leave any item or thing on a **road** or **municipal place** unless they are permitted to do so under any other Act, Regulation or

Local Law.

- (b) A **person** must not without a **permit** sell any goods on a **road** or in a **municipal place**.
- (c) A **person** must not without a **permit** erect, affix or place any **advertising sign** on a **road** or in a **municipal place**.
- (d) This clause does not apply to the works or activities of a **utility**.

## 2.3 Council Signs

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

## 2.4 Use of Vehicles in or on Municipal Places and Public Places

- (a) A **person** must not **use**, ride or drive a **vehicle** in or on any **municipal place** other than in an area set aside for **vehicle** parking or any designated roadway or, in the case of a bicycle, a bicycle pathway.
- (b) A **person** must not, in a **public place** or **municipal place**, ride or cause or allow to be ridden any **recreational vehicle**.

## 2.5 Noise from Vehicle Sound Equipment

- (a) A driver or owner or **person** in control of a **vehicle** which is:
  - i) stopped on; or
  - ii) being driven along

a **road** or in a **municipal place** or **public place** is guilty of an offence if the volume of any sound equipment kept in the **vehicle** reaches a level which causes unreasonable noise or which interferes with the reasonable comfort of **persons** within proximity of the **vehicle**.

- (b) Without limiting the generality of subclause 2.5(a), sound equipment will be deemed to be causing unreasonable noise interfering with the reasonable comfort of **persons** within the proximity of the **vehicle** if it can be heard above the prevailing noise at a distance of 10 metres from the **vehicle**.

## 2.6 Behaviour involving Vehicles

- (a) Any **person** who participates in, encourages or attends a **hoon event** without lawful excuse is guilty of an offence.
- (b) The driver of a **motorised vehicle** must not stop or park in close proximity to a **hoon event** without lawful excuse.

## 2.7 Control of Vehicles

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

## 2.8 Parked Vehicles Interfering with Council functions

- (a) If **Council** or an **Authorised Officer** is of the opinion that the presence of a **vehicle** on a **road** is interfering or will interfere with any road works on that **road**, it or he or she may serve a notice on the owner of that **vehicle**.
- (b) The owner of a **vehicle** must move or cause to be moved the **vehicle** in accordance with any notice served under subclause 2.8(a).

## 2.9 Shopping Trolleys

- (a) Subject to subclause 2.9(b), a **retailer** must not make available for use, or allow to be used, a **shopping trolley** which:
  - i) does not have a fully functioning **coin deposit and release mechanism** attached to it; or
  - ii) is not secured to premises by a **Council** approved perimeter containment system.
- (b) Subclause 2.9(a) does not apply when a **retailer** makes available for use, or allow to be used, 25 **shopping trolleys** or less.
- (c) A **person** must not leave a **shopping trolley** on a **road** or in a **municipal place** except in an area designated for that purpose.
- (c) A **retailer** may apply in writing to **Council** for an exemption from the application of subclause 2.9(a).
- (d) **Council** may decide in its absolute discretion to exempt any **retailer** from the application of clause 2.9(a) in respect of all **shopping trolleys**, or particular types of **shopping trolleys**, provided by that **retailer**, either temporarily or permanently.
- (e) A **retailer** must not obtain or attempt to obtain an exemption by wilfully making or causing to be made any false representation.
- (f) An **Authorised Officer**, or a **person** engaged by **Council** for this purpose, may seize and impound any **shopping trolley** which is being made available for use, or which is being used or has been left on a **road** or in a **municipal place**, in contravention of this Local Law.
- (g) On the first business day of each month or as soon as possible thereafter a list of **shopping trolleys** that have been impounded by **Council** will be forwarded to each **retailer** stating:
  - i) the period within which the **shopping trolleys** must be claimed;
  - ii) that unclaimed **shopping trolleys** may be disposed of by **Council** after the period; and
  - iii) that it is an offence for a **retailer** to not claim an impounded **shopping trolley**.

- (h) Any impounded **shopping trolley** must be claimed by the **retailer** that owns the trolley after payment of the pound release fee set by **Council**, which must not exceed an amount that reasonably represents the cost to **Council** of impounding, moving, keeping and releasing the **shopping trolley** (including any relevant overhead and other indirect costs).
- (i) Any impounded **shopping trolley** not claimed within the time specified in the list of impounded **shopping trolleys** described in subclause 2.9(g) may be disposed of by **Council**.
- (j) **Council** may also recover an impounding fee incurred as a result of a failure to claim any impounded **shopping trolley**.
- (k) It is an offence for a **retailer** not to claim an impounded **shopping trolley** within the period stated by **Council** in the list of impounded **shopping trolleys** forwarded to that **retailer**.
- (l) The disposal of a **shopping trolley** under subclause 2.9(i) does not preclude an **Authorised Officer** issuing an infringement notice to a **retailer** who has not claimed the **shopping trolley** and who has thereby committed an offence against subclause 2.9(k).

## 2.10 Playing of Golf

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

## 2.11 Drones, Model Aircraft, Boats and Cars

Subject to the *Civil Aviation Safety Regulations 1998*, a **person** must not fly or operate a drone, model aircraft, remote control boat or remote control car in a manner which may cause or be likely to cause injury or discomfort to a **person** being on or in the vicinity of the location where the drone, model aircraft, remote control boat or remote control car is flown or operated.

## 2.12 Property Numbers to be displayed

The owner or **occupier** of each property that has been allocated a street number by **Council** must mark the property with the allocated number, which number must be:

- (a) at least 100mm in height;
- (b) located on the front boundary alignment;
- (c) in a contrasting colour to its background;
- (d) located as near as practicable to the driveway and or letterbox; and
- (e) visible from both directions.

## 2.13 Trading Activities including Busking

- (a) A **person** must not, without a **permit** on a **road** or in a **municipal place**:
  - i) display any goods;
  - ii) place any outdoor dining furniture or associated facilities;

- iii) place any structure for the purpose of selling or offering to sell any goods or services;
  - iv) sell or offer for sale any:
    - **vehicle**; or
    - goods or services carried about or placed on the **person** or any other movable thing;
  - v) solicit or collect any waste materials, gifts of money or subscriptions, or do so from premises to premises adjacent to a **road**; or
  - vi) hold a promotion,
- or cause or authorise another **person** to do so.
- (b) **Council** has adopted Kerbside Trading Guidelines for the purposes of this Local Law, which identify principles to be upheld when considering applications for **permits**, to ensure a practical balance between the needs and interests of pedestrians and adjoining businesses, and:
- i) the whole of the Guidelines is incorporated into and forms part of this Local Law;
  - ii) **Council** may amend the Guidelines from time to time. An amendment does not take effect until notice of the amendment is published in the *Victoria Government Gazette*; and
  - iii) the Guidelines must be made available for inspection at the **Council's** offices and service centres during normal business hours.
- (c) A person must not without a **permit busk** on a **road** or in a **public place**, and:
- i) **Council** has adopted a Busking Code of Conduct for the purposes of this Local Law, which identify principles to be upheld when considering applications for **permits**;
  - ii) the whole of the Busking Code of Conduct is incorporated into and forms part of this Local Law;
  - iii) **Council** may amend the Busking Code of Conduct from time to time. An amendment does not take effect until notice of the amendment is published in the *Victoria Government Gazette*; and
  - iv) the Busking Code of Conduct must be made available for inspection at **Council's** offices and service centres during normal business hours.

## 2.14 Itinerant Trading

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

## 2.15 Street Parties, Festivals and Processions

A **person** must not hold a street party, festival or procession in any **public place** unless they:

- (a) have obtained a letter of no objection from **Council**; and

- (b) complied with all conditions set out in the letter of no objection.

## 2.16 Vehicle Crossing

- (a) The owner or **occupier of land** must not allow any **person** to access the **land** by **vehicle** other than over a **Council** approved vehicle crossing.
- (b) A **person** must not without a **permit** construct a vehicle crossing.
- (c) Every vehicle crossing must be constructed and sited to the satisfaction of **Council**.
- (d) **Council** may by notice in writing to the owner or **occupier of land**, require the construction of a satisfactory vehicle crossing to any **land** with the full cost of such construction works to be borne by the owner of **occupier**.
- (e) **Council** may by notice in writing to the owner or **occupier of land** require the repair of a vehicle crossing which is in a state of disrepair, with the full cost of such repair works to be borne by the owner or **occupier**.
- (f) **Council** may by notice in writing to the owner or **occupier of land** require the removal of a vehicle crossing and reconstruction of the kerb and channel and footpath if the vehicle crossing is, in the opinion of **Council**, no longer required, with the full cost of such removal works to be borne by the owner of **occupier**.
- (g) The owner or **occupier of land** must comply with any notice issued by **Council** under subclause 2.16(d), (e) or (f).

## 2.17 Clothing & Donation Bins

- (a) A **person** must not without a **permit** place a **clothing/donation bin** on a **road** or in a **municipal place**.
- (b) A **person** must not allow a **clothing/donation bin** on private property to become unsightly.
- (c) A **person** must not allow items to remain outside the confines of any **clothing/donation bin**.

## 2.18 Balloons

A **person** must not release a balloon into the open air.

## 2.19 Repair of Vehicles

A **person** must not do any work to a **vehicle** on a **road** or in a **municipal place**, except to enable the **vehicle** to be removed from the **road** or **municipal place**.

## 2.20 Storage of Vehicles

- (a) A **person** must not without a **permit** store or park on a **road** or in a **municipal place** a:
  - i) boat;
  - ii) trailer; or

iii) **caravan**

for more than 7 days.

- (b) A **person** must not continuously park on any **road** or **municipal place** a **vehicle** in a **dilapidated** state, whether the **vehicle** is registered or not.

## 2.21 Occupation of Roads for Works

- (a) A **person** must not without a **permit** carry out any works on a **road** or occupy a **road** for the purpose of carrying out works.
- (b) Nothing in subclause 2.21(a) applies to anything for which the consent of a coordinating road authority is obtained under section 63 of the *Road Management Act 2004*.

## 2.22 Use of a Municipal Place

A **person** must not:

- (a) act contrary to any conditions of entry applicable to a **municipal place**;
- (b) enter a **municipal place** without paying any fee or charge applicable to that **municipal place** for the hire or use of the **municipal place**;
- (c) hire or use any **Council** property in connection with a **municipal place** without first paying any fee or charge which is applicable; or
- (d) enter or remain on a **municipal place** after being directed to leave by an **Authorised Officer** or a **person** in charge of that **municipal place**.

## 2.23 Access to Municipal Places

- (a) **Council** or an **Authorised Officer** may determine the hours when any **municipal place** will be open to the public.
- (b) A **person** must not without lawful excuse:
- i) enter a **municipal place** other than through an entrance provided for that purpose; or
  - ii) enter or remain in a **municipal place** during hours when the **municipal place** is not open to the public.

## 2.24 Permits

In considering an application for a **permit** under this Part, **Council** or an **Authorised Officer** must consider, as appropriate:

- (a) whether what is proposed will impact upon the safety of pedestrians or motorists;
- (b) whether what is proposed is compatible with existing streetscapes and street furniture; and
- (c) any other relevant matter.



## PART 3 – MUNICIPAL AMENITY

### 3.1 Dangerous and Unsightly Land and Nuisances

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

### 3.2 Dilapidated Building

- (a) An owner or an **occupier** of **land** must not allow a building located on the **land** to:
- i) become dilapidated; or
  - ii) become further dilapidated,
- and must maintain any such building in a state of good repair.
- (b) For the purposes of subclause 3.2(a), a building is dilapidated if it is in a state of disrepair or has deteriorated or fallen in to a state of partial ruin as a result of age, neglect, poor maintenance or misuse.
- (c) For the purposes of this clause, a building includes an out building, fence and any other

capital improvement on the **land**.

### 3.3 Aerosol Spray Paint containers

- (a) A **person** must not on any **land** not occupied by that **person** possess an aerosol spray paint container unless:
- i) he or she has the consent of the owner or the **occupier** of the **land**; or
  - ii) he or she has a lawful excuse for the possession of the aerosol spray container.
- (b) Subclause 3.3(a) does not apply if the **person** is in possession of an aerosol spray container in the course of engaging in, or carrying out any functions in relation to, his or her employment, occupation, business, trade or profession.
- (c) A **person** who:
- i) offers for sale any aerosol spray paint container; or
  - ii) owns, operates or manages a business from premises on which an aerosol spray container is offered for sale

must not:

- store or display;
- cause to be stored or displayed; or
- allow to be stored or displayed,

any aerosol spray paint container in an area which is accessible to the public.

- (d) A **person** must not:
- i) sell;
  - ii) deliver;
  - iii) give; or
  - iv) cause to be sold, delivered or given to a **person** who is under the age of eighteen years

any aerosol spray paint container unless the first mentioned **person**:

- v) is a parent and the second mentioned **person** is his or her child;
- vi) is a guardian and the second mentioned **person** is his or her ward;
- vii) is an employer and the second mentioned **person** is his or her employee;
- viii) is the agent of an employer and the second mentioned **person** is his or her employee;
- ix) is a teacher and the second mentioned **person** is his or her pupil; or
- x) sells the aerosol spray paint container to the second mentioned **person** and the sale is permitted under section 10 of the *Graffiti Prevention Act 2007*.

### 3.4 Building and Works Code of Practice

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

### 3.5 Residential and Non-Residential Refuse Receptacles

- (a) The **occupier** of premises with **receptacles** supplied by **Council** for different classes of **refuse** must use the **receptacles** only for the purposes for which they were provided.
- (b) The **occupier** of premises to which **Council** provides a **receptacle** must not place, or allow to be placed, in the **receptacle** any:
  - i) slops or liquid waste;
  - ii) moist **refuse** unless the moist **refuse** has previously been strained and securely wrapped in paper or a tied plastic bag so as to prevent its escape or leakage;
  - iii) dust from any vacuum cleaner, hair or other substance unless the dust, hair or other substance has first been securely wrapped so as to prevent its escape;
  - iv) shredded paper unless wrapped;
  - v) ash or ashes (unless such ash or ashes have been effectively dampened so as to be non-combustible and free from any heat generating particles and has been securely

- wrapped to prevent its escape);
- vi) glass or other sharp object unless the glass or other sharp object is wrapped or secured in such a manner as to render it harmless and inoffensive;
  - vii) concrete, masonry, bricks, building debris, soil or machinery, engine or **vehicle** parts;
  - viii) trade waste;
  - ix) hazardous chemicals;
  - x) radioactive material;
  - xi) volatile, explosive or flammable substance;
  - xii) night soil (except that sanitary, continence aids and disposable nappies may be placed or caused to be placed in a garbage **receptacle** if they are wrapped in impervious material);
  - xiii) the carcass of a deceased animal or bird;
  - xiv) oil, solvents, flammable liquids or paint (other than paint residue contained in a closed container);
  - xv) waste of a shape, size or weight that cannot be contained in such a **receptacle**;
  - xvi) needles or syringes;
  - xvii) medical or infectious waste;
  - xviii) garden waste other than in a receptacle specifically intended for the collection of **food/garden waste**;
  - xix) any **recyclable materials** other than in a **receptacle** specifically intended for the collection of recycling **refuse**; or
  - xx) any other object or matter which is or may be injurious to health.
- (c) The **occupier** of premises to which **Council** provides a **receptacle** must not place out for collection a **receptacle** of a gross weight of more than 70 kilograms.

### 3.6 Occupier to Maintain Receptacle

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

- (a) deposit, or cause to be deposited, all **refuse** produced or accumulated in or around the premises in the **Council** provided **receptacle**;
- (b) keep each such **receptacle** in good order and a clean, sanitary and inoffensive condition;
- (c) ensure that any damage to a **receptacle** is promptly reported to **Council** or an agent appointed by **Council**; and
- (d) not paint, number, **graffiti**, write on or place any label or sticker on a **receptacle** unless authorised by **Council**.

### 3.7 Collection and Storage of Residential or Non - Residential Refuse

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

### 3.8 Collection of Hard Waste

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

### 3.9 Public Place Litter and Recycling Bins

A **person** must not place trade waste or any other waste not generated in a **public place** in a public litter or recycling bin.

### 3.10 Dog Waste Bin

A **person** must not place any waste other than wrapped or bagged dog faeces in a public dog waste bin.

### 3.11 Noise

- (a) A **person** must not:

- i) cause unreasonable or substantial noise or;
  - ii) knowingly allow or suffer unreasonable and substantial noise to exist or emanate from any **land** owned or occupied by that **person**.
- (b) In considering what constitutes unreasonable and substantial noise for the purposes of subclause 3.11(a)ii), an **Authorised Officer** must have regard to the following:
- i) the likelihood of the noise causing disturbance or annoyance to others;
  - ii) the volume, intensity or duration of the noise;
  - iii) the time and place of the noise;
  - iv) reasons why the noise is occurring; and
  - v) any other relevant circumstances.

### 3.12 Open Air Burning and Chimneys

- (a) In this clause 3.12, “in the open air” has the same meaning as that contained in Division 2 of Part III of the *Country Fire Authority Act 1958*.
- (b) A **person** must not light a fire in the open air on any **land** within the **municipality**, including in an incinerator.
- (c) The prohibition in subclause 3.12(b) does not apply to:
- i) a barbecue, pizza oven or other properly constructed appliance while it is being used for cooking food;
  - ii) a fire in a brazier or chimenea while it is being used for heating;
  - iii) a tool of trade while being used for the purpose for which it was designed;
  - iv) a fire lit during the course of duty by a member of a fire or emergency services agency; or
  - v) a **person** to whom **Council** or an **Authorised Officer** has granted a **permit**.
- (d) **Council** or an **Authorised Officer** may grant a **permit** to a **person** to light a fire in the open air where the **land** size exceeds 1,600 square metres but is less than 20,000 square metres, provided that:
- i) no more than 3 cubic metres of vegetation is burnt at any one time;
  - ii) the fire is not within 20 metres of any neighbouring dwelling;
  - iii) the fire is lit or allowed to remain alight in accordance with subclause 3.12(i); and
  - iv) the land is subject to a Bushfire Management Overlay or located within a Bushfire Prone Area.
- (e) **Council** or an **Authorised Officer** may grant a **permit** to a **person** to light a fire in the open air where the **land** size is 20,000 square metres or more, provided that:
- i) no more than 5 cubic metres of vegetation is burnt at any one time;

- ii) the fire is not within 100 metres of any neighbouring dwelling; and
  - iii) the fire is lit or allowed to remain alight in accordance with subclause 3.12(i).
- (f) **Council** or an **Authorised Officer** will not grant a **permit** for a **person** to light a fire in the open air where the **land** is 1,600 square metres or less unless **Council** or the **Authorised Officer** is of the opinion that compelling reasons exist (including that there are no other means of undertaking necessary fire risk reduction).
- (g) No **permit** to burn will be issued, nor will any **permit** issued be valid, during a Fire Danger Period, on a day of Total Fire Ban as declared by the Country Fire Authority/Fire Rescue Victoria or on a Smog Alert Day as declared by the Environment Protection Authority.
- (h) The **Municipal Fire Prevention Officer** may, by public notice, remove specified restrictions on open air burning contained within this Local Law to enable landowners to light a fire in the open air to achieve fuel reductions for fire prevention purposes.
- (i) A **person** who has lit or allowed a fire to remain alight must do so in accordance with the following general provisions:
- i) the fire must be supervised by an adult present at all times who is physically capable of containing and extinguishing the fire;
  - ii) sufficient fire suppression equipment must be available to extinguish the fire if required, including at a minimum a hose attached to a water supply (either tank or mains) or a vessel containing at least ten litres of water is available at the site of the fire at all times that the fire is alight;
  - iii) the vegetation to be burnt must be dead and dry prior to lighting it;
  - iv) at the site of the fire, the wind speed must not exceed 20 kilometres per hour or the shade temperature must not exceed 32 degrees; and
  - v) the fire can be lit or allowed to remain alight only on a Friday or Saturday and not before 9am or after 4pm.
- (j) A **person** must not burn any of the following materials:
- i) green or wet material;
  - ii) non timber based building materials;
  - iii) treated timber materials;
  - iv) rubber or plastic, including plastic mulch, plant pots and packaging materials;
  - v) furnishings and carpet;
  - vi) manufactured chemicals;
  - vii) petroleum or oil products;
  - viii) paint, including any container in which paint is kept;
  - ix) food waste;

- x) manure and straw;
  - xi) carcasses of dead animals or birds, unless prescribed by the Department of Environment, Land, Water and Planning (or any other Department with operational responsibility for such matters) as the only means of disposal; or
  - xii) other offensive, noxious or toxic matter as determined by an **Authorised Officer** and published on **Council's** website.
- (k) A **person** who has lit or allowed a fire to remain alight contrary to the provisions of this clause 3.12 or any condition contained in the **permit** must extinguish the fire immediately on being directed to do so by **Council** or an **Authorised Officer**.
- (l) A **person** must not light a fire on any **land** in the open air that:
- i) is offensive or a nuisance to another **person** in the vicinity, or beyond the property boundary;
  - ii) may cause a hazard to a person's health;
  - iii) has an adverse impact on visibility beyond the property boundary, including reducing the visibility of motorists and other users of a **road**; or
  - iv) creates a hazard on or near a **road**.
- (m) An owner or **occupier** of **land** must not allow any chimney on that **land** to discharge grit, ash, smoke or dust to such an extent that it becomes a public nuisance, or is dangerous or is likely to be dangerous to the health and safety of any **person** or animal, or is harming or likely to be harmful to the environment.
- (n) In determining whether there has been a breach of clause 3.12(m), **Council** or an **Authorised Officer** must have regard to:
- i) the nature of any complaint received;
  - ii) any observations of the **Authorised Officer** or any other **Authorised Officer**, including the level of observable dust, grit, ash, smoke substance or odour;
  - iii) any diary entries made by any **person** detailing the particulars of the complaint;
  - iv) whether the chimney and any heating devices comply with any relevant Australian Standard;
  - v) the nature of the fuel used in the heating device; and
  - vi) whether the chimney is used for personal comfort or heating.

### 3.13 Council Drains, Pits, Roads or Footpaths

- (a) A **person** must not without a **permit** destroy, damage or tap into any drain, culvert or sewer vested in **Council**.
- (b) An owner or **occupier** of **land** must not:



- i) allow any drain on the **land** that is not vested in the **Council** or another public body to fall into disrepair or a condition that is:
    - dangerous to health;
    - unsightly;
    - a nuisance; or
    - non-functional; or
  - ii) perform any act in relation to a drain into which they have been permitted to connect which causes the drain to fall into disrepair or develop a condition which is dangerous to health.
- (c) A **person** must not allow a tree, shrub, bush or other vegetation to hinder, obstruct or interfere with the operation of any drain, pit, **road** or footpath vested in or under **Council** management or control.
- (d) Where any tree, shrub, bush or vegetation on **land** hinders, obstructs or interferes or is likely to hinder, obstruct or interfere with the operation of any infrastructure (including but not limited to a drain, pit, **road** or footpath) vested in **Council** or under **Council's** management or control, an **Authorised Officer** may serve a notice on the owner or **occupier** of the **land** requiring the owner or **occupier** to take such remedial action as is specified in the notice.
- (e) The owner or **occupier** of the **land** on whom a notice is served under subclause 3.13(d) must comply with that notice.
- (f) A **person** must not:
  - i) interfere with access to any stormwater pit;
  - ii) construct or place any material, dirt, or other matter on a pit lid so as to conceal its location or accessibility; or
  - iii) cause any material or other debris to enter a stormwater drain.
- (g) Any **person** who fails to comply with a notice served under subclause 3.13(d) will, in addition to any penalty under this Local Law, be liable for all subsequent repair and maintenance costs incurred by **Council**.

### 3.14 Camping and Caravans

- (a) The owner or **occupier** of **land** in an area zoned residential under the Frankston Planning Scheme must not park more than one **caravan** on such **land**.
- (b) An owner or **occupier** of **land** must not without a **permit** occupy or allow another person to occupy a **caravan**, tent or similar structure on such **land** for a period greater than 48 hours.
- (c) A **person** must not without a **permit** camp in a tent, **caravan**, motor home or other temporary structure on a **road** or in a **municipal place**.

### 3.15 Heavy and Unregistered Vehicles

The owner or **occupier** of **land** in an area zoned residential under the Frankston Planning Scheme must not without a **permit** park, keep or repair:

- (a) a **vehicle** weighing more than 4.5 tonnes **gross vehicle mass**; or
  - (b) more than two unregistered **vehicles**
- on such **land**.

### 3.16 Motorised Vehicles

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

### 3.17 Liquor

- (a) A **person** must not without a **permit**:
  - i) in or at a **municipal place**;
  - ii) in or at a **public place**; or
  - iii) on vacant private **land**:

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

- (b) Subclause 3.17(a)iii) does not apply to a **person** who is the owner or **occupier** of vacant private **land** and or who is upon such vacant private **land** at the invitation or with the permission of its owner or **occupier**.
- (c) An **Authorised Officer** may direct a **person** described in subclause 3.17(a) to dispose of the contents of any container containing **liquor** which is unsealed.
- (d) A **person** to whom a direction is given under subclause 3.17(c) must comply with that direction.
- (e) If a **person** fails to comply with a direction under subclause 3.17(c) within a reasonable time, an **Authorised Officer** may seize the container and dispose of its contents.
- (f) For the purpose of this Local Law, if an **Authorised Officer** avers that any liquid is or may be **liquor** the averment is evidence that the liquid is **liquor**.

### 3.18 No Smoking in Smoke Free Areas

- (a) A **person** must not **smoke** a **tobacco product** in a **smoke** free area.
- (b) Where an **Authorised Officer** believes on reasonable grounds that a **person** is contravening or has contravened subclause 3.18(a), the **Authorised Officer** may direct the **person** to extinguish and dispose of the **tobacco product**.
- (c) A **person** to whom a direction is given under subclause 3.18(b) must comply with that

direction.

- (d) **Council** may **prescribe** any area within the **municipality** to be a **smoke** free area.

### 3.19 Major Environmental Weed Species

- (a) An owner or **occupier** of **land** must not allow any **major environmental weed** species to be present on that **land**.
- (b) An **Authorised Officer** may serve a Notice to Comply on an owner or **occupier** of **land** upon which a **major environmental weed** species is present requiring the removal or destruction of that **major environmental weed** species from that **land**.
- (c) A **person** on whom a Notice to Comply is served under subclause 3.19(b) must comply with that direction.

### 3.20 Collecting of Firewood

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

### 3.21 Nature Strips

A **person** must not without a **permit**:

- (a) plant or remove vegetation from a nature strip or undertake any landscaping on a nature strip, **road** or **municipal place**; or
- (b) remove soil from a nature strip, **road** or **municipal place**.

### 3.22 Shipping containers

A **person** must not without a **permit** keep, store, repair or in any other manner use (whether as accommodation or otherwise) any shipping container on any **land** zoned residential under the Frankston Planning Scheme.

### 3.23 Fences between Private Land and Municipal Places

- (a) An owner or **occupier** of **land** adjoining a **municipal place** must not without a **permit** construct or otherwise effect an opening or construct or install a gate in any fence on the boundary between the **land** and the **municipal place**.
- (b) An **Authorised Officer** may serve a Notice to Comply on an owner or **occupier** of **land** directing that **person** to remove any gate or opening in any fence between the **land** and a **municipal place**.
- (c) A **person** to whom a direction is given under subclause 3.23(b) must comply with that direction.

## PART 4 – ANIMALS

### 4.1 Numbers

- (a) An owner or **occupier** of **land** must not without a **permit** keep on that **land** any rooster or peafowl or more than:
- i) 2 cats;
  - ii) 2 dogs;
  - iii) 5 rodents, includes rats, mice and guinea pigs;
  - iv) 4 rabbits;
  - v) 4 ferrets;
  - vi) 30 birds; or
  - vii) 8 poultry.
- (b) Subclause 4.1(a) does not apply to those persons licensed to keep such animals pursuant to the *Wildlife Act 1975* and who comply with the *Wildlife Act 1975* and *Wildlife Regulations 2002*.

### 4.2 Keeping of Livestock

A **person** must not keep **livestock** on **land** which has an area of half a hectare or less, unless in accordance with a planning permit.

### 4.3 Pigeons

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

### 4.4 Housing

An owner or **occupier** of **land** must ensure that:

- (a) any structure used for animal, poultry or bird housing on that **land** is:
- i) free standing;
  - ii) maintained in a clean and inoffensive condition; and
  - iii) maintained to the satisfaction of **Council** or an **Authorised Officer**; and

- (b) all animal food for consumption is kept or stored on the **land** in a vermin and fly proof container.

#### 4.5 Adequate Fencing

An owner or **occupier** of **land** on which an animal is kept must ensure that the **land** is adequately fenced so as to prevent the animal's escape from the **land**.

#### 4.6 Protection of Other Animals and Native Flora and Fauna

An owner of an animal must ensure that the animal does not harm, kill or destroy any native fauna or flora, or any other animal.

#### 4.7 Animal Nuisance

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

#### 4.8 Animal Excrement

A **person** in charge of an animal on a **road** or in a **municipal place** must:

- (a) not allow the excrement of the animal to remain on that **road** or in that **municipal place**;
- (b) carry a device suitable for the removal of any excrement that may be deposited by the animal;
- (c) produce the device on demand by an **Authorised Officer**, and
- (d) dispose of all excrement of the animal in a **refuse receptacle**.

#### 4.9 Horses on Reservations

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

- (a) on a footpath or nature strip; or
- (b) in or on a **public reserve**, except in or on any designated equestrian area of that **public reserve**.

#### 4.10 Feeding of Uncaged Birds

A **person** must not feed or leave food for a **Seagull**, a **Feral Pigeon** or an uncaged bird.

#### 4.11 Sale or Rehousing of Dogs and Cats

A **person** who sells or gives away a dog or cat must provide **Council** with the name and address of the new owner.

#### 4.12 Vermin

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

## PART 5 – ADMINISTRATION

### 5.1 Application for and Issue of Permits

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

### 5.2 Bonds

- (a) In deciding to grant a **permit**, **Council** may require the applicant to lodge with **Council** or its delegates a bond of such amount and in such a manner as **Council** deems reasonable in the circumstances.
- (b) **Council** may use a bond to remedy a breach of the **permit**, or repair any damage caused by any work under the **permit**, pursuant to which the bond was lodged.
- (c) On satisfactory completion of any works under a **permit**, **Council** must release any applicable bond.
- (d) If, after 12 months, **Council** cannot locate a **person** entitled to the release of any bond,

**Council** may retain the bond and pay the money into its general revenue.

### 5.3 Correction of Permits

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

### 5.4 Onus of Proof

Where this Local Law requires that a **person** must only do something or not do something with permission or a **permit** from **Council** or its staff the onus of producing that permission or **permit** will be upon that **person**.

### 5.5 Revocation of Permits

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

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

### 5.6 Registers

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

### 5.7 Notice to Comply/Direction of Authorised Officer

- (a) An **Authorised Officer** may, by a verbal direction or in a Notice to Comply, give any reasonable direction to an owner or **occupier** of **land** or any other **person**:
  - i) in respect of any matter under this Local Law; or
  - ii) a **person's** use of a **municipal place** or a **road**.
- (b) The direction or Notice to Comply may direct the owner or **occupier** of **land** or other **person** to do something or refrain from doing something to ensure compliance with the relevant matter.
- (c) A **person** must comply with any reasonable direction given by an **Authorised Officer**.

- (d) A **person** who has been served with a Notice to Comply must comply with that Notice to Comply.
- (e) **Council** may undertake any works required to be carried out to ensure compliance and recover any costs incurred as a result of a failure to comply with a direction and/or a Notice to Comply.
- (f) A **person** who fails to comply with a reasonable direction of an **Authorised Officer** or fails to comply with the requirements of a Notice to Comply will be guilty of an offence under this Local Law.

## 5.8 Power of Authorised Officer – Urgent Circumstances

An **Authorised Officer** may act to remedy any circumstances which threatens a person's life, health or property, or an animal, without giving direction or serving a Notice to Comply under subclause 5.7, provided that:

- (a) the circumstance arises out of a **person's** use of a **municipal place** or **road** or failure to comply with a provision of this Local Law;
- (b) the action taken is not more than the minimum reasonably necessary to remedy the urgent circumstance; and
- (c) the **person** to whom a direction or Notice to Comply would have otherwise been served is as soon as possible notified of the urgent circumstances and the action taken to remedy it.

## 5.9 Impounding and Destruction or Disposal of Impounded Property

- (a) An **Authorised Officer** may seize and impound any property that by its presence, existence or use causes or has caused a contravention of this Local Law.
- (b) Where property has been impounded under this Local Law, the **Authorised Officer** must, as soon as possible, serve notice of the impounding personally or by mail on the **person** who appears to be the owner of the impounded property.
- (c) If the identity or whereabouts of the owner of any property impounded under this Local Law is unknown, the **Authorised Officer** must take reasonable steps to ascertain the owner's identity and/or whereabouts prior to exercising the powers under subclause 5.9(f).
- (d) Impounded property must be released after completion of the following steps:
  - i) evidence of ownership being presented to the satisfaction of an **Authorised Officer**; and
  - ii) payment of any fee and/or costs associated with the impoundment.
- (e) Subclause 5.9(d) does not apply to the impounding of **liquor** or any **shopping trolley** under this Local Law or other things where the nature of the property impounded is such that it would be impracticable to return the property to the **person** from whom it was impounded or the owner.
- (f) If impounded property has not been released to its owner or a **person** acting on the owner's



behalf within 14 days of the Notice of Impounding being served or, if no Notice of Impounding was able to be served, **Council** may, at its discretion:

- i) sell;
- ii) dispose, or
- iii) destroy,

the impounded property.

- (g) **Council** is entitled to retain from the proceeds of the sale or disposal of any impounded property the reasonable costs incurred in impounding and keeping the property.

### 5.10 Review of Decisions

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

## PART 6 – ENFORCEMENT

### 6.1 Offences

A **person** is guilty of an offence if the **person**:

- (a) does something which a provision of this Local Law prohibits;
- (b) fails to do something which a provision of this Local Law requires;
- (c) engages in activity without a current **permit** where that activity requires a **permit**; or
- (d) breaches or fails to comply with a **permit**.

### 6.2 Offences by Corporations

- (a) If a **person** charged with an offence against this Local Law is a corporation, any **person** who is concerned or takes part in the management of that corporation may be charged with the same offence.
- (b) If the corporation is convicted of an offence against this Local Law, a **person** charged under subclause 6.2(a) with the same offence may also be convicted of the offence and is liable to the penalty for that offence unless that **person** proves that the act or omission constituting the offence took place without his or her knowledge or consent.

### 6.3 Penalties

The penalty for a breach of any provision of this Local Law is:

- (a) 20 penalty units; and
- (b) not exceeding 2 penalty units for each day after the conviction that the contravention continues.

### 6.4 Infringement Notices

- (a) As an alternative to prosecution, an **Authorised Officer** may serve an Infringement Notice for any breach of this Local Law.
- (b) The fixed penalty for an Infringement Notice is the amount set out in Schedule 1.

## SCHEDULE 1 – PENALTIES FIXED FOR INFRINGEMENT NOTICES

### PART 2 ROADS AND MUNICIPAL PLACES

Clause	Offence	Penalty Units
2.1 (a) – (c) (f) – (i) & (m)	Behaviour	2
2.1 (d)(e)(k) & (l)	Behaviour	First Offence – 5 Second Offence - 10
2.2 (a) (b) (c)	Obstructions on road and Council Land	4
2.3	Council Signs	2
2.4 (a)	Use of Vehicles in or on Municipal Places and Public Places	2
2.4 (b)	Use of Recreational Vehicles in or on Municipal Places and Public Places	First Offence – 5 Second Offence - 10
2.5	Noise from Vehicle Sound Equipment	2
2.6	Behaviour Involving Vehicles	5
2.7	Control of Vehicles	5
2.8	Parked Vehicles interfering with Council Functions	2
2.9	Shopping Trolleys	2
2.10	Playing of Golf	2
2.11	Drones, Model Aircraft, Boats and Cars	5
2.12	Property Number to be displayed	2
2.13	Trading Activities including Busking	5
2.14	Itinerant Trading	5
2.15	Street Parties, Festivals and Processions	5
2.16	Vehicle Crossing	5
2.17	Clothing Bins	2
2.18	Balloons	2
2.19	Repair of Vehicles	5
2.20	Storage of Vehicles	2
2.21	Occupation of roads for Works	5
2.22	Use of a Municipal Place	2
2.23	Access to Municipal Places	2

**PART 3 – MUNICIPAL AMENITY**

<b>Clause</b>	<b>Offence</b>	<b>Penalty Units</b>
3.1	Dangerous and Unsightly Land and Nuisances	First Offence – 5 Second Offence - 10
3.2	Dilapidated Building	First Offence – 5 Second Offence - 10
3.3	Aerosol Spray Paint Containers	First Offence – 5 Second Offence - 10
3.4	Building and Works Code of Practice	5
3.5	Residential and Non-Residential Refuse Receptacles	2
3.6	Occupier to Maintain Receptacle	2
3.7	Collection and Storage of Residential or Non-Residential Refuse	2
3.8	Collection of Hard Waste	2
3.9	Public Place Litter and Recycling Bins	2
3.10	Dog Waste Bins	2
3.11	Noise	5
3.12	Open Air Burning and Chimneys	5
3.13	Council Drains, Pits Roads or Footpaths	5
3.14	Camping and Caravans	2
3.15	Heavy and Unregistered Vehicles	2
3.16	Motorised Vehicles	2
3.17	Liquor	3
3.18	No Smoking in Smoke Free areas	2
3.19	Major Environmental Weed Species	5
3.20	Collecting of Firewood	2
3.21	Nature Strips	2
3.22	Shipping Containers	5
3.23	Fences between Private Land and Municipal Places	2

<b>PART 4 – ANIMALS</b>		
<b>Clause</b>	<b>Offence</b>	<b>Penalty Units</b>
4.1	Numbers	2
4.2	Keeping of Livestock	2
4.3	Pigeons	2
4.4	Housing	2
4.5	Adequate Fencing	5
4.6	Protection of other Animals and Native Flora and Fauna	2
4.7	Animal Nuisance	2
4.8	Animal Excrement	2
4.9	Horses on Reservations	2
4.10	Feeding of Uncaged Birds	2
4.11	Sale or Rehousing of Dogs and Cats	2
4.12	Vermin	2
<b>PART 5 - ADMINISTRATION</b>		
5.7(f)	Failure to comply with a direction or Notice to Comply	5

The resolution for the making of this Local Law was made by Frankston City Council on 20 July 2020.

The Common Seal of FRANKSTON CITY )  
COUNCIL was affixed this 7<sup>th</sup> day of August )  
2020 in the presence of: )



*S. Mayer*  
.....

Mayor/Councillor

*[Signature]*  
.....

Chief Executive Officer

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