

**GREATER DANDENONG CITY COUNCIL**

**LOCAL LAW NO. 2**

**of**

**2011**

**As amended by Local Law No.1 of 2019**

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**MUNICIPAL AMENITY**

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**GREATER DANDENONG CITY COUNCIL**

**MUNICIPAL AMENITY LOCAL LAW**

**No. 2**

**DIVISION 1 - PRELIMINARY PROVISIONS**

**1. TITLE**

This Local Law will be known as the Municipal Amenity Local Law".

**2. PURPOSE**

The purpose of this Local Law is to:

- 2.1 prevent the presence of vermin and noxious weeds on land;
- 2.2 prevent land from becoming unsightly, overgrown, dilapidated or dangerous;
- 2.3 prevent the keeping of livestock on specified land;
- 2.4 prevent the presence of graffiti on premises, buildings and other structures;
- 2.5 regulate the storage, assembly and dismantling of old or used motor vehicles, caravans, boats, machinery or shipping containers;
- 2.6 regulate the lighting of fires in incinerators and in the open air;
- 2.7 regulate the burning of materials;
- 2.8 regulate the use of barbecues;
- 2.9 regulate camping on private land, Council land and roads;
- 2.10 regulate the erection, establishment and occupation of temporary dwellings;
- 2.11 prevent drains on private land from becoming blocked or unsightly;
- 2.12 regulate the discharge of stormwater from private property;
- 2.13 require certain vacant private land to be fenced;
- 2.14 prevent trade premises from becoming offensive, unsanitary or dangerous to health;
- 2.15 prevent the presence of European wasp nests on land;
- 2.16 prevent the emission of noise that creates a nuisance;

- 2.17 regulate building sites and the construction of permanent vehicle crossings;
- 2.18 prevent building work from damaging Council infrastructure;
- 2.19 regulate the keeping of animals (including birds);
- 2.20 regulate the storage and keeping of trade waste;
- 2.21 regulate the transportation of waste;
- 2.22 regulate the disposal and collection of household refuse and garbage;
- 2.23 regulate the disposal and collection of recyclable material;
- 2.24 prohibit the deposit of nightsoil on land or in watercourses;
- 2.25 regulate the fencing of land on which livestock are grazed;
- 2.26 regulate and control the consumption of liquor and possession of liquor other than in a sealed container:
  - (a) on a road;
  - (b) in a public place;
  - (c) in or on a stationary vehicle; and
  - (d) on vacant private land;
- 2.27 prevent behaviour which:
  - (a) constitutes or may constitute a nuisance;
  - (b) may be detrimental to health or safety; or
  - (c) affects the enjoyment of public and other places.

### **3. AUTHORISING PROVISION**

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

### **4. COMMENCEMENT, AREA OF OPERATION AND REVOCATION**

4.1 This Local Law:

- a) Commences on 26<sup>th</sup> day of July 2011
- b) operates throughout the municipal district of Council; and

4.2 upon the coming into operation of this Local Law, Council's Environmental Local Law No. 2 of 2001 is revoked.

## 5. REVOCATION DATE

This Local Law ceases to operate at midnight on 25<sup>th</sup> day of July 2021.

## 6. DEFINITION OF WORDS USED IN THIS LOCAL LAW

Unless inconsistent with the context or subject-matter, the following words and phrases are defined to mean or include:

"**Act**" means the *Local Government Act* 1989.

"**animal**" includes every species of four-footed animal.

"**Applicant**" means an applicant for a permit.

"**Authorised Officer**" means a person appointed by Council under section 224(1) of the Act.

"**barbecue**" means a structure or device constructed solely for cooking food in the open air for human consumption.

"**building**" includes a structure, temporary building, temporary structure and any part of a building or structure.

"**building site**" means land on which building work is being carried out.

"**builders waste**" includes, but is not limited to any waste or litter that is produced or accumulated during, or as a result of, any of the normal operations of the building industry.

"**building work**" means work for or in connection with the construction, demolition or removal of a building and includes the construction of permanent vehicles crossings.

"**bulk rubbish container**" means any portable container or receptacle with a capacity exceeding 240 litres, designed for the collection of waste or rubbish, and includes a "hopper" or "skip" but excludes a container or receptacle used for household refuse.

"**caravan**" includes a movable dwelling or immovable dwelling situated in a caravan park.

"**commercial area**" means an area zoned commercial or business under the Greater Dandenong Planning Scheme.

"**Council**" means the Greater Dandenong City Council.

**"Dilapidated Building"** means any building that is in a state of disrepair or ruin.

**"dwelling"** means any structure that is designed to be used for human habitation and that is capable of being so used, and includes a motor vehicle or trailer that is so designed and capable.

**"graffiti"** means any form of unauthorised writing or drawing.

**"household refuse"** unless otherwise described in this Local Law, means all refuse or rubbish produced or accumulated in or about a dwelling by the normal operation of the household.

**"household refuse receptacle"** means a container or receptacle used for the collection of household refuse.

**"incinerator"** includes a structure or device (not enclosed in another building) which is used or capable of being used for the purpose of burning any matter, material or substance and which is not licensed under the *Environment Protection Act 1970*, but excludes a barbecue.

**"liquor"** means a beverage intended for human consumption with an alcoholic content of greater than 0.5 per centum by volume at a temperature of 20 degrees celsius.

**"livestock"** means any animal of any species commonly used in connection with primary production or kept or used for recreational purposes or for the purposes of recreational sport, other than a dog or cat.

**"minor building work"** means building work having a value of \$3,000 or less.

**"movable dwelling"** has the same meaning as in the Residential Tenancies Act 1997.

**"municipal district"** means the municipal district of Council.

**"Municipal Fire Prevention Officer"** means the officer appointed by Council under and for the purposes of the *Country Fire Authority Act 1958*.

**"noxious weed"** has the same meaning as in the *Catchment and Land Protection Act 1994*.

**"paper waste"** means newspapers, magazines, cardboard and any other form of paper which is free of contaminated matter and is capable of being recycled;

**"penalty unit"** has the meaning set out in section 110 of the *Sentencing Act 1991*.

"**permit**", when used as a noun, means a written permit issued under this Local Law.

"**permit-holder**" means a person to whom a permit has been issued.

"**private land**" means land which is not a public place.

"**public place**" has the same meaning as in the *Summary Offences Act 1966*.

"**recyclable material**" means any glass, bottle, glass jar, plastic bottle, paper, cardboard, aluminium, green waste or other material specified by Council which is free of contaminated matter and is capable of being recycled.

"**residential area**" means land zoned residential under the Greater Dandenong Planning Scheme or land developed for residential purposes in accordance with the provisions of that Scheme.

"**road**" has the same meaning as in the Act and includes a road vested in the Crown.

"**rubbish container**" means any portable container or receptacle with a capacity of 240 litres or less designed for the collection of waste or rubbish, and includes a "hopper" or "skip" but excludes a container or receptacle used for household refuse.

"**rural area**" means an area zoned rural under the Greater Dandenong Planning Scheme.

"**safety fence**" means a fence that is constructed in accordance with Australian Standard 2818 and Australian Standard 1926.

"**sealed container**" means a container where the manufacturer's seal remains intact.

"**shipping container**" means a standardised re-sealable transportation box designed for unitised freight handling with standardised equipment.

"**storage**" means:

- a) except in relation to shipping containers, kept at the same address for a period exceeding 28 days; and
- b) in relation to shipping containers, kept at an address for any period of time.

"**swimming pool**" means any excavation or structure capable of containing water to a depth of more than 300 millimetres and which is used primarily for swimming, wading or paddling or as a spa.



**"Total Fire Ban Day"** means a day or part of a day declared to be a day or partial day of total fire ban under section 40 of the *Country Fire Authority Act 1958*.

**"trade premises"** means any commercial, industrial or business premises.

**"trade waste"** means any waste produced or accumulated as a result of any commercial, industrial or trade activity and includes any medical waste, laboratory waste and waste which contains any material or substance which is harmful to humans or equipment.

**"trespassing"** includes, in relation to livestock, wandering without effective control or being at large.

**"vacant private land"** means land in a residential area on which no dwelling is created.

## **DIVISION 2 - SAFETY, HEALTH AND AMENITY**

### **7. VERMIN AND NOXIOUS WEED**

An:

7.1 owner; and

7.2 occupier -

of land must not allow or permit any:

a) vermin ; or

b) noxious weed -

to be present or grow on that land.

### **8. UNSIGHTLY, DILAPIDATED AND DANGEROUS LAND**

An:

a) owner; and

b) occupier -

of land must not allow land or any buildings, structure or item on that land to become:

a) unsightly;

b) overgrown;

c) dilapidated; or

d) a danger to life or property.

**9. GRAFFITI**

An:

a) owner; and

b) occupier -

of land must keep any premises, building or structure on the land free from graffiti.

**10. STORAGE OF OLD/USED MOTOR VEHICLES, MACHINERY**

A person must not, without a permit, use any land within a residential area for the:

10.1 storage; or

10.2 assembly or dismantling –

of more than 1 old or used:

(a) motor vehicle;

(b) caravan;

(c) boat ;

(d) item of machinery; or

10.3 the storage of any shipping container.

**11. INCINERATORS AND FIRES IN OPEN AIR**

11.1 A person must not light a fire in an incinerator at any time.

11.2 A person who owns or occupies land must not without a permit, on that land-

a) light; or

b) allow or permit to be lit or remain alight -

a fire in the open air.

**12. BURNING OF MATERIAL**

12.1 Where a person has been granted a permit under Clause 11, such person must not:

- a) burn; or
  - b) cause to be burnt -
- any -
- i. manufactured chemicals;
  - ii. rubber or plastic;
  - iii. petroleum or oil;
  - iv. paint or receptacle which contains or which contained paint;
  - v. food waste or other offensive or noxious matter; or
  - vi. material whatsoever causing a nuisance.

### **13. RESTRICTIONS ON THE USE OF BARBECUES**

13.1 A person must not use a barbecue on private land unless it is located:

- a) at least 3 metres from the front of the land on which it is located; and
- b) at least 1 metre from the side or rear of the boundary of the land on which it is located.

13.2 A person must not light a barbecue:

- a) in contravention of the *Country Fire Authority Act 1958*; or
- b) on a Total Fire Ban Day unless the barbecue is fired by gas or electricity.

13.3 A person who has or has allowed a fire to be lit or a barbecue to be used, in contravention of this Local Law must extinguish it immediately upon being directed to do so by an Authorised Officer.

13.4 If a person fails to comply with a direction given by an Authorised Officer under clause 14.3, or leaves a fire or barbecue unattended, an Authorised Officer may extinguish the fire or barbecue or cause it to be extinguished.

### **DIVISION 3 - THE ENVIRONMENT**

### **14. CAMPING AND RESIDING ON LAND**

14.1 Except at a registered caravan park, a person must not, without a permit:

- (a) camp;
- (b) occupy; or
- (c) otherwise reside in any
  - i. tent;
  - ii. caravan; or
  - iii. movable dwelling.

14.2 Nothing in clause 14.1 requires a permit to be obtained if an:

- (a) owner; or
- (b) occupier -

of land places or causes to be placed a tent, caravan or movable dwelling on that land for occupation by a:

- i. person who ordinarily resides elsewhere on the land;  
or
- ii. a temporary visitor

for a total period not exceeding 28 days in any period of 12 months if proper sanitary facilities are maintained to the satisfaction of an Authorised Officer for use by such person or temporary visitor.

## **15. CAMPING ON ROADS AND COUNCIL LAND**

A person must not, without a permit, leave standing on:

15.1 any road; or

15.2 land managed, vested in or owned or occupied by Council -  
any unregistered caravan or movable dwelling.

## **16. MOVABLE DWELLINGS**

A person must not, without a permit:

16.1 erect;

16.2 occupy; or

16.3 otherwise establish

a movable dwelling.

**17. DELETED BY LOCAL LAW NO.1 OF 2015**

**18. DRAINS ON PRIVATE LAND**

An:

18.1 owner; and

18.2 occupier

of land must not:

- a) keep or allow a privately maintained drain on land to be in a condition which:
  - I. is unsightly; or
  - II. restricts the flow of water through that drain; or
- b) allow stormwater collection, drainage or discharge systems on that land to:
  - I. fall into a state of disrepair; or
  - II. discharge stormwater from the land by any means other than a point of discharge approved by Council.

**19. FENCING OF VACANT PRIVATE LAND**

An:

19.1 owner; and

19.2 occupier –

of any vacant private land that has an area of half a hectare or less must, upon the request of an Authorised Officer, fence that land to the satisfaction of an Authorised Officer.

- 19.3 In considering what is satisfactory in relation to this clause, the Authorised Officer must have regard to the following:
- (i) the reasons why fencing has been requested;
  - (ii) the standards of fencing established on adjacent properties;
  - (iii) the minimum height necessary to achieve the purpose of the request;
  - (iv) any other relevant matter.

## **20. TRADE PREMISES**

An:

20.1 owner; or

20.2 occupier -

of any trade premises must not allow those trade premises to become:

- a) offensive;
- b) unsanitary; or
- c) dangerous to health.

## **21. CONTROL OF EUROPEAN WASPS**

An:

21.1 owner; or

21.2 occupier -

of land must not allow any European wasp nest to be present on the land.

## **22. NOISE GENERALLY**

22.1 A person must not:

- a) cause a noise; or
- b) knowingly allow or suffer a noise to emanate from any land owned or occupied by or in the charge of that person -

which, in the opinion of an Authorised Officer, constitutes a nuisance.

22.2 In considering what constitutes a nuisance in relation to clause 23.1, the Authorised Officer must have regard to the following:

- i. the likelihood of the noise causing disturbance or annoyance to others;
- ii. the volume of the noise;
- iii. the duration of the noise and how frequently it occurs;
- iv. the reasons why the noise is occurring;
- v. any other relevant matter.

## **23. ASSET PROTECTION - Building Works**

- 23.1 A person must not, without a permit, carry out or cause or allow to be carried out any building work between the hours of:
- a) 6:00p.m and 7:00 a.m. Monday to Friday (other than a public holiday); or
  - b) 6:00 p.m. and 9:00 a.m. on any other day, including a Public Holiday.
- 23.2 Nothing in clause 23.1 applies to building work carried out during times allowed in a permit issued under:
- a) the *Environment Protection Act* 1970;
  - b) the *Planning and Environment Act* 1987; or
- any regulations made under those Acts.
- 23.3 A person must not:
- a) carry out building work, other than minor building work, on land; or
  - b) deliver to a building site any equipment or materials; or
  - c) construct a permanent vehicle crossing onto any land;
- unless an Asset Protection Permit has been obtained, in respect of the building work being carried out on the land.
- 23.4 Where an Asset Protection Permit is required, the:
- a) owner of any land, or if a builder has been appointed;
  - b) the builder engaged to carry out building work on land
- must obtain an Asset Protection Permit before carrying out the building work or allowing the building work to be carried out on that land.
- 23.5 Council may exempt any person from the operation of this Clause whether in whole or in part.
- 23.6 On the payment of an application fee, Council may issue an Asset Protection Permit in respect of any land where building work is to be carried out.
- 23.7 An Asset Protection Permit may be subject to the following conditions:

- a) Requirement to maintain a public liability insurance policy with a cover of not less than \$20 million per claim, for the duration of the works.
- b) Requirement that a copy of the permit be available on site at all times.
- c) That all works and deliveries are carried out in accordance with the Council's *Builders Code of Conduct and/or any relevant Construction Standards Council may have adopted*.
- d) That no works or deliveries affect access to, or the safe navigation of, a road or a road related area may be undertaken, unless prior approval is granted by an Authorised Officer.
- e) That materials may not be stored on a road or a road related area, unless prior approval is granted by an Authorised Officer.
- f) That, where permission is granted to undertake works or material storage on a road or a road related area, such area must be restored to a safe, clean and tidy condition by conclusion of the works.
- g) That any or all public assets or infrastructure damaged as a result of the works or deliveries be repaired, replaced or re-instated within a specified time, in accordance with this Local Law.
- h) That Council be notified prior to the commencement of any works or deliveries, in accordance with the provisions of this Local Law.
- i) That Council will conduct an inspection of the site area prior to the commencement of any works or deliveries, to identify any pre-existing damage to Council assets adjacent to the site.
- j) That Council be notified when works have been completed.
- k) To pay a security bond in accordance with the provisions of this Local Law.
- l) That a temporary vehicle crossing be installed to Council's specification before commencement of any building work or deliveries.
- m) That any construction of any permanent vehicle crossing be completed within a specified time.
- n) Waiving the requirements for on-site refuse containers.

23.8 An Asset Protection Permit expires on the date specified in the permit or, if not specified, 12 months after the date of its issue unless earlier renewed or extended.



- 23.9 On any land at which building work is being, or is to be carried out, vehicle entry to the land must only take place across:
- (a) a permanent vehicle crossing; or
  - b) a temporary vehicle crossing authorised by an Asset Protection Permit issued in respect of that land.
- 23.10 Regardless of whether a building permit has been issued, the:
- a) owner of any land on which building work is proposed to be carried out; or
  - b) builder engaged to carry out building work on land must:
    - i. notify Council in writing of the proposed building work at least seven (7) days before building work commences; and
    - ii. notify Council in writing of the completion of the building work, other than minor building work, within one (1) business day of such completion.
- 23.11 The owner and builder must:
- a) repair to Council's satisfaction any:
    - i. footpath;
    - ii. road;
    - iii. kerb and channel;
    - iv. drain or drainage pit lid;
    - v. vehicle crossing;
    - vi. nature-strip;
    - vii. street tree; or
    - viii. other assetvested in Council adjacent to the land where the building work takes place, which was not identified in any pre-building inspection report.
  - (b) Council at its sole discretion, may accept payment from the owner or builder for the likely costs of repairing any such damage, in lieu of the owner or builder carrying out the repair.
- 23.12 The amount of any security bond required under any Asset Protection Permit must be proportionate to the likely costs of repairing any potential damage to any existing road, channel, drain, vehicle crossing or other asset arising from the building work.

- 23.13 Upon completion of the building work, the amount of the security bond:
- a) must be refunded to the person who lodged it, provided that:
    - i. Council is satisfied that no damage has been caused; or
    - ii. that any damage caused has been repaired by, or on behalf of, that person to Council's satisfaction; or
    - iii. that person has paid to Council the likely costs of repairing any such damage, in lieu of the owner or builder carrying them out.
  - b) Where damage has been caused and Clause 23.13 (a) does not apply, the security bond may be retained by Council to offset the costs of carrying out any works in accordance with this Local Law.
- 23.14 Where Council so determines, it may agree to accept an alternative form of security to a cash security bond.
- 23.15 Where any building work is being carried out on any land, the owner of the land or the builder engaged to carry out building work on the land must adopt measures and manage the site so as to:
- a) minimise the risks of stormwater pollution from builders waste;
  - b) prevent building cleanup, washdown or other wastes being discharged offsite or allowed to enter the stormwater system; and
  - c) minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting roads or washed into the stormwater system.
- 23.16 Where any building work (other than minor building work) is being carried out on any land, the owner of the land, builder engaged to carry out building work on the land or appointed agent must:
- a) provide a refuse facility for the purpose of disposal of builders waste and litter;
  - b) place the refuse facility on the land and keep it in place (except for such periods as are necessary to empty the refuse facility) for the construction period;

- c) not place the refuse facility on any Council land or road without a permit; and
  - d) empty the facility whenever full, and, if necessary, provide a replacement refuse facility during the emptying process.
- 23.17 Provided the facility referred to in Clause 23.16 contains all builders waste and litter on the land to the satisfaction of Council, its size, design and construction will be at the discretion of the builder.
- 23.18 The requirement to provide a refuse facility may be waived at Council's discretion.
- 23.19 During building work:
- a) all builders waste which requires containment must be placed in the facility referred to in clause 23.16;
  - b) the builders waste must not be deposited in or on any land other than in accordance with clause 23.16; and
  - c) the builders waste must not be deposited in or over any part of the stormwater system.
- 23.20 On any land where building work is being, or has been, carried out, the:
- a) owner of the land on which the building work is being or has been carried out; or
  - b) builder engaged to carry out the building work
- must remove and lawfully dispose of all builders waste, including, without limiting the generality of the above, the builders waste in the waste facility referred to in clause 23.16, within seven (7) days of completion of the construction period or issue of an occupancy permit, whichever occurs last.

**Note: Clause 23 Amended by Local Law No. 1 of 2019**

## **DIVISION 4 - ANIMALS AND BIRDS**

### **24. KEEPING ANIMALS**

A person must not keep or allow to be kept on land any animal or bird:

- 24.1 in such a manner as to:
- a) be offensive;
  - b) be dangerous; or
  - c) be injurious to health;
  - d) cause a nuisance; and
- 24.2 unless the animal or bird is kept in a confined area and that area is maintained in a clean and sanitary condition.

## 25. ANIMAL SHELTERS

- 25.1 A person must not erect a shelter to house any animals or birds unless it is:
- a) designed and constructed in a manner approved by Council or an Authorised Officer;
  - b) not less than 6 metres from the frontage of the land;
  - c) not less than 1 metre from any boundary to the land; and
  - d) not less than 3 metres from any dwelling (whether on the land or on adjoining land).

## 26. ANIMAL NUMBERS

26.1 A person who owns or occupies land comprising an area of less than 5000 square meters must not keep any livestock on that land.

26.2 A person who owns or occupies land that has:

- a) a total area comprising more than 400 square metres but less than 5000 square metres must not, without a permit, keep or allow to be kept on that land more than the number of animals or birds set out in the following table

<b>Species</b>	<b>Maximum Number</b>
Dogs	2
Cats	2
Ferrets, guinea pigs, rabbits or rodents	8
Birds, including poultry (other than roosters)	20

- b) a total area comprising 400 square metres or less must not, without a permit, keep or allow to be kept on that land more than the number of animals or birds set out in the following table:

<b>Species</b>	<b>Maximum Number</b>
Dogs	2
Cats	2
Ferrets, guinea pigs, rabbits or rodents	3
Birds, including poultry (other than roosters)	5

- c) a total area comprising 5,000 square metres or more must not, without a permit, keep or allow to be kept on that land more than:
- (i) 4 dogs; or
  - (ii) 4 cats.
- d) a total area comprising less than 5,000 square metres must not, without a permit, keep or allow to be kept on that land a rooster.

26.3 For the purpose of determining whether an owner or occupier of land is in breach of Clause 26.2, the progeny of any animal or bird lawfully being kept on the land shall not be regarded as animals, livestock or birds (as the case may be) during the first 12 weeks after their birth.

26.4 Sub clauses 26.1, 26.2 and 26.3 do not apply where the keeping of a particular type of animal, livestock or bird is permitted under the Planning Scheme or a Planning Permit applicable to the land.

## **27. ANIMAL LITTER**

A person in charge of an animal on a road or Council land or in a public place must:

- 27.1 carry a means of collection and disposal of the animal's excrement;
- 27.2 immediately collect and dispose of all of the excrement left by the animal in such a manner as not to cause a nuisance to any other person; and

- 27.3 produce to an Authorised Officer upon demand any means of collection and disposal being carried in accordance with this clause.

## **DIVISION 5 - WASTE MANAGEMENT**

### **28. TRADE WASTE**

- 28.1 The occupier of any land on which a rubbish container used for the storage of trade waste is stored or kept must ensure that the:
- a) container;
  - b) place in which the container; and
  - c) surrounding area -
- is maintained, so as to be:
- i. inoffensive; and
  - ii. in a clean and sanitary condition.
- 28.2 The occupier of any land on which a rubbish container used for the storage of trade waste is stored or kept must ensure that the trade waste is regularly removed so as to keep the container from overflowing.
- 28.3 Upon being requested to do so by an Authorised Officer, an occupier of land on which a rubbish container used for the storage of trade waste is stored or kept must:
- (a) label any rubbish container with the address of that land, in a form approved by Council; and
  - (b) maintain that label in such condition that it can be clearly read from a distance of 5 metres.
- 28.4 Any rubbish container placed out for collection must be positioned on the nature strip adjacent to the kerb or footpath (or, if there is no nature strip, on the pavement) as close as possible to the vehicle access point to the land, or in any other manner directed by Council or an Authorised Officer from time to time.
- 28.5 An occupier of land must return to the land, or cause to be returned to the land, the rubbish container referable to that land as soon as is practicable but within 4 hours after its contents have been emptied.

### **29. RUBBISH CONTAINERS**

A person must not, without a permit, place on a road or Council land any bulk rubbish container.

### **30. HOUSEHOLD REFUSE RECEPTACLES**

- 30.1 The occupier of a property to which Council provides a garbage, recycling or green waste collection service must:
- a) not place in a household refuse receptacle anything other than garbage, recyclables or green waste which is:
    - (i) wrapped in any manner necessary to render them inoffensive and to prevent the protrusion of sharp objects; or
    - (ii) contained in a bag that is tied at the open end to prevent spillage of the contents and facilitate the lifting of the bag;
  - b) not place garbage, recyclables or green waste out for collection in any receptacle other than that provided by Council;
  - c) not place out for collection any household refuse receptacle, except in accordance with any requirements prescribed by or determined in accordance with this Local Law;
  - d) not place out for collection a household refuse receptacle with a gross weight of more than 80 kilograms; and
  - e) not place any garbage, recyclables or green waste in a household refuse receptacle that would prevent the lid of the household refuse receptacle being closed.
- 30.2 An occupier of land must maintain any household refuse receptacle on that land:
- a) in good order;
  - b) in a clean, inoffensive and sanitary condition; and
  - c) to the satisfaction of an Authorised Officer.
- 30.3 An occupier of land must maintain any area on the land on which a household refuse receptacle is located in a clean, inoffensive and sanitary condition and must keep clean any pavement or ground outside the land on which the household refuse receptacle is placed.
- 30.4 Upon being requested to do so by an Authorised Officer, an occupier of land must
- (a) identify any household refuse receptacle supplied by Council, with the house/unit number and street number of that land, in a form approved by Council; and

- (b) maintain that number in such condition that it can be clearly read from a distance of 5 metres.

- 30.5 Subject to clause 31.6, an occupier of land who wishes the contents of any household refuse receptacle to be collected must place or cause to be placed that household refuse receptacle on the nature strip (or, if there is no nature strip on the pavement) adjacent to the kerb at the front of such land (or at such other place as is approved by an Authorised Officer) before the day allocated by Council for the collection of the contents of such household refuse receptacles, or at such other time as directed by Council.
- 30.6 Any household refuse receptacle placed out for collection must be positioned on the nature strip adjacent to the kerb or footpath (or, if there is no nature strip, on the pavement) as close as possible to the vehicle access point to the property, or in any other manner directed by Council or an Authorised Officer from time to time.
- 30.7 An occupier of land must return to the land, or cause to be returned to the land, the household refuse receptacle referable to that land as soon as is practicable but within 24 hours after its contents have been emptied.
- 30.8 Where a household refuse receptacle has been placed in accordance with Clause 31.6 or 31.7, a person must not move or relocate that receptacle other than to lawfully empty it or return it to its storage place once emptied.
- 30.9 The owner of flats or units must provide a clearly defined storage area for the storage of household refuse receptacles and every occupier must keep the household refuse receptacle allocated to the flat or unit in that defined area.

### **31. REMOVAL OF RECYCLABLE MATERIAL**

A person must not remove or interfere with any household refuse or recyclable material placed out for collection in accordance with this Local Law unless that person is authorised to do so by Council.

## **DIVISION 6 - FENCING OF LAND HOLDING LIVESTOCK**

### **32. FENCES TO BE ERECTED AND MAINTAINED**

The:

- 32.1 owner; and
- 32.2 occupier -



of land on which livestock graze or are kept must:

- (a) erect; and
- (b) maintain -

on the land fences which are capable of preventing livestock from trespassing on other land or any road.

## **DIVISION 7 - CONSUMPTION AND POSSESSION OF ALCOHOL**

### **33. CONSUMPTION AND POSSESSION OF LIQUOR**

33.1 A person must not, without a permit:

- a) on a road;
- b) in or at a public place;
- c) in or on a stationary vehicle on a road or in or at a public place;  
or
- d) on vacant private land -

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

33.2 Clause d) does not apply to a person who is the owner of vacant private land or who is upon such vacant private land at the invitation or with the permission of its owner or occupier.

34.3 For the purposes of this Division, if an Authorised Officer says in writing that-

- a) any liquid is liquor; or
- b) land or a portion of land is a road, public place or vacant private land -

what is said in writing is evidence that -

- c) the liquid is liquor; or
- d) the land or portion of the land is a road, public place or vacant private land -

as the case requires.

## **34. ENFORCEMENT**

- 34.1 If an Authorised Officer reasonably suspects that a person is in contravention of or has contravened clause 33, the Authorised Officer may direct the person to dispose of the contents of any container containing liquor which is unsealed.
- 34.2 A person to whom a direction is given under this clause must comply with that direction.
- 34.3 If a person fails to comply with a direction given under this clause within a reasonable time, an Authorised Officer may seize the container and dispose of its contents.

## **DIVISION 8 - GENERAL PROVISIONS**

## **35. APPLICATIONS FOR PERMITS**

- 35.1 Any person applying for a permit under this Local Law must lodge with Council:
- a) an application in a form approved by Council; and
  - b) any permit fee fixed by a resolution of Council.
- 35.2 Before considering any such application, Council may require the Applicant to:
- a) give notice of the application to any persons whom Council considers may be detrimentally affected by the grant of the application; and
  - b) publish notice of the application in a newspaper generally circulating in the municipal district.
- 35.3 Every notice given or published must consist of:
- a) a true copy or summary of the application;
  - b) an indication that Council will consider the application after the expiry of 14 days following the giving or publication of the notice;
  - c) 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
  - d) an indication that all written submissions received within 14 days of the date of the notice will be taken into account in the determination of the application.

- 35.4 Where Council has required the giving or publication of a notice it must not further consider the application until:
- a) it is satisfied that the Applicant has given or published the notice in the required manner; and
  - b) at least 14 days have elapsed since the giving or publication of the notice.
- 35.5 All written submissions received within the 14 day period must be considered by Council.
- 35.6 In determining whether to grant a permit, the matters to which Council may have regard include whether the application complies with any policy, standards, guidelines or codes of practice adopted by Council.
- 35.7 When considering whether to issue a permit under Clause 35, Council must have regard to:
- a) the location at which it is proposed to consume or possess liquor;
  - b) the times during which it is proposed to consume or possess liquor;
  - c) the purpose for which it is proposed to consume or possess liquor;
  - d) whether, if the application is granted, the applicant or any other person will or is likely to behave in a manner which constitutes or may constitute a nuisance; and
  - e) whether the grant of the application will adversely affect the enjoyment of a public place.
- 35.8 Council may in its discretion:
- a) grant an application;
  - b) grant an application with conditions; or
  - c) refuse to grant an application.
- 35.8 Where a permit has been issued with conditions, the permit holder must, unless the permit holder is excused from compliance with all conditions, in writing, by an Authorised Officer, comply with those conditions, at all times.

## **36. FORM AND OPERATION OF PERMIT**

Any permit granted by Council shall:

- a) be in a form approved by Council; and
- b) not be operative until the Applicant pays the permit fee.

### **37. CURRENCY OF PERMIT**

- 37.1 Subject to Clause 37.2, unless it is sooner revoked or renewed, any permit will continue in force for the period specified in the permit, or, if no period is specified, for a period of 12 months from the date of its issue or renewal.
- 37.2 Permits issued in relation to Clause 26 - Animal Numbers will continue in force for the life of the animal/s to which such permits relate, unless sooner revoked.
- 37.3 A permit-holder must not assign, transfer or encumber his or her permit.

### **38. REVIEW OF DECISIONS**

- 38.1 Any Person who is aggrieved by a decision made in the administration or enforcement of this Local Law may apply for a review of that decision. All persons who may be so affected shall be advised of this right.
- 38.2 Requests for review must, in the first instance, be made in writing. Submissions in support of the request may be made in writing or orally.
- 38.3 The right given by this clause does not in any way remove that person's obligation to act in accordance with any directions or notices which are applicable under the Local Laws.
- 38.4 In reviewing any decisions, regard must be given to any policy, standards, guidelines or codes of practice adopted by Council.

### **39. CORRECTION OF PERMITS**

- 39.1 Council may correct any permit issued under this Local Law if the permit contains:
  - a) a clerical error or an error arising from an accidental slip or omission; or
  - b) 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.
- 39.2 Council must give written notice of the correction to the permit-holder.

### **40. REVOCATION OF PERMIT**

If, in the opinion of Council:

- a) a permit-holder has failed to comply with any conditions of the permit;
- b) there has been a material misstatement or concealment of fact in relation to the grant of the permit; or
- c) there has been a material change of circumstances since the grant of the permit,

it may revoke the permit.

#### **41. SAVING**

41.1 Nothing in this Local Law shall require a person to obtain or comply with a permit described in this Local Law if the thing in respect of which a permit is required is a thing allowed by a permit issued under an act.

41.2 Council may exempt any person from the operation of this Local Law (or any provision contained in this Local Law) whether in whole or in part.

#### **42. REGISTER OF PERMITS**

42.1 Council must keep a register of all permits issued under this Local Law.

42.2 Council must note the:

- a) correction; and
- b) revocation

of any permit in the register.

#### **43. NOTICE TO COMPLY**

43.1 If an Authorised Officer reasonably suspects that:

- a) an owner of land;
- b) an occupier of land; or
- c) another person -

has contravened or failed to comply with any provision in this Local Law, the Authorised Officer may serve a notice to comply on that owner, occupier or person.

43.2 A notice to comply may direct the owner, occupier or person to do something or refrain from doing something to ensure compliance with the relevant provision.

43.3 An owner, occupier or other person on whom a notice to comply is served must do the thing or refrain from doing the thing (as the case may be) in accordance with the notice, and do so:

- a) in any manner; and
- b) on or before any date -

which is described in the notice.

#### **44. IMPOUNDING THINGS**

44.1 If an Authorised Officer finds a person contravening or failing to comply with any clause of this Local Law, the Authorised Officer may arrange for any thing:

- a) in the custody or control of that person; and
- b) designed or intended to facilitate the contravention or failure to comply -

to be removed to a place appointed or approved by Council, and be retained there subject to this Local Law.

44.2 Where any thing has been impounded in accordance with this clause, an Authorised Officer may serve a notice on the person from whose custody or control it was removed.

44.3 Each notice must:

- a) be served personally or by registered mail;
- b) be in a form approved by Council; and
- c) indicate how the thing can be reclaimed.

#### **45. SURRENDER OF THINGS**

Any thing that has been impounded in accordance with clause 45 must be surrendered to the person from whose custody or control it was removed, or any person acting on that person's behalf, if:

- a) in the event of a claim being made by a person acting on behalf of the person from whose custody or control the thing was removed, satisfactory evidence is provided of the former's authority from the latter; and

- b) in any event, there is paid to Council a fee fixed by resolution of Council.

#### **46. POWER TO SELL, DESTROY OR GIVE AWAY**

- 46.1 If 14 days elapse from the removal of the thing to a place appointed or approved by Council, and the thing is not surrendered to:
  - a) the person from whose custody or control it was removed; or
  - b) a person acting on behalf of the person described in clause a) Council may:
    - i. destroy the thing;
    - ii. deliver the thing to a municipal tip;
    - iii. give the thing away; or
    - iv. sell the thing by auction, public tender or private sale.
- 46.2 Where any thing is sold in accordance with paragraph b) of clause 46.1, and the net proceeds from sale exceed the amount expended by Council in exercising its powers under this Local Law, the moneys must be paid into a trust account maintained by Council and if the moneys are not claimed by a person who satisfies Council that he or she was the owner of the thing when it was impounded, within one (1) year of their receipt, they shall cease to be payable to a person of the type described in clause c).
- 46.3 Nothing in this clause shall preclude Council from destroying any thing at a time earlier than the time described in clause 46.1 if, in the opinion of Council or an Authorised Officer, the thing:
  - a) has perished; or
  - b) is prejudicial to health.

#### **47. OFFENCES AND PENALTIES**

- 47.1 A person who contravenes or fails to comply with this Local Law is guilty of an offence, and liable to a penalty for an initial offence, the penalty set out in this Local Law or, if no penalty is set out:
  - a) a penalty not exceeding 10 penalty units;
  - b) for a subsequent offence, a penalty not exceeding 20 penalty units; and

- c) for a continuing offence, a penalty not exceeding two (2) penalty units for each day after conviction for the offence, during which the contravention continues.

**48. INFRINGEMENT NOTICES**

- 48.1 As an alternative to prosecution, an Authorised Officer may, in accordance with section 117 of the Act and the provisions of the Infringements Act 2006, issue and serve an infringement notice or Official Warning on a person who in the opinion of the Authorised Officer has contravened this Local Law.
- 48.2 Unless clause 49.3 applies, the penalty for an offence for which an infringement notice is issued, is fixed at 2.5 penalty units.
- 48.3 The penalty for an infringement notice is fixed at:
  - Clause 17 – 3.75 penalty units
  - Clause 23 – 2.5 penalty units if a natural person and 12.5 penalty units if a company or incorporated body.
  - Clause 25 – 1.25 penalty units
  - Clause 26.2 - 1.25 penalty units
  - Clause 27 - 1.25 penalty units
  - Clause 30.1 – 1.25 penalty units
  - Clause 30.3 – 1.25 penalty units
  - Clause 30.5 – 1.25 penalty units
  - Clause 30.9 – 0.75 penalty units

This Local Law was made by Resolution of the Greater Dandenong City Council on 27 June 2011.

**The Common Seal of the Greater Dandenong City Council** was hereunto affixed in the presence of: )  
)  
)

..... Chief Executive Officer

..... Councillor