

GREATER DANDENONG CITY COUNCIL

**LOCAL LAW NO. 4 OF 4
2011**

MUNICIPAL PLACES

**As amended by Local Law No. 1 of 2019
- Miscellaneous Amendments**

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GREATER DANDENONG CITY COUNCIL

MUNICIPAL PLACES LOCAL LAW

NO. 4 OF 4

2011

DIVISION 1 - PRELIMINARY PROVISIONS

1. TITLE

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

2. PURPOSE

The purpose of this Local Law is to:

- 2.1 promote a physical and social environment free from hazards to health, in which the residents of the municipal district can enjoy a quality of life that meets the general expectations of the community;
- 2.2 prevent and suppress nuisances which may adversely affect the enjoyment of life within the municipal district or the health, safety and welfare of persons within the municipal district;
- 2.3 prohibit, regulate and control activities which may be dangerous or unsafe or detrimental to the quality of life and the environment of the municipal district;
- 2.4 prohibit, regulate and control access to and behaviour in Municipal Places;
- 2.5 regulate and control the use of Municipal Swimming Pools, Municipal Buildings and reserves; and

3. AUTHORISING PROVISION

This Local Law is made under section 111(1) of the *Local Government Act* 1989.

4. COMMENCEMENT, AREA OF OPERATION AND REVOCATION

This Local Law:

- a. commences operation on the 26th day of July 2011;
- b. operates throughout the municipal district of Council; and

- c. Upon the coming into operation of this Local Law, Council's Municipal Places Local Law No. 4 of 2001 is revoked.

5. REVOCATION DATE

This Local Law ceases to operate at midnight on the 25th 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:

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

"**Authorised Officer**" means a person appointed by Council under section 224 of the *Local Government Act 1989*.

"**caravan**" includes a mobile home and a movable dwelling as defined in the Residential Tenancies Act 1997.

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

"**Municipal Building**" means

- 6.1 any building which is owned, occupied or controlled by Council; and
- 6.2 any land on which such a building is located which Council or an Authorised Officer determines is to constitute a "Municipal Building" for the purposes of this definition, and includes any -
 - (a) structure;
 - (b) fixture;
 - (c) fitting; and
 - (d) garden -

located on, at or in a Municipal Building.

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

"**Municipal Place**" means a:

- 6.3 Municipal Building;
- 6.4 Municipal Swimming Pool; or
- 6.5 reserve.

"Municipal Swimming Pool" means any land and all buildings, structures and equipment on such land which Council or an Authorised Officer determines is to constitute a Municipal Swimming Pool for the purpose of this definition.

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

"permit" means a permit issued under this Local Law.

"reserve" means any land within the municipal district that is -

6.6 owned, occupied or controlled by Council; and

6.7 dedicated or used for cultural, recreational or entertainment purposes-
and includes any -

(a) structure;

(b) fixture;

(c) fitting; and

(d) garden -

located on, at or in such land, but does not include a Municipal Building or Municipal Swimming Pool.

"road" has the same meaning as in the *Local Government Act 1989* and includes a road vested in the Crown.

"sell" includes -

6.8 selling by means of any machine or mechanical device;

6.9 bartering or exchanging;

6.10 agreeing to sell;

6.11 offering or exposing for sale;

6.12 keeping or having in possession for sale; and

6.13 sending, forwarding, delivering or receiving for or on sale -
or directing, causing or attempting any of such acts or things.

"Swimming Pool Attendant" means -

6.14 any staff member of Council; and

- 6.15 any other person appointed in writing by Council or an Authorised Officer -

who has a current Pool Lifeguard Award issued by the Royal Life Saving Society.

"**toy vehicle**" means a vehicle, other than a bicycle, designed to be propelled by human power, and includes a tricycle, scooter, skateboard, roller skates and roller blades.

"**vehicle**" has the same meaning as in the *Road Safety Act 1986*.

DIVISION 2 - MUNICIPAL PLACES

7. BEHAVIOUR IN MUNICIPAL PLACES

A person must not:

- 7.1 enter or remain in a Municipal Place while under the influence of alcohol or any illegal drug;
- 7.2 sell alcohol in a Municipal Place, without the consent of Council or an Authorised Officer;
- 7.3 commit any nuisance in a Municipal Place;
- 7.4 interfere with another person's use and enjoyment of a Municipal Place;
- 7.5 act in a manner which endangers any other person in a Municipal Place;
- 7.6 use indecent, insulting, offensive or abusive language in a Municipal Place;
- 7.7 behave in an indecent, offensive, insulting or riotous manner in a Municipal Place;
- 7.8 engage in any rough or boisterous play or conduct in a Municipal Place;
- 7.9 spit, defecate or urinate in a Municipal Place;
- 7.10 without the consent of Council or an Authorised Officer:
 - (a) destroy, damage, interfere with or deface a Municipal Place;
 - (b) destroy, damage, interfere with or deface anything located at, on or in a Municipal Place; or
 - (c) remove anything from a Municipal Place;

- 7.11 act in a manner contrary to any restriction or prohibition contained in any inscription on a sign in a Municipal Place;
- 7.12 except for a child under the age of eight (8) 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;
- 7.13 sell any goods or services in a Municipal Place, without the consent of Council or an Authorised Officer;
- 7.14 erect, affix or place any advertisement in a Municipal Place, without the consent of Council or an Authorised Officer;
- 7.15 erect, operate or cause to be erected or operated any amusement in a Municipal Place, without the consent of Council or an Authorised Officer;
- 7.16 obstruct, hinder or interfere with any member of staff of Council in the performance of his or her duties at a Municipal Place;
- 7.17 act contrary to any lawful direction of an Authorised Officer or member of staff of Council given in a Municipal Place, including, without limitation, a direction to leave the Municipal Place, whether or not a fee for admission to the Municipal Place has been paid;
- 7.18 use or interfere with any life saving or emergency device located within a Municipal Place, unless:
 - (a) using the device in an emergency; or
 - (b) participating in instruction approved by Council or an Authorised Officer;
- 7.19 play any unlawful game in a Municipal Place;
- 7.20 make any wager for money or engage in any form of gambling in a Municipal Place, without the consent of Council or an Authorised Officer;
- 7.21 conduct a collection of money in a Municipal Place without the consent of Council or an Authorised Officer; or
- 7.22 place any receptacle used for the collection of clothing or any other goods on a Municipal Place.

8. ACCESS TO MUNICIPAL PLACES

- 8.1 Council, or an Authorised Officer, may:
 - (a) determine the hours and days when a Municipal Place will be open to the public;

- (b) restrict access to a Municipal Place or part of a Municipal Place;
 - (c) authorise any person to occupy a Municipal Place or to restrict access to the Municipal Place;
 - (d) close any Municipal Place or part of a Municipal Place to the public; and
 - (e) charge fees, or authorise any other person to charge fees, for admission to or for the use of a Municipal Place or part of a Municipal Place.
- 8.2 Council or an Authorised Officer, or any person authorised by Council or an Authorised Officer, may from time to time establish:
- (a) conditions applying to and fees or charges for admission to or for the hire or use of a Municipal Place or part of a Municipal Place; and
 - (b) conditions applying to and fees or charges for hire or use of any property of Council in connection with a Municipal Place.
- 8.3 In exercising the powers conferred by Clause 8.2, Council, an Authorised Officer or any person authorised by Council or an Authorised Officer may determine conditions applying to and fees or charges for admission to or for the use of Municipal Places:
- (a) on multiple occasions;
 - (b) over a period of time; or
 - (c) on any other basis that it, he or she considers appropriate.
- 8.4 A person must not, without the consent of Council, an Authorised Officer or any person authorised by Council or an Authorised Officer:
- (a) enter or remain in a Municipal Place during hours when the Municipal Place is not open to the public; or
 - (b) enter or remain in a Municipal Place without having paid any fee or charge imposed by Council, an Authorised Officer or any person authorised by Council or an Authorised Officer, for admission to the Municipal Place; or
 - (c) remain in a Municipal Place after being directed to leave by an Authorised Officer or person authorised by Council or an Authorised Officer.

DIVISION 3 - MUNICIPAL BUILDINGS

9. BEHAVIOUR IN MUNICIPAL BUILDINGS

9.1 A person must not, without the consent of Council or an Authorised Officer:

- (a) conduct any function or event in a Municipal Building;
- (b) bring any animal into, or allow any animal under his or her control to remain in, a Municipal Building (other than the Municipal Pound) except a guide dog being used by a blind person;
- (c) eat or drink in a Municipal Building, except in areas designated for these purposes;
- (d) bring any vehicle, toy vehicle or bicycle into a Municipal Building, unless it is a -
 - (i) pram or pusher being used by a child; or
 - (ii) wheelchair being used by a disabled person; or
- (e) bring into a Municipal Building any object, substance or liquid which may:
 - (i) be dangerous or injurious to health;
 - (ii) have the potential to foul, pollute or soil any part of the Municipal Building; or
 - (iii) cause discomfort to persons.

9.2 An Authorised Officer or person authorised by Council or an Authorised Officer may refuse any person access to a Municipal Building if:

- (a) the person appears intoxicated or under the influence of a drug;
- (b) except in the case of a person who is in control of a guide dog, the person has with him or her an animal;
- (c) the person is carrying an object which could be used as a weapon (unless that person is a member of the Victoria Police or is a security guard engaged by Council);
- (d) the person is not decently attired; or
- (e) the Authorised Officer or person authorised by Council or an Authorised Officer is reasonably satisfied that the person

may behave in an offensive manner or may cause a nuisance or endanger any other person in the Municipal Building.

DIVISION 4 - MUNICIPAL SWIMMING POOLS

10. MUNICIPAL SWIMMING POOLS

At a Municipal Swimming Pool, a person must not:

- 10.1 enter or remain in a swimming pool unless a Swimming Pool Attendant is present;
- 10.2 permit a child under the age of 10 years, who is under his or her care or control, to enter or remain in a swimming pool, unless under the direct supervision of a responsible adult;
- 10.3 enter or remain in any swimming pool beyond his or her depth, if he or she is unable to swim;
- 10.4 roll or throw stones or any other articles into or upon any part of the Municipal Swimming Pool, unless in the course of a game or activity approved by an Authorised Officer or Swimming Pool Attendant;
- 10.5 interfere with or obstruct any person who is attempting to, or in the process of, rendering assistance to any person in distress or difficulty in a swimming pool;
- 10.6 enter or remain in a toddlers' swimming pool if over the age of five (5) years, unless that person is in charge of a child under the age of five (5) years;
- 10.7 enter or remain in any swimming pool while in an unclean condition;
- 10.8 spit, spout water or blow his or her nose, urinate or defecate in a swimming pool or perform any other act likely to result in discharges from the body entering a swimming pool;
- 10.9 use any substance or preparation which may discolour or otherwise render unfit for use, any shower or swimming pool;
- 10.10 use soap other than in a shower;
- 10.11 foul, pollute or wilfully or improperly soil any part of the Municipal Swimming Pool;
- 10.12 without the consent of an Authorised Officer or Swimming Pool Attendant, bring into, cause or permit to be brought into or remain in any part of a Municipal Swimming Pool any glass bottle, glass vessel or other thing containing glass; or

- 10.13 enter or remain in the Municipal Swimming Pool unless clad in a clean swimming costume that preserves public decency to the satisfaction of an Authorised Officer.

DIVISION 5 - RESERVES

11. ACTIVITIES PROHIBITED IN RESERVES

In a reserve, a person must not:

- 11.1 unless he or she is a player, official or a competitor in a game or sport, enter upon or remain on any area set aside for the game or sport while the game or sport is being played;
- 11.2 unless he or she is a member of the Victoria Police, Federal Police or a security firm engaged by Council and on duty, carry any firearm, without the consent of Council or an Authorised Officer;
- 11.3 destroy, damage or interfere with any flora or kill, injure or interfere with any fauna, without the consent of Council or an Authorised Officer;
- 11.4 climb, jump or get upon or over any wall, fence, gate, seat or other structure;
- 11.5 throw any stones or missiles;
- 11.6 use an amplifier or electronic device other than in a manner and location permitted by Council or an Authorised Officer;
- 11.7 use any children's playground equipment other than for the purpose for which it was provided;
- 11.8 swim, paddle, dive, jump into or enter any wetland, lake, pond or fountain;
- 11.9 throw, place or cause or allow to be thrown or placed any liquid, stone, stick, paper, dirt, rubbish or any other object, substance or thing into any wetland, lake, pond or fountain;
- 11.10 jump or dive from any bridge or other structure into any wetland, lake, pond or fountain;
- 11.11 play, engage in or practise any game or sport, whether or not in accordance with a permit issued under this Local Law, in a manner that is:
- (a) dangerous to any other person in a reserve; or
 - (b) likely to interfere with the reasonable use and enjoyment of a reserve by any other person;

- 11.12 walk on any plot, bed, border or other area set aside for plants in a reserve, without the consent of Council or an Authorised Officer; or
- 11.13 post bills or advertisements on any fence, gate, wall, seat or other structure;
- 11.14 refuse to leave the reserve when directed to do so by any member of the Police Force or by an Authorised Officer.

12. ACTIVITIES WHICH MAY BE PERMITTED

In a reserve, a person must not, except with a permit:

- 12.1 fly or permit to be flown any powered model aeroplane;
- 12.2 ride or drive a vehicle or horse except for -
 - (a) the parking of a vehicle in a parking area established for that purpose;
 - (b) the wheeling of a bicycle, pram, baby or child carriage, wheelchair or children's toy along a footpath;
 - (c) the riding of a bicycle in a manner that does not interfere with the use or enjoyment of a reserve by any other person;
 - (d) any staff member of Council (or other person authorised by Council for this purpose) acting in the course of his or her duties;
 - (e) the riding or driving of a vehicle or horse on a road or bicycle path in accordance with any applicable Acts or Regulations; or
 - (f) the riding of horses in a reserve where permitted by the inscription on a sign erected by Council;
- 12.3 light a fire or permit any fire to remain alight except in a barbecue provided by Council;
- 12.4 sell or offer for sale any goods or services;
- 12.5 play, organise, practise or engage in any competitive sport or game;
- 12.6 camp or pitch, erect or occupy any camp, tent, caravan or temporary structure;
- 12.7 play or practise golf;
- 12.8 hold any circus, carnival, fair or show;
- 12.9 conduct or celebrate a wedding; or

- 12.10 organise, conduct or attend any rally, procession, demonstration or other public gathering.

DIVISION 5A - CONDUCT IN PRESCRIBED AREAS

12A DEFINITIONS IN DIVISION 5A

In this Division:

“Facility” means:

- (a) a Municipal Building, Municipal Place, Municipal Swimming Pool, reserve or other area owned, occupied, managed or under the control of Council; or
- (b) part of a Municipal Building, Municipal Place, Municipal Swimming Pool, reserve or other area owned, occupied, managed or controlled by Council;

prescribed by Council to be a ‘Facility’ for the purposes of this Division.

“prescribed” means determined by a Resolution of Council or by a delegate, the details of which:

- (a) are published in a newspaper generally circulating within the municipal district; and
- (b) appear on Council’s website.

12B VERBAL WARNING

If a person:

- (a) breaches any condition of entry applicable to; or
- (b) behaves in an offensive manner, causes a nuisance or endangers another person while in, or interferes with another person’s enjoyment of, a Facility, an Authorised Officer may:
 - (i) direct that person to leave the Facility; and
 - (ii) verbally warn that person that a recurrence of such behaviour could lead to the giving of a written warning and, ultimately, a prohibition on entering the Facility or any other Facility.

12C WRITTEN WARNING

If, within 60 days of receiving a verbal warning under clause 12B, a person:

- (a) breaches any condition of entry applicable to; or
- (b) behaves in an offensive manner, causes a nuisance or endangers another person while in, or interferes with another person's enjoyment of, a Facility, an Authorised Officer may:
 - (i) direct that person to leave the Facility; and
 - (ii) give a written warning to the person advising that a recurrence of such behaviour could lead to a prohibition on entering the Facility or any other Facility.

12D PROHIBITION ON ENTRY

If, within 90 days of receiving a written warning under clause 12C, a person:

- (a) breaches any condition of entry applicable to; or
- (b) behaves in an offensive manner, causes a nuisance or endangers another person while in, or interferes with another person's enjoyment of, a Facility, an Authorised Officer may:
 - (i) direct that person to leave the Facility; and
 - (ii) Council or an Authorised Officer may give to the person a written notice advising the person that he or she is prohibited from entering the Facility and any other nominated Facility for the period specified in the Notice.

12E DURATION OF PROHIBITION

The duration of the prohibition on entry referred to in the written notice given under clause 12D must:

- (a) be proportionate to the behaviour, and the effect of the behaviour, engaged in by the person that led to the verbal warning or written warning (or both) being given and to the behaviour, and the effect of the behaviour, engaged in by the person that led to the giving of the written notice under clause 12D; and
- (b) not exceed 30 days.

12F EFFECT OF PROHIBITION ON ENTRY

A person to whom a written notice is given under clause 12D must not enter or attempt to enter a Facility contrary to the terms of the written notice.

12G CONSEQUENCES OF ACTING CONTRARY TO A PROHIBITION ON ENTRY

If a person enters or attempts to enter a Facility contrary to the terms of a written notice given under clause 12D:

- (a) that person commits an offence; and
- (b) an Authorised Officer may eject that person from the Facility.

12H COMPLIANCE WITH DIRECTION

A person to whom a direction is given under clause 12B, 12C or 12D must comply with that direction.

12I SCOPE

Nothing in this Division:

- (a) derogates from Council's common law rights as an owner or occupier of land;
- (b) obliges an Authorised Officer to give a person any verbal or written warning; or
- (c) precludes Council from prohibiting a person from entering a Facility if it is satisfied that the person is likely to commit an offence while present within the Facility.

Note: Division 5A inserted by Local Law No. 1 of 2019

DIVISION 6 - GENERAL PROVISIONS

13. APPLICATIONS FOR PERMITS

13.1 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 application fee fixed by resolution of Council.

- 13.2 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.
- 13.3 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.
- 13.4 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.
- 13.5 All written submissions received within the 14 day period must be considered by Council.
- 13.6 In determining whether to grant a permit, the matters to which Council may have regard include whether the application complies with any policy codes of practice, standards or guidelines adopted by Council.
- 13.7 When considering whether to issue a permit under this Local Law which involves the consumption of liquor, 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;
- (e) whether the grant of the application will be detrimental to health or safety; and
- (f) whether the grant of the application will adversely affect the enjoyment of a public place.

13.8 Council may in its discretion:

- (a) grant an application;
- (b) grant an application with conditions; or
refuse to grant an application.

13.9 Where a permit has been issued with conditions, the permit holder must, unless granted an exemption by an Authorised Officer, comply with those conditions, at all times.

14. APPROVAL OF PERMIT APPLICATIONS

14.1 In considering whether or not to issue a permit in respect of this Local Law, Council and Authorised Officers must consider as appropriate:

- a) Whether, If applicable, appropriate traffic management planning has been prepared;
- b) Whether there should be notification of property occupiers within a reasonable radius of the event;
- c) If applicable, whether an appropriate food safety management plan has been prepared;
- d) whether the agreement of the Victoria Police and the responsible Road Authority has been obtained and their requirements met, including an appropriate Traffic detour signing scheme;
- e) whether an Emergency Management Plan is required;
- f) the group of people or the organisation on whose behalf the application is being made;
- g) the date and times for the event;
- h) those who are being invited to the event;
- i) proposed arrangements for cleaning and returning the area to it's pre- event condition;
- j) any other relevant matter.

15. FORM AND OPERATION OF PERMIT

Unless otherwise provided in this Local Law, 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 required by Council.

16. CURRENCY OF PERMIT

- 16.1 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.
- 16.2 A permit-holder must not assign, transfer or encumber his or her permit.

17. CORRECTION OF PERMITS

- 17.1 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.
- 17.2 Council must give notice of the correction to the permit-holder.

18. 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.

19. REGISTER OF PERMITS

- 19.1 Council must keep a register of all permits issued under this Local Law.
- 19.2 Council must note the:

- (a) correction; and
 - (b) revocation -
- of any permit in the register.

20. REVIEW OF DECISIONS

- 20.1 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.
- 20.2 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.
- 20.3 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.
- 20.4 in reviewing any decisions, regard must be given to any policy, guidelines, standards or codes of practice adopted by Council.

21. SAVING

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.

22. NOTICE TO COMPLY

- 22.1 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 other person.
- 22.2 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.
- 22.3 An owner, occupier or person on whom a notice to comply is served must do something or refrain from doing something (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.

23. IMPOUNDING THINGS

23.1 If an Authorised Officer finds a person contravening or failing to comply with any clause of this Local Law, he or she 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.

23.2 Where any thing has been impounded in accordance with clause 23.1, an Authorised Officer may serve a notice on the person from whose custody or control it was removed.

23.3 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.

24. SURRENDER OF THINGS

Any thing has have been impounded in accordance with clause 23.1 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.

25. POWER TO SELL, DESTROY OR GIVE AWAY

25.1 If seven (7) 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 22-

Council may:

- (i) destroy the thing;
- (ii) deliver the thing to a municipal tip;
 - (1) give the thing away; or
 - (2) sell the thing by auction, public tender or private sale.

25.2 Where any thing is sold in accordance with paragraph (b) of clause 25.1(b)(ii)(2), 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 that clause.

25.3 Nothing in this clause shall preclude Council from destroying any thing at a time earlier than the time described in this clause if, in the opinion of Council, the thing:

- (a) has perished; or
- (b) is prejudicial to health.

26. EXEMPTION

Council may exempt any person or class of persons from complying with any provision of this Local Law.

27. EXERCISE OF DISCRETIONS

In exercising any discretion contained in this Local Law, Council and Authorised Officers must have regard to:

- a) the objectives and standards of this local law; and
- b) any other relevant matter

28. OFFENCES AND PENALTIES

28.1 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, not exceeding 20 penalty units; and
- c) For a continuing offence, not exceeding two (2) penalty units for each day after conviction for the offence, during which the contravention continues.

29. INFRINGEMENT NOTICES

- 29.1 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 an Official Warning on a person who, in the opinion of the Authorised Officer has contravened this Local Law.
- 29.2 The penalty for an infringement notice issued under this Local Law is fixed at two (2) penalty units.

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

The Common Seal of the Greater Dandenong City Council was hereunto affixed in the presence of:)
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..... Chief Executive Officer

..... Councillor