

CITY OF



**WHITEHORSE**

# **WHITEHORSE CITY COUNCIL COMMUNITY LOCAL LAW 2014**

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## **PART 1 – INTRODUCTION**

### **Local Law**

1.1 This Local Law is titled the Whitehorse City Council Community Local Law 2014.

### **Objectives**

- 1.2 The objectives of this Local Law are to -
- (a) provide for the peace, order and good government of the municipal district;
  - (b) regulate activities related to, and ensure the protection of, Council assets;
  - (c) protect the health and safety of persons who reside or work in, or visit, the municipal district;
  - (d) regulate the management of animals on land and in municipal places;
  - (e) protect, maintain and enhance the natural environment of the municipal district; and
  - (g) provide uniform and fair administration of this Local Law.

### **Power to make this Local Law**

1.3 This Local Law is made under section 111 of the Act and section 42 of the *Domestic Animals Act 1994*.

### **Commencement**

1.4 This Local Law commences on 1 January 2015.

### **Revocation of Local Laws**

1.5 Council's Community Local Law No 1 of 2006 is revoked, save that any notice or consent given or any business, matter or thing commenced, made or done under that Local Law is not affected.

### **Sunset provision**

1.6 This Local Law ceases to operate 10 years from the date it commences, unless earlier revoked.

### **Application**

1.7 This Local Law operates throughout the municipal district.

### **Definitions**

1.8 In this Local Law, unless inconsistent with the context:

**Act** means the *Local Government Act 1989*;

**advertising sign** means a placard, board, sign, card or banner, whether portable or attached to any land, building or vehicle which -

- (a) provides information about a business or industry or organisation;

- (b) advertises goods, services, an event or a competition; or
- (c) contains offensive or inappropriate content as determined by an authorised officer;

**authorised officer** means a person appointed by Council under sections 224 or 224A of the Act;

**bond** means a sum of money, or another means of security acceptable to Council, the amount of which has been determined by Council, after taking account of -

- (a) the nature of the building work;
- (b) likely costs that would be incurred for repairs to Council infrastructure assets;
- (c) if damage does occur to them, during or as a result of the building work;
- (d) requirements which are commonly applied in comparable situations; and
- (e) any relevant Act, regulation or government policy directives;

**builder** means a person to whom a building permit has been issued under the *Building Act 1993*;

**building work** means work for which a building permit is required to be issued under the *Building Act 1993*;

**camping** means using a caravan, tent, motor vehicle or like structure for residential accommodation (either temporary or permanent) of a person and 'camp' has the corresponding meaning;

**caravan** includes a mobile home and moveable dwelling;

**charity bin** means a receptacle used for the donation of clothing or household goods of a type which the organisation concerned indicates can be deposited there;

**Council** means Whitehorse City Council;

**Council building** means Council's municipal offices and buildings;

**Council land** means any land or road owned, vested in, managed by or under the control of Council and includes any building, structure, street sign, fence, tree and plant situated on that land;

**farm animals** includes horses, cattle, sheep, donkeys, mules, goats, pigs and deer or similar of any age;

**goods** includes but is not limited to produce, articles, items, tables, chairs, advertising signs, planter boxes, umbrellas and anything similar;

**heavy vehicle** includes a long vehicle has the same meaning ascribed to it by the *Victorian Road Safety Road Rules 2009*;

**incinerator** means an outside structure, device or equipment that is not a barbeque and which is designed, adapted, used or capable of being used for the burning of materials or substances;

**land** means any land in separate ownership or occupation and includes a shop, dwelling or a factory or part thereof as may be separately owned or occupied;

**litter bin** means a receptacle provided by Council, or with the authority of Council, in or on a road or municipal place, for use by the public to deposit small items of litter;

**litter device** means an appropriate apparatus designed for, or able to be used for, the purpose of collecting and removing animal and/or dog faeces;

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

**motor vehicle** includes a long vehicle and has the same meaning ascribed to it by the *Victorian Road Safety Road Rules 2009*;

**municipal district** means the municipal district of Council;

**municipal place** means any land and/or building, reserve, river, creek, lake or body of water, which is owned, occupied or under the control of Council and includes recreation centres, libraries, shopping malls, reserves and other Council land but excludes roads;

**noxious weed** has the meaning ascribed to it by section 3 of the *Catchment and Land Protection Act 1994*;

**nuisance** includes any behaviour or condition which is or is liable to be dangerous to health or is noxious, annoying or injurious to personal comfort;

**occupier** includes a resident, and in relation to land which has a lot entitlement or lot liability in respect of common property the Owners Corporation created upon the registration of a Plan of Subdivision affecting that land;

**permit** means a permit, authorised or required under this Local Law;

**person** includes a corporation;

**person in charge** means:

- (a) a person in charge of a building site or land where building works are to be carried out;
- (b) a person who causes building works to be carried out;
- (c) the owner of the building site and in the case of a company, each director of the company; or
- (d) the person in charge of an animal or bird.

**planning scheme** means the Whitehorse Planning Scheme;

**poultry** includes chickens, ducks, geese, peacocks, pheasants, turkeys and guinea fowl;

**racine pigeon** means a pigeon that is kept by a person who is a registered, current member of a recognised National or State Homing Pigeon Association;

**redundant vehicle crossing** means a vehicle crossing no longer required for vehicular access to land, or vehicle crossing not approved by Council;

**residential area** means land zoned as residential or predominantly residential under the planning scheme;

**road** has the meaning ascribed to it by section 3 of the Act and includes every part of a road;

**rodents** includes guinea pigs, mice, rats and hamsters and other mammals characterised by incisors adapted for gnawing and nibbling;

**sell** includes -

- (a) sell by means of any machine or mechanical device;
- (b) barter or exchange;
- (c) agree to sell;
- (d) offer or expose for sale;
- (e) keep or have in possession for sale; and
- (f) directing, causing or attempting any such acts or things;

**shopping trolley** means a wheeled receptacle supplied by a retailer of goods to enable customers purchasing any of those goods to transport them to or from one place to another;

**traffic control device** means any signal, sign, barrier or any structure built or erected to warn, advise or protect pedestrians or cyclists or motorists and to regulate traffic;

**unsightly** includes land which contains -

- (a) unconstrained rubbish such as paper, cardboard, plastic bags, styrene, house hold rubbish, second hand containers;
- (b) second hand timber or second hand building material;
- (c) discarded, rejected, surplus or abandoned solid or liquid materials;
- (d) graffiti;
- (e) machinery or machinery parts stored on the land for more than 2 months;
- (f) unregistered, unroadworthy, disassembled, incomplete or deteriorated motor vehicles, caravans, trailers or similar stored on the land for more than 2 months;
- (g) anything being built which is left incomplete and constitutes a detriment to the appearance of the surrounding area;
- (h) any other thing making the land visually repugnant; or
- (i) detrimental to the general amenity to the area;  
but excludes an enclosed building or structure on the land which complies with regulations made under the *Building Act 1993* or the *Planning and Environment Act 1987*.

**vehicle** has the same meaning ascribed to it by the *Victorian Road Safety Road Rules 2009*;

**vehicle crossing** means a Council approved constructed surface between the property boundary and roadway required for vehicular access to land;

**vermin** includes rodents and insects likely, or with the potential, to cause a nuisance;

**waste bin** means a bin, skip or other container used for the deposit of waste, but excludes an approved garbage bin used in connection with Council's refuse collection service; and

**wheeled recreational device** has the same meaning ascribed to it by the *Road Safety Road Rules 2009*.

## 1.9 Other legislation

Anything allowed under any Act, Regulation or the Planning Scheme, is not affected by any prohibition, requirement or restriction under this Local Law.

## PART 2 - MUNICIPAL PLACES AND ROADS

### Prohibited conduct in Council buildings, municipal places and on roads

2.1.1 A person must not, in a municipal place or on a road –

- (a) commit any nuisance;
- (b) conduct an activity that interferes with, or may likely interfere with, another person's reasonable use and enjoyment of the municipal place or road, without the written permission of an authorised Council staff member;
- (c) act in a manner that endangers any person;
- (d) destroy, damage, foul, interfere with or deface anything located in the municipal place or on the road;
- (e) enter other than through an entrance provided for that purpose;
- (f) park, drive or ride a vehicle unless that land has been designed or developed for the purposes of parking, riding or driving a vehicle;
- (g) ride a bicycle or use a wheeled recreational device in a manner that –
  - (i) interferes with another person's use and enjoyment of the municipal place or road;
  - (ii) endangers any other person; or
  - (iii) causes damage to the municipal place or road.

2.1.2 A person must not smoke in any Council building.

2.1.3 A person who is issued a residential parking permit must comply with all the conditions of that permit.

#### **Direction to leave**

2.2 An authorised officer may direct a person to leave a municipal place or Council building if that person's conduct is contrary to the requirements of this Part.

#### **Vegetation control**

2.3 A person must not, without a permit, plant, damage or interfere with any vegetation on Council land.

#### **Filming of persons**

2.4 An authorised officer may direct a person not to film or record any person or thing in a Council building.

### **PART 3 – PROTECTION OF COUNCIL ASSETS**

#### **Meaning of Council assets**

3.1 For the purposes of this Part, 'Council assets' means any -

- (a) road which includes the road reserve;
- (b) drain;
- (c) drainage infrastructure;
- (d) footpath
- (e) nature strip
- (e) street tree or other vegetation;
- (f) street sign; or
- (g) other property or assets



vested in or under the control of Council.

### **Incorporated document**

- 3.2 Council's document entitled, *Procedures for Work on and Protection of Council Assets* is incorporated by reference into this Local Law and has application to this Part.

### **Protection of Council assets during building work**

- 3.3 Before commencing and during building work, a person in charge of that building work must comply with Council's *Procedures for Work on and Protection of Council Assets*.

### **Interference with Council assets**

- 3.4 A person must not, without a permit:
- (a) destroy, damage, connect to, modify or interfere with Council assets; or
  - (b) undertake any works in a road reserve, municipal place or drainage easement located within any private land.

### **Protection and use of drains**

- 3.5 A person must not allow any drain located on land owned or occupied by that person to be -
- (a) in disrepair;
  - (b) in a condition which is a nuisance;
  - (c) in a condition that interferes with a Council asset; or
  - (d) dangerous to health.

### **Drainage of land**

- 3.6 An owner and occupier of land must ensure that -
- (a) the land is adequately drained to the satisfaction of an authorised officer;
  - (b) the land does not discharge water that in the opinion of an authorised officer is a nuisance to an occupier of adjoining land; and
  - (c) water does not discharge from an air conditioner or other equipment on that land onto a footpath.

### **Vehicle crossings**

- 3.7 The owner of land must ensure that at each point of any vehicular access from a carriageway on a road to the land there is a vehicle crossing that is constructed and maintained in accordance with Council's *Procedures for Work on and Protection of Council Assets*.

## **PART 4 - AMENITY, PUBLIC HEALTH & SAFETY**

### **Condition of land**

- 4.1.1 The owner or occupier of land must not allow:
- (a) that land to be unsightly; or

- (b) grass or weeds to grow on that land to a height exceeding 200 millimetres above the surface of the ground.
- 4.1.2 An authorised officer may, by serving a notice to comply, direct an owner or occupier of land to temporarily fence that land in a manner directed by the authorised officer so as to:
- (a) conceal an unsightly condition of the land; or
  - (b) prevent persons from accessing the land if in the reasonable opinion of the authorised officer, the condition of the land constitutes a danger to any person who may enter the land.

### **Vermin and noxious weeds**

- 4.2 An owner or occupier of land must not allow any vermin or noxious weeds to exist on the land.

### **Machinery, materials, goods or vehicles on land**

- 4.3 A person must not, without a permit, use any land for:
- (a) the storage of disused old, used or second hand machinery, material or goods;
  - (b) the assembly or dismantling of such machinery, material or goods;
  - (c) the storage of unregistered vehicles or parts of vehicles; or
  - (d) the assembly or dismantling of old or second hand vehicles -
- unless the storage, assembly or dismantling is confined to an enclosed building on the land.

### **Heavy vehicles kept on residential land**

- 4.4 The owner or occupier of any land in a residential area must not, without a permit, allow a heavy vehicle to be parked, kept, stored or repaired on that land.

### **Security alarms**

- 4.5 An owner or occupier of any land must not allow a security alarm to operate in such a manner that emits a noise audible beyond the boundary of the land, unless such alarm is constructed or regulated so as to ensure that:
- (a) whenever the alarm is activated it is automatically rendered inaudible beyond the boundary of the land within 10 minutes of it being activated; and
  - (b) the alarm cannot re-activate until the device has been manually re-set.

### **Camping**

- 4.6.1 A person must not, without a permit, camp:
- (a) on any land;
  - (b) on any road managed by Council; or
  - (c) in a municipal place.
- 4.6.2 The owner or occupier of any land must not, without a permit, allow camping on that land.

### **Unattended vehicles**

- 4.7 A person must not without a permit leave on a road or in a municipal place:
- (a) a motor vehicle weighing more than 1 tonne, a trailer or a caravan for more than 14 continuous days; or
  - (b) a motor vehicle weighing up to 1 tonne, for more than 30 continuous days.

## **Caravans**

- 4.8 A person must not, without a permit, keep or store more than one caravan on land in a residential area.

## **Overhanging vegetation**

- 4.9 A person who owns or occupies any land abutting any road or municipal place must not permit any vegetation on that land:
- (a) to overhang at a height of less than 2.5 metres from the level of the adjacent footpath or nature strip; or
  - (b) to interfere with –
    - (i) a Council sign on a road or municipal place; or
    - (ii) a vehicle using a road.

## **Numbering of land**

- 4.10 The owner or occupier of land to which a number has been allocated by Council must mark the land with the number so that it is clearly visible and readable from the road that the land fronts.

## **Fires in the open air**

- 4.11 A person must not without a permit light or allow to be lit or remain alight, a fire:
- (a) in the open air; or
  - (b) in an incinerator.

## **Dilapidated and unsafe buildings**

- 4.12 The owner of land on which a building exists must maintain that building in a state of good repair.

## **Shopping trolleys**

- 4.13.1 A person must not leave a shopping trolley on a road or in a municipal place, except in an area designated for the leaving of shopping trolleys.
- 4.13.2 The owner of any shopping trolley, on becoming aware that the shopping trolley has been left other than in compliance with sub-clause 4.13.1, must promptly ensure that the shopping trolley is retrieved.

## **Advertising signs, goods and furniture**

- 4.14 A person must not, without a permit:
- (a) display or permit to be displayed any goods; or
  - (b) place or allow to be placed an advertising sign, a seat, umbrella, table, chair, planter box or other items –  
on any road or in a municipal place.

### **Charity bins**

- 4.15 A person must not, without a permit, place, allow to be placed, or allow to remain, a charity bin on any road or in a municipal place.

### **Receptacles and obstructions on roads or municipal places**

- 4.16 A person placing a bulk rubbish bin, shipping container or any other large receptacle which encroaches on or obstructs the free use of a road or municipal place must comply with the *VicRoads Code of Practice for the Placement of Waste Bins on Road Sides* being a document incorporated by reference into this Local Law.

### **Repair of vehicles**

- 4.17.1 A person must not, without a permit:

- (a) paint;
- (b) service;
- (c) perform maintenance on; or
- (d) dismantle, or repair -  
a vehicle on a road or in a municipal place.

- 4.17.2 This clause does not apply if a vehicle is dismantled or repaired for the purpose of removal from a road or municipal place.

### **Falling substances from vehicles**

- 4.18 A person who drives or operates a vehicle, must not allow any grease, oil, mud, clay or other substance to fall from the vehicle onto a road, into a drain or in a municipal place.

### **Consumption and possession of liquor**

- 4.19 A person must not, without a permit, on a road or in a municipal place:

- (a) dispense or consume liquor; or
- (b) have in their possession an open receptacle that contains liquor.

### **Soliciting gifts**

- 4.20 A person must not without a permit solicit, or cause or authorise another person to solicit, a gift:

- (a) on a road;
- (b) in a municipal place or Council building; or
- (c) on private land.

### **Distribution of unsolicited material**

- 4.21 A person must not without a permit, on a road or in a Council building or municipal place, distribute to any person any advertising or promotional items or any printed material.

### **Persons selling goods, services or motor vehicles**

- 4.22 A person must not, without a permit, sell any goods, services or a motor vehicle from:
- (a) a municipal place;
  - (b) a road;
  - (c) vacant land; or
  - (d) land that is not ordinarily occupied by the person.

### **Busking**

- 4.23 A person, whether or not for financial gain, must not without a permit on any road or in a municipal place:
- (a) busk;
  - (b) sound or play any musical instrument;
  - (c) sing; or
  - (d) harangue or recite –
- so as to annoy another person using the road or municipal place

### **Restriction on use of litter bins**

- 4.24 The owner or occupier of land must not deposit in a domestic litter bin any waste that has not been generated on or from that land.

### **Waste collection**

- 4.25 The occupier of land from which any waste is collected, must comply with Council's *Domestic and Commercial Waste Management Procedures*, being a document incorporated into and forming part of this Local Law.

### **Interference with waste**

- 4.26 A person must not, without a permit, remove or interfere with any waste left out on a road or in a municipal place for collection by Council.

### **Building works**

- 4.27 The person in charge of building work must comply with Council's *Building and Works Code of Practice* being a document incorporated into and forming part of this Local Law.

## **PART 5 - KEEPING OF ANIMALS**

### **Permitted animals and birds kept on land**

- 5.1 Except with a permit or in accordance with the following table, a person must not keep or allow to be kept on land occupied by that person any animal or bird.

Type of Animal or Bird Kept on a Property	Small land size*	Any other land size
Poultry but excluding roosters	0	6
Roosters	0	0
Caged Birds	5	10
Dogs	1	3
Cats	1	3
Cats and Dogs	1	4
Rabbits	1	5
Rodents	2	6
Reptiles	5	5
Racing Pigeons	0	40
Farm Animals	Only permitted where there is 2000 square metres of open land per animal	
All other animals	0	0

\* **small land size** means land of less than 450 square metres.

### Keeping of bees

- 5.2 The owner or occupier of any land who keeps bees on that land must do so in accordance with the relevant Apiary Code of Practice.

### Conditions under which animals and birds are kept

- 5.3 The owner or occupier of any land where an animal or bird is kept, must maintain any structure used for housing the animal or bird:
- in a clean, inoffensive and sanitary condition; and
  - so as not to cause any nuisance.

### Noise and odour

- 5.4 The owner or occupier of any land on which any animal or bird is kept must not allow any noise or odour that emanates from the animal or bird in a manner that interferes with the reasonable comfort or convenience of any person.

### Animal litter

- 5.5 Whenever an animal is outside the land at which it is normally kept, the person in control of the animal must:
- not allow any faeces from the animal to remain on a road, municipal place or land owned or occupied by another person;
  - carry a litter device and must use it for the purposes of removing any faeces of the animal; and
  - dispose of any faeces of the animal in a manner which does not cause any nuisance or health hazard to any person or detriment to the environment.

## **Wandering animals and birds**

- 5.6.1 The owner or person in charge of any animal or bird must:
- (a) not allow that animal or bird to wander from where it is normally kept; and
  - (b) ensure that the land on which the animal or bird is normally kept is adequately fenced to prevent the animal or bird from being at large or escaping.

- 5.6.2 Subclause 5.6.1(a) does not apply to dogs and cats.

*NOTE:* Sections 24 and 25 of the *Domestic Animals Act 1994* provide that an owner of a dog or cat found at large will be guilty of an offence.

## **Prohibited places for farm animals and dogs**

- 5.7.1 Except with a permit, the owner or person in charge of:
- (a) a farm animal must not allow that farm animal to enter any municipal place; and
  - (b) a dog must not allow that dog to enter any Council building or a wetland identified in Council's *Specified Wetlands Guide* being a document incorporated by reference into this Local Law.

- 5.7.2 Subclause 5.7.1(b) does not apply to a dog that is:
- (a) a guidance assistance animal; or
  - (b) being used by a government agency.

## **PART 6 - PERMITS**

### **Applications**

- 6.1 If this Local Law requires a permit to be obtained, the application for the permit must:
- (a) be made to Council in writing; and
  - (b) be accompanied by the fee prescribed by Council.

### **More information**

- 6.2 Council may require an applicant to provide more information before it deals with the application.

### **Decision on application**

- 6.3 Council may decide:
- (a) to grant a permit;
  - (b) to grant a permit subject to conditions; or
  - (c) refuse to grant a permit on grounds it thinks fit.

### **Review**

- 6.4 An applicant for a permit may apply to Council for review of a decision to refuse to grant a permit or to grant a permit subject to conditions.

## **Correction of a permit**

6.5 Council may amend or revoke a permit granted by it under this Local Law.

## **Bonds**

- 6.6.1 In deciding to grant a permit, Council may require the applicant to lodge with Council a bond for such amount and in such a manner as Council deems reasonable in the circumstances.
- 6.6.2 If Council is required to remedy a breach of a permit or repair any damage caused by any work carried out under a permit, it may for that purpose, use part or all of any bond associated with that permit.
- 6.6.3 Where the bond or any part is used pursuant to clause 6.6.2, the person to whom the permit was granted or the property owner may be directed to replenish or increase the bond amount.
- 6.6.4 On satisfactory completion of any works under a permit, Council must release any applicable bond or remainder of the bond.
- 6.6.5 If after 12 months, Council cannot locate a person entitled to the release of any bond, Council will remit the funds to the State Revenue Office.

## **PART 7 - ENFORCEMENT**

### **Offences**

- 7.1 A person who:
- (a) contravenes or fails to comply with any provision of this Local Law or any document incorporated by reference;
  - (b) contravenes or fails to comply with any condition contained in a permit under this Local Law;
  - (c) knowingly provides false information in support of an application for a permit under this Local Law;
  - (d) knowingly supplies false or misleading information to an authorised officer;
  - (e) fails to comply with a verbal direction issued, or a notice to comply served, by an authorised officer;
  - (f) fails to comply with a sign erected by Council; or
  - (g) makes or attempts to make any agreement with an authorised officer to induce that authorised officer to compromise his or her duty -
- is guilty of an offence and is liable to -
- (i) a maximum penalty of \$2000; and
  - (ii) a further penalty of \$200 for each day after a finding of guilt or conviction for an offence during which the contravention continues.

### **Infringement notices**

- 7.2.1 As an alternative to a prosecution for an offence, an authorised officer may serve a person with an infringement notice in a form approved by Council.
- 7.2.2 A person to whom an infringement notice has been issued must pay to Council the amount specified in the notice within 28 days.



7.2.3 The amount of the fixed penalty to be specified in an infringement notice is set out in Council's "*Fixed Penalties for Offences Dealt with by Infringement Notice*" being a document incorporated by reference into this Local Law.

### **Notice to comply**

7.3.1 Where an authorised officer reasonably believes that a person has committed an offence against this Local Law, the officer may issue a written direction called a Notice to Comply requiring a person to stop offending and do anything necessary to rectify the offence.

7.3.2 A Notice to Comply must specify the time and date by which the person specified in the Notice to Comply must comply with the specified directions.

7.3.3 The period required to comply with a Notice to Comply must be reasonable in the circumstances having regard to:

- (a) the amount of work involved;
- (b) the degree of difficulty;
- (c) the availability of necessary materials or other items;
- (d) climatic conditions;
- (e) the degree of risk or potential risk; and
- (f) any other relevant factor.

### **Urgent circumstances**

7.4 In any urgent circumstance arising under this Local Law, an authorised officer may take any reasonable action to remedy the situation circumstance without first serving a notice to comply.

### **Obstructing objects**

7.5.1 An authorised officer may:

- (a) require any person responsible for an obstructing object on Council land to move it;
- (b) move or impound any object that obstructs a road, Council Building or municipal place;
- (c) return the object to its owner on payment of the prescribed fee; or
- (d) sell, dispose of or destroy the object if the owner has not paid the fee within 7 days of impounding.

7.5.2 Where any item has been impounded under this clause, Council must, if practicable, serve written notice of the impounding by pre-paid mail on the person who appears to be the owner of the impounded item.