



BRIMBANK
CITY COUNCIL

General Local Law 2008

Adopted 27 November 2007

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Brimbank City Council

General Local Law 2008

Brimbank City Council in reliance of its statutory powers of governance, resolves as follows:

1. Local Law

This General Local Law 2008 is a Local Law made under –

- (a) Part 5 of the Local Government Act 1989; and
- (b) Part 3 of the Domestic (Feral and Nuisance) Animals Act 1994.

2. Objectives

The objectives of this Local Law are to provide for the –

- (a) administration of Council powers and functions;
- (b) protection, safe and fair use and enjoyment of Council property;
- (c) safe and fair use of streets, roads and footpaths;
- (d) protection, maintenance and enhancement of the amenity of the municipality to a standard that meets the general expectations of the community;
- (e) keeping and control of animals, on land and on Council property; and
- (f) uniform and fair administration and enforcement of this Local Law.

3. Commencement

This Local Law commences on 1 January 2008.

4. Revocation of Local Law

On the commencement of this Local Law, Council's General Local Law 2004 is revoked save that any notice or consent given or any business, matter or thing commenced, made or done (including the commencement of enforcement proceedings) under the revoked Local Law is not affected.

5. Application of Local Law

This Local Law applies throughout the municipality.

6. Definitions

In this Local Law -

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

“**advertising sign**” includes any poster, sign, banner or message or part thereof in any form used for the purpose of soliciting goods or services;

“**agricultural animal**” includes a pig, cattle, horse, donkey, sheep, goat;

“**authorised officer**” means a person appointed by Council under section 224 of the Act;

“**Community Group**” means a group or organisation having a common focus or interest that operates on a not for profit basis and from which the proceeds will benefit the community in general;

“**Coin Mechanism Device**” is a mechanical means intended to prevent shopping trolleys being left or abandoned, consisting of a lock and chain fitted to a shopping trolley and operated by inserting or retrieving a gold coin or token;

“**Community Event**” means a not for profit event organised by a Brimbank community group which is recognised by Council and from which the proceeds will benefit the community in general;

“**Council**” means the Brimbank City Council;

“**Council property**” means land which is owned, occupied or managed by Council including any building or things owned, managed or controlled by Council on that land.

“**Electronic Wheel Locking Device**” is a mechanical means intended to prevent shopping trolleys being removed from a designated area;

“**farming land**” means land zoned for farming purposes under the Brimbank Planning Scheme;

“**furniture for customer use**” includes umbrellas, windbreaks and portable heaters;

“**garage sale**” means the non-commercial selling of goods from private residential land limited to two consecutive days in any one year;

“**graffiti**” means any writing, painting, poster or other defacement applied to any surface without the prior consent of the owner;

“**land**” includes vacant, occupied, public or private land and includes anything on that land;

“**municipality**” means the municipal district of Council;

“**obstruction**” means an obstacle or a hindrance;

“**permit**” means a permit issued by the Council including conditions as set down by Council under this Local Law;

“**premises**” means land on which a building exists;

“**public place**” has the same meaning as defined in the *Summary Offences Act 1966*;

“**racing pigeon**” means any pigeon kept for the purpose of racing or showing by its owner if that owner is a member of a club which is affiliated with or is, in turn, a member of, any bona fide association organised primarily for the purpose of racing or showing pigeons;

“**recreation vehicle**” has the same meaning as in the *Transport Act 1983*;

“**residential premises**” means any building or part of a building used as or for the purposes of a private residence or residential flat and includes –

- (a) any land, building or appurtenances used for or in connection with any residential premises;
- (b) any outbuilding situated on land used in connection with any residential premises; or
- (c) any land upon which a residential premises is under construction;

“**road**” has the same meaning as defined in the *Local Government Act 1989* and includes a footpath, naturestrip, right of way and lane;

“**special event**” means market days, festivals and events approved by Council and organised by a Traders’ Association or community group which is recognised by Council;

“**unsightly**” means detrimental to the amenity of the neighbourhood as considered by an authorised officer to be unsightly;

“**vehicle crossing**” means that area of land between the property line and the kerb of the road designated as a crossing for vehicles;

“**waste container**” means any portable container specifically designed for the collection of waste and includes a rubbish hopper, skip, clothing collection or recycling bin but not including Council’s refuse bins or containers; and

“**weed**” has the same meaning as defined by the National Weed Strategy and refers to any plant that has an economic, social or conservation impact;

7. Other Legislation

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

8. Activities and Obstructions on Council Property

8.1 A person must not –

- (a) sell, solicit or offer for sale any -
 - (i) goods;
 - (ii) services; or
 - (iii) motor vehicles;on or over Council property;
- (b) place or allow to be placed any –
 - (i) goods;
 - (ii) advertising signs; or
 - (iii) obstructions;on or over Council property;
- (c) sell or offer for sale to a person on Council property, any goods or services from a property or a public place adjacent to that Council property.

- 8.2 Despite sub-clause 8.1, a person may with a trading permit -
- (a) place and sell any goods on or over Council property during a special event;
 - (b) place and sell goods ordinarily offered for sale from adjoining premises;
 - (c) sell or offer for sale goods or services from a vehicle, caravan, trailer or any other form of transport that must remain principally mobile and trading from a road to a footpath or nature strip; or
 - (d) place on or over Council property -
 - (i) a sign promoting a community event;
 - (ii) a portable sign advising that land offered for sale is open for inspection, or that the land is being sold on that day; or
 - (iii) any furniture for customer use.
- 8.3 Despite sub-clause 8.1(b)(ii), a person may erect signs advertising a garage sale provided that the signs conform to Council's standards and are removed the following day after the garage sale is held.

9. Protection of Council Property

- 9.1 Without a permit, a person must not -
- (a) commence any works on or in a road;
 - (b) place any building materials on a road; or
 - (c) commence or allow to be commenced on land any works valued at \$20,000 or over and requiring a building permit under the *Building Act 1993*.
- 9.2 A person must not drive or allow to be driven from land onto Council property any motor vehicle whereby the wheels of that vehicle deposit mud, soil, sand, concrete or rock on the Council property.

10. Open-air Burning

Without a permit and except for cooking food outdoors, a person must not burn or allow to be burned any matter in the open air.

11. Chimneys

An owner or occupier of residential land must not cause or allow any chimney to discharge dust, grit, ash or smoke to such an extent that in the opinion of an authorised officer, it may endanger the health of or is offensive to another person.

12. Condition of Land

- 12.1 An owner or occupier of land must keep that land, and anything on that land –
- (a) in a manner that is not unsightly;
 - (b) in a manner from which trees, plants or other things overhang any road at a height of not less than 3 metres;
 - (c) in a manner that is not a haven for snakes, vermin, weeds or insects;
 - (d) free of rubbish, disused excavation, waste material, machinery or derelict vehicles; and

(e) in a manner which is not dangerous or likely to cause danger to life.

12.2 An owner of vacant land must keep grass, weeds and undergrowth on that land at a height below 150mm.

13. Numbering of Premises

An owner or occupier of premises must display the number of the premises as allocated by Council so that it can be readily seen from the road at all times.

14. Limits on Animals

Without a permit, an occupier of any land must not keep on that land –

- (a) more than 6 different species of animal;
- (b) any agricultural animal unless the land is securely fenced and has a minimum size of 2 hectares for the first animal and a further 0.5 hectares for each additional animal; or
- (c) more than the maximum number of animals set out in the following table –

| Type of Animal | Maximum number allowed on non-farming land | Maximum number allowed on farming land |
|----------------------------|--|--|
| Dogs | 2 | 6 |
| Cat | 2 | 4 |
| Pigeon (racing) | 60 | no limit |
| Pigeon (other than racing) | 10 | 20 |
| Poultry | 10 | 20 |
| Roosters | not permitted | no limit |
| Agricultural Animal | not permitted | no limit |

15. Animal Housing

15.1 The occupier of any land on which animals are kept must provide housing which is adequate and appropriate in the circumstances taking into consideration –

- (a) the type of animals to be kept;
- (b) the height of the shelter;
- (c) the number of animals to be kept;
- (d) the capacity to maintain it in a sanitary and inoffensive condition;
- (e) the capacity to protect neighbours from noise from animals on the land; and
- (f) any other matters considered to be relevant.

15.2 All animal housing must be maintained so that –

- (a) all manure and other waste is removed and/or treated as often as necessary so that it does not cause a nuisance or offensive condition;
- (b) all manure and other waste is stored in a fly and vermin proof receptacle unit, removed from the premises or otherwise disposed of so as not to create a nuisance to neighbours;
- (c) the ground surrounding the housing is drained, so not to cause flooding or ponding of water;
- (d) the area of land within 3 metres of the area or structure in which the animal is kept is free from dry grass, weeds, refuse, rubbish or other material capable of harbouring vermin;

- (e) all food, grain or chaff is kept in vermin proof receptacles; and
- (f) the area where animals are kept is thoroughly cleaned and maintained at all times in a clean and sanitary manner, so as not to cause a nuisance to neighbours.

16. Adequate Fencing

The occupier of land on which an animal is kept must ensure that the land is adequately fenced to prevent the escape of the animal from the land.

17. Animals on Council Property

A person in charge of an animal in a public place must –

- (a) carry a suitable device for the collection of any excrement from that animal;
- (b) produce the suitable device on demand by an authorised officer; and
- (c) collect and dispose of in a proper manner any excrement from that animal so as not to cause a nuisance to any other person.

18. Recreation Vehicles

Without a permit, a person must not use a recreation vehicle on any land including Council property.

19. Heavy Motor Vehicles on Land

Without a permit, a person must not keep, dismantle, repair or paint a motor vehicle of more than a –

- (a) net weight of 4.5 tonnes; or
- (b) length of 6 metres;

on any land.

20. Liquor

20.1 A person must not consume liquor or have in their possession an opened container of liquor on Council property or in a public place.

20.2 Notwithstanding sub-clause 20.1, Council may designate and signpost areas in which the consumption of liquor is permitted during specified hours or between sunrise and sunset.

21. Noise

A person must not –

- (a) without a permit, on Council property or in a public place, sound, play, control, operate or use a loud speaker, amplifier, microphone, wireless receiving set or broadcasting set or other like device capable of being used for making or amplifying sounds or noise so as to cause interference with the quiet enjoyment by any other person using that property or place; or
- (b) emit or cause or suffer to be emitted from any residential premises any noise from any item during a prohibited time as set out in the following table and that can be heard in a habitable room in any other premises, regardless of whether any door or window giving access to that room is open –

| Group | Items | Prohibited Times |
|--------------|---|--|
| 1 | A motor vehicle (except a vehicle moving in or out of premises), lawn mower or other grass cutting device and any equipment or appliance not falling within Group 2 having an internal combustion engine. | Monday to Friday: before 7am and after 8pm. Weekends and public holidays: before 9am and after 8pm. |
| 2 | An electric power tool, chain or circular saw, gas or air compressor, pneumatic power tool, hammer and any other impacting tool, grinding equipment. | Monday to Friday: before 7am and after 8pm. Weekends and public holidays: before 9am and after 8pm. |
| 3 | A domestic air conditioner, swimming pool pump, spa pump, domestic heating equipment (including central heating and hot water systems) and a domestic vacuum cleaner. | Monday to Friday: before 7am and after 10pm. Weekends and public holidays: before 9am and after 10pm. |
| 4 | A musical instrument and any electrical amplified sound reproducing equipment including a stereogram, radio, television and public address system. | Monday to Thursday: before 7am and after 10pm. Friday: before 7am and after 11pm. Saturday and public holidays: before 9am and after 11pm. Sunday: before 9am and after 10pm. |
| 5 | Any electric equipment or appliance not falling within Group 2, Group 3, or Group 4, including electric gardening equipment. | Monday to Friday: before 7am and after 8pm. Weekends and public holidays: before 9am and after 8pm. |

22. Noise caused by Commercial / Industrial Waste Collections and the Delivery of Goods to Shops, Supermarkets and Service Stations.

A person must not collect waste from or deliver goods to a shop, supermarket or service station when the associated noise can be heard in a habitable room of a residential premises, regardless of whether any doors or windows are open, outside the hours of:

- 7.00am to 10.00pm - Monday to Saturday and
- 9.00am to 10.00pm – Sundays and public holidays.

23. Asbestos Removal and Transport

23.1. A person other than an experienced asbestos removalist, must not remove material from a residential premises that contains or is liable to contain asbestos unless:-

- (a) the asbestos is non-friable, not more than 10 square metres in area and its removal does not take longer than one hour in any seven day period, and
- (b) all reasonable precautions are taken, including wetting down of the material immediately prior to its removal and keeping it wet until it is wrapped in plastic, sealed and clearly labelled to indicate the presence of asbestos; and
- (c) the material is transported and disposed of in accordance with the requirements of the Environment Protection (Prescribed Waste) Regulations 1998.

24. Behaviour on Council Property or in a Public Place

24.1 A person must not, on Council property or in a public place, behave in a manner which is harmful or would cause interference with the quiet enjoyment by any person using that property or place.

24.2 Where an Authorised Officer reasonably believes that a person is loitering on Council property or in a public place without a lawful excuse, the officer may direct that person to leave the area.

25. Blasting

A person must not undertake or allow the undertaking of blasting without the written consent of Council.

26. Camping

A person must not, without a permit, camp on Council property or in a public place in a tent, caravan or other temporary makeshift structure.

27. Living Conditions

A person must not, without a permit, reside in a caravan, makeshift dwelling or portable shed on any private land.

28. Damage to Assets

28.1 A person must not graffiti, deface, disfigure, remove or affix any document to or otherwise interfere with, damage or destroy Council property or Council assets including any drain, fire prevention appliance, drainage pit or lid, gate, fence, notice board, sign, pole, stonework, tree, tree guard, line marking or automatic traffic counting equipment, seat or structure of any kind on Council property or in a public place.

28.2 In the case of any affixed document containing an advertisement of a commercial nature any person who appears to have authorised its publication or to be in any manner concerned in the promotion or management of any business or entertainment or any sport, game, exhibition or other event of a commercial nature whatsoever referred to in the affixed document shall be deemed to have affixed the document unless that person can prove that he or she did not -

- (a) affix or authorise the affixing of the document; and
- (b) otherwise had no knowledge of such affixing.

29. Vehicle Crossings

29.1 A person must not without a permit, construct, install, remove or alter a vehicle crossing whether temporarily or permanently.

29.2 Council may direct in writing an owner of land serviced by a vehicle crossing to maintain, repair, expand, reconstruct, relocate or remove the crossing.

30. Discharge to Drains

A person must not deposit or allow any substance, other than storm water, to enter any drain under the control of Council.

31. Street Parties, Circuses, Festivals or Events

A person must not, without a permit, organise or conduct a street party, circus, festival or event on Council property.

32. Disposal of Garbage and Recyclables

32.1 The occupier of a property to which Council provides a garbage, green waste or recyclable collection service must not –

- (a) abuse or misuse a mobile bin issued by Council in terms of its placement, maintenance, loading weights, nature of materials placed in the bin and in the transfer of those materials; or
- (b) leave the bin outside the boundary of such property for more than one day (24 hours) before or after the nominated collection day.

32.2 A person must not, without the authority of Council remove or interfere with any such garbage, green waste, recyclable materials or mobile bins which are placed out for collection.

32.3 Where Council has given public notice that a hard and/or green waste collection will be made, any collectables must be left for collection in accordance with Council's directions at the time.

33. Litter Bins

A person must not place in a Council litter bin any industrial or commercial waste.

34. Waste Containers

A person must not, without a permit, place or allow to be placed on Council property any waste container.

35. Screening of Charity Bins, Waste Bins Skips and Cardboard Recycling Storage Areas

Council may direct in writing an owner or occupier of land to install, repair, replace or modify a fence or other means of screening charity bins, waste bins, skips or cardboard recycling storage areas from public view if an Authorised Officer deems the site to be unsightly.

36. Shopping Trolley Retrieval

36.1 The objective of this clause is to reduce –

- danger to pedestrians and motorists;
- streetscape clutter and unsightliness; and
- environmental harm to waterways, caused by discarded shopping trolleys.

- 36.2 From 1 July 2008, a person must not make available for use in a public place a shopping trolley that does not have a functional coin mechanism device or an electronic wheel locking device attached.
- 36.3 Clause 36.2 does not apply to a person who –
- (a) makes available less than 25 shopping trolleys; or
 - (b) retails predominantly hardware products.
- 36.4 A person must not leave a shopping trolley on any road, path, nature strip or other Council land except in an area designated for that purpose or on land under the control of the retailer providing the shopping trolley.

37. Applications for Permits

- 37.1 An application for a permit under this Local Law must be –
- (a) in a form approved by Council; and
 - (b) accompanied by the fee set by Council, unless waived.
- 37.2 Council may require an applicant to supply more information or to give public notice of the application.
- 37.3 Council may decide –
- (a) to grant a permit with or without conditions; or
 - (b) to refuse a permit on any grounds it thinks fit.
- 37.4 Council may revoke a permit.
- 37.5 Council may exempt a person or class of persons from the requirement to obtain a permit under this Local Law.

38. Direction to Comply

- 38.1 Where an authorised officer reasonably believes that a person has committed an offence against this Local Law, the officer may issue to that person a written direction called a Notice to Comply in a form approved by Council or a verbal direction, requiring that person to –
- (a) stop offending; and
 - (b) do anything necessary to rectify the offence.
- 38.2 A verbal direction may only be issued under sub-clause (1) if it is not practical to issue a Notice to Comply.

39. Obstructing Objects

An authorised officer may –

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

40. Offences

A person is guilty of an offence if the person –

- (a) does something which a provision of this Local Law prohibits;
- (b) knowingly supplies any false information in support of an application for a permit under this Local Law;
- (c) engages in activity without a current permit where a provision of this Local Law requires that the person obtain a permit before engaging in that activity;
- (d) breaches or fails to comply with a condition of a permit issued under this Local Law;
- (e) fails to comply with a verbal direction issued or a Notice to Comply served, by an authorised officer; or
- (f) fails to comply with a sign erected by Council.

41. Infringement Notices

41.1 Where an authorised officer reasonably believes that a person has committed an offence against this Local Law or the Food Act 1984, the officer may issue to that person an Infringement Notice in a form approved by Council as an alternative to a prosecution for the offence.

41.2 A person to whom an Infringement Notice has been issued must pay to Council the amount specified in the notice within 28 days.

41.3 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 issued under General Local Law 2008" which is a document incorporated into and forming part of this Local Law.

42. Court Fines

A person found guilty of an offence under this Local Law is subject to the following penalties –

- (a) first offence – \$1,000 or in the case of an offence against Clause 9.1 - \$2,000;
- (b) subsequent offence – \$2,000; and
- (c) for each day after conviction for a continuing offence - \$200.

43. Compensation

The Court before which any person is found guilty of an offence under this Local Law may, in addition to imposing any penalty, order the defendant to compensate Council for the cost of any work carried out by or on behalf of Council necessitated by the defendant's actions or inaction under this Local Law.