

Brisbane City Council

Health, Safety and Amenity Local Law 2021

This local law was made by Council on 30 November 2021
Commencement date – 1 February 2022



Dedicated to a better Brisbane

Brisbane City Council

Health, Safety and Amenity Local Law 2021

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Chapter 1 Health, safety and amenity

Part 1 Preliminary

1 Short title

This local law may be cited as the *Health, Safety and Amenity Local Law 2021*.

2 Commencement

This local law commences on 1 February 2022.

3 Object

The objects of this local law are to protect standards of community health and safety and enhance local amenity by—

- (a) regulating activities which will or may unreasonably interfere with standards of community health, safety and local amenity;
- (b) minimising the adverse impact of those activities on standards of community health, safety and local amenity.

4 Definitions

The dictionary in Schedule 1 defines particular words used in this local law.

Part 2 Fires

5 Application of this Part

- (1) This Part does not apply to the lighting and maintaining of a fire—
 - (a) that is authorised or required under the *Fire and Emergency Services Act 1990*; or
 - (b) that is, subject to subsection (2), used as part of cultural, ceremonial or theatrical performances or similar events; or
 - (c) by a person authorised or required to do so in the performance of their duties under another Act; or
 - (d) that is used to cook food in a barbeque, pizza oven, food smoker or similar device, where the fire is not in direct contact with the ground.
- (2) A fire lit or maintained as part of a cultural, ceremonial or theatrical performance or similar event must be of a size, nature and duration that does not present a fire hazard.
- (3) This Part does not include—

- (a) the Eternal Flame at the Shrine of Remembrance Anzac Square; or
- (b) any fire forming part of a Boy Scout or Girl Guide function.

6 Prohibition on burning waste

- (1) A person must not set fire to or burn waste on any land in the local government area.

Maximum penalty—50 penalty units.

Examples of waste—

- *commercial waste, domestic waste, green waste and recyclable waste.*
- (2) Subject to subsection (3), subsection (1) does not prohibit an owner or occupier of land in a rural area from setting fire to or burning green waste on that land.
 - (3) A person must not set fire to or burn green waste on land in a rural area in contravention of the *Fire and Emergency Services Act 1990*.
 - (4) In proceedings for a contravention of subsection (1), the occupier of the land is deemed to be the person who set fire to or burnt the waste or green waste.
 - (5) The presumption in subsection (4) may be rebutted by sufficient evidence to the contrary.

7 Regulation of lighting and maintaining fires in the open

- (1) A person must not light or maintain a fire in the open on any land in the local government area unless—
 - (a) the person is an owner or occupier of the land or the person has the consent of the owner or occupier of the land to light or maintain a fire in the open; and
 - (b) the fire is lit and maintained within a fire pit or brazier; and
 - (c) the fire does not present a fire hazard; and
 - (d) smoke from the fire pit or brazier does not cause a smoke impact.

Maximum penalty—50 penalty units.

- (2) A person must not light or maintain a fire in the open on any land in the local government area that is a fire ban area.
- (3) In proceedings for a contravention of subsection (1), the occupier of the land is deemed to be the person who lit or maintained the fire.
- (4) The presumption in subsection (3) may be rebutted by sufficient evidence to the contrary.

Part 3 Waste management

Division 1 General waste management

8 Interaction with State law

This Part 3 of the local law replaces Chapter 6 of the *Environmental Protection Regulation 2019*.³

9 Prohibition on deposit of waste likely to attract flies

A person must not deposit waste in any place unless the waste is covered and treated so that it does not attract flies or become a breeding ground for flies.

Maximum penalty—20 penalty units.

10 Meaning of occupier

- (1) In this Part, **occupier** of premises includes any one or more of the following—
 - (a) a person who reasonably appears to be the occupier of, or in charge of, the premises;
 - (b) the owner or manager of a business carried out at the premises;
 - (c) for premises titled under a community group or building units title scheme, any person who is the occupier of a lot, the registered proprietor of a lot, or the body corporate for that scheme.
- (2) Where, under this Part, an obligation is imposed on an occupier, the obligation is imposed jointly and severally on each person who is the occupier of the premises concerned.
- (3) Where, under this Part, a notice may be given to the occupier, the notice may be given to all or any one or more of the persons who is defined as the occupier under this Part, and the obligation to comply is imposed, jointly and severally on each person who receives the notice.
- (4) Proceedings for an offence may be taken against any one or more of the persons who fail to comply with a requirement of this Part.
- (5) Persons who meet the definition of occupier may be separately convicted of the one offence.

³ Pursuant to section 98 of the *Environmental Protection Regulation 2019*.

11 Occupier of improved premises in a waste collection area to supply waste containers

- (1) The owner or occupier of improved premises in a waste collection area must, subject to subsection (2), supply enough waste containers at the premises to contain the general waste produced at the premises.

Maximum penalty—20 penalty units.

- (2) Council may supply to improved premises in a waste collection area the number of waste containers it reasonably considers is required to contain the general waste produced at the premises.
- (3) If Council supplies a waste container to premises under subsection (2), the reasonable cost of supplying the container is a debt payable by the owner or occupier of the premises to Council.
- (4) However, subsection (3) does not prevent Council from supplying a waste container to premises without cost to the owner or occupier of the premises.

12 Requirements for keeping waste containers at premises in a waste collection area

- (1) Subject to subsection (2), the occupier or where no occupier, the owner, of improved premises in a waste collection area must ensure that all waste containers for the premises are kept within the property boundary.

Maximum penalty—10 penalty units.

- (2) Subsection (1) does not prevent the occupier of the premises from placing a waste container out for waste collection at the kerb adjacent to the premises or in a designated place specified in a waste collection notice, if—
- (a) the waste container is only placed outside the premises for a reasonably appropriate period before the time for waste collection; and
- (b) the waste container is brought within the premises as soon as practicable after the waste removal contractors have emptied the waste container.

Examples—

- *for section 12(2)(a), a reasonably appropriate period before the time for collection is considered to be anytime during the day immediately before the time for collection.*
- *for section 12(2)(b), the container should be brought within the premises by the end of the next business day after the time of waste collection.*

- (3) If a waste container cannot be stored within the property boundary the occupier will satisfy the obligation imposed in subsection (1) by keeping the container in such other place as an authorised person directs.

- (4) The occupier or where no occupier, the owner, of the premises must ensure there is unobstructed access to the container for removal of the waste.

Maximum penalty—10 penalty units.

13 Requirements for the management of waste and waste containers at premises

- (1) The occupier or where no occupier, the owner, of domestic premises or commercial premises in a waste collection area must ensure that—
- (a) subject to subsection (2), no waste is deposited or allowed to remain outside a waste container kept at the premises or in such other place as an authorised person has directed; and
 - (b) each waste container kept at the premises or such other place as an authorised person has directed is kept clean and in good repair; and
 - (c) each waste container kept at the premises or in such other place as an authorised person has directed is kept securely covered, except when the waste is being placed in, or removed from, the waste container; and
 - (d) vermin do not infest waste containers or the area where a waste container is stored; and
 - (e) waste does not cause an odour impact, which—
 - (i) in the opinion of an authorised person, unreasonably disrupts or inhibits the utilisation or enjoyment of a road or road related area by the public; or
 - (ii) in the opinion of an authorised person, unreasonably disrupts or inhibits a lawful activity carried out on the premises or adjoining premises.

Maximum penalty—

- (a) if an occupier or where no occupier, the owner, of domestic premises—10 penalty units; or
 - (b) if an occupier or where no occupier, the owner, of commercial premises—40 penalty units.
- (2) Subsection (1)(a) does not prevent green waste being used in open air composting.
- (3) A person must not—
- (a) place any of the following in a waste container—

- (i) a liquid, semi-liquid or moist substance, unless the substance is securely wrapped or contained to prevent the substance leaking from the wrapper or container; or
 - (ii) material that is smouldering or aflame; or
 - (iii) material that is capable of spontaneous combustion or classed as a dangerous good under the Australian Dangerous Goods Code; or
 - (iv) matter or a thing that is alive; or
- (b) remove or disturb the cover of a waste container, except when placing waste in the waste container; or
 - (c) use or damage a waste container so that it is not weatherproof or serviceable or cannot be securely covered; or
 - (d) disturb or otherwise interfere with the contents of a waste container.

Maximum penalty—

- (a) for a contravention of subsections (3)(a)(i) and (3)(b) - (3)(d) inclusive—10 penalty units; or
 - (b) for a contravention of subsections (3)(a)(ii) - (3)(a)(iv) inclusive—40 penalty units.
- (4) The occupier of the premises must not allow a person to place anything in a waste container at the premises in contravention of subsections (3)(a)(ii) - (3)(a)(iv) inclusive.

Maximum penalty—40 penalty units.

- (5) The occupier of the premises must not allow a person to place anything in a waste container, remove or disturb the cover of a waste container, use or damage a waste container or disturb or otherwise interfere with the contents of a waste container, at the premises in contravention of subsections (3)(a)(i) and (3)(b) - (3)(d) inclusive.

Maximum penalty—10 penalty units.

- (6) It is a defence in a proceeding against a person for an offence under subsections (4) and (5) for the person to prove the contravention was due to causes over which the person had no control.

14 Directions about management of waste containers at particular premises

- (1) An authorised person may direct the occupier of improved premises in a waste collection area, other than a dwelling house, to supply any or all of the following at the premises—

- (a) either—
 - (i) an elevated stand for holding all waste containers at the premises; or
 - (ii) an impervious surface area, drained as required by Council, upon which can be stood all waste containers at the premises;
 - (b) a suitable hose cock and hose in the vicinity of the stand or paved area;
 - (c) a suitable enclosure for the area where the waste containers are kept;
 - (d) a waste container of a size adequate to contain the waste generated by the use of the premises;
 - (e) a schedule for waste collection suitable for the premises.
- (2) The occupier must comply with a direction given under subsection (1).

Maximum penalty—40 penalty units.

15 Standards for servicing waste containers

A waste contractor must immediately pick up any waste spilled when the waste container is emptied and put it in the collection vehicle.

Maximum penalty—40 penalty units.

16 Waste collection notices

- (1) Council may give the occupier of improved premises in a waste collection area a notice (a **waste collection notice**) stating any or all of the following—
- (a) the days on which waste is to be collected; and
 - (b) where waste containers are to be placed for collection of the waste (the **designated location**); and
 - (c) the time by which a waste container is to be placed in the designated location for collection of the waste.

Example—

- *occupiers of premises on streets with limited access for garbage trucks may be required to place waste containers at a common designated location serving the street or a number of premises on the street.*

- (2) A waste collection notice may be given by publication on Council's website.

Division 2 Council waste facilities

17 Requirements for disposal of waste at a Council waste facility

- (1) A person must not deposit the following waste at a Council waste facility—
- (a) liquid or semiliquid waste;
 - (b) hot ash;
 - (c) material that is smouldering or aflame;
 - (d) material that can spontaneously combust;
 - (e) material containing a substance that may be harmful to persons or property because, if it reacts with air or water, it may produce toxic gases or become corrosive or explosive;
 - (f) an explosive;
 - (g) ammunition, other than ammunition that no longer contains explosives, pyrotechnics or propellants apart from trace residues that are no longer capable of supporting combustion or an explosive reaction.

Maximum penalty—40 penalty units.

- (2) Subsection (1) does not apply to waste deposited with the consent of the operator of the Council waste facility.

18 Restrictions on use of a Council waste facility

- (1) A person must not, without the consent of the operator of a Council waste facility—
- (a) enter the Council waste facility other than to deposit waste; or
 - (b) remain on the Council waste facility after depositing waste; or
 - (c) interfere with waste at, or remove waste from, the Council waste facility.

Maximum penalty—10 penalty units.

- (2) Subsection (1) does not apply to a Council officer in the performance of his or her duties.

19 Requirement to comply with directions and give information to the operator of a Council waste facility

- (1) This section applies to a person who—

- (a) transports waste to a Council waste facility; or
 - (b) deposits waste at a Council waste facility.
- (2) The person must—
- (a) comply with all relevant and reasonable directions contained in any sign displayed at the facility; and
 - (b) deal with the waste in accordance with reasonable instructions given by an employee of the facility operator or a Council officer; and
 - (c) if asked by an employee of the facility operator or a Council officer— give information about the type and amount of waste being delivered.

Maximum penalty—10 penalty units.

20 Restrictions on burning waste at Council waste facility

A person must not set fire to, or burn, waste at a Council waste facility other than—

- (a) under an environmental authority; or
- (b) under a development approval; or
- (c) under the *Fire and Emergency Services Act 1990*.

Maximum penalty—20 penalty units.

21 Designation of areas for general waste collection

Council may—

- (a) designate areas within its local government area in which Council may conduct general waste collection (the **waste collection area**); and
- (b) decide the frequency of general waste collection in the waste collection area.

Part 4 Access to and amenity on roads

22 Interpretation for Part 4

In this Part **road** includes a road related area.

23 Vehicle maintenance on roads

- (1) A person must not carry out vehicle maintenance on a road.

Maximum penalty—50 penalty units.

- (2) The prohibition in subsection (1) does not apply to minor emergency vehicle repairs.

Examples of minor emergency vehicle repair —

- *changing a flat tyre or charging a flat battery in order to restart a vehicle.*

24 Camping on roads

- (1) A person must not camp overnight in a vehicle on a road.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply where camping overnight in a vehicle on a road—

- (a) is permitted by an official traffic sign; or
- (b) occurs in a tourist accommodation.

- (3) To remove doubt, subsection (1) does not prohibit a person sleeping overnight in a vehicle on a road where it is required—

- (a) for fatigue management; or
- (b) for personal safety; or
- (c) otherwise in emergent circumstances.

25 Unregistered vehicle on roads

- (1) This section applies if an unregistered vehicle is parked on a road.

- (2) A person must not park or leave stand, an unregistered vehicle upon a road.

Maximum penalty—50 penalty units.

- (3) If there is a person in charge of the vehicle present at the time, an authorised person may give the person an oral compliance direction to cause the vehicle to be removed from the road.

- (4) An authorised person may seize and remove a vehicle, or cause it to be removed, into the possession of Council if there is no person in charge of a vehicle on a road present at the time or the person referred to in subsection (3) does not immediately remove the vehicle or cause the vehicle to be removed upon receipt of the oral compliance direction.

- (5) For the purposes of seizing and removing a vehicle under subsection (4), an authorised person, and any person who assists the authorised person, may take any action which is reasonable in the circumstances to remove the vehicle.

- (6) If subsection (4) applies, an authorised person must give a notice of removal of the vehicle to—
 - (a) the person in charge of a vehicle present at the time; or
 - (b) if there is no person in charge of a vehicle present at the time of the removal—the last known registered owner of the vehicle.
- (7) A notice given under subsection (6) must state—
 - (a) the date and time the vehicle was removed by Council; and
 - (b) where the removed vehicle will be stored by Council; and
 - (c) the time by which the removed vehicle must be collected; and
 - (d) contact details for the authorised person responsible for releasing the removed vehicle to the owner of the vehicle.
- (8) A notice given under subsection (6) must—
 - (a) be published on Council’s website; and
 - (b) be published for at least 14 days commencing as soon as practicable after the vehicle is removed; and
 - (c) describe the removed vehicle; and
 - (d) state what a person needs to do to have the removed vehicle released.

26 Removal of vehicles on roads

- (1) This section applies if an authorised person considers on reasonable grounds that any vehicle on a road—
 - (a) has been abandoned; or
 - (b) has been left in circumstances where its presence is hazardous; or
 - (c) is in a dilapidated or unsightly condition or state.

For paragraph (c) examples of dilapidated or an unsightly condition or state—

- *neglected body;*
- *missing car parts;*
- *incapable of operation without significant mechanical or other intervention.*

- (2) An authorised person may give the person in charge of a vehicle present at the time an oral compliance direction to cause the vehicle to be removed from the road.

- (3) An authorised person may seize and remove a vehicle, or cause it to be removed, into the possession of Council if there is no person in charge of a vehicle on a road present at the time or the person referred to in subsection (2) does not immediately remove the vehicle or cause the vehicle to be removed upon receipt of the oral compliance direction.
- (4) For the purpose of seizing and removing a vehicle, an authorised person, and any person who assists the authorised person, may take any action which is reasonable in the circumstances to remove the vehicle.
- (5) If subsection (3) applies, an authorised person must, where reasonably practicable, give a notice of removal of the vehicle to—
 - (a) the person in charge of a vehicle present at the time; or
 - (b) if there is no person in charge of a vehicle present at the time of the removal—the last known registered owner of the vehicle.
- (6) A notice given under subsection (5) must state—
 - (a) the date and time the vehicle was removed by Council; and
 - (b) where the removed vehicle will be stored by Council; and
 - (c) the time by which the removed vehicle must be collected, which must be no less than 28 days after the date of seizure; and
 - (d) contact details for the authorised person responsible for releasing the removed vehicle to the last known registered owner of the vehicle.
- (7) A notice given under subsection (5) must—
 - (a) be published on Council’s website; and
 - (b) be published for at least 14 days commencing as soon as practicable after the vehicle is removed; and
 - (c) describe the removed vehicle; and
 - (d) state what a person needs to do to have the removed vehicle released.

27 Release of removed vehicle

- (1) Subject to subsection (3), within 28 days after the seizure and removal of the removed vehicle, the person in charge of a vehicle or the last known registered owner of the removed vehicle must—
 - (a) contact the authorised person to arrange for collection of the removed vehicle; and
 - (b) pay the prescribed fee; and

- (c) arrange for the collection of the removed vehicle.
- (2) On collection of the removed vehicle, the owner, or the owner's authorised agent, must sign a receipt confirming that the owner has collected the removed vehicle.
- (3) If for whatever reason it is not possible to return the removed vehicle to the owner, then Council may dispose of the removed vehicle under section 28.

28 Disposal by Council

- (1) Council may offer a removed vehicle or any part of the removed vehicle for sale by private treaty, tender, expression of interest or auction if the removed vehicle is not released under section 27.
- (2) Council may dispose of the removed vehicle, or any part of the removed vehicle, in any way it considers appropriate if—
 - (a) there is no purchaser for the removed vehicle offered for sale; or
 - (b) the sale of the removed vehicle or any part of the removed vehicle, is prohibited under the *Competition and Consumer Act 2011* (Cth) or another Act.
- (3) Section 42A of the *City of Brisbane Act 2010* applies to the proceeds of sale or disposal of the removed vehicle under subsection (1).
- (4) If upon the disposal of a removed vehicle, the costs and expenses incurred by Council in connection with its removal, retention, storage and sale or disposal are not fully recovered, Council may recover the outstanding balance from the person in charge of a vehicle or the last known registered owner of the removed vehicle as a debt due and payable in accordance with section 56.
- (5) In this section, **Act** includes an Act passed by the State or the Commonwealth Parliament.

Part 5 Shopping trolleys at places outside shopping centre precincts

29 Leaving shopping trolleys at places outside shopping centre precincts

A person must not take a shopping trolley from a shopping centre precinct or leave a shopping trolley at a place outside the shopping centre precinct unless:

- (a) the person takes or leaves the trolley with the consent of the owner or occupier of a shop (a **shop owner or occupier**) that has provided shopping trolleys for customers; or

- (b) the person has a reasonable excuse.

Maximum penalty—20 penalty units.

30 Responsibilities of shop owners or occupiers

- (1) A shop owner or occupier that provides shopping trolleys for customers must ensure that all shopping trolleys so provided remain in the shopping centre precinct.

Maximum penalty—50 penalty units.

- (2) It is a defence to a proceeding for a contravention of subsection (1) for the shop owner or occupier to prove that they took all reasonable measures to ensure that the shopping trolleys would remain in the shopping centre precinct.

Examples of reasonable measures include—

- *providing a system requiring the payment of a deposit to use a shopping trolley;*
- *implementing a trolley containment system, identification system or tracking system.*

- (3) A shop owner or occupier that provides shopping trolleys for customers must collect shopping trolleys from areas outside the shopping centre precinct within a reasonable time.

Maximum penalty—50 penalty units.

- (4) If an authorised person gives an oral compliance direction to a shop owner or occupier to collect and return a shopping trolley to a shopping centre precinct, the shop owner or occupier must comply with that direction within a reasonable time of the oral compliance direction being given.

Maximum penalty—50 penalty units.

- (5) It is a defence to a proceeding for a contravention of subsection (3) for the shop owner or occupier to prove that they took all reasonable measures to ensure that the shopping trolleys were collected from areas outside the shopping centre precinct within a reasonable time.

31 Seizure of shopping trolleys

An authorised person may seize a shopping trolley from a public place outside a shopping centre precinct and remove it to a place for safe keeping (a **seized shopping trolley**) if the authorised person considers on reasonable grounds that the trolley has been left in the public place in contravention of—

- (a) this local law; or
- (b) an oral compliance direction.

32 Release of seized shopping trolleys

- (1) Council will release a seized shopping trolley to a person claiming a right to possession of it, if, within 14 days of notice of seizure being placed on Council's website, the person—
 - (a) proves their ownership or right to possession of the shopping trolley to Council's satisfaction; and
 - (b) waives any right of action against Council in respect of the confiscation and of any damage to the shopping trolley while it was in Council's possession; and
 - (c) pays to Council the full amount of—
 - (i) any expenses Council incurred in connection with the seizure; and
 - (ii) any expenses Council incurred in repairing any damage caused by the contravention of this local law; and
 - (iii) any fee payable to Council in respect of retaking possession of that trolley.
 - (d) takes all reasonable measures in accordance with section 30 of this law.
- (2) A person must not take, or obtain possession of a seized shopping trolley, except in accordance with the provisions of this Part.

Maximum penalty—50 penalty units.

33 Disposal of seized shopping trolleys

- (1) Subject to subsection (2), if a seized shopping trolley is not released under section 32, then Council may offer the seized shopping trolley for sale by private treaty, tender, expression of interest or auction.
- (2) Council may dispose of the seized shopping trolley in any way it considers appropriate if—
 - (a) there is no purchaser for the seized shopping trolley offered for sale; or
 - (b) the seized shopping trolley is damaged.
- (3) Section 42A of the *City of Brisbane Act 2010* applies to the proceeds of sale or disposal of the seized shopping trolley under subsection (1).
- (4) If upon the disposal of a seized shopping trolley, the costs and expenses incurred by Council in connection with its removal, retention, storage and

sale or disposal are not fully recovered, Council may recover the outstanding balance in accordance with section 56.

Part 6 Community amenity and safety

Division 1 Amenity

34 Unsolicited advertising material and community newspapers

- (1) A person must not deposit any unsolicited newspaper or advertising material at premises other than by placing the newspaper or the material in a letter box or within the property boundary of the building in a manner that does not potentially cause litter.

Maximum penalty—20 penalty units.

- (2) Any publisher must take all reasonable steps to ensure that an unsolicited newspaper is not deposited in contravention of subsection (1).

Maximum penalty—50 penalty units.

- (3) Any advertiser must take all reasonable steps to ensure that advertising material is not deposited in contravention of subsection (1).

Maximum penalty—50 penalty units.

- (4) In this section—

- (a) ***publisher*** includes—

- (i) the person who is primarily responsible for publishing the unsolicited newspaper; and
- (ii) the person who authorises the distribution of the unsolicited newspaper.

- (b) ***advertiser*** includes—

- (i) the person who authorises the distribution of the advertising material; and
- (ii) the person whose business, product or place is advertised in the advertising material.

- (c) ***reasonable steps*** includes the publisher or advertiser—

- (i) placing a condition in the relevant distribution contract entered into by the publisher or advertiser to ensure the obligations of this section are complied with; and
- (ii) using best endeavours to monitor and enforce compliance with the contractual term in subparagraph (i); and

- (iii) otherwise ensuring that persons responsible for distributing unsolicited newspapers or advertising material are aware of their responsibilities under this section.
- (5) Subject to subsection (6), Council may, by resolution, make rules and guidelines in relation to this section.
- (6) Before Council makes a resolution under subsection (5), Council must undertake public consultation for a period of 15 business days about the proposed rules or guidelines.
- (7) Without limiting subsection (5), Council may make rules or guidelines to provide guidance to persons including publishers and advertisers on complying with the requirements of subsection (1) and for the general regulation of unsolicited newspapers or advertising materials deposited in the local government area to protect community safety and amenity.
- (8) A person who deposits, or causes to be deposited, any unsolicited newspaper or advertising material and any publisher or advertiser must comply with any rules or guidelines made by Council under subsection (5).

Maximum penalty—20 penalty units.

35 Unsightly objects, materials or vegetation

- (1) An owner or occupier of land must not—
- (a) bring on to the land; or
 - (b) allow to remain on the land; or
 - (c) allow to accumulate on the land; or
 - (d) place on the land;

any objects, materials or vegetation which, in the opinion of an authorised person, are unsightly or not in accordance with the amenity of the locality in which the land is located.

Examples of objects, materials or vegetation which may be unsightly or not in accordance with the amenity of the locality—

- *large household items;*
- *car bodies;*
- *scrap machinery or machinery parts;*
- *discarded bottles, containers or packaging;*
- *dilapidated or unsightly building hoardings;*
- *scrap metal, piles of wood or other materials;*

- *overgrown vegetation.*

Maximum penalty—20 penalty units.

- (2) Council's powers under this section 35 are in addition to any other power Council may have under this local law, any other local government related law or the *Public Health Act 2005* regulating unsightly objects, materials or vegetation.

36 Graffiti

- (1) For the purposes of sections 36 and 37, the powers of authorised persons include the powers set out in Chapter 5 Part 2 of the *City of Brisbane Act 2010* and apply where required and relevant.
- (2) Subject to section 37, if any building or other structure is marked with graffiti an authorised person may give a written notice⁴ (a **graffiti removal notice**) to the owner or occupier of the land on which the building or other structure is erected requiring the owner or occupier to remove the graffiti within 14 days of the date of service of the notice.
- (3) A graffiti removal notice must—
 - (a) be in writing; and
 - (b) state—
 - (i) the specified action required to be taken by the person; and
 - (ii) the time by which the person must comply with the graffiti removal notice; and
 - (iii) the prescribed fee to be paid by the person for re-inspection where required.
- (4) If the graffiti is marked on a construction site hoarding erected beyond the boundary of the property on which the construction site is located, the graffiti removal notice may be given to the owner or occupier of the land on which the construction site is located.
- (5) If the graffiti is marked on a billboard or billboard structure, the graffiti removal notice may be given to the owner of the billboard requiring the owner of the billboard to remove the graffiti within 14 days of the date of service of the notice.
- (6) A person must comply with a graffiti removal notice.

Maximum penalty—50 penalty units.

⁴ See section 59 for general provisions about the giving of notices under this local law.

- (7) This section does not apply to—
- (a) public art commissioned by or with the consent of the owner of the land; or
 - (b) public art on a wall or other structure in a public place with the consent of the owner or controller of the public place,

unless the authorised person, acting reasonably, considers that the public art is offensive.

- (8) In this section—

offensive means language, words, symbols, images, characters or displays that arouse disgust or outrage in the mind of a reasonable person in the context of contemporary community standards.

37 Immediate removal of graffiti

- (1) This section applies if an authorised person considers on reasonable grounds that the graffiti requires immediate removal before a graffiti removal notice is issued under section 36(2).
- (2) Subject to subsection (1) and without limiting this section, an authorised person may request the owner or occupier of the land on which the building or other structure marked with graffiti stands to immediately cover or remove any part of the graffiti which is considered to be offensive.
- (3) The authorised person may remove or cover graffiti from any building or other structure without giving a graffiti removal notice.
- (4) In removing graffiti, an authorised person must take reasonable steps to leave the building or other structure in the condition it would have been in if the graffiti had not been placed on the building or other structure.
- (5) If it is not reasonable to leave the building or other structure in the condition mentioned in subsection (4), it is sufficient for the subsection that the authorised person leave the building or other structure in a state that is reasonably acceptable.
- (6) This section applies subject to the powers of an authorised person to enter the land on which the building or other structure is located under the *Summary Offences Act 2005*.
- (7) A person must not obstruct an authorised person, or any person assisting an authorised person, in the exercise of powers under this section, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

Division 2 Safety

38 Prohibition of hazardous fencing material in certain areas

- (1) This section does not apply to—
 - (a) major sports facilities recognised under the *Major Sports Facilities Act 2001*; or
 - (b) corrective services facilities under the *Corrective Services Act 2006*.
- (2) The use of barbed wire in fences adjoining a public access place is prohibited on all areas of land in the local government area other than land in—
 - (a) an industrial area; or
 - (b) a rural area.
- (3) The use of hazardous fencing material is prohibited in fences adjoining a public access place on all areas of land in the local government area other than land in an industrial area.
- (4) A person must not construct a fence or allow a fence to remain on land in contravention of a prohibition in subsection (2) or (3).

Maximum penalty—50 penalty units.

39 Safety standards for hazardous fencing material in certain areas

- (1) This section does not apply to—
 - (a) major sports facilities recognised under the *Major Sports Facilities Act 2001*; or
 - (b) corrective services facilities under the *Corrective Services Act 2006*.
- (2) In an industrial area, any barbed wire or hazardous fencing material which is likely to injure persons or animals on fences adjoining a public access place must be at least 2m above the ground level of the public access place, or separated from the public access place by a physical barrier.
- (3) In a rural area, barbed wire fences adjoining a public access place must not endanger people using the public access place.
- (4) A person must not construct a fence or allow a fence to remain on land in contravention of the safety standards in subsection (2) or (3).

Maximum penalty—40 penalty units.

40 Electric fences

- (1) A person must not construct or allow an electric fence to be constructed or remain on land unless—
- (a) the electric fence is separated from the boundary of a premises by a second fence which is not an electric fence or other fence made of hazardous fencing material and which is—
 - (i) at least 1.2m high; and
 - (ii) constructed from materials that are sufficient to prevent a person from climbing through the fence and coming into contact with the electric fence; and
 - (iii) at least 1m from the electric fence; or
 - (b) the electric fence is separated from the boundary of a premises by a barrier which, in the opinion of an authorised person, is sufficient to—
 - (i) prevent a person from inadvertently coming into contact with the electric fence; or
 - (ii) significantly deter a person from intentionally coming into contact with the electric fence.

Maximum penalty—50 penalty units.

- (2) A person who has constructed an electric fence, or allows an electric fence to remain on land must install warning signs—
- (a) for any part of an electric fence adjoining a public access place—at regular intervals no less than 5m apart along the electric fence; or
 - (b) for any part of the electric fence not adjoining a public access place—at every point where a person or persons may gain access to the electric fence or conductors for the electric fence.

Maximum penalty—20 penalty units.

- (3) A warning sign must—
- (a) be made of durable and weatherproof material; and
 - (b) be at least 100 mm x 200 mm; and
 - (c) have a yellow background colour on both sides of the warning sign; and
 - (d) include the words “WARNING – ELECTRIC FENCE” in black on both sides of the warning sign; and

- (e) have indelible lettering that is no less than 25 mm in height.

41 Maintenance of swimming pools, portable wading pools and ponds

- (1) The owner of a swimming pool must—

- (a) maintain a working filtration and chlorination system or equivalent, whether or not the swimming pool is in use to—
 - (i) ensure that the pool water is not, and does not become, stagnant; and
 - (ii) prevent a breeding ground for mosquitoes; and
 - (iii) remove organic matter from the pool water; or
- (b) drain and empty the swimming pool and ensure that liquid does not accumulate in the swimming pool.

Maximum penalty—20 penalty units.

- (2) The owner of a portable wading pool, or pond must—

- (a) ensure that the water within the portable wading pool, or pond does not—
 - (i) become stagnant; or
 - (ii) become a breeding ground for mosquitos; or
 - (iii) accumulate organic matter; or
- (b) ensure that—
 - (i) the portable wading pool or pond is drained and emptied; and
 - (ii) liquid does not accumulate in the portable wading pool or pond.

Maximum penalty—20 penalty units.

- (3) For subsections (1)(b) and (2)(b)(ii), it is irrelevant whether the accumulation is artificial, natural or temporary.
- (4) For the purposes of this section, the **owner** of a swimming pool, portable wading pool or pond includes—
 - (a) the occupier of the land on which the swimming pool, portable wading pool or pond is located; and
 - (b) the owners of any interests in common ownership or group title of a private swimming pool, portable wading pool or pond.

Part 7 Building appearances

42 Application

- (1) Council may designate, by subordinate local law, areas of the local government area to which this Part applies.
- (2) Council may use diagrams to outline the areas of the local government area for the purpose of subsection (1).

43 Duty to maintain building appearances

- (1) An owner of a building in a designated area must ensure the building is maintained so that the appearance of the building does not detract from the appearances of other buildings in the designated area.
- (2) A building is likely to detract from the appearances of other buildings in the designated area if it is—
 - (a) in a dirty condition;
 - (b) in a state of disrepair;
 - (c) in need of repainting; or
 - (d) otherwise in a dilapidated condition.

Chapter 2 General

Part 1 Enforcement

44 Oral compliance directions

- (1) If a person engages in conduct that an authorised person considers is, or is preparatory to, a contravention of this local law, without reasonable excuse, an authorised person may give that person an oral compliance direction to do either or both of the following—
 - (a) immediately stop the conduct;
 - (b) take specified action to remedy the contravention.

Examples—

- *if a person lights a fire in contravention of this local law, an authorised person may require the person to put the fire out.*
 - *an authorised person may direct a person to return a shopping trolley to a shopping centre precinct.*
- (2) An oral compliance direction may be given under this section in addition to any other enforcement action prescribed by this local law.

- (3) A person must comply with an oral compliance direction given under this section unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

45 Compliance notice

- (1) An authorised person may give a compliance notice (a **compliance notice**) to a person if an authorised person is satisfied on reasonable grounds that—
- (a) the person—
 - (i) is contravening this local law; or
 - (ii) has contravened this local law in circumstances that make it likely that the contravention will continue or be repeated; and
 - (b) the person is able to remedy a matter relating to the contravention; and
 - (c) it is appropriate to give the person an opportunity to remedy the matter.
- (2) A compliance notice must—
- (a) be in writing; and
 - (b) state—
 - (i) the particular provision of this local law that an authorised person considers on reasonable grounds is being, or has been, contravened; and
 - (ii) how it is considered on reasonable grounds that the provision of this local law is being, or has been, contravened; and
 - (iii) if the contravention is of a continuing or recurrent nature—that the person must stop the contravention; and
 - (iv) the specified action required to be taken by the person; and
 - (v) the time by which the person must comply with the compliance notice; and
 - (vi) the prescribed fee to be paid by the person for re-inspection if applicable.
- (3) The time stated under subsection (2)(b)(v) must be reasonable having regard to—
- (a) the action required to remedy the contravention; and
 - (b) any risk posed by the contravention—

- (i) to public health and safety; or
 - (ii) of damage to property; or
 - (iii) of loss of amenity; or
 - (iv) of environmental harm.
- (4) A compliance notice may be given under this section in addition to any other enforcement action prescribed by this local law.
- (5) Council may charge a re-inspection fee to ensure that a compliance notice has been complied with.
- (6) A person who is given a compliance notice must comply with the compliance notice.

Maximum penalty—200 penalty units.

46 Show cause notice for building appearance

- (1) If an authorised person reasonably suspects that an owner of a building has failed to comply with the duty to maintain a building in section 43, then an authorised person may serve on the owner of a building a notice to show cause (a **show cause notice**) why a compliance notice should not be given.
- (2) A show cause notice must—
- (a) be in writing; and
 - (b) outline the facts and circumstances forming the basis for the authorised person's reasonable suspicion; and
 - (c) state that a submission may be made addressing the show cause notice; and
 - (d) state how the submission may be made; and
 - (e) state a period no shorter than 10 business days, within which the submission must be made.

47 Consideration of submissions for building appearance

- (1) Council must consider any submission made in response to a show cause notice issued under section 46 by an owner of a building.
- (2) After considering the submissions, Council may decide to—
- (a) issue a compliance notice under section 45; or
 - (b) enter into an enforceable undertaking with the owner of the building under section 50; or

- (c) take no further action.
- (3) Council must give the owner of the building a notice—
 - (a) advising of its decision under subsection (2); and
 - (b) attaching the compliance notice or enforceable undertaking, if applicable; and
 - (c) advising that the owner of the building has a right to a review of that decision under section 48.

48 Application for review

- (1) A person who is given a notice about a decision under section 47(2)(a) or (b) (the **original decision**) may apply to Council for a review of that original decision under this section.
- (2) The application (a **review application**) must be made within 10 business days of the day the person is given notice of the original decision, or such longer period as may be allowed by Council.
- (3) The review application must be in writing and be—
 - (a) accompanied by a statement of the grounds on which the person seeks the review of the original decision; and
 - (b) supported by enough information to enable Council to decide the review application.

49 Review process

- (1) The review application must be dealt with by—
 - (a) a person other than the person who made the original decision; and
 - (b) a person holding no less senior office than the person who made the original decision.
- (2) Council must, within 15 business days after receiving the review application, make a decision (the **review decision**) to—
 - (a) confirm the original decision; or
 - (b) revoke the original decision; or
 - (c) vary the original decision in a way Council considers appropriate.
- (3) Within 10 business days after making the review decision, Council must give written notice of the review decision to the applicant.
- (4) The notice must include the reasons for the review decision.

- (5) A review application stays the operation of the original decision until the date the notice of the review decision is given to the applicant.

50 Enforceable undertaking for building appearances

- (1) Council may enter into a written agreement (an **enforceable undertaking**) with an owner of a building which must include the following—
- (a) that it is entered into under this section; and
 - (b) that the owner has failed in their duty under section 43; and
 - (c) that the owner will perform specified work to remedy the breach of section 43; and
 - (d) that Council, its employees and agents may enter the property to perform the work if it is not performed as agreed by the owner; and
 - (e) that, if Council performs the work required under the enforceable undertaking, then Council may recover the cost of the work; and
 - (f) that the enforceable undertaking may be varied or withdrawn only with the consent of Council; and
 - (g) that Council may cancel the enforceable undertaking at any time; and
 - (h) that if the owner breaches the enforceable undertaking, Council may take action in a court to enforce the undertaking.
- (2) The enforceable undertaking may include—
- (a) the estimated value of the work to be performed; and
 - (b) that a bond be lodged with Council in a nominated sum for the performance of the work which bond may be forfeited to Council if the work is not carried out within the time agreed or to the standard required and the bond applied to meet any costs or expenses Council may incur in repairing any damage; and
 - (c) any other terms necessary or convenient to ensure compliance by the owner with the duty to maintain the building appearance.
- (3) Council may apply to a court for enforcement of an enforceable undertaking given under this section.

Part 2 Miscellaneous

51 Power to require information

- (1) For monitoring or enforcing compliance with this local law an authorised person may, subject to subsection (2), require an occupier of a place, or a

person at the place to give the authorised person information to help the authorised person ascertain whether the local law is being complied with.

- (2) When making a requirement mentioned in subsection (1) the authorised person must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

52 Failure to give information

- (1) A person of whom a requirement is made under section 51 must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) It is not a reasonable excuse for a person to fail to give the information because giving the information might tend to incriminate the person.
- (3) However, if the person is a natural person, evidence of, or evidence directly or indirectly derived from, the information that might tend to incriminate the person is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence about the falsity of the information.

53 False or misleading information

A person must not provide information to an authorised person performing functions under this local law that the person knows, or ought reasonably know, is false or misleading.

Maximum penalty—20 penalty units.

54 Inspection and investigation

- (1) Subject to subsection (3), this section applies if an authorised person wants to enter land—
 - (a) to inspect the land in order to determine if the owner or occupier of the land is complying with or has complied with the requirements of this local law; or
 - (b) to find out whether the conditions on which a compliance notice, oral compliance direction or graffiti removal notice was issued have been complied with; or
 - (c) to inspect work that is the subject of, or was carried out under a compliance notice, oral compliance direction, graffiti removal notice or enforceable undertaking.
- (2) Subject to subsection (3), an authorised person may enter the land without the permission of the occupier of the land—
 - (a) at any reasonable time during the day; or

- (b) at night, if—
 - (i) the occupier of the land asks the authorised person to enter the land at that time; or
 - (ii) if the land is a public place and is not closed to the public.
- (3) An authorised person, appointed as a graffiti removal officer, entering land to do any of the acts described in this section, derives their power from section 29 of the *Summary Offences Act 2005*.

55 Council's power to have work carried out

If a person fails to comply with a compliance notice or a graffiti removal notice, an authorised person may take all necessary action to ensure compliance with the notice.⁵

56 Recovery of costs and expenses

- (1) A person who does not comply with a compliance notice is liable to Council for—
 - (a) any loss, damage or expense incurred by Council through the failure of the person to comply with this local law; and
 - (b) any expense associated with inspections conducted to gain or confirm compliance with this local law or a compliance notice given under it; and
 - (c) all other amounts, for which the omission to pay was an element in or was in any way related to such failure to comply with this local law.
- (2) Council must give the person to whom the notice is given an account for the amount for which the person is liable under subsection (1).
- (3) If the amount is not paid on or before a date for payment fixed in the account, Council may recover the amount, as a debt.⁶
- (4) The right to recover costs under this section is in addition to and not in derogation of any right to costs or compensation available under any other law.⁷
- (5) A certificate signed by an authorised person and stating any of the following matters is evidence of—
 - (a) the carrying out of the work or actions by Council under this Part;

⁵ See section 132 of the *City of Brisbane Act 2010*.

⁶ See section 132 of the *City of Brisbane Act 2010*.

⁷ For example, the *Penalties and Sentences Act 1992* s.35 allows the restoration or recovery of compensation on the prosecution of an offender causing damage to property.

- (b) any loss, damage or expenses incurred by Council;
- (c) the cost of the work;
- (d) the delivery of the account required by subsection (2);
- (e) the amount of any costs, expenses and fees unpaid at the date of the certificate.

57 Identity of owner

- (1) Where under this local law an obligation is imposed on an owner, the obligation is imposed jointly and severally on each person who is the owner of the land concerned.
- (2) Where under this local law a notice may be given to the owner, the notice may be given to all or any one or more of the persons defined as the owner under this local law and the obligation to comply is imposed, jointly and severally on each person who receives the notice.
- (3) Proceedings for an offence may be taken against any one or more of the persons who fail to comply with a requirement of this local law.
- (4) Persons who meet the definition of owner may be separately convicted of the one offence.
- (5) Council may, by a single action or successive actions, recover amounts payable under this local law from any one or more of the persons who fail to comply with a requirement of this local law, provided that the sum so recoverable does not exceed the sum incurred.

58 Evidence of ownership

In any proceedings under this local law proof that the name of a person or a business name—

- (a) was shown upon the outside of; or
- (b) was otherwise shown in or upon;

an unregistered vehicle in a way that purported to be the name of the owner of that vehicle, is evidence, unless the contrary is proved, that the owner of the vehicle at the time when the name was shown, was—

- (a) the person whose name was shown; or
- (b) the registered owner of the business whose name was shown.

59 Giving of notice

- (1) Whenever this local law requires written notice to be given the notice may be given personally, by post, or electronically.

- (2) If the notice is given by post, sections 39 and 39A of the *Acts Interpretation Act 1954* will apply to the giving of the notice.
- (3) If the notice is given electronically, the provisions of the *Electronic Transactions (Queensland) Act 2001* will apply to the time and place of dispatch and receipt.

60 Evidence of matters alleged

In any prosecution for a breach of the provisions of this local law every allegation or averment contained in the complaint will be prima facie evidence of the matter so alleged or averred.

61 No right to compensation

Except as provided by the *City of Brisbane Act 2010*, the exercise by Council in good faith of any authority conferred upon it by this local law does not give rise to a claim for compensation by any person.

62 Obstructing an authorised person

A person must not obstruct an authorised person, or any person assisting an authorised person, in the exercise of powers under this local law, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

63 Protection from liability

Council or an authorised person is not civilly liable for an act done under this local law, or an omission made under this local law, in good faith and without negligence.

64 Amendment of Health, Safety and Amenity Subordinate Local Law 2012

This section amends the *Health, Safety and Amenity Subordinate Local Law 2012*.

- (1) Replacement of s 2 (Purpose)

Section 2—

omit, insert—

2 Purpose

The purpose of this subordinate local law is to designate an area of the local government area under Chapter 1, Part 7 of the *Health, Safety and Amenity Local Law 2021* about building appearances.

- (2) Replacement of s 3 (Designation of area for building appearance provisions)

Section 3—

omit, insert—

3 Designation of area for building appearance provisions

In accordance with section 42 of the *Health Safety and Amenity Local Law 2021*, the area outlined in red in the diagram in the Schedule designates the area of the local government area to which Chapter 1, Part 7 of the *Health Safety and Amenity Local Law 2021* applies.

(3) **Amendment of Schedule (Area for building appearances)**

Schedule, words immediately below the diagram, ‘The part of the above diagram outlined in red designates the area of the City to which Part 6A of the local law about building appearances applies’—

omit

65 Amendment of Public Land and Council Assets Local Law 2014

This section amends the *Public Land and Council Assets Local Law 2014*.

(1) **Omission of s 37 (Unregistered vehicles on council roads)**

Section 37—
omit, insert—

37 Intentionally deleted

(2) **Omission of s 38 (Removal of other vehicles on council road)**

Section 38—
omit, insert—

38 Intentionally deleted

(3) **Amendment of s 41 (Confiscation of articles)**

Section 41(1), ‘, 37, 38’—
omit.

(4) **Amendment of s 65 (Evidence)**

(a) Section 65(b)
omit, insert—

(b) an account given under section 62(3) is evidence of the amount owing, unless the contrary is proved.

(b) Section 65(c)
omit.

(5) Omission of s 85 (Parking unregistered vehicles on roads)

Section 85—
omit, insert—

85 Intentionally deleted

(6) Amendment of Schedule 3 (Dictionary)

Schedule 3, definitions *abandoned, unregistered vehicle—*
omit.

66 Repeal

The *Health, Safety and Amenity Local Law 2009* is repealed.

67 Transitional provisions

- (1) A notice issued or decision made under the repealed *Health, Safety and Amenity Local Law 2009* that was in force immediately before the commencement of this local law continues in force as if it were made under this local law.
- (2) A notice issued or decision made under any of the amended provisions of the *Public Land and Council Assets Local Law 2014* that was in force immediately before the commencement of this local law continues in force as if it were made under this local law.

Schedule 1 Dictionary

In this local law—

abandoned, for a vehicle, means a vehicle that is—

- (a) registered under the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010* (or a corresponding Act of another jurisdiction) and is left—
 - (i) for more than 24 hours at a place where it is prohibited by this local law or any other Act or local law to be stopped or parked; or
 - (ii) for more than 24 hours in a parking bay where the time for a vehicle may remain parked is limited; or
 - (iii) for more than 7 days in a parking bay where the time a vehicle may remain parked is not limited; or
- (b) not registered under the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010* (or a corresponding Act of another jurisdiction) and is left on a road or a road related area.

authorised person means an appropriately qualified person appointed under the *City of Brisbane Act 2010*.

breeding ground has the meaning given to it in the *Public Health Regulation 2018*.

building has the meaning given to it in the *Building Act 1975*.

City Plan means the *Brisbane City Plan 2014* and any replacement of that planning scheme, as amended from time to time, and includes any associated planning scheme policies for the city of Brisbane.

commercial premises means any premises which is not a domestic premises and includes all of the following—

- (a) a hotel, motel, caravan park, food store or canteen;
- (b) an assembly building, institutional building, kindergarten, child minding centre, school or other building used for education;
- (c) premises where a sport or game is ordinarily played in public;
- (d) an exhibition ground, show ground or racecourse;
- (e) an office, shop or other premises where business, or work, or a manufacturing process, is carried out;

- (f) a church, or other building, used as a place of worship, or for religious purposes.

commercial waste means waste, other than green waste, recyclable waste, interceptor waste or waste discharged to a sewer, produced as a result of the ordinary use or occupation of commercial premises.

Council means the Brisbane City Council established under the *City of Brisbane Act 2010*.

Council waste facility means a facility owned, leased, occupied, operated or otherwise controlled by Council for the recycling, reprocessing, treatment, storage, incineration, conversion to energy or disposal of waste.

court means the Magistrates Court.

deposit includes drop, deliver, leave, place or throw.

designated area means the area designated under subordinate local law for the purpose of Chapter 1, Part 7.

development approval means a development approval issued by Council under the *Planning Act 2016*, as amended from time to time.

domestic clean-up waste means non-putrescible, dry and inoffensive waste, other than green waste or recyclable waste, produced as a result of a clean-up of domestic premises.

domestic premises means any of the following types of premises (each as defined in the *Planning Regulation 2017*, as amended from time to time)—

- (a) dwelling house;
- (b) dual occupancy, multiple dwelling or other dwelling unit;
- (c) rooming accommodation, short-term accommodation or caretaker's accommodation.

domestic waste means waste, other than domestic clean-up waste, green waste, recyclable waste, interceptor waste or waste discharged to a sewer, produced as a result of the ordinary use or occupation of domestic premises.

electric fence means a fence that has been electrified.

enforceable undertaking has the meaning given to it in section 50.

environmental authority has the meaning given to it in the *Environmental Protection Act 1994*.

fire ban area has the meaning given to it in the *Fire and Emergency Services Act 1990*.

fire hazard means the danger in terms of potential harm and degree of exposure arising from the start and spread of fire, including any danger to persons or property.

fire pit or brazier means a moveable, purpose-built fire pit or brazier in which the fire is not in direct contact with the ground.

Examples of non-conforming fire pits and braziers—

- *re-used chemical drums or similar containers;*
- *repurposed wheelbarrows and the like.*

general waste means any of the following—

- (a) commercial waste;
- (b) domestic waste;
- (c) green waste;
- (d) recyclable waste.

graffiti means any drawing, painting, writing, symbol or mark applied to or marked on property by spraying, writing, drawing, marking or otherwise applying paint or another marking substance or scratching or etching but does not include chalk drawings on footpaths.

green waste means—

- (a) grass cuttings, trees, bushes, shrubs, lopping of trees, bushes or shrubs; or
- (b) similar matter as described by paragraph (a) produced as a result of the ordinary use or occupation of premises; or
- (c) any other waste determined by Council to be green waste.

hazardous, for the purposes of section 26, has the meaning given to it in section 100(2) of the *Transport Operations (Road Use Management) Act 1995*.

hazardous fencing material means razor wire, tiger wire or other materials which are likely to injure persons or animals.

improved premises has the meaning given to it in Council's annual Resolution of Rates and Charges.

industrial area means land that is identified in the zone maps in Schedule 2 of City Plan as any of the following zones—

- (a) Low impact industry zone; or
- (b) Industry zone; or

- (c) Special industry zone; or
- (d) Industry investigation zone; or
- (e) Extractive industry zone.

infest includes to attract or harbour.

interceptor means a device used to intercept a substance in sewage, waste water or trade waste and prevent its discharge into a sewer, septic tank, waste water disposal system or other treatment device.

Examples of interceptors—

- *neutralising interceptors for neutralising acidic and alkaline substances;*
- *grease interceptors for collecting and solidifying fat, grease and similar matter;*
- *oil interceptors for collecting oil and petroleum products;*
- *silt interceptors for collecting soil, sand, gravel and other sedimentary solids.*

interceptor waste means matter, other than recyclable interceptor waste, intercepted by, and held in, an interceptor.

land has the meaning given to it in the *City of Brisbane Act 2010*.

local government area has the meaning given to it in the *Local Government Act 2009*.

local government related law has the meaning given to it in the *City of Brisbane Act 2010*.

maintain a fire includes feed, control and supervise a fire.

mosquito has the meaning given to it in the *Public Health Regulation 2018*.

occupier, of land, has the same meaning as “occupier”, of property, in the *City of Brisbane Act 2010*.

organic matter means matter that comes from plants, animals and microorganisms including leaves, woody material, weeds, decaying components of animals, and algae.

original decision has the meaning given to it in section 48(1).

owner, of land, has the meaning given to it in the *City of Brisbane Act 2010*.

owner of a vehicle has the same meaning as “owner for a vehicle” under Schedule 4 of the *Transport Operations (Road Use Management) Act 1995* as amended from time to time.

parking bay has the meaning given to it in the *Transport Operations (Road Use Management) Act 1995*.

person in charge of a vehicle includes a person who:

- (a) is driving the vehicle; or
- (b) owns or has a lease or other proprietary interest in the vehicle; or
- (c) has care, control or custody of the vehicle; or
- (d) appears to be, or claims to be, or acts as if they are in charge of the vehicle including by having possession of the vehicle's keys or the means of entering and operating the vehicle; or
- (e) is employing or has engaged someone else who has care, control or custody of the vehicle and the care, control or custody of the vehicle is within the scope of the employment or engagement.

personal mobility device has the meaning given to it in the *Transport Operations (Road Use Management – Road Rules) Regulation 2009*.

pond means a pond, or other body of water, solely or principally used, or designed, manufactured or adapted to be used solely or principally, for ornamental purposes, but excludes a dam and a watercourse.

portable wading pool has the meaning given to it in the *Building Act 1975*.

premises has the meaning given to the term “improved premises” in Council’s annual Resolution of Rates and Charges.

public place means any place the public is entitled to use or is open to, or used by, the public (whether or not on payment of an admission fee).

public access place means a road, road related area, park or other place under the control of Council to which members of the public have access.

recyclable interceptor waste means matter that is, or is intended to be, removed from a grease interceptor and taken elsewhere for processing into a non-toxic, non-hazardous and usable substance for sale.

recyclable waste means clean and inoffensive waste accepted under Council’s recycling service.

registered owner, of a vehicle, has the same meaning as “registered operator”, of a vehicle, in the *Transport Operations (Road Use Management) Act 1995*.

removed vehicle means a vehicle removed by an authorised person under section 25(4) or 26(3) and includes the contents of the vehicle.

review application has the meaning given to it in section 48(2).

review decision has the meaning given to it in section 49(2).

road has the meaning given to it in the *City of Brisbane Act 2010*.

road related area is any of the following—

- (a) an area that divides a road;
- (b) a nature strip adjacent to a road;
- (c) an area that is not a road and that is open to the public and designated for use by cyclists and animals.

rural area means land identified in the Rural residential zone or the Rural zone in the zone maps in Schedule 2 of the City Plan.

seized shopping trolley has the meaning given to it in section 31.

shop owner or occupier has the meaning given to it in section 29.

shopping centre means any building or other structure or group of buildings or other structures containing 2 or more shops.

shopping centre precinct means the area immediately adjacent to the shopping centre which is provided and maintained for the use of customers.

show cause notice has the meaning given to it in section 46(1).

smoke impact means smoke that causes an unreasonable interference with a person's health, amenity, comfort, or convenience.

stagnant means—

- (a) not running or flowing; and
- (b) foul from standing, as a pool of water.

structure has the meaning given to it in the *Building Act 1975*.

swimming pool has the meaning given to it in the *Building Act 1975* and includes a swimming pool that is under construction.

thoroughfare includes any passageway which is open to the public regardless of whether or not it is designated for public use.

tourist accommodation has the meaning given to it in the *Planning Regulation 2017*.

unregistered vehicle means any vehicle required to be registered under any applicable State or Commonwealth law, which is not so registered and is not otherwise permitted to be used on a road under an Act or a Commonwealth law.

vegetation includes trees, plants and all other organisms of vegetable origin, whether living or dead and whether regrowth or otherwise, including their root systems.

vehicle includes caravans, trailers and any type of transport that moves on wheels, other than a personal mobility device, a bicycle, a wheeled recreational device or a wheeled toy.

vehicle maintenance means any one or more of the following—

- (a) painting;
- (b) dismantling;
- (c) repairing; or
- (d) maintaining,

a vehicle or any item placed on or in a vehicle.

waste has the meaning given to it in the *Environmental Protection Act 1994*.

waste collection area has the meaning given to it in section 21.

waste container—

- (a) means a container of a type approved by Council for storing domestic waste, commercial waste, or recyclable waste at premises in Council's local government area; and
- (b) for the avoidance of doubt, includes 1 or more containers each of which is approved by Council for storing, at premises in Council's local government area—
 - (i) 1 or more multiple types of commercial waste; or
 - (ii) 1 or more multiple types of recyclable waste.

Example for paragraph (b)—

- *Council may approve 1 container for storing recyclable waste which is green waste and 1 container for storing recyclable waste other than green waste.*

waste contractor means a person who supplies or undertakes waste collection services.

wheeled recreational device has the meaning given to it in the *Transport Operations (Road Use Management) Act 1995*.

wheeled toy has the meaning given to it in the *Transport Operations (Road Use Management) Act 1995*.