# 

# Brisbane City Council

## Health, Safety and Amenity Local Law 2009

This consolidated local law was adopted by Council on 5 June 2018   
**Commencement date – 15 June 2018**

**Brisbane City Council**

**Health, Safety and Amenity Local Law 2009**

Contents

Page

[Chapter 1 Introduction 4](#_Toc514942547)

[Part 1 Preliminary 4](#_Toc514942548)

[1 Short title 4](#_Toc514942549)

[2 Object 4](#_Toc514942550)

[3 Definitions 4](#_Toc514942551)

[Part 2 Fires 4](#_Toc514942552)

[4 Prohibition on lighting fires in the open 4](#_Toc514942553)

[5 Prohibition on maintaining fires in the open 4](#_Toc514942554)

[6 Exceptions 4](#_Toc514942555)

[Part 3 Waste management 5](#_Toc514942556)

[Division 1 General waste management 5](#_Toc514942557)

[7 Prohibition on deposit of waste likely to attract flies 5](#_Toc514942558)

[8 Meaning of occupier 5](#_Toc514942559)

[8A Occupier of improved premises in a waste collection area to supply waste containers 6](#_Toc514942560)

[8B Requirements for keeping waste containers at premises in a waste collection area 6](#_Toc514942561)

[8C Requirements for the management of waste and waste containers at premises 7](#_Toc514942562)

[8D Directions about management of waste containers at particular premises 8](#_Toc514942563)

[9 Standards for servicing waste containers 9](#_Toc514942564)

[9A Waste collection notices 9](#_Toc514942565)

[Division 2 Council waste facilities 9](#_Toc514942566)

[10 Requirements for disposal of waste at a Council waste facility 9](#_Toc514942567)

[10A Restrictions on use of a Council waste facility 10](#_Toc514942568)

[10B Requirement to comply with directions and give information to the operator of a Council waste facility 10](#_Toc514942569)

[10C Restrictions on burning waste at Council waste facility 10](#_Toc514942570)

[10D Designation of areas for general waste collection 10](#_Toc514942571)

[10E Existing directions 11](#_Toc514942572)

[Part 4 Access to and amenity on roads 11](#_Toc514942573)

[11 Vehicle maintenance on roads 11](#_Toc514942574)

[12 Camping on roads 11](#_Toc514942575)

[Part 5 Shopping trolleys at places outside shopping centre precincts 11](#_Toc514942576)

[13 Leaving shopping trolleys at places outside shopping centre precincts 11](#_Toc514942577)

[14 Shop owners’ responsibilities 12](#_Toc514942578)

[15 Seizure of shopping trolleys 12](#_Toc514942579)

[16 Release of seized shopping trolleys 12](#_Toc514942580)

[17 Disposal of seized shopping trolleys 13](#_Toc514942581)

[Part 6 Community amenity and safety 13](#_Toc514942582)

[Division 1 Amenity 13](#_Toc514942583)

[18 Unsolicited advertising material and community newspapers 13](#_Toc514942584)

[19 Unsightly objects, materials or vegetation 14](#_Toc514942585)

[20 Graffiti 15](#_Toc514942586)

[Division 2 Safety 15](#_Toc514942587)

[21 Prohibition of hazardous fencing materials in certain areas 15](#_Toc514942588)

[22 Safety standards for hazardous fencing materials in certain areas 16](#_Toc514942589)

[23 Electric Fences 16](#_Toc514942590)

[24 Maintenance of swimming pools and ornamental lakes 16](#_Toc514942591)

[Part 6A Building appearances 17](#_Toc514942592)

[Division 1 Application 17](#_Toc514942593)

[24A Application 17](#_Toc514942594)

[Division 2 Duty to maintain buildings 17](#_Toc514942595)

[24B Duty to maintain building appearances 17](#_Toc514942596)

[Division 3 Enforcement 17](#_Toc514942597)

[24C Show cause notice 17](#_Toc514942598)

[24D Consideration of submissions 18](#_Toc514942599)

[24E Application for review 18](#_Toc514942600)

[24F Review 18](#_Toc514942601)

[24G Enforceable undertaking 19](#_Toc514942602)

[Part 7 Enforcement 20](#_Toc514942603)

[25 Compliance directions 20](#_Toc514942604)

[26 Compliance notices 20](#_Toc514942605)

[27 Power to require information 21](#_Toc514942606)

[28 Failure to give information 21](#_Toc514942607)

[29 Council’s power to have work carried out 21](#_Toc514942608)

[30 Recovery of cost of work 21](#_Toc514942609)

[31 Identity of owner 22](#_Toc514942610)

[32 Giving of notice 22](#_Toc514942611)

[33 Evidence of matters alleged 23](#_Toc514942612)

[34 No right to compensation 23](#_Toc514942613)

[Schedule 1 Dictionary 24](#_Toc514942614)

[Endnotes 28](#_Toc514942615)

### Chapter 1 Introduction

#### Part 1 Preliminary

###### Short title

This local law may be cited as *Health, Safety and Amenity Local Law 2009*.

###### 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.

###### Definitions

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

#### Part 2 Fires

###### Prohibition on lighting fires in the open

1. A person must not light a fire in the open air or in an incinerator in any area of the City other than a rural area.

Maximum penalty—20 penalty units.

1. If, in proceedings for a contravention of subsection (1), a fire is alleged to have been lit on private land, the owner of that land is deemed to be the person who lit the fire.
2. The presumption in section 4(2) may be rebutted by sufficient evidence to the contrary.

###### Prohibition on maintaining fires in the open

A person must not maintain a fire in the open air or in an incinerator in any area of the City other than a rural area.

Maximum penalty—20 penalty units.

###### Exceptions

1. This Part will not apply to fires in any of the following circumstances—
   1. where the fire is used to cook food for human consumption in a barbeque or similar structure (but not a fire on the ground);
   2. where there is a permit for the fire under section 65 of the *Fire and Emergency Services Act 1990*;
   3. where the fire is required to be lit by a notice under section 69 of the *Fire and Emergency Services Act 1990*;
   4. where the person holds a specific authority or consent under this or another law, or is specifically required by another law, to light the fire;
   5. where the fire is used as part of theatrical performances or similar entertainment events.
2. This Part will apply to passive fires whether used for ceremonial or other purposes but does not include the Eternal Flame at the Shrine of Remembrance Anzac Square, or any fire forming part of a Boy Scout or Girl Guide function.

#### Part 3 Waste management

##### Division 1 General waste management

###### Prohibition on deposit of waste likely to attract flies

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

Maximum penalty—20 penalty units.

###### Meaning of occupier

1. In this Part, ***occupier*** of premises includes any one or more of the following—
   1. a person who reasonably appears to be the occupier of, or in charge of, the premises;
   2. the owner or manager of a business carried out at the premises;
   3. 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 of the persons 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 of the persons 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.

###### 8A 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—10 penalty units.

1. 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.
2. 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 the Council.
3. However, subsection (3) does not prevent Council from supplying a waste container to premises without cost to the owner or occupier of the premises.

###### 8B Requirements for keeping waste containers at premises in a waste collection area

1. Subject to subsection (2), the occupier of improved premises in a waste collection area must ensure that all waste containers supplied by Council or a waste contractor for the premises are kept within the property boundary.

Maximum penalty—10 penalty units.

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

Maximum penalty for subsection (4)—10 penalty units.

###### 8C Requirements for the management of waste and waste containers at premises

1. The occupier of domestic premises in a waste collection area must ensure that—
   1. 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
   2. each waste container kept at the premises or in such other place as an authorised person has directed is kept clean and in good repair; and
   3. 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 container.

Maximum penalty—10 penalty units.

1. Subsections (1)(a) and (3)(a) do not prevent green waste being used in open air composting.
2. The occupier of commercial premises in a waste collection area must ensure that—
   1. 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
   2. each waste container kept at the premises or in such other place as an authorised person has directed is kept clean and in good repair; and
   3. 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 container; and
   4. vermin do not infest waste containers or the area where a waste container is stored; and
   5. waste does not cause an odour nuisance, which—
      1. in the opinion of an authorised person, unreasonably disrupts or inhibits the utilisation or enjoyment of a Council controlled road by the public; or
      2. in the opinion of an authorised person, unreasonably disrupts or inhibits a lawful activity carried out on the premises or adjoining premises.

Maximum penalty—40 penalty units.

1. A person must not place any matter or thing that is alive in a waste container.

Maximum penalty—40 penalty units.

1. A person must not—
   1. place any of the following in a waste container—
      1. 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;
      2. material that is smouldering or aflame; or
   2. remove or disturb the cover of a waste container, except when placing waste in the container; or
   3. use or damage a waste container so that it is not weatherproof or serviceable or cannot be securely covered; or
   4. disturb or otherwise interfere with the contents of a waste container.

Maximum penalty—10 penalty units.

1. The occupier of the premises must not allow a person to place a thing in a waste container at the premises in contravention of subsection (4).

Maximum penalty—40 penalty units.

1. The occupier of the premises must not allow a person to place a thing in a waste container at the premises in contravention of subsection (5)(a).

Maximum penalty—10 penalty units.

1. It is a defence in a proceeding against a person for an offence under subsections (6) and (7) for the person to prove the contravention was due to causes over which the person had no control.

###### 8D 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—
2. either—
   * 1. an elevated stand for holding all waste containers at the premises; or
     2. an imperviously paved area, drained as required by Council, upon which can be stood all waste containers at the premises;
3. a suitable hose cock and hose in the vicinity of the stand or paved area;
4. a suitable enclosure for the area where the waste containers are kept.
5. a waste container of a size adequate to contain the waste generated by the use of the premises.
6. The occupier must comply with a direction given under subsection (1).

Maximum penalty—40 penalty units.

###### 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.

###### 9A 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—
2. the days on which waste is to be collected; and
3. where waste containers are to be placed for collection of the waste (the ***designated location***); and
4. 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.*

1. A waste collection notice may be given by publication on Council’s website.

##### Division 2 Council waste facilities

###### Requirements for disposal of waste at a Council waste facility

1. A person must not deposit the following waste at a Council waste facility—
2. liquid or semiliquid waste;
3. hot ash;
4. material that is smouldering or aflame;
5. material that can spontaneously combust;
6. 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;
7. an explosive;
8. 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.

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

###### 10A Restrictions on use of a Council waste facility

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

Maximum penalty—10 penalty units.

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

###### 10B Requirement to comply with directions and give information to the operator of a Council waste facility

1. This section applies to a person who—
2. transports waste to a Council waste facility; or
3. deposits waste at a Council waste facility.
4. The person must—
5. comply with all relevant and reasonable directions contained in any sign displayed at the facility; and
6. deal with the waste in accordance with reasonable instructions given by an employee of the facility operator or a Council officer; and
7. 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.

###### 10C 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—

(1) under an environmental authority; or

(2) under a development approval; or

(3) under the *Fire and Emergency Services Act 1990*.

Maximum penalty—20 penalty units.

###### 10D Designation of areas for general waste collection

Council may—

(1) designate areas within its local government area in which Council may conduct general waste collection (***waste collection area***); and

(2) decide the frequency of general waste collection in the waste collection area.

###### 10E Existing directions

(1) An existing direction in force immediately before the commencement of the *Health, Safety and Amenity Amending Local Law 2018* or issued under the Part 3, Waste management of this local law continues in force as a direction under this local law.

(2) If Council made a requirement under the *Environmental Protection Regulation 2008*, Chapter 5A (Waste management by local governments) prior to the commencement of the *Health, Safety and Amenity Amending Local Law 2018*, the requirement applies for the provision of the *Health, Safety and Amenity Amending Local Law 2018* which replaces the prescribed provision from the commencement of the *Health, Safety and Amenity Amending Local Law 2018*.

(3) In this section, ***prescribed provision*** means a provision of the *Environmental Protection Regulation 2008*, Chapter 5A (Waste management by local governments).

#### Part 4 Access to and amenity on roads[[1]](#footnote-2)

###### Vehicle maintenance on roads

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

Maximum penalty—20 penalty units.

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

*Examples of minor emergency vehicle repairs: changing a flat tyre or charging a flat battery in order to restart a vehicle.*

###### Camping on roads

A person must not camp overnight in a vehicle on a road or road related area.

Maximum penalty—50 penalty units.

#### Part 5 Shopping trolleys at places outside shopping centre precincts

###### 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 of that trolley; or

(b) the person has a reasonable excuse.

Maximum penalty—20 penalty units.

###### Shop owners’ responsibilities

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

Maximum penalty—

(i) First offence—20 penalty units;

(ii) Second offence (within twelve months after the first offence)—50 penalty units;

(iii) Third and subsequent offence (within twelve months after the first offence or six months after the most recent offence)—200 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.

*Example of an action which may be one reasonable measure* – providing a system requiring the payment of a deposit to use a shopping trolley.

###### Seizure of shopping trolleys

A Council employee may seize a shopping trolley from a public place outside a shopping centre precinct and remove it to a place for safe keeping if the Council employee 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 direction.

###### 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 14 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.

###### Disposal of seized shopping trolleys

If the shopping trolley is not released in accordance with section 16, the shopping trolley may be sold or disposed of in accordance with Part 2, Division 12, Subdivision 3 of the *City of Brisbane Act 1924*.

#### Part 6 Community amenity and safety

##### Division 1 Amenity

###### 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 curtilage of the building.

Maximum penalty—

(i) First offence—20 penalty units;

(ii) Second offence (within twelve months after the first offence)—30 penalty units;

(iii) Third and subsequent offence (within twelve months after the first offence or six months after the most recent offence)—50 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—

(i) First offence—20 penalty units;

(ii) Second offence (within twelve months after the first offence)—30 penalty units;

(iii) Third and subsequent offence (within twelve months after the first offence or six months after the most recent offence)—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—

(i) First offence—20 penalty units;

(ii) Second offence (within twelve months after the first offence)—30 penalty units;

(iii) Third and subsequent offence (within twelve months after the first offence or six months after the most recent offence)—50 penalty units.

(4) For the purposes of 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) The term "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 (i); and

(iii) otherwise ensuring that persons responsible for distributing unsolicited newspapers or advertising material are aware of their responsibilities under this section.

###### Unsightly objects, materials or vegetation

(1) An owner 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 or materials which may be unsightly or not in accordance with the amenity of the locality—*

*• broken down vehicles and car bodies;*

*• scrap machinery or machinery parts;*

*• discarded bottles, containers or packaging;*

*• dilapidated or unsightly building hoardings;*

*• shopping trolleys;*

*• overgrown land.*

Maximum penalty—20 penalty units.

###### Graffiti

(1) If any building or other structure is marked with graffiti an authorised person may give a written notice[[2]](#footnote-3) (“***graffiti removal notice***”) to the owner or occupier of the land on which the building or structure is erected requiring the owner or occupier to remove the graffiti within 14 days of the date of service of the notice.

(2) 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.

(3) 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 billboard owner to remove the graffiti within 14 days of the date of service of the notice.

(4) A graffiti removal notice may be served by post.

(5) A person must comply with a graffiti removal notice.

(6) This section shall not apply to —

(a) public art commissioned on a commercial basis by or with the consent of the owner of the premises;

(b) public art on a wall or structure in a public place designated for its legal application.

Maximum penalty for subsection (5)—50 penalty units.

##### Division 2 Safety

###### Prohibition of hazardous fencing materials in certain areas

(1) This section does not apply to major sports facilities recognised under the *Major Sports Facilities Act 2001*.

(2) The use of barbed wire in fences adjoining a public access place is prohibited in all areas of the city other than industrial and rural areas.

(3) The use of razor wire, tiger wire or other materials which are likely to injure persons or animals who come in contact with the fence is prohibited in fences adjoining a public access place in all areas of the city other than industrial areas.

(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—40 penalty units.

###### Safety standards for hazardous fencing materials in certain areas

(1) This section does not apply to major sports facilities recognised under the *Major Sports Facilities Act 2001*.

(2) In industrial areas, any barbed wire, razor wire, tiger wire or other materials which are likely to injure persons or animals on fences adjoining a public access place must be at least 2 metres above the ground level of the public access place, or separated from the public access place by a physical barrier.

(3) In rural areas, 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 (1) or (2).

Maximum penalty—40 penalty units.

###### Electric Fences

(1) An electric fence must be separated from a public access place by a set back or other barrier sufficient to prevent a person using a public access place from inadvertently coming into contact with the electric fence.

(2) A person must not construct an electric fence or allow an electric fence to remain on land in contravention of subsection (1).

Maximum penalty—40 penalty units.

###### Maintenance of swimming pools and ornamental lakes

(1) The owner of a swimming pool or ornamental pond or lake must maintain the pool, pond or lake in good repair and ensure that the water in the pool pond or lake does not become stagnant or infested with weeds.

Maximum penalty—20 penalty units.

(2) For the purposes of subsection (1), the owner of a swimming pool or ornamental pond or lake includes—

(a) the occupier of the land on which the pool pond or lake is located; and

(b) the owners of any interests in common ownership or group title of a private pool pond or lake.

#### Part 6A Building appearances

##### Division 1 Application

###### 24A Application

(1) Council may designate by subordinate local law areas of the City to which this part applies.

(2) Council may use diagrams to outline the areas of the City for the purpose of subsection (1).

##### Division 2 Duty to maintain buildings

###### 24B 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.

##### Division 3 Enforcement

###### 24C Show cause notice

(1) If Council is of the opinion that an owner of a building has failed to comply with the duty to maintain a building in section 24B, then Council may serve on the owner a notice to show cause (“***show cause notice***”) why a compliance notice should not be given.

(2) A show cause notice must—

(a) be in writing,

(b) outline the facts and circumstances forming the basis for Council’s opinion,

(c) state that a submission may be made about the show cause notice,

(d) state how the submission must be made,

(e) state a period no shorter than 10 business days, within which the submission must be made.

###### 24D Consideration of submissions

(1) Council must consider any submissions made under section 24C by an owner.

(2) After considering the submissions, Council may—

(a) issue a compliance notice under section 26,

(b) agree to the owner entering an enforceable undertaking under section 24G, or

(c) take no further action.

(3) Before taking action under subsection (2) Council must give the owner a notice:

(a) advising of its decision under that subsection, and

(b) that the owner has a right to a review of that decision under section 24E.

###### 24E Application for review

(1) A person who is given a notice about a decision under paragraphs 24D(2)(a) or (b) (the ***original decision***) may apply to Council for a review of the decision under this part.

(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—

(a) accompanied by a statement of the grounds on which the person seeks the review of the decision;

(b) supported by enough information to enable Council to decide the application; and

(c) accompanied by the prescribed fee for the application if any applies.

(4) Council may impose a fee for an application for review under this section.

###### 24F Review

(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 application—make a decision (the ***review decision***) to—

(a) confirm the original decision;

(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.

###### 24G Enforceable undertaking

(1) Council may enter into a written agreement (***enforceable undertaking***) with an owner which may include any or all of the following—

(a) that it is entered into under this section;

(b) that the owner has failed in their duty under section 24B;

(c) that the owner will perform specified work to remedy the breach of section 24B, including its standard and timing[[3]](#footnote-4);

(d) the estimated value of the work to be performed;

(e) that a bond be lodged with Council in a nominated sum for the performance of the work which may be forfeited to Council if the work is not carried out within the time agreed or to the standard required;

(f) that Council, its employees and agents may enter the property to perform the work if it is not performed as agreed by the owner;

(g) that, if Council performs the work required under the undertaking, then Council may recover the cost of the work;

(h) that the undertaking may be varied or withdrawn only with the consent of Council;

(i) that Council may cancel the undertaking at any time;

(j) that if the owner breaches the undertaking Council may take action in the Court to enforce the undertaking; or

(k) any other terms necessary or convenient to ensure the owner’s compliance with the duty to maintain the building appearance.

(2) Council may apply to the Court for enforcement of an undertaking given under this section.

(3) The Court when making orders for the enforcement of an undertaking given under this section may—

(a) order the owner to comply with the agreement or a term of the agreement;

(b) order that the owner or other occupier allow Council employees or agents to enter the property to perform work under the agreement;

(c) order that the owner put in place suitable signage or advertising relating to the work the owner is required to carry out on the building;

(d) order the owner pay Council any amount nominated in the undertaking for the work or, if Council has already performed the work, the actual cost in doing so;

(e) order that the owner pay Council’s costs of enforcing the undertaking which may include an award of punitive damages; or

(f) any other order that the Court considers appropriate.

#### Part 7 Enforcement

###### Compliance directions

(1) If a person engages in conduct that is, or is preparatory to, a contravention of this local law, an authorised person may orally direct that person—

(a) to stop the conduct; and/or

(b) to 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) A 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 a direction under this section.

Maximum penalty—50 penalty units.

###### Compliance notices

(1) If a person contravenes a requirement of this local law an authorised person may give a notice[[4]](#footnote-5) (a "***compliance notice***") under this section to the person.

(2) A compliance notice may—

(a) if the contravention is of a continuing or recurrent nature require the person to whom the notice is given to stop the contravention;

(b) whether or not the contravention is of a continuing or recurrent nature, require the person to whom the notice is given to take specified action, within a time specified in the notice, to remedy the contravention;

(c) require the person to whom the notice is given to pay, within the time specified in the notice, the re-inspection fee specified in the notice.

(3) A compliance notice may be given under this section in addition to any other enforcement action prescribed by this local law.

(4) A person must comply with a compliance notice.

Maximum penalty—200 penalty units.

###### 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.

###### Failure to give information

(1) A person of whom a requirement is made under section 27(1) 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.

###### 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]](#footnote-6)

###### Recovery of cost of work

(1) A person who does not comply with a compliance notice or a graffiti removal 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]](#footnote-7).

(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]](#footnote-8).

(5) A certificate signed by an authorised officer and stating any of the following matters is evidence of—

(a) the carrying out of the work by Council under this part;

(b) the cost of the work;

(c) the delivery of the account required by subsection (2);

(d) the amount of any costs and fees unpaid at the date of the certificate.

###### 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 of the persons 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 who is defined as the owner and occupier under this local law and the obligation to comply is imposed, jointly and severally on each of the persons 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.

###### Giving of notice

Wherever this local law requires written notice to be given, the provisions of the *Acts Interpretation Act 1954* section 39—Service of documents, and section 39A —Meaning of service by post etc., will apply to the giving of the notice unless otherwise specified in this local law.

###### 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 shall be prima facie evidence of the matter so alleged or averred.

###### 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.



### Schedule 1 Dictionary

In this local law—

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

***authorised officer*** means a person authorised by the Council to give the certificate referred to in section 30.

***building*** means:

1. A fixed structure that is wholly or partly enclosed by walls or is roofed.

2. The term includes a floating building and any part of a building including a thoroughfare.

***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.

***curtilage*** means the land surrounding a building which actually or supposedly contributes to the building for the fulfilment of its purposes.

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

***designated area*** means the area designated under subordinate local law for the purpose of Part 6A.

***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.

***environmental authority*** has the meaning given by the *Environmental Protection Act 1994*.

***general waste*** means any of the following—

(a) commercial waste;

(b) domestic waste;

(c) green waste;

(d) recyclable waste.

***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.

***improved premises*** has the meaning given in Council’s annual resolution of rates and charges.

***industrial area*** means an area of the city so classified in the planning scheme for the City Brisbane as amended from time to time.

***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.

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

***owner*** includes any person other than Council who is—

(a) the occupier of premises; or

(b) the registered proprietor of land.

***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.

***road*** has the meaning given in the *Transport Operations (Road Use Management) Act 1995*.

***road related area*** has the meaning given in the *Transport Operations (Road Use Management — Road Rules) Regulation 1999*.

***rural area*** means an area so classified in the planning scheme for the City of Brisbane as amended from time to time.

***shopping centre*** means any building or structure or group of buildings or 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.

***structure*** includes a wall or fence and anything fixed to or projecting from a building, wall, fence or other structure.

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

***vehicle maintenance*** means any one or more of the following—

(a) painting a vehicle;

(b) repairing 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 10D.

***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—

1. 1 or more multiple types of commercial waste; or
2. 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 under a contract with Council or on behalf of Council.

### Endnotes

**Key**

**Key to abbreviations in list of amendments**

| **Key** | **Explanation** |
| --- | --- |
| **amd =** | **amended** |
| **ch =** | **chapter** |
| **def =** | **definition** |
| **div =** | **division** |
| **hdg =** | **heading** |
| **ins =** | **inserted** |
| **om =** | **omitted** |
| **pt =** | **part** |
| **renum =** | **renumbered** |
| **rep =** | **repealed** |
| **s =** | **section** |
| **sch =** | **schedule** |
| **sub =** | **substituted** |
|  |  |

**List of amendments**

**PART 2 FIRES**

s 6 amd *Public Land and Council Assets Local Law 2014* s 94

**PART 3 WASTE MANAGEMENT**

Part 3 sub *Health, Safety and Amenity Amending Local Law 2014* s 4

s 7 amd *Health, Safety and Amenity Amending Local Law 2018* s 3

s 8B amd *Health, Safety and Amenity Amending Local Law 2018* s 4

s 8C amd *Health, Safety and Amenity Amending Local Law 2018* s 5  
s 8D amd *Health, Safety and Amenity Amending Local Law 2018* s 6

s 9 amd *Health, Safety and Amenity Amending Local Law 2018* s 7

s 9A amd *Health, Safety and Amenity Amending Local Law 2018* s 8

s 10C ins *Health, Safety and Amenity Amending Local Law 2018* s 9

s 10D ins *Health, Safety and Amenity Amending Local Law 2018* s 10

s 10E ins *Health, Safety and Amenity Amending Local Law 2018* s 11

**PART 6A BUILDING APPEARANCES**

Pt 6A

(ss 24A-G) ins *Health, Safety and Amenity Amending Local Law 2012*

**SCHEDULE 1 —DICTIONARY**

def ***“authorised person*”** ins *Health, Safety and Amenity Amending Local Law 2014* s 5

def ***“building”*** ins *Health, Safety and Amenity Amending Local Law 2012*

def ***“commercial premises”*** ins *Health, Safety and Amenity Amending Local Law 2018* s 13(a)

def ***“commercial waste”*** amd *Health, Safety and Amenity Amending Local Law 2014* s 5

def ***“Council waste facility”*** ins *Health, Safety and Amenity Amending Local Law 2018* s 13(b)

def ***“court”*** ins *Health, Safety and Amenity Amending Local Law 2012*

def ***“designated area”*** ins *Health, Safety and Amenity Amending Local Law 2012*

def ***“development approval”*** ins *Health, Safety and Amenity Amending Local Law 2018* s 13(c)

def ***“domestic clean-up***

***waste”*** ins *Health, Safety and Amenity Amending Local Law 2018* s13(c)  
def ***“domestic premises”*** ins *Health, Safety and Amenity Amending Local Law 2018* s13(c)

def ***“domestic waste”*** amd *Health, Safety and Amenity Amending Local Law 2014* s 5

def ***“environmental authority”*** ins *Health, Safety and Amenity Amending Local Law 2018* s 13(d)

def ***“general waste”*** ins *Health, Safety and Amenity Amending Local Law 2014* s 5

def ***“general waste”*** sub *Health, Safety and Amenity Amending Local Law 2018* s 12(a)

def ***“green waste”*** ins *Health, Safety and Amenity Amending Local Law 2018* s 13(e)

def ***“improved premises”*** ins *Health, Safety and Amenity Amending Local Law 2014* s 5

def ***“interceptor”*** ins *Health, Safety and Amenity Amending Local Law 2018* s 13(f)

def ***“interceptor waste”*** ins *Health, Safety and Amenity Amending Local Law 2018* s 13(f)

def ***“premises”*** ins *Health, Safety and Amenity Amending Local Law 2018* s 13(g)

def ***“recyclable interceptor***

***waste”*** ins *Health, Safety and Amenity Amending Local Law 2018* s 13(h)

def ***“recyclable waste”*** ins *Health, Safety and Amenity Amending Local Law 2014* s 5

def ***“refuse”*** om *Health, Safety and Amenity Amending Local Law 2018* s 14(a)

def ***“residential area”*** om *Health, Safety and Amenity Amending Local Law 2018* s 14(b)

def ***“structure”*** ins *Health, Safety and Amenity Amending Local Law 2012*

def ***“thoroughfare”*** ins *Health, Safety and Amenity Amending Local Law 2012*

def ***“waste”*** ins *Health, Safety and Amenity Amending Local Law 2018* s 13(i)

def ***“waste collection area”*** ins *Health, Safety and Amenity Amending Local Law 2014* s 5

def ***“waste collection area”*** amd *Health, Safety and Amenity Amending Local Law 2014* s 12(b)

def ***“waste container”*** ins *Health, Safety and Amenity Amending Local Law 2018* s 13(j)

def ***“waste contractor”*** ins *Health, Safety and Amenity Amending Local Law 2018* s 13(j)

1. Registered vehicles abandoned on roads are dealt with under the *Transport Operations (Road Use Management) Act 1995* and unregistered vehicles abandoned on roads are dealt with under the Parking and Control of Traffic Local Law. [↑](#footnote-ref-2)
2. See section 32 for general provisions about the giving of notices under this local law. [↑](#footnote-ref-3)
3. Any work carried out must comply with any conditions of heritage listing of the building under the *Queensland Heritage Act 1992* or the Brisbane City Council Planning Scheme. [↑](#footnote-ref-4)
4. See section 32 for general provisions for the giving of notices under this local law. [↑](#footnote-ref-5)
5. See section 132 of the *City of Brisbane Act 2010*. [↑](#footnote-ref-6)
6. See section 132 of the *City of Brisbane Act 2010*. [↑](#footnote-ref-7)
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. [↑](#footnote-ref-8)