

Local Government Act 1995

City of Belmont

DUST AND LIQUID WASTE LOCAL LAW 2007

Under the powers conferred upon it by the *Local Government Act 1995*, the Council of the City of Belmont resolved on 15 May 2007 to make the Dust and Liquid Waste Local Law 2007.

PART 1 – DEFINITION AND OPERATION

1. Operation

This Local Law will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.

2. Interpretation

(a) In this Local Law the following definitions apply:

"Act" means the *Local Government Act 1995*;

"authorised person" means a person authorised by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this Local Law;

"district" means the district of the local government and includes any area placed under the jurisdiction of the local government pursuant to any Act or Regulation;

"dust" means any visible granular or particulate material which has or has the potential to become airborne and includes organic matter and sand, but does not include smoke;

"equipment" means equipment, machinery or vehicles used for or in connection with the development of land;

"land" includes any building or other structure on the land;

"liquid waste" means waste from any process or activity, whether useful or useless, that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser, solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater;

"local government" means the City of Belmont;

"occupier" means any person who is in control of any land or part of any land or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to land to perform any work in relation to any land and without

limiting the generality of the foregoing and for the avoidance of doubt includes a builder or contractor;

"owner" has the same meaning as given to it in the *Local Government Act 1995*;

"Regulations" mean the *Local Government (Functions and General) Regulations 1996*;

"worker" means any registered builder, contractor or sub-contractor working on land in the district.

- (b) Where in this Local Law, a duty, obligation or liability is imposed on an owner or occupier the duty, obligation or liability, as the case may be, shall be deemed to be imposed jointly and severally on each of the owner and occupier.
- (c) Where, under this Local Law, an act is required to be done in relation to any land, the owner, occupier or worker shall cause to be done the act so required to be done.
- (d) Where, under this Local Law, an act is forbidden to be done in relation to any land, the owner, occupier or worker shall prevent from being done the act forbidden to be done.
- (e) Where this Local Law refers to the giving of notice no particular form of notice is required.

PART 2 – APPLICATION OF LOCAL LAW

3. This Local Law applies to all land in the district.

PART 3 – PROHIBITED ACTIVITIES

- 4. Any owner or / and occupier or worker of land must take effective measures to:
 - (a) stabilise dust on the land;
 - (b) contain all liquid waste on the land;
 - (c) ensure no dust or liquid waste is released or escapes from the land whether by means of wind, water or any other cause; and
 - (d) notify the owners or occupiers of adjoining land in writing 48 hours prior to the commencement of any activity that has the potential to cause the release or escape from the land of dust or liquid waste giving details of:
 - (i) the nature of the activity;
 - (ii) the proposed time and location of the activity; and
 - (iii) the name of the person responsible for carrying out the activity and how and where that person may be contacted.
- 5. (a) Where the local government or an authorised person forms the opinion that:
 - (i) an owner, occupier or worker has not complied with sub-section 4(a) or sub-section 4(b); or
 - (ii) dust or liquid waste has been released or escaped from the land,

the local government or an authorised person may serve on the owner, occupier or worker a notice requiring the owner, occupier or worker to do one or more of the following:

- (iii) comply with sub-section 4(a) or sub-section 4(b);
- (iv) clean up and properly dispose of any released or escaped dust or liquid waste;
- (v) clean up and make good any damage resulting from the released or escaped dust or liquid waste; or
- (vi) take effective measures to stop any further release or escape of dust or liquid waste.

(b) The requirements set out in a notice issued under sub-section 5(a) must be complied with:

- (i) within 48 hours of service of the notice where no other time is specified;
- (ii) within such other period as is specified in the notice; or
- (iii) immediately, if the notice so specifies.

6. Where the local government or an authorised person forms the opinion that dust or liquid waste has escaped or been released from an activity undertaken on land or as a consequence of the use of equipment on land, the local government or authorised person may serve a notice on the owner, occupier or worker, or the operator of the equipment, as the case may be, requiring that the activity or use of the equipment on the land be ceased immediately, for such period as is specified in such notice.

7. Where the local government or an authorised person is of the opinion that dust or liquid waste may be released or escape as a result of an activity which is likely to be carried on from any land, the local government or an authorised person may give to the owner, occupier or worker a notice providing that the activity may only be carried on subject to conditions specified in the notice.

PART 4 – MISCELLANEOUS

8. (a) Where a notice is given to the owner, occupier or worker and the owner, occupier or worker satisfies the local government or an authorised person within 48 hours, or by such other period as is specified in the notice from the date of giving of the notice that:

- (i) they were not responsible for the conduct in respect of which the notice was given pursuant to section 5, or the activity in respect of which a notice was given pursuant to section 6, as the case may be; and
- (ii) they took all reasonable precautions to prevent the conduct or activity, as the case may be; and
- (iii) where another person was responsible for the conduct or activity, it identifies the person responsible for the conduct or activity sufficiently to enable the notice to be issued to that person;

the local government or an authorised person may revoke the notice.

(b) Clause 8(a) shall not apply where a notice is issued to which clause 5(b)(iii) applies.

9. A person must not prevent or obstruct a duly authorised person or employee of the local government from carrying out his or her duties under this Local Law.
10. The local government may delegate any of its powers, functions and duties under this Local Law in accordance with Part 5 Division 4 of *the Local Government Act 1995*.

PART 5 – OFFENCES AND PENALTIES

11. Any person who:
 - (a) fails to comply with a notice issued under clause 5, 6 or 7;
 - (b) fails to do anything required or directed to be done under this Local Law;
 - (c) does anything which under this Local Law the person is prohibited from doing; or
 - (d) contravenes any provision of this Local Law, commits an offence.
12. Any person who commits an offence under this Local Law shall be liable to:
 - (a) a penalty not exceeding \$5,000.00 and not less than:
 - (i) in the case of a first such offence, \$500.00;
 - (ii) in the case of a second such offence, \$1,500.00; and
 - (iii) in the case of a third or subsequent offence, \$3,000.00; and
 - (b) if the offence is of a continuing nature, an additional penalty not exceeding \$500.00 for each day or part of a day during which the offence has continued.
13. An offence against any provision of this Local Law is a prescribed offence for the purposes of section 9.16(1) of the Act.
14. The modified penalty for an offence against any provision of this Local Law is \$100.

The Common Seal of the City of Belmont was affixed here by authority of the Standing Orders Local Law 2006

CHIEF EXECUTIVE OFFICER
SHAYNE SILCOX
Date: