

City of Stirling

**PREVENTION AND ABATEMENT OF DUST AND
LIQUID WASTE LOCAL LAW 2002**

PART 1 – DEFINITION AND OPERATION.....	3
PART 2 – APPLICATION OF LOCAL LAW	4
PART 3 – PROHIBITED ACTIVITIES	5
PART 4 – MISCELLANEOUS.....	6
PART 5 – OFFENCES AND PENALTIES.....	7

Local Government Act 1995

CITY OF STIRLING

LOCAL LAW RELATING TO THE PREVENTION AND ABATEMENT OF DUST AND LIQUID WASTE

Under the powers conferred upon it by the *Local Government Act 1995*, the Council of the City of Stirling resolved on 21 May 2002 to make the following local law.

PART 1 – DEFINITION AND OPERATION

Operation

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

Interpretation

2. (a) In this Local Law –

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

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

"City" means the City of Stirling;

"district" means the district of the City and includes any area placed under the jurisdiction of the City 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.

"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;

- (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 and occupier of the land 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 and occupier of the land 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. An owner and occupier 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 City or an authorised person forms the opinion that:
 - (i) an owner or occupier 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 owner's or occupier's land,

the City or an authorised person may serve on the owner or occupier of the land a notice requiring the owner or occupier to do one or more of the following –

- (i) comply with sub-section 4(a) or sub-section 4(b);
 - (ii) clean up and properly dispose of any released or escaped dust or liquid waste;
 - (iii) clean up and make good any damage resulting from the released or escaped dust or liquid waste;
 - (iv) 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 a City 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 City or authorised person may serve a notice on the owner or occupier of the land 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 City 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 City or an authorised person may give to the owner or occupier 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 or occupier of any land and the owner or occupier satisfies the City 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) it was 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) it 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 City 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) The City or an authorised person may lawfully enter upon any land for the purpose of giving effect to, or carrying out, any provision of this Local Law.
- (b) The person must not prevent or obstruct a duly authorised person or employee of the City from carrying out his or her duties under this Local Law.
10. The City may delegate any of its powers, functions and duties under this Local Law to an authorised person.

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.

Dated the Sixth day of June 2002

THE COMMON SEAL of the)
CITY OF STIRLING was)
hereunto affixed by authority of)
a resolution of the Council in the)
presence of:-)

D C VALLELONGA JP

MAYOR

L DELAHAUNTY

CHIEF EXECUTIVE OFFICER