



STATUS AND PURPOSE OF THE POLICY

This Local Orders Policy is prepared and adopted under Chapter 7, Part 3 of the Local Government Act, 1993 and the Local Government General Regulation 2005.

The purpose of the Local Orders Policy is to supplement provisions of the Act and the Local Government (General) Regulation 2005 by specifying the criteria which Council must take into consideration in determining whether or not to give an Order under Sections 124 or 125 of the Local Government Act.

GENERAL AIMS OF THE POLICY

The Policy aims:

- To promote an integrated framework for dealing with Orders
- To ensure consistency and fairness in the manner in which the Council deals with Orders
- To encourage and assist effective participation of local communities in decision-making
- To make the Council’s policies and requirements for Orders readily accessible and understandable to the public
- To assist Council to fully pursue its charter under Section 8 of the Local Government Act.
- To apply common or consistent requirements and procedures to all types of Orders
- To establish a system of community participation which can effectively resolve disputes and conflicts as they arise
- To use straight forward English and explanatory notes throughout the policy
- To apply the principles of natural justice in the consideration of representation made by affected persons



FAIRFIELD CITY COUNCIL – ENVIRONMENTAL STANDARDS	
Doc Number 0-058	LOCAL ORDERS POLICY

- To specify the criteria which the Council must take into consideration in determining whether or not to give an order

COMMENCEMENT OF THE POLICY

The Local Orders Policy commences on 18 December 2008

The Local Orders Policy was adopted by Council on 2 December 2008 (Minute No. 252 Services Committee)

Adoption of the Policy was publicly notified in the Champion newspaper on 17 December 2008

APPLICATION

This Local Orders Policy applies to:

- All land within the Fairfield City Council Local Government Area
- All land taken to be included in the Council area under Section 205 Local Government Act.
- All premises and all areas associated with those premises within the Fairfield City Council Local Government Area
- Any vehicle used for the manufacture, preparation, storage, sale, transportation or other handling or use of food.

Except where otherwise provided or indicated, the Executive Manager, Environmental Standards Department, shall be responsible for the implementation of the provisions of this policy.

PROCEDURES FOR THE ISSUING OF ORDERS

In accordance with the Local Government Act 1993, Councils are required to observe certain procedures before giving Orders.

1. CRITERIA FOR CONSIDERATION

Listed in the Orders schedule are the types of orders that Council may be involved with, the circumstances under which they may be given and the criteria that must be considered, if any. In areas where it is considered that the circumstances for the particular order are self explanatory no additional criteria has been provided.

NOTE: The giving of an order is not mandatory and is at the discretion of the Council authorised investigating officer whether or not the circumstances meet the applicable criteria for that order. The criteria shall only apply to a person if Council serves an Order under Section 124 of the Local Government Act, to that effect on that person.

If Council decides to give an order Council is required to take the criteria listed in the orders schedule into consideration before giving the order. (Section 131 Local Government Act 1993)

Note: Under Section 126 of the Local Government Act Council may not give an Order in respect to the following land without the prior written consent of the Minister:

- Vacant Crown land
- A reserve within the meaning of the Crown Lands Act, 1989
- A Common

Section 131 Local Government Act requires that if an Order will or is likely to have effect of making a resident homeless, the Council must consider whether the resident is able to arrange satisfactory alternative accommodation in the locality. If the person is not able to arrange satisfactory alternative accommodation in the locality the Council must provide the person with information as to the availability of satisfactory alternative accommodation in the locality and any other assistance that the Council considers appropriate.

2. GIVING NOTICE AND REPRESENTATIONS

Section 132 of the Local Government Act requires that the following be carried out prior to issuing an Order:

- Before giving an order, Council must give notice to the person(s) to whom the Order is proposed to be given of its intention to give the Order, the terms of the proposed Order and the period proposed to be specified as the period within which the Order is to be complied with. (*section 132(1) Local Government Act.*)
- Council's notice must indicate that the person to whom the Order is proposed to be given may make representations to Council as to why the Order should not be given or as to the terms of or period for compliance with the Order. (*section 132(2) Local Government Act*)
- The notice may indicate that the representations are to be made to the Council or a specified committee of the Council on a specified meeting date or to a specified Councillor or employee of the Council on or before a specified date being, in either case, a date that is reasonable in the circumstances of the case. (*section 132(3) Local Government Act*)
- A person, to whom an Order is proposed to be given, when making representations may be represented by an Australian legal practitioner or agent. (*section 133 Local Government Act*)
- The Council or a specified committee, or specified Councillor or employee of the Council is required to hear and to consider any representations made pursuant to s133. (*section 134 Local Government Act*)

Representations are to be received, heard and considered by the Manager of the issuing officer.

After hearing and considering any representations made concerning the proposed Order, the Manager concerned may determine:

- (a) to give an Order in accordance with the proposed order; or
- (b) to give an Order in accordance with modifications made to the proposed Order; or
- (c) not to give an Order. (section 135 Local Government Act)

If the determination is to give an order in accordance with modifications made to the proposed order then Council is not required to give notice of the proposed order as so modified. (section 135(2) Local Government Act)

If Council observes the above procedure it is taken to have observed the rules of procedural fairness. (section 130 Local Government Act)

3. CONTENT OF ORDERS

The order must:

- Indicate the things the person must do or refrain from doing.
- State the reasons for the order. It can be within the order or in a separate document but must be given at the same time the order is given except in the case of an emergency order in which case they must be given the next working day. (section 136 Local Government Act)
- Specify a reasonable period for compliance. If there is a serious risk to health or safety or an emergency, compliance can be required immediately. (section 137 Local Government Act)
- State that the person may appeal to the Land and Environment Court against the order or a specified part of the order and specify the period within which an appeal may be made. (section 138 Local Government Act)

The order may:

- Specify the standard that the premises are required to meet and indicate the nature of the work that, if carried out, would satisfy that standard instead of specifying the things that the person to whom the order is given must do or refrain from doing. (section 139 Local Government Act)
- Clause 99 of the Local Government (General) Regulation 2005 also requires that the following information must be included:
 - (a) Any relevant provision of the Local Government Act, local orders policy or regulations made under the Local Government Act that is not being or has not been complied with,
 - (b) That it is an offence not to comply with an Order and the maximum penalty for the offence,
 - (c) That, if the Order is not complied with, the Council may give effect to the Order and recover the costs of doing so from the person concerned.

4. REVOCATION AND MODIFICATION OF ORDERS

- Council may modify an order given to a person at any time (including a modification of the period of compliance) providing the person agrees to that modification. (*section 152 Local Government Act*)
- Council may revoke an order at any time. (*section 153 Local Government Act*)

5. AFTER AN ORDER IS GIVEN

There are a number of possible scenarios:

- The person who receives the order complies.
- The owner or occupier of premises complies. If the occupier or manager complies with the order they may deduct the cost (plus interest) from rent payable to the owner or recover the cost in court. (*section 147 Local Government Act*)
- Council can modify the Order if the person agrees to the modification. (*section 152 Local Government Act*)
- Council can revoke the Order. (*section 153 Local Government Act*)
- The person on whom the Order is served may appeal against the order to the Land and Environment Court and seek compensation. (*see sections 180, 181, 182 Local Government Act*)
- Person fails to comply with the Order

It is an offence not to comply with an order. The Local Government Act specifies penalties for such offences and provides mechanisms for enforcement, including Court action for non compliance– see applicable penalties (*section 628 Local Government Act*)

Council may do all such things as are necessary or convenient to give effect to the terms of the Order, including the carrying out of any work required by the Order. Expenses incurred in giving effect to the terms of the Order may be recovered in a Court of competent jurisdiction as a debt due to Council by the person concerned. (*section 678 Local Government Act*)

Council may seek orders of the Land and Environment Court seeking to enforce the terms of the order. (*section 673 Local Government Act*)



FAIRFIELD CITY COUNCIL – ENVIRONMENTAL STANDARDS	
Doc Number 0-058	LOCAL ORDERS POLICY

6. PENALTIES FOR NON COMPLIANCE

Penalties for non-compliance with the terms of orders issued by Council if prosecuted are prescribed under section 628 of the Local Government Act.

- The maximum penalty for failure to comply with Orders 3, 5, 7-12 is 50 penalty units in the case of an individual and 100 penalty units in the case of a corporation
- The maximum penalty for failure to comply with Orders 15-17 is 100 penalty units in the case of an individual and 200 penalty units in the case of a corporation
- The maximum penalty for failure to comply with Orders 18-25 and 27-30 is 20 penalty units

ORDERS SCHEDULE

SECTION 124 AND 125 ORDERS

The following Orders under Sections 124 and 125 of the Local Government Act are set out to indicate:

- (a) To do what (action required to be taken).
- (b) In what circumstances (restricts the particular circumstances in which an Order may be given).
- (c) To whom (the person the Order must be given to).
- (d) The criteria to be taken into consideration when determining whether an order is to be given.

ORDER No 1

This Local Orders Policy does not include details or criteria with respect to orders 1 in the table to section 124 Local Government Act as they apply only to buildings in catchment districts. There are no catchment districts in the Fairfield City Council Local Government Area.

ORDER No 2

This Local Orders Policy does not include details or criteria in respect to order No 2 to section 124 of the Local Government Act as these provisions have been repealed.

ORDER No 3

This Local Orders Policy does not include details or criteria with respect to order No 3 in the table to section 124 Local Government Act as they apply only to buildings in catchment districts. There are no catchment districts in the Fairfield City Council Local Government Area.

ORDER No 4

This Local Orders Policy does not include details or criteria in respect to order No 4 to section 124 of the Local Government Act as these provisions have been repealed.

ORDER Nos. 5(a), (b), (c), (d), (e), (f) and (f)

To do What?

To take such action as is necessary to bring into compliance with relevant standards or requirements set or made or under the Local Government Act 1993 or Local Government Act 1919:

- (a) A camping ground, caravan park or manufactured home estate
- (b) A moveable dwelling or manufactured home
- (c) A building or a temporary structure used as a place of public entertainment
- (d) A place of shared accommodation
- (e) A hairdressers shop or beauty salon
- (f) A mortuary
- (g) A water meter, water supply or sewerage system on premises.

In What Circumstances?

Failure to comply with relevant standards or requirements set or made by or under the Local Government Act 1993 or under the Local Government Act, 1919.

To Whom?

Owner, occupier or manager or, in the case of a water meter, water supply or sewerage system in respect of which a defect occurs in work due to faulty workmanship of, or defective material supplied by, a licensed contractor (being the holder of the licence in force under the Home Building Act 1989 authorising

the holder to contract to do the work) within twelve months after the work is carried out or the material is supplied, the licensed contractor.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration

Non compliance with:

Order 5

1. With respect to order 5(a) in its operation as to camping grounds, caravan parks and manufactured home estates and 5(b) in its operation as to moveable dwellings any applicable standards referred to in the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005
2. Clause 11 Local Government (General) Regulation 2005 – “*Adoption of Building Code of Australia*” AND Schedule 1, Part 1 Local Government (General) Regulation 2005 - :”Management and use of Places of Public Entertainment”,
3. Schedule 2, Part 1 Local Government (General) Regulation 2005 – “*Standards of Place of Shared Accommodation*”
4. Schedule 2, Part 2 Local Government (General) Regulation 2005, – “*Standards for Hairdresser Shops*” and Part 3 – “*Standards for Beauty Salons*”
5. Schedule 2, Part 4 Local Government (General) Regulation 2005 - “*Standards for Mortuaries*”.

ORDER No 6

This Local Orders Policy does not include details or criteria in respect to order No 6 to section 124 of the Local Government Act as these provisions have been repealed.

ORDER No. 7

To do What?

To fence land.

In What Circumstances?

Public health, safety or convenience renders it necessary or expedient to do so and there is no adequate fence between the land and a public place.

To Whom?

Owner or occupier of land.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

1. The condition, location or use of the land poses a threat to the health, safety and convenience of the public.

ORDER No. 8

To Do What?

To identify premises with such numbers or other identification in such a manner as is specified in the order.

In What Circumstances?

Premises have a frontage to or entrance from a road and there are no markings that can readily be seen and understood from the road.



FAIRFIELD CITY COUNCIL – ENVIRONMENTAL STANDARDS	
Doc Number 0-058	LOCAL ORDERS POLICY

To Whom?

Owner or occupier of land.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

Such an order would be served if there is unauthorised use of or duplication of numbers, numbers not in accordance with the street patterns, or no numbers at all or there is confusion in identification of premises and the owner / occupier had not complied with Council’s request for rectification.

ORDER No. 9

To do What?

To fence, empty, fill in or cover up a hole or waterhole in a manner specified in the order.

In What Circumstances?

Hole or waterhole is or may become dangerous to life.

To Whom?

Owner or occupier of land.



Doc
Number
0-058

LOCAL ORDERS POLICY

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

1. The hole or waterhole is directly accessible from a public place or another private property and/or
2. The hole or waterhole is not adequately covered or fenced to the minimum requirements of the Swimming Pools Act, 1992 to prevent direct access to it from a public place or any other private property and,
3. The nature, location and depth of the hole or waterhole is considered to be dangerous to life.

Criteria Does Not Include:

1. Any hole or water hole that falls under the definition of a swimming pool as defined in the Swimming Pools Act, 1992.

ORDER No. 10

To Do What?

To remove or stack articles or matter, to cover articles or matter, to erect fences or screens or to plant trees.

In What Circumstances?

Land is in the immediate vicinity of a public place and is used for the storage of articles or matter so as to create or be likely to create unsightly conditions.

To Whom?

Owner or occupier of land.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

1. Definition of “Article” or “matter” includes but is not limited to:
 - i. Disused motor vehicles, caravans, trailers or boats;
 - ii. Disused motor vehicle parts, caravan parts, trailer parts or boat parts;
 - iii. Disused machinery, equipment and appliances;
 - iv. Old, used or second hand materials (including building materials);
 - v. Demolition material;
 - vi. Sand, soil, rock, blue metal and any other material derived from any extraction or dredging process;
 - vii. Any organic or vegetative material;
 - viii. Any industrial or commercial waste products;
 - ix. Any household rubbish or waste;
 - x. Any recycled or composted material;
 - xi. Furniture.

2. “*land in the immediate vicinity of a public place*” means any land that immediately adjoins a public place.

3. The article(s) must be visible from the public place.

ORDER No. 11

To Do What?

To do or to refrain from doing such things as are specified in the order to prevent environmental damage, to repair environmental damage or to prevent further environmental damage.

In What Circumstances?

Work carried out on land has caused or is likely to cause environmental damage, being damage to the physical environment that is caused by:

- (a) drainage; or
- (b) drainage works; or
- (c) obstructing a natural watercourse other than by a work constructed or used under a water management work approval granted under Part 2 of the Water Management Act 2000,.

Not being environmental damage arising from premises, works or equipment the subject of a licence issued under the Protection of the Environment Operations Act, 1997 or the subject of a notice or direction issued by the regulatory authority under that Act.

To Whom?

Owner or occupier of land.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

Physical environmental damage must be as a result of the flow of water over any land, discharged from the following sources:

1. Drainage, being a drain or system of drains, whether artificial or natural, which are designed for the carrying of water other than sewage and which includes a natural water course or
2. Drainage works, being any part of the on-site process involved in the construction of a drain or drainage system and which includes, but not limited to site excavation, materials, compiling and any associated buildings works or
3. Obstruction of a natural water course, being the carrying out of building works or the deposition of any material in such a position as to block or restrict the flow of water within or to redirect the flow of water away from a natural water course.

ORDER No. 12

To Do What?

To do such things as are necessary to control the flow of surface water across land.

In What Circumstances?

Other land or a building on the land or other land is being damaged or is likely to be damaged.

To Whom?

Owner or occupier of land.

Definition:

Surface Water means all water which runs across the surface of the land and which may originate from any source including non-polluted water, water from defective guttering, downpipes or drainage, roof water, water from paved areas, or overflows from swimming pools and water from blocked stormwater drains or pipes, but shall not include seepage or water percolating to the surface arising from excavation within the land that is suffering damage or likely to suffer damage.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

1. Erosion of land is occurring from the flow of surface water.
2. Physical damage to a building is or has occurred or there is sufficient evidence to suggest that it is likely to occur.
3. Surface water flows across the land boundary onto other land.
4. Situations where this order may apply include but are not limited to:
 - i. Water from defective guttering, downpipes or drainage (including underground drainage pipes)
 - ii. Water from roofs not fitted with guttering
 - iii. Emptying or backwashing swimming pools
 - iv. Surface water that has been purposely redirected away from its natural direction of flow towards other land.
 - v. The surface water is turbid or otherwise polluted and is flowing across the land boundary.



FAIRFIELD CITY COUNCIL – ENVIRONMENTAL STANDARDS	
Doc Number 0-058	LOCAL ORDERS POLICY

Criteria Does Not Include:

- i. Stormwater runoff which is NOT redirected in any manner (i.e. natural surface flow) and follows existing natural land contours
- ii. Surface water runoff occurring in periods of exceptional heavy rain
- iii. Stormwater runoff flowing onto and down existing hard surface areas such as driveways, tennis courts, concrete slab or paved areas
- iv. Discharges from defective or blocked private stormwater easements
- v. Overflows from stormwater absorption pits where contours of land and lack of access prevent direct connection of a building’s stormwater drainage system to Council’s Stormwater Drainage System
- vi. Runoff from any building or development work that is the subject of a Development Consent and has been constructed in accordance with that consent
- vii. Any circumstance in which the flow of surface water across land is capable of being regulated by the Department of Environment and Conservation constitutes a circumstance where an Order No. 12 cannot be made.

ORDER No 13

This Local Orders Policy does not include details or criteria in respect to order No 13 to section 124 of the Local Government Act as these provisions have been repealed.

ORDER No 14

This Local Orders Policy does not include details or criteria in respect to order No 14 to section 124 of the Local Government Act as these provisions have been repealed.

ORDER No. 15

To Do What?

Not to conduct, or to cease conducting an activity on premises (whether or not the activity is approved under the Local Government Act)

In What Circumstances?

The activity constitutes or is likely to constitute:

- (a) a life threatening hazard; or
- (b) a threat to public health or public safety

and is not regulated or controlled under any other Act by a public authority.

To Whom?

Any person apparently engaged in promoting, conducting or carrying out the activity.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

1. The activity being carried out is causing or is likely to cause a life threatening hazard or a threat to public health or public safety to any person whether on private or public land.
2. Situations where this order may apply include but are not limited to:
 - (a) Use of a defective septic tank or a septic closet on premises after the date specified (in an order No. 24 served on the owner or occupier of the premises) being the date by which the premises were required to be connected with a sewerage system.
 - (b) Construction work on a septic tank or a septic closet on premises after the date specified (in an order No. 24 served on the owner or occupier of the premises) being the date by which the premises were required to be connected with a sewerage system.



FAIRFIELD CITY COUNCIL – ENVIRONMENTAL STANDARDS	
Doc Number 0-058	LOCAL ORDERS POLICY

Criteria Does Not Include:

1. Any activity that is covered by any other Act or Regulation.
2. Any activity that is controlled by another authority.

ORDER No. 16

To Do What?

To cease the use of premises or to evacuate premises.

In What Circumstances?

A person to whom order No. 15 is given has failed to comply with the order.

To Whom?

The person to whom order No. 15 is given.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

No additional criteria.



FAIRFIELD CITY COUNCIL – ENVIRONMENTAL STANDARDS	
Doc Number 0-058	LOCAL ORDERS POLICY

ORDER No. 17

To Do What?

To leave premises or not to enter premises.

In What Circumstances?

A person to whom order No. 15 is given has failed to comply with the order.

To Whom?

Any person.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

No additional criteria.

ORDER No. 18

To Do What?

Not to keep birds or animals on premises, other than of such kinds, in such numbers or in such manner as specified in the order.

In What Circumstances?

Birds or animals kept on premises are:

- (a) in the case of any premises (whether or not in a catchment district) - of an inappropriate kind or number or are kept inappropriately.

To Whom?

Occupier of premises.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

NOTE: There are no restrictions on the number of birds and animals (excluding horses) that can be kept in the Fairfield City Council local government area in normal circumstances. The standards below apply only where a legitimate problem has been identified relating to the numbers and/or types of birds or animals kept upon a particular premises and which is having a detrimental impact on the health, amenity and safety of others and where an order under section 124 of the Local Government Act is determined to be warranted and is required to rectify the problem.

Where it is considered by the investigating officer that the type or number of the birds or animals is inappropriate for the premises due to the impact occurring, restrictions on numbers and/or types kept as prescribed in the schedule below may be applied. The numbers specified for particular species in the schedule are based on what is considered to be a manageable and generally acceptable number. These numbers may however, be varied by the investigating officer depending on the circumstances.

(See Schedule 2 “Standards for Keeping Birds and Animals” Local Government (General) Regulation 2005).

General Criteria

1. Criteria for issuing an order may include (but is not limited to):
 - i. Offensive noise at inappropriate times.
 - ii. Odour problems due to proximity of enclosures or poor cleaning.
 - iii. Vermin infestation through poor cleaning.
 - iv. Risk of physical safety of humans.

Specific Animal Criteria

1. Poultry

(a) Fowl

(Definition – for the purpose of this Local Orders Policy, "fowl" shall include domestic fowl or guinea fowl and does not include ducks, geese or turkeys).

- i. No roosters are permitted to be kept;
- ii. The number of fowl shall be limited to twenty (20) per premises;
- iii. Fowl must not be kept within 4.5 metres (or at such greater distance as may be determined by Council in the particular case) of a dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food.

(b) Poultry (other than fowl)

- i. Poultry must not be kept within 30 metres of a dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food.

Poultry - General Requirements

- i. The floors of poultry houses must be paved with concrete or mineral asphalt underneath the roosts or perches. Poultry houses

more than 15.2 metres from a dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food and situated on clean sand need not comply with this requirement.

- ii. Poultry must not be kept under such conditions as to create a nuisance or to be dangerous or injurious to the health of humans.
- iii. Control measures for rodents, cockroaches or other vermin are to be conducted on a regular basis and poultry houses are to be maintained free of rodents, cockroaches and other vermin at all times.
- iv. Poultry yards must at all times be kept clean and free from offensive odours.
- v. Poultry yards must be enclosed to prevent the escape of poultry.

2. Swine, Goats, Sheep

Swine, goats or sheep must not be kept (and animal waste products must not be deposited) within 60 metres of a dwelling, shop, office, factory, church (or other place of public worship), school or public place.

3. Birds (other than Pigeons)

- i. Aviaries must not be located within 4.5 metres of a dwelling, public hall, school, or premises used for the manufacture, preparation, sale or storage of food.
- ii. Aviaries must not be kept under such conditions as to create a nuisance or to be dangerous or injurious to the health of humans.
- iii. Aviaries must at all times be kept clean and free from offensive odours.

4. Pigeons – General Requirements

- i. Pigeons must not be kept within 15 metres (or at such greater distance as may be determined by Council in the particular case) from a dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food.

- ii. Nuisance due to noise and also free flight of pigeons is to be minimised. Lofts must be constructed to *Council approval* on hard paving of a smooth surface, *or* with a suspended floor elevated 0.8 metres above the ground.
- iii. Lofts are to be kept clean at all times. Droppings are to be cleaned up daily and disposed of. To minimise odours owners must design and manage lofts to prevent manure becoming wet due to rain or cleaning.
- iv. Pigeons must be fed within lofts after exercise. All feed must be kept in vermin proof containers.
- v. Racing pigeon's lofts should have adequate visible landing platforms.
- vi. Exercising of birds should not occur between 8:00am and 3:30pm.
- vii. On no account should birds be allowed to roost on neighbouring buildings. "Open" lofts are not permitted.

Note: The provisions of the "*Policy for the Erection of Pigeon Lofts*" adopted by Fairfield City Council on 26 August 1996 and any subsequent amendments thereto must be complied with.

5. Horses

- i. Stables are not to be erected on allotments within an area of less than one (1) hectare.
- ii. Stables must be kept no closer than 9 metres from a dwelling, school, shop, office, factory, workshop, church or other place of public worship, public hall or premises used for the manufacture, preparation or storage of food.
- iii. The floors of any stables must be paved with concrete or mineral asphalt or equally impervious material and must be properly graded to drain.
- iv. Horse yards must be enclosed to prevent the escape of horses.
- v. Horse yards must not be kept under such condition as to create a nuisance or to be dangerous or injurious to the health of humans.

- vi. Horse yards must at all times be kept clean and free from offensive odours.
- vii. Where more than one (1) horse is kept on a premises, any conditions of a development consent in force shall also apply.

Note: The provisions of the “*Policy for the Erection of Stables*” adopted by Council on 26 August 1996 and any subsequent amendments thereto must be complied with.

6. Dogs

- i. A premises used for the keeping of a dog must not be kept under such conditions as to create a nuisance or to be dangerous or injurious to the health of humans.
- ii. A premises used for the keeping of a dog must at all times be kept clean and free from offensive odours.
- iii. A premises used for the keeping of a dog should be appropriately fenced to secure the dog/s within the premises.

7. Cats

- i. A premises used for the keeping of a cat must not be kept under such conditions as to create a nuisance or to be dangerous or injurious to health of humans.
- ii. A premises used for the keeping of a cat must at all times be kept clean and free from offensive odours.

8. Rabbits

- i. A premises used for the keeping of a rabbit must not be kept under such conditions as to create a nuisance or to be dangerous or injurious to health of humans.
- ii. A premises used for the keeping of a rabbit must at all times be kept clean and free from offensive odours.

9. Bees

- i. Bee hives shall not be kept on allotments having an area of less than one (1) hectare.
- ii. An adequate supply of water is to be provided within the premises where the bees are kept.
- iii. Hives are to be located so that flight paths do not interfere with surrounding residents.
- iv. Hives are to be located in rear yards only.
- v. All hives must be registered with the NSW Department of Primary Industries. The Beekeeping Code of Practice (ref DA!-310 NSW Department of Primary Industries) is to be observed.
- vi. Bee hives must not be kept under such conditions so as to create a nuisance or to be dangerous or injurious to health of humans.

10. Ferrets

- i. Ferrets must not be kept within 4.5 metres of a dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food.
- ii. Premises used for the keeping of a ferret must at all times be kept clean and free from offensive odours.

11. Miscellaneous

- i. Where not specifically noted above, the number of birds or animals to be kept is at the judgment and discretion of the investigating Council officer given the number and type of birds or animals being kept, the conditions under which they are kept and the impact they are causing.
- ii. Such animals would be required to be kept under such conditions as to prevent the creation of a nuisance or not to be dangerous or injurious to the health of humans.

- iii. The area proposed for the keeping of such animals must at all times be kept clean and free from offensive odours.
- iv. Where the keeping of birds or animals on premises is capable of being regulated by the Department of Environment and Conservation, Council may decide against making an order No. 18 if the Department elects to regulate it.

Criteria Does Not Include:

- ii. The feeding of wild or native birds and/or animals;
- iii. Damage caused by wild or native birds or animals;
- iv. The trapping of any wild or native birds or animals;
- v. The control of or treatment of termites on private or public land.

ORDER No. 19

To do What?

To use or not to use a tennis court as specified.

In What Circumstances?

Actual or likely annoyance or threat to the safety of neighbours or users of a public place.

To Whom?

Occupier of land.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

- i. Tennis courts are not to be used after sunset unless otherwise approved by development consent.



FAIRFIELD CITY COUNCIL – ENVIRONMENTAL STANDARDS	
Doc Number 0-058	LOCAL ORDERS POLICY

- ii. Tennis courts on private property shall not be used for commercial purposes without development consent being issued, i.e. for hire to non residents of the property.

ORDER No 20

This Local Orders Policy does not include details of criteria with respect to order No 20 in the table to section 124 of the Local Government Act as this order type refers to food storage, manufacture, handling and the like.

ORDER No. 21

To do What?

To do or refrain from doing such things as are specified in the order to ensure that land is, or premises are, placed or kept in a safe or healthy condition.

In What Circumstances?

The land or premises are not in a safe or healthy condition.

To Whom?

Owner or occupier of land or premises.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

Land or premises would be considered not to be in a safe or healthy condition if the safety or the health of the owner or occupier of the land or premises, or members of the community, is detrimentally affected, or conditions, matters or things on the land or premises create or are likely to create a health or safety risk to any person. Action that can be required includes, but is not limited to, the following:

1. The abatement of dampness in walls and ceilings in any property.

2. The repair of leaky roofs and renewal or repair of defective guttering and down piping (*where it causes health and safety issues and not damage – see Order 12*).
3. Provision of adequate wholesome water supply.
4. The renewal of broken window glass and sash cords to render windows capable of being opened top and bottom.
5. The removal of defective floor timbers and stair treads and replacement with sound material.
6. The renewal or repair of waste pipes and sanitary fittings and flush pipe to water closet pans.
7. Renewal or repair of defective sewerage service pipes.
8. Clearing of choked sewerage service pipes.
9. Repair of defective septic tanks, pipes and absorption pits.
10. The removal of the following accumulations which are likely to afford harbourage to vermin or otherwise pose a threat to health and safety to any person:
 - i. disused and/or second hand building materials or household fixtures and fittings;
 - ii. dilapidated and/or abandoned motor vehicle or ancillary parts and accessories or machinery;
 - iii. dilapidated and/or abandoned boats, watercraft, trailers or caravans;
 - iv. disused and/or second hand containers, bottles, scrap metal, wastepaper, rags, rubbish or other scrap materials; and
 - v. tree trunks, tree stumps, organic material, vegetation or firewood.
11. Provision of suitable facilities for toilet, kitchen sink, bathing and for washing of clothes with hot and cold water provided.
12. Provision of suitable cooking facilities.
13. The control of animal enclosures in so far as their operational aspects in relation to environmental health is concerned.

14. The removal of trees or branches of trees that are assessed and determined by Council's Officer as being unsafe.
15. The treatment of an untreated swimming pool or excavation where the condition of the water within it is or is likely to be breeding mosquitoes.
16. The boarding up or fencing off of a dilapidated building to prevent unauthorised access where there is a safety issue and order no. 7 cannot be used.
17. Cleaning of garbage containers and waste storage rooms or areas.
18. Disconnection of an electric fence from its energiser or otherwise render it inoperable.

Criteria Does Not Include:

1. Defective retaining walls, buildings or structures that are dilapidated or appear defective if they:
 - i. are located on private property; and
 - ii. would not impact upon any adjoining public land if they were to collapse; and
 - iii. would not pose a threat to health and safety of persons on adjoining public land in any way.
2. Where the condition of land or premises in respect of health or safety is capable of being regulated by the Department of Environment and Conservation.

ORDER No. 22

To Do What?

To store, treat, process, collect, remove, dispose of or destroy waste which is on land or premises in the manner specified in the order, provided that it is not inconsistent with the regulations made under the Protection of the Environment Operations Act 1997.

In What Circumstances?

Waste is present or generated on the land or premises and is not being dealt with satisfactorily, and is not regulated or controlled by, or subject to, a licence or notice granted or issued under the Protection of the Environment Operations Act 1997.

To Whom?

Owner or occupier of land or premises, owner of or person responsible for the waste or for any receptacle or container in which the waste is contained.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

1. Waste is being stored on land or premises for collection by Council not in the approved impervious receptacles with close-fitting lids that are provided for this purpose.
2. Where waste is present on land or premises and is not being properly stored, collected or removed satisfactorily from those premises.
3. Where there is a failure to comply with the provisions of the *'Policy for the Construction of Garbage Storage Bays'* adopted by Fairfield City Council on 26 August 1996 and any subsequent amendments thereto.
4. Where there is a defective on-site sewage management system.
5. Where there is disposal of human waste on site without an approved method of waste disposal.



FAIRFIELD CITY COUNCIL – ENVIRONMENTAL STANDARDS	
Doc Number 0-058	LOCAL ORDERS POLICY

ORDER No. 22A

To do what?

To remove or dispose of waste that is on any residential premises or to refrain from keeping waste on those premises.

In What Circumstances?

The waste is, in the opinion of an environmental health officer (within the meaning of the Public Health Act 1991), causing or is likely to cause a threat to public health or the health of any individual.

To Whom?

Owner or occupier of the premises.

Criteria:

When determining whether an order is to be given, the following criteria are to be taken into consideration.

No additional criteria.

ORDER No 23

This Local Orders Policy does not include details or criteria with respect to order No 23 to the table to section 124 Local Government Act as it relates to the connection of premises to council's water supply. Fairfield City Council does not provide reticulated water supplies and this order provision is not applicable.

ORDER No 24

This Local Orders Policy does not include details or criteria with respect to order No 24 to the table to section 124 Local Government Act as it relates to the connection of premises to a sewerage system of the council. Fairfield City Council does not provide a sewerage system and this order provision is not applicable.



FAIRFIELD CITY COUNCIL – ENVIRONMENTAL STANDARDS	
Doc Number 0-058	LOCAL ORDERS POLICY

ORDER No. 25

To Do What?

Not to use or permit the use of a human waste storage facility on premises after a specified date.

In What Circumstances?

It is necessary for the purpose of protecting public health.

To Whom?

Owner or occupier of premises.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

1. The human waste storage facility is so defective or poorly designed so as to permit human waste to discharge or overflow from the storage facility in such a manner to be a danger to the health of the public.

Criteria Does Not Include:

1. Where the use of human waste storage facilities is capable of being regulated by the Department of Environment and Conservation, Council may not make an Order No. 25.

ORDER No. 26

This Local Orders Policy does not include details or criteria in respect to order No 26 to section 124 of the Local Government Act as these provisions have been repealed.

ORDER No. 27

To Do What?

To remove an object or matter from a public place or prevent any object or matter being deposited there.

In What Circumstances?

The object or matter:

- (a) is causing or is likely to cause an obstruction or encroachment of or on the public place and the obstruction or encroachment is not authorised by or under any Act, or
- (b) is causing or is likely to cause danger, annoyance or inconvenience to the public.

To Whom?

Person causing obstruction or encroachment or owner or occupier of land from which the object or matter emanates or is likely to emanate.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

1. An Encroachment is a trespass upon the property or rights of another.
2. An Obstruction is to interrupt, make difficult or oppose the passage, progress or course of a person.
3. Object or matter is any article, item or thing which is visible and tangible and can include but is not limited to:
 - i. advertising sign, advertisement generally;
 - ii. motor vehicles or motor vehicle parts;
 - iii. caravans or caravan parts;

- iv. trailers/boats or trailer/boat parts;
- v. machinery, equipment and appliances;
- vi. second hand materials including building materials;
- vii. demolition materials;
- viii. scrap materials;
- ix. sand, soil rock, blue metal and any other material derived from any construction or dredging process;
- x. any organic or vegetative material;
- xi. any industrial or commercial waste product;
- xii. any household fixtures, rubbish or waste.
- xiii. second hand containers, bottles, scrap metal, waste paper, rags, or rubbish;
- xiv. any recycled or composted material.

Criteria Does Not include:

This criterion does not include:

1. The placing of articles on a public place during a designated period of a Council clean up provided these articles do not breach conditions in the circumstances (a) and (b). above.
2. The display of goods on footpaths and public places for which an approval has been obtained from Council and a licence agreement entered into in accordance with the provisions of the Fairfield City Council’s “Policy for Display of Goods on Council Owned Footpaths” adopted by Council on 11 March 2003 and any subsequent amendments thereto.
3. The placement of outdoor dining facilities and other items on footpaths and public places for which an approval has been obtained from Council and a licence agreement entered into in accordance with the provisions of the Fairfield City Council’s “Policy for Outdoor Dining on Council Owned

Footpaths” adopted by Council on 11 March 2003 and any subsequent amendments thereto.

ORDER No. 28

To Do What?

To take whatever steps are necessary to prevent damage to a public place and to repair damage to a public place.

In What Circumstances?

There is actual or likely damage:

- a. by excavation or removal of material from or adjacent to the public place; or
- b. by a work or structure; or
- c. by surface drainage or irrigation.

To Whom?

With respect to

- a. the person responsible for the excavation or the removal of the material.
- b. the owner or person entitled to the benefit of the work or structure.
- c. the owner or occupier of land from which surface drainage flows or from which spray emanates.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

- a. There is no approval issued by Council.
- b. The work is not in accordance with approval granted by Council.



FAIRFIELD CITY COUNCIL – ENVIRONMENTAL STANDARDS	
Doc Number 0-058	LOCAL ORDERS POLICY

ORDER No. 29

To Do What?

To alter or repair a work or structure on, over or under a public place.

In What Circumstances?

It is in the public interest to do so.

To Whom?

Owner of the work or structure.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

- a. The work or structure on, over or under the public way is not in accordance with an approval or is considered unsafe or dangerous.
- b. Repairs are required to private services within a public place such as, but not limited to, sewer services and roof water / stormwater pipes that are not covered by lease agreements.
- c. Driveway crossings which are not being maintained in a safe condition.
- d. Shop awnings which are not being maintained in a safe or slightly condition.
- e. Maintenance of underground pipes within a public place.



FAIRFIELD CITY COUNCIL – ENVIRONMENTAL STANDARDS	
Doc Number 0-058	LOCAL ORDERS POLICY

ORDER No. 30

To Do What?

To comply with an approval.

In What Circumstances?

The approval is not being complied with.

To Whom?

Person entitled to act on the approval or person acting otherwise than in compliance with the approval.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

- a. An approval granted by Council under the Local Government Act or Regulations has not been complied with.
- b. Conditions of an approval granted by Council under the Local Government Act or Regulations have not been complied with.



FAIRFIELD CITY COUNCIL – ENVIRONMENTAL STANDARDS	
Doc Number 0-058	LOCAL ORDERS POLICY

ORDER UNDER SECTION 125 OF THE LOCAL GOVERNMENT ACT

To do What?

To order a person responsible for a public nuisance to abate it.

In What Circumstances?

Where a nuisance consists of interference with the enjoyment of public or private rights. A nuisance is “public” if it materially affects the reasonable comfort and convenience of a sufficient class of people to constitute the public or a section of the public.

To Whom?

The person responsible for causing a public nuisance.

Criteria:

When determining whether an order is to be given the following criteria are to be taken into consideration.

- a. The source of the nuisance need not be located on or in a public place.
- b. The impact of the nuisance must affect the general public and not a localised group.

Example 1 – Lighting from a private premises impacting upon motor vehicle drivers on a public road.

Example 2 – Any wrongful or negligent act or omission in a public road that interferes with the full, safe and convenient use by the public of their right of passage.

ADDITIONAL PROVISIONS OF POLICY

1. AMENDMENT OF THE POLICY

The Local Orders Policy incorporates the amendments listed in the table to this clause.

Amendment No.	Date Adopted	Minute No.	Date Commenced	Notified Publicly
Nil				

The Local Orders Policy will be automatically revoked at the expiration of 12 months after the declaration of the poll for the next general Local Government election, unless the Council revokes it sooner.

Note: Automatic revocation of the Local Orders Policy is provided for by section 165(4) of the Local Government Act. The next general Local Government election is expected to be held in September 2008.

Note: Under Section 126 of the Local Government Act Council may not give an Order in respect of the following land, without the prior written consent of the Minister.

- Vacant Crown Land
- A reserve within the meaning of Part 5 of the Crown Lands Act, 1989
- A Common

Further, section 131A Local Government Act requires that if an order will or is likely to have the effect of making a resident homeless, the Council must consider whether the resident is able to arrange satisfactory alternative accommodation in the locality. If the person is not able to arrange satisfactory alternative accommodation in the locality the Council must provide the person with information as to the availability of satisfactory alternative accommodation in the locality and any other assistance that the Council considers appropriate.

2. COPIES OF CERTAIN ORDERS TO BE PROVIDED TO THE ENVIRONMENT PROTECTION AUTHORITY (DEPARTMENT OF ENVIRONMENT AND CLIMATE CHANGE)

If Council gives Order No 11, 12, 18, 21 or 25 in respect of land or premises and the land or the land on which the premises are situated is the subject of a contaminated land action, the Council must provide the EPA (Department of Environment and Climate Change) with a copy of the Order and of any modification or revocation of it.

Failure to provide the EPA (Department of Environment and Climate Change) with a copy does not invalidate an Order, modification or revocation.

“Contaminated land action” means a current action under the Contaminated Land Management Act 1997 comprising:

- (a) a declaration or Order made under Part 3 of that Act in respect of which the EPA has notified the Council under s59 of that Act, or
- (b) a voluntary proposal in respect of which the EPA has notified the Council under s59 of that Act, but which has not yet been fully carried out, or
- (c) a notice to maintain remediation action issued by the EPA under s28 of that Act, or
- (d) a covenant to maintain remediation imposed by the EPA under s29 of that Act.

(Clause 97 Local Government (General) Regulation 2005).

DICTIONARY

Abatement means the summary removal or remedying of a nuisance (the physical removal or suppression of a nuisance) by an injured party without having recourse to legal proceedings.

Act means the Local Government Act, 1993 and Regulations.

Adequate means equal to the requirement or occasion; fully sufficient, suitable or fit.

Article means anything capable of ownership except a living creature.

Clean and Sanitary means the provision of a healthy environment by the exclusion of dust, dirt, vermin and bacteria.

Convenience means a state of affairs in which members of the community can enjoy a public place without aggravation, fear, annoyance or disruption from a source within private property (i.e. non public place).

Danger to the Public means a liability or exposure to harm, injury, risk or peril to the public.

Dilapidated reduced to or fallen into ruin or decay.

Environmental Health Officer means a holder of that office who is:

- (a) an officer of the Department of Health, or
- (b) an employee of a local authority, or
- (c) an employee of a public health organisation within the meaning of the Health Services Act 1997.

Expedient is to promote a proposed or desired object, a means to an end.

Local Government Act means the Local Government Act 1993.

Land includes messuages, tenements and hereditaments, corporeal and incorporeal, of any tenure or description and whatever may be the estate or interest therein.



FAIRFIELD CITY COUNCIL – ENVIRONMENTAL STANDARDS	
Doc Number 0-058	LOCAL ORDERS POLICY

Land in the Immediate Vicinity of a Public Place means any land either having an allotment boundary to a public place or giving legal access to the public across any other land to a public place.

Likely means probably or apparently going or destined to be.

Matter means the substance or substances of which physical objects, whether solids, liquids or gases are composed.

Necessary means something that cannot be dispensed with.

Physical Environmental Damage means the degrading of existing physical surroundings including the land or water.

Safety means freedom from injury or danger.

Sewage Management Facility means:

- a. a human waste storage facility, or
- b. a waste treatment device intended to process sewage, and
- c. includes a drain connected to such a facility or device.

Sewerage System in relation to any premises means the pipes, fittings and fixtures on the premises, connected to the infrastructure, which are used or intended to be used for the conveyance of sewage from the premises, but does not include a septic tank, an effluent system or a sullage system.

Significant means important; of consequence.

Surface Water means all water which runs across the surface of the land and which may originate from any source including non-polluted water, water from defective guttering, downpipes or drainage, roof water, water from paved areas, discharges or overflows from swimming pools and water from blocked stormwater drains or pipes, but shall not include seepage or water percolating to the surface rising from excavation within the land that is suffering damage or likely to suffer damage.

Threat means a reasonable menace or likelihood of harm.

Waterhole or Dangerous Hole means any hole, pit, quarry, excavation, dam or waterhole which in the opinion of the Council is or may become dangerous to life,

but does not include a swimming pool within the means of the Swimming Pool Act, 1992.

Waste means:

- (a) effluent, being any matter or thing, whether solid or liquid or a combination of solids and liquids, which is of a kind that may be removed from a human waste storage facility, sullage pit or grease trap, or from any holding tank or other container forming part of or used in connection with a human waste storage facility, sullage pit or grease trap, or
- (b) trade waste, being any matter or thing, whether solid, gaseous or liquid or a combination of solids, gases and liquids (or any of them), which is of a kind that comprises refuse from any industrial, chemical, trade or business process or operation, including any building or demolition work, or
- (c) garbage, being all refuse other than trade waste and effluent,

and includes any other substance defined as waste for the purposes of the Protection of the Environment Operations Act 1997, and a substance is not precluded from being waste merely because it is capable of being refined or recycled.

Waste Receptacle means a container approved by Council, used for the retention and storage of waste arising from premises.

Water Supply Pipe means a pipe of approved material which is used to provide water from the Sydney Water water supply system.

Work means any activity, process, task or action and includes a reference to the rebuilding of, the making of alterations to or the enlargement or extension of a work or enclosing a public place in connection with the carrying out of a work.