

[Legal Notice No.16]

HONIARA CITY COUNCIL (LITTER) BILL 2009

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HONIARA CITY COUNCIL (LITTER) BILL 2009

A BILL FOR

AN ORDINANCE made pursuant to sections 34 and 35 of the *Honiara City Act 1999* (Act No. 2 of 1999) to provide for the regulation of litter within Honiara City, and for related purposes.

ENACTED by the Honiara City Council as follows

PART 1 - PRELIMINARY

Short title
and com-
mencement

1. This Ordinance may be cited as the Honiara City Council (Litter) Ordinance 2009 and commences on the date it is published in the *Gazette*.

Repeal of
Ordinances

2. The following Ordinances are repealed --
- (a) the Honiara City Litter (Public and Private Nuisances) Ordinance; and
 - (b) the Honiara City (Refuse Disposal) Ordinance.

Interpre-
tation

3. In this Ordinance, unless the context otherwise requires --

“*Act*” means the *Honiara City Act 1999*;

“*appropriate fee*” means any fee prescribed in the Honiara City Council (Fees, Rates and Charges) Ordinance 2009 for the purposes of the provision in which the term appears;

“*authorised officer*” means a person authorised under section 29;

“*City Clerk*” means the Chief Executive of the Council appointed under section 42(1) of the Act;

“*City Fund*” means the general fund for Honiara City established under section 39 of the Act;

“*Council*” means the Honiara City Council established under section 4 of the Act;

“*foul*” in relation to a public place includes spitting, urinating or defecating in or on the place;

"*litter*" means any refuse, rubbish, waste, or debris and includes animal carcasses, bottles, boxes, bricks, broken glass, builders spoil, cans, cigarette butts, containers, derelict vehicles or vessels, dirt, food, garden refuse, plastic bags, rubble, vegetable matter, and wrappers;

"*litter disposal facility*" means a facility established by the Council under section 20(1);

"*major litter*" means litter that cannot be contained within a forty-four gallon drum, or that presents an immediate danger to the environment or human health or safety including because of its type or location;

"*owner*" includes the holder of a lease for a term that exceeds two years;

"*public place*" means any place other than a litter disposal facility to which members of the public are entitled or permitted to have access, whether upon payment of a fee or otherwise, including any road, track, footpath, thoroughfare, court, public reserve, market, garden, sporting facility, wharf, stream or river;

"*private place*" means any outdoors place that is not a public place;

"*vehicle*" includes a trailer.

PART 2 - LITTERING

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|--|---|
| <p>4. For the purposes of this Part, a person <i>deposits litter</i> in a public place if the person:</p> <p>(a) drops, throws or puts litter into or onto the public place;</p> <p>(b) drops, throws or puts litter into or onto a private place from which the litter escapes into or onto the public place;</p> <p>(c) drives or otherwise controls a vehicle from which litter escapes into or onto the public place; or</p> <p>(d) causes or permits another person to do any of the things mentioned in paragraph (a), (b) or (c).</p> | <p>Definition of depositing litter</p> |
| <p>5. A person who deposits litter in a public place commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units.</p> | <p>Offence of depositing litter in a public place</p> |
| <p>6. A person who deposits major litter in a public place commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units.</p> | <p>Offence of depositing major litter in a public place</p> |
| <p>7. A person who fouls a public place commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units.</p> | <p>Offence of fouling a public place</p> |

- Offences by driver of vehicle
8. A person who drives or otherwise controls a vehicle from which another person:
- (a) deposits litter in a public place; or
 - (b) fouls a public place.
- commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units.
- Offences by occupier of premises
9. A person who is the occupier of premises from which another person:
- (a) deposits litter in a public place; or
 - (b) fouls a public place
- commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units.
- Notice to remove litter or vegetation
10. (1) An authorised officer may give an occupier of a public or private place on which litter or overgrown vegetation is located a written notice requiring the occupier to dispose of the litter or overgrown vegetation by a specified day.
- (2) An occupier who fails to comply with a notice under subsection (1) commits an offence and is liable on conviction to:
- (a) a fine not exceeding 1,000 penalty units; and
 - (b) a fine not exceeding 50 penalty units for each day on which the offence continues after the day on which any further notice is given to the occupier under subsection (3).
- (3) An authorised officer who reasonably believes that an occupier has committed an offence under subsection (2) may give the occupier a written notice to this effect.
- Notice to remove major litter
11. (1) An authorised officer may give an occupier of a public or private place on which major litter is located a written notice requiring the occupier to dispose of the litter by a specified day.
- (2) an occupier who fails to comply with a notice under subsection (1) commits an offence and is liable on conviction to:
- (a) a fine not exceeding 10,000 penalty units; and
 - (b) a fine not exceeding 50 penalty units for each day on which the offence continues after the day on which any further notice is given to the occupier under subsection (3).
- (3) An authorised officer who reasonably believes that an occupier has committed an offence under subsection (2) may give the occupier a written notice to this effect.

12. (1) An authorised officer may give an occupier of any premises that adjoins a public place a written notice requiring the occupier to dispose of any litter located in or on the public place and within seven metres of the premises by a specified day.

Notice to
remove lit-
ter from
adjoining
public
place

(2) An occupier who fails to comply with a notice under subsection (1) commits an offence and is liable on conviction to:

- (a) a fine not exceeding 1,000 penalty units; and
- (b) a fine not exceeding 50 penalty units for each day on which the offence continues after the day on which any further notice is given to the occupier under subsection (3).

(3) An authorised officer who reasonably believes that an occupier has committed an offence under subsection (2) may give the occupier a written notice to this effect.

13. (1) An authorised officer may give an occupier of any premises that adjoins a public place a written notice requiring the occupier to dispose of any major litter located in or on the public place and within seven metres of the premises by a specified day.

Notice to
remove
major litter
from
adjoining
public
place

(2) An occupier who fails to comply with a notice under subsection (1) commits an offence and is liable on conviction to:

- (a) a fine not exceeding 10,000 penalty units; and
- (b) a fine not exceeding 50 penalty units for each day on which the offence continues after the day on which any further notice is given to the occupier under subsection (3).

(3) An authorised officer who reasonably believes that an occupier has committed an offence under subsection (2) may give the occupier a written notice to this effect.

PART 3 - LITTER RECEPTACLES

14. The Council may install litter receptacles in any public place ("*public litter receptacles*").

Public
litter recep-
tacles

15. A person who:

Improper
use of pub-
lic litter
receptacle

- (a) places litter generated at a residence in a public litter receptacle;
- (b) places litter generated in the course of conducting a business in a public litter receptacle; or
- (c) causes or permits another person to do any of the things mentioned in paragraph (a) or (b).

commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units.

- Owner to supply litter receptacles
16. (1) An authorised officer may give the owner of any premises a notice requiring the owner to supply the premises with an appropriate number of litter receptacles by a specified day.
- (2) An owner who fails to comply with a notice under subsection (1) commits an offence and is liable on conviction to:
- (a) a fine not exceeding 1,000 penalty units; and
- (b) a fine not exceeding 50 penalty units for each day on which the offence continues after the day on which any further notice is given to the owner under subsection 3.
- (3) An authorised officer who reasonably believes that an owner has committed an offence under subsection (2) may give the owner a written notice to this effect.
- (4) For the purposes of subsection (1) "**appropriate number of litter receptacles**" means the number of litter receptacles that the authorised officer reasonably believes to be necessary to allow for the lawful management and disposal of litter generated at the premises.
- Care of litter receptacles
17. The occupier of any premises who fails to maintain a litter receptacle at the premises in a reasonably sound and hygienic condition commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units.
- Damaging etc litter receptacles
18. A person who:
- (a) damages a litter receptacle;
- (b) places an inflammable or toxic substance in a litter receptacle; or
- (c) lights a fire in a litter receptacle,
- commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units.
- PART 4 - DISPOSAL OF LITTER
- Litter collection
19. The Council may collect litter from any premises:
- (a) upon payment of the appropriate fee; and
- (b) in accordance with any schedule and subject to any conditions that the Council determines.
- Litter disposal facilities
20. (1) The Council may establish litter disposal facilities on land that the Council owns, occupies, controls or manages.
- (2) The Council may permit a person to dispose of litter at a litter disposal facility upon payment of the appropriate fee.

21. (1) A person may dispose of litter on any premises if:
- (a) the lawful occupier of the premises consents; and
 - (b) the disposal method does not cause a nuisance to others.
- (2) A person who disposes of litter on any premises other than in accordance with subsection (1) commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units.
22. The following litter is the property of the Council:
- (a) litter placed in a public litter receptacle;
 - (b) litter disposed of at a litter disposal facility;
 - (c) litter collected by the Council.
23. A person who disturbs or takes litter that is the property of the Council without prior written permission from the City Clerk commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units.
- PART 5 - MISCELLANEOUS
24. An authorised officer may:
- (a) at all reasonable times, with the consent of the owner or occupier or otherwise with warrant, enter and inspect any private place;
 - (b) require a vehicle to stop; or
 - (c) require a person to state his or her name and address,
- for any purpose connected with the enforcement of this Ordinance.
25. (1) For the purposes of section 37 of the Act, an enforcement officer employed under that section may, without warrant, arrest
- (a) any person who is committing or about to commit or whom the officer suspects upon reasonable grounds of having committed an offence under this Ordinance; or
 - (b) any person for whom the officer has reasonable cause to believe a warrant of arrest has been issued with respect to an offence under this Ordinance.
- (2) An enforcement officer shall, without unnecessary delay, take any person arrested under subsection (1) to a police officer, or to the nearest police station or a magistrate.
26. (1) An authorised officer may prosecute any offence under this Ordinance in the magistrate's court.
- (2) A person who is an authorised officer for the purposes of subsection (1) has the right to appear before a magistrate and the power to conduct proceedings in the magistrate's court in respect of any offence under this Ordinance.

Disposal of litter on premises

Litter becomes Council property

Scavenging

General powers of authorised officers

Powers of enforcement officers to arrest without warrant

Authorised officers may prosecute offences

- Failure to comply with notices additional consequences
27. If a person fails to comply with a notice under section 10(1), 11(1), 12(1), 13(1) or 16(1), the Council may do anything that the notice required the person to do and recover its costs from the person as a civil debt.
- Penalties payable to Council
28. All monetary penalties including any civil debt collected pursuant to this Ordinance shall be paid into the City Fund.
- Authorised officers
29. The City Clerk may, in writing, authorise any officer of the Council or another person for the purposes of this Ordinance.

PASSED by the Honiara City Council this 24th day of November 2009.

Cr. Andrew Mua
Mayor
Honiara City Council

ASSENTED TO by the Minister for Home Affairs this 24th day of November 2009.

MINISTER FOR HOME AFFAIRS

[Legal Notice No. 17]

**HONIARA CITY COUNCIL (MISCELLANEOUS AMENDMENTS)
BILL 2009**

A BILL FOR

AN ORDINANCE made pursuant to sections 34 and 35 of the Honiara City Act 1999 (Act No. 2 of 1999) to amend penalties in and provide for the effective enforcement of certain Ordinances of the Honiara City Council and for related purposes.

ENACTED by the Honiara City Council as follows -

- Short title and commencement
1. (1) This Ordinance may be cited as the Honiara City Council (Miscellaneous Amendments) Ordinance 2009 and commences on the date it is published in the *Gazette* except for section 7 which commences on 1 January 2010.
- Amendment to the Honiara City Council Cemeteries Ordinance
2. The Honiara City Council Cemeteries Ordinance is amended
- (a) in section 15, by deleting the words "twenty dollars" and substituting the words "1,000 penalty units";