

	Function: INSPECTORIAL SERVICES	Adopted: 3 OCTOBER 2001
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		Next Review: As Required
ORDER MAKING POLICY		

Policy Statement

1. Introduction

The District Council of the Copper Coast is committed to using the Order making powers available to it under the Local Government Act 1999 in such a way as to facilitate a safe and healthy environment and to improve the amenity of the locality.

This *Order Making Policy* sets out the steps Council will take in the making of the Orders.

2. Applicable Legislation

Section 259 of the Local Government Act 1999 requires the Council to take reasonable steps to prepare and adopt policies concerning the operation of Part 2 of Chapter 12 of the Act. Part 2 deals with the making of Orders.

3. Integration with Corporate Objectives

Social Objective – Wellbeing

- a) To enhance the quality of life of our community by encouraging health, wellbeing and safety.

Environmental Objective - Sustainability

- a) To responsibly manage the natural and built environment to ensure its sustainability and diversity to the community

Lifestyle location of choice

4. Definitions

Nil

5. Application

This Policy will apply to those circumstances listed in Section 254 which states that Council may Order a person to do or refrain from doing a thing under certain circumstances, as specified in the table included within that section of the Act, thus:

Column 1 To do or refrain from doing what?	Column 2 In what circumstances?	Column 3 To Whom?
<p>1. Unsightly condition of land.</p> <p>To take action considered by the District Council to be necessary to ameliorate (eliminate or reduce the impact of) an unsightly condition.</p>	<p>Land, or a structure or object on land, is unsightly and detracts significantly from the amenity of the locality in which the land is situated.</p>	<p>The owner or occupier of the land.</p>
<p>2. Hazards on land adjoining a public place.</p> <p>(1)—to fence, empty, drain, fill or cover land (including land on which there is a building or other structure).</p> <p>(2)—to remove over-grown vegetation, to cut back over-hanging branches, or to remove a tree.</p> <p>(3)—to remove or modify a flag or banner, a flagpole or sign, or similar object or structure that intrudes into a public place.</p> <p>(4)—where the public place is a road, to take action necessary to protect the road or to remove a hazard to road users.</p> <p><i>Examples</i></p> <ul style="list-style-type: none"> • to fill an excavation, or to prevent drainage of water across the road. • to construct a retaining wall or to remove or modify a fence. • to fence land to prevent the escape of animals. • to remove a structure or vegetation near an intersection. 	<p>(1) A hazard exists that is, or is likely to become, a danger to the public.</p> <p>(2) The vegetation, branches or tree create, or are likely to create, danger or difficulty to persons using a public place.</p> <p>(3) The relevant object or structure creates, or is likely to create, danger or difficulty to persons using a public place.</p> <p>4 A situation exists that is causing, or is likely to cause, damage to the road or a hazard to road users.</p>	<p>(1) The owner or occupier of the land.</p> <p>(2) The owner or occupier of the land.</p> <p>(3) The owner or occupier of the land.</p> <p>(4) The owner or occupier of the land.</p>
<p>3. Animals that may cause a nuisance or hazard.</p>		

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<p>To do or refrain from doing the thing specified in the Order to abate a nuisance or a hazard to health or safety associated with a live or dead animal or animals, or otherwise to deal with an animal or animals.</p>	<p>A person in keeping or dealing with (or failing to deal with) an animal or animals (whether the animal or animals are alive or dead) so as to cause, or to be likely to cause, a nuisance or a hazard to health or safety.</p> <p>A person is the owner or occupier of land where an animal or animals are located which may cause, or be likely to cause, a nuisance or a hazard to health or safety, or otherwise to become a pest.</p> <p><i>Examples</i></p> <ol style="list-style-type: none"> 1. the slaughtering of animals in a town or urban situation. 2. Keeping an excessive number of insects, birds or other animals. 3. Keeping bees in close proximity to other property. 4. Keeping animals so as to generate excessive noise, dust or odours, or to attract pests or vermin. 5. Keeping an aggressive animal, or keeping an animal in a situation where it cannot be adequately contained or may cause danger to public. 6. Failing to deal with wasp's nest. 	<p>The owner or occupier of land or any person apparently engaged in promoting or conducting an activity.</p>
<p>4. Inappropriate use of vehicle.</p> <p>To refrain from using a caravan or vehicle as a place of habitation.</p>	<p>A person is using a caravan or vehicle as a place of habitation in circumstances that –</p> <ol style="list-style-type: none"> (a) present a risk to health or safety of an occupant; or (b) cause a threat of damage to the environment; or (c) detract significantly from the amenity of the locality. 	<p>The owner or occupier of the land or a person apparently occupying the caravan or vehicle.</p>

Subject to review as required, Council will not apply this policy to additional sections of the Act. Thus, this Policy will not apply to sections 216 (power to order owner of private road to carry out specified road work), 217 (power to require owner of adjoining land to carry out specified work).

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In making Orders, Council will consider the following principles which are considered central to the effective resolution of local nuisances on private land:-

1. Each case for the possible use of the Order making powers will be considered on its merits. Factors to be considered include:
 - Severity of the incident
 - Hazard/danger posed to the community
 - Risk to health/safety of the community
 - Detraction from the amenity of the locality
 - Repeated occurrence of the activity/incident (e.g. duration, previous offences)
 - If the breach is significant/substantial
 - Would an informal warning letter be sufficient
 - Are there any public interest issues
 - What evidence is available
 - Offenders attitudes
 - Other avenues or approaches for possible resolution
2. Except in cases as described in 3 below, appropriate measures will be taken prior to making an order including giving the person to whom an Order is intended to be directed a notice in writing stating:-
 - The proposed action
 - The terms of the proposed Order (i.e. what the District Council requires the person to do or refrain from doing)
 - The period within which compliance with the order will be required
 - The penalties for non compliance
 - Reasons for the proposed action
 - Inviting the person notified of the opportunity to give reason/s, within a reasonable specified time, why the proposed action should not be taken
3. Reasonable steps will be taken to resolve cases of local nuisance by negotiation with the person involved before considering issuing an Order, except in cases where Council considers the circumstances or activity constitutes, or is likely to constitute:-
 - A threat to life
 - An immediate threat to public safety or public health
 - An emergency situation.

Penalties

Penalties and expiation fee for failure to comply with an Order issued under Section 254 of the Act must be imposed in accordance with the provisions of Section 258 of the Act.

6. Delegation

The District Council's Policy will be enforced by Authorised Officers duly appointed pursuant to provisions of the Local Government Act.

7. Adoption and Review

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This Policy will be reviewed as required, with the review being undertaken by the XXX Department and a report provided to Council for consideration and adoption.

8. Availability of Policy

This Policy will be available for inspection without charge at the Council's Principal Office during normal business hours, and on Council's website.

A copy of this Policy may be obtained on payment of a nominated fee from Councils' principal office or may be down loaded from Councils' website.

Signed 

Mayor

Date 18th April 2017

Signed 
Chief Executive Officer

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