

Information Guide 15

Authorised Officer – appointment, powers and actions

Current as at August 2013

This information sheet contains information about:

1. The source and extent of City of Burnside (authorised) officers' appointment and powers under Section 18 and 19 of the Development Act 1993;
2. The action that may be taken against a person for failing to comply with a requirement or direction of an officer under Section 19 of the Development Act 1993; and
3. General offence penalties.

Powers of an Authorised Officer

City of Burnside (authorised) officer(s) appointed under the *Development Act 1993 (Act)* have certain powers given by that Act.

An officer is issued with and will carry an identity card which may set out any limitations that might exist on the officer's authority. The officer must produce the card for inspection before exercising the powers of an authorised officer under this Act in relation to any *person*.

The full list of powers of an officer, are set out in Section 19 of the Act. In general terms, these powers allow an officer to:

- Enter and inspect any land or building:
 - Where there is reason to suspect that a provision of the act is being or has been breached; or
 - For the purposes of inspecting building work; or
 - For determining land or building is safe; or
 - For any other reasonable purpose connected with the administration or operation of this act.
- Require any person to produce documents as reasonably required for the administration or enforcement of the Act;
- Examine, copy or take extracts from documents or information so produced or require a person to provide copies of documents or information;
- Carry out tests, take measurements or photographs, films, video recordings as necessary;
- Require a person reasonably suspected of having committed, or to be committing or about to commit any breach of this Act to state the person's full name and address and produce their identification;
- Require a person to answer questions;
- In the exercise of powers under this act the authorised officer may be assisted by such persons as may be necessary or desirable in the circumstances;
- Give any directions reasonably required in connection with these powers or with the administration or enforcement of the Act.
- An occupier of a building must give assistance to the authorised officer or persons assisting an authorised officer as is reasonably required for the effective exercise of powers under this section;
- An authorised officer cannot break into a building without the authority of a warrant issued by a magistrate, *unless the authorised officer believes on reasonable grounds that the circumstances require immediate action to be taken.*

Action that may be taken against a person who fails to comply

- It is an offence to hinder or obstruct an authorised officer or person assisting an authorised officer without reasonable excuse. It is also an offence to:
- Use abusive, threatening or insulting language to an authorised officer or person assisting an authorised officer;
 - Fail to answer a question to the best of your knowledge, information or belief;
 - Fails to obey a reasonable requirement or direction;
 - Pretend to be an authorised officer;
 - Assault an authorised officer or person assisting an authorised officer.
- Court action for a breach(s) of this legislation may be taken in the Criminal jurisdiction of the Environment, Resources and Development Court or a Magistrates Court. The maximum penalty can include imprisonment for some breaches or fines up to a maximum of \$8,000.00
- Fines and penalties relating to general offences committed against Sections 44 and 45 of the Development Act 1993 have a maximum penalty of up to \$120,000.00