

**Colac Otway
SHIRE**

**GOVERNANCE
LOCAL LAW NO 4 - 2020**

LOCAL LAW ADOPTED BY COUNCIL **[INSERT DATE]**

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TABLE OF CONTENTS

PART ONE - PRELIMINARY PROVISIONS	1
1. Title	1
2. Objectives	1
3. Power to make Local Law	1
4. Commencement and End Date	1
5. Revocation	1
6. Definition of Words Used in this Local Law	1
PART TWO - USE OF THE COMMON SEAL	3
7. Use of the Common Seal	3
8. Security of the Common Seal	3
9. Signature to Accompany Common Seal	3
PART THREE - OFFENCES AND PENALTIES	3
10. Offences	3
11. Infringement Notices	4
12. Payment of Penalty	4
PART ONE - PRELIMINARY PROVISIONS	1
1. Title	1
2. Objectives	1
3. Power to make Local Law	1
4. Commencement and End Date	1
5. Revocation	1
6. Definition of Words Used in this Local Law	1
PART TWO - USE OF THE COMMON SEAL	3
7. Use of the Common Seal	3
8. Security of the Common Seal	3
9. Signature to Accompany Common Seal	3
10. Unauthorised Use of the Common Seal	3
PART THREE - OFFENCES AND PENALTIES	3
11. Offences	3
12. Infringement Notices	4
13. Payment of Penalty	4

COLAC OTWAY SHIRE COUNCIL
GOVERNANCE LOCAL LAW
No. 4 of 2020

PART ONE- PRELIMINARY PROVISIONS

1. Title

This Local Law is the Colac Otway Shire Council Governance Local Law No 4. 2020 and is referred to hereunder as "this Local Law".

2. Objectives

The objectives of this Local Law are to provide a mechanism to facilitate good governance of the Colac Otway Shire Council, and to:

- ~~(1) provide a mechanism to facilitate good governance of the Colac Otway Shire Council through its application to provide for offences and penalties with regards to inappropriate conduct at Council meetings or meetings of delegated committees;~~
- (1) regulate the use of the Common Seal;
- (2) provide for offences in the event of inappropriate conduct at Council meetings and meetings of Delegated Committees, and for offences in relation to the misuse of the Common Seal or any petition or joint letter; and
- (3) amend Local Law 4 of 2014 part 1 and revoke Local Law No 4 of 2014 parts 3–9 and schedule 4; revoke Local Law No. 4 of 2014.

3. Power to make Local Law

This Local Law is made under section 11174 of the *Local Government Act 1989* ~~2020~~.

4. Commencement and End Date

This Local Law:

- (1) commences operation on the day following the day on which notice of the making of this Local law is published in the Government Gazette, and operates throughout the municipal district; and
- (2) ends on the 10th anniversary of the day on which it commenced operation, unless revoked earlier.

5. Revocation

Upon this Local Law coming into operation Local Law No. 4 of 2014 is revoked.

6. Definition of Words Used in this Local Law

Unless the contrary intention appears in this Local Law, the following words and phrases are defined to mean:

"**Act**" means the *Local Government Act 2020*.

"Authorised Officer" means a person appointed as an Authorised Officer pursuant to section 224 of the *Local Government Act 1989*.

"Chairperson" means the Chairperson of a meeting and includes an acting, temporary or substitute Chairperson.

"Chief Executive Officer" means the Chief Executive Officer of Council and includes a person acting as Chief Executive Officer.

~~"Clause" means a clause of this Local Law.~~

"Common Seal" means the common seal of Council.

"Council" means Colac Otway Shire Council.

~~"Council Meeting" has the same meaning as in the Act, includes an Ordinary Meeting and a Special Meeting of Council.~~

~~"Councillor" means a Councillor of Council. "Cr" is the accepted abbreviation for Councillor.~~

~~"Delegated Committee" means a Delegated Committee established by Council.~~

~~"Meeting" means an Ordinary or a Special Meeting of Council or a Special Committee Meeting.~~

"Offence" means an act or default contrary to this Local Law.

"Penalty Units" means a penalty unit as prescribed in the *Sentencing Act 1992*.

"Petition" means a formal written application, typed or printed without erasure, from one or more persons whose names and physical addresses also appears and on which each page of the petition bears the wording of the whole of the petition.

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PART TWO - USE OF THE COMMON SEAL

7. Use of the Common Seal

Council may, by resolution, authorise the use of the Common Seal.

8. Security of the Common Seal

The Chief Executive Officer must keep the Common Seal in safe custody.

9. Signature to Accompany Common Seal

Every document to which the Common Seal is affixed must be signed by the Chief Executive Officer with the Council's Sealing clause:

The common seal of the Colac Otway Shire Council was hereto affixed in accordance with its Local Law No. 4

Chief Executive Officer

Thisday of.....20.....

10. Unauthorised Use of the Common Seal

Any person who:

- (1) uses the Common Seal without authority; or
- (2) uses any replica of the Common Seal, is guilty of an offence.

PART THREE-- OFFENCES AND PENALTIES

11. Offences

It is an offence for:

- (1) Councillor to refuse to withdraw a remark made at a Council meeting which is considered by the Chairperson to be inappropriate, defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature and to refuse or neglect to satisfactorily apologise when called upon twice by the Chairperson to do so;

Penalty: Five (5) Penalty Units

- (2) a member of a Delegated Committee to refuse to withdraw a remark made at a meeting of a Delegated Committee which is considered by the Chairperson to be inappropriate, defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature and to refuse or neglect to satisfactorily apologise when called upon twice by the Chairperson to do so;

Penalty: Five (5) Penalty Units

- (2)(3) any person (not being a Councillor) who is behaving in a disorderly or improper manner to refuse to leave at the Council Meeting or a meeting of a Delegated Committee when requested to do so by the Chairperson;

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Penalty: Five (5) Penalty Units

~~(3)~~(4) any person to fail to obey a direction of the Chairperson in relation to the conduct of a Council Meeting [or a meeting of a Delegated Committee](#) and the maintenance of order;

Penalty: Five (5) Penalty Units

~~(4)~~(5) any person to use the Common Seal of the Council or any device resembling the Common Seal without the authority of Council; and

Penalty: Five (5) Penalty Units

~~(5)~~(6) any person to append to a petition or joint letter a signature purporting to be that of any other person or in the name of any other person.

Penalty: Five (5) Penalty Units

12-11. Infringement Notices

- (1) An Authorised Officer may issue an infringement notice to any person who has committed an offence against this Local Law.
- (2) The fixed penalty in respect of an infringement is [two \(2\) Penalty Units, the amount set out in clause 112.](#)
- ~~(3)~~ [The form of an infringement notice shall be in the form described in section 13 of the Infringements Act 2006.](#)

13-12. Payment of Penalty

- (1) A person issued with an infringement notice may pay the penalty indicated to the Chief Executive Officer, Colac Otway Shire, PO Box 283, Colac, Victoria, 3250.
- (2) To avoid prosecution, the penalty indicated must be paid within 28 days after the day on which the infringement notice is issued.
- (3) A person issued with an infringement notice is entitled to defend the prosecution in court.

Colac Otway Local Law No. 4

Resolution for making this Local Law was agreed to by Colac Otway Shire Council on the [\[insert 2020 date\]](#) 26 November 2014.

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The common seal of the Colac-Otway Shire Council was hereto affixed in accordance with its Local Law No 4

.....
Chief Executive Officer

This day of 2020.....

Notices of the proposal to make and of the making of this Local Law were included in the Victorian Government Gazette dated the [\[insert date\]](#) 11 September 2014 and [\[insert date\]](#) 11 December respectively.

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Public notice of the proposal to make and confirmation of the making of this Local Law were inserted in the Colac Herald on [\[insert date\]](#) 5 September 2014 and [\[insert date\]](#) 5 December respectively.

A copy of this Local Law was sent to the Minister for Local Government on [\[insert date\]](#) 9 December 2014.