



Colac Otway
SHIRE

GENERAL LOCAL LAW
(LOCAL LAW NO. 2 – September 2013)

LOCAL LAW ADOPTED BY COUNCIL: 25 September 2013
OPERATION DATE: 25 September 2013

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COLAC OTWAY SHIRE COUNCIL

GENERAL LOCAL LAW

PART 1 - PRELIMINARY

Title

1. This Local Law will be known as the "General Local Law" (Local Law No. 2 -2013) and is referred to subsequently as "this Local Law".

Purpose

2. The purpose of this Local Law is to:
 - 2.1. provide for the peace, order and good government of the *municipal district*;
 - 2.2. promote a physical and social environment free from hazards to health, in which the residents of the *municipal district* can enjoy a quality of life that meets the general expectations of the community; and
 - 2.3. prevent and suppress nuisances which may adversely affect the enjoyment of life within the *municipal district* or the health, safety and welfare of persons within the *municipal district*,and to achieve this purpose by:
 - 2.4. regulating and controlling activities of people within the *municipal district* which may be dangerous, unsafe or detrimental to the quality of life of other people in, or the environment of, the *municipal district*; and
 - 2.5. providing standards and conditions for specified activities to protect the safety and the welfare of people within, and the environment of, the *municipal district*.

Authorising Provisions

3. This Local Law is made under section 111 of the *Local Government Act* 1989 and section 42 of the *Domestic Animals Act* 1994.

Commencement and Area of Operation

4. This Local Law:
 - 4.1. commences on 25 September 2013; and
 - 4.2. operates throughout the *municipal district*, including public lands to the high water mark of inland lakes and foreshore reserves.

Revocation

5. Upon commencement of this Local Law, *Council's* General Local Law 2005 is revoked.
6. Unless sooner revoked, this Local Law ceases to operate on 24 September 2023.

Definitions

7. Unless inconsistent with the context or subject-matter, the following words and phrases are defined to mean or include:

"Act" means the Local Government Act 1989.

"advertising sign" means any placard, board, sign, frame, notice, card or banner which:

- Provides information about a business or industry; or
- advertises goods, services, an *event* or a competition.

"alcohol" means a beverage intended for human consumption with an alcoholic content greater than 0.5 per centum by volume at a temperature of 20 degrees Celsius.

"allotment" means any land in separate ownership or occupation.

"animal" includes any mammal but excludes a human.

"appointed agent" means the person authorised in writing by an *owner* of land to make an application, appeal, referral or representation on the *owner's* behalf.

"Asset Protection Permit" means a permit issued by *Council* under clause 31

"Authorised Officer" means a person appointed by *Council* under section 224 of the Act.

"bird" excludes a pigeon.

"builder" means a person who carries out *building work* or, not being an *owner* of land on which the *building work* is carried out, manages or arranges the carrying out of *building work*.

"builder's refuse" includes any solid or liquid domestic or commercial waste, debris or rubbish, and, without limiting the generality, includes any glass, metal, plastic, paper, fabric, wood, food, vegetation, soil, sand, concrete, rocks and other waste material, substance or thing generated by or in connection with *building work*.

"bulk rubbish container" means a bin, skip or other container used for the deposit of waste which is incapable of being lifted without mechanical assistance but excludes a bin used in connection with *Council's* waste collection service.

"building site" means the parcel of land on which or part of which *building work* is being carried out.

"building work" means work for or in connection with the construction, renovation, alteration, demolition, relocation or removal of a building, including excavation, landscaping, concreting, and subdivision *road* construction but excludes *minor building work*.

"caravan" includes a mobile home and moveable *dwelling*.

"carriageway" means the portion of the *road* generally available for traffic by *motor vehicles*, whether sealed, formed or unconstructed.

"charity bin" means any bin placed by or on behalf of any charitable or non-profit organization and dedicated to the collection of used clothing or small household items.

"Chief Executive Officer" means the Chief Executive Officer of *Council*.

"Commercial Area" means an area zoned business or industrial under an applicable Planning Scheme.

"Coordinating Road Authority", in relation to a *road*, means the road authority which has coordination functions as determined in accordance with section 36 of the *Road Management Act 2004*.

"contaminated material" means any material designated by *Council* as being incapable of deposit in a *Council*-approved mobile bin or other *Council*-provided bin or any class of such mobile or other bins.

"construction period" means the period during which *building work* is being carried on.

"Council" means Colac Otway Shire Council.

"Council infrastructure assets" include any *road*, drain, drainage infrastructure, kerb & channel, nature strip, street tree, street sign or any other property vested in or under the control of *Council*, which:

- is adjacent to the a *building site*; or
- is likely to be affected by *building work*.

"Council land" means any land vested in or under the control of *Council*, including a *reserve*, watercourse, jetty, reservation and the like but excludes a *road*, except that part of the *road* which is the nature strip and footpath.

"Designated Township Area" means the settlement areas of Alvie, Apollo Bay, Barwon Downs, Beeac, Beech Forest, Birregurra, Carlisle River, Colac, Coragulac, Cororooke, Cressy, Elliminyt, Forrest, Gellibrand, Kennett River, Lavers Hill, Marengo, Pirron Yallock, Separation Creek, Skenes Creek, Warrion, Wye River and boundaries as defined in the Colac Otway Shire Rural Living Strategy.

"dwelling" means a building or portion of a building, which is used, or intended, adapted or designed, for residential purposes.

"EPA Alert Day" means a day declared either totally or partially by the Environment Protection Authority as an Alert Day.

"event" means any planned activity open to the public held on Council owned or managed land where any structure (permanent or temporary), open area, or *road*, (fenced or unfenced) will contain a number of persons greater than that normally found in that area or location at one time. This activity may affect the location surrounding the area prior to, during or after the activity, and includes:

- sporting activities, whether conducted in an enclosed or unenclosed ground/venue (but does not include a regular, locally focussed and organised sporting competition at a venue built for that sport);
- one off or annual events such as religious meetings held in parks/sporting venues, rock concerts, promotional events and the like;
- live performances and concerts; and
- festivals.

"event organiser" means a commercial entity, community group or individual who undertakes the planning, control, management and/or implementation of an *event*.

"Fire Danger Period" means the period declared by the Country Fire Authority to be a fire danger period under the *Country Fire Authority Act 1958*.

"fire hazard" means anything that, because of its flammable nature, its position, or its quantity, exposes property to significant risk of damage or destruction by fire.

"frontage" means a boundary between an *allotment* and an adjoining *road*, and if an *allotment* adjoins more than one (1) *road*, means the boundary between the *allotment* and the *road* to which the largest building on the *allotment* fronts.

"fully commingled recyclables" means, for the purpose of *Council's* waste collection service:

- glass bottles and jars;
- aluminium cans, food trays and foil;
- steel cans;
- steel aerosol cans;
- liquid paperboard containers;
- HDPE, PET and PVC bottles and containers;
- newspapers;
- magazines;
- leaflets and 'junk mail';
- stationary;
- envelopes;
- telephones books;
- cardboard (flattened);
- miscellaneous paper, including paper from a home office; and
- any other material that *Council* prescribes to be fully commingled recyclables.

"graffiti" means any writing, drawing or like marking which has not been authorised by the owner or occupier of the land or *Council*.

"household waste" means, for the purpose of *Council's* waste collection service, all waste generated from residential and similar activities but excludes the following waste:

- fully commingled recyclables;
- organic waste;
- material prescribed by Council to be prohibited; and
- any other material that Council prescribes to be household waste.

"incinerator" means any structure, device or item of equipment which is designed, adapted, used or capable of being used for the burning of any material or substance and is not:

- enclosed in any building;
- a barbeque; or
- licensed under the provisions of the *Environment Protection Act 1970*.

"livestock" includes *poultry* and other *birds*.

"local water authority" means Barwon Region Water Authority or its successor in law.

"minor building work" means *building work* valued at less than \$5,000 but excludes the construction of any masonry structure and the demolition and removal of buildings and structures (regardless of value).

"motor vehicle" has the meaning ascribed to it by the *Road Safety Act 1986*.

"municipal district" means the municipal district of *Council*.

"Municipal Building" means any building which is owned, occupied or under the management or control of *Council*, and includes any recreation centre which is owned, occupied or under the management or control of *Council*.

"Non-Rural Area" means any area within Colac, Elliminyt, Apollo Bay or any other designated township area as identified by the Colac Otway Shire.

"Notice to Comply" means a notice served under clause 155.

"organic waste" means, for the purpose of *Councils* waste collection service, food organics as *prescribed* by *Council* and garden waste material, including:

- prunings, small branches (not greater than 100mm in diameter or 300mm in length), twigs and including cut up palm fronds;
- leaves, small plants and grass clippings; and
- weeds and flowers (free of soil).

"outdoor eating facility" means any tables or chairs located out of doors at which food or drink may be served or consumed in connection with premises situated nearby.

"owner" means the owner of premises.

"penalty" means the maximum fine that may be imposed by a court of appropriate jurisdiction.

"penalty unit" has the meaning ascribed to it by section 110 of the *Sentencing Act 1991*, and at the time of making this Local Law is \$100.

"poultry" includes hens, roosters, ducks, geese, peacocks, turkeys, bantam, squab, guineafowls and other edible *birds* over the age of 12 weeks.

"prescribe" means determine and give notice:

- by public notice, published in a newspaper generally circulating in the *municipal district*; and
- on *Council's* website.

"private land" means any land which is not *Council land* nor land occupied or under the control or management of a public body.

"procession" includes a fun run and bicycle *event*.

"public holiday" means a public holiday within the meaning of the *Public Holidays Act 1993*, applying in the *municipal district*.

"public place" has the meaning ascribed to it by the *Summary Offences Act 1966*.

"public protection barrier" means an erection of precautions over the street alignment which may include a fence, barrier or screen enclosing a building, land and/or materials while *builders* are at work or *works* are being undertaken.

"recreational vehicle" means any mini-bike, trail-bike, motor bike, motor scooter, go-kart, monkey bike or other *vehicle* propelled by a motor which is ordinarily used for recreational purposes but excludes a motorised wheelchair or scooter designed to transport a person of limited mobility, and a motorised bicycle with a maximum capacity of 22 watt aggregate power.

"recyclables" means any substances or articles which *Council prescribes* to be recyclables for the purposes of this Local Law.

"refuse facility" means a receptacle capable of retaining all *builders' refuse* within a *building site* and preventing removal of the *builder's refuse* by unauthorised persons or by wind or rain.

"reptile" includes lizards, snakes and turtles.

"Responsible Road Authority", in relation to a *road*, means the road authority which has operational functions as determined in accordance with section 37 of the *Road Management Act*

"reserve" means any land which is owned, occupied or managed or controlled by *Council* and dedicated or used for outdoor cultural, environmental, sporting or recreational purposes.

"road" has the meaning ascribed to it by the *Act*, and means:

- a street;
- a right of way;
- any land reserved or proclaimed as a street or road under the *Crown Land (Reserves) Act 1978* or the *Land Act 1958*;
- a public road under the *Road Management Act 2004*;
- a public highway;
- a bridge or ford;
- a footpath, bicycle path or nature strip; and
- any culvert or kerbing or other land or *works* forming part of the road.

'security bond' means a sum of money, or another means of security acceptable to *Council*, the amount of which has been determined by *Council*, after taking account of:

- the nature of the *building work*;
- likely costs that would be incurred for repairs to *Council* infrastructure assets, if damage does occur to them, during or as a result of the *building work*;
- requirements which are commonly applied in comparable situations; and
- any relevant Commonwealth or State government legislation or policy directives.

"sell" includes

- *sell* by means of any machine or mechanical device;
- barter or exchange;
- agree to *sell*;
- offer or expose for sale; and
- keep or have in possession for sale

and directing, causing or attempting any such acts or things.

"Service Authority" means an emergency service or a public body which *Council* has resolved is a Service Authority for the purposes of this Local Law.

"stormwater system" means a drainage system which provides for the conveyance of stormwater run-off including kerb and channel, open channels, underground pipe systems, constructed wetlands and natural waterways.

"temporary structure" means a structure that is easily transportable, is able to be removed from site within 24 hours and does not have permanent footings.

"Total Fire Ban Day" means a day declared either totally or partially to be a fire ban day by the Country Fire Authority under the *Country Fire Authority Act 1958*.

"toy vehicle" means:

- a child's pedal car, scooter or tricycle or similar toy but only when it is being used by a child who is under the age of 12 years; and
- a wheeled device built to transport a person, propelled by human power or gravity and ordinarily used for recreation or play, including rollerblades, roller-skates, a skateboard or any similar wheeled device but excluding a golf buggy, pram, stroller, bicycle or wheelchair.

"trade waste" means any waste, refuse, slops or other matter arising from or generated by any trade, industry or commercial undertaking.

"trade waste hopper" means a purpose-built receptacle for the deposit of trade waste that is ordinarily emptied by mechanical means.

"vehicle" includes any conveyance propelled or drawn by human, *animal*, mechanical, electrical or other power.

"weeds" means a plant described as a locally emergent pest plant as *prescribed* by Council.

"works" includes any change to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil.

Notes in this Local Law

8. Introductions to Parts, headings and notes are explanatory notes and do not form part of this Local Law. They are provided to assist understanding.

PART 2 - USE OF COUNCIL LAND

Introduction

This Part contains provisions that define what is and what is not allowed on *Council land*. Generally, the provisions apply to what are known as *Municipal Buildings*. Specific provisions then extend to *reserves*.

What Council may do

9. *Council* may:
 - 9.1. restrict access to a *Municipal Building* or part of it;
 - 9.2. close any *Municipal Building* or part of it to the public;
 - 9.3. establish conditions of entry to a *Municipal Building*;
 - 9.4. set and collect fees or charges for admission to or the hire or use of a *Municipal Building* or part of it;
 - 9.5. set and collect fees or charges for the hire or use of any *Council* property in connection with a *Municipal Building*; and
 - 9.6. authorise a person to do any one or more of the things described in clause 9.1- 9.5 (inclusive).

What a person cannot do

10. A person must not, without the consent of *Council* or an *Authorised Officer*:
 - 10.1. act contrary to any conditions of entry applicable to a *Municipal Building*;
 - 10.2. enter a *Municipal Building* without paying any admission fee or charge applicable to that *Municipal Building* or the hire or use of the *Municipal Building*; or
 - 10.3. hire or use any *Council* property in connection with a *Municipal Building* without first paying any fee or charge which is applicable.

Behaviour in Municipal Buildings

11. A person must not:
 - 11.1. commit any nuisance in a *Municipal Building*;
 - 11.2. interfere with another person's use and enjoyment of a *Municipal Building*;
 - 11.3. act in a manner which endangers any other person in a *Municipal Building*;
 - 11.4. use indecent, insulting, offensive or abusive language in a *Municipal Building*;
 - 11.5. behave in an indecent, offensive, insulting or riotous manner in a *Municipal Building*;

- 11.6. destroy, damage, interfere with or deface a *Municipal Building*;
- 11.7. destroy, damage, interfere with or deface anything located at, on or in a *Municipal Building*;
- 11.8. act in a manner contrary to any restriction or prohibition contained in the inscription on a sign at, on or in a *Municipal Building*;
- 11.9. deposit any litter in a *Municipal Building*, except in a receptacle provided for that purpose;
- 11.10. except for a child under the age of ten (10) years in the care of a responsible person, and for a carer providing assistance to a person with a disability, enter or use any dressing room, shower, convenience or other area in a *Municipal Building* which has been appropriated for persons of the opposite gender;
- 11.11. without the consent of *Council* or an *Authorised Officer*, sell any goods or services in a *Municipal Building*;
- 11.12. without the consent of *Council* or an *Authorised Officer*, erect, affix, place or leave any advertisement in a *Municipal Building*;
- 11.13. without the consent of *Council* or an *Authorised Officer*, erect, operate or cause to be erected or operated any amusement in a *Municipal Building*;
- 11.14. obstruct, hinder or interfere with any member of staff of *Council* in the performance of his or her duties in a *Municipal Building*;
- 11.15. act contrary to any lawful direction of an *Authorised Officer* or member of *Council* staff given in a *Municipal Building*, including, without limitation, a direction to leave the *Municipal Building*, whether or not a fee for admission to the *Municipal Building* has been paid;
- 11.16. use or interfere with any life saving or emergency device located in a *Municipal Building*, unless:
 - 11.16.1. using the device in an emergency; or
 - 11.16.2. participating in an instruction approved by *Council* or an *Authorised Officer*;
- 11.17. organise any function or event in a *Municipal Building* without the consent of *Council* or an *Authorised Officer*;
- 11.18. bring any *animal* into, or allow any *animal* under his or her control to remain in, a *Municipal Building* without the consent of *Council* or an *Authorised Officer*, except for a guide dog being used by a visually impaired person, a hearing dog being used by a hearing impaired person or a dog being used to assist a person with limited mobility;
- 11.19. bring any *vehicle* or *toy vehicle* into a *Municipal Building* without the consent of *Council* or an *Authorised Officer*, except for:

- 11.19.1. a pram or pusher being used by a child; or
- 11.19.2. a wheelchair or motor scooter being used by a physically disabled person; or
- 11.20. bring into a *Municipal Building* any substance, liquid or powder which may:
 - 11.20.1. be dangerous or injurious to health;
 - 11.20.2. have the potential to foul, pollute or soil any part of the *Municipal Building*; or
 - 11.20.3. cause discomfort to any person.

Penalty: A Maximum of 5 Penalty Units

Access to Municipal Buildings

- 12. *Council* or an *Authorised Officer* may:
 - 12.1. determine the hours when any *Municipal Building* will be open to the public;
 - 12.2. restrict access to a *Municipal Building* or part of a *Municipal Building*;
 - 12.3. close any *Municipal Building* or part of a *Municipal Building* to the public; and
 - 12.4. charge fees for admission to or the use of a *Municipal Building* or part of a *Municipal Building*.
- 13. *Council* may:
 - 13.1. authorise any person to occupy a *Municipal Building* or restrict access to a *Municipal Building*; or
 - 13.2. authorise any person to charge and collect fees for admission to or the use of a *Municipal Building* or part of a *Municipal Building*.
 - 13.3. *Council*, an *Authorised Officer* or any person authorised by *Council* may from time to time establish:
 - 13.4. conditions applying to and fees or charges for admission to or the hire or use of a *Municipal Building* or part of a *Municipal Building*; and
 - 13.5. conditions applying to and fees or charges for the hire or use of any property of *Council* in connection with a *Municipal Building*.
- 14. In exercising the powers conferred by clause 13, *Council*, an *Authorised Officer* or any person authorised by *Council* may determine conditions applying to and fees and charges for admission to or the use of a *Municipal Building*:
 - 14.1. on multiple occasions;
 - 14.2. over a period of time; or
 - 14.3. on any other basis that it, he or she considers appropriate.

15. A person must not, without the consent of *Council* or an *Authorised Officer*:
- 15.1. enter a *Municipal Building* other than through an entrance provided for that purpose;
 - 15.2. enter or remain in a *Municipal Building* during hours when the *Municipal Building* is not open to the public;
 - 15.3. enter or remain in a *Municipal Building* without having paid any fee or charge imposed by *Council*, an *Authorised Officer* or any person authorised by *Council* for admission to the *Municipal Building*;
 - 15.4. remain in a *Municipal Building* after being directed to leave by an *Authorised Officer*, or
 - 15.5. enter a *Municipal Building*, after having been directed to leave that *Municipal Building* by an *Authorised Officer*, until he or she is granted written permission to do so by *Council* or an *Authorised Officer*.

Penalty: A Maximum of 5 Penalty Units

Activities Prohibited in Reserves

16. In a *reserve*, a person must not:
- 16.1. unless that person is a player, official or competitor in or at a sporting match or gathering, enter upon or remain on an area set aside as a playing ground during the course of a sporting match or gathering;
 - 16.2. act in any manner so as to endanger any other person, cause any damage to any property or the environment or interfere with the quiet enjoyment of the reserve by any person;
 - 16.3. use any children's playground equipment other than for the purpose for which it is provided;
 - 16.4. fish in or swim, paddle, dive or jump into or enter any wetland, lake, pond or fountain contrary to any sign erected in the reserve;
 - 16.5. throw, place or allow to be thrown or placed any liquid, rubbish, dirt or other object, or substance into any wetland, lake, pond or fountain;
 - 16.6. play, engage in or practise any game or sport, whether or not in accordance with a permit issued under this Local Law, in a manner that is:
 - 16.6.1. dangerous to any other person in the *reserve*; or
 - 16.6.2. likely to interfere with the reasonable use or enjoyment of the *reserve* by any other person;
 - 16.7. play or practise golf in a *reserve* to the danger or detriment of any person, *animal* or property;
 - 16.8. ride any horse other than in an area and at a time designated by *Council*; or

- 16.9. drive, ride in or on or otherwise use any *motor vehicle* other than in an area designated by *Council*.

Penalty: A Maximum of 5 Penalty Units

Activities which may be allowed in Reserves

17. In a *reserve*, a person must not, without a permit or the consent of an *Authorised Officer*:
- 17.1. fly or allow to be flown any aircraft (including any powered modelled aeroplane but excluding a kite);
 - 17.2. ride or drive a *vehicle* or *animal* in a manner or in a place which is likely to damage or ruin any grassed area or turf surface or otherwise interfere with the use of the *reserve* by another person;
 - 17.3. light a fire or allow any fire to remain alight except in:
 - 17.3.1. a barbecue provided by *Council*; or
 - 17.3.2. a portable liquid petroleum gas barbecue;
 - 17.4. organise any competitive sport, game, *event* or activity other than a sport, game, *event* or activity played for family or social purposes;
 - 17.5. camp or pitch, erect or occupy any camp, tent, *caravan* or *temporary structure*;
 - 17.6. conduct or celebrate a wedding;
 - 17.7. organise or hold any rally, *procession*, demonstration or any other public gathering;
 - 17.8. make a collection of money;
 - 17.9. destroy, damage or interfere with any flora or kill, injure or interfere with any fauna;
 - 17.10. use an amplifier;
 - 17.11. walk on any plot, bed, border or any other area set aside for vegetation;
 - 17.12. operate or otherwise use any watercraft (excluding canoes, kayaks and surf paddles);

- 17.13. construct or install a film set, or record for television or other media purposes any *event* or activity, if the construction, installation or recording (as the case may be) is for fee or reward or commercial purposes (but excluding wedding and general photography or recording and any media photography or recording for news production purposes);
- 17.14. conduct any commercial activity; or
- 17.15. drive any *livestock*.

Penalty: A Maximum of 5 Penalty Units

PART 3 - PROTECTION OF COUNCIL LAND AND ASSETS

Introduction

This Part is designed to protect *Council land* and assets. Specifically, it regulates drains, vehicle crossings and *recreational vehicles*.

What are a person's responsibilities relating to drains?

18. A person must not, without a permit, enter, destroy, damage or tap into any drain or culvert vested in *Council* or divert the contents of any such drain or culvert.

Penalty: A Maximum of 5 Penalty Units

19. A person must not deposit, or allow to be deposited, into any drain vested in *Council* any waste material other than stormwater.

Penalty: A Maximum of 5 Penalty Units

20. An owner of land must ensure that any stormwater from that land is discharged to the legal point of discharge nominated by *Council* or an *Authorised Officer*.

Penalty: A Maximum of 5 Penalty Units

Interference with Watercourse

21. A person must not, without a permit, destroy, damage or interfere with any watercourse, wetland, ditch, creek, gutter, tunnel, bridge or levy which is vested in or under the management or control of *Council* or divert the contents of any such watercourse, wetland, ditch, creek, gutter, tunnel, bridge or levy.

Penalty: A Maximum of 10 Penalty Units

Taking Water from Council Controlled Standpipes

22. Any person taking water from a *Council*-operated standpipe must:

- 22.1. have a permit to do so;
- 22.2. comply with the conditions of any such permit;
- 22.3. only use the water in compliance with any by-laws, regulations or other requirements made or published by the *local water authority*; and
- 22.4. ensure the details concerning the amount of water taken and the date and time of its taking are immediately recorded on the Standpipe Usage Register maintained by *Council*.

Penalty: A Maximum of 10 Penalty Units

23. Immediately after a person takes water from a *Council*-operated standpipe, that person must:

- 23.1. completely turn the standpipe off at all valves;

- 23.2. securely lock the standpipe cage; and
- 23.3. return the key to the standpipe operator (if applicable).
- 24. A person obtaining water from a *Council*-operated standpipe for the purposes of filling a County Fire Authority or other authorised fire fighting appliance on any day, including a day of total fire ban, is exempt from the requirements of clause 22.

Constructing Vehicle Crossings

- 25. A person must not, without a permit, construct, remove or relocate any temporary or permanent vehicle crossing.
- 26. Each *owner* and occupier of land must not, without a permit:
 - 26.1. construct or allow to be constructed; or
 - 26.2. use or allow to be useda second or subsequent vehicle crossing to service the land.

Penalty: A Maximum of 10 Penalty Units

Maintaining Vehicle Crossings

- 27. Each *owner* and occupier of land must maintain and keep in good condition any vehicle crossing which services that land.

Penalty: A Maximum of 10 Penalty Units

Directing Vehicle Crossing Works

- 28. *Council* or an *Authorised Officer* may direct:
 - 28.1. the construction of a temporary or permanent vehicle crossing;
 - 28.2. the repair or reconstruction of a vehicle crossing; or
 - 28.3. the removal of a vehicle crossing, and the reinstatement of any kerb, channel, footpath or other areas to the satisfaction of the *Authorised Officer* by the *owner* or occupier of any adjacent land at his or her cost.
- 29. Each *owner* or occupier of land to whom a direction has been given under clause 28 must comply with that direction by applying for a permit to do the thing which is directed.

Penalty: A Maximum of 10 Penalty Units

Controlling Asset Protection during Building Works or Works

- 30. The:
 - 30.1. *owner* of any land on which *building work* is being or is to be carried out;
 - 30.2. *builder* engaged to carry out *building work* on land;

- 30.3. appointed agent;
- 30.4. driver of any *vehicle* involved in placing or removing a *refuse facility* on land; or
- 30.5. demolition contractor engaged to carry out the demolition of a structure on the land, in the case of *building work* involving demolition,

must, in respect of the *building work* or *works*, ensure that:

- 30.6. entry takes place only across a temporary vehicle crossing unless otherwise allowed by *Council* and in accordance with that permission; and
- 30.7. no materials are deposited on any part of a *road* or *Council land* without the approval of *Council*.

Penalty: A Maximum of 10 Penalty Units

- 31. Regardless of whether a building permit or planning permit has been issued, the:
 - 31.1. *owner* of any land on which *building work* is being or is to be carried out;
 - 31.2. *builder* engaged to carry out *building work* on land;
 - 31.3. appointed agent; or
 - 31.4. demolition contractor engaged to carry out the demolition of a structure on the land, in the case of *building work* involving demolition,must at least seven days before commencing *works* on the land:
 - 31.5. obtain an Asset Protection Permit;
 - 31.6. advise *Council* in writing of any damage that exists to any *Council infrastructure assets*, and
 - 31.7. pay, or lodge, a *security bond* to, or with, the *Council*.
- 32. An *Asset Protection Permit* may contain conditions that -
 - 32.1. require payment or lodgement of a *security bond*;
 - 32.2. require *works* to be done on or around the site to protect *Council infrastructure assets*, the health and safety of the public, the environment and the amenity of the area; and
 - 32.3. entry to and exit from the site only at designated locations.
- 33. If *Council* does not receive advice in writing as required under clause 31.6, it is deemed, for the purposes of clause 35, that there was no existing damage to *Council infrastructure assets*.
- 34. As soon as practicable after receiving notice of the issue of an occupancy permit or Certificate of Final Inspection with respect to any *building work*, *Council* must cause an inspection of the *Council infrastructure assets* to be carried out.

35. If, as a result of the inspection under clause 34, *Council* considers that the *building work* has damaged *Council infrastructure assets*, *Council* may -
- 35.1. direct the *builder* and *owner* to repair the damage at their cost, in accordance with standards specified by the *Council* and within a period of not more than 28 days, or
 - 35.2. repair the damage and recover the cost from the *security bond*.
36. If repair of damaged *Council infrastructure assets* is required under clause 35, the *builder* or *owner* (as the case may be) must affect the repairs to the standards and within the time specified by *Council*.
37. If the repair work is done under clause 35.2 and the cost is greater than the amount of the *security bond*, then the *builder* or the *owner* must pay to *Council*, the amount of the shortfall, being the difference between the cost of the repair work and the amount of the bond.
38. If the repair work is done under clause 35.2 and the cost is less than the amount of the *security bond*, *Council* must refund or release the unused portion of the *security bond*.
39. If, as a result of the inspection under clause 34, *Council* considers that the *building work* has not damaged *Council infrastructure assets*, *Council* must refund or release the entire *security bond*.

Penalty: A Maximum of 10 Penalty Units

Controlling Building Sites

40. *Council* or an *Authorised Officer* may inspect a *building site* at any reasonable time.
41. If *Council* or an *Authorised Officer* identifies any damage which appears to result from non-compliance with this Local Law, an *Authorised Officer*:
- 41.1. may direct the responsible party to reinstate the damage within a specified time; and
 - 41.2. must provide the responsible party with written confirmation of the damage either at the time of the inspection or within a reasonable timeframe.
42. Where any *building work* is being carried out on any land, the *owner* of the land, the *builder* engaged to carry out *building work* on the land, the *appointed agent* or, demolition contractor must ensure that the *building work* is developed and managed to minimise the risks of stormwater pollution, through the contamination of run-off by chemicals, sediments, *animal* wastes or gross pollutants in accordance with currently accepted best practice, by adopting measures to:
- 42.1. minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting *roads* or washed into the *stormwater system*; and
 - 42.2. prevent building clean-up, wash-down, *organic waste* or other wastes being discharged offsite or allowed to enter the *stormwater system*.

Penalty: A Maximum of 10 Penalty Units

43. Where any *building work* is being carried out on any land, the *owner* of the land, *builder* engaged to carry out *building work* on the land or *appointed agent* must:
- 43.1. provide a *refuse facility* for the purpose of disposal of *builder's refuse* to the satisfaction of *Council* or an *Authorised Officer*;
 - 43.2. place the *refuse facility* on the land and keep it in place (except for such periods as are necessary to empty the *refuse facility*) for the *construction period*;
 - 43.3. not place the *refuse facility* on any *Council land* or *road* without a permit; and
 - 43.4. empty the *refuse facility* whenever full, and, if necessary, provide a replacement *refuse facility* during the emptying process.

Penalty: A Maximum of 10 Penalty Units

44. *Council* or an *Authorised Officer* may from time to time exempt any person from the application of clause 43.
45. During *building work*, the:
- 45.1. *owner* of land on which the *building work* is being carried out;
 - 45.2. *builder* engaged to carry out the *building work*; or
 - 45.3. *appointed agent*
- must ensure that:
- 45.4. all *builder's refuse* which requires containment is placed in the *refuse facility*;
 - 45.5. the *builder's refuse* is not deposited in or on any land other than in accordance with clause 43; and
 - 45.6. the *builder's refuse* is not deposited in or over any part of the *stormwater system*.

Penalty: A Maximum of 10 Penalty Units

46. On any land where *building work* is being, or has been, carried out, the:
- 46.1. *owner* of the land;
 - 46.2. *builder* engaged to carry out the *building work*; or
 - 46.3. *appointed agent*
- must remove and lawfully dispose of all *builders' refuse*, including, without limiting the generality, the *builder's refuse* in the *refuse facility*, within seven (7) days of completion of the *construction period* or issue of an occupancy permit, whichever occurs last.

Penalty: A Maximum of 10 Penalty Units

47. The:

- 47.1. owner of land on which *building work* is to be carried out;
- 47.2. *builder* engaged to carry out the *building work*;
- 47.3. *appointed agent*

must not, within a *Non-Rural Area* and without a permit, carry out or allow to be carried out any *building work* on the land unless, in respect of that *building work*, the *building site* is secure with permanent or temporary fencing which is at least 1.5 metres high and is to the satisfaction of *Council*.

Penalty: A Maximum of 10 Penalty Units**Works on Council Land and Roads**48. Where a person is required to undertake any *works* on *Council land* or a *road* other than under the *Road Management Act 2004*, that person must:

- 48.1. notify *Council* of any proposed *works*;
- 48.2. hold current public liability insurance, relevant to the *works* proposed, to a minimum level as determined by *Council*, for the duration of the *works*;
- 48.3. undertake those *works* safely;
- 48.4. provide and maintain pedestrian and traffic control devices during the course of the *works*;
- 48.5. ensure that any pedestrian or traffic control device which is being used on or in respect of the land complies with Australian Standard AS 1742.3 published by or on behalf of Australian Standards; and
- 48.6. carry out all reinstatement *works* deemed necessary by *Council*.

Penalty: A Maximum of 10 Penalty Units**Damaging Council Land or Roads**

49. A person must not, without a permit:

- 49.1. erect or construct, or allow to be erected or constructed, any thing on *Council land*;
- 49.2. occupy or fence off any *Council land*;
- 49.3. construct an opening or gate in a fence on the boundary of *Council land* which is more than one (1) metre wide, excluding driveways from access roads;
- 49.4. plant any vegetation on *Council land* or actively assist such vegetation to grow;

- 49.5. destroy, damage or interfere with, or allow to be destroyed, damaged or interfered with, (other than recognised weeds) any *Council land* or any road or thing on *Council land* or any road;
- 49.6. place, or allow to be placed, any thing on *Council land* or any road so as to endanger any other person or any property;
- 49.7. do or omit to do anything which causes any natural or other material to escape or otherwise be conveyed onto a road and thereby become a hazard;
- 49.8. remove, or allow to be removed, any thing from *Council land* or any road which is affixed or attached to the *Council land* or road (as the case may be);
- 49.9. light a fire, or allow a fire to be lit, on any *Council land* or any road, except in a properly constructed barbecue; or
- 49.10. launch into any wetland, lake, pond or other watercourse on *Council land* any watercraft excluding canoes kayaks and surf paddles, other than from a launching facility designated for such purpose.

Penalty: A Maximum of 10 Penalty Units

50. Clauses 49.1, 49.2, 49.3, 49.4, 49.5, 49.8 and 49.9 do not apply to a person employed or engaged by *Council* while acting in the course of his or her duties.

Recreational Vehicles on Council Reserves

51. A person must not:

- 51.1. drive, ride on or otherwise use; or
- 51.2. allow a person under his or her care or control to drive, ride on or otherwise use

a *recreational vehicle* on any *reserve* unless that *reserve* has been designated for that purpose or otherwise authorised by *Council*.

Penalty: A Maximum of 5 Penalty Units

PART 4 - MUNICIPAL AMENITY

Introduction

This Part is concerned with the visual amenity of the *municipal district*. Its provisions control a number of activities which, if left uncontrolled, have the potential to detract from the natural environment.

Dangerous land or Detriment to General Amenity

52. Unless permitted under a Planning Scheme applicable to the land, a person must not allow land of which he or she is the *owner* or occupier to be kept in a manner which:

- 52.1. is dangerous or likely to cause danger to life or property; or
- 52.2. is likely to cause obstruction to emergency services; or
- 52.3. is unsightly or detrimental to the general amenity of the neighbourhood because it harbours unconstrained rubbish or overgrown vegetation or contains unused *vehicles*, or any other waste materials.

Penalty: A Maximum of 10 Penalty Units

Prohibition on Graffiti

53. Unless permitted under a Planning Scheme applicable to the land, each *owner* or occupier of land must not allow any *graffiti* to remain on any building, wall, fence or other structure erected on his or her land.

Penalty: A Maximum of 10 Penalty Units

Camping

54. A person must not, without a permit, camp or allow any other person to camp on vacant land in a *Non-Rural Area*.

Penalty: A Maximum of 10 Penalty Units

55. A person must not, without a permit, camp or allow any other person to camp on any *Council land* or *private land* (other than land referred to in clause 56) or in any *public place*, in:

- 55.1. a tent;
- 55.2. a caravan;
- 55.3. a *motor vehicle*; or
- 55.4. any other temporary or makeshift structure

unless the land is a:

- 55.5. registered *caravan* park or camping ground; or
- 55.6. camping area approved by *Council*.

Penalty: A Maximum of 5 Penalty Units

56. The *owner* or occupier of land must not, without a permit, camp, or allow or suffer any other persons to camp, on the land:
- 56.1. in a manner that causes a nuisance; or
 - 56.2. for any more than four (4) consecutive weeks; or
 - 56.3. for any more than a total of three (3) months in any calendar year.

Exemption

57. *Council* or an *Authorised Officer* may from time to time exempt any:

- 57.1. person; or
- 57.2. class of persons;

from the requirement to obtain a permit under clause 55 and from the application of clause 54, 55 or 56.

Vegetation and other Objects

58. The *owner* or occupier of any land must not allow any vegetation located on the land to grow, or allow any sign, structure or other thing on the land to be located in a manner that obstructs the clear view:

- 58.1. By a driver, of any:
 - 58.1.1. pedestrian;
 - 58.1.2. *vehicle*; or
 - 58.1.3. traffic control item; or
- 58.2. by a pedestrian, of any
 - 58.2.1. *vehicle*; or
 - 58.2.2. traffic control item
- 58.3. or in a manner that:
 - 58.3.1. otherwise constitutes a danger to *vehicles* or pedestrians or compromises the safe or convenient use of an abutting *road*;
 - 58.3.2. obstructs or interferes with street lighting or any traffic control signal or sign; or
 - 58.3.3. obstructs the view between *motor vehicles* and trains at a railway level crossing.

Penalty: A Maximum of 2 Penalty Units

Overhanging Vegetation

59. Notwithstanding clause 58, an *owner* or occupier of any land must not allow vegetation on that land to overhang a *road* at a height of less than 2.4 metres from the surface of the *road*.

Penalty: A Maximum of 2 Penalty Units

Vegetation on Road & Council Owned/Managed Land

60. A person:

- 60.1. must not, without a permit, plant or allow to be planted any seedling or vegetation on a *road*;
- 60.2. who is the *owner* or occupier of land adjoining land owned or managed by *Council*, must ensure that environmental *weeds* as listed in the Colac Otway Shire Weed Management Strategy are contained to their property and not encroaching on *Council land*; and
- 60.3. who has breached clause 60.1 or clause 60.2 must, if directed by an *Authorised Officer* to do so, reinstate the *road* to the condition it was in immediately prior to the breach.

Penalty: A Maximum of 10 Penalty Units

Numbering of Allotments

61. *Council* or an *Authorised Officer* may from time to time allot a number to an *allotment* and may from time to time allot a different number to an *allotment* or otherwise change the numbering.
62. The *owner* or occupier of an *allotment* to which a number has been allotted by *Council* or an *Authorised Officer* must mark the *allotment* with the number:
- 62.1. in a sufficient size; and
 - 62.2. in such a position, clear of vegetation, and other obstructions
- so as to be clearly visible and legible from the *road* on which the *allotment* has its *frontage*.

Penalty: A Maximum of 5 Penalty Units

63. The *owner* or occupier of an *allotment* must ensure that all numbers marking the *allotment* are:
- 63.1. made of durable materials;
 - 63.2. kept in a good state of repair; and
 - 63.3. renewed as often as may be necessary.

Penalty: A Maximum of 5 Penalty Units

Fire Hazards

64. An *owner* or occupier of land must not allow the land to contain any thing which constitutes or is likely to constitute a *fire hazard*.

Penalty: A Maximum of 10 Penalty Units

Fire In Open Air and Incinerators Specifically

65. Subject to clause 66, a person must not, in a *Designated Township Area* unless given permission to do so by an *Authorised Officer*,

- 65.1. light;
- 65.2. allow to be lit; or
- 65.3. allow to remain alight

a fire in the *open air* or in an *incinerator* on any day, other than a Friday or Saturday between the hours of 10.00am and sunset.

Penalty: A Maximum of 10 Penalty Units

66. Nothing in clause 65 applies to a person who lights or allows to be lit or remain alight a fire which is lit in a barbeque and/or enclosed outdoor oven for the purpose of cooking food.

Fire Danger Days

67. Nothing in clause 66 authorises a person to light a fire or allow to be lit or remain alight, or exempts a person from complying with clause 65 in respect of lighting a fire or allowing a fire to be lit or remain alight, if the fire is or has been lit:

- 67.1. during a *Fire Danger Period*;
- 67.2. on a *Total Fire Ban Day*; or
- 67.3. on an *EPA Alert Day*.

Nuisances

68. A person must not burn or cause or allow to be burned any substance, if the burning of the substance is likely to:

- 68.1. cause a nuisance;
- 68.2. be dangerous to the health of any person; or
- 68.3. be offensive to any person.

Penalty: A Maximum of 10 Penalty Units

69. Without limiting the application of clause 67, a person must not:

- 69.1. burn; or
- 69.2. cause or allow to be burned
- any:
- 69.3. rubber or plastic substance;
- 69.4. waste petroleum oil or material containing waste petroleum oil;
- 69.5. paint or receptacle which contains or has contained paint;
- 69.6. manufactured chemical or chemically treated material;
- 69.7. pressured can;
- 69.8. textile fabric; or
- 69.9. food waste.

Penalty: A Maximum of 10 Penalty Units

Extinguishing Fires

70. A person who has lit or allowed a fire to be lit or remain alight, or who has burned or caused or allowed to be burned any substance, contrary to clause 65 or 67 must extinguish the fire or burning substance immediately on being directed to do so by:
- 70.1. an *Authorised Officer*;
 - 70.2. a member of the Victoria Police; or
 - 70.3. a person acting on behalf of the Country Fire Authority.

Penalty: A Maximum of 10 Penalty Units

71. Any person described in clause 70.1, 70.2 or 70.3 may enter or remain on any land and extinguish any fire or burning substance if:
- 71.1. the person to whom a direction has been given under clause 70 fails immediately to extinguish the fire or burning substance; or
 - 71.2. a fire or an *incinerator* is apparently unattended.

Permissible Burning

72. Notwithstanding anything else contained in this Local Law:
- 72.1. an *Authorised Officer*; or
 - 72.2. a person acting on behalf of the Country Fire Authority
- may authorise the burning of a *fire hazard* on any land if it is impracticable or dangerous to remove slash or cut the *fire hazard*.

Discharging Into Air

73. An *owner* or occupier of land must not cause or allow any chimney, flue or other discharge outlet on that land to discharge any:

- 73.1. dust;
- 73.2. grit;
- 73.3. ashes; or
- 73.4. odours;

to such an extent that the discharged material is dangerous to health or a nuisance to any other person.

Penalty: A Maximum of 10 Penalty Units

Building Work or Works

74. A person who carries out or allows to be carried out any *building work* must ensure that the *building work* is carried out such:

- 74.1. as not to emit excessive dust into the air and onto land proximate to the land on which the *building work* is carried out; and
- 74.2. that it does not constitute a nuisance or unreasonably interfere with the enjoyment by any person of land proximate to the land on which the *building work* is carried out.

Penalty: A Maximum of 10 Penalty Units

Recreational Vehicles on Private Land

75. A person:

- 75.1. must not, drive, ride on or otherwise use any *recreational vehicle* on *private land* in a manner which constitutes a nuisance or unreasonably interferes with the enjoyment by any person of land proximate to the land on which the *recreational vehicle* is being used; and
- 75.2. who is the occupier of any *private land* must not allow a person to drive, ride on or otherwise use any *recreational vehicle* on that land in a manner which constitutes a nuisance or unreasonably interferes with the enjoyment by any person of land proximate to the land on which the *recreational vehicle* is being used.

Penalty: A Maximum of 10 Penalty Units

Shopping Trolleys

76. The owner of any shopping trolley made available to members of the public must ensure that the shopping trolley legibly identifies his or her name and trading address.

Penalty: A Maximum of 5 Penalty Units

77. A person must not leave a shopping trolley, and each owner of a shopping trolley must ensure that such shopping trolley is not left, on:
- 77.1. a road;
 - 77.2. *Council land* except in an area designated by *Council* for the leaving of shopping trolleys; or
 - 77.3. any vacant land.

Penalty: A Maximum of 5 Penalty Units

PART 5 - ROADS AND COUNCIL LAND: OBSTRUCTIONS AND BEHAVIOUR

Introduction

In this Part, the emphasis is on things which interfere with the use and enjoyment of *roads* and *Council land*. It should be noted that the definition of "*road*" includes footpaths and nature strips.

Dog Excrement

78. A person:

- 78.1. must not allow excrement of a dog under his or her care or control to remain on a *road* or *Council land*; and
- 78.2. who is in charge or control of a dog on a *road* or *Council land* must carry a device suitable for the picking up and removal of any excrement that may be deposited by the dog on the *road* or *Council land*.

Penalty: A Maximum of 5 Penalty Units

Signs and Goods

79. Unless permitted under a Planning Scheme applicable to the land, a person must not, without a permit:

- 79.1. display or allow to be displayed any goods on a *road* or *Council land*; or
- 79.2. place or allow to be placed an *advertising sign* on a *road* or *Council land*.

Penalty: A Maximum of 10 Penalty Units

80. A person who has placed, allowed to be placed, displayed or allowed to be displayed goods or an *advertising sign* on a *road* or *Council land*, whether with or without a permit issued under clause 79, must move or remove them if directed to do so by:

- 80.1. an *Authorised Officer*, or
- 80.2. a member of staff of a *Service Authority*.

Penalty: A Maximum of 10 Penalty Units

81. A person must not, without a permit, leave standing on any *road* or *Council land* a *motor vehicle* which contains an *advertising sign* promoting any goods, services, business event, or person, other than an *advertising sign* which has been magnetically transferred, painted, etched or stuck onto the body of the *motor vehicle*.

Penalty: A Maximum of 10 Penalty Units

Obstructions on Roads or Council Land

82. A person must not, without a permit:

- 82.1. leave or allow to be left any:

- 82.1.1. *bulk rubbish container* on a road or Council land; or
- 82.1.2. other thing, excluding registered *vehicles*, on a *road* or *Council land* which encroaches on, or obstructs the free use of, the *road* or *Council land* or which reduces the breadth, or confines the limits, of the *road* or *Council land*; or
- 82.2. leave or allow to be left on a *road* or *Council land* any *charity bin*.

Penalty: A Maximum of 10 Penalty Units

83. *Council* or an *Authorised Officer* may exempt any:
- 83.1. person; or
 - 83.2. class of persons;
- from the application of clause 82.
84. If a person reasonably suspected of having committed an offence under clause 75 is the driver of a *vehicle* which transports a *bulk rubbish container* or other thing and that person cannot be found or it is impracticable to charge that person with an offence under clause 82, any person who is concerned in or takes part in the management of the business which supplies the *bulk rubbish container* or other thing which is left on and obstructs the free use of a *road* may be charged with and is capable of committing an offence under clause 82.

Spoil on Roads

85. A person must not:
- 85.1. drive; or
 - 85.2. allow or cause to be driven
- a *vehicle* on a *road* if the *vehicle* is being or has been used directly or indirectly in:
- 85.3. the filling or excavation of any land; or
 - 85.4. *building work*
- unless the exterior of the *vehicle* is free from soil, earth and clay.

Penalty: A Maximum of 10 Penalty Units

86. If a person reasonably suspected or having committed an offence under clause 85 is the driver of the *vehicle*, and that person cannot be found or it is impracticable to charge that person with an offence under clause 85, any person who is concerned in or takes part in the management of *building work*, excavation work or other work on the land at which the *vehicle* is likely to have been soiled may be charged with and is capable of committing an offence under clause 85.

Occupation of Roads for Works

87. A person must not, without a permit:

- 87.1. occupy or fence off;
- 87.2. erect a *public protection barrier* or scaffolding on;
- 87.3. use a mobile crane or travel tower for any work on;
- 87.4. remove, damage or interfere with a temporary traffic control signal, sign, barrier or other structure erected to protect pedestrians or regulate traffic;
- 87.5. dump or store any fill or any other materials on;
- 87.6. occupy designated parking areas under the control of *Council* while conducting works; or
- 87.7. landscape or garden any vegetation on
any road, part of a road or *Council* controlled parking area.

Penalty: A Maximum of 10 Penalty Units

88. Clause 87 does not apply to the *works* or activities of a *Service Authority* if the *Service Authority* notifies *Council* in writing that it has made, proposes to make or authorised the making of a hole or excavation in a *road* under the control of *Council*.

Repair of Vehicles and Display for Sale of Vehicles

89. A person must not:

- 89.1. paint a *vehicle* on a *road* or *Council land*;
- 89.2. service a *vehicle* on a *road* or *Council land*;
- 89.3. carry out maintenance on a *vehicle* on a *road* or *Council land*;
- 89.4. repair or dismantle a *vehicle* on a *road* or *Council land* except in an emergency breakdown to enable it to be removed; or
- 89.5. display for sale a *vehicle* on *Council land*.

Penalty: A Maximum of 10 Penalty Units**Abandoned Vehicles**

90. A person must not leave standing on any *road* or *Council land* a *motor vehicle*:

- 90.1. which is unregistered; or
- 90.2. which has been left standing for at least seven (7) consecutive days, and has, in the opinion of an *Authorised Officer*, been abandoned.

Penalty: A Maximum of 10 Penalty Units

91. If an *Authorised Officer* finds a *motor vehicle* which has been left standing in contravention of clause 90, he or she may remove that *motor vehicle* from the road, and take it to a place appointed by *Council*.
92. Where a *motor vehicle* has been removed and taken to a place appointed by *Council* in accordance with clause 91, *Council* must give written notice of the:
- 92.1. removal; and
 - 92.2. retention at a place appointed by *Council*
- to any person who is or appears to be the owner of the *motor vehicle*.
93. *Council* must release a *motor vehicle* to a person upon
- 93.1. being satisfied that the person is the owner or an agent of the owner of the *motor vehicle*; and
 - 93.2. payment of any fee fixed by resolution of *Council*.
94. If, within 14 days of the giving of notice under clause 92 (or, where no notice can reasonably be given under clause 92, within 30 days of a *motor vehicle* having been taken to a place described in clause 91), the *motor vehicle* is not released in accordance with clause 93, *Council* may:
- 94.1. cause the *motor vehicle* to be delivered to a municipal tip;
 - 94.2. sell the *motor vehicle* by auction or public tender; or
 - 94.3. dispose of the *motor vehicle* as it sees fit.

Public Events

95. A person must not establish, operate or advertise an *event* in the *municipal district* without first giving written notice to *Council* and making application for a permit.

Penalty: A Maximum of 20 Penalty Units

96. A person must apply for a permit to operate an *event* by lodging with *Council* an application in writing.
97. An application for a permit must be lodged at least 28 days before the *event* is due to take place.
98. An applicant for a permit to operate an *event* must not submit false or misleading information in support of his or her application.

Penalty: A Maximum of 10 Penalty Units

99. In considering an application for a permit, *Council* or an *Authorised Officer* may consider any;
- 99.1. policy or guidelines adopted by *Council* relating to the subject matter of the application for the permit;

- 99.2. submissions that may be received in respect of the application;
 - 99.3. comments that may be made in respect of the application by any public body, community organisation or other person;
 - 99.4. response to *Council* by a statutory authority or public body to whom *Council* may require the application to be referred for comment; and
 - 99.5. other relevant matters.
100. *Council* may:
- 100.1. approve the application;
 - 100.2. approve the application subject to conditions;
 - 100.3. refuse the application.
101. If *Council* approves the application under either clause 100.1 or clause 100.2, an *Authorised Officer* must issue a permit.
102. If *Council* refuses the application under clause 100.3 it must advise the applicant in writing of the grounds for refusal.
103. The holder of a permit issued under this Part must comply with every condition of the permit.
104. Where a permit is issued in respect of premises subject to this Local Law, that permit must be kept at that premises and produced upon demand to an *Authorised Officer*.
105. A permit holder who fails to ensure that permit conditions are complied with is guilty of an offence.

Penalty: A Maximum of 20 Penalty Units

106. An *Authorised Officer* may, at any time revoke, amend or cancel a permit for any reason, which, in the opinion of *Council*, justifies the revocation, amendment or cancellation.
107. Without limiting the generality of clause 106, an *Authorised Officer* may revoke a permit upon any one or more of the following grounds:
- 107.1. that the *event* has not, to the satisfaction of *Council*, been kept in a clean, sanitary and safe condition;
 - 107.2. that the permit holder has been convicted of an offence against a law in respect to the safe operation of an *event*,
 - 107.3. that the permit holder has not complied with a requirement of this Local Law;
or
 - 107.4. that the permit holder has not complied with a permit condition.
108. Before revoking a permit, *Council* must, unless under urgent circumstances exist:

- 108.1. give written notice to the permit holder of the proposed revocation; and
 - 108.2. allow the permit holder a period stated in the notice (which must be at least 14 days from when the notice is given) to make written representations to *Council* about the proposed revocation; and
 - 108.3. consider representations made by the permit holder in response to the notice.
109. Whenever *Council* revokes a permit, it must give the permit holder notice of the revocation and the permit will be revoked as from the time on which the notice is served on the permit holder. Service will be deemed complete if delivered to a physical or electronic address supplied for the purposes of the *event* application.
110. Where an *Authorised Officer* refuses, revokes or cancels a permit for an *event* the permit holder may write to the *Chief Executive Officer* and request a review of that decision.
111. The request must:
- 111.1. be in writing within 14 days; and
 - 111.2. state any defence or grounds for review.
112. The *Chief Executive Officer* must within 14 days:
- 112.1. confirm;
 - 112.2. amend; or
 - 112.3. dismiss
- the decision and notify the appellant.
113. Where an *event organiser* conducts an *event* contrary to clause 95, and is found guilty of a breach such provision *Council* may, in its absolute discretion, apply to a Court for an account of profits in respect of the enrichment gained by the *event organiser* to an amount that will cover any costs incurred by *Council* or a third party to reinstate, repair, clean or otherwise reinstate the area of the *event* to a condition that it was in prior to the unauthorised *event*.
114. *Council* may also recover such reasonable costs of bringing an action in respect of this section including the costs of any investigation.
115. Where *Council* is aware, on reasonable grounds, that an *event* is planned to be conducted contrary to clause 95 and *Council*:
- 115.1. determines that the *event* may cause a risk to public safety;
 - 115.2. determines that there is a potential for environmental harm;
 - 115.3. determines there is risk of a net negative community impact by way of traffic, human or *vehicle*, noise or any other emission of any kind;

115.4. determines that there is a potential for damage or excessive wear and tear on any community, *Council* or Government infrastructure; or

115.5. determines that there exist any combination of the circumstances described in clauses 115.1 - 115.4

it may apply to a Magistrates' Court for an injunction to prevent the *event* occurring. In the case of such an injunction being issued Victoria Police, supported by *Authorised Officers*, are empowered to take such actions that are reasonably necessary to enforce the injunction.

Functions and Broadcasts on *Council* owned and/or managed Roads and Land.

116. A person must not, without a permit:

116.1. organise or hold any gathering or similar activity that will involve a number of persons greater than that normally found in that area or location at one time where the activity may affect the location surrounding the area prior to during or after the gathering; or

116.2. use a *vehicle* with an audible public address system; or

116.3. any other portable broadcasting device

on a *road* or land owned or managed by *Council*.

Penalty: A Maximum of 10 Penalty Units

PART 6 - SALE OF GOODS AND SERVICES, STREET COLLECTIONS AND DISTRIBUTIONS

Introduction

This Part is concerned with commercial activities on *Council land* and *roads*. It establishes a permit system to regulate these commercial activities.

Selling Goods and Services Generally

117. A person must not, without a permit, *sell*, offer or allow to be sold, or display any goods or services on a *road* or *Council land*.

Penalty: A Maximum of 10 Penalty Units

118. A person must not, without a permit:

118.1. erect or use on any land a tent, *caravan*, trailer or other *vehicle*, *temporary structure*, building, table or stall for the sale of any goods or services; or

118.2. *sell* goods or services from a tent, *caravan*, trailer or other *vehicle*, *temporary structure*, building, table or stall erected in contravention of clause 117.

Penalty: A Maximum of 10 Penalty Units

Outdoor Eating Facilities

119. A person must not, without a permit:

119.1. establish; or

119.2. operate

an *outdoor eating facility* on any *road* or in any *public place*.

Penalty: A Maximum of 10 Penalty Units

Street Collection

120. A person must not, without a permit, or permission from an *Authorised Officer*, solicit to collect:

120.1. on a *road*;

120.2. on *Council land*; or

120.3. from any *dwelling*,

any gifts, donations, or subscriptions for any purpose or cause nor authorise another person to do so.

Penalty: A Maximum of 10 Penalty Units

121. Nothing in clause 120 applies to any person who is acting under or with the authority of an *Act* or *Regulation*.

Unsolicited Material

122. A person must not, without a permit or approval from an *authorised officer*, distribute any handbills, place cards, notices, advertisements, books, pamphlets, goods, gifts or samples to any person on any *road* or *Council land*.
123. Nothing in clause 122 applies to any person who is acting under or with the authority of an *Act* or *Regulation*.

Penalty: A Maximum of 10 Penalty Units

Busking

124. A person must not, without a permit, busk on any:
- 124.1. *road*; or
 - 124.2. *Council land*
- with the object, or apparent object, of collecting money.

Penalty: A Maximum of 10 Penalty Units

Spruiking

125. A person must not, without a permit, spruik on any:
- 125.1. *road*; or
 - 125.2. *Council land*
- with the object, or apparent object, of attracting custom.

Penalty: A Maximum of 10 Penalty Units

Pavement Art

126. A person must not, without a permit, paint or draw on any *road* or unless otherwise approved by *Council*.

Penalty: A Maximum of 10 Penalty Units

PART 7 - KEEPING OF ANIMALS, BIRDS, REPTILES AND BEES

Introduction

In this Part, the provisions regulate the keeping of *animals, birds, reptiles* and bees.

Application of this Part

127. This Part does not apply to any land:

- 127.1. on which a pet shop is located; or
- 127.2. on which an *animal* hospital or veterinary practice is located; or
- 127.3. other like facility that is subject to the provisions of a code of practice or planning scheme

if the use of the land for this purpose is permitted under a Planning Scheme applicable to the land.

Keeping of Animals, Birds, Reptiles and Bees Generally

128. Unless permitted under a Planning Scheme applicable to the land, an *owner* or occupier of land must not keep or allow to be kept on that land, and any other person must not keep or allow to be kept on the land, any *animal, bird, reptile* or bee in such a manner as to:

- 128.1. be offensive; or
- 128.2. be dangerous; or
- 128.3. be injurious to health; or
- 128.4. cause a nuisance

and the area in which the *animal, bird or reptile* is kept must be secure and maintained in a clean and sanitary condition.

Penalty: A Maximum of 5 Penalty Units

Number of Animals

129. An *owner* or occupier of land must not without a permit:

- 129.1. keep or allow to be kept any more in number for each type of *animal* as is set out in the following table:

	<i>Animal</i>	<i>Property Size up to .25 (ha)</i>	<i>Property Size .25 (ha) to 1(ha)</i>	<i>Property Size 1 (ha) and above</i>
a	Dogs	3	4	5 (other than dogs kept for working stock/primary production)
b	Cats	3	4	5

	<i>Animal</i>	<i>Property Size up to .25 (ha)</i>	<i>Property Size .25 (ha) to 1(ha)</i>	<i>Property Size 1 (ha) and above</i>
c	Poultry	10	20	No Permit Required
d	Roosters	Permit Required	Permit Required	No Permit Required
e	Pigeons	10	20	No Permit Required
f	Sheep or Goats	Permit Required	8	No Permit Required
g	Cattle/Horses & other large animals	Permit Required	4	No Permit Required
h	Pigs	Permit Required	Permit Required	No permit required
i	Reptiles	Subject to the issuing of a license by the Department of Environment and Primary Industries (DEPI) or relevant authority		
j	Bees	Subject to hives being licensed with the Department of Environment and Primary Industries (DEPI) and complying with the Apiary Code of Practice.		

- 129.2. For the purpose of calculating the maximum number of *animals* which can be kept or allowed to be kept without a permit under clause 129.1, the progeny of any *animal* will, for 12 weeks after the birth be deemed not to be an *animal*.
- 129.3. In *relation* to the keeping of Poultry (including Roosters) and Pigeons a permit will not be required by owners who are current members of a relevant Club or Organisation and abide with the relevant code of practise.
- 129.4. Permits will be issued to people who have, or are seeking more than the prescribed number of animals stipulated in 129.1, unless it is considered that the keeping of the animals would not comply with section 128.

Penalty: A Maximum of 10 Penalty Units

Housing of Animals

130. An *owner* or occupier of land must ensure that any:

130.1. *animals*, other than dogs or cats; and

130.2. *birds*

on that land are:

130.3. kept in a secure shelter or enclosure; or

130.4. confined to the land unless they are under the effective control of a person.

Penalty: A Maximum of 10 Penalty Units

PART 8 - WASTE MANAGEMENT

Introduction

This Part is concerned with the collection and disposal of waste. Among other things, it regulates the collection and disposal of garbage, *organic waste*, *recyclables* and hard waste.

Garbage, Recyclables and Organic Waste

131. To use the recycling and waste collection service provided by *Council*, the occupier of any premises:

- 131.1. must use only *Council*-supplied mobile bins for garbage, comingled recycling and organic bin and/or *Council* approved bins for *organic waste*.
- 131.2. must deposit garbage only in the mobile garbage bin (MGB), *recyclables* only in the mobile recycling bin (MRB) and organic and food waste only in the mobile *organic waste* bin (MOB);
- 131.3. must not cause contamination of bins by depositing items or material in the bins other than garbage in the designated mobile garbage bin (MGB), *recyclables* in the designated mobile recycling bin (MRB) and food and *organic waste* in the designated mobile organic bin (MOB), or any of the following wastes:
 - 131.3.1. trade waste;
 - 131.3.2. medical or infectious waste;
 - 131.3.3. slops or liquid waste;
 - 131.3.4. human or *animal* waste;
 - 131.3.5. night soil or *animal* excrement (except that disposable nappies or *animal* excrement may be placed or caused to be placed in a refuse receptacle if they are wrapped).
 - 131.3.6. soil, dirt, dust or other matter from any vacuum cleaner, sweepings, shavings, ashes, hair or other similar or moist refuse, unless it has been securely wrapped in paper or some other impermeable cover or container to prevent its escape;
 - 131.3.7. infectious waste;
 - 131.3.8. sharps, including hypodermic needles, blades and scalpels;
 - 131.3.9. sharp objects unless they are properly contained or wrapped in such a way as to render them harmless and inoffensive;
 - 131.3.10. ash or ashes (unless such ash has or ashes have been effectively dampened so as to be non- combustible);

- 131.3.11. oils, solvents flammable liquids or paint (other than paint residue contained in a closed container);
- 131.3.12. bricks, concrete, masonry, engine blocks or *vehicle* parts (whether or not in pieces); or
- 131.3.13. any other waste *prescribed by Council*;
- 131.4. must, if directed by *Council* to do so, remove *contaminated material* from mobile bin/s;
- 131.5. must, if directed by *Council* to do so, dispose of all contents of mobile bins containing *contaminated material*;
- 131.6. must leave the mobile bins out for collection on days designated by *Council* from time to time as collection days, or such other days as may be directed by an *Authorised Officer*;
- 131.7. must place the mobile bins out for collection no later than the night before the day of collection or such other time as designated by *Council* from time to time;
- 131.8. must not leave the mobile bins out more than one day before or one day after a designated collection day;
- 131.9. must place the mobile bins:
 - 131.9.1. at the front of the premises, or at an alternative collection point as approved or designated by an *Authorised Officer*;
 - 131.9.2. immediately behind the kerb of the street *frontage* of the premises;
 - 131.9.3. on the *carriageway* side of the open drain but well clear of the trafficable surface, where no kerb and channel exist;
 - 131.9.4. at a suitable location within or outside the premises with an *Authorised Officer's* approval, where restrictions on space or access do not allow placement in accordance with clauses 131.9.1, 131.9.2 and 131.9.3;
 - 131.9.5. at a suitable location within the premises, where an *Authorised Officer* certifies that special circumstances or hardship exists;
 - 131.9.6. with the wheels facing the premises;
 - 131.9.7. at least 50cm away from any
 - 131.9.7.1. mobile bin;
 - 131.9.7.2. power pole;
 - 131.9.7.3. street furniture;
 - 131.9.7.4. tree; or

- 131.9.7.5. other item advised by an *Authorised Officer* which may interfere with the emptying of the mobile bin;
- 131.10. must place all mobile bins out for collection in a manner specified in any written advice made available to the occupier by *Council*;
- 131.11. must ensure that any mobile bin (including contents) placed for collection does not exceed 80 kg;
- 131.12. must maintain the mobile bins in a clean and sanitary condition;
- 131.13. must ensure that the area where the mobile bins are kept on the property is kept clean and in a sanitary condition;
- 131.14. must ensure that the lid of the mobile bins are closed other than when material is being deposited in them;
- 131.15. must not cause damage to mobile bins;
- 131.16. must ensure that the mobile bins are not overfilled thus preventing the lids from being completely closed down;
- 131.17. must not place any material immediately adjacent to the mobile bin for collection; and
- 131.18. must ensure that the mobile bins provided by *Council* are not removed from the premises except for collection of material in accordance with this Local Law.

Penalty: A Maximum of 5 Penalty Units

Hard Waste

132. The occupier of every premises to which a hard waste collection service is provided by *Council* may place out for collection any hard waste, and must do so in a manner set out in a notice published by *Council* as specified in any written advice provided to the occupier by *Council* or in a newspaper generally circulating in the *municipal district*.
133. The occupier of every premises to which a hard waste collection service is provided by *Council*:
- 133.1. may deposit hard waste on the nature strip at the front of the premises, for collection on days designated by *Council* from time to time as collection days;
- 133.2. must not deposit items or material on the nature strip other than hard waste;
- 133.3. must not leave the hard waste on the nature strip for more than six days before a collection day;
- 133.4. must place the hard waste and arrange it in a manner, as specified in any written advice provided to the occupier by *Council*, in front of the premises that allows collection by a collection *vehicle*; and

- 133.5. must remove items or material so placed, which is not collected within one day after the collection day.

Penalty: A Maximum of 2 Penalty Units

Disposal of disused refrigerators and other compartments

134. A person must not place a disused refrigerator or freezer, trunk, chest or any other similar article:

- 134.1. with a door or lid that can be fastened or secured from the outside; and
134.2. which has a compartment with a capacity of 0.04 cubic metres or more;
134.3. upon any:

- 134.3.1. rubbish tip;
134.3.2. road or Council land;
134.3.3. public place; or
134.3.4. unfenced vacant land,

without having first:

- 134.4. removed from it every door and lid;
134.5. removed from it every lock, catch and hinge attached to a door or lid; or
134.6. otherwise rendered every door and lid incapable of being fastened.

135. Nothing in clause 134 is to be taken as allowing domestic garbage, *recyclables*, *organic waste* or hard waste to be taken outside a premises and deposited on a road other than in accordance with this Local Law.

Penalty: A Maximum of 2 Penalty Units

Restriction on Use of Public Waste and Recycle Bins

136. The owner or occupier of premises must not place or deposit any garbage, *recyclables*, *organic waste*, or other waste material of any kind which has been generated in or from that premises in a public waste bin.
137. A person must not deposit into a public waste bin any uncooked meat, uncooked fish heads or entrails or material *prescribed* by Council other than in a public waste bin designated for such waste.
138. A person may only place *animal excreta* in a public waste bin if it is wrapped in impermeable material.

Penalty: A Maximum of 2 Penalty Units

Interference with Garbage, Recyclables, Organic Waste or Hard Waste

139. Except if authorised, a person must not remove, add to or interfere with any garbage, *recyclables*, *organic waste* or hard waste or mobile bin left out by any other person on a road or other *Council land* for collection by *Council*.

Penalty: A Maximum of 10 Penalty Units

Screening of Bins and Hoppers

140. *Council* may, by notice in writing, direct the *owner* or occupier of any land to:

140.1. install;

140.2. repair; replace or

140.3. modify;

a fence or other means of screening an approved mobile bin or *trade waste hopper* from public view, if it is of the opinion that the approved mobile bin or *trade waste hopper* is:

140.4. unsightly;

140.5. dangerous; or

140.6. detrimental to the general amenity of the neighbourhood in which it is located.

141. A person must comply with a notice issued to him or her under clause 140 within any time specified in the notice.

Penalty: A Maximum of 10 Penalty Units

Depositing of Waste at Recycling and Waste Transfer Facilities, Resource Recovery Centres and Municipal Landfill Sites

142. *Council* is recycling and waste transfer facilities, resource recovery centre and municipal landfill will be available for the disposal of waste subject to the fees, charges, terms and conditions as determined by *Council* from time to time.

143. A person using *Council's* recycling and waste transfer facility, resource recovery centre or municipal landfill:

143.1. must pay the fees and charges and comply with the terms and conditions determined by the *Council* for use of the landfill, facility or centre for such persons, including Waste Disposal tickets and Hard Waste Vouchers;

143.2. must deposit waste in accordance with the directions of the *facility* attendant or *Authorised Officer* and in accordance with any signs erected at the landfill, facility or centre;

143.3. may only deposit material designated by *Council* from time to time;

- 143.4. may only deposit material permitted by any Environment Protection Authority Site Licences applying to the landfill, facility or centre from time to time; and
- 143.5. must not deposit any hazardous, dangerous or infectious materials.

Penalty: A Maximum of 10 Penalty Units

- 144. A person must not deposit any waste at any municipal landfill, recycling and waste transfer facilities or resource recovery centre which is not at the time of deposit open to accept such waste or any such category of waste.

Penalty: A Maximum of 20 Penalty Units

Scavenging at Municipal Landfill Sites, Recycling and Waste Transfer Facilities and Resource Recovery Centres

- 145. A person must not, without a permit or permission of an *Authorised Officer*, remove material of any kind which has been deposited at any recycling and waste transfer facility, resource recovery centre or municipal landfill site

Penalty: A Maximum of 5 Penalty Units

- 146. In determining whether to grant a permit under clause 145, *Council* must have regard to:
 - 146.1. the nature of material to be scavenged;
 - 146.2. the recyclable value of the material to *Council*;
 - 146.3. the number of other current permits issued for the same purpose; and
 - 146.4. any other material relevant to the circumstances associated with the application.

Storage of Trade Waste

- 147. The *owner* or occupier of any land must ensure that any *trade waste hopper* or other waste bin kept on the land and used for *trade waste* is:
 - 147.1. constructed of impermeable material;
 - 147.2. watertight;
 - 147.3. water, fly and vermin proof;
 - 147.4. equipped with any removable drainage plug required by an *Authorised Officer*, for public health or safety reasons;
 - 147.5. thoroughly cleaned following each occasion when it is emptied;
 - 147.6. equipped with a fly and vermin proof lid which is kept closed at all times except when *trade waste* is being deposited in or removed from the *trade waste hopper*;

- 147.7. emptied at appropriate times or when an *Authorised Officer* directs for public health or safety reasons; and
- 147.8. maintained in a clean, inoffensive and sanitary condition.

Penalty: A Maximum of 10 Penalty Units

Storage Site for Trade Waste

- 148. If directed by *Council* for public health or safety reasons, the *owner* of any land must ensure that any area where a *trade waste hopper* or other bins are placed:
 - 148.1. is suitable for such placement or is an area directed or approved by an *Authorised Officer*;
 - 148.2. has an impermeable surface;
 - 148.3. is drained to a sewer approved by the *local water authority* for the receipt of any discharge or other outlet approved by *Council*;
 - 148.4. is supplied with water from a tap and hose; and
 - 148.5. is maintained in a clean, inoffensive and sanitary condition.

Penalty: A Maximum of 10 Penalty Units

Waste Receptacles on Roads and Reserves

- 149. Unless in accordance with this Local Law, a person must not, without a permit, place or cause to be placed on any *road* or *reserve* any mobile bin, *trade waste hopper*, waste container or waste materials of any nature.

Penalty: A Maximum of 10 Penalty Units

PART 9 - ADMINISTRATION AND ENFORCEMENT

Introduction

This Part aims to supplement the preceding provisions of the Local Law by explaining how the Local Law may be administered and enforced. In particular, powers to impound and serve *Notices to Comply* and Infringement Notices are given, and the system of applying for, obtaining and retaining permits is provided for.

Impounding

150. An *Authorised Officer* may seize and impound any thing which has been or is being used or possessed, or which has been left, in contravention of this Local Law.
151. Where any thing has been impounded under this Local Law, *Council* or an *Authorised Officer* must, if it is practicable to do so, serve notice of the impounding personally or by mail on the person who appears to be the owner of the impounded thing.
152. An impounded thing must be surrendered to:
- 152.1. its owner; or
 - 152.2. a person acting on behalf of its owner who provides evidence to the satisfaction of an *Authorised Officer* of his or her authority from the owner;
- on
- 152.3. evidence to the satisfaction of the *Authorised Officer* being provided of the owner's right to thing; and
 - 152.4. payment of any fee determined by *Council* or an *Authorised Officer* from time to time.
153. Clauses 151 and 152 do not apply to the impounding of *alcohol* under this Local Law or other items where the nature of the item impounded is such that it would be impracticable to return the item to the person from whom it was impounded or the owner.
154. If an impounded thing has not been surrendered to its owner or a person acting on the owner's behalf within 14 days of the notice of impounding being served or, if no notice of impounding has been served, of the act of impounding, *Council* may, at its discretion:
- 154.1. sell;
 - 154.2. give away; or
 - 154.3. destroy
- the impounded thing.

Notices to Comply

155. *Council* or an *Authorised Officer* may, by serving a *Notice to Comply*, direct any owner, occupier or other relevant person to remedy any thing which constitutes a breach of this Local Law.
156. A *Notice to Comply* issued in accordance with this Local Law must state the date by which the thing must be remedied.
157. The time required by a *Notice to Comply* served under this Local Law must be reasonable in the circumstances, and what will be reasonable will vary depending on the matters to be remedied, but should take into account, if applicable:
- 157.1. the amount of work involved;
 - 157.2. the degree of difficulty;
 - 157.3. the availability of necessary materials or other necessary items;
 - 157.4. climatic conditions;
 - 157.5. the degree of risk or potential risk; and
 - 157.6. any other relevant matter.
158. Any person who fails to remedy a thing in accordance with a *Notice to Comply* within the time specified is guilty of an offence under this Local Law.

Penalty: A Maximum of 10 Penalty Units

159. Nothing in this Local Law
- 159.1. obliges *Council* or an *Authorised Officer* to serve a *Notice to Comply*; or
 - 159.2. precludes *Council* or an *Authorised Officer* from both serving a *Notice to Comply* and also serving an Infringement Notice or prosecuting for an offence.

Permits

160. *Council* or an *Authorised Officer* in its, his or her absolute discretion may issue a permit under this Local Law with or without conditions, including the payment of any fee *Council* may require, or may refuse to issue the same.
161. *Council* may from time to time prescribe:
- 161.1. the manner and form in which applications for permits under this Local Law should be made; and
 - 161.2. the manner in which any permit under this Local Law should be issued.
162. *Council* may from time to time prescribe the fee for any permit issued under this Local Law.

163. *Council* or an *Authorised Officer* may waive payment of any fee or portion of a fee for a permit, and will record the reasons for waiving the fee or portion of the fee.
164. *Council* may make appropriate delegations of permit-issuing powers.
165. *Council* must keep a register of permits.
166. *Council* or an *Authorised Officer* may require an applicant for a permit to give notice of the application in a manner specified from time to time by *Council* or an *Authorised Officer*.
167. *Council* or an *Authorised Officer* may require an applicant for a permit to provide *Council* with more information before *Council* or the *Authorised Officer* deals with the permit application.
168. A permit expires on the date specified in the permit or if no such date is specified the permit will expire one (1) year after the date of issue.
169. Where *Council* or an *Authorised Officer* is of the opinion that there is or has been a breach of any conditions of a permit, it, he or she may serve a *Notice to Comply* on the permit holder.

Considering Applications

170. In considering an application for a permit, *Council* or an *Authorised Officer* may consider any:
 - 170.1. policy or guideline adopted by *Council* relating to the subject matter of the application for the permit;
 - 170.2. submission that may be received in respect of the application;
 - 170.3. comments that may be made in respect of the application by any public body, community organisation or other person; and
 - 170.4. other relevant matter.

Correction of Permits

171. *Council* or an *Authorised Officer* may correct a permit issued if the permit contains:
 - 171.1. a clerical mistake or an error arising from any accident, slip or omission; or
 - 171.2. an evident and material miscalculation of figures or any evident and material mistake in the description of any person, thing or property referred to in the permit.
 - 171.3. *Council* or the *Authorised Officer* must note the correction in the register of permits.

Grounds for Cancellation of or Amendment of Permits

172. *Council* or an *Authorised Officer* may cancel or amend any permit if , he or she considers that there has been:

- 172.1. a material misstatement or concealment of facts in relation to the application for a permit;
 - 172.2. any material mistake in relation to the issue of a permit;
 - 172.3. any material change of circumstances which has occurred since the issue of the permit;
 - 172.4. a failure to comply with the conditions under which the permit was issued; or
 - 172.5. a failure to comply with a *Notice to Comply* within the time specified in the *Notice to Comply*.
173. *Council* or the *Authorised Officer* must notify the holder of a permit of *Council's* or the *Authorised Officer's* intention to amend or cancel the permit and give the holder of that permit an opportunity to make a written submission before the permit is amended or cancelled.
174. If *Council* or the *Authorised Officer*, after considering any written submission made by the permit holder, determines to cancel or amend the permit, *Council* or the *Authorised Officer* must note that cancellation or amendment in the register of permits.

Urgent Circumstances

175. If an *Authorised Officer* is of the opinion that:
- 175.1. a person has breached any provision of this Local Law in respect of which a *Notice to Comply* may be issued and:
 - 175.1.1. any person;
 - 175.1.2. any *animal*;
 - 175.1.3. any property; or
 - 175.1.4. the environment of the *municipal district*is in danger of substantial detriment due to the breach; and
 - 175.2. that the danger may be exacerbated by the length of time it may take to serve and ensure compliance with a *Notice to Comply*

he or she may take such action as he or she considers necessary to abate or minimise the danger without serving a *Notice to Comply* if notice is given, if practicable, of:

 - 175.2.1. the reasons for taking the action; and
 - 175.2.2. the action taken
 - 175.2.3. to the person in breach of the provision of this Local Law in respect of which the action was taken.

Offences

176. A person who:

- 176.1. contravenes or fails to comply with any provision under this Local Law;
- 176.2. contravenes or fails to comply with any condition contained in a permit issued under this Local Law; or
- 176.3. contravenes or fails to comply with a *Notice to Comply* by the date specified in the *Notice to Comply*

is guilty of an offence and is liable to:

- 176.4. the maximum *penalty* stated under a provision or, if no *penalty* is stated, a maximum of two (2) *penalty units*;
- 176.5. a further *penalty* of one (1) *penalty unit* for each date during which the contravention continues; and
- 176.6. upon conviction for a second or subsequent offence, double the *penalty* stated under a provision of *penalty units*.

Infringement Notices

177. As an alternative to prosecution for an offence, an *Authorised Officer* may serve an Infringement Notice on any person who commits an offence against this Local Law.

178. The *penalty* fixed for an Infringement Notice:

- 178.1. is the applicable *penalty* stated in the Schedule to this Local Law; or
- 178.2. if no applicable *penalty* is stated in the Schedule to this Local Law, two (2) *penalty units*.

179. Procedural application for all Infringements issued under a Local Law will be dealt with in accordance with the provisions of the *Infringements Act 2006*

Reviewing a Notice

180. All requests for Infringement Notice review will be dealt with by way of *Council's* Infringement Review Panel which may withdraw the Infringement Notice, deal with the Infringement Notice by way of official warning, extend due date to allow additional time for payment, or to proceed with prosecution of the offence

181. Where an Infringement Notice is withdrawn, the person upon whom it was served is entitled to a refund of any payment which that person has made on the Infringement Notice

Requirement to Act Fairly and Reasonably

182. In exercising any power under this Local Law, *Council* and an *Authorised Officer* must act fairly and reasonably and in proportion to the nature and extent of the breach of this Local Law.

183. Where *Council* or an *Authorised Officer* may take action forming any particular opinion, or, where *Council* or an *Authorised Officer* is required to form an opinion prior to taking any action under this Local Law, the opinion must be reasonably held having regard to all the circumstances.

Review Rights

184. If any person is aggrieved by the fairness or reasonableness of any action taken by *Council* or an *Authorised Officer* under this Local Law including failure to be granted a permit, he or she may request the *Chief Executive Officer* to review the fairness or reasonableness of the action taken.
185. If the *Chief Executive Officer* elects to review the fairness or reasonableness of any action taken by *Council* or an *Authorised Officer*, the result of that review must be communicated to the person who made the request in accordance with clause 184.

Resolution for making this Local Law was agreed to by the Colac Otway Shire Council on the 28 August 2013.

SIGNED SEALED AND DELIVERED)

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The COMMON SEAL of the Colac Otway Shire Council was affixed in accordance with its Local Law No 4



Chief Executive Officer

This 26 day of SEPTEMBER 2013



Notices of the proposal to make and of the making of this Local Law were included in the Victorian Government Gazette dated the and the respectively.

Public notice of the proposal to make and confirmation of the making of this Local Law were inserted in the on and respectively.

A copy of this Local Law was sent to the Minister for Local Government on

Schedule**Fixed Infringement Penalties:**

Clause	Fixed Penalty
11.3	Three (3) <i>Penalty Units</i>
11.6	Three (3) <i>Penalty Units</i>
11.7	Three (3) <i>Penalty Units</i>
11.14	Three (3) <i>Penalty Units</i>
11.14	Three (3) <i>Penalty Units</i>
11.16	Three (3) <i>Penalty Units</i>
11.20.1	Three (3) <i>Penalty Units</i>
11.20.2	Three (3) <i>Penalty Units</i>
11.20.3	Three (3) <i>Penalty Units</i>
15.1	Three (3) <i>Penalty Units</i>
15.2	Three (3) <i>Penalty Units</i>
15.3	Three (3) <i>Penalty Units</i>
15.4	Three (3) <i>Penalty Units</i>
15.5	Three (3) <i>Penalty Units</i>
16.1 to 16.9	Three (3) <i>Penalty Units</i>
17.1 to 17.15	Three (3) <i>Penalty Units</i>
75.1	Three (3) <i>Penalty Units</i>
75.2	Three (3) <i>Penalty Units</i>
78.1	Three (3) <i>Penalty Units</i>
78.2	Three (3) <i>Penalty Units</i>

