

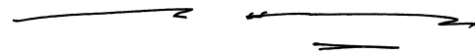
CERTIFICATE UNDER SECTION 74 OF THE *LOCAL GOVERNMENT ACT 2020*

I, **Mark Richard Hayes**, being a person who is:

- (a) an Australian lawyer who has been admitted to the legal profession for at least 5 years; and
- (b) not a Councillor of Colac Otway Shire Council

certify that, in my opinion, the draft Local Law attached to this Certificate and marked "MRH1" for identification is consistent with the local law requirements set out in section 72 of the *Local Government Act 2020*.

Dated: 21 August 2023



.....
Mark Richard Hayes
Maddocks

MRH1



LOCAL LAW No. 1

GENERAL LOCAL LAW 2023

LOCAL LAW ADOPTED BY COUNCIL:	23 August 2023
OPERATION DATE:	25 August 2023

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COLAC OTWAY SHIRE
LOCAL LAW 1
GENERAL LOCAL LAW 2023
PART 1 – PRELIMINARY

1.1 Title

- (a) This Local Law (Local Law No. 1 – General Local Law 2023) will be known as the "General Local Law 2023" and is referred to subsequently as the "Local Law".

1.2 Purpose

- (a) The purpose of this Local Law is to:
- (1) provide for the peace, order and good government of the *municipal district*;
 - (2) promote a physical and social environment free from hazards to health and assets, in which the residents of the *municipal district* can enjoy a quality of life that meets the general expectations of the community;
 - (3) provide for the management of domestic and farm *animals* in a manner that promotes welfare and reduces nuisance, harm or environmental damage to residents and property;
 - (4) provide for the appropriate management of *Council Buildings* and *reserves*; and
 - (5) prevent and suppress nuisances which may adversely affect the enjoyment of life within the *municipal district* or the health, safety and welfare of *persons* and *animals* within the *municipal district*, by:
 - (i) regulating and controlling activities which may be dangerous, unsafe or cause detrimental impact on quality of life or the environment within the municipal district; and
 - (ii) providing standards and conditions for specified activities in order to reduce risk and increase safety.

1.3 The power to make this Local Law

- (a) This Local Law is made under section 71 (1) of the *Local Government Act 2020* and section 42 of the *Domestic Animals Act 1994*.

1.4 Commencement

- (a) This Local Law commences on the day following the gazettal of the Local Law in the *Victoria Government Gazette*.

1.5 Area of Operation

- (a) This Local Law operates throughout the whole of the *Municipal District*, including public lands to the high water mark of inland lakes and foreshore *reserves*.
- (b) This Local Law does not apply where any act or thing is authorised by any Act, Rule, Regulation or Planning Scheme.

1.6 Previous Local Laws

- (a) On commencement of this Local Law, the following Local Laws are revoked:
 - (1) Local Law No. 1 – Consumption of Alcohol in a Public Place (August 2013);
 - (2) Local Law No. 2 – General Local Law (September 2013); and
 - (3) Local Law No. 3 – Livestock (August 2013).
- (b) Any notice or consent given, or any business matter or thing commenced, made or done under the revoked Local Laws is not affected.

1.7 Local Law Cease to Operate

- (a) This Local Law ceases to operate on 23 August 2033, unless it is revoked sooner.

1.8 Incorporated documents, codes and policies

- (a) The following documents are incorporated into this Local Law in accordance with section 76 of the *Act*:
 - (1) Colac Otway Shire – Local Law No. 1 – General Local Law 2023 – Procedure Guidelines.
 - (2) AS4687-2007.
 - (3) Apiary Code of Practice.

1.9 Charter of Human Rights and Responsibilities

- (a) This Local Law was prepared following due consideration of the *Charter of Human Rights and Responsibilities Act 2006*.

1.10 Definitions

- (a) 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 2020*.

“aircraft” means any machine or craft that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth’s surface.

“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.

“applicant” means an applicant for a *permit* under this Local Law.

“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 5.9.

“Authorised Officer” means a *person* appointed by *Council* under section 224 of the *Local Government Act 1989* and includes all sworn members of the Victorian Police Force and Protective Services Officers so appointed.

“bird” means small birds suitable for domestic aviaries.

“builder” means:

- a builder under the *Building Act 1993*; and
- a builder under the *Domestic Building Contracts Act 1995*; and
- an *owner* of a *building site*.

“builder’s refuse” includes any solid or liquid domestic or *commercial waste*, debris or rubbish, and includes glass, metal, plastic, paper, fabric, wood, food, food wrappers and containers, vegetation, soil, sand, concrete, rocks and any other waste material, substance or thing generated by or in connection with *building work*.

“building site” means any land on which *building work* is being undertaken.

“building work” has the same meaning as:

- in the *Building Act 1993*; and
- domestic building work in the *Domestic Building Contracts Act 1995*

and includes building work that does not require a building permit.

“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.

“camping” means using a tent, *caravan*, articulated *recreational vehicle*, self-propelled self contained motor home, *vehicle* or any temporary form of accommodation (including sleeping bags or swags) for overnight sleeping.

“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.

“cattle” means any bull, cow, ox, steer, heifer, calf or buffalo.

“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 waste” means refuse, rubbish, slops or other waste matter arising from or generated by any commercial trade or industry.

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

“contaminated material” means any material *prescribed* 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.

“Council” means Colac Otway Shire Council.

“Council 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*.

“Council controlled standpipe” means a water outlet owned and maintained by *Council* within the *municipal district* which is located in a *public place* and to which the public has access to water.

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

- adjacent to a *building site*; or
- 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 within the boundaries defined in the Colac Otway Shire Rural Living Strategy.

“droving of livestock” means the *movement of livestock* within or through the *municipal district* including supplementing feeding.

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

“effective control” means control by a *person* or *persons* alone or using dogs, devices, fences or other equipment so as to ensure that *livestock* are not trespassing or endangering *persons* or objects.

“event” means a planned gathering of people for a specific purpose on *Council land*, where the number of people is greater than that normally found in that area or location at any one time. This activity may affect the location surrounding the area prior to, during or after the activity, and includes but is not limited to:

- sporting activities (but does not include a regular, locally focussed and organised sporting competition permitted by a user agreement);
- one off or annual events, such as fundraisers, religious meetings, weddings, functions, filming or broadcast activities, live performances and concerts, promotional activities or the like;
- markets;
- shows and exhibitions; and
- festivals.

“exemption” means an exemption issued by or under the authority of *Council* under this Local Law.

“Fire Danger Period” means the period declared by the Country Fire Authority to be a fire danger period under section 4 of the *Country Fire Authority Act 1958*.

“fire hazard” means anything that by its nature, composition, condition or location constitutes or may constitute a danger to life or property from the threat of 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*.

“Guidelines” means the Department of Transport and Planning Strategic Plan Guidelines for the Selection of Stock Crossing Sites and the Placement of Signs when Stock are on Roads.

“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* not 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 2017*.

“Internal Infringement Review Panel” means *Council's* Internal Infringement Review Panel.

“livestock” means an *animal* (including a *bird*) of any species used in connection with primary production or kept for recreational purposes, other than a dog or cat.

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

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

“movement of livestock” means individual or regular movement of *livestock*:

- as part of normal farm management operations of one farming enterprise but not for the purposes of grazing;
- from one property within the *municipal district* to another property within the *municipal district* or from or to one property in the *municipal district* to or from a property within an adjacent *municipal district*;
- at the rate of not less than one kilometre per hour in the direction of movement between the two properties;
- where the properties concerned are occupied by the one farming enterprise; and
- the movement is completed on the day of commencement.

“municipal district” means the municipal district of *Council*.

“nature strip” means that part of any *road* which adjoins the land and which is designed or intended for pedestrian traffic or use and includes a lawn or garden and a crossing.

“Non-Rural Area” means any area within Colac, Elliminyt, Apollo Bay or any other *Designated Township Area prescribed by Council*.

“Notice to Comply” means a notice served under clause 14.2 of this Local Law.

“occupier” includes any *person* who is residing or using a property as its *owner* or tenant with or without consent of the titled *owner* of the land.

“organic waste” means, for the purpose of *Council’s* 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).

“offence” means an act or default contrary to this Local Law.

“owner” means the owner of land or 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*.

“permit” means a permit in writing issued by or under the authority of *Council* under this Local Law.

“permit holder” is the *person* to whom a *permit* has been issued under this Local Law.

“person” has the same meaning as in section 38 of the *Interpretation of Legislation Act 1984*.

“person in charge” includes, in Part 5 a *builder*, site supervisor or foreman or other person who provides general directions on a *building site* or subdivision site.

“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 place” has the meaning ascribed to it by the *Summary Offences Act 1966*.

“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.

“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 *Local Government Act 1989*, 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.

“Rural Zone” means a zone designated by *Council* as a Rural Zone under the Colac Planning Scheme.

“Schedule” means a schedule to this Local Law.

“sealed container” means a container sealed at the point of manufacture.

“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;
- keep or have in possession for sale; and
- directing, causing or attempting any such acts or things.

“single farming enterprise” means a business of farming *livestock* run by one or more *persons* as a single business.

“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 or industrial undertaking.

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

“unsightly and/or dangerous” means:

- dangerous or likely to cause danger to life or property because of the materials or substances that are kept;
- unsightly or detrimental to the general amenity of the neighbourhood because of rubbish, waste or other material giving the appearance that the land is neglected and out of character with other land in the vicinity;
- having dismantled *vehicles* or *vehicle* parts visible from an adjoining roadway or properties; or
- having any other matter which is offensive or unsightly.

“vacant private land” means land on which no *dwelling* is erected.

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

“vehicle crossing” means the constructed surface between the *road* pavement and the property boundary for *vehicle* access to the property, including any footpath section, crossing culverts, kerb and channel or layback.

“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.

1.11 Notes in this Local Law

- (a) 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 AND BUILDINGS

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 *Council Buildings*. Specific provisions then extend to *reserves*.

2.1 What Council may do

- (a) *Council* may:
- (1) establish conditions of entry to a *Council Building*;
 - (2) set and collect fees or charges for admission to or the hire or use of a *Council Building* or part of it;
 - (3) set and collect fees or charges for the hire or use of any *Council* property in connection with a *Council Building*; and
 - (4) authorise a *person* to do any one or more of the things described in sub-clauses (1) - (3) (inclusive).

2.2 What a person cannot do

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

2.3 Behaviour and Activities in *Council Buildings*

- (a) A *person* must not:
- (1) commit any nuisance in a *Council Building*;
 - (2) interfere with another *person's* use and enjoyment of a *Council Building*;
 - (3) act in a manner which endangers any other *person* in a *Council Building*;
 - (4) use indecent, insulting, offensive or abusive language in a *Council Building*;
 - (5) behave in an indecent, offensive, insulting or riotous manner in a *Council Building*;
 - (6) destroy, damage, interfere with or deface a *Council Building*;
 - (7) destroy, damage, interfere with or deface anything located at, on or in a *Council Building*;

- (8) act in a manner contrary to any restriction or prohibition contained in the inscription on a sign at, on or in a *Council Building*;
- (9) deposit any litter in a *Council Building*, except in a receptacle provided for that purpose;
- (10) without the consent of *Council* or an *Authorised Officer*, sell any goods or services in a *Council Building*;
- (11) without the consent of *Council* or an *Authorised Officer*, erect, affix, place or leave any advertisement in a *Council Building*;
- (12) without the consent of *Council* or an *Authorised Officer*, erect, operate or cause to be erected or operated any amusement in a *Council Building*;
- (13) obstruct, hinder or interfere with any member of staff of *Council* in the performance of their duties in a *Council Building*;
- (14) act contrary to any lawful direction of an *Authorised Officer* or member of *Council* staff given in a *Council Building*, including, without limitation, a direction to leave the *Council Building*, whether or not a fee for admission to the *Council Building* has been paid;
- (15) use or interfere with any lifesaving or emergency device located in a *Council Building*, unless:
 - (i) using the device in an emergency; or
 - (ii) participating in an instruction approved by *Council* or an *Authorised Officer*;
- (16) organise any function or event in a *Council Building* without the consent of *Council* or an *Authorised Officer*;
- (17) bring any *animal* into, or allow any *animal* under their control to remain in, a *Council 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 or health issues;
- (18) bring any *vehicle* or *toy vehicle* into a *Council Building* without the consent of *Council* or an *Authorised Officer*, except for:
 - (i) a pram or pusher being used by a child; or
 - (ii) a wheelchair or motor scooter being used by a physically disabled *person*; or
- (19) bring into a *Council Building* any substance, liquid or powder which may:
 - (i) be dangerous or injurious to health;
 - (ii) have the potential to foul, pollute or soil any part of the *Council Building*; or

- (iii) cause discomfort to any *person*.

Penalty: A Maximum of 20 Penalty Units

2.4 Access to Council Buildings

- (a) *Council* or an *Authorised Officer* may:
 - (1) determine the hours when any *Council Building* will be open to the public;
 - (2) restrict access to a *Council Building* or part of a *Council Building*;
 - (3) close any *Council Building* or part of a *Council Building* to the public; and
 - (4) charge fees for admission to a *Council Building* or part of a *Council Building*.
- (b) *Council* may:
 - (1) authorise any *person* to occupy a *Council Building* or restrict access to a *Municipal Building*; or
 - (2) authorise any *person* to charge and collect fees for admission to or the use of a *Council Building* or part of a *Council Building*;
- (c) *Council*, an *Authorised Officer* or any *person* authorised by *Council* may from time to time establish:
 - (1) conditions applying to and fees or charges for admission to or the hire or use of a *Council Building* or part of a *Council Building*; and
 - (2) conditions applying to and fees or charges for the hire or use of any property of *Council* in connection with a *Council Building*.
- (d) In exercising the powers conferred by sub-clause 2.4(a), *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 *Council Building*:
 - (1) on multiple occasions;
 - (2) over a period of time; or
 - (3) on any other basis that they consider appropriate.
- (e) A *person* must not, without the consent of *Council* or an *Authorised Officer*:
 - (1) enter a *Council Building* other than through an entrance provided for that purpose;
 - (2) enter or remain in a *Municipal Building* during hours when the *Municipal Building* is not open to the public;
 - (3) enter or remain in a *Council Building* without having paid any fee or charge imposed by *Council*, an *Authorised Officer* or any *person* authorised by *Council* for admission to the *Council Building*;

- (4) remain in a *Council Building* after being directed to leave by an *Authorised Officer*; or
- (5) enter a *Council Building* after having been directed to leave that *Council Building* by an *Authorised Officer*, until they are granted written permission to re-enter by *Council* or an *Authorised Officer*.

Penalty: A Maximum of 20 Penalty Units

2.5 Activities Prohibited in a Reserve

- (a) In a *reserve*, a *person* must not:
 - (1) enter upon or remain on an area set aside as a playing ground during the course of a sporting match or gathering, unless that *person* is a player, official or competitor in or at a sporting match or gathering;
 - (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*;
 - (3) use any children's playground equipment other than for the purpose for which it is provided;
 - (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*;
 - (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;
 - (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:
 - (i) dangerous to any other *person* in the *reserve*; or
 - (ii) likely to interfere with the reasonable use or enjoyment of the *reserve* by any other *person*;
 - (7) play or practise golf in a *reserve* to the danger or detriment of any *person*, *animal* or property;
 - (8) ride any horse other than in an area and at a time *prescribed* by *Council*; or
 - (9) drive, ride in or on or otherwise use any *motor vehicle* other than in an area *prescribed* by *Council*.
 - (10) enter a *reserve*, or part of a *reserve*, contrary to signage prohibiting access to the *reserve* or part of the *reserve*.

Penalty: A Maximum of 20 Penalty Units

2.6 Activities which may be permitted/allowed in a Reserve

- (a) In a *reserve*, a *person* must not, without a *permit* or the consent of an *Authorised Officer*:
- (1) fly or allow or be flown any *aircraft* (including any powered modelled aeroplane, drone but excluding a kite);
 - (2) drive or ride 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*;
 - (3) light a fire or allow any fire to remain alight except in:
 - (i) a barbecue provided by *Council*;
 - (ii) a portable liquid petroleum gas barbecue; or
 - (iii) a charcoal fuelled barbecue;
 - (4) organise any competitive sport, game, *event* or activity other than a sport, game, *event* or activity played for family or social purposes;
 - (5) camp or pitch, erect or occupy any camp, tent, *caravan* or *temporary structure*;
 - (6) place or erect any fence, gate or any other object that impedes the public access and use of any *Council land*;
 - (7) conduct or celebrate a wedding;
 - (8) organise or hold any rally, *procession*, demonstration or any other public gathering;
 - (9) make a collection of money;
 - (10) destroy, damage or interfere with any flora or kill, injure or interfere with any fauna;
 - (11) use an amplifier;
 - (12) walk on any plot, bed, border or any other area set aside for vegetation;
 - (13) operate or otherwise use any watercraft (excluding canoes, kayaks and surf paddles);
 - (14) 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);
 - (15) conduct any commercial activity; or

(16) drive any *livestock*.

Penalty: A Maximum of 20 Penalty Units

Note: *Sub-clauses 2.6(a)(2), (3), (5), (6), (10) and (12) do not apply to a person employed or engaged by Council while acting in the course of their duties.*

PART 3 – Consumption and Possession of *Alcohol*

Introduction

This Part deals with the consumption of *alcohol* and possession of *alcohol* other than in a *sealed container* in *public places*.

3.1 Consumption and Possession of *Alcohol*

- (a) A *person* must not, without a *permit*:
- (1) consume any *alcohol*; or
 - (2) have in their possession or control any *alcohol* other than *alcohol* in a *sealed container*
- in a *prescribed* place, in or at a *public place*, on a *road* or in or on a *vehicle* which is in or at a *prescribed* place.
- (b) Sub-clauses (a)(1) and (2) do not apply in places which are:
- (1) licensed premises within the meaning of *Liquor Control Reform Act 1998*;
 - (2) areas in which the consumption of *alcohol* is permitted in accordance with a licence granted under the *Liquor Control Reform Act 1998* or this Local Law;
 - (3) areas in which *Council* has issued a *permit* for the consumption of *alcohol*; or
 - (4) areas specified in a notice signed by *Council's Chief Executive Officer* as being areas in which *alcohol* may be possessed and consumed if the possession or consumption occurs during a period specified in the notice.
- (c) Any notice referred to in sub-clause (b)(4) must be published on *Council's* website.
- (d) If an *Authorised Officer* believes on reasonable grounds that a *person* is contravening or has contravened sub-clause (a), the *Authorised Officer* may direct the *person* to seal any container or dispose of the contents of any *unsealed container*.
- (e) A *person* to who fails to comply with a direction of an *Authorised Officer* under sub-clause (d) is guilty of an *offence*.
- (f) *Council* may *prescribe* any place for the purpose of sub-clause (a) including:
- (1) a prescription that applies on any day or between dates;
 - (2) a prescription that applies at any time or between times; or
 - (3) in any other way.

Note This clause enables *Council* to issue a Local Law permit to licensed premises to extend their licensed use from adjoining premises onto footpaths and is authorised under the Colac Planning Scheme.

PART 4 – PROTECTION OF COUNCIL LAND AND ASSETS

Introduction

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

4.1 Protection of drains.

- (a) 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 20 Penalty Units

- (b) 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 20 Penalty Units

4.2 Legal Point of Discharge

- (a) 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 20 Penalty Units

4.3 Interference with Watercourse

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

Penalty: A Maximum of 20 Penalty Units

4.4 Taking water from *Council Controlled Standpipes*

- (a) A *person* must not, without a *permit*, take water from a *Council controlled standpipe*, other than for the purposes of filling a Country Fire Authority, or other authorised, firefighting appliance on any day, including a *Total Fire Ban Day*.

Penalty: A Maximum of 20 Penalty Units

4.5 Constructing *Vehicle Crossings*

- (a) A *person* must not, without a *permit*, construct, remove or relocate any temporary or permanent *vehicle crossing(s)*.
- (b) Each *owner* and *occupier* of land must not, without a *permit*:
- (1) construct or allow to be constructed; or

- (2) use or allow to be used

a second or subsequent *vehicle crossing* to service the land.

Penalty: A Maximum of 20 Penalty Units

4.6 Maintaining Vehicle Crossings

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

Penalty: A Maximum of 20 Penalty Units

4.7 Directing Vehicle Crossing Works

- (a) *Council* or an *Authorised Officer* may direct the *owner* or *occupier* of land to:
 - (1) construct a temporary or permanent *vehicle crossing*;
 - (2) repair or reconstruct a *vehicle crossing*; or
 - (3) remove a *vehicle crossing*, and reinstate any kerb, channel, footpath or other area, to the satisfaction of the *Authorised Officer* or the *owner* or *occupier* of any adjacent land at their cost.
- (b) The *owner* or *occupier* of land to whom a direction has been given under this clause must first apply to *Council* for a *permit* to do the thing which is directed.

Penalty: A Maximum of 20 Penalty Units

4.8 Damaging Council Land or Roads

- (a) A *person* must not, without a *permit*:
 - (1) erect or construct, or allow to be erected or constructed, any thing on *Council land* or a *road* that is inconsistent with an adopted *Council* policy or adopted precinct specific plan published on *Council's* website, or where mechanical plant is used for excavation;
 - (2) occupy or fence off any *Council land*;
 - (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*;
 - (4) 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*;
 - (5) place, or allow to be placed, any thing on *Council land* or any *road* so as to endanger any other *person* or any property;
 - (6) 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;

- (7) 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);
- (8) light a fire, or allow a fire to be lit, on any *Council land* or any *road*, except in a properly constructed barbecue; or
- (9) 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 20 Penalty Units

Note: Sub-clauses 4.8(a)(1), (2), (3), (4), (7) and (8) do not apply to a person employed or engaged by Council while acting in the course of their duties.

4.9 Nature Strips

- (a) An *owner* or *occupier* of land that is not in a *Rural Zone* must ensure that the *nature strip* directly outside that land:
 - (1) is maintained in a neat and tidy condition; and
 - (2) does not contain grass, stubble, scrub or undergrowth exceeding 30 centimetres in height.
- (b) Subject to sub-clause (a) an *owner* or *occupier* of land must not, without a *permit*, alter, or allow to be altered or remain altered, any *nature strip*.

4.10 Recreational Vehicles on Council Reserves

- (a) A *person* must not:
 - (1) drive, ride on or otherwise use; or
 - (2) allow a *person* under their care or control to drive, ride on or otherwise use a *recreational vehicle* on any *reserve* unless that *reserve* has been *prescribed* for that purpose or otherwise authorised by *Council*.

Penalty: A Maximum of 20 Penalty Units

PART 5 – BUILDING SITES

Introduction

This Part contains provisions that control construction movements and construction waste on *building site(s)*. It also handles issues around *building sites* such as mud and debris on *roads*, stormwater runoff, and the preservation of some *Council* assets.

5.1 *Building Work or Works*

- (a) During *building work* the *person in charge* of that *building work* must ensure that it is carried out so:
- (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
 - (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 20 Penalty Units

5.2 *Fencing of Building Sites*

- (a) Prior to the commencement of any *building work* on land that is in a residential zone, commercial zone or industrial zone, and less than 1,500m² in size, the *person in charge* of the *building work* must ensure that a site fence is erected on each individual site that:
- (1) complies with AS4687-2007;
 - (2) is not less than 1,500mm in height and not greater than 2,000mm in height;
 - (3) will prevent windblown *trade waste* and litter from being transported from the site; and
 - (4) will not have more than one access opening to the site which is;
 - (i) not greater than 2,800mm in width;
 - (ii) fitted with gates that are the same height as the associated fence that will prevent windblown refuse and litter being transported from the site;
 - (iii) located to correspond with the location of the temporary *vehicle crossing* for the *building site*; and
 - (iv) kept closed at all times when *works* are not in progress.
- (b) If the *person in charge* of the *building work* has multiple and adjoining sites where *building work* is being undertaken simultaneously, the site fence may enclose all of those sites, and one access opening is allowed per *allotment*.

- (c) No part of the site fence, including support feet, must be allowed by the *person in charge* of the *building work* to protrude into or onto any land other than the *building site* on which the *building work* is occurring.
- (d) The *person in charge* of the *building work* must ensure that the site fence is maintained in accordance with AS4697-2007 and remains erected until the completion of the *building work*.

Penalty: A Maximum of 20 Penalty Units

5.3 Stormwater Protection at *Building Sites*

- (a) Where any *building work* is being carried out on any land, the *person in charge* of the *building work* must ensure that the *building site* is developed and managed to minimise the risk of stormwater pollution through the contamination of run-off by chemicals, sediments, *animal* waste or gross pollutants in accordance with industry best practice, including the adoption of measures to:
 - (1) minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting *roads* or washed into the *stormwater system*; and
 - (2) prevent building clean-up, wash-down or other wastes being discharged off-site or allowed to enter the *stormwater system*.

Penalty: A Maximum of 20 Penalty Units

5.4 Controlling *Trade Waste* and Building materials at *Building Sites*

- (a) Prior to the commencement of and during any *building work*, the *person in charge* must:
 - (1) provide a *refuse facility* for depositing *trade waste* and litter, which must:
 - (i) be maintained in working order by having a functioning lid that effectively contains all the *trade waste* and litter; and
 - (ii) be not less than 1.5 cubic metres in volume;
 - (2) ensure *trade waste* and litter is efficiently and effectively deposited into the *refuse facility*;
 - (3) keep the *refuse facility* in place until the *building work* is complete, except when it is necessary to remove the *refuse facility* for the purpose of emptying it;
 - (4) ensure all aspects of the *refuse facility* are within the *building site*;
 - (5) ensure all building materials are contained within the *building site*;
 - (6) ensure that all lightweight materials on the *building site* are secured at all times so that any materials cannot become airborne; and

- (7) ensure the *refuse facility* is removed from the *building site* within seven (7) days of completion of the *building work* or issue of an occupancy *permit* or certificate of final inspection, whichever occurs last.

Penalty: A Maximum of 20 Penalty Units

5.5 Controlling Mud, Dirt and Debris from *Building Sites*

- (a) Prior to the commencement of and during any *building work*, the *person in charge* must ensure unsecured mud, dirt and debris is not carried from a *building site* by any *vehicle* or persons.

Penalty: A Maximum of 20 Penalty Units

5.6 Managing a Building or Subdivision Site

- (a) Prior to the commencement of any *building work* the *person in charge* of the *building work* must provide *Council* with their contact details.
- (b) If, prior to the completion of the *building work*, there is a change of *person in charge*, the new *person in charge* must, within (7) days of that change, notify *Council* of their contact details.
- (c) Prior to the commencement of any subdivision work the *person in charge* of the *building work* must erect a sign at each access gate to the subdivision which:
- (1) is at least 800mm in height and 1,200mm in width;
 - (2) is securely placed in such a location that makes it clearly visible and legible from the *road*;
 - (3) contains the name, postal address and a business contact telephone number of the person in charge of the subdivision work, which can be reached between 9am and 5pm on working days; and
 - (4) is displayed until completion of the subdivision work.

5.7 Inspection of *Building Sites*

- (a) An *Authorised Officer* may inspect a *building site* or subdivision site at any reasonable time.
- (b) If, as a result of an inspection of a *building site* or subdivision site, an *Authorised Officer* identifies any failure to comply with this Local Law, the *Authorised Officer* may verbally direct the *person in charge* to remedy the failure to comply within a specified time, and must provide the *person in charge* with written confirmation of the verbal direction and details of the failure to comply, either at the time of the inspection or within a reasonable timeframe.
- (c) A *person in charge* to whom a direction is given under sub-clause (b) must comply with that direction.

5.8 Controlling Asset Protection during *Building Works* or Work

(a) The:

- (1) *owner* of any land on which *building work* is being or is to be carried out;
- (2) *builder* engaged to carry out *building work* on land;
- (3) *appointed agent*;
- (4) driver of any *vehicle* involved in placing or removing a *refuse facility* on land;
or
- (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:

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

Penalty: A Maximum of 20 Penalty Units

5.9 Asset Protection and *Building Work*

(a) Regardless of whether a building *permit* or planning permit has been issued, the:

- (1) *owner* of any land on which *building work* is being or is to be carried out;
- (2) *builder* engaged to carry out *building work* on land;
- (3) *appointed agent*; or
- (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 (7) days before commencing any *works* on the land:

- (i) obtain an *Asset Protection Permit*;
- (ii) advise *Council* in writing of any damage that exists to any *Council infrastructure assets*; and
- (iii) pay, or lodge, a *security bond* to, or with, *Council*.

Penalty: A Maximum of 20 Penalty Units

5.10 Controlling *Building Sites*

(a) *Council* or an *Authorised Officer* may inspect a *building site* at any reasonable time.

- (b) If *Council* or an *Authorised Officer* identifies any damage which appears to result from non-compliance with this Local Law, an *Authorised Officer*:
- (1) may direct the responsible party to reinstate the damage within a specified time; and
 - (2) must provide the responsible party with written confirmation of the damage either at the time of the inspection or within a reasonable timeframe.
- (c) A *person* to whom a direction is given under sub-clause (b)(1) must comply with that direction.

Penalty: A Maximum of 20 Penalty Units

- (d) Where any *building work* is being carried out on any land, the *owner* of the land, *builder* engaged to carry out the *building work* on the land or *appointed agent* must:
- (1) provide a *refuse facility* for the purpose of disposal of *builder's refuse* to the satisfaction of *Council* or an *Authorised Officer*;
 - (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*;
 - (3) not place the *refuse facility* on any *Council land* or *road* without a *permit*; and
 - (4) empty the *refuse facility* whenever full, and, if necessary, provide a replacement *refuse facility* during the emptying process.

Penalty: A Maximum of 20 Penalty Units

PART 6 – CAMPING

Introduction

In this Part, the provisions regulate the *camping* on privately owned land, vacant land and *camping* on *Council land* or in *public places*.

6.1 *Camping General*

- (a) Prior to the commencement of any *camping*, a *person* must obtain a *permit* to camp from *Council*, if required to do so by this Local Law, unless the land is a:

- (1) registered *caravan* park or *camping* ground; or
- (2) *camping* area approved by *Council*.

Penalty: A Maximum of 20 Penalty Units

- (b) An *owner* or occupier of land who allows *camping* on that land must ensure that the *camping* is not a nuisance and does not unreasonably interfere with the enjoyment to any *person* of land proximate to the land on which the *camping* is carried out.

Penalty: A Maximum of 20 Penalty Units

6.2 *Camping on Council Land or in a Public Place*

- (a) A *person* must not camp on *Council land*, a *public place* or *road reserve* unless a *camping permit* has been issued by *Council* and is in force under this Local Law.
- (b) Clause (a) does not apply to:
- (1) land where *camping* is authorised under the *Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020*; or
 - (2) *camping* for less than twenty four (24) hours in an area where *Council* has determined that overnight *camping* is permitted.

Penalty: A Maximum of 20 Penalty Units

6.3 *Camping on Privately Owned Land where a Dwelling is Erected*

- (a) A *person* must not camp on *private land*, unless a *permit* has been issued by *Council* and is in force under this Local Law.
- (b) Sub-clause (a) does not apply if the *owner* of the land has authorised the *camping*, and the *camping* is:
- (1) for not more than a total of six (6) months in any calendar year; or
 - (2) not occurring within a distance of one (1) metre from the side or rear boundaries of the land; and
 - (3) not occurring within 30 metres of a waterway.

Penalty: A Maximum of 20 Penalty Units

6.4 *Camping on Vacant Private Land*

- (a) The *owner* or *occupier* of *vacant private land* must not, without a *permit*, occupy or allow any other *person* to occupy a *caravan*, tent, tiny house/movable *dwelling* or motor home on that land unless the following conditions are met:
- (1) the occupation does not exceed four (4) consecutive weeks;
 - (2) the occupation is not more than a total of three (3) months in any calendar year;
 - (3) no rent, licence fee or charge is paid by any *person* in respect of the occupation;
 - (4) the *caravan*, tent, tiny house/movable *dwelling* or motor home is not located within:
 - (i) one (1) metre of any boundary of the land; or
 - (ii) 30 metres of a waterway.
 - (5) the *caravan*, tent, tiny house/movable *dwelling* or motorhome is vacated on a day of Total Fire Ban; and
 - (6) the *vacant private land* has adequate sanitary facilities, and the sanitation facilities are maintained to a reasonable standard.

Penalty: A Maximum of 20 Penalty Units

6.5 *Exemption*

- (a) *Council* or an *Authorised Officer* may from time to time exempt any:
- (1) *person*;
 - (2) class of *person*;
- from the requirement to obtain a *permit* under sub-clauses 6.2 - 6.4 (inclusive) and from the application of sub-clauses 6.1, 6.2, 6.3 and 6.4.

PART 7 – 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.

7.1 Dangerous Land or Detriment to General Amenity

- (a) Unless permitted under a Planning Scheme applicable to the land, an *owner* or *occupier* of land must not allow that land to be kept in an *unsightly and/or dangerous* condition.

Penalty: A Maximum of 20 Penalty Units

7.2 Prohibition on Graffiti

- (a) 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 their land.

Penalty: A Maximum of 20 Penalty Units

7.3 Obstruction on Land - Vegetation and other Objects

- (a) A tree or plant, fencing or a sign or other similar object must not be planted or located on a *person's* property so that it obstructs or interferes with pedestrian or vehicular traffic because it:
- (1) overhangs a property boundary onto a footpath or other part of the *road* used by pedestrians limiting safe access or likely to cause injury or damage;
 - (2) extends over any part of the road or on the boundary of a *road* so that it:
 - (i) obstructs the view between drivers of *vehicles* at an intersection;
 - (ii) obstructs the view between drivers of *vehicles* and pedestrians;
 - (iii) obscures a traffic control item from the driver of an approaching *vehicle(s)* or pedestrian(s); or
 - (iv) obscures street lighting; or
 - (3) constitutes a danger to *vehicles* or pedestrians or compromises the safe and convenient use of the *road*.

Penalty: A Maximum of 20 Penalty Units

7.4 Overhanging Vegetation

- (a) Notwithstanding sub-clause 7.3, an *owner* or *occupier* of any land must not allow a tree, shrub, hedge, or other 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 20 Penalty Units

7.5 Vegetation on Road and Council Owned/Managed Land

(a) *A person:*

- (1) must not, without a *permit*, plant or allow to be planted any seedling or vegetation on a *road* other than:
 - (i) plants that are consistent with an adopted *Council* policy that is published on *Council's* website;
 - (ii) plantings specified in an adopted precinct specific plan published on *Council's* website; and
 - (iii) grass; or
- (2) must not, without a *permit*, use mechanical plant or equipment for excavation when planting or removing plants on a *road* or *Council land*; and
- (3) who is the *owner* or *occupier* of land adjoining land owned or managed by *Council*, must ensure that environmental *weeds prescribed* by *Council* are contained to their land and not encroaching on *Council land*.

Penalty: A Maximum of 20 Penalty Units

7.6 Numbering of Allotments

- (a) *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.

- (b) 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 in:

- (1) a sufficient size; and
- (2) 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 20 Penalty Units

- (c) The *owner* or *occupier* of an *allotment* must ensure that all numbers marking the *allotment* are:

- (1) made of durable materials;
- (2) kept in a good state of repair; and
- (3) renewed as often as may be necessary.

Penalty: A Maximum of 20 Penalty Units

7.7 Recreational Vehicles on Private Land

(a) *A person:*

- (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
- (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 20 Penalty Units

7.8 Shopping Trolleys

- (a) The owner of any shopping trolley that is made available to members of the public must ensure that the shopping trolley legibly identifies the owner's business name and trading address.

Penalty: A Maximum of 20 Penalty Units

(b) *A person* must not leave a shopping trolley on:

- (1) a *road*;
- (2) *Council land* except in an area designated by *Council* for the leaving of shopping trolleys; or
- (3) any vacant land.

Penalty: A Maximum of 20 Penalty Units

PART 8 – FIRE HAZARDS

Introduction

The purpose of this Part is to set out the requirements to manage, control and regulate activities and uses of land that may be dangerous, cause nuisance or damage to others and/or the environment, and could affect the health and safety or amenity of others.

8.1 *Fire Hazards*

(a) 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*, and ensure that:

(1) all necessary steps are taken to;

(i) prevent fire on; and

(ii) minimise the possibility of spread of fire from

that land ; and

(2) the land is kept free of material or substances likely to assist the spread of fire.

Note: For the purpose of this clause “material or substances” includes undergrowth, scrub, bracken ferns, weeds, stubble and grass.

Penalty: A Maximum of 10 Penalty Units

8.2 *Open Air Fires and Incinerators*

(a) A *person* must not, without a *permit*, light a fire in the open air or in an *incinerator* on any land in an area *designated* by *Council* (or if no area has been *designated* by *Council* then in a *Designated Township Area*) on any day or at times other than on a Friday or a Saturday between the hours of 10am and 6pm.

(b) The open air fire and the matter being burnt must occupy no more than 1 cubic metre of land and space, and must be dried vegetation only.

(c) A *person* must not light a fire during a *Fire Danger Period*.

(d) A *person* must not, without a *permit*, light a fire in the open air on any *Council land* or in any *public place*.

(e) The requirement to obtain a *permit* does not apply to:

(1) a *person* lighting a barbeque or similar appliance for cooking food; or

(2) a constructed fireplace, recreational fire pit or brazier; or

(3) a fire that is authorised or directed to be lit under any other legislation.

- (f) A *person* must not light a fire in the open air or an *incinerator* to burn any material or substance that could cause a nuisance to any other *person* or could harm or damage a *person's* health.

Penalty: A Maximum of 20 Penalty Units

8.3 Fire Danger Days

- (a) Nothing in sub-clause 8.2 authorises a *person* to light a fire, or allow a fire to be lit or remain alight:
- (1) during a *Fire Danger Period*; or
 - (2) on a day where the air quality category is poor, very poor or extremely poor as declared by the Environment Protection Authority.

Penalty: A Maximum of 20 Penalty Units

8.4 Nuisances

- (a) A *person* must not burn or cause or allow to be burned any substance, either in the open air or within a structure, if the burning of the substance is likely to:
- (1) cause a nuisance;
 - (2) be dangerous to the health of any *person*; or
 - (3) be offensive to any *person*.

Penalty: A Maximum of 20 Penalty Units

- (b) A *person* must not burn, or cause, or allow to be burned any:
- (1) rubber or plastic substance;
 - (2) waste petroleum oil or material containing waste petroleum oil;
 - (3) paint or receptacle which contains or has contained paint;
 - (4) manufactured chemical or chemically treated material;
 - (5) pressured container;
 - (6) textile fabric;
 - (7) food waste; or
 - (8) batteries.

Penalty: A Maximum of 20 Penalty Units

8.5 Extinguishing Fires

- (a) 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 sub-clause 8.1 or

8.2 must extinguish the fire or burning substance immediately on being directed to do so by:

- (1) an *Authorised Officer*;
- (2) a member of the Victoria Police;
- (3) an officer of the Country Fire Authority; or
- (4) an officer in charge of a Country Fire Authority Brigade.

Penalty: A Maximum of 20 Penalty Units

(b) Any *person* described in sub-clause 8.5(a)(1), (2), (3) or (4) may enter or remain on any land and extinguish any fire or burning substance if:

- (1) the *person* to whom a direction has been given under sub-clause (a) fails immediately to extinguish the fire or burning substance; or
- (2) a fire or an *incinerator* is apparently unattended.

Penalty: A Maximum of 20 Penalty Units

8.6 Permissible Burning

(a) Notwithstanding anything else contained in this Local Law:

- (1) an *Authorised Officer*;
- (2) an officer of the Country Fire Authority; or
- (3) an officer in charge of a Country Fire Authority Brigade:

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*.

Penalty: A Maximum of 20 Penalty Units

8.7 Discharging Into Air

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

- (1) dust;
- (2) grit;
- (3) ashes; or
- (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 20 Penalty Units

PART 9 – 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*.

9.1 Spoil on Roads

(a) A *person* must not:

(1) drive; or

(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:

(3) the filling or excavation of any land; or

(4) *building work*

unless the exterior of the *vehicle* is free from soil, earth and clay.

Penalty: A Maximum of 20 Penalty Units

9.2 Repair of Vehicles

(a) A *person* must not dismantle, paint, carryout maintenance or repair a vehicle on *Council land* or *road* except for an emergency or where it is necessary to enable the *vehicle* to be removed.

Penalty: A Maximum of 20 Penalty Units

9.3 Sale of Vehicles

(a) A *person* must not, without a *permit*, park or cause a *vehicle* to be parked or left standing on any *road* or other *public place* for the purpose of exposing or displaying that *vehicle* for sale.

(b) A *person* must not, without a *permit*, park any *vehicle* which has advertising painted or stuck directly onto it, or in any way attached to the body of the *vehicle*, with the intention of advertising by directing a *person* to a business, on *Council land* or a *road*, or in a *public place*.

Penalty: A Maximum of 20 Penalty Units

9.4 Abandoned Vehicles

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

(1) which is unregistered; or

(2) which has been left standing for at least seven (7) consecutive days and gives the appearance of having been abandoned.

Penalty: A Maximum of 20 Penalty Units

9.5 Storage of Caravans and Trailers in Public Places

- (a) A *person* must not allow any *caravan* or trailer that is currently registered or having a permit from Department of Transport and Planning, or any other relevant authorities, to be left standing continuously in a *public place* or places for a period in excess of fourteen (14) consecutive days.
- (b) The *caravan* or trailer may not be removed to another *public place* to immediately commence a further fourteen (14) day period.

Penalty: A Maximum of 20 Penalty Units

9.6 Public Events

- (a) A *person* must not, without a *permit*, hold an *event* in public spaces or on *roads* owned or managed by *Council*.

Penalty: A Maximum of 20 Penalty Units

PART 10 – 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.

10.1 Commercial Activities on *Council Land*

- (a) A *person* must not, without a *permit*, conduct commercial activities on a footpath, *road reserve*, *Council land* or *public place* where that *person* proposes to use a footpath, *road reserve*, *Council land* or *public place* for:
- (1) outdoor eating;
 - (2) displaying goods or services for sale;
 - (3) placing signs and/or advertising goods and services for sale; or
 - (4) placement of signage on a *vehicle*.
- (b) A *person* must not, without a *permit*:
- (1) erect a tent, *caravan*, trailer or other *vehicle*, *temporary structure*, building, table or stall for the sale of any goods or services; or
 - (2) trade from *Council land* or a *road* where trading is to be done from a *vehicle*, stall or any other *temporary structure* and irrespective of whether trading is on a permanent or casual basis.

Penalty: A Maximum of 20 Penalty Units

10.2 Collections, Subscriptions and Raffles

- (a) A *person* must not, without a *permit*, or permission from an *Authorised Officer*, solicit to collect:
- (1) on a *road*;
 - (2) on *Council land*; or
 - (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 20 Penalty Units

- (b) Nothing in sub-clause (a) applies to any *person* who is acting under or with the authority of an Act or Regulation.

10.3 Unsolicited Material

- (a) A *person* must not, without a *permit* or approval from an *Authorised Officer*, distribute any handbills, placecards, notices, advertisements, books, pamphlets, goods, gifts or samples to any *person* on any *road* or *Council land*.
- (b) Nothing in sub-clause (a) applies to any *person* who is acting under or with the authority of an Act or Regulation.

Penalty: A Maximum of 20 Penalty Units

10.4 Busking

- (a) A *person* must not, without a *permit*, busk on any:

- (1) *road*; or
- (2) *Council land*; or
- (3) *a public place*

with the object, or apparent object, of collecting money.

Penalty: A Maximum of 20 Penalty Units

10.5 Spruiking

- (a) A *person* must not, without a *permit*, spruik on any:

- (1) *road*; or
- (2) *Council land*,

with the object, or apparent object, of attracting custom.

Penalty: A Maximum of 20 Penalty Units

10.6 Pavement Art

- (a) A *person* must not, without a *permit*, paint or draw on any *Council land*, including a *road* or any property belonging to *Council*, for the purpose of public entertainment, performance or the collection of money.

Penalty: A Maximum of 20 Penalty Units

PART 11 – ANIMALS AND LIVESTOCK

Introduction

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

11.1 Application of this Part

- (a) This Part does not apply to any land on which:
- (1) a pet shop is located;
 - (2) an *animal* hospital or veterinary practice is located; or
 - (3) there exists another like facility, the operation of which is subject to the provisions of a code of practice,
- if the use of the land for this purpose is permitted under a Planning Scheme applicable to the land.

11.2 Keeping of *Animals, Birds, Reptiles* and Bees Generally

- (a) 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:
- (1) be offensive;
 - (2) be dangerous;
 - (3) be injurious to health; or
 - (4) cause a nuisance.

Penalty: A Maximum of 20 Penalty Units

11.3 Number of *Animals*

- (a) An *owner* or *occupier* of land must not, without a *permit*, 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</i> <i>up to 0.25 (ha)</i>	<i>Property Size</i> <i>0.25 (ha) to 1(ha)</i>	<i>Property Size</i> <i>1 (ha) and above</i>
a	Dogs	3	4	5 (other than dogs kept for working stock/primary production)
b	Cats	3	4	5
c	<i>Poultry</i>	10	20	No <i>Permit</i> Required

	<i>Animal</i>	<i>Property Size up to 0.25 (ha)</i>	<i>Property Size 0.25 (ha) to 1(ha)</i>	<i>Property Size 1 (ha) and above</i>
d	Roosters	<i>Permit</i> Required	<i>Permit</i> Required	No <i>Permit</i> Required
e	Pigeons	10	20	No <i>Permit</i> Required
f	Sheep or Goats	<i>Permit</i> Required	8	No <i>Permit</i> Required
g	Cattle/Horses and other large <i>animals</i>	<i>Permit</i> Required	4	No <i>Permit</i> Required
h	Pigs	<i>Permit</i> Required	<i>Permit</i> Required	No <i>Permit</i> Required
i	Reptiles	Subject to the issuing of a licence by the Department of Energy, Environment and Climate Action (DEECA) or other relevant authority		
j	Bees	Subject to hives being licensed with Agriculture Victoria and complying with the Apiary Code of Practice.		

- (b) For the purpose of calculating the maximum number of *animals* which can be kept or allowed to be kept without a *permit* under sub-clause (a), the progeny of any *animal* will, for 12 weeks after the birth, be deemed not to be an *animal*.
- (c) In *relation* to the keeping of *poultry* (including Roosters) and Pigeons a *permit* will not be required by *owners* who are current financial members of a relevant Club or Organisation and abide with the relevant code of practice.

Penalty: A Maximum of 20 Penalty Units

11.4 *Animal Control (Housing of Animals)*

- (a) An *owner* or *occupier* of land must ensure that any *animal* and *birds* on that land are kept in a secure shelter or enclosure or confined to the land unless they are under the *effective control* of a *person*.
- (b) The owner or *person* in charge of an *animal* must, while on *Council land* or a *road* or in a *public place*, have *effective control* of that *animal*.

Penalty: A Maximum of 20 Penalty Units

11.5 *Animal Excrement*

- (a) The owner or *person* in charge of an *animal* must, while on *Council land* or a *road* or in a *public place*, have in their possession a bag or container which can be used for the collection of that *animal's* excrement, and immediately collect and remove excrement.

Penalty: A Maximum of 20 Penalty Units

11.6 *Feeding of Wild Animals*

- (a) If the feeding of an uncaged *bird* and/or any *animal* by a *person* is causing a nuisance or damage to property or creating a risk to health, an *Authorised Officer* may direct the *person* to cease feeding the *bird* and/or *animal*.

- (b) A *person* to whom a direction is given under sub-clause (a) must comply with that direction.

Penalty: A Maximum of 20 Penalty Units

11.7 Shelters for *Animals*

- (a) The *owner* or *occupier* of land must ensure that any structure on that land used for housing any *livestock*, small *bird*, large *bird*, rodent or *reptile* or any other *animal* and the area within three (3) metres of such structure is maintained:
- (1) in a clean, inoffensive and sanitary condition; and
 - (2) so that it does not cause any nuisance.
- (b) The *owner* or *occupier* of land on which there is an *animal* shelter must maintain that *animal* shelter so that:
- (1) manure and other waste do not remain on the land;
 - (2) food is kept in fly and vermin proof container;
 - (3) adequate drainage of the land is provided;
 - (4) grass, *weeds*, refuse, rubbish and other material does not build up within three (3) metres of the *animal* shelter; and
 - (5) the *animal* shelter and the land are kept in a clean and sanitary condition.

Penalty: A Maximum of 20 Penalty Units

11.8 Adequate Fencing for *Livestock*

- (a) An *owner* or *occupier* of land on which *livestock* are kept must ensure that the fencing of any *cattle* grids relating to that land is or are adequate to prevent the escape of that *livestock*.
- (b) Where an *Authorised Officer* gives a *Notice to Comply* to an *owner* or *occupier* of land who appears to be in breach of sub-clause (a), the *Authorised Officer* may direct that *person* to immediately remove the *livestock*, or install, repair, replace or modify the fencing or *cattle* grids, including through the installation or repair of gates.
- (c) A *person* to whom a direction is given under sub-clause (b) must comply with that direction.

Penalty: A Maximum of 20 Penalty Units

11.9 Grazing or *Droving* of *Livestock*

- (a) A *person* must not, without a *permit*, drove or graze *livestock* on a *road* or *Council land*.

11.10 Droving of Livestock within the Municipal District

- (a) A *person* must not, without a *permit*, move *livestock* across and/or along a *road* to travel from one property being part of a *single farming enterprise* to another being part of the same farming enterprise or from one part of a property to another part of the same property.

Penalty: A Maximum of 20 Penalty Units

11.11 Bees and Wasps

- (a) An *owner* or *occupier* of *private land* on which bees are kept must comply with the Apiary Code of Practice.
- (b) An *owner* or *occupier* of *private land* on which bees are kept must ensure that the bees are not a nuisance.
- (c) An *owner* or *occupier* of land must, upon becoming aware of the existence of a non-native wasp nest or bee nest on the land or at the direction of an *Authorised Officer*, take reasonable steps to cause the removal of the wasp nest or bee nest by an appropriate contractor.

Penalty: A Maximum of 20 Penalty Units

PART 12 – WASTE MANAGEMENT

Introduction

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

12.1 Disposal of *Household Waste*, *Recyclables* and *Organic Waste* and Glass

- (a) To use the domestic kerbside collection service provided by *Council*, the *occupier* of any premises must:
- (1) use only *Council*-supplied mobile bins for *household waste*, commingled recycling and organic bin, glass bin and/or *Council* approved bins for *organic waste*;
 - (2) deposit *household waste* only in the mobile garbage bin (MGB – Red Lidded), *fully commingled recyclables* only in the mobile recycling bin (MRB – Yellow Lidded) and organic and food waste only in the mobile *organic waste* bin (MOB – Green Lidded) and mobile glass bin (MGB – Purple Lidded);
 - (3) if directed by *Council* to do so, remove *contaminated material* from mobile bin/s;
 - (4) if directed by *Council* to do so, dispose of all contents of mobile bins containing *contaminated material*;
 - (5) 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*;
 - (6) 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;
 - (7) not leave the mobile bins out more than one day before or one day after a designated collection day or day directed by an *Authorised Officer*;
 - (8) place all mobile bins out for collection in a manner specified in any written advice made available to the *occupier* by *Council*.
 - (9) ensure that any mobile bin (including contents) placed for collection does not exceed 80 kg;
 - (10) maintain the mobile bins in a clean and sanitary condition;
 - (11) ensure that the area where the mobile bins are kept on the premises is kept clean and in a sanitary condition;
 - (12) ensure that the lid of the mobile bins is closed other than when material is being deposited in them;
 - (13) not cause damage to mobile bins;

- (14) ensure that the mobile bins are not overfilled thus preventing the lids from being completely closed down;
- (15) not place any material immediately adjacent to the mobile bin for collection; and
- (16) 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 20 Penalty Units

12.2 Prohibited Waste

- (a) A *person* must not place, or cause or allow to be placed, in any mobile bin provided by *Council* any:
 - (1) *trade waste*;
 - (2) Medical or Infectious Waste;
 - (3) Slops or Liquid Waste;
 - (4) Human or *animal* Waste;
 - (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);
 - (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;
 - (7) sharps, including hypodermic needles, blades or scalpels;
 - (8) sharp objects unless they are properly contained or wrapped in such a way as to render them harmless and inoffensive;
 - (9) ash or ashes (unless such ash or ashes have been effectively dampened so as to be non-combustible);
 - (10) oils, solvents flammable liquids or paint (other than paint residue contained in a closed container);
 - (11) bricks, concrete, masonry, engine blocks or *vehicle* parts (whether or not in pieces); or
 - (12) any other waste *prescribed* by *Council*
- and must, if directed by *Council* to do so:
- (i) remove *contaminated material* from mobile bin/s; and
 - (ii) dispose of all contents of mobile bins containing *contaminated material*.

Penalty: A Maximum of 20 Penalty Units

12.3 Placement of Mobile Bins

- (a) To use the recycling and the domestic kerbside collection service provided by *Council*, the *occupier* of any premises must place the mobile bins:
- (1) at the front of the premises, or at an alternative collection point as approved or designated by an *Authorised Officer*;
 - (2) immediately behind the kerb of the street *frontage* of the premises;
 - (3) on the *carriageway* side of the open drain but well clear of the trafficable surface, where no kerb and channel exist;
 - (4) at a suitable location within or outside the premises if restrictions on space or access do not allow placement in accordance with sub-clauses (1), (2) and (3), subject to an *Authorised Officer* approving such location;
 - (5) at a suitable location within the premises, where an *Authorised Officer* certifies in writing that special circumstances or hardship exists;
 - (6) with the wheels facing the premises; and
 - (7) at least 50cm away from any:
 - (i) mobile bin;
 - (ii) power pole;
 - (iii) street furniture;
 - (iv) tree; or
 - (v) other item advised by an *Authorised Officer* which may interfere with the emptying of the mobile bin.

12.4 Hard Waste

- (a) The *occupier* of every premises to which a hard waste collection service is provided may place out for collection accepted hard waste, and must do so in a manner set out in a notice published by *Council* or as specified in any written advice provided to the *occupier* by *Council* or in a newspaper generally circulating in the *municipal district*.
- (b) The *occupier* of every premises to which a hard waste collection service is provided by *Council*:
- (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;
 - (2) must not deposit items or material on the *nature strip* other than hard waste;

- (3) must not leave the hard waste on the *nature strip* for more than six days before a collection day;
- (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
- (5) must remove items or material so placed, which is not collected within one day after the collection day.

Penalty: A Maximum of 20 Penalty Unit

12.5 Disposal of disused refrigerators and other compartments

- (a) A *person* must not place or leave a disused refrigerator or freezer, trunk, chest or any similar article having a compartment with a capacity of 0.04 cubic metres or more on any rubbish tip, *road*, *Council land*, *public place* or unfenced vacant land without first:
 - (1) removing every door and lid;
 - (2) removing every lock, catch and hinge attached to a door or lid; and
 - (3) otherwise rendering every door and lid incapable of being fastened.
- (b) Nothing in sub-clause (a) is to be taken as allowing domestic *household waste*, *recyclables*, *organic waste* or hard waste to be taken outside premises and deposited on a *road* other than in accordance with this Local Law.

Penalty: A Maximum of 20 Penalty Units

12.6 Restriction on Use of Public Waste and Recycle Bins

- (a) The *owner* or *occupier* of land must not place or deposit any *household waste*, *recyclables*, *organic waste*, glass or other waste material of any kind which has been generated in or from that land in a public waste bin.
- (b) 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.
- (c) A *person* may only place *animal* excreta in a public waste bin if it is wrapped in impermeable material.

Penalty: A Maximum of 20 Penalty Units

12.7 Interference with Household, Recyclables, Glass, Organic Waste or Hard Waste

- (a) Except if authorised, a *person* must not remove, add to or interfere with any *household waste*, *recyclables*, glass, *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 20 Penalty Units

12.8 Screening of Bins and Hoppers

(a) *Council* may, by notice in writing, direct the *owner* or *occupier* of any land to:

- (1) install;
- (2) repair;
- (3) replace; or
- (4) modify

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

- (5) unsightly;
- (6) dangerous; or
- (7) detrimental to the general amenity of the neighbourhood in which it is located.

(b) A *person* to whom a direction is given under sub-clause (a) must comply with that direction.

Penalty: A Maximum of 20 Penalty Units

12.9 Depositing of Waste at Recycling and Waste Transfer Facilities, Resource Recovery Centres

(a) *Council's* recycling and waste transfer facilities, resource recovery centre will be available for the disposal of waste subject to the fees, charges, terms and conditions as determined by *Council* from time to time.

(b) A *person* using *Council's* recycling and waste transfer facility or, resource recovery centre:

- (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;
- (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;
- (3) may only deposit material designated by *Council* from time to time; and
- (4) must not deposit any hazardous, dangerous or infectious materials.

Penalty: A Maximum of 20 Penalty Units

- (c) A *person* must not deposit any waste at any transfer facility 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

12.10 Scavenging Recycling and Waste Transfer Facilities and Resource Recovery Centres

- (a) 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.

Penalty: A Maximum of 20 Penalty Units

12.11 Storage of *Trade Waste*

- (a) 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:
- (1) constructed of impermeable material;
 - (2) watertight;
 - (3) water, fly and vermin proof;
 - (4) equipped with any removable drainage plug required by an *Authorised Officer* for public health or safety reasons;
 - (5) thoroughly cleaned following each occasion when it is emptied;
 - (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*;
 - (7) emptied at appropriate times or when an *Authorised Officer* directs for public health or safety reasons; and
 - (8) maintained in a clean, inoffensive and sanitary condition.

Penalty: A Maximum of 20 Penalty Units

12.12 Storage Site for *Trade Waste*

- (a) 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* is or other bins are placed:
- (1) is suitable for such placement or is an area directed or approved by an *Authorised Officer*;
 - (2) has an impermeable surface;
 - (3) is drained to a sewer approved by the *local water authority* for the receipt of any discharge or other outlet approved by *Council*;

- (4) is supplied with water from a tap and hose; and
- (5) is maintained in a clean, inoffensive and sanitary condition.

Penalty: A Maximum of 20 Penalty Units

12.13 Waste Receptacles on Roads and Reserves

- (a) 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 20 Penalty Units

12.14 Obstructions on Roads or Council Land

- (a) A *person* must not, without a *permit*, leave or allow to be left any *bulk rubbish container* on a *road* or *Council land*, or leave or allow to be left on a *road* or *Council land* any *charity bin*.

Penalty: A Maximum of 20 Penalty Units

12.15 Commercial Waste

- (a) A *person* must not place, cause or allow to be placed or deposited any refuse, rubbish or waste from Commercial, Industrial or Trade premises in a bin in a *public place* or a household refuse receptacle or recyclable materials receptacle.

Penalty: A Maximum of 20 Penalty Units

PART 13 – ADMINISTRATION AND FEES/ADMINISTRATION OF LOCAL LAW

Introduction

This Part aims to supplement the preceding provisions of the Local Law by explaining how the Local Law may be administered. In particular, the system of applying for, obtaining and retaining *permits* is provided for. It also covers reviewing of decisions, delegations and *exemptions*.

13.1 Application for *Permits*

- (a) An application for a *permit* must be in the form *prescribed* by *Council* and must be accompanied by the appropriate fees *prescribed* by *Council*.
- (b) *Council* may require an *applicant* to:
 - (1) provide additional information; and
 - (2) give notice of the application or invite any *person* to make a submission or do both, before the application is determined.
- (c) A *permit* may include any condition which the *Council* considers to be reasonable and appropriate having regard to the activity to be authorised by the *permit* and the effects or anticipated effects of that activity.
- (d) Unless otherwise stated in the *permit*, a *permit* only authorises the *person* named in the *permit* to carry out the permitted activity and is not transferable.

13.2 Decision on *Permit* Applications

- (a) After considering all relevant information *Council* may decide to:
 - (1) grant a *permit*;
 - (2) grant a *permit* subject to conditions;
 - (3) refuse to grant a *permit*; or
 - (4) exempt a *person* or class of *persons* from the requirement to obtain a *permit*.

13.3 Duration of *Permits*

- (a) A *permit* is in force until the expiry date indicated on the *permit*, unless it is cancelled before the expiry date.
- (b) If no expiry date is indicated on the *permit*, the *permit* expires twelve (12) months after the date on which it is issued.
- (c) Before the *permit* expires, a *person* may request *Council* to extend the *permit* for a further period of time, not exceeding twelve (12) months.

13.4 Correction of *Permits*

- (a) *Council* or an *Authorised Officer* may correct a *permit* issued if the *permit* contains:

- (1) a clerical mistake or an error arising from any accident, slip or omission; or
 - (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*.
- (b) *Council* or the *Authorised Officer* must note the correction in the register of *permits*.

13.5 Amendment, Cancellation and Suspension of *Permits*

- (a) *Council* may cancel, suspend or amend a *permit* at any time if it:
 - (1) is required to do so by the *permit holder*; or
 - (2) considers that there has been:
 - (i) a material misstatement or concealment of fact in relation to the application for the *permit*;
 - (ii) any material mistake in relation to the issue of the *permit*;
 - (iii) any material change of circumstances which has occurred since the grant of the *permit*; or
 - (iv) a substantial failure to comply with the *permit* or a *Notice to Comply*.
- (b) *Council* must give written notice to a *permit holder* of any correction, cancellation, suspension or amendment of a *permit*.
- (c) Before it cancels a *permit*, *Council* must provide the *permit holder* an opportunity to make a submission on the proposed cancellation.
- (d) If a *permit holder* is not the *owner* of the land and the *owner's* consent was required to be given to the application for the *permit*, the *owner* must be notified of any *Notice to Comply* subsequently issued by *Council* and the reason why it has been served.

13.6 Transfer of a *Permit*

- (a) A *permit* is not transferable by the *permit holder* to any other *person* without the consent of *Council*.

13.7 Fees and Charges

- (a) *Council* may, from time to time by resolution, determine a fee, charge, fare or rent in relation to any *Council* property, undertaking, good, service or other act, matter or thing, in accordance with section 77 of the *Act*.
- (b) *Council* may, from time to time by resolution, determine fees, charges, guarantees or bonds that are applied for the purposes of approvals required under this Local Law.

- (c) In determining any fees and charges, *Council* may establish a system or structure of fees and charges, including a minimum or maximum fee or charge, including setting no charge.
- (d) *Council* may waive, reduce or alter any specific fee, charge or bond or guarantee with or without conditions.

13.8 Registers

- (a) *Council* must maintain a record of *permits*, including details of corrections and cancellations.
- (b) *Council* must maintain a register of determinations made and of guidelines or procedures prepared for the purposes of this Local Law.
- (c) *Council* must ensure that the registers are available for public inspection at the office of *Council* during normal business hours otherwise in accordance with its Public Transparency Policy.

13.9 Delegation

- (a) *Council* may delegate to the *Chief Executive Officer* all powers, functions and duties under this Local Law, and authorise the *Chief Executive Officer* to delegate any powers to *Authorised Officers* and other members of *Council* staff.

13.10 Exemption from the requirement

- (a) *Council* may by written notice exempt any *person* or class of *persons* from the requirement to have a *permit*, either generally or at specified times. An *exemption* may be granted subject to conditions.
- (b) A *person* must comply with the conditions of an *exemption*.
- (c) An *exemption* may be cancelled as if it were a *permit*.
- (d) Despite any provision in the Local Law requiring a *permit* to undertake any particular activity, no *offence* will arise where *Council* or its delegate has granted an *exemption* from the requirements to hold any such *permit* and the holder of that *exemption* carries out the activity authorised by, and in accordance with any conditions contained in, that *exemption*.
- (e) Where compliance with any condition of a *permit* or an *exemption* or other condition arising under this Local Law is impracticable in a particular circumstance. *Council* may exempt a *person* from compliance with that condition or vary the condition in a way which is capable of compliance.

13.11 Review Rights

- (a) 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*, they may request the *Chief Executive Officer* to review the fairness or reasonableness of the action taken.

- (b) 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 sub-clause (a).

PART 14 – ENFORCING THIS LOCAL LAW

Introduction

This Part aims to supplement the preceding provisions of the Local Law by explaining how the Local Law may be enforced, in particular powers to impound, Notices to Comply and Infringement Notices. It also covers reviewing of decisions, delegations and *exemptions*.

14.1 Failure to Comply with this Local Law, *Permit* or *Notice to Comply*

(a) A *person* who:

- (1) contravenes or fails to comply with any provision of this Local Law;
- (2) contravenes or fails to comply with any condition contained in a *permit* issued under this Local Law;
- (3) knowingly provides false information in support of an application for a *permit* issued under the Local Law;
- (4) knowingly supplies false or misleading information to an *Authorised Officer*;
- (5) fails to comply with a verbal direction issued, or a *Notice to Comply* served by an *Authorised Officer*;
- (6) fails to comply with a sign displayed by *Council*; or
- (7) makes or attempts to make any agreement with an *Authorised Officer* to compromise their duty

is guilty of an *offence* and is liable to:

- (i) the maximum *Penalty* stated under a provision or, if no *Penalty* is stated, a maximum of two (2) *Penalty Units*;
- (ii) a further *Penalty* of two (2) *Penalty Units* for each day after a finding of guilt or conviction for an *offence* during which the contravention continues; and
- (iii) upon conviction for a second or subsequent *offence*, double the *Penalty* stated under a provision of *Penalty Units*.

14.2 Notices to comply

- (a) *Council* or an *Authorised Officer* may serve a *Notice to Comply*, directing an *owner occupier* or other *person* in breach of this Local Law to remedy anything which constitutes an *offence* under this Local Law.
- (b) A *Notice to Comply* must state the time and date by which the thing must be remedied.
- (c) The time required by a *Notice to Comply* must be reasonable in the circumstances having regard to:

- (1) the amount of work involved;
 - (2) the degree of difficulty;
 - (3) the availability of necessary materials or other necessary items;
 - (4) climatic conditions;
 - (5) the degree of risk or potential for risk; and
 - (6) any other relevant factor.
- (d) 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: Maximum of 10 Penalty Units

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

14.3 Infringement Notice

- (a) As an alternative to prosecution for an *offence*, an *Authorised Officer* may issue an Infringement Notice containing the information required by the *Infringements Act 2006*.
- (b) The infringement *Penalty* for an *offence* against this Local Law is the Infringement *Penalty* specified in *Schedule 1*.
- (c) If no infringement *Penalty* is specified in *Schedule 1* the infringement *Penalty* will be 2 *Penalty Units*.
- (d) All Infringement Notices issued under this Local Law will be dealt with in accordance with the provisions of the *Infringements Act 2006*.

14.4 Power of Authorised Officer to Act in Urgent Circumstances

- (a) Where, in the opinion of an *Authorised Officer*, a breach of the Local Law or a *permit* issued under the Local Law arises which may place a *person*, *animal* or property or thing at risk or in danger and there is not time or it is impractical to serve a *Notice to Comply*, then the *Authorised Officer* may take reasonable action to immediately abate or minimise the risk or danger identified.
- (b) As soon as practicable, the *Authorised Officer* must contact the *person* by whose fault, permission or decision the situation has arisen, whether they be the *owner*, *occupier* of the land, *animal*, property or thing involved.

14.5 Impounding or Seizure

- (a) An *Authorised Officer* may seize and impound any item, thing or *animal* which is the subject of a breach of this Local Law.

- (b) Where any item, thing or *animal* is impounded or seized pursuant to this Local Law, notice of the impounding or seizure must be given to the *person* who is known or appears to the *owner* of the impounded or seized item, thing or *animal*.
- (c) Any item, thing or *animal* impounded or seized in accordance with this Local Law may be held until any fee or charge for its release is paid.
- (d) *Council* may include in any fee or charge any cost that *Council* has incurred in impounding, seizing, transporting, holding, storing or disposing of the item, thing or *animal*.
- (e) If the specified time for retrieval of an impounded or seized item, thing or *animal* has expired and it has not been claimed then it may be disposed of or destroyed according to the following principles, if it has:
 - (1) no saleable value, in the most economical and appropriate way as determined by an *Authorised Officer*; or
 - (2) a saleable value, by public auction, tender or private sale as determined by an *Authorised Officer*.
- (f) The monies realised from the sale of any impounded or seized item, thing or *animal* must be disbursed as follows:
 - (1) in payment of any expenses incurred by the *Council*; and
 - (2) the balance to be paid to the *owner* or *person* who, in the opinion of *Council's Chief Executive Officer*, appears to be authorised to receive them money.
- (g) If no *person* can be identified for payment of any money then any excess must be treated in accordance with legislation dealing with unclaimed money or, failing this, paid into the *Council's* revenue.
- (h) Sub-clauses (b), (c), (d) and (i) 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*.
- (i) If an impounded or seized 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 or seizing being served or, if no notice of impounding or seizing has been served, of the act of impounding, *Council* may, at its discretion:
 - (1) *sell*;
 - (2) *give away*; or
 - (3) *destroy*the impounded or seized thing.

14.6 **Warning to Offenders**

- (a) Where there is a breach of this Local Law an *Authorised Officer* may request the *person* breaching the Local Law to stop or remedy the breach.

14.7 **Reviewing a Notice**

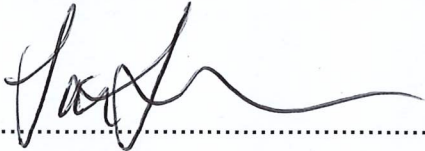
- (a) All requests for Infringement Notice review will be dealt with by way of *Council's Internal Infringement Review Panel*, which may withdraw the Infringement Notice, deal with the Infringement Notice by way of official warning, extend the due date to allow additional time for payment or to proceed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

14.8 **Requirement to Act Fairly and Reasonably**

- (a) 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.
- (b) 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.

Resolution for making this Local Law was agreed to by the Colac Otway Shire Council on 23 August 2023.

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



Acting Chief Executive Officer



This 28th day of August 2023.

Notices of the proposal to make and of the making of this Local Law were included in the Victoria 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.

Schedule 1Fixed Infringement *Penalties*:

Clause	Fixed Penalty
2.3(a)(3)	Three (3) Penalty Units
2.3(a)(6)	Three (3) Penalty Units
2.3(a)(7)	Three (3) Penalty Units
2.3(a)(13)	Three (3) Penalty Units
2.3(a)(15)(i)	Three (3) Penalty Units
2.3(a)(15)(ii)	Three (3) Penalty Units
2.3(a)(19)(i)	Three (3) Penalty Units
2.3(a)(19)(ii)	Three (3) Penalty Units
2.3(a)(19)(iii)	Three (3) Penalty Units
2.4(e)(1)	Three (3) Penalty Units
2.4(e)(2)	Three (3) Penalty Units
2.4(e)(3)	Three (3) Penalty Units
2.4(e)(4)	Three (3) Penalty Units
2.4(e)(5)	Three (3) Penalty Units
2.5(a)(1) - (10)	Three (3) Penalty Units
2.6(a)(1) - (16)	Three (3) Penalty Units
7.7(a)(1) - (2)	Three (3) Penalty Units
9.6	Four (4) Penalty Units
11.5(a)	Three (3) Penalty Units