

City of Ballarat

COMMUNITY LOCAL LAW 2017

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date: 31st day of December 2027

This document replaces *Community Local Law – Local Law No. 17*.

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PART 1 – PRELIMINARY, OBJECTIVES AND DEFINITIONS

1. TITLE

This Local Law is called the Community Local Law 2017 and is referred to below as 'this Local Law'.

2. OBJECTIVES OF THIS LOCAL LAW

The objectives of this Local Law are to:

- 2.1. provide for the peace, order and good government of the municipal district of the City of Ballarat;
- 2.2. secure community safety and enhance and protect community amenity;
- 2.3. protect public assets and ensure that the public can properly use and enjoy public reserves by regulating activities and behaviour in public reserves;
- 2.4. prohibit, regulate and control the consumption of alcohol in designated areas within the municipality;
- 2.5. manage, regulate and control the different uses to which roads, Council land and footpaths can be put to ensure that there is a proper balance between private uses and the need to maintain freedom of movement for the public;
- 2.6. manage, regulate and control the keeping of animals and birds;
- 2.7. control and regulate emissions to the environment in order to improve the amenity, environment and quality of life in the municipality;
- 2.8. embrace best practice local law making principles of accessibility, accountability, compliance, consistency, currency, efficiency, enforceability, necessity and transparency;
- 2.9. be consistent with the Council's overall objectives and strategies, in particular:
 - 2.9.1. to enhance health, wellbeing and quality of life of Ballarat communities, through healthy lifestyles, healthy environments, and connected, creative and strong communities;
 - 2.9.2. to secure Ballarat's economic future by supporting businesses, facilitating major infrastructure and investment and encouraging a vibrant leading city for tourism, arts, culture and events;
 - 2.9.3. to partner with our community to protect and enhance our natural ecosystems and to encourage sustainable design and reduced resource consumption by protecting natural areas, supporting our community to live sustainably; and
 - 2.9.4. to provide cost effective services that meet the changing needs of the community through an efficient and customer focused organisation, sustainable financial management, an informed and engaged community and a safe work environment;
- 2.10. provide for the administration of the Council's powers and functions; and

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2.11. revoke Community Local Law No. 17 of 2008.

3. AUTHORISING PROVISIONS

The Council's authority to make this Local Law is contained in section 111 of the *Local Government Act* 1989, section 42 of the *Domestic Animals Act* 1994 and Clause 52.27 and 62.01 of the Planning Scheme.

4. COMMENCEMENT

This Local Law operates from the day following its making.

5. DATE THIS LOCAL LAW CEASES OPERATION

Unless this Local Law is revoked sooner, its operation will cease on the tenth anniversary of its making.

6. REVOCATION OF OTHER LOCAL LAWS

The following Local Laws of the Council are revoked:

6.1. Community Local Law No. 17 of 2008.

7. SCOPE OF THIS LOCAL LAW

7.1. This Local Law applies to the whole of the Municipal District, except where it is apparent from its wording that a Clause or provision applies to a specific area.

7.2. Where this Local Law applies to a Road, it applies to all parts of the Road.

7.3. The provisions of this Local Law apply to the extent that they are not inconsistent with any Act or Regulation applicable to the Council or its Municipal District.

7.4. Where this Local Law prohibits any act, matter or thing or provides that such act, matter or thing can only be done or exist with a Permit, that prohibition or provision will not apply if the act, matter or thing can be done or can exist by reason of an express permission in the Planning Scheme.

7.5. References to any land in this Local Law include buildings and other structures permanently affixed to the land and any land covered with water and any structures over any water affixed to the land or to the land covered with water.

8. HOW TO READ THIS LOCAL LAW, GUIDELINES AND INCORPORATED DOCUMENTS

Parts 1 to 7 of this Local Law set out provisions for meeting the objectives of this Local Law, organised in a community focussed, user-friendly structure. Part 1 and Part 7 focus on matters generally described as preliminary and administrative, including objectives, scope, definitions, powers, permits, appeals, fees and penalties. Part 2 is a collection of laws as they apply to an individual's home and property, extending to any animals and waste collection. Part 3 deals with laws about vehicles and activities which occur on streets and roads (including stock movements). Part 4 is a collection of laws related particularly to business activities and to building and construction. Part 5 deals with Alcohol consumption and Smoking. Part 6 contains those laws concerned with Municipal Places and Council's reserves, landfill sites and buildings. These laws include prohibited behaviours and permitted activities in these places. Schedule 1 sets out a summary of maximum penalties and Infringement Notice penalties for breaches of this Local Law.

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Included in this Local Law, where appropriate, are examples and Discretion Guidelines to which the Council and its staff must have regard to in exercising discretions under this Local Law.

Reference is also made throughout this Local Law to the other Acts, Regulations, Rules and documents, as amended from time to time, but these documents are not incorporated by reference into this Local Law.

If a provision of any document incorporated by reference, or referred to, in this Local Law is inconsistent with any provision in this Local Law (excluding State and Commonwealth Legislation and the Regulations made under that Legislation and any relevant Planning Scheme), the provision in this Local Law prevails.

9. DEFINITIONS

In this Local Law, unless the context or subject matter indicates otherwise, definitions are as in the *Local Government Act 1989* indicated by the words '*as in the Act*'. Other words and phrases have the respective meanings assigned:

WORDS AND PHRASES	MEANING OR EXTENDED MEANING
Act	Means the <i>Local Government Act 1989</i> .
Abandoned Vehicle	Means a Vehicle left on Council Land or a Road where the registered owner cannot be contacted by an Authorised Officer or Delegated Officer and which, in the opinion of that Officer, has been abandoned.
Advertising Sign	Means any board, notice, structure, banner, flag or other similar device, including signs on a Vehicle, with or without words, symbols or recognisable graphics, used for the purpose of soliciting sales or promoting a brand or person or notifying people of an adjacent property, organisation, business, or event or directing people to a place, whether real, internet-based or electronic, where goods and/or services may be obtained.
Aerodrome Manager	Means the person appointed by the CEO to manage Ballarat Aerodrome.
Aerodrome Movement Area	Means that part of the Ballarat Aerodrome defined in Schedule 2.
Alcohol	Has the same meaning as 'Liquor'.
Alcohol Free Area	Means an area of, or in, any Municipal Place, which has been declared by the Council as an "alcohol free" area and has appropriate signage erected.
Allotment	Means any land in separate ownership or occupation.
Animal	Excludes a Person but includes, although is not limited to, any of the species or groups listed in the first column of the <i>Table of Animal Numbers and Types</i> in Clause 22 (Keeping Animals), and includes Livestock, reptiles, birds and insects and any other living animal tame or wild kept by a person, however excludes for the purposes of this Local Law Honey Bees.
Appeals Officer	Means an officer of the Council appointed to the role of Appeals Officer or internal ombudsman appointed by the Chief Executive Officer.

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Applicant	Means a Person who applies for a Permit under this Local Law.
Appropriate Fee	Means the fee determined by the Council in accordance with Clause 91 of this Local Law.

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Asset Protection Permit	Means a Permit referred to in Clauses 46 to 48 of this Local Law.
Assistance Animal	Means a dog or any other animal, accredited by an animal training organisation prescribed in the regulations, to assist a person with a disability to alleviate the effects of the disability and meets the standards of hygiene and behaviour that are appropriate in a public place.
Authorised Officer	Means an Authorised Officer appointed under section 224 of the Act.
Barbeque	Means a device used for the cooking of food outdoors, whether constructed or manufactured and whether powered by gas, electricity, liquid or solid fuel, or any combination of them, and includes a device for spit roasting when used outdoors.
Building Site	Means the entire area of any Building Work secured with permanent or temporary fence, but also includes sites of excavation, landscaping and concreting.
Building Work	Means works for or in connection with the construction, alteration, renovation, demolition or removal of a building in respect of which a building permit is required under the <i>Building Act</i> 1993.
Built Up Area	Means an area in which either or both of the following are present for a distance of at least 500 metres or, if the length of Road is shorter than 500 metres, for the whole of the Road: (a) buildings, not over 100 metres apart, on land next to the Road; or (b) street lights not over 100 metres apart. (As in the <i>Road Safety Road Rules</i> 2009).
Bulk Waste Container	Means a skip, bin, container, mobile storage unit, charity collection bin or other structure designed or used for holding a substantial quantity of rubbish or storage and which is unlikely to be lifted without mechanical assistance but excludes a container used in connection with the Council's kerbside Waste, Recyclables and Green Waste collection services.
Busk, Busking	Means to perform to the public, whether by acting, juggling, dancing, singing, mime, statue, drawing, playing a musical instrument or otherwise entertaining passers-by, with or without collecting money.
Campervan	Means any Campervan, mobile home or similar vehicle, which includes sleeping and/or living facilities, whether manufactured to luxury standard or privately converted from a standard vehicle and includes a caravan, camper trailer and other similar living/sleeping trailer facility.

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Camping, (to Camp)	Means the occupation or use of shelter such as a swag, tent, makeshift structure, caravan, Campervan, mobile home or any other Vehicle (including under the Vehicle) for sleeping all or part of a night or as temporary accommodation but excludes brief 'power napping' in a vehicle beside a Road for one hour or less.
Camping Area	Means any land within the Municipal District that has been declared by the Council or other public authority to be a 'Camping Area' for the purposes of this Local Law.
Clause	Means a Clause of this Local Law, and Sub-clause has a corresponding meaning.
Council	Means Ballarat City Council
Council Land	Means any land owned, or vested in, or under the control or management of the Council excluding a Road, but including a Municipal Reserve or other reservation, watercourse, jetty, pontoon or boat ramp, and includes any structures, artworks, public decorations or other public displays erected upon or situated at these places including any waterway.
Delegated Officer	Means a staff member of the Council delegated by the Council to perform a duty or function or to exercise a power conferred by this Local Law, whether by direct delegation from the Council or by delegation from the Chief Executive Officer.

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Domestic Waste Means all waste or rubbish produced or accumulated in or on any land but excludes:

- (a) hot or burning materials;
- (b) animal parts;
- (c) nightsoil, sewerage, and animal excreta unless it is wrapped in a manner which prevents its escape;
- (d) slops or liquid wastes;
- (e) waste generated from Building Work; (f) ash, unless it is:
 - (i) cold;
 - (ii) dampened; and
- (iii) wrapped or contained in a manner which prevents its escape;
- (g) Trade Waste;
- (h) Recyclables;
- (i) oil, paints, solvents and similar substances; (j) any broken glass, lancet or other sharp object, unless:
 - (i) it is wrapped in impermeable material; or
 - (ii) contained entirely within an impermeable receptacle from which it cannot escape;
- (k) any waste that cannot be contained in a Council provided mobile bin due to its size, shape, nature or volume;
- (l) medical or veterinary facility waste;
- (m) motor vehicle parts;
- (n) Green Waste;
- (o) any object which may damage the collection mechanism or a vehicle used for the collection of refuse; and
- (p) any other substance declared by Council or an authorised officer not to constitute "domestic waste" for the purposes of this Local Law from time to time, the details of which appear on Council's website.

Droving of Livestock

Means a single driving of Livestock in or through the Municipal District, or from one location to another for the purpose of changing the grazing area, or for the purposes of sale or relocation after sale, but excludes the Movement of Livestock or the Grazing of Livestock.

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Dry Sheep Equivalent (DSE)	<p>Is a standard unit used to compare the feed requirements of classes of livestock and to assess the carrying capacity of a farm or paddock. The standard DSE is the amount of feed required by a 2 year old 45 kg Merino sheep (whether or nonlactating, non-pregnant ewe) to maintain its weight. Expressed in metabolisable energy or mega- joules/day) one DSE is equivalent to 7.6 MJ/day.</p> <p>The potential carrying capacity of a paddock or farm is the number of stock expressed as DSE per hectare that can be carried through most years, except for periods of drought.</p> $\text{Carrying capacity (DSE/ha)} = a + b \text{ (growing season) (Olsen P)} + c$ <p><i>Where:</i> a = -8.30 for paddocks less than 20 ha in size or -11.05 for paddocks of more than 20 ha b = growing season (expressed in months) c = Olsen P (in mg/kg)</p> <p><i>Refer - http://agriculture.vic.gov.au</i></p>
Dwelling	Means a building used as a self-contained residence which normally includes a kitchen sink, food preparation facilities, a bath or shower and a closet pan and wash basin, and includes out-buildings and works normal to a Dwelling.
Event	Means an organised recreational, cultural, commercial or social gathering or people or set of inclusive activities undertaken at predetermined date/s and time/s on a temporary basis. These event activities also tend to require effective management of potential detrimental impacts on the community and includes a procession, festival or street party.
Fence (Fencing)	Means any enclosure by design or intent that is used for the confinement of an Animal, or for security, privacy, amenity or boundary marking, and includes (but is not limited to) a gate, grid or similar structure.
Fire Danger Period	Has the same meaning as in the <i>Country Fire Authority Act 1958</i>
Footpath	Means a pathway or other area constructed or developed by a public authority for use by pedestrians.
Graffiti	Means any defacement of property, whether written, drawn, sprayed, scratched or otherwise marked on a wall or other surface, which is not readily removable by wiping with a dry cloth, is detrimental to the visual amenity of the neighbourhood and is not part of any approved artistic exhibition.

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Grazing of Livestock	Means the use of a Road for the purposes of grazing Livestock, which includes supplementary feeding, but excludes the Droving of Livestock or the Movement of Livestock.
Green Waste	Means all types of organic Waste produced or accumulated on any land that the Council designates as acceptable Waste for any Green Waste collection as described by the Council on its website or in any newspaper generally circulating in the Municipal District.
GVM	Means the Gross Vehicle Mass of a Vehicle which means the maximum loaded mass of the Vehicle: (a) as specified by the Vehicle’s manufacturer; or (b) as specified by VicRoads if: (i) the manufacturer has not specified a maximum loaded mass; or (ii) the manufacturer cannot be identified; or (iii) the Vehicle has been modified to the extent that the manufacturer’s specification is no longer appropriate (<i>as in the Road Safety Act 1986</i>).
Hazardous Material	Means any material designated by the Council as unacceptable for deposit in a Council-provided mobile bin or other Council-provided bin or class of such mobile or other bins and publicised by printed matter or on Council’s website.
Heavy Vehicle	Means a motor vehicle or trailer that has a GVM greater than 4.5 tonnes, and includes: (a) any other Vehicle that is physically connected to the heavy vehicle (even if that other Vehicle is not a heavy vehicle); and (b) a bus that is used, or intended to be used to carry passengers for reward or in the course of a business (<i>as in the Road Safety Act 1986</i>).
Honey Bee	<i>Apis Mellifera</i> – European or Western Honey Bee
Incinerator	Means a structure, device or contraption (not enclosed in a building) which is: (a) used or intended, adapted or designed to be used or capable of being used for the purpose of burning any matter, material or substance; (b) not licensed or otherwise subject to control under the provisions of any legislation; and (c) not a Barbeque or a manufactured fireplace for the purpose of outdoor heating or cooking.
Infringement Notice	Means an Infringement Notice issued by the Council or by an Authorised Officer or Delegated Officer under this Local Law.

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WORDS AND PHRASES	MEANING OR EXTENDED MEANING
Licensed Premises	Means premises licensed under the <i>Liquor Control Reform Act 1998</i> to sell or serve alcohol and includes premises which have been granted a BYO permit under the <i>Liquor Control Reform Act 1998</i> .
Liquor	Means a beverage or other prescribed substance intended for human consumption, with an alcoholic content greater than 0.5 per cent by volume at a temperature of 20° Celsius (as in the <i>Liquor Control Reform Act 1998</i>).
Litter Device	Means, in relation to the excrement of an Animal, an apparatus designed for the purpose of removing the excrement of the Animal and includes a paper or plastic bag.
Livestock	Means an Animal of any species used in connection with primary production or kept or used for recreational purposes or for the purposes of recreational sport, other than a dog or cat (as in the <i>Impounding of Livestock Act 1994</i>).
Local Water Authority	Means Central Highlands Water or its successor.
Long Vehicle	Means a Vehicle that, together with any load or projection, is 7.5 metres long or longer.
Manager	Means a Person appointed by the Council to manage any Municipal Building, Municipal Reserve or other Municipal Place, or any other relevant Authorised Officer or Delegated Officer of the Council.
Motor Bike or other Motorised Recreational Vehicle	<p>Means a motor vehicle, whether registered or unregistered, used for recreational purposes on any land (excluding a Road) and includes, but is not limited to, the following motor vehicles:</p> <ul style="list-style-type: none">(a) a motor vehicle with two (2) wheels, with or without a sidecar attached that is supported by a third wheel;(b) a motor vehicle with three (3) wheels that is ridden in the same way as a motor vehicle with two (2) wheels; and(c) any other motorised, recreational vehicle including, but not limited to, mini-bikes, trail bikes, monkey bike, motorised scooters, motorised go-carts and quad bikes, <p>but excludes:</p> <ul style="list-style-type: none">(a) a motorised wheelchair, or other aid used by a Person with a disability or limited mobility;(b) a motorised farm vehicle that is being used for farming purposes; and(c) a motorised bicycle with a maximum capacity of 22 watt aggregate power.

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Movement of Livestock	Means all of: <ul style="list-style-type: none">(a) individual or regular movements of Livestock;(b) as part of normal farm management operations of one farming enterprise but not for the purposes of grazing;(c) from one property to another within the Municipal District or from or to one property in the Municipal District to or from another property within an adjacent municipal district;(d) at the rate of not less than one kilometre per hour in the direction of the movement between the two properties;(e) where the properties concerned are occupied by the one farming enterprise; and(f) the movement is completed on the day of commencement.
Municipal Building	Means any building (and its grounds) owned, occupied, controlled or managed by the Council, which has some or all areas available for public or community access but may also have some or all areas designated for employee or staff only access, including a recreation centre.
Municipal Place	Means any place within the Municipal District that is owned or occupied by the Council and/or controlled or managed by the Council, which the public may or may not have access to (whether an admittance fee is required or not) but also includes Council Land, a Municipal Reserve, Municipal Building, recreation centre, Footpath and Road, and any structures, artworks, public decorations or other public displays erected upon or situated at these places including any waterway.
Municipal Reserve	Means any land, water, waterway or water course either owned or vested in, or under the control and management of the Council, and used or set aside as a reserve, whether for outdoor cultural, environmental, recreational or other purposes, including any artworks, public decorations, other public displays and any structures other than a building, erected upon or situated at these places including any waterway, but excludes a Road.
Municipal Stormwater System	Means the drainage system owned, operated or managed by Council which provides for conveyance of stormwater run-off, including kerb and channel, open channels, underground pipe systems, constructed wetlands and natural waterways.
Noisy Animal	Means, in relation to the keeping of an Animal capable of causing a disturbance or discomfort to neighbours particularly by noise.
Notice to Comply	Means a Notice to Comply issued by the Council or by an Authorised Officer or Delegated Officer under this Local Law.

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Offensive	Means, in relation to the emission of noise, dust, smoke, ash, odour, waste or other thing, which due to its intensity, duration, frequency, or other factor, results in a level of personal discomfort that a reasonable person would not expect to endure, or results in an unreasonable disruption to normal living activity.
Outdoor Dining and Trading Policy	Means a permit issued under Clause 44.
Outdoor Eating Facility	Means any tables/or chairs that are used for commercial purposes and are located outside on Council controlled land in which food for sale is made available for consumption.
Penalty Unit	Means a Penalty Unit set out in section 110(2) of the <i>Sentencing Act</i> 1991 that is currently fixed at \$100 for each one (1) Penalty Unit and includes any amendments to that amount as determined from time to time.
Permit	Means a Permit issued by the Council under this Local Law.
Permit Holder	Means a Person to whom a Permit has been issued under this Local Law.
Person	Has the meaning ascribed to it in section 3 of the Act, except that it also may include any other legal entity, whether a corporation, incorporated association or otherwise.
Planning Scheme	Means a planning scheme approved under the <i>Planning and Environment Act</i> 1987 that operates within the Municipal District.
Poultry	Means any bird such as a fowl, bantam or duck that is kept for the production of eggs, or meat for human consumption, or exhibition, but excludes a rooster, goose, or turkey.
Procession	Means an organised group of people progressing along a Road or gathering for a ceremony or function and includes a fun run and/or bicycle event.
Pigeon	Means any pigeon kept by its owner for the purpose of breeding, showing or racing.
Recyclables	Means any substances or articles which the Council designates as Recyclables and are described by the Council on its website or in any newspaper generally circulating in the Municipal District.
Refuse Container	Means, in relation to Building Works or a Building Site, a receptacle capable of retaining builder's refuse within a Building Site and preventing removal of the builder's refuse by unauthorised persons or by wind or rain.
Reptile	Includes but is not limited to lizards, snakes and turtles.
Residential Parking Permit	Means a permit issued by Council to allow a vehicle to be parked in accordance with Council's Residential Parking Policy.
Residential Parking Policy	Means Council's Car Parking Action Plan as amended from time to time.

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Part 1 – Preliminary, Objectives and Definitions

WORDS AND PHRASES	MEANING OR EXTENDED MEANING
Road	Has the meaning ascribed to it in section 3 of the Act, as amended from time to time and includes a public highway (<i>as in the Act</i>): (a) a street; and (b) a right of way; and (c) any land reserved or proclaimed as a street or road under the <i>Crown Land (Reserves) Act 1978</i> or the <i>Land Act 1958</i> ; and (ca) a public road under the <i>Road Management Act 2004</i> ; and (d) a passage; and (e) a cul de sac; and (f) a by-pass; and (g) a bridge or ford; and (h) a footpath, bicycle path or nature strip; and (i) any culvert or kerbing or other land or works forming part of the road.
RPA	Means a remotely piloted aircraft (including a drone) other than a balloon or a kite.
Schedule	Means a Schedule to this Local Law.
Sell (Selling)	Means to offer, negotiate, accept or undertake an exchange of goods or services for consideration and includes to barter or exchange, to agree to sell, to offer or display for sale, to have or keep goods in possession for the immediate purpose of sale rather than storage, to use any machine or mechanical device for the purpose, and to direct, cause or attempt directly or indirectly any of these things.
Service Authority	Means an entity (whether publicly or privately owned) which provides, or intends to provide, water, sewerage, drainage, gas, electricity, telephone, telecommunications or like services under the authority of an Act of Victoria or the Commonwealth and may include an emergency service.
Shipping Container	A reusable transport and temporary transport storage unit, which is used for moving products and raw materials between locations.
Smoke Free Area	Means an area of, or in, any Municipal Place, which has been declared by the Council as a “smoke free” or “nonsmoking” area and has Smoke Free Area signage erected.
Sound System	Means a system for producing or amplifying music and other sound and includes a car stereo or radio system.
Spruik	Means attracting custom by public oral appeals to passersby, with or without sound amplification equipment.
Street Festival	Means an organised recreational, cultural, commercial or social gathering of people that is held in full or in part on a Road.

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Part 1 – Preliminary, Objectives and Definitions

WORDS AND PHRASES	MEANING OR EXTENDED MEANING
Street Party	Means an organised social gathering of people from one or several adjacent Roads that is held in full or in part on a Road.
Trade Waste	Means any Waste, refuse, slops or other matter arising from or generated by any trade, industry or commercial undertaking.
Traffic	Means the movement of people by foot, or in, or on, a Vehicle along, across or within a Road.
Traffic Control Device	Has the same meaning as in the <i>Road Safety Road Rules 2009</i> : <i>a traffic sign, road marking, traffic signals, or other device, to direct or warn traffic on, entering or leaving a road.</i>
Vehicle	Means a conveyance that is designed to be propelled or drawn by any means, whether or not capable of being so propelled or drawn, and includes: <ul style="list-style-type: none">- a motor vehicle, truck, trailer, bus or tram; - a bicycle;- an air-cushion vehicle, and - caravan or horse float but excludes a train. However, a reference in this Local Law to a Vehicle: (a) also includes a reference to: <ul style="list-style-type: none">(i) an Animal that is being ridden or is drawing a Vehicle; and(ii) a group of vehicles consisting of a motor vehicle connected to one or more vehicles; and(iii) a Motor Bike or other Motorised Recreational Vehicle; but (b) but excludes a reference to: <ul style="list-style-type: none">(i) a wheelchair other than a motorised wheelchair capable of a speed of 10 kilometres per hour or more;(ii) a Wheeled Non-Motorised Recreational Device except a bicycle when ridden on a carriageway; or(iii) a Wheeled Child's Toy.
Vehicle Crossing	Means the constructed surface between the road pavement to the property boundary for vehicle access, including any Footpath section, crossing culverts, kerb and channel or layback.

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Part 1 – Preliminary, Objectives and Definitions

WORDS AND PHRASES	MEANING OR EXTENDED MEANING
Waste	<p>Has the meaning ascribed to it in section 4 of the <i>Environment Protection Act 1970</i>:</p> <ul style="list-style-type: none">(a) any matter whether solid, liquid, gaseous or radioactive which is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration in the environment;(b) any discarded, rejected, unwanted, surplus or abandoned matter;(c) any otherwise discarded, rejected, abandoned, unwanted or surplus matter intended for:<ul style="list-style-type: none">(i) recycling, reprocessing, recovery or purification by a separate operation from that which produced the matter; or(ii) sale; and(d) any matter prescribed under that Act to be waste.
Wheeled Non-Motorised Recreational Device	<p>Means a wheeled device that is built to transport a Person is propelled by human power or gravity and is ordinarily used for recreation or play and:</p> <ul style="list-style-type: none">(a) includes in-line wheeled skates, roller-skates, skateboards, any similar wheeled devices and a bicycle when ridden on Council Land, a shared bike path or any part of a Road other than a carriageway; but(b) excludes a golf buggy, pram, stroller, trolley, wheelchair, Wheeled Child's Toy or a bicycle ridden on a carriageway.
Wheeled Child's Toy	<p>Means a child's pedal car, scooter or tricycle or other similar toy but only when it is being used solely by a child who is under 16 years old.</p>

PART 2 –PROPERTY, ANIMALS AND WASTE COLLECTION

PROPERTY

10. UNSIGHTLY LAND

An owner or occupier of any land must not cause or allow the land or any structure on the land to be kept or remain in a manner which:

10.1. is unsightly or detrimental to the general amenity of the neighbourhood in which it is located; or

10.2. through accumulation or hoarding of rubbish, Waste or other materials gives the appearance of neglect and is out of character with other Allotments in the vicinity. **Penalty: 15 Penalty Units**

11. DANGEROUS LAND

An owner or occupier of any land must not cause or allow the land to be kept or remain in a manner which is dangerous or likely to cause danger to a Person, life or property, including but not limited to land which is:

11.1. used without a Permit for the storage of any substance which is dangerous or is likely to cause danger to a Person, life or property;

11.2. occupied by any unsecured dangerous object or thing; or

11.3. occupied by an unfenced or unsecured hole or excavation. **Penalty: 20**

Penalty Units

12. UNAUTHORISED OCCUPATION OF COUNCIL LAND OR A ROAD

12.1. A person must not, without a Permit or other authority given by the Council, occupy or allow to be occupied any Council Land or any Road for any use including excavation, landscaping, cultivation, planting, building, erection of structures, installation of recreation facilities, Fencing, storage of Vehicles or goods of any kind, or any other use interference or change normally associated with the lawful occupation of land.

Penalty 10 Penalty Units

12.2. A person who commits an offence under Sub-clause 12.1 must remove and rectify any change he or she has made to Council Land or any Road as a result of the unauthorised occupation within 14 days of being directed to do so by an Authorised Officer or Delegated Officer or other reasonable time determined by the Council.

Penalty 20 Penalty Units

12.3. If a person (the offender) fails to remove and rectify any change he or she has made to Council Land or any Road under Sub-clause 12.2 the Council may remove and rectify the change and recover the cost of the removal and rectification from the offender.

12.4. Mowing a nature strip is excluded from Sub-clause 12.1.

Guidelines for determining whether to grant a Permit to allow a Person to occupy any part of Council Land or a Road for a specified purpose:

- (1) Consider Council's Nature Strip Policy.*
- (2) Consider whether this is the correct permit applicable or whether an alternative permit issued by Council is required, such as an event permit, use of reserve permit, roadside trading permit, outdoor dining facilities permit, asset protection permit, etc.*
- (3) Give priority to the safety of pedestrians, road users, and or lawful reserve users.*
- (4) Consider the community value of the proposed occupation activity.*
- (5) Consider referrals to other relevant Council Departments, such as Engineering Services, Events, Recreation and Open Space, Environment, Community Development and Planning.*
- (6) Impose essential conditions to mitigate or remove assessed risks.*
- (7) Ensure any permit issued is strictly limited to a specified place and a specified use.*
- (8) Ensure any permit includes the terms that:*
 - (a) Council retains right of access to and inspection of the specified land at any time by an authorised officer or delegated officer.*
 - (b) Council may cancel or suspend the permit for safety or any other reason, whether or not a condition of the permit has been breached.*
- (9) Consider appropriate time limits on permits.*
- (10) Ensure a current public liability insurance certificate is provided by the applicant prior to the issue of any permit, unless special exemption is given by Council's Risk Department, a Council approved Policy, or another authorised Senior Officer of Council.*
- (11) Any other matter the Authorised Officer or the Delegated Officer reasonably believes is relevant to the application.*

13. DILAPIDATED BUILDINGS

The owner or the occupier of land on which is located any building or other structure which is unoccupied, unfit for occupation or normal use, or not occupied most of the time:

- 13.1. must not permit any structure to become dilapidated or further dilapidated;
- 13.2. must take all reasonable steps to secure the building and land from unauthorised access;
- 13.3. must maintain any building in a state of good repair and appearance, including undertaking temporary repairs as required to ensure on-site safety and security and to avoid the appearance of neglect that is out of character with other Allotments in the vicinity;
- 13.4. must not allow any Graffiti to remain on any building, wall, Fence, post or other structure or object erected on that land;

13.5. will commit a new offence under this Local Law for every 14 days any breach of this Clause continues unless effective works have been undertaken to remedy any breach.

Penalty: 20 Penalty Units

Guideline: Run-down, badly maintained or neglected structures can fall into disrepair, reduce neighbouring property values, encourage unauthorised occupation, attract anti-social or criminal behaviour, attract vermin and reduce community perceptions of amenity and safety. Consequently, the Council requires owners and occupiers to maintain their buildings and structures to avoid these problems.

For the purposes of sub clause (1), a building on premises is considered to be dilapidated if:

13.5.1 the exterior of the building is in a state of disrepair and has been damaged or defaced so as to:

13.5.1.1 Affect the visual amenity of the premises; or

13.5.1.2 Cause the building to be out of conformity with the general standard of appearance of other buildings in the vicinity of the premises;

14. FIRE HAZARDS

An owner or occupier of land must:

14.1. not allow the land to contain any thing which constitutes or is likely to constitute a fire hazard.

Penalty: 10 Penalty Units.

14.2. maintain any vacant Allotment in a Built-Up Area by regular mowing to maximum height of 100 mm. **Penalty: 10 Penalty Units.**

14.3. A person who commits an offence under Sub-clause 12.1 or 14.2 must remove and rectify any fire hazard or mow the Allotment within fourteen (14) days of being directed to do so by an Authorised Officer or Delegated Officer or other reasonable time determined by the Council.

Penalty 10 Penalty Units

14.4. If a person (the offender) fails to remove and rectify any fire hazard or mow as directed under Sub-clause 14.3 the Council may remove and rectify the hazard or undertake the mowing and recover the cost of the removal and rectification or mowing from the offender.

15. BURNING

15.1. A Person must not burn, or cause, or allow to be burnt, in the open in any part of the Municipal District:

15.1.1. any Offensive materials; or

15.1.2. any materials that may cause Offensive emissions of smoke and odour to enter any neighbouring property.

Penalty: 15 Penalty Units

15.2. A Person must not, without a Permit, burn outside, or cause, or allow to be burnt outside on any land in the Municipal District, any materials, whether in the open air or in any built or manufactured Incinerator or similar device. No permit is required for burning outside fire restriction periods for properties within the farming zone and properties within the rural living zone that exceed 2 hectares in area.

Guideline – a permit to burn should not be issued in Built Up Areas in the absence of the applicant establishing a compelling reason as to why the material proposed to be burnt cannot or ought not to be disposed of via Council's waste collection.

Note – Pursuant to Clause 7.3, any burning during a declared Fire Danger Period must adhere to the Country Fire Authority Act 1958 requirements.

Penalty: 15 Penalty Units

15.3. A Person who has lit or allowed a fire to be lit or remain alight, or has burned or caused or permitted to be burned any materials, contrary to this Clause, must extinguish the fire or burning materials immediately on being directed to do so by an Authorised Officer or Delegated Officer.

Penalty: 20 Penalty Units

15.4. The following exemptions apply in respect of this Clause:

15.4.1. With respect to Sub-clause 15.2:

15.4.1.1. a permanent or portable Barbeque for the purpose of cooking food or properly constructed or manufactured fireplace for the purpose of outdoor heating that is fit for purpose and designed constructed, located and installed in a manner that will prevent detrimental offsite amenity impact; or

15.4.1.2. for the purpose of meal preparation or personal comfort outside of a Built Up Area if:

15.4.1.2.1. the air movement in the vicinity of the fire is no stronger than 10km per hour;

15.4.1.2.2. the fire is lit in a properly constructed fireplace or in a trench at least 30cm deep;

15.4.1.2.3. the ground and airspace within a distance of 3m from the outer perimeters and uppermost point of the fire are clear of flammable material;

15.4.1.2.4. the fire does not occupy an area in excess of 1m² and the size of the fire and the dimensions of solid fuel used are the minimum necessary for the purpose; and

15.4.1.2.5. the fire is monitored by the Person(s) benefitting from the fire until it is completely extinguished.

15.4.2. Council staff members and any Person contracted or authorised by the Council for the purpose may, without a Permit, undertake controlled burning-off as a part of normal reserve maintenance on any Council Land or Road;

15.4.3. Fire Agencies carrying out training or fire hazard reduction activities; and

15.4.4. An Authorised Officer or Delegated Officer may grant exemptions to any part of this Clause in special or unusual circumstances, such as in emergencies, urgent circumstances or natural disasters.

Note that permits cannot be issued under sub-clause 15.2 during a Fire Danger Period declared under the Country Fire Authority Act 1958. Fire Danger Period and Total Fire Bans must be complied with. Some situations may not require a Local Laws permit.

16. OFFENSIVE EMISSIONS ENTERING NEIGHBOURING PROPERTY

A Person must not allow, cause or permit Offensive emissions of noise, smoke, dust, ashes, odour, waste or any other thing to enter or continue to enter a neighbouring property. **Penalty for First Offence: 5 Penalty Units**

Penalty for Second and Subsequent Offences: 15 Penalty Units

17. FIREWORKS

A Person must not, without a Permit, light or cause or allow to be lit any fireworks on any land.

Penalty: 20 Penalty Units

18. CAMPING ON ANY LAND OTHER THAN COUNCIL LAND

18.1. A Person, must not, without a Permit, camp on any land other than Council Land unless:

18.1.1. the Person is within a registered caravan park, Camping Area or other area determined to be available for camping purposes by the Council; or

18.1.2. the Person is the owner or occupier of the land or has the permission of the owner or occupier, and:

18.1.2.1. camps for a maximum period of 60 days in any six (6) month period, provided that sanitation and laundry facilities of a Dwelling located on the land are available to all persons camping; or

18.1.2.2. camps for a maximum period of 30 days in a 12 month period, in the case of vacant land outside a Built Up Area.

Penalty: 15 Penalty Units

Guidelines for determining whether to grant a Permit to allow a Person to camp

- (1) *In determining whether to grant a permit to allow camping in an area which is on any land other than Council land, is not a registered caravan park and has not been declared by the Council to be a 'camping area', the Council or an authorised officer or a delegated officer must, where relevant, have regard to the following guidelines:*
- (a) the location of the land;*
 - (b) the land-use of the applicant's land and that of adjoining allotments;*
 - (a) the suitability of the land for camping including extent of screening from neighbours;*
 - (b) the number of tents or other structures to be located on the land;*
 - (c) the length of time the tents and other structures will be erected on the land;*
 - (d) on properties of less than 0.5 hectares, only one caravan or campervan may be placed on the land for camping purposes;*
 - (e) the availability of sanitation and laundry facilities to the land or in a Dwelling on or adjoining the land;*
 - (f) any likely damage to be caused; and*
 - (g) any other matter the authorised officer or delegated officer reasonably believes is relevant to the application.*
- (2) *In determining whether to re-issue, extend, vary or cancel a permit to camp or occupy a campsite on any land other than Council land the Council or an authorised officer or a delegated officer must, where relevant, have regard to where camping is on vacant land unsupervised by the occupier whether the applicant campers are compliant with the following campsite guidelines:*
- (a) at all times maintaining the campsite in a clean and tidy condition including but not limited to no unconstrained rubbish which is likely to become litter;*
 - (b) prior to vacating the campsite, removing all litter (including remnant human excreta and toilet paper) and other refuse from the campsite to a Council authorised disposal point;*
 - (c) providing approved toilet facilities;*
 - (d) any other matter the authorised officer or the delegated officer reasonably believes is relevant to the application.*

19. SHIPPING CONTAINERS

A Person must not, without a permit or unless under the provisions of the Ballarat Planning Scheme:

- 19.1. cause or allow a shipping container to be placed on any Council Land or Road or
- 19.2. allow any shipping container to adversely impact the visual amenity of a neighbourhood.

Penalty: 15 Penalty Units

- 19.3. Sub-clause 19.1 does not apply to the Council or any person employed, contracted or authorised by the Council for the purpose.

Guidelines for determining whether to grant a permit for a shipping container on any land other than Council land or a road:

- (1) The permit for a shipping container will be for a number of days or up to the date on the permit.*
- (2) If the authorised officer or the delegated officer reasonably believes the shipping container on the land other than Council land or a road will create a traffic hazard, obstruction or other danger to the public, the applicant may be required to take out a public liability policy of insurance (minimum \$10 million) in which case, prior to the issue of the permit or the placement of the container, the Council must be provided with a Certificate of Currency of the public liability policy of insurance for the application.*
- (3) The shipping container must not be placed on any Council land or on a road, kerb, footpath or nature strip unless specifically permitted at a nominated location.*
- (4) Any concerns that the authorised officer or the delegated officer may have about safety must be satisfactorily resolved prior to the issuing of a permit. It is the permit holder's responsibility to ensure the container does not represent an unacceptable risk to the health and safety of the public or any other person, which includes but is not limited to securing the container either open or shut when unattended to prevent accidental imprisonment and/or suffocation.*
- (5) The applicant must not intend to use or actually use the container as a permanent structure. If the applicant indicates an intention to use the container as a permanent shed, the applicant should be informed that an application for a Building Permit is required and a Planning Permit may be required.*
- (6) Any damage to any Council property caused by the placement or removal of the shipping container, including the pavement, nature strip and services is to be reinstated by the permit holder.*
- (7) If the shipping container on land other than Council land or a road nevertheless constitutes a traffic hazard or obstruction, the container must be appropriately treated (reflective tape and/or lights) to be sufficiently visible to prevent the hazard to the public.*
- (8) Any other matter the authorised officer or the delegated officer reasonably believes is relevant to the application.*

Note: A building permit is required for the use of a shipping container for any use that departs from the definition of a shipping container herein, such as for use as a building for storage or a dwelling. In these circumstances, a Building permit must be obtained prior to siting and, a certificate of occupancy and final inspection prior to use.

20. ADDRESS NUMBERS

20.1. The Council or an Authorised Officer or Delegated Officer may allocate an address number to any Allotment in the Municipal District as necessary to identify the Allotment and, from time to time, may make changes to any address number.

20.2. The owner or occupier of an Allotment that has been allocated an address number under Sub-clause 20.1 must mark or re-mark as necessary the Allotment with the current number allocated and that number must be:

20.2.1. of such form and durable material;

20.2.2. of sufficient size;

- 20.2.3. in such a position;
- 20.2.4. kept in such state of repair; and
- 20.2.5. kept clear of obstructions

as to be clearly visible and readable under all normal lighting conditions from the road on which the Allotment has its frontage. **Penalty: 5 Penalty Units**

21. TREES, PLANTS, SIGNS AND STRUCTURES NOT TO OBSTRUCT OR OBSCURE

The owner or occupier of any land must not allow any vegetation growing on the land or any sign, structure or other thing located on the land:

- 21.1. to obstruct or interfere with:
 - 21.1.1. the passage of Traffic on a Road;
 - 21.1.2. the clear view of any driver or pedestrian lawfully using a Road of any other Vehicle, pedestrian or Traffic Control Device upon a Road;
 - 21.1.3. the view between motor vehicles and trains at a railway level crossing that does not have gates, booms or flashing lights.; or
 - 21.1.4. street lighting or any Traffic Control Device;
- 21.2. to otherwise constitute a danger to Vehicles or pedestrians or compromise the safe or convenient use of an abutting Road; or
- 21.3. to overhang any Footpath or Road at a height that may cause injury, damage or danger to vehicles or pedestrians using the Footpath or Road. **Penalty: 15 Penalty Units**

ANIMALS

22. KEEPING ANIMALS

- 22.1. An owner or occupier of any land must not, without a Permit:
 - 22.1.1. keep or allow to be kept more than 6 different types of any Animal on any one parcel of land of 2 hectares or less at any time; and
 - 22.1.2. must not keep or allow to be kept any more in number, for each type of Animal, than is set out in the Table of Animal Types and Numbers in this Clause

Penalty: 10 Penalty Units

	ANIMAL TYPE	URBAN RESIDENTIAL	RURAL RESIDENTIAL	RURAL
(a)	Dogs	2	2	5 (other than dogs kept for working stock /primary production)
(b)	Cats	2	2	2

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(c)	Fowls (excluding roosters)	5	20	No Local Law permit required
(d)	Roosters	0	1	No Local Law permit required
(e)	Pheasants	4	20	No Local Law permit required
(f)	Squabs	20	40	No Local Law permit required
(g)	Other poultry (including ducks, geese, turkey, guinea fowl or similar)	0	10	No Local Law permit required
(h)	Ostriches / emus / peacocks	0	0	No Local Law permit required
(i)	Cockatoos / galahs (caged)	0	2	No Local Law permit required
(j)	Sheep	0	Apply the DSE calculation per ha	No Local Law permit required
(k)	Goats	0	5	No Local Law permit required
(l)	Horses	0	1	No Local Law permit required
(m)	Pigs	0	0	No Local Law permit required
(n)	Cows	0	Apply the DSE calculation per ha	No Local Law permit required
(o)	Other primary production animals	0	0	No Local Law permit required

22.2. For the purposes of the table in clause 22.1:

22.2.1. 'Urban Residential' means land within the General Residential Zone, Commercial 1 Zone, Commercial 2 Zone, Neighbourhood Residential Zone, Residential Growth Zone, Mixed Use Zone or Township Zone;

22.2.2. 'Rural Residential' means land within the Low Density Residential Zone or Rural Living Zone; and

22.2.3. 'Rural' means land within the Farming Zone, Rural Conservation Zone, Industrial 1 Zone; Industrial 2 Zone or Industrial 3 Zone.

22.3. Unless contrary to other State or Commonwealth legislation, a Permit is also required to keep or allow to be kept any exotic, wild, dangerous, or large Animal not listed in Sub-clause 22.1.

22.4. For the purpose of calculating the numbers of any Animal kept under Sub-clause 22.1, the progeny of any Animal lawfully kept will be counted from 12 weeks after its birth.

22.5. Where at the date immediately prior to the day of the commencement of this Local Law any owner or occupier of land lawfully keeps a number of Animals in excess of the new maximum number or type of Animals given in the Table of Animal Types and Numbers in Sub-clause 22.1, and those Animals, where required, are registered with the Council:

22.5.1. that maximum number will be increased for that owner or occupier to include those previously lawful Animals, but only until that time when those individual Animals in excess of the new maximum die or are otherwise disposed of; and

22.5.2. for roosters the time period referred to in Sub-clause 22.5.1 cannot exceed two years from the commencement date of this Local Law; and

22.5.3. those excess Animals may not be replaced, unless by Permit.

22.6. Any person keeping Honey Bees must comply with the Victorian Apiary Code of Practice (2011) as prepared and amended from time to time by the Department of Economic Development, Jobs, Transport and Resources.

22.7. Any owner or occupier of the land must destroy any English or European wasps nesting on the land.

23. ANIMAL ACCOMMODATION

23.1. An owner or occupier of land must ensure that any Animals (excluding only dogs or cats) and birds kept on that land are:

23.1.1. kept in a secure shelter, structure or enclosure; and

23.1.2. confined to the land unless they are under the effective control of a Person.

Penalty: 10 Penalty Units

23.2. An owner or occupier of land in an Urban Residential or Rural Residential area, must ensure that any animal shelters, structures or enclosures on that land are maintained to the satisfaction of an Authorised Officer or Delegated Officer. **Penalty: 10 Penalty Units**

Note that confinement and control of dogs and cats are regulated under the Domestic Animal Act 1994 and may include additional Council Orders made pursuant to that Act.

24. NOISE AND SMELL FROM ANIMALS

An occupier of any land on which any Animal is kept must not allow any noise, smell or discharge to emanate from the Animal or animal accommodation which is offensive to persons who occupy adjacent or nearby land. **Penalty: 10 Penalty Units**

25. ANIMAL EXCREMENT

25.1. A Person in charge of any Animal must not allow any part of the excrement of the Animal to remain on any Road or Council Land.

Penalty: 10 Penalty Units

25.2. A Person in charge of any Animal on any Road or Council Land must carry a Litter Device suitable to clean up any excrement left by his or her Animal and must produce such Litter Device upon request of any Authorised Officer or Delegated Officer.

Penalty: 10 Penalty Units

25.3. Exemption: Livestock outside a Built Up Area is exempt from Sub-clauses 25.1 and 25.2, except that, in the case of Livestock road crossings, Sub-clause 25.1 will apply if the Animal excrement left on a Road is sufficient to cause a genuine risk to public road safety, including but not limited to, being a contributory factor in any road accident.

26. ADEQUATE FENCING

26.1. Where any Animal, including any Livestock, is kept on any land, the owner or the occupier of the land must ensure that the land is secured or fenced in a way that will prevent the Animal from escaping from the land.

Penalty for first offence: 10 Penalty Units Penalty for second and subsequent offence: 15 Penalty Units

26.2. Where the Animals kept on any land are sheep, cattle, horses or other large Animals, the owner or occupier of the land must ensure by adequate Fencing that no Animal escapes onto, or remains unattended, on a public Road. **Penalty: 20 Penalty Units**

26.3. No offence is committed under Sub-clause 26.2 where it can be shown that extreme or unusual circumstances beyond the control of the owner or the occupier, such as wildfire, flood or dog attack, directly resulted in the escape of the Animal through otherwise adequate Fencing.

26.4. If an Authorised Officer or Delegated Officer is of the opinion that land used for the grazing or keeping of livestock is not adequately fenced then, in addition to any penalty that may be imposed, the Authorised Officer or Delegated Officer may issue a Notice to Comply directing the owner or occupier of the land to do any or all of the following:

26.4.1. install, repair, replace or modify fences and gates;

26.4.2. remove any livestock from the land; or

26.4.3. direct that the land may not be used for the grazing and keeping of livestock until required works have been completed.

WASTE COLLECTION

27. WASTE, RECYCLABLES AND GREEN WASTE COLLECTIONS

27.1. The occupier of every Dwelling or other land to which the Council provides a waste collection service (including Recyclables and Green Waste collections) must:

27.1.1. use only Council-provided mobile bins or other Council-approved bins in connection with the waste collection service, which bins remain the property of Council;

27.1.2. deposit Domestic Waste only in the mobile garbage bin, Recyclables only in the mobile recycling bin and Green Waste only in the mobile Green Waste bin;

27.1.3. not place any Hazardous Material in a mobile bin;

27.1.4. not cause contamination of mobile bins by depositing items or material in the bins other than Domestic Waste in the designated mobile garbage bin,

Recyclables in the designated mobile recycling bin and Green Waste in the designated mobile Green Waste bin;

- 27.1.5. if directed by the Council to remove Hazardous Material from any mobile bin, comply with that direction;
- 27.1.6. if directed by the Council to dispose of all contents of a mobile bin containing Hazardous Material, comply with that direction;
- 27.1.7. leave the mobile bins out for collection on days designated by the Council from time to time as collection days, or such other days as may be directed by an Authorised Officer or Delegated Officer;
- 27.1.8. place the mobile bins out for collection prior to 6.00am on the day of collection or such other time as designated by the Council from time to time;
- 27.1.9. not leave any mobile bin out for collection more than one day before or one day after a designated collection day;
- 27.1.10. place all mobile bins:
 - 27.1.10.1. adjacent to the kerb outside the front of the premises, at least half a metre clear of any fixed object or adjacent bin and, as far as practicable, free of any other obstruction to collection; or
 - 27.1.10.2. at an alternative collection point as approved or designated by an Authorised Officer or Delegated Officer;
- 27.1.11. place all mobile bins out for collection in a manner specified in any written advice made available to the occupier by the Council;
- 27.1.12. ensure that any mobile bin (including contents) placed out for collection does not exceed 70 kilograms;
- 27.1.13. maintain all mobile bins in a clean and sanitary condition;
- 27.1.14. ensure that the area where the mobile bins are kept on the premises is kept clean and in a sanitary condition;
- 27.1.15. ensure the lid of any mobile bin is closed, except when being accessed;
- 27.1.16. not cause damage to any mobile bins;
- 27.1.17. ensure that each mobile bin is not overfilled thereby preventing the lid from being completely closed down;
- 27.1.18. not place out for collection any material immediately adjacent to the mobile bin;
- 27.1.19. ensure that no mobile bin is removed from the premises except for collection of material in accordance with this Local Law; and
- 27.1.20. not use and store on the property any Council provided mobile bin that is not registered to that property.

Penalty: 10 Penalty Units

27.2. Any non-compliance with any part of Sub-clause 27.1 is an offence under this Local Law.

Penalty: 10 Penalty Units

27.3. Council-provided mobile bins or other Council-approved bins remain the property of the Council and may be:

27.3.1. removed in whole or part; or

27.3.2. replaced or exchanged in whole or part with bins of a different designated Waste type

by the Council from any Dwelling or other land to which the Council provides a Waste collection service (including Recyclables and Green Waste collections) if the occupier fails to comply with conditions of use outlined in Sub-clause 27.1.

**Penalty for First Offence: 5 Penalty Units Penalty for Second Offence: 10 Penalty Units
Penalty for Third and Subsequent Offences: 20 Penalty Units**

28. HARD WASTE

The occupier of every premises to which a hard Waste collection service is provided by the Council may place out for collection any hard Waste, and must do so in a manner set out in a notice published by the Council on its website or in a newspaper generally circulating in the Municipal District or as specified in any written advice provided to the occupier by the Council.

Penalty: 10 Penalty Units

29. INTERFERENCE WITH WASTE, RECYCLABLES, GREEN WASTE OR HARD WASTE

A Person must not remove or interfere with any Waste, Recyclables, Green Waste or hard Waste or mobile bin left out by any other Person on a Road or on Council Land for collection by the Council, unless employed, authorised or contracted by the Council for the purpose.

Penalty: 10 Penalty Units

PART 3 – PARKING, VEHICLES, ACTIVITIES ON ROADS, AND STOCK MOVEMENTS

30. RESIDENTIAL PARKING SCHEME

- 30.1. The Council may from time to time designate any area as an area in which a Residential Parking Policy is in operation.
- 30.2. The Council may at any time rescind, amend or vary any Residential Parking Policy so designated.
- 30.3. A person who resides in an area in which a Residential Parking Policy is in operation may make application to the Council for a Residential Parking Permit.
- 30.4. A Residential Parking Permit must be displayed in accordance with Council's Residential Parking Policy.
- 30.5. A Residential Parking Permit may specify the road or roads or part of the road to which the permit applies.
- 30.6. The holder of a Residential Parking Permit may park an eligible vehicle in the road or roads as specified in the permit without being required to comply with any parking restrictions as to time indicated by parking signs associated with the road or roads.
- 30.7. The Council may from time to time by resolution determine a fee to be paid for a Residential Parking Permit.
- 30.8. Prior to the introduction of a new Residential Parking Policy the Council must notify the owner and occupier of every residence in the area advising as to:-
- 30.8.1. eligibility;
 - 30.8.2. how to apply for a permit;
 - 30.8.3. the cost of the permit; and
 - 30.8.4. how the policy operates.

31. MOTOR BIKES AND MOTORISED RECREATIONAL VEHICLES

- 31.1. A Person must not on any part of any Council Land excluding a Road, without a Permit:
- 31.1.1. drive, ride on or otherwise use; or
 - 31.1.2. permit a person under his or her care or control to drive ride on or otherwise use
- a Motor Bike or other Motorised Recreational Vehicle, unless the part of the Council Land has been designated for that purpose.
- Penalty: 15 Penalty Units**
- 31.2. A Person must not, without a Permit:

31.2.1. drive, ride on or otherwise use any Motor Bike or other Motorised Recreational Vehicle in a Built Up Area on any land other than Council Land or a Road, except for the purpose of directly accessing or leaving that land;

Penalty: 15 Penalty Units

31.2.2. drive, ride on or otherwise use any Motor Bike or other Motorised Recreational Vehicle outside a Built Up Area on any land other than Council Land or a Road, within 500 metres of a Dwelling located on any other land;

Penalty: 15 Penalty Units

31.2.3. as the owner or occupier of any land outside a Built Up Area, allow a Person to drive, ride on or otherwise use any Motor Bike or other Motorised Recreational Vehicle on that land within 500 metres of a Dwelling located on any other land;

Penalty: 15 Penalty Units

31.3. A Person is exempt from Sub-clause 31.2.2 and 31.2.3 provided that Person has obtained a written consent:

31.3.1. from all adjoining property occupiers; and

31.3.2. from all other occupiers of Dwellings within 500 metres of the subject land;

and that written consent:

31.3.3. includes the period of consent, time of day, number of hours, days of the week and maximum number of Vehicles at any one time to be included in the consent;

31.3.4. clearly states that the consent expires if the occupier changes during the period of the consent or if the occupier notifies the Person in writing of their withdrawal of consent;

31.3.5. is copied to the consenting occupier after signing;

31.3.6. is the limit and extent of any exemption from Sub-clauses 31.2.2 and 31.2.3; and

31.3.7. if varying in any detail between consenting occupiers, the most restrictive consent becomes the limit and extent of any exemption from Sub-clauses 31.2.2 and 31.2.3.

Note: Pursuant to Clause 9 Definitions: 'Motor Bikes and Motorised Recreational Vehicles' - a motorised farm vehicle that is being used for farming purposes is exempt.

32. REPAIR AND DISPLAY FOR SALE OF VEHICLES ON ROADS

32.1. A Person must not dismantle, repair, paint, or carry out maintenance on a Vehicle on a Road, or allow or authorise another Person to do so, except in an emergency breakdown for the purpose of removing it. **Penalty: 15 Penalty Units**

32.2. A Person must not display a Vehicle for sale on a Road or on Council Land.

Penalty: 15 Penalty Units

33. ABANDONED VEHICLES

33.1. A Person must not leave any derelict, abandoned or unregistered Vehicle on any Road, Council Land or Municipal Place.

Penalty: 15 Penalty Units

33.2. Any Person employed, contracted or authorised by the Council for the specific purpose is exempt from Sub-clause 33.1.

33.3. Any Vehicle found on any Road or Council Land or Municipal Place and considered by an Authorised Officer or Delegated Officer to be an Abandoned Vehicle, may be dealt with under the provisions of Schedule 11 to the Act.

34. HEAVY AND LONG VEHICLES – STORING

A Person must not, without a Permit, keep or store or repair or allow to be kept, stored or repaired any Heavy Vehicle or Long Vehicle:

34.1. upon any Road or part of a Road for which the Council is the Responsible Road Authority for the purposes of the Road Management Act 2004;

34.2. on any other land less than 0.5 hectares in a Built Up Area; or

34.3. on any other land less than 5 hectares for three or more Heavy Vehicles or Long Vehicles.

Penalty: 10 Penalty Units

Guidelines:

- (1) *the land-use of the applicant's land and that of adjoining allotments;*
- (2) *whether planning permission is required for a business or other use;*
- (3) *the maximum number of vehicles at any one time to be kept or stored;*
- (4) *the likely effect on adjoining owners, including visual amenity, fumes and noise;*
- (5) *mitigation measures the applicant is willing to undertake as a condition of the permit; and*
- (6) *any other matter the authorised officer or the delegated officer reasonably believes is relevant to the application.*

35. WASTE RECEPTACLES PLACED ON ROADS OR COUNCIL LAND

A Person must not, unless in accordance with this Local Law or with a Permit, place or cause to be placed on any Road or Council Land:

35.1. any mobile Waste bin, Council approved Waste bin, Trade Waste hopper, builder's Refuse Container, skip bin, Bulk Waste Container or other Waste container; or

35.2. any Waste materials of any nature, including Domestic Waste, Green Waste and Recyclables.

Penalty: 15 Penalty Units

Guidelines

- (1) *whether the placement will obstruct the passage of vehicles and pedestrians, or otherwise create a hazard;*
- (2) *whether the placement will contravene any traffic control signs;*
- (3) *protection of any Council assets;*
- (4) *whether a copy of a valid policy of insurance Certificate of Currency has been provided to the Council;*
- (5) *whether an indemnity or guarantee has been provided to the Council; and*
- (6) *any other matter the authorised officer or the delegated officer reasonably believes is relevant to the application.*

36. PUBLIC WASTE BINS

36.1. The owner or occupier of premises must not deposit any Domestic Waste or Recyclables or Green Waste or any other Waste material of any kind which has been generated in or from that premises in a public waste bin. **Penalty: 10 Penalty Units**

36.2. A Person must not deposit into a public waste bin any material prohibited by resolution of Council other than in a public waste bin designated for such Waste. **Penalty: 10 Penalty Units**

36.3. A Person may only place animal excreta in a public waste bin if it is wrapped in impermeable material.

Penalty: 10 Penalty Units

37. SHOPPING TROLLEYS

37.1. A Person must not leave a shopping trolley on:

37.1.1. a Road;

37.1.2. Council Land except in an area designated by the Council for the leaving of shopping trolleys; or

37.1.3. any vacant land.

Penalty: 10 Penalty Units

37.2. The owner of any shopping trolley made available to members of the public must ensure that any shopping trolley left in any place other than the owner's shopping trolley storage area is collected and returned to that area. **Penalty: 10 Penalty Units**

38. FESTIVALS, PROCESSIONS AND PUBLIC ADDRESS SYSTEMS ON ROADS

38.1. A Person may not, without a Permit:

38.1.1. hold a Street Party, Street Festival or Procession, Event or activity on a Road;
or

38.1.2. use an audible public address system on a Road or Council Land.

Penalty: 15 Penalty Units

38.2. Political or industrial marches are exempt under this Clause, provided Victoria Police are informed prior to the march.

In determining whether or not to grant a permit for a Street Party, Street Festival or Procession, Event or activity on a Road, the Council may take into account:-

- (1) whether the Street Party, Street Festival or Procession, Event or activity on a Road will unreasonably inconvenience road users or owners and occupiers of land with vehicular access to the section of road to be closed;*
- (2) whether the written permission of the Victoria Police and the Roads Corporation has been obtained and their requirements met;*
- (3) whether the road can be closed to vehicular traffic, or partly closed with safe and effective separation of vehicular traffic and festival or procession patrons and equipment; and*
- (4) any other matter relevant to the circumstances of the application.*

Where an application is to conduct a Street Festival or Procession, Event or activity on a Road, the application must be made at least 28 days before the event is to take place.

In determining whether to grant a permit for a Street Party, the Council must take into account:-

- (1) whether the road can be closed to vehicular traffic for the duration of the Street Party without detriment to the traffic management of the area;*
- (2) whether all owners or occupiers of land with any vehicular access via the section of road to be closed have been advised by letter and given seven days to comment or object;*
- (3) whether a person on behalf of the applicant has been nominated to erect and remove the barriers which close the road at locations and times specified by an Authorised Officer;*
- (4) whether the footpath on at least one side of the road can be kept clear of obstructions; and*
- (5) any other matter relevant to the circumstances of the application.*
- (6) Where an application is to conduct a Street Party the application must be made at least 14 days before the Street Party is to take place.*

39. LIVESTOCK ON ROADS

39.1. A Person must not, without a Permit, undertake the Grazing of Livestock or the Droving of Livestock on a public Road or Council Land. **Penalty: 20 Penalty Units**

PART 4- BUSINESS AND BUILDERS

BUSINESS

40. DISPLAYING GOODS FOR SALE ON A ROAD OR COUNCIL LAND

40.1. A Person must not, without a Permit, place or display any goods for sale or samples of goods for sale or cause or allow another Person under his or her control to do so on any part of a Road or Council Land. **Penalty: 20 Penalty Units**

40.2. A Person who has placed, permitted to be placed, displayed or permitted to be displayed goods or an Advertising Sign on a Road or Council Land, with or without a Permit, must move or remove them if directed to do so by an Authorised Officer or Delegated Officer.

Penalty: 20 Penalty Units

40.3. Any goods left or displayed on any part of a Road or Council Land contrary to this Clause or displayed in contravention of any conditions of a Permit may be removed by an Authorised Officer or a Delegated Officer and impounded.

40.4. Where any goods have been impounded, there must be compliance with the provisions of Clause 84.

41. ITINERANT TRADING

41.1. A Person must not, without a Permit, erect or place on any Road or Council Land any Vehicle, caravan, trailer, table, stall, tent, or other structure for the purposes of Selling or offering for sale any goods (including any Vehicle) or services.

Penalty: 15 Penalty Units

41.2. In addition to any other power which it has, the Council may, by resolution, determine a fee, charge, fare or rent in relation to the Selling or offering for sale any goods or services from any land adjacent to a Road or to any Person who is on that Road or adjacent land.

41.3. Where any goods and equipment have been impounded, there must be compliance with the provisions of Clause 84.

Guidelines for determining whether to grant a permit to allow trading from a road or to a person on a road or to allow trading on Council land:

- (1) whether the safety of road users or the passage of any vehicle will be affected by the placement or performance;*
- (2) will the activity be detrimental to the amenity of the area including adjacent property occupiers or lawful users of the adjoining public space;*
- (3) the nature and duration of the proposed trading and whether any time limitations should be imposed, for reasons associated with public safety; asset protection, adequate lighting, traffic management etc.;*
- (4) whether appropriate arrangements can be made for:-*
 - a. waste water disposal;*
 - b. recycling, litter and garbage;*
 - c. lighting; and*
 - d. advertising signs;*
- (5) Comments from Council Departments including:*
 - a. Roads management or relevant land asset (reserve) manager,*
 - b. Planning Department*
 - c. Economic development*
- (6) whether the consent of VicRoads has been obtained where the road is an arterial road or a VicRoads controlled road;*
- (7) whether any indemnity/guarantee has been provided to the Council;*
- (8) whether required permits been obtained under the Food Act 1984, the Public Health and Wellbeing Act 2008 or any other legislation;*
- (9) whether the applicant should be required to take out a public liability policy of insurance (minimum \$20 million) and prior to the issue of the permit, provide to the Council a Certificate of Currency of the public liability policy of insurance.*
- (10) the following business competition issues should be considered, especially where local retail businesses object to the roadside trading:*
 - a. is there an overriding value to the broader community and to tourism in the provision of an essentially different and convenient service;*
 - b. will the offering of a broader service mix in the locality improve local amenity by encouraging new customers and placing competitive pressure to improve retail service standards in the area;*
 - c. has there been an open and competitive process to obtain roadside trading location permits or should such a process be undertaken;*
 - d. Council policy concerning roadside trading sites;*
 - e. is the location likely to place the roadside trader in direct competition with any other exclusively contracted Council business, such a Recreation Centre café operator;*
 - f. should the roadside trader's range of goods and services be specified and limited by Council;*
 - g. should the hours of proposed trading be limited for competition purposes.*
- (11) Council's policy in relation to itinerant or roadside trading.*
- (12) any other matter the authorised officer or the delegated officer reasonably believes is relevant to the application.*

42. SPRUIKING, BUSKING AND PAVEMENT ART

42.1. A person must not, without a Permit, Spruik on any Road or Municipal Place or from any private property use any sound amplification equipment to Spruik onto any Road or Municipal Place.

Penalty: 10 Penalty Units

42.2. A person must not, without a Permit, Busk on any Road or Municipal Place or use any sound amplification equipment for the purpose of public entertainment or performance.

Penalty: 10 Penalty Units

42.3. A person must not, without a Permit, paint or draw on any Road or Council Land or property for the purpose of public entertainment, performance or the collection of money.

Penalty: 10 Penalty Units

42.4. Sub-clauses 42.1, 42.2 and 42.3 do not include short-term outdoor community Events on Council Land or a Road although such Events may be subject to a Permit under other clauses of this Local Law.

43. ERECTING OR PLACING OF ADVERTISING SIGNS

43.1. A Person must not, except in accordance with a Permit, erect or place an Advertising Sign on or over any part of a Road or Council Land, or cause or in any way authorise another Person to do so.

Penalty: 20 Penalty Units

43.2. A Person who has erected or placed an Advertising Sign on a Road or Council Land with or without a Permit, must move or remove the Advertising Sign if directed to do so by an Authorised Officer or Delegated Officer.

Penalty: 20 Penalty Units

43.3. Where an Advertising Sign has been impounded, there must be compliance with the provisions of Clause 84.

43.4. Any signage subject to a Permit for use within a Municipal Reserve or subject of a Planning Scheme permit is exempt from this Clause.

44. USE OF COUNCIL LAND OR A ROAD FOR OUTDOOR EATING FACILITIES

44.1. A Person must not, without a Permit, use a Footpath or any part of a Road or any Council Land for the purposes of an Outdoor Eating Facility.

Penalty: 20 Penalty Units

44.2. Where any tables, chairs, umbrellas or other equipment have been impounded, there must be compliance with the provisions of Clause 84.

44.3. A Permit Holder must move or remove the Outdoor Eating Facility to which the Permit relates when requested to do so for the purposes of public safety by an Authorised Officer or a Delegated Officer or a member of the Victoria Police or an emergency service.

Penalty: 20 Penalty Units

For guidance in determining whether to grant a permit to use a Footpath or any part of a Road or Council land for the purpose of an Outdoor Eating Facility, refer to Council's policy in relation to Outdoor Dining and Trading Policy 2017.

45. SALE AND CONSUMPTION OF LIQUOR ON ROADS ADJOINING LICENSED PREMISES

45.1. A Person must not, without a Permit, use a Footpath, other part of a Road, or any Council Land adjoining a Licensed Premises to sell or consume liquor.

Penalty: 20 Penalty Units

45.2. In determining whether to grant a Permit, the Council or an Authorised Officer must have regard to the Guidelines set out in this Local Law.

Guidelines:

- (1) the location of the licensed premises, the land use of adjoining allotments and the general amenity of the street and neighbourhood;*
- (2) the nature of the existing licensed business, eg café, restaurant or night-time entertainment venue;*
- (3) whether the applicant's business, or the location has a history of alcohol-related behavioural problems;*
- (4) comments from Planning, Community Development, Environmental Health, and Economic Development departments of Council;*
- (5) comments from the Victoria Police or any relevant other public authority;*
- (6) the impact that an increased number of patrons and the service and consumption of alcohol on a footpath will have on the amenity of the surrounding areas;*
- (7) whether Council's permit hours should be the same or be more limited than the existing liquor license for the site;*
- (8) whether Council's permit should be conditional upon patrons being seated while consuming alcohol and/or food service being available in the area that is the subject of the application; and*
- (9) any other matter the Authorised Officer or the Delegated Officer reasonably believes is relevant to the application.*

BUILDERS

46. ASSET PROTECTION - ASSET PROTECTION PERMIT – BUILDING WORKS

46.1. For the protection of assets vested in Council, the:

- 46.1.1. owner of any land;
- 46.1.2. builder engaged to carry out Building Work on land;
- 46.1.3. appointed agent; or

- 46.1.4. demolition contractor in the case of Building Work involving demolition, must, where deemed necessary in accordance with Council's Asset Protection Policy:
- 46.1.4.1. obtain an Asset Protection Permit before carrying out any Building Work, or allowing the Building Work to be carried out on that land;
 - 46.1.4.2. not carry out or allow to be carried out any Building Work on that land unless an Asset Protection Permit has been obtained; and
 - 46.1.4.3. comply with the conditions of any Asset Protection Permit issued by the Council. **Penalty: 20 Penalty Units**
- 46.2. An Asset Protection Permit in respect of any land where Building Work is to be carried out may be issued by an Authorised Officer or Delegated Officer on completion of an application form and payment of the application fee.
- 46.3. An Asset Protection Permit may allow a Person to enter land from a road other than by a permanently constructed vehicle crossing;
- 46.4. An Asset Protection Permit may be subject to such conditions for the protection of Council's assets and the safety of the persons or property as the issuing authorised officer determines including but not limited to:
- 46.4.1. requiring protection works to be done;
 - 46.4.2. requiring the payment of a security bond;
 - 46.4.3. requiring that any or all public assets or infrastructure damage be cleaned, repaired, replaced or re-instated within a specified time and to the satisfaction of the Council;
 - 46.4.4. requiring the Asset Protection Permit holder to notify Council in writing immediately on becoming aware of any damage to any Council asset as a result of the building work or work associated with the building work including the delivery or removal of materials or equipment;
 - 46.4.5. requiring a temporary Vehicle Crossing to be installed to the Council's specification before commencement of any Building Work or delivery of any equipment or materials to the land; and
 - 46.4.6. any other condition considered necessary.
- 46.5. The amount of any security bond required under any Asset Protection Permit must be proportionate to the likely costs of repairing any potential damage to any existing Council Land, Road (including carriageway), channel, drain, Vehicle Crossing or other public asset arising from the works the subject of the Permit.
- 46.6. When the Council receives notice of the completion of the works the subject of the Permit, the land will be inspected by the Council and the amount of the security bond:
- 46.6.1. may be retained by the Council to the proportion necessary to offset the costs of carrying out any works to rectify any damage, provided the person who lodged the bond is first notified of the damage and declines or fails within

30 days to make good the damage at their own expense to the Council's satisfaction; or

46.6.2. must be refunded to the person who lodged it upon the Council's satisfaction that no damage has been caused, or that any damage caused

has been repaired by, or on behalf of, that person to the Council's satisfaction, or when, after 30 days of receiving notice of completion of the works, the Council has not notified the Person who lodged the bond of any damage requiring repair.

46.7. The person who lodged the bond must supplement the bond by a further payment equal to the difference between the cost of carrying out any works and the amount of the bond, if the Council is satisfied that the amount of the bond is insufficient to meet such cost and it makes a demand for such payment in writing.

Penalty: 20 Penalty Units

46.8. Where the Council so determines, it may at its absolute discretion, agree to accept an alternative form of security to a security bond.

46.9. A person who is not one of the persons described in Sub-clause 46.1 must not:

46.9.1. carry out Building Work on land unless, in respect of the Building Work, an Asset Protection Permit has been obtained; or

46.9.2. deliver to a Building Site any equipment or materials unless an Asset Protection Permit has, in respect of the Building Work being carried out on the land, been obtained. **Penalty: 10 Penalty Units**

47. ASSET PROTECTION – DRAINAGE

47.1. Where any Building Work is being carried out on any land, the:

47.1.1. owner of any land;

47.1.2. builder engaged to carry out Building Work on land;

47.1.3. appointed agent; or

47.1.4. demolition contractor in the case of Building Work involving demolition,

must ensure that the Building Site is developed and managed to prevent stormwater pollution, through the contamination of run-off by chemicals, sediment, animal wastes or gross pollutants by adopting measures to:-

47.1.5. Minimise the amount of mud, dirt, sand, soil or stones deposited in the abutting roads or washed into the stormwater system; and

47.1.6. Prevent building clean up, wash down or other wastes being discharged offsite or allowed to enter the stormwater system.

47.2. A person must not deposit, or allow to be deposited, into any drain vested in the Council any Waste material other than stormwater. **Penalty: 20 Penalty Units**

48. ASSET PROTECTION – HOARDING OR OCCUPYING COUNCIL LAND

48.1. For occupying a Road or Council Land and for the protection of the public, a Hoarding permit is required for the protection of assets vested in Council.

48.2. The:

48.2.1. owner of any land;

48.2.2. builder engaged to carry out Building Work on land;

48.2.3. appointed agent; or

48.2.4. demolition contractor in the case of Building Work involving demolition, must:

48.2.4.1. obtain a Hoarding Permit before:

48.2.4.1.1. occupying or fencing off part of a Road or Council Land, for any Building Work, or allowing the Building Work to be carried out;

48.2.4.1.2. blocking any Road with a Vehicle or any other machinery or temporary structure;

48.2.4.1.3. erecting a hoarding, scaffolding or overhead protective awning on or over Road or Council land;

48.2.4.1.4. using a mobile crane or travel tower to carry out Building Work on or over a Road or Council Land;

48.2.4.2. not carry out or allow to be carried out any Building Work on a Road or Council land. Unless a Hoarding Permit has been obtained; and

48.2.4.3. comply with the conditions of a Hoarding Permit issued by the Council. **Penalty: 20 Penalty Units**

48.3. A Hoarding Permit where Building Work is to be carried out on a Road or Council Land may be issued by an Authorised Officer or Delegated Officer on completion of an application form and payment of the application fee.

48.4. A Hoarding Permit may be subject to such conditions for the protection of Council's assets and the safety of the public, persons or property as the issuing authorised officer determines including but not limited to:

48.4.1. requiring a traffic management plan;

48.4.2. requiring protection works to be done;

48.4.3. requiring the payment of a security bond;

48.4.4. requiring that any or all public assets or infrastructure damage be cleaned, repaired, replaced or re-instated within a specified time and to the satisfaction of the Council;

48.4.5. requiring the Hoarding Permit holder to notify Council in writing immediately on becoming aware of any damage to any Council asset as a result of the building work or work associated with the building work including the delivery or removal of materials or equipment; and

48.4.6. any other condition considered necessary.

48.5. The amount of any security bond required under any Hoarding Permit must be proportionate to the likely costs of repairing any potential damage to any existing Council Land, Road (including carriageway), channel, drain, Vehicle Crossing or other public asset arising from the works the subject of the Permit.

48.6. When the Council receives notice of the completion of the works the subject of the Permit, the land will be inspected by the Council. Any damage identified by the Council will be rectified by the Hoarding Permit holder or at a cost to the Hoarding Permit holder using the following means:

48.6.1. Notice to Comply issued to Hoarding Permit holder to reinstate damaged assets;

48.6.2. Council engage the works to be completed and recover the costs at the expense of the Hoarding Permit holder;

48.6.3. The amount of the security bond may be retained by the Council to the proportion necessary to offset the costs of carrying out any works to rectify any damage, provided the person who lodged the bond is first notified of the damage and declines or fails within 30 days to make good the damage at their own expense to the Council's satisfaction; or

48.6.4. The amount of the security bond must be refunded to the person who lodged it upon the Council's satisfaction that no damage has been caused, or that any damage caused has been repaired by, or on behalf of, that person to the Council's satisfaction, or when, after 30 days of receiving notice of completion of the works, the Council has not notified the Person who lodged the bond of any damage requiring repair.

48.7. The person who lodged the bond must supplement the bond by a further payment equal to the difference between the cost of carrying out any works and the amount of the bond, if the Council is satisfied that the amount of the bond is insufficient to meet such cost and it makes a demand for such payment in writing.

Penalty: 20 Penalty Units

48.8. Where the Council so determines, it may at its absolute discretion, agree to accept an alternative form of security to a security bond.

48.9. A person who is not one of the persons described in Sub-clause 46.1 must not:

48.9.1. carry out Building Work on a Road or Council land unless, in respect of the Building Work, a Hoarding Permit has been obtained;

Penalty: 10 Penalty Units

48.10. An exemption applies to a Person acting contrary to this Clause where the Person is exempt under the Road Management Act 2004

48.11. An Authorised Officer or Delegated Officer may, in connection with a proposal to occupy a Road or Council land, require a traffic management plan and or a Waste

management plan be provided to the Council adequately addressing any parking or Traffic or Waste management issues.

(Note:

A person must not conduct any works in, on, under or over a road without the written consent of the Council as per the Road Management Act 2004.

A person must adhere to the Road Management Act 2004 – Schedule 7 unless exemptions apply under this legislation.)

49. ASSET PROTECTION – BUILDING WORK – POWER OF ENTRY

An Authorised Officer or Delegated Officer may at any reasonable time enter and inspect a Building Site for the purpose of ensuring compliance with any provision of, or a Permit issued under, this Local Law.

50. BUILDING WORK – FENCING, RUN-OFF, REFUSE, EMISSIONS

50.1. Where any Building Work is being carried out on any land, the:

50.1.1. owner of the land;

50.1.2. builder engaged to carry out Building Work on the land;

50.1.3. appointed agent; or

50.1.4. demolition contractor in the case of Building Work which involves demolition,

must to the satisfaction of the Council ensure that:

50.1.5. prior to the commencement of any Building Work on the land, the land is secured with permanent or temporary Fencing which is no less than 1.5 metres high and be capable of preventing litter from being windblown from the site

Penalty: 15 Penalty Units;

50.1.6. all builder's refuse is contained on the site in a Refuse Container

Penalty: 15 Penalty Units;

50.1.7. The requirement to provide a Refuse Container may be waived at the discretion of an Authorised Officer if it is considered by the Authorised Officer that the building work is unlikely to generate enough refuse to warrant the provision of a Refuse Container

50.1.8. no builder's refuse is deposited in or on any land other than within the fenced area of a Building Site

Penalty: 15 Penalty Units;

50.1.9. no builder's refuse is deposited in or over any part of the Municipal Stormwater System

Penalty: 15 Penalty Units;

50.1.10. all builder's refuse, whether or not in any Refuse Container, is disposed of

within seven (7) days of completion of the Building Work or the issue of an occupancy permit, whichever occurs last

Penalty: 15 Penalty Units;

50.1.11. no soil, earth or clay is deposited onto any Road from any Vehicle used on a Building Site or a site of excavation or filling of any land

Penalty: 15 Penalty Units; and

50.1.12. all work on a Building Site is carried out so as not to emit excessive or Offensive dust into the air so as to cause detriment to surrounding and adjoining areas. Penalty: 15 Penalty Units.

51. BUILDING WORK – ACCESS AND STORAGE

The:

- 51.1. owner of any land on which Building Work is being or is to be carried out;
- 51.2. builder engaged to carry out Building Work on land;
- 51.3. appointed agent;
- 51.4. driver of any Vehicle involved in placing or removing a Refuse Container on the land;
or
- 51.5. demolition contractor in the case of Building Work involving demolition, in respect of the Building Work, must ensure that:
- 51.6. entry takes place only across a temporary Vehicle Crossing unless otherwise permitted by the Council **Penalty: 20 Penalty Units;**
- 51.7. no materials are deposited on any part of a Road or Council Land without the approval of the Council.

Penalty: 15 Penalty Units;

52. BUILDING SITE IDENTIFICATION

Prior to the commencement of any Building Work, the:

- 52.1. owner of the land;
- 52.2. builder engaged to carry out Building Work on the land;
- 52.3. appointed agent; or
- 52.4. demolition contractor in the case of Building Work which involves demolition,

must to the satisfaction of the Council provide adequate and appropriate Building Site identification including:
 - 52.4.1. the builder's business name and postal address;
 - 52.4.2. the builder's contact phone number; and

52.4.3. the site address, including lot number.

52.5. All Building Site identification must be visible from the road at all times and must remain in place until such time as the Building Work is completed and the Building Site is cleared prior to occupancy. **Penalty: 10 Penalty Units**

53. VEHICLE CROSSINGS – CONSTRUCTING

53.1. A Person must not, without a Permit, construct, install, remove, relocate or alter a Vehicle Crossing, whether temporarily or permanently. **Penalty: 20 Penalty Units**

53.2. Each owner and occupier of land must not, without a Permit:

53.2.1. construct or allow to be constructed; or

53.2.2. use or allow to be used

a second or subsequent Vehicle Crossing to service the land. **Penalty:
20 Penalty Units**

54. VEHICLE CROSSINGS – MAINTAINING

The owner of the land must, at his or her own cost, ensure that any Vehicle Crossing between the Road and the boundary of such land is maintained and kept in good condition. **Penalty: 15 Penalty Units**

55. VEHICLE CROSSINGS – POWER TO DIRECT WORKS

55.1. Council or an Authorised Officer or Delegated Officer may direct:

55.1.1. the construction of a temporary or permanent Vehicle Crossing;

55.1.2. the repair or reconstruction of a Vehicle Crossing; or

55.1.3. the removal of a Vehicle Crossing, and the reinstatement of any kerb, channel, Footpath or other areas to the satisfaction of the Authorised Officer,

by the owner or occupier of any adjacent land at his or her cost.

55.2. Each owner or occupier of land to whom a direction has been given under this clause must comply with that direction by applying within 2 business days for a Permit to do the thing which is directed.

Penalty: 20 Penalty Units

PART 5 - ALCOHOL AND SMOKING

56. POSSESSION AND CONSUMPTION OF LIQUOR ON ROADS AND MUNICIPAL PLACES

56.1. For the purposes of this clause, Council may at any time prescribe all or part of any Municipal Place to be a place where the consumption or possession of Liquor is prohibited or regulated including limited to certain times of the day, certain days of the year, defined public holiday periods, special events or particular places.

56.2. A Person must not, at any time:

56.2.1. on a Road;

56.2.2. in any Motor Vehicle within any Municipal Place other than a Road;

56.2.3. any part of the municipal district prescribed by Council under sub clause 56.1;

56.2.4. in any Municipal Place

consume any Liquor or have in his or her possession or control any Liquor other than Liquor in a container with an unbroken seal. **Penalty: 15 Penalty Units**

56.3. Sub clause 56.2 does not apply to a Person:

56.3.1. participating in a Festival or Special Event in respect of which Council has granted a Permit for persons to consume Liquor or to have in their possession or control Liquor other than Liquor in a container with an unbroken seal; or

56.3.2. In a Municipal Place and acting in accordance with a Council prescription under sub-clause 56.1;

56.3.3. On a premises that is licensed under the Liquor Control Reform Act 1998.

56.4. If a Person contravenes sub clause 56.2, a member of Victoria Police or an Authorised Officer or Delegated Officer may direct the person to do all or any of the following:

56.4.1. Cease consuming liquor;

56.4.2. Leave the Municipal Place; and

56.4.3. Dispose of the contents of the container.

56.5. A Person must comply with a direction given under sub clause 56.4. **Penalty: 15**

Penalty Units

56.6. If a Person does not comply with a direction given under clause 56.4, an Authorised Officer may confiscate any unsealed container of liquor associated with the contravention

57. GLASS CONTAINERS

57.1. The Council may by resolution, or as a condition of a permit, declare any part of a Road, Reserve, or Municipal Place free of glass containers, and that declaration may be unconditional or limited to certain times of the day, certain days of the year, defined public holiday periods, special events or particular places.

57.2. Where the declaration is by resolution, the Council must erect and maintain, or cause to be erected and maintained, appropriate signage indicating the boundaries days and times of those areas that are declared free of glass containers.

57.3. A Person must not, without Council authorisation, bring into, provide or use any glass container in any area that is declared free of glass containers by the Council. **Penalty: 10 Penalty Units**

58. SMOKE FREE AREAS IN MUNICIPAL PLACES

58.1. The Council may by resolution, or as a condition of a permit, declare any part of a Road, Reserve, or Municipal Place to be a Smoke Free Area, and that declaration may be unconditional or limited to certain times of the day, certain days of the year, defined public holiday periods, special events or particular places.

58.2. Where the declaration is by resolution, the Council must erect and maintain, or cause to be erected and maintained, appropriate signage indicating the boundaries and/or days and times of those areas that are declared Smoke Free Areas.

58.3. A Person must not smoke in, or on, any Municipal Place, or part of a Municipal Place, that has been declared to be a Smoke Free Area and has appropriate Smoke Free Area signage erected.

Penalty: 10 Penalty Units

PART 6 MUNICIPAL PLACES, RESERVES, LANDFILL SITES AND BUILDINGS

MUNICIPAL PLACES

59. COUNCIL'S POWER IN MUNICIPAL PLACES

59.1. Under this Local Law the Council may do any of the following in relation to any Municipal Place:

59.1.1. restrict access to all or part of a Municipal Place to any person;

59.1.2. close a Municipal Place or any part of it to the public;

59.1.3. determine the hours a Municipal Place or any part of it is open to the public;

59.1.4. establish conditions of entry to a Municipal Place or any part of it;

59.1.5. establish conditions for the use or hire of a Municipal Place or any part of it;

59.1.6. set and collect fees or charges for admission to or the hire of or the use of a Municipal Place or any part of it;

59.1.7. set and collect fees or charges for the hire or use of any Council property in connection with a Municipal Place or any part of it; and

59.1.8. authorise a person to do any of these things.

59.2. A Person must not act contrary to any restriction, closure, condition, fee, charge, hire agreement or authorised instruction in relation to a Municipal Place unless authorised by the Council to do so.

Penalty 10 Penalty Units

59.3. A Person must not use a Municipal Place or any part of it or any Council property in connection with it, without first paying any relevant fees or charges. **Penalty 10 Penalty Units**

60. BEHAVIOUR IN MUNICIPAL PLACES – PROHIBITIONS

A Person must not, while in a Municipal Place, behave in a manner that endangers others or unreasonably interferes with the quiet enjoyment of the Municipal Place by any other Person.

Penalty: 15 Penalty Units

61. DAMAGING OR INTERFERING WITH A MUNICIPAL PLACE

61.1. A Person must not, unless authorised by the Council for the purpose, do the following in, or on, a Municipal Place:

61.1.1. destroy, damage, deface or interfere with the Municipal Place;

- 61.1.2. construct an opening or gate in a fence on the boundary of Council property;
- 61.1.3. remove, destroy, damage, deface or interfere with, or allow to be removed, destroyed, damaged or interfered with, the Municipal Place or thing in or on or attached to the Municipal Place;
- 61.1.4. act contrary to any sign, public notice or published information in relation to the Municipal Place;
- 61.1.5. destroy, deface, damage, remove, plant or interfere with any tree, gardenbed or plant in, or on, the Municipal Place, other than for the purposes of maintaining grass on a nature strip or in accordance with a permit for cultivation of a nature strip garden issued under Clause 12;
- 61.1.6. 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; or
- 61.1.7. cause any damage to any Council assets in, or on, the Municipal Place as a result of a failure as an owner or occupier of any land to adequately maintain, or to rectify any faults within a reasonable time, in drainage systems, utility supply systems or any other matter for which the owner or occupier of the land is responsible for maintaining.

Penalty: 20 Penalty Units

- 61.2. An Authorised Officer or Delegated Officer may remove and impound anything that is in or on a Municipal Place in contravention of this Clause.
- 61.3. A Person who holds an Asset Protection Permit and is acting in accordance with its purpose, scope and conditions is exempt from this provision.

62. BALLARAT AERODROME

- 62.1. A person must not enter or remain on the Aerodrome Movement Area other than:-
 - 62.1.1. a pilot or crew member of an aircraft;
 - 62.1.2. an employee or agent of the Council, the Civil Aviation Authority or an emergency service in performance of their duties;
 - 62.1.3. a person who is a passenger either in an aircraft or in the process of entering or leaving an aircraft;
 - 62.1.4. a person lawfully involved in the refuelling or servicing of an aircraft; or
 - 62.1.5. any other person authorised by the Aerodrome Manager and acting in accordance with that authority

Penalty: 20 Penalty Units

- 62.2. The Aerodrome Manager may issue any person with an authority to leave a vehicle standing on the Aerodrome Movement Area.
- 62.3. Any person who leaves a vehicle standing within the Aerodrome Movement Area without an authority referred to in sub-clause 62.2 shall be guilty of an offence under this Local Law.

Penalty: 20 Penalty Units

63. OBSTRUCTIONS ON COUNCIL LAND OR A ROAD

63.1. A Person must not, without a Permit:

63.1.1. leave or allow to be left any:

63.1.1.1. Bulk Waste Container on a Road or Council Land; or

63.1.1.2. other thing on a Road or Council Land which encroaches on, or obstructs the free use of, the Road or Council Land or which reduces the breadth, or confines the limits, of the Road or Council Land. **Penalty: 20 Penalty Units**

63.2. A Person who has left or allowed to be left a Bulk Waste Container or other thing on a Road or Council Land with or without a Permit or other authorisation, must move or remove them if directed to do so by an Authorised Officer or Delegated Officer.
Penalty: 20 Penalty Units

63.3. If a Person reasonably suspected of having committed an offence under Sub-clause 63.1 is the driver of a Vehicle which transports a Bulk Waste Container or other thing and that person cannot be found or it is impracticable to charge that person with an offence under Sub-clause 63.1, any Person who is an owner, manager or director of the business which supplies the Bulk Waste Container or other thing which is left on and obstructs the free use of a Road or Council Land may be charged with and is capable of committing an offence under Sub-clause 63.1.

63.4. Anything left or allowed to be left contrary to Sub-clause 63.1, or in contravention of any conditions of a Permit or other authorisation, may be removed by an Authorised Officer or Delegated Officer and impounded.

RESERVES

(Note: Clauses 59-63 in Part 6 – Municipal Places, also apply to Reserves. See Also Clause 12 Unauthorised Occupation of Council Land or a Road, in Part 2 - Your Property.)

64. BEHAVIOUR IN MUNICIPAL RESERVES – PROHIBITIONS

64.1. A Person must not, while in a Municipal Reserve, behave in a manner that unreasonably impacts the well-being of or endangers others, or unreasonably interferes with the quiet enjoyment of the Municipal Reserve by any other Person. **Penalty: 15 Penalty Units**

64.2. A Person must not, while in a Municipal Reserve:

64.2.1. destroy, damage or interfere with any Council property;

64.2.2. act in any manner likely to cause damage to property or the environment;

64.2.3. use any children's playground equipment except for the purpose it is provided;

64.2.4. act contrary to any sign erected in the reserve;

64.2.5. feed any bird or native fauna;

- 64.2.6. abandon any Animal or bird;
- 64.2.7. destroy, damage, injure or interfere with any flora or any fauna; 64.2.8. carry or use any firearm unless authorised or licensed to do so;
- 64.2.9. light a fire or permit any fire to remain alight except in:
 - 64.2.9.1. a barbecue provided by the Council; or
 - 64.2.9.2. a portable liquid petroleum gas barbecue;
- 64.2.10. play any games with a hard ball except in an area set aside for that purpose; or
- 64.2.11. damage or interfere with the landform, flora, fauna, ground cover, soil or waterways of any area marked by signage as “protected natural environment”. **Penalty: 15 Penalty Units**

64.3. A person employed, contracted or authorised by Council for a specific purpose in a Municipal Reserve is exempt from this Clause so far as it applies to that purpose.

65. USE OF MUNICIPAL RESERVES – PERMIT APPLICATION

Any Person who intends to use a Municipal Reserve in any manner that is reasonably likely to:

- 65.1. increase the risk to public safety;
- 65.2. endanger Council assets;
- 65.3. diminish the comfort and the opportunity for quiet enjoyment by other users; or
- 65.4. cause damage to flora or fauna in or on the Municipal Reserve;

must apply for a Permit.

Penalty for First Offence: 10 Penalty Units Penalty for Second and Subsequent Offences: 15 Penalty Units

66. USE OF MUNICIPAL RESERVES – PERMITTED USES

A Person must not undertake any of the following activities on a Municipal Reserve without first obtaining a Permit:

- 66.1. organise any competitive sport, game, or activity other than a sport, game, or activity played for family or social purposes;
- 66.2. organise any Event, unless in possession of an Event Permit from the Council; (*see Clause 68 Events*);
- 66.3. conduct or celebrate a wedding;
- 66.4. consume or possess any Liquor in open containers other than between sunrise and sunset (see also Clause 56 Possession and Consumption of Liquor after Sunset in Municipal Places Other than Roads);

- 66.5. organise or hold any rally, procession, demonstration or any other public gathering, in which case such a Permit must not be unreasonably withheld;
- 66.6. make a collection of money;
- 66.7. use an amplifier or public address system (*see also Clause 38.2 public address systems on Roads and Council Land*);
- 66.8. operate or otherwise use any watercraft, unless in an area clearly designated for the purpose;
- 66.9. 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);
- 66.10. pitch any tent, or erect any temporary structure or shelter, whether for Camping or other purposes, but excluding temporary shade structures used on a daily basis for casual purpose (*see also Clause 69 Camping on Council Land or a Road*);
- 66.11. drive any Livestock (*see also Clause 39 Livestock on Roads*);
- 66.12. use, possess, ignite or engage any person for the use, possession or ignition of fireworks (*see also Clause 17 Fireworks*);
- 66.13. ride or drive a Vehicle or Animal in a manner or in a place likely to damage or ruin any grassed area or turf surface or otherwise interfere with the use of the reserve (*see also Clause 31.1 Motor Bikes and Motorised Recreational Vehicles - on Council Land*);
- 66.14. ride any horse other than in an area and at a time designated by the Council;
- 66.15. drive, ride in or on, park upon or otherwise use any motor vehicle other than in an area designated by the Council (*note also Clause 70 Parking on Municipal Reserves*);
- 66.16. launch into any wetland, lake, pond or other watercourse on Council Land or a Road any watercraft other than from a launching facility designated for such purpose;
- 66.17. Sell or offer for sale any other goods or services including any intoxicating Liquor to any Person (*see also Clause 40 Displaying Goods for Sale on Council Land or a Road and Clause 41 Itinerant Trading*);
- 66.18. operate, or cause to be operated, any amusement for which a charge is made or to make a collection of money for any purpose;
- 66.19. operate tour guiding, personal training or any other organised recreational activity for commercial gain;
- 66.20. live on or Camp in a boat moored to a Council jetty, pontoon, boat ramp or pier;
- 66.21. conduct repairs to any boat or watercraft moored to a Council jetty, pontoon, boat ramp or pier except in an emergency breakdown for the purpose of removing it;
- 66.22. erect, fix or place any advertisement for educational, cultural, political, religious, social, or recreational purposes by any Person. Any sign erected:
 - 66.22.1. must not be animated or internally illuminated;

66.22.2. must not exceed 5 square metres;

66.22.3. must not remain in place any longer than 14 days after the event, or remain in place any longer than 3 months (whichever time is shorter); and

66.22.4. must be placed in close proximity to the Event or other location nominated by an Authorised Officer or a Delegated Officer.

(Any Advertising Sign which does not conform to these signage requirements may be subject to a planning permit.)

Penalty: 15 Penalty Units

66.24. An Authorised Officer or Delegated Officer when assessing whether a Permit is required, may decide that a specific activity, although included in this Clause, is of such small duration, size or other relevant factor that no Permit is required.

66.25. A Person employed, contracted or authorised by Council for a specific purpose in a Municipal Reserve is exempt from this Clause so far as it applies to that purpose.

67. ACCESS TO MUNICIPAL RESERVES

67.1. Except as otherwise determined by the Council or an Authorised Officer or a Delegated Officer, any Municipal Reserve is open to the public from sunrise to sunset free of charge on any day.

67.2. The Council or an Authorised Officer or a Delegated Officer may, in the case of any Municipal Reserve set aside days and times upon which charges or entrance fees may be made for the use of the Municipal Reserve.

67.3. The Council or an Authorised Officer or a Delegated Officer may restrict access to any part of a Municipal Reserve whether for temporary works, for short-term or long-term lease use or for any other purpose and public access to such restricted areas may be non-existent, limited by condition or subject to a fee or donation.

67.4. A Person must not enter any Municipal Reserve whether open to the public or subject to restricted access, other than via designated access points (where applicable) during the hours of opening and subject to any conditions, fee or donation imposed, unless directed otherwise by a member of Council staff or an authorised contractor in the course of his or her employment.

Penalty: 10 Penalty Units

68. EVENTS

68.1. A Person must not, without a Permit, hold or organise any Event on any Council Land or Road within the Municipal District. **Penalty: 20 Penalty Units**

68.2. A Person must not, without a Permit, hold or organise any Event on any land other than Council Land or a Road within the Municipal district if that Event may reasonably be expected to have a material impact on the neighbouring community or a materially increased risk to public safety or to Council assets. **Penalty: 20 Penalty Units**

68.3. The following exemptions apply in respect of this Clause:

68.3.1. an Authorised Officer or a Delegated Officer may assess an application and may decide that, based on the circumstances of the matter, a Permit under

sub-clause 68.1 or 68.2 is not required (although certain activities may still require a Permit under Clauses 65-66 – Use of Municipal Reserves); and

68.3.2. an Event that is subject to a planning permit is exempt from the requirement of a Permit under Sub-clause 68.1 or 68.2.

69. CAMPING ON COUNCIL LAND OR A ROAD

A Person must not, without a Permit, Camp on any Council Land (including a Municipal Reserve) or a Road unless such Person is within a registered caravan park or a Camping Area. **Penalty: 15 Penalty Units.**

(Camping on land other than Council Land or a Road may be permitted but may be subject to a separate Permit. See Clause 18: Camping on Land other than Council Land or a Road.)

70. PARKING ON MUNICIPAL RESERVES

70.1. The registered owner of a Vehicle must not, or must not allow, without a Permit, that Vehicle to be parked on any part of any Municipal Reserve other than in a parking area that is set aside for that purpose by the Council or agreed to by the Council or an Authorised Officer or a Delegated Officer.

Penalty: 5 Penalty Units

70.2. Sub-clause 70.1 does not apply to any Council employee, contractor or authorised person acting in the course of his or her duties.

71. USE OF WHEELED NON-MOTORISED RECREATIONAL DEVICES AND WHEELED CHILD'S TOYS

71.1. If the Council designates an area in which a Wheeled Non-Motorised Recreational Device and/or a Wheeled Child's Toy must not be used, it must ensure that signage is erected in, or on, that designated area, clearly identifying the location and extent of the area in which the Wheeled Non-Motorised Recreational Device and/or the Wheeled Child's Toy must not be used.

71.2. A Person must not use a Wheeled Non-Motorised Recreational Device and/or a Wheeled Child's Toy in an area that has been designated by the Council to be an area in which the use of such device or toy is prohibited. **Penalty: 10 Penalty Units**

71.3. Where the Council fails to ensure appropriate signage is erected as required under Sub-clause 72.1, no Person may be issued with an Infringement Notice or prosecuted for an offence under Sub-clause 72.2.

71.4. Any Person who uses a Wheeled Non-Motorised Recreational Device and/or a Wheeled Child's Toy, or allows or permits another Person in their care or control to use a Wheeled Non-Motorised Recreational Device and/or a Wheeled Child's Toy on Council Land, on a bike path, or on a Footpath or on any other part of a Road other than the carriageway must ensure that:

72.4.1. the use does not obstruct, hinder, endanger, prevent the free passage of, or unreasonably alarm or inconvenience any pedestrian or other user; or

72.4.2. where the Wheeled Non-Motorised Recreational Device is a bicycle ridden on a bike path, the use is not contrary to any signage restricting speed or requiring

dismounting and does not by speed or other means endanger or risk endangering children, Animals or other users. **Penalty: 10 Penalty Units**

72. IMPOUNDING OF WHEELED NON-MOTORISED RECREATIONAL DEVICES AND WHEELED CHILD'S TOYS

72.1. Where a Wheeled Non-Motorised Recreational Device or a Wheeled Child's Toy has been impounded, there must be compliance with the provisions of Clause 84.

LANDFILL SITES

73. DEPOSITING OF WASTE AT MUNICIPAL LANDFILL SITES, RECYCLING AND WASTE TRANSFER FACILITIES AND RESOURCE RECOVERY CENTRES

73.1. Any municipal landfill and any recycling and waste transfer facilities or resource recovery centre available for the disposal of Waste may be subject to the fees, charges, terms and conditions as determined by the Council from time to time.

73.2. A Person using a municipal landfill, recycling and waste transfer facility or resource recovery centre:

73.2.1. 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;

73.2.2. must deposit Waste in accordance with the directions of the facility attendant or Authorised Officer or Delegated Officer and in accordance with any signs erected at the landfill, facility or centre;

73.2.3. may only deposit material designated by the Council from time to time;

73.2.4. may only deposit material permitted by any Environment Protection Authority Site Licences applying to the landfill, facility or centre from time to time; and

73.2.5. must not deposit any hazardous, dangerous or infectious materials.

Penalty: 15 Penalty Units

73.3. A Person must not deposit any Waste at any municipal landfill, recycling and waste transfer facilities or resource recovery centre which is not at the time of deposit open to accept such Waste or any such category of Waste. **Penalty: 20 Penalty Units**

73.4. A Person employed, authorised or contracted by the Council for a specific purpose is exempt from sub-clauses 74.1, 74.2 and 74.3 of this provision to the extent of that purpose.

COUNCIL BUILDINGS

74. BEHAVIOUR IN MUNICIPAL BUILDINGS

74.1. A Person must not, while in a Municipal Building, behave in a manner that endangers others or unreasonably interferes with the quiet enjoyment of the Municipal Building by any other Person.

Penalty: 15 Penalty Units

74.2. A Person must not, while in a Municipal Building:

74.2.1. use indecent, insulting, offensive or abusive language; or

74.2.2. behave in an indecent, offensive, insulting or riotous manner.

Penalty: 15 Penalty Units;

74.3. Unless authorised by the Council or an Authorised Officer or Delegated Officer, a Person must not in a Municipal Building:

74.3.1. destroy, damage, interfere with or deface the Municipal Building;

74.3.2. destroy, damage, interfere with or deface anything located at, on or in the Municipal Building;

74.3.3. remove any object which is owned by the Council from the Municipal Building;

74.3.4. act in a manner contrary to any restriction or prohibition contained in the inscription on a sign at, on or in the Municipal Building;

74.3.5. deposit any litter, except in receptacle provided for that purpose;

74.3.6. except for a child under the age of six (6) years in the care of a responsible person, and for a carer providing assistance to a person with a disability, enter or use any dressing room, shower, convenience or other area in a Municipal Building which has been appropriated for Persons of the opposite gender;

74.3.7. sell any goods or services;

74.3.8. erect, affix, place or leave any advertisement;

74.3.9. erect, operate or cause to be erected or operated any amusement;

74.3.10. obstruct, hinder or interfere with any member of staff of Council in the performance of his or her duties;

74.3.11. act contrary to any lawful direction of an Authorised Officer or Delegated Officer or member of Council staff, including, without limitation, a direction to leave the Municipal Building, whether or not a fee for admission has been paid;

74.3.12. use or interfere with any life-saving or emergency device, unless using the device in an emergency, or participating in an instruction approved by the Council or an Authorised Officer or Delegated Officer;

74.3.13. organise any function or Event;

74.3.14. bring any Animal into, or allow any Animal under his or her control to remain in, a Municipal Building, except for Assistance Animals;

74.3.15. bring any Vehicle into a Municipal Building, except for:

74.3.15.1. a pram or pusher being used by a child; or

74.3.15.2. a wheelchair or motor scooter being used by a physically disabled person; or

74.3.16. bring into a Municipal Building any substance, liquid or powder which may:

74.3.16.1. be dangerous or injurious to health;

74.3.16.2. have the potential to foul, pollute or soil any part of the Municipal Building; or

74.3.16.3. cause discomfort to any person **Penalty:**

15 Penalty Units.

75. ENTRY TO MUNICIPAL BUILDINGS

A Person must not, unless directed to do so by the Council or an Authorised Officer or Delegated Officer:

75.1. enter a Municipal Building other than through an entrance provided for that purpose;

Penalty: 10 Penalty Units;

75.2. enter or remain in a Municipal Building without having paid any admission fee or charge imposed by the Council; **Penalty: 10 Penalty Units;**

75.3. remain in a Municipal Building after being directed to leave by an Authorised Officer or Delegated Officer;

Penalty: 10 Penalty Units;

75.4. re-enter a Municipal Building after having been directed to leave that Municipal Building by an Authorised Officer or Delegated Officer, any sooner than the beginning of the next working day when the Municipal Building is open to the public, unless a written permission to re-enter is granted by Council or an Authorised Officer or Delegated Officer; or

Penalty: 15 Penalty Units; or

75.5. re-enter a Municipal Building after having been directed to leave that Municipal Building by an Authorised Officer or Delegated Officer and being served with a temporary suspension letter stating that the Council is taking action to issue a Notification Of Prohibition From Entry under this Local Law, until:

75.5.1. a Notification of Prohibition from Entry is issued,

75.5.2. the temporary suspension is withdrawn, or

75.5.3. the temporary suspension period of up to 21 days, or in the case where the subject Building is the person's workplace, the temporary suspension of up to 7 days, passes. **Penalty: 20 Penalty Units.**

75.6. Whether or not a temporary suspension letter is issued or has expired does not alter Council's power to issue a Notification of Prohibition from Entry.

76. AVAILABILITY AND HIRE

76.1. A Person must not organise or undertake any Event, public meeting, performance or commercial purpose within a Municipal Building without the consent of the Council.

Penalty: 15 Penalty Units

76.2. During any period for which a Municipal Building or any part of it has been hired out, the Manager may refuse admission to the Municipal Building or any part of it to any Person who is not connected with the hiring purpose.

PART 7 – ADMINISTRATION, PERMITS, APPEALS, FEES AND PENALTIES

ADMINISTRATION

77. EXERCISE OF DISCRETIONS

77.1. In exercising any discretion contained in this Local Law, the Council or an Authorised Officer or a Delegated Officer will have regard to:

77.1.1. the objectives of this Local Law;

77.1.2. the Guidelines in this Local Law;

77.1.3. any Council Policies relevant to this Local Law;

77.1.4. any relevant Permit Conditions in the Local Law; and

77.1.5. any other policies adopted by the Council from time to time, provided that such policies are not inconsistent with this Local Law.

77.2. The Council may, from time to time, prepare policies for use by the Council, Council staff and other persons for the purposes of this Local Law.

77.3. Any policies that are adopted by the Council must not be inconsistent with the objectives of this Local Law, or any other documents as determined from time to time and incorporated by reference in this Local Law.

77.4. The Council may, from time to time, by resolution, amend any item in the Local Law or document incorporated by reference in this Local Law but any such change will have no force or effect until formal notification has been given through *the Victoria Government Gazette*. Prior to notification, such amendments do not form part of this Local Law.

77.5. In preparing any Guidelines in this Local Law, the Council must have regard to the objectives of this Local Law.

78. REGISTER OF DETERMINATIONS

78.1. Any determinations resolved by the Council for the purposes of this Local Law and amendments to any document incorporated by reference in this Local Law resolved by the Council must be maintained by the Council in a register kept for that purpose.

78.2. The register kept for the purposes of this Clause must be made available for inspection at the office of the Council during normal office hours.

79. POWER TO OBTAIN NECESSARY AND ADDITIONAL INFORMATION

79.1. The Council or an Authorised Officer or Delegated Officer may require any Applicant for a Permit to provide additional information before dealing with an application for a Permit or an exemption and for the purposes of administering and enforcing the provisions of this Local Law.

79.2. A Person who makes any false representation or declaration (whether oral or in writing) in, or who knowing and/or willingly omits any relevant information from, an application for a Permit or exemption is guilty of an offence. **Penalty: 20 Penalty Units**

80. POWER TO DIRECT – NOTICE TO COMPLY

80.1. An Authorised Officer or Delegated Officer may, by serving a Notice to Comply, direct any owner, occupier or other relevant Person to remedy any situation that constitutes a breach of this Local Law.

80.2. A Person who fails to remedy a situation within the time specified in accordance with a Notice to Comply served on that Person is guilty of an offence.

80.3. If a person on whom a notice to comply is served fails to comply with the requirements of that notice to comply, Council or an Authorised Officer or any employee or any other person authorised in writing by Council, may enter upon any private land or public land on which there is any such failure to comply and do all such acts, matters or things that are required to comply with the notice to comply.

80.4. All costs and expenses incurred by Council in carrying out any acts, matters or things described are a debt due to Council from the person on who the notice to comply was served.

Penalty: 20 Penalty Units

When considering whether to issue a Notice to Comply, an authorised officer or a delegated officer should, where relevant, have regard to the following guidelines:

- (1) A Notice to Comply must state:*
 - (a) the clause of this Local Law that is being breached;*
 - (b) the time within which the breach (to which the Notice to Comply relates) must be remedied;*
 - (c) any consequence or penalty that may apply if the person served with a Notice to Comply fails to remedy the breach in accordance with the Notice to Comply;*
 - (d) the right, if any, to appeal the Notice to Comply.*
- (2) The time specified in a Notice to Comply must be reasonable in the circumstances, and what is reasonable will vary depending on the situation to be remedied but should take into account, as applicable:*
 - (a) the amount of work to be performed in order to observe the notice;*
 - (b) the degree of difficulty in remedying the breach;*
 - (c) the availability of necessary materials or other necessary items;*
 - (d) weather and seasonal conditions;*
 - (e) the degree of risk or potential risk; and*
 - (f) any other relevant factor that the authorised officer or delegated officer reasonably believes is relevant in the circumstances.*

The Form for a Notice to Comply is provided in Schedule 3.

81. POWER TO DIRECT – IN PERSON

81.1. An Authorised Officer or Delegated Officer who finds any Person contravening or failing to comply with any provision of this Local Law may give that Person any reasonable direction to cease the contravention or failure to comply.

81.2. A Person to whom a direction is given under Sub-clause 82.1 must comply with that direction.

Penalty: 10 Penalty Units

82. POWER TO ACT – URGENT CIRCUMSTANCES

In urgent circumstances arising as a result of any failure to comply with this Local Law, an Authorised Officer or a Delegated Officer may:

82.1. take action to remove, remedy or rectify the failure without the necessity to serve a written warning or Notice to Comply; or

82.2. take any other action necessary to abate an immediate danger or threat.

When considering whether action to remedy urgent circumstances exists, an authorised officer or delegated officer must, where relevant, have regard to the following guidelines:

What is regarded as urgent circumstances and whether action should be taken will depend on the circumstances of each situation. Factors to be taken into consideration may include:

- (1) Whether, in the reasonable belief of the authorised officer or delegated officer, there exists an urgent risk or threat to:
 - (a) public health;*
 - (b) public safety;*
 - (c) the environment; (d) animal welfare; or (e) any property.**
- (2) Whether any urgent action proposed to be taken extends no further than is necessary to cause the immediate abatement of, or to minimise the risk or danger involved*
- (3) Whether:
 - (a) the person by whose default, permission or sufferance the situation has arisen; or*
 - (b) the owner or the occupier of the premises or property affected, is not known or cannot be found.**
- (4) Whether the need to take action is sufficiently urgent, and that the time involved or difficulties associated with the serving of a written warning or Notice to Comply may place a person, or any animal, property or thing at risk or in danger.*
- (5) Whether, if practical, a senior officer has been given prior notice of the proposed action.*
- (6) If urgent action is taken:*

- (a) the urgent action taken must not extend beyond what is necessary to cause the immediate abatement of, or to minimise the risk or danger involved;*
- (b) senior officer of Council should be informed of the action taken as soon as possible;*
- (c) details of the failure and remedying action are, as soon as possible, forwarded to the person on whose behalf the action was taken.*

83. POWER TO IMPOUND – IMPOUNDING THINGS

83.1. If an Authorised Officer or Delegated Officer detects an Animal, item or other thing in breach of, or being used contrary to, the provisions of this Local Law and, in the opinion of that Authorised Officer or Delegated Officer, the continuation of that breach or use is contrary to Clauses in this Local Law or presents a potential hazard or risk to any Person or property, the Authorised Officer or Delegated Officer may impound that Animal, item or other thing.

83.2. If an Authorised Officer or Delegated Officer has impounded an Animal, item or other thing in accordance with this Local Law:

83.2.1. the Council or an Authorised Officer or Delegated Officer must, if it is practicable to do so, serve notice of the impounding either personally or by mail on the person who appears to be the owner of the impounded thing or animal; and

83.2.2. the Council may refuse to release the impounded thing or animal until the Appropriate Fee or charge for its release has been paid to the Council.

83.2.3. Any impounded Animal, item or other thing not claimed within the time specified within any Notice of Impounding or under the provisions of any other policy may be disposed of by the Council by sale, tender or public auction, may be transferred to the municipal tip or given away.

84. DELEGATION

In accordance with section 114 of the Act, the Council:

84.1. delegates to the Chief Executive Officer, each Senior Officer and to any Person for the time being acting for such persons all of the powers, discretions, authorities and considerations of the Council under this Local Law including, but not limited to, the powers, discretions and authorities subject to any Guidelines and Council Policies incorporated by reference in this Local Law, to issue or refuse any Permit, fix conditions and durations relevant to such Permit, cancel any Permit, require additional information, apply Guidelines and Policies of the Council, consider any appeals and waive the need for any Permit, or waive, or fix, or reduce, any fee or charge, or to do any act, matter or thing necessary, or incidental to, the performance or exercise of any function or power by the Council;

84.2. delegates to any Authorised Officer or Delegated Officer and to any Person for the time being acting for such persons the power, subject to any Guidelines and Council Policies incorporated by reference in this Local Law, to issue or refuse any Permit and to apply conditions to any Permit, to exercise discretions, require additional

information and apply Guidelines and Policies of the Council in respect of any Permit applications, exemptions and waivers; and

- 84.3. delegates to each Authorised Officer or Delegated Officer the powers, discretions and authorities to act on behalf of the Council in exercising any discretion of the Council in accordance with the Guidelines in this Local Law, the issue of an Infringement Notice and the undertaking of prosecutions.

PERMITS

85. PERMITS

- 85.1. The Council, any Authorised Officer, or a Delegated Officer may define the form of any Permit application, the manner in which a Permit application will be processed and the terms and conditions under which a Permit may be issued.
- 85.2. In addition to any other conditions applied to any Permit under this Local Law, Standard Permit Conditions applicable to all Permits under this Local Law are available on Council's website.
- 85.3. A Permit expires on the date specified in the Permit or if no such date is specified the Permit will expire one (1) year after the date of issue.
- 85.4. The Council or an Authorised Officer or Delegated Officer may correct a Permit after issuing it, if the Permit contains a clerical error, an error from accident, slip or omission, an evident material miscalculation, or material mistake in the description of any person, thing, date or property referred to in the Permit.
- 85.5. Where the Council or an Authorised Officer or Delegated Officer is of the opinion that there is or has been a breach of any conditions of a Permit, a Notice to Comply may be issued to the Permit Holder, or the Permit may be cancelled or new conditions may be applied.
- 85.6. The Council or an Authorised Officer or Delegated Officer may amend or cancel any Permit if it is found:
- 85.6.1. to contain a material misstatement or concealment of facts in relation to the application for the Permit;
 - 85.6.2. any material change of circumstances occurs after the issue of the Permit;
 - 85.6.3. a failure to comply with the conditions under which the Permit was issued;
or
 - 85.6.4. a failure to comply with a Notice to Comply within the time specified in relation to a breach of a condition of the Permit.
- 85.7. The Council or an Authorised Officer or Delegated Officer must notify the Permit Holder of the intention to amend or cancel a Permit and give the Permit Holder an opportunity to make a written submission before the Permit is amended or cancelled.
- 85.8. If the Council or an Authorised Officer or Delegated Officer, after considering any written submission made by the Permit Holder, determines to cancel or amend the Permit, the amendment or cancellation must be placed in the register of Permits.

- 85.9. Where a Permit is cancelled because of a breach of any condition the Council may refuse any refund of any portion of the fees and charges associated with the application or the issuing of the Permit.
- 85.10. The Council and any Authorised Officer or Delegated Officer are not liable under this Local Law for any loss or damage suffered by any Permit Holder or any associated person as a result of or following upon the cancellation or refusal to re-issue any Permit, whether following the breach of any condition, or any other lawful reason for cancellation or a refusal to re-issue.
- 85.11. A Permit issued by the Council does not confer any permanent property rights stated or inferred upon any Permit Holder in relation to any Council asset.
- 85.12. A Permit which expires on the expiry date confers no right of re-issue upon any Applicant who may have been issued with a similar Permit previously.

Guidelines for the issuing Permits.

In the exercise of the discretion under this Local Law for the processing of permit applications and the issuing of permits, an authorised officer or delegated officer must, where relevant, have regard to the following guidelines as well as any other matters specific to the type of permit being sought:

- (1) whether additional information is required before dealing with an application;*
- (2) any relevant Council Policy;*
- (3) any submissions accompanying the application;*
- (4) any comments from internal departments, relevant external agencies or other persons;*
- (5) whether the appropriate fee or charge has been paid;*
- (6) whether any public notice, or written notice to other parties in relation to the permit application inviting submissions, has been or will be made;*
- (7) whether the applicant has been exempted by Council from the requirement to obtain a permit, and the conditions of any exemption being met and maintained;*
- (8) whether the rectification, remedying or restoration of a situation or circumstance is required prior to the issuing of a permit or as a condition of any permit;*
- (9) whether the consent of the owner has been obtained where the applicant is not the owner of the property for which the permit is sought;*
- (10) whether the permit should be subject to the happening of an event;*
- (11) how any time limit should be applied by specifying the duration, commencement, completion date or termination date; and*
- (12) any other matter which the Council officer reasonably believes in the circumstances is relevant to the exercise of this discretion.*

Standard permit conditions apply to all permits used by the Council and are in addition to specific permit conditions applicable to any specific type of permit.

Note: The holding of a permit or compliance with a condition included in a permit does not of itself relieve the permit-holder from;

- (1) Compliance with any other legislation with respect to the subject matter of the **permit**; or*
- (2) Liability for any damage sustained by any other person as a result of an activity undertaken by or on behalf of the **permit**-holder pursuant to the **permit**.*

86. REGISTER OF PERMITS

86.1. A register of any Permits issued by the Council for the purposes of this Local Law must be maintained by the Council.

86.2. Any cancellations or corrections of Permits which have been issued under this Local Law are also to be recorded in the register.

87. EXEMPTION FROM PERMIT OR PERMIT FEE

87.1. The Council may, by written notice exempt any Person or group of Persons from the need to obtain a Permit and such exemption may be conditional, may be altered and may be cancelled.

87.2. The Council may, by written notice exempt any Person or group of Persons from the need to pay any Permit fee.

87.3. An exemption from the requirement to pay a Permit fee may be cancelled or corrected in the same way as a Permit.

87.4. A Service Authority or a Person employed by, or acting on behalf of, a Service Authority is exempt from this Local Law and is not required to obtain a Permit in respect of activity to be undertaken for the purposes of the Service Authority but must notify the Council of the activity prior to its commencement.

APPEALS

88. APPEALS – MATTERS OTHER THAN INFRINGEMENT NOTICES

88.1. Any Person who is aggrieved by any matter under this Local Law may make a written representation or appeal for consideration by the Council within twenty-eight (28) days of the date of the matter concerned, but the making of any written representation or appeal will not in any way remove or suspend that Person's obligation to act in accordance with any obligations, directions or notices which are applicable under this Local Law.

88.2. Sub-clause 89.1 does not confer a right for a Person to make a submission under section 223 of the Act.

88.3. Details regarding written representations and appeal processes in relation to any Infringement Notice issued under this Local Law are found in Clause 90 of this Local Law.

88.4. Any written representation or appeal under this Local Law will be determined by an Appeals Officer separate and independent from, any Authorised Officer or Delegated Officer who made any decision, exercised any power, issued any notice or otherwise acted or refused to act under this Local Law in the matter which is the subject of the written representation or appeal.

88.5. On any written representation or appeal on any matter under this Local Law (except an appeal solely from an Infringement Notice) the decision of Council is final, excepting a review on legal grounds to the Supreme Court of Victoria.

89. APPEALS – LOCAL LAW INFRINGEMENT NOTICES

- 89.1. An Authorised Officer or a Delegated Officer may serve an Infringement Notice on a Person who has committed an offence under this Local Law, requiring the Person to pay the penalty for that offence within a time specified on the issue of the Infringement Notice.
- 89.2. The penalty fixed for the Infringement Notice is the applicable penalty stated in the Schedule to this Local Law, or if no applicable penalty is stated in the Schedule to this Local Law, the penalty shall be 20 per cent of the maximum penalty applicable under this Local Law.
- 89.3. The provisions of this Clause are to be read subject to the Infringements Act 2006 as amended from time to time.

FEES AND PENALTIES

The Council's fees and charges are determined annually by the Council in its budgeting process and are available from the Council's website or by enquiry direct to the Council.

90. SETTING FEES AND CHARGES

- 90.1. The Council may, from time to time, by resolution determine the fees and charges to apply under this Local Law and may include an administration or processing fee or charge. The Council must give public notice of its resolution to set or alter fees and charges.
- 90.2. Where a Permit is issued part way through the financial year and is to operate for the balance of that financial year, the Council may vary the normal annual fee or charge a pro rata fee which is proportionate to the period for which the Permit will apply.

91. DIFFERENTIAL OR STRUCTURED FEES AND CHARGES

In determining any fees and charges, the Council may establish a system or structure of fees and charges, including minimum or maximum or pro-rata fees or charges, if it considers it is appropriate to do so.

92. WAIVER OR ALTERATION TO FEES AND CHARGES

The Council may waive, reduce or alter any fee or charge with or without conditions upon receipt of a written submission from an applicant stating reasons why any such fee or charge should be waived, reduced or altered.

93. OFFENCES

- 93.1. Where any provision in this Local Law prohibits any act, behaviour or thing, any Person who contravenes such provision is guilty of an offence.
- 93.2. Where any provision in this Local Law prohibits any act or thing between specified hours of the day or night, or during specified months of the year, or on certain days, or in, or at, specified locations or specified parts of those locations, any Person who contravenes such provision is guilty of an offence.

93.3. Where any provision in this Local Law requires any act or thing to be done, any Person who is required to do the act or thing but does not do it contravenes this Local Law and is guilty of an offence.

93.4. Any Person who is guilty of an offence against this Local Law (other than an offence described in clause 94.5) is liable to the penalty indicated in this Local Law in respect of that offence, or if no such penalty is indicated, a penalty of:

94.4.1. 10 Penalty Units for a first offence; and

94.4.2. 15 Penalty Units for any second or subsequent offence.

93.5. Where any provision in this Local Law requires that a Person obtain a Permit before engaging in a particular activity, that Person is guilty of an offence if that Person engages in that activity without a Permit authorising that activity (unless the Council in its discretion has granted an exemption for the requirement for a Permit) and is liable to the penalty indicated in this Local Law in respect of that offence, or if no such penalty is indicated, a penalty of 20 Penalty Units.

93.6. Where any Permit, or exemption from a Permit, issued under this Local Law contains any conditions, any Person who contravenes or fails to comply with such a condition is guilty of an offence.

Penalty: 20 Penalty Units

94. PENALTIES

Schedule 1 to this Local Law sets out penalties for Infringement Notice purposes, which may be issued as an alternative to prosecution in respect of non-compliance with this Local Law, where the Council or an Authorised Officer or a Delegated Officer determines to proceed by way of Infringement Notice.

Clause	Offence	Maximum Penalty Units	Infringement Notice Penalty Units
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SCHEDULE 1 – INFRINGEMENT NOTICE PENALTIES

COMMUNITY LOCAL LAW 2017

TABLE OF MAXIMUM PENALTIES AND INFRINGEMENT NOTICE PENALTIES IN RESPECT TO OFFENCES AGAINST THE LOCAL LAW

Why are Infringement Penalties different from Maximum Penalties?

Infringement Notice penalties are used to simplify the process of enforcing less serious breaches of the Local Law. Infringement Notices avoid the complex process of Court prosecution. When Infringement Notices are paid on time, no conviction is recorded by a Court. The amount of an Infringement penalty is normally significantly less than the potential maximum penalty which a Court might impose for the same offence.

Maximum penalties may be imposed by a Court when:

- Council chooses to prosecute an offence, rather than issue an Infringement Notice,
- or • A person receiving an Infringement Notice chooses to have the matter heard in Court.

A 'Penalty Unit' means a Penalty Unit under the Sentencing Act 1991. For Local Laws, a Penalty Unit is currently fixed by the State Government at the value of \$100 per Penalty Unit (but this may vary from time to time).

If any offence under the Local Law is not set out in the table below, the infringement penalty for that offence will be 20% of the maximum penalty for that offence.

Clause	Offence	Maximum Penalty Units	Infringement Notice Penalty Units
10.1	Land kept in unsightly manner	15	3
10.2	Land kept in unsightly manner by accumulating materials	15	3
11.1	Land kept in dangerous manner – storage dangerous substance	20	5
11.2	Land kept in dangerous manner – occupied by dangerous thing	20	5
11.3	Land kept in dangerous manner – unsecured excavation	20	5
12.1	Unauthorised Occupation of Council Land or a Road	10	2
12.2	Failure to Remove Unauthorised Occupation	20	5
13.1	Dilapidated Building – permitting	20	5
13.2	Dilapidated Building – failure to secure	20	5

CITY OF BALLARAT
Community Local Law 2017
Schedule 1 - Infringement Notice Penalties

Clause	Offence	Maximum Penalty Units	Infringement Notice Penalty Units
13.3	Dilapidated Building – failure to maintain appearance	20	5
13.4	Dilapidated Building – failure to remove Graffiti	20	5
13.5	Dilapidated Building – failure to undertake works within a 14 day period	20	5
14.1	Land containing a fire hazard	20	5
14.2	Failure to mow vacant Allotment April-October to 150 mm	15	3
14.3	Failure to remove or rectify fire hazard within 1 week	20	5
15.1.1	Burning Offensive materials	15	3
15.1.2	Burning materials that may cause Offensive emissions entering neighbouring land	15	3
15.2	Burning in open or in an incinerator without Permit	15	3
15.3	Failure to extinguish a fire when directed	20	5
16	Causing Offensive Emissions to enter neighbouring property – 1st Offence	5	1
16	Causing Offensive Emissions to enter neighbouring property – 2nd and subsequent Offences	15	3
17	Fireworks lit without a Permit	20	5
18	Camping without Permit on Land other than Council Land or a Road contrary to requirements	15	3
19	Keeping a Shipping Containers on Council Land or a Road, without a permit	15	3
19.2	Allowing a Shipping Container to adversely impact visual amenity on Land Other than Council Land or a Road,	15	3
20	Failing to number an address adequately	10	2
21	Allowing vegetation or other things to obstruct, interfere, endanger or overhang, or obscure	15	3
22	Keeping Animals contrary to Local Law	10	2
23.1 & 23.2	Failure to provide adequate Animal Accommodation	10	2

CITY OF BALLARAT
Community Local Law 2017
Schedule 1 - Infringement Notice Penalties

Clause	Offence	Maximum Penalty Units	Infringement Notice Penalty Units
24	Allowing noise smell or discharge from animals to interfere with adjacent or nearby occupiers of land	10	2
25.1	Animal excrement remaining on Council land or a Road	10	2
25.2	Failure to carry a suitable animal litter device	10	2
26.1	Inadequate Fencing for Animal kept - 1 st Offence	10	2
26.1	Inadequate Fencing for Animal kept - 2 ^{nd+} Offence	15	3
26.2	Inadequate Fencing Livestock on Public Road	20	5
27.1 & 27.2	Failing to comply with Council Waste Collection requirements	10	2
27.1.3	Placing Hazardous Material in recyclable collection bin after written warning. - 1 st Offence	5	1
27.1.3	Placing Hazardous Material in recyclable collection bin after written warning. - 2 nd Offence	10	2
27.1.3	Placing Hazardous Material in recyclable collection bin after written warning. – 3 rd and Subsequent Offences	20	5
28	Failure to comply with Hard Waste Collection as specified	10	2
29	Interference with Waste materials left for collection	10	2
31.1	Use of Motor Bike Or Motorised Recreational Vehicle on Council Land excluding a Road without a Permit	15	3
31.2.1	Use of Motor Bike Or Motorised Recreational Vehicle on Land Other than Council Land or a Road in Built Up Area without a Permit	15	3
31.2.2 & 31.2.3	Use or as owner occupier allow the use of Motor Bike Or Motorised Recreational Vehicle on Land Other than Council Land or a Road outside Built Up Area within 500 metres of a Dwelling without a Permit	15	3
32	Repairing or Displaying for sale a Vehicle on a Road	15	3
33	Abandoning a Vehicle on a Road or Council Land	15	3
34	Storing Heavy Vehicle contrary to Local Law	10	2
35.1 & 35.2	Placing waste bins or Waste on a Road or Council Land contrary to Law	15	3

CITY OF BALLARAT
Community Local Law 2017
Schedule 1 - Infringement Notice Penalties

Clause	Offence	Maximum Penalty Units	Infringement Notice Penalty Units
36	Public waste bins used contrary to requirements	10	2
37.1	Leaving Shopping Trolley in non-designated area	10	2
37.2	Owner failing to collect Shopping trolley and return it to designated area	10	2
38.1.1	Holding a Street Procession or festival without Permit	15	3
38.1.2	Using public address system on Road without a Permit	15	3
39.1	Grazing or Droving Livestock without or contrary to Permit	20	5
40.1	Displaying goods for sale on a Road or Council Land without Permit	20	5
40.2	Failing to remove goods for sale or Advertising Sign from a Road or Council Land when directed	20	5
41.1	Itinerant trading without Permit	15	3
42.1	Spruiking without a Permit	10	2
42.2	Busking without a Permit	10	2
42.3	Drawing or Painting on a Road or Council Land without a Permit	10	2
43.1	Advertising Sign on Council Land or a Road without Permit	20	5
43.2	Failure to remove Advertising Sign when directed	20	5
44.1	Using Council Land or a Road for Commercial Outdoor Eating Facility without Permit	20	5
45	Sale or consumption of Liquor on Footpath adjoining licensed premises without Permit	20	5
46.1	Asset Protection – Building Works commencing without a Permit, or undertaking contrary to requirements or Permit.	20	5
46.7	Asset Protection – Building Works - Failure to make supplementary bond payment to rectify damage	20	5
46.9	Failure of other person to refrain from commencing work or deliveries before an Asset Protection Permit is issued.	10	2
47.2	Depositing Waste other than stormwater in Council drain	20	5

CITY OF BALLARAT
Community Local Law 2017
Schedule 1 - Infringement Notice Penalties

Clause	Offence	Maximum Penalty Units	Infringement Notice Penalty Units
48.1	Asset Protection – Occupying or Opening a Road or Council Land without a Permit	20	5
50.1.5	Failure to securely Fence a Building Work	15	3
50.1.6 – 50.1.10	Failure to comply with refuse requirements for Building Work and Building Sites	15	3
50.1.11 – 50.1.12	Failure to prevent deposits on Roads or excessive or emissions of Offensive dust from Building Sites	15	3
51.6	Failure to comply with vehicular crossing access requirements for a Building Work	20	5
51.7	Failure to comply with no storage of materials on a Road or Council Land for a Building Work	15	3
52.5	Failure to identify Building Site	10	2
53.1	Constructing or altering or removing a Vehicle Crossing without a Permit	20	5
53.2	Constructing or using a second Vehicle Crossing without a Permit	20	5
54	Failure to maintain a Vehicle Crossing in good condition	15	3
55.2	Failure to apply for Vehicle Crossing permit when directed	20	5
56	Consumption and possession of Liquor on Roads or Municipal Places	15	3
56.5	Failure to comply with direction of a member of Victoria Police or an Authorised Officer or Delegated Officer	15	3
57.3	Bringing into, providing or using a glass container in an area declared free of glass containers by Council	10	2
58.3	Smoking in Municipal Places contrary to signs	10	2
59.2 &	Contrary Behaviour in a Municipal Place	10	2
59.3	Use of Municipal Place without payment of appropriate fee	10	2
60	Endangering or interfering with others in a Municipal Place	15	3
61	Damaging/defacing/interfering with a Municipal Place	20	5
62	Unauthorised entry to Ballarat Aerodrome Movement Area	20	5

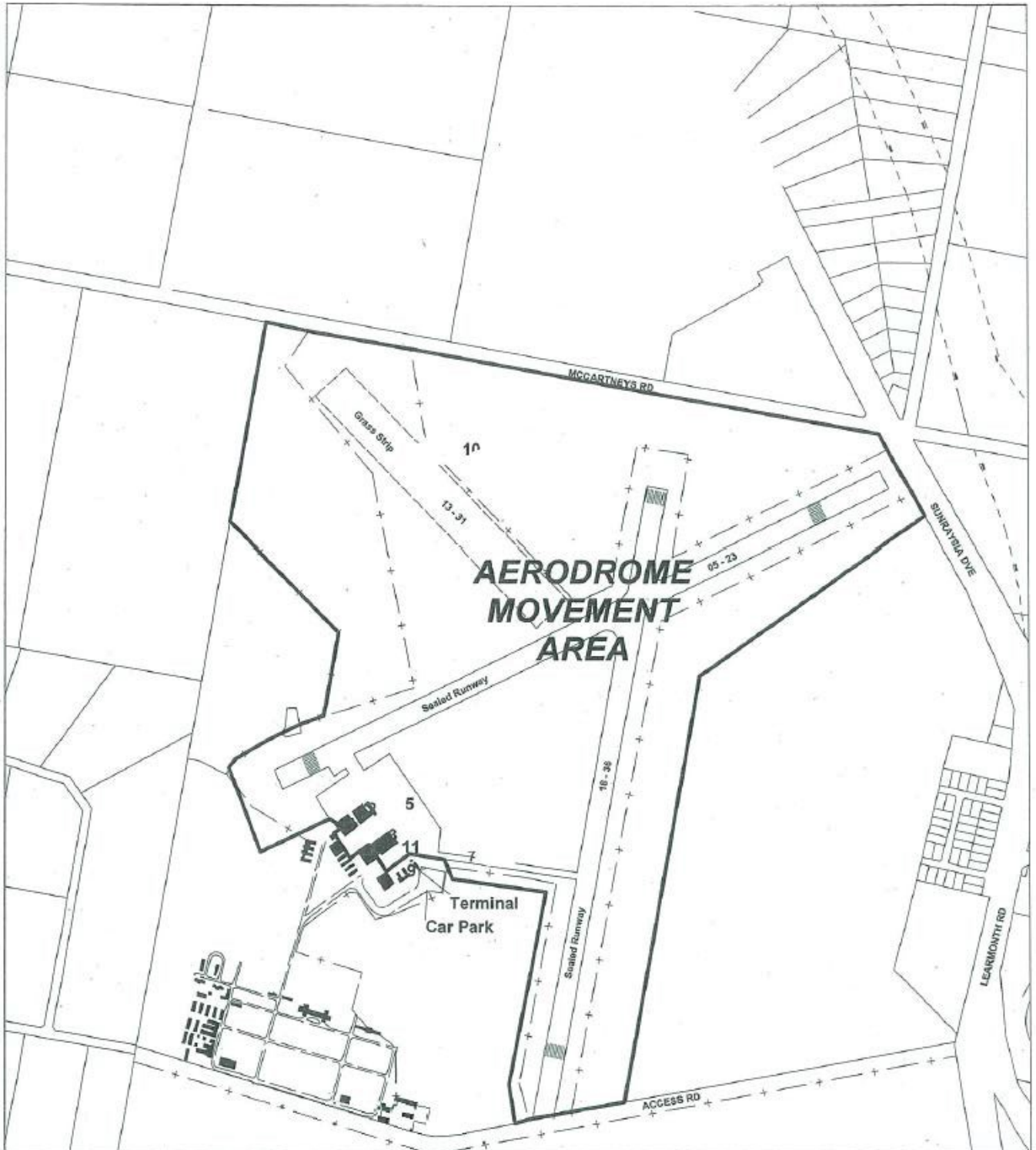
CITY OF BALLARAT
Community Local Law 2017
Schedule 1 - Infringement Notice Penalties

Clause	Offence	Maximum Penalty Units	Infringement Notice Penalty Units
63.1	Obstructions on Council Land or a Road	20	5
63.2	Failure to remove an obstruction on Council Land or a Road when directed	20	5
64.1 & 64.2	Contrary Behaviour in a Municipal Place	15	3
65.1	Use of Municipal Reserve endangering public safety Council assets or enjoyment of others without seeking a Permit - 1 st Offence	10	2
65.1	Use of Municipal Reserve endangering public safety Council assets or enjoyment of others without seeking a Permit - 2 nd Offence	15	3
66	Use of Municipal Reserve for permitted use without a Permit	15	3
67	Accessing a Municipal Reserve contrary to requirements	10	2
68.1	Holding an Event on Council Land, a Road without a Permit	20	5
68.2	Holding an Event on Land Other than Council Land or a Road where there is a material impact of community or public safety without a Permit	20	5
69	Camping on Council Land or a Road without a Permit and not in a designated camping area.	15	3
70	Parking on a Municipal Reserve without a Permit	5	1
71.1	Use of RPA or 'drone' without a Permit	10	2
72.2	Use of Wheeled Non-Motorised Recreational Device or Wheeled Child's Toy in prohibited area	10	2
72.4	Use of Wheeled Non-Motorised Recreational Device or Wheeled Child's Toy on a Road to obstruct or endanger	10	2
74.2	Use of Landfill Site, Waste Transfer Facility or Resource Recovery Centre contrary to requirements	15	3
74.3	Depositing at Landfill Site, Waste Transfer Facility or Resource Recovery Centre outside open hours	20	5
75.1 & 75.2	Behaving to endanger, interfere with or offend others in a Municipal Building	15	3

CITY OF BALLARAT
Community Local Law 2017
Schedule 1 - Infringement Notice Penalties

Clause	Offence	Maximum Penalty Units	Infringement Notice Penalty Units
75.3	Behaving damaging or otherwise contrary to requirements in a Municipal Building	15	3
76.1 to 76.3	Entering or remaining in a Municipal Building contrary to requirements or direction	10	2
76.4	Re-entering a Municipal Building after a direction to leave	15	3
76.5	Re-entering a Municipal Building after a direction to leave and receiving a temporary suspension letter	20	4
77	Use of a Municipal Building without consent	15	3
80	False or misleading information on a Permit application	20	5
81.2	Failure to comply with Notice to Comply in specified time	20	5
82.2	Failure to comply with lawful direction when contravening Local Law	10	2
94.4	Offence where no penalty is given – 1 st Offence	10	2
94.4	Offence where no penalty is given – 2 nd and Subsequent Offences	15	3
94.5	Failure to obtain Permit	20	5
94.6	Failure to comply with a condition of a Permit or exemption	20	5

SCHEDULE 2 – AERODROME MOVEMENT AREA



SCHEDULE 3 – NOTICE TO COMPLY

NOTICE TO COMPLY

TO: _____
(Name)

(Address)

This Notice to Comply is based upon the following breach of Council's Community Local Law 2017.

Clause _____

In relation to:

.....
.....
.....
.....

To remedy the breach, you must carry out the following work/s, action and/or cease the following activity, as specified below, within _____ days from the date of this notice. Works or Actions required to comply:

.....
.....
.....
.....

You should contact the undersigned at the Municipal Offices during business hours for any further information about this Notice.

If you fail to comply with this Notice you will be guilty of an offence and liable for payment of the penalty of \$_____ (penalty) for the offence. Additionally, an Authorised Officer may proceed to have any required work carried out, in which case, you will be liable for the cost of such works (in addition to the above penalty) under Section 225 of the Local Government Act 1989.

Date.....

(Insert Date)

(Name of Authorised Officer)

Telephone

.....
(Signature of Authorised Officer)

NOTE:

If this Notice relates to a contravention of a Permit and there is no compliance with the Notice, apart from any other penalties, the Permit may be cancelled. If you do not wish to have the Permit cancelled you should comply with the directions in this Notice.

You may appeal by writing to Council and seeking a Review of this Notice and any potential permit cancellation.

Resolution for the making of this Local Law was agreed to by the Council on the 13th day of December 2017.

The Common Seal of CITY OF BALLARAT

was affixed this day of 2018 in
the presence of:

..... Mayor/Councillor

..... Councillor

..... Chief Executive Officer

Notices of the proposal to make and of the making of this Local Law were included in the Victorian Government Gazette dated the 21st day of December 2017.

Public Notices of the proposal to make and confirmation of the making of this Local Law were inserted in *the Ballarat Courier* Newspaper on 23rd day of August 2017 and on 13th day of January 2018 respectively.

A copy of this Local Law was sent to the Minister for Local Government on the 10th day of January 2018.