



MANSFIELD SHIRE

**AMENITY, ENVIRONMENT AND
COMMUNITY PROTECTION LOCAL LAW**

LOCAL LAW NO. 1 OF THE YEAR 2018

This Local Law was made by resolution of the Mansfield Shire Council on 26 June 2018

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PART A – OVERVIEW

1. Title

- 1.1 This is Mansfield Shire Council's Local Law No. 1 of the year 2018 and is to be known, and referred to, as the '*Amenity, Environment and Community Protection Local Law*'.

2. Purpose

- 2.1 The purpose of this Local Law is to:
- 2.1.1 Provide for the peace, order and good government of the municipal district;
 - 2.1.2 Create a safe, healthy and enjoyable environment for people who reside, work, own a business, own property in, or visit the municipal district;
 - 2.1.3 Protect and enhance the amenity of the municipal district so that the community can enjoy a high quality of life;
 - 2.1.4 Protect Council and community assets and infrastructure from damage and ensure they are maintained in a state that is fit for its intended or likely use;
 - 2.1.5 Regulate and manage activities that may be detrimental to:
 - 2.1.5.1 The amenity of the municipal district;
 - 2.1.5.2 The environment of the municipal district;
 - 2.1.5.3 The health and safety of any person; and,
 - 2.1.5.4 The safety of property, infrastructure or assets;
 - 2.1.6 Allow for fair and reasonable enjoyment of private land, while preventing annoying and unreasonable conditions or activities which interfere with the reasonable use or enjoyment of any other person;
 - 2.1.7 Balance the benefits of conducting business activities on public spaces, such as roads and road reserves, with the broader community's enjoyment and safe use of these areas;
 - 2.1.8 Ensure that public health and nuisance issues do not arise from the keeping of animals, while acknowledging that there is a significant amount of farming and animal-keeping activity on properties across the municipal district;
 - 2.1.9 Regulate the use of the Resource Recovery Centre to avoid public health, safety and nuisance problems; and,
 - 2.1.10 Avoid any nuisance, environmental damage or public health and safety issues through the regulation of activities on building sites.

3. Power to Make this Local Law

This Local Law is made under section 111(1) of the *Local Government Act 1989*.

4. Commencement and End of this Local Law

4.1 This Local Law:

4.1.1 Commences operation on the day following the day on which notice of the making of this local law is published in the Victorian Government Gazette;

4.1.2 Ends on the day which is 10 years after the day referred to in clause 4.1.1, unless revoked at an earlier date.

5. Revocation of Earlier Local Laws

Upon the commencement of this Local Law, the Community Local Law No 1, revised and adopted by Council on 19 February 2008 is revoked.

6. Application of this Local Law

6.1 This Local Law operates throughout the municipal district.

6.2 This Local Law does not apply where any act, use or thing otherwise prohibited or regulated by it is authorised by any Act, regulation or the Planning Scheme.

7. Definitions

In this Local Law –

‘advertising sign’ means any placard, board, teardrop flag, bunting, flag, partition, barrier, mobile billboard, sign, leaflet, sticker, poster or banner or other document, whether portable, affixed to a structure or attached to any land, which:

- a) Advertises goods, services, a competition or an event; or,
- b) Provides information about a business, activity or industry.

‘alcohol’ means a beverage intended for human consumption with an alcohol content greater than 0.5% by volume at a temperature of 20 degrees Celsius.

‘alcohol free zone’ means the area shown defined by the map in Schedule 1 to this Local Law or such other area declared by Council from time to time by resolution as an area where the consumption of alcohol is prohibited under this Local Law.

‘animal’ has the same meaning as in the *Summary Offences Act 1966*.

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

'Authorised Officer' means:

- a) any person, including a police officer, appointed by the Council under section 224 of the Act; and
- b) a police officer enforcing provisions relating to alcohol in accordance with section 224A of the Act.

'boat' means a vessel for travel on any type of water.

'builder' means a person to whom a building permit has been issued under the *Building Act 1993*.

'builders' refuse' includes any solid or liquid domestic or commercial waste, debris or rubbish and includes, but is not limited to, waste material, waste substance or a thing generated by or in connection with building work.

'building' has the same meaning as in the *Building Act 1993*.

'building site' means the land on which building work is being carried out.

'building work' means any work for which a building permit is required under the *Building Act 1993*, or equivalent legislation, and includes any work for or in connection with the construction, demolition, renovation, alteration or removal of any building.

'bulk rubbish container' means a bin, skip or other container used for the deposit or waste, excluding an approved garbage bin provided by Council for the refuse collection service.

'busk' means to sound or play any musical instrument, sing, harangue or recite, perform conjuring tricks, juggle, dance, engage in miming or puppetry, or any similar performance activity.

'camp' or **'camping'** means using a caravan, tent, motor vehicle or like structure used for either the temporary or permanent accommodation of a person or persons.

'caravan' includes a mobile home and moveable dwelling.

'Chief Executive Officer' means the chief executive officer appointed by the Council, or any person acting in that position during his or her absence.

'clothing bin' means a receptacle used for the donation of clothing or household goods of a type which the organisation concerned states can be deposited there.

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

‘commercial waste hopper’ means a purpose-built receptacle for the deposit of commercial waste that is ordinarily emptied by mechanical means.

‘completion of building work’ means:

- a) In relation to building work that requires an occupancy permit to be issued (or its equivalent), the date the occupancy permit is issued; and
- b) In relation to the building work that requires a certificate of final inspection to be conducted (or its equivalent), the date the final inspection is conducted; and,
- c) In relation to building work that does not require an occupancy permit or a final inspection, the date the works being undertaken needs no further substantial work for it to be used or enjoyed for the purpose for which it is being constructed.

‘Council’ means the Mansfield Shire Council.

‘Council asset’ means any road, drain, drainage related infrastructure, street tree, street sign and any other property vested in, or under the ownership of, the Council.

‘Council building’ means any building owned, occupied or under control of the Council including libraries, swimming pools and recreation centres.

‘Council land’ means any land vested in, or under the control, of the Council, including municipal reserves, watercourses, reservations and the like, including a road vested in or under the care and management of the Council.

‘declared dog’ means a:

- a) Restricted breed dog; and/or
 - b) A menacing dog; and/or
 - c) A declared dangerous dog
- under the *Domestic Animals Act 1994*.

‘dwelling’ means any building or portion of a building which is used, intended, adapted or designed for use for human habitation.

‘emergency service’ means:

- a) Victoria Police;
- b) Country Fire Authority;
- c) Department of Environment, Land, Water and Planning;
- d) Ambulance Victoria;
- e) The State Emergency Service;
- f) Any organisation whose primary function is the provision of first aid response; and,
- g) Any successor to any of the named organisations above

and includes all members of the above organisations when engaged in bona fide operational activities.

‘environmental weed’ means any weed that is declared by Council as an environmental weed, or as defined by the Planning Scheme.

‘frontage’ means a boundary between a piece of land and an adjoining road. If a piece of land adjoins more than one road, the frontage is the boundary between the allotment and the road to which the largest building on the land fronts.

‘garbage bin’ means a wheeled mobile garbage bin supplied by Council, or its contractors on behalf of Council.

‘goods’ includes, but is not limited to, produce, articles, items, tables and chairs, advertising signs, planter boxes, screens, umbrellas, heaters and anything similar.

‘graffiti’ means inscriptions or drawings scribbled, scratched, sprayed or otherwise applied on a surface without authority.

‘guidelines’ means any decision making guidelines and/or standards adopted by Council to assist with the application and interpretation of this Local law.

‘hard garbage’ means rubbish or waste items that cannot be contained in a garbage bin such as furniture, white goods and mattresses, and other items which Council prescribes as hard garbage for the purposes of this Local Law.

‘impound’ means the seizing or taking possession of any item and includes the holding of that item on any location until the item is returned, released or disposed of.

‘land’ has the same meaning as in the *Interpretation of Legislation Act 1984*.

‘large bird’ means any pigeon, cockatoo or other bird of similar or larger size of any age, excluding poultry.

‘livestock’ has the same meaning as in the *Impounding of Livestock Act 1994*, including an animal of any species used in connection with primary production or kept for recreational purposes (including a bird) other than a dog or cat, including but not limited to horses, alpacas, sheep, cattle, pigs, goats and any similar animal of any age.

‘Local Law’ means this Amenity, Environment and Community Protection Local Law No 1 of 2018.

‘machinery’ means a machine or machinery parts considered as a group.

‘mobile billboard’ means an advertising sign which is specifically constructed to be part of a motor vehicle, or pulled along on a trailer by a motor vehicle.

‘mobile trading’ means offering for sale any goods or services from a vehicle, caravan, trailer, table, stall or other similar structure parked on a road, public place or municipal reserve.

‘motor vehicle’ has the same meaning as in the *Road Safety Act 1986*.

‘moveable dwelling’ has the same meaning as in the *Residential Tenancies Act 1997*.

‘movement of livestock’ means individual or regular movement of livestock from one area within the municipality to another, where the areas concerned are owned or occupied by the same person and the movement is part of the one farming enterprise undertaken within the one day.

‘municipal district’ means the municipal district of the Council, as defined by the Act.

‘municipal reserve’ means any land within the municipality that is owned, occupied or managed by the Council including any structure, fixture, fitting and garden on or at the land, but does not include a Council building.

‘notice to comply’ means a notice to comply issued under this Local Law.

‘not for profit organisation’ means a body who holds a current registration with the Australian Charities and Not-for-profit Commission (ACNC).

‘nuisance’ includes any behaviour or condition which is, or is liable to, be dangerous to the health, or is noxious, annoying or injurious to personal comfort.

‘occupier’ means:

- a) A person who manages any land on behalf of the land’s owner or occupier; and
- b) A person who is responsible for the care and control of any land; and
- c) A lessee or licensee of any land; and,
- d) In relation to land that has a lot entitlement or lot liability in respect of common property, the body corporate created upon the registration of a plan of subdivision affecting the land.

‘offence’ includes an offence against, or a breach of a provision of, this Local Law or breach of a permit, notice or direction issued under this Local Law.

‘official warning’ has the same meaning as in the *Infringements Act 2006*.

‘owner’ means in relation to:

- a) Land, the same meaning as in section 3 of the *Local Government Act 1989*; and
- b) A building, the owner of land on which the building is situated; and
- c) A motor vehicle
 - i. The registered owner of the motor vehicle; and
 - ii. A person who has possession of the motor vehicle; and
- d) Livestock means
 - i. A person who is entitled to legal or equitable possession of livestock whether solely or jointly; and,
 - ii. A person who has custody of livestock on behalf of a person referred to in paragraph (d)(i).

‘parking area’ has the same meaning as in the *Road Safety Road Rules 2009*.

‘Penalty Unit’ has the same meaning as set out in section 110(2) of the *Sentencing Act 1991* under which a penalty unit has the value of \$100, except for infringement notices where the value of a penalty unit is defined by the *Monetary Units Act 2004* as per the requirements of the *Infringements Act 2006*.

‘permit’ means a permit or approval in writing issued in accordance with clause 56 of this Local Law.

‘person’ has the meaning ascribed to it by section 38 of the *Interpretation of Legislation Act 1984*.

‘person in charge of the building work’ means:

- a) A person in charge of a building site; or
- b) A person who causes building work to be carried out on any land; or
- c) The person whose name appears on any building permit taken out on the subject land where building work is to be undertaken; or,
- d) The owner of a building site or, if a company is the registered proprietor of the building site, each director of that company.

‘Planning Scheme’ means the Mansfield Planning Scheme.

‘poultry’ includes chickens, ducks, geese, peacocks, pheasants, turkeys, guinea fowl and anything similar and of any age.

‘properly constructed fireplace’ means a fireplace that is constructed of stone, metal, concrete or any other non-flammable material so as to contain the perimeter of the fire.

‘public place’ has the same meaning as in the *Summary Offences Act 1966* and includes any:

- a) Public highway, road, street, bridge, footway, footpath, court, alley, passage or thoroughfare notwithstanding that it may be formed on private property;
- b) Municipal reserve as defined in this Local Law including a park, garden, reserve or other place of public recreation or resort;
- c) Wharf, pier or jetty;
- d) Passenger ship or boat plying for hire;
- e) Public vehicle plying for hire;
- f) Church or chapel open to the public or any other building when divine services are publically held;
- g) State school or the land or premises in connexion therewith;
- h) Public hall, theatre, or room where members are in attendance at, are assembling for or departing from, a public entertainment or meeting therein;
- i) Market;
- j) Auction room or mart or place while a sale by auction is there proceeding;
- k) Licensed premises or authorised premises within the meaning of the *Liquor Control Act 1987*;

- l) Race-course, cricket ground, football ground or other such place while members of the public are present or are permitted to have access thereto whether with or without payment for admission;
- m) Place of public resort;
- n) Open place to which the public, whether upon payment or without payment for admittance, or are permitted to have access;
- o) Public place within the meaning of the words 'public place' whether by virtue of the *Summary Offences Act 1966* or otherwise.

'recreational vehicle' means any mini bike, quad bike, trail bike, motor bike, motor scooter, go-cart or other vehicle which is propelled by a motor which is used for recreational purposes, excluding a:

- a) Vehicle while engaged in legitimate farming activities; or
- b) Motorised wheelchair or scooter used by a person with impaired mobility; or,
- c) Motor-assisted bicycle with a motor with less than 200 watts capacity.

'recyclable goods' means any substances or articles declared by Council to be 'recyclable goods.'

'Resource Recovery Centre' means any land and all buildings, structures and equipment on such land constructed by, or on behalf of, the Council as a recycling or waste centre.

'recycling bin' means a wheeled mobile recycling bin or other receptacle supplied by the Council for the purpose of collecting recyclable goods.

'registered' in relation to a vehicle means that the vehicle is registered in accordance with the *Road Safety Act 1986*.

'restricted breed dogs' has the same meaning as in the *Domestic Animals Act 1994*.

'refuse' means all waste or rubbish produced or accumulated in, or on, any land, excluding:

- a) Nightsoil, sewage and animal excreta;
- b) Slops or liquid wastes;
- c) Waste generated from building work (including bricks, concrete, rocks, timber and other building materials or waste);
- d) Waste generated from the restoration, repair or servicing of motor vehicles;
- e) Ash, unless it is cold, dampened and wrapped or placed in some form of sealed container;
- f) Commercial waste;
- g) Recyclable goods;
- h) Oil, paints, solvents and similar substances;
- i) Any broken glass or other sharp object, unless it is wrapped in impermeable material or contained entirely within an impermeable receptacle;
- j) Disposable nappies, unless any solid wastes have been removed from the nappies and they are wrapped in impermeable material;

- k) Any waste that cannot be contained in an approved garbage bin due to its size, shape, nature or volume;
- l) Medical or veterinary waste;
- m) Any waste which is hazardous, infections or dangerous;
- n) Any hard garbage or green waste that cannot fit into the rubbish bin and allow the lid to be fully closed; and,
- o) Any other substances declared by the Council not to constitute refuse for the purpose of this Local Law.

‘remotely controlled aircraft’ means an unmanned toy or model aircraft with an internal combustion engine or other form of self-propulsion and includes a drone or other such unmanned aerial vehicles.

‘residential premises’ means a building or structure used primarily for residential purposes.

‘road’ has the same meaning as in section 3 of the *Local Government Act 1989*, which is as follows:

- a) A street;
- b) A right of way;
- c) Any land reserved or proclaimed as a street or road under the *Crown Land Reserves Act 1978* or the *Land Act 1958*;
- d) A passage;
- e) A cul-de-sac;
- f) A by-pass;
- g) A bridge or ford;
- h) A footpath, bicycle path or nature strip; and,
- i) Any culvert or kerbing or other land or works forming part of the road.

‘rooster’ means a male chicken of any age.

‘rubbish bin’ means a receptacle provided by Council, or with the authority of the Council, in a road or public place, for use by the public in depositing small items of rubbish.

‘scaregun’ means a gas gun, or similar gun, or other form of electronic device that uses sound, designed to scare birds from attacking crops, but does not include a firearm.

‘schedule’ means a schedule to this Local Law.

‘security bond’ means a sum of money, or other means of security acceptable to Council, the amount of which has been determined by an Authorised Officer after taking account of:

- a) The nature of the work;
- b) Likely costs that would be incurred for repairs to Council assets should damage occur to them during or as a result of the work;
- c) Requirements which are commonly applied in comparable situations; and,

d) Any relevant Act, regulation or Government directives.

'sell' includes to:

- a) Sell by means of a machine or mechanical device;
- b) Barter or exchange;
- c) Agree to sell;
- d) Offer or expose for sale; or,
- e) Keep or have in possession for sale and directing, causing or attempting any such acts or things.

'service dog' means an individually trained dog that does work or performs tasks for the benefit of individuals with a disability.

'shopping trolley' means a wheeled receptacle supplied by a retailer of goods to enable customers purchasing any of those goods to transport them to or from one place to another.

'small/low impact event' means:

- a) An event where there is minimal risk of impact on the amenity of the neighbourhood; and
- b) The use of a Council place is not restricted for a person or groups' sole use; and,
- c) There is minimal risk of damage to a Council asset or Council building.

'stormwater pollutants' means any material (including litter, sediment, soil, mud, concrete, plaster, bricks, tile dust, paint and acid) that, upon entering a stormwater system, degrades the quality of stormwater to the detriment of the environment.

'stormwater system' means a system and infrastructure which provides for the conveyance of stormwater run-off including kerb and channel, open channels, underground pipe systems, overland flow paths and natural waterways.

'temporary vehicle crossing' means any material that is used to protect a road, kerb, channel or footpath while building work is being undertaken as approved by Council.

'the Act' means the *Local Government Act 1989*.

'traffic control device' has the same meaning as defined in the *Road Safety Road Rules 2009* and includes any sign, mark, structure or device that is displayed, placed or erected for the purpose of controlling, directing, guiding, regulating or warning drivers or pedestrians. It includes a device, however operated, which uses words, symbols or lights to control or regulate traffic.

‘unsightly’ with respect to land includes land which contains one or more of the following features, or similar features:

- a) Unconstrained rubbish such as paper, cardboard, plastic bags, polystyrene, household rubbish, second hand containers or other refuse;
- b) Storage of second-hand timber or second-hand building material;
- c) Discarded, rejected, unwanted, surplus or abandoned solid or liquid materials;
- d) Graffiti on exterior walls or fences;
- e) Machinery or similar stored on the land for more than two months;
- f) Unregistered, un-roadworthy, disassembled, incomplete or deteriorated motor vehicles or similar stored on the land for more than two months;
- g) Anything being built which is left incomplete and constitutes a detriment to the appearance of the surrounding area as determined by an Authorised Officer of Council; and,
- h) Any other thing making the land visually repugnant; but

it excludes an enclosed building or structure on the land which complies with the *Building Act 1993* or the *Planning and Environment Act 1987*.

‘vehicle’ has the same meaning as in section 3 of the *Road Safety Act 1986* and includes motor vehicles, motor cycles and any other conveyance propelled or drawn by human, animal, mechanical, electrical or other power.

‘vehicle crossover’ means a Council approved and properly constructed surface providing for vehicular access from the road carriageway to a parcel of land.

‘vermin’ includes rodents and insects likely, or with the potential, to cause a nuisance.

‘waste collection conditions of service’ means the document of that name adopted by Council.

‘wastewater’ means any contaminated water from any operation before it undergoes any form of treatment. The water may be contaminated with solids (soils, organic particles or inorganic particles), chemicals (including simple salts) or changed physical properties such as temperature.

‘wheeled recreational device’ has the same meaning as that defined in the *Road Safety Road Rules 2009*, and means a wheeled device, built to transport a person, propelled by human power or gravity (or in the case of a scooter, propelled by a person pushing one foot against the ground, or by an electric motor or motors, or by a combination of these), and ordinarily used for recreation or play, and:

- a) Includes rollerblades, roller skates, a skateboard, a scooter that is not a motor vehicle, or similar wheeled device; and,
- b) Does not include a golf buggy, pram, stroller or trolley, or a bicycle, wheeled toy, wheelchair (whether motorised or not) used by a person with impaired mobility, scooter used by a person with impaired mobility or a pram or pusher when used for its intended purpose.

'working dog' means a dog usually kept or proposed to be kept:

- a) On land that is classified as Farmland for rating purposes; and
- b) Is owned by someone who is a primary producer or by a person engaged or employed by a primary producer that may or may not live on the land where they are engaged in farming activity; and
- c) Is used primarily for the purpose of:
 - i. Droving, protecting, tending or working stock; or
 - ii. Being trained in droving, protecting or working stock; anddoes not include a declared dog or a dog used for any form of hunting.

'Works within a road reserve permit' means a permit issued by the Council for works undertaken between property boundaries (usually the fence lines) on either side of a Council managed road.

PART B – PUBLIC PLACES AND ROADS

8. Behaviour

- 8.1 A person must not, in a public place or on Council land:
- 8.1.1 Behave in such a manner as to interfere with another person's reasonable use of that place, including but not limited to using indecent language or fighting;
 - 8.1.2 Behave in such a manner as to endanger or be likely to endanger a person's health or life, property or animal;
 - 8.1.3 Destroy, damage, foul, interfere with or deface anything located in or on the place;
 - 8.1.4 Act contrary to a Council sign erected in or on that place without the prior written consent of Council;
 - 8.1.5 Sell or offer for sale any vehicle(s);
 - 8.1.6 Without a permit, use an amplifier or similar electronic device;
 - 8.1.7 Without a permit, allow any animal other than a cat to wander;
 - 8.1.8 Without a permit, temporarily store, deposit or leave any goods, equipment or other item;
 - 8.1.9 Act contrary to any lawful direction of an Authorised Officer including, without limitation, a direction to leave the place, whether or not a fee for admission has been paid;
 - 8.1.10 Place or erect or leave standing any fence or other potential obstruction that impedes, or is likely to impede, a motor vehicle driver, pedestrian, cyclist or other user;
 - 8.1.11 Subject to clause 8.1.13, use or leave a wheeled recreational device:
 - 8.1.11.1 In a manner which interferes with the passage of, causes a nuisance to or endangers any person;
 - 8.1.11.2 In an area where the use of wheeled recreational devices is prohibited, as indicated on a sign erected by the Council.
 - 8.1.12 Subject to clause 8.1.13, allow another person under his or her care and control to use or leave a wheeled recreational device on a public place in contravention of 8.1.11.
 - 8.1.13 The provisions of clauses 8.1.11 and 8.1.12 do not apply to a road.

Penalty for an Infringement Notice: 5 penalty units.

9. Trading Activities

9.1 A person must not, without a permit, on Council land or a public place:

9.1.1. Display, provide or sell any goods or services;

9.1.2. Place out any advertising sign;

9.1.3. Place out any tables and/or chairs for the purposes of outdoor eating/drinking by customers; or,

9.1.4. Place or allow to be placed a seat, umbrella, table, chair, planter box, heater or other items associated with trading activities

or cause or authorise another person to do so.

Penalty for an Infringement Notice: 5 penalty units.

9.2 For the purposes of clause 9.1, each person who:

9.2.1 is knowingly concerned in the operation of the business, event or activity to which the item relates;

9.2.2 has the management of the land, property, business, event or activity to which the item relates;

9.2.3 is a promoter of the land, property, business, event or activity to which the item relates; and

9.2.4 is responsible for the placement, siting or distribution of the item, including without limitation the person who engaged the person who physically placed or distributed the item,

is guilty of an offence against this Local Law, whether or not the person who physically placed the item is identified or prosecuted.

9.3 A person who has placed, allowed to be placed, displayed or allowed to be displayed:

9.3.1 Goods; or

9.3.2 An advertising sign; or,

9.3.3 Seat, umbrella, table, chair, heater, screen, planter box or other item associated with trading activities

on Council land or a public place (whether or not in accordance with a permit), must move or remove the item(s) if directed to do so by:

9.3.4 An Authorised Officer; or,

9.3.5 A member of an emergency service.

Penalty for an Infringement Notice: 5 penalty units.

9.4 An Authorised Officer may impound any:

9.4.1 Goods; or

9.4.2 Advertising sign; or,

9.4.3 Seat, umbrella, table, chair, heater, screen, planter box or other item associated with trading activities

placed or left in contravention of this Local Law or a condition of a permit issued under this Local Law should instructions given under clause 9.3 not be complied with in a timely manner.

9.5 Permit considerations:

In determining whether or not a permit under this Local Law should be issued under clause 9.1, and what conditions should be included on that permit, Council must consider the following:

9.5.1 Whether appropriate and safe pedestrian access can be maintained;

9.5.2 Whether a minimum footpath width of 1.8 metres is provided in order to meet the accessibility requirements of the *Disability Discrimination Act 1992* and design standards for access and mobility under Australian Standard 1428.2 or such similar standards as published from time to time;

9.5.3 Whether the safety of road users, passage of vehicles or the safe ingress or egress of vehicles will be adversely affected;

9.5.4 Whether the proposed sale of goods, sign, chair, table, seat, umbrella, chair, heater, screen, planter box or other item is located directly outside the business of the applicant;

9.5.5 The proportion of the business's frontage taken up by the proposed display of goods;

9.5.6 Where the proposed activity is mobile trading, whether appropriate arrangements can be made for waste water disposal, customer parking, litter and garbage disposal, lighting and advertising signs;

9.5.7 Where the proposed activity is mobile trading, the duration of the permit sought and frequency of the proposed activity;

9.5.8 Where the proposed activity is mobile trading, potential impacts on the availability of parking for vehicles, including whether the proposed activity is to be conducted within an area where vehicles are usually parked or that is marked for the purpose of parking;

9.5.9 Where the proposed activity is mobile trading, whether there are other opportunities for trading as part of a market or other event being held in or around the time of operation sought by the permit application;

9.5.10 Whether permits required by the *Health and Wellbeing Act 2008*, *Food Act 1984* or any other relevant legislation have been obtained;

- 9.5.11 Whether the consent of the Roads Corporation has been obtained where the road is a declared State Highway, Tourist Road or Forest Road;
- 9.5.12 Where the proposed activity is the placement of an advertising sign, the nature and dimensions of the sign, as well as the nature and extent of existing signage on the land;
- 9.5.13 Whether persons who may be liable for injury or property damage caused by the activity are insured against that risk;
- 9.5.14 Whether the proposed activity makes a positive contribution to the character and amenity of the area;
- 9.5.15 Whether the proposed activity will disturb, annoy or disrupt adjacent property owners or occupiers;
- 9.5.16 The effect on the quiet enjoyment of the proposed location for those in the locality;
- 9.5.17 Whether the proposed activity will result in unacceptable visual clutter in and around the area;
- 9.5.18 Whether the proposed activity promotes the vibrancy of the commercial area in which it is located;
- 9.5.19 Whether the applicant has provided a written indemnification of the Council against liability arising from activities authorised by the permit;
- 9.5.20 The views received by Council during any consultation process it undertakes in relation to the request to grant a permit;
- 9.5.21 Whether the proposed activity is undertaken by a not-for-profit charity or a local community organisation; and,
- 9.5.22 Any other matters relevant to the circumstances of the application.

10. Alcohol

- 10.1 A person must not, without a permit, consume or carry an open receptacle containing alcohol:
 - 10.1.1 On Council land (excluding a road vested in or under the care and management of the Council) between 11pm and 6am; or
 - 10.1.2 At any time in an alcohol free zone.

Penalty for an Infringement Notice: 5 penalty units.

- 10.2 A person must not on Council land (excluding a road vested in or under the care and management of the Council) or an alcohol free zone:
- 10.2.1 Have in his or her possession or control any alcohol after an Authorised Officer has directed that person to dispose of the alcohol;
 - 10.2.2 Have in his or her possession or control any alcohol in an unsealed container after an Authorised Officer has directed that the person seal the container; or,
 - 10.2.3 Consume any alcohol after an Authorised Officer has directed that person to stop the consumption of alcohol.

Penalty for an Infringement Notice: 5 penalty units.

- 10.3 Where an Authorised Officer believes, on reasonable grounds, that a person is in contravention of or has contravened clauses 10.1 or 10.2 the Authorised Officer may direct the person to surrender the liquor in any unsealed container to them.
- 10.4 A person to whom a direction is given under clause 10.3 must comply with that direction.

Penalty for an Infringement Notice: 5 penalty units.

- 10.5 If a person to whom a direction is given under clause 10.3 does not immediately comply with that direction, the Authorised Officer may seize any alcohol in any unsealed container in that person's possession and then keep, store, dispose of or otherwise deal with that liquor as he or she sees fit.
- 10.6 The requirements of clauses 10.1 and 10.2 do not apply to a person who consumes or possesses alcohol in any licensed premises or authorised premises as defined in the *Liquor Control Reform Act 1998*.

10.7 **Permit considerations**

In determining whether or not a permit under this Local Law should be issued under clause 10.1, and what conditions should be included on that permit, Council must consider the following:

- 10.7.1 The nature of the event where alcohol is being served or consumed;
- 10.7.2 The duration of the event where alcohol is being served or consumed;
- 10.7.3 The proposed hours of alcohol consumption;
- 10.7.4 The location of the land;
- 10.7.5 The suitability of the land for the type of event or use proposed;
- 10.7.6 The effect on the quiet enjoyment of the proposed event location for those in the locality;
- 10.7.7 The views of emergency services;

- 10.7.8 The views received by Council during any consultation process it undertakes in relation to the request to grant a permit;
- 10.7.9 The applicant's record in conducting similar events or functions;
- 10.7.10 Whether the applicant has provided public liability insurance to the minimum valued specified by Council with the Council's interest noted and confirming items subject to the approval are covered outside the land;
- 10.7.11 Whether the consumption of alcohol is an associated business activity of the applicant (eg a restaurant, sporting club); and,
- 10.7.12 Any other matters relevant to the application or circumstances.

11. Access to Municipal Reserves and Council Buildings

- 11.1 A person must not:
 - 11.1.1 Enter a municipal reserve or a Council building other than through an entrance provided for that purpose;
 - 11.1.2 Park, drive or ride a vehicle on land within a municipal reserve unless that land has been designed, designated or developed for the purpose of parking, riding or driving a vehicle; or,
 - 11.1.3 Ride a bicycle or wheeled recreational device on a municipal reserve in a manner that:
 - 11.1.3.1 Interferes with another person's use and enjoyment of that place;
 - 11.1.3.2 Endangers any other person; or
 - 11.1.3.3 Causes damage to the municipal reserve.

Penalty for an Infringement Notice: 5 penalty units.

12. Council Land Management Signs

- 12.1 The Council may, by a notice or sign, prohibit or regulate the use of any Council land or the conduct of a person on that land.
- 12.2 A person must not erect or remove, interfere or deface any notice or sign referred to in clause 12.1, except with the written authority of the Council.

Penalty for an Infringement Notice: 3 penalty units.

- 12.3 A person must not act contrary to any notice or sign referred to in clause 12.1.

Penalty for an Infringement Notice: 5 penalty units.

13. Use of Council Buildings and Council Land

- 13.1 A person must not, without a permit, organise or conduct any function, market or event, excluding a small/low impact event, in a Council building or on Council land.
- 13.2 A person must not:
- 13.2.1 Bring any animal into a Council building, or allow any animal under his or her control to remain in a Council building, except for a service dog;
 - 13.2.2 Bring into a Council building, or onto Council land, any substance, liquid or powder which may:
 - 13.2.2.1 Be dangerous or injurious to health;
 - 13.2.2.2 Is illegal; or,
 - 13.2.2.3 Cause discomfort to any persons;including but not limited to poisons, substances that can cause skin or eye irritations, flammable gas or liquids or corrosives.
 - 13.2.3 Enter or remain in a Council building or on Council land during hours when the facility is not open to the public;
 - 13.2.4 Enter or remain in a Council building or on Council land without having paid any fee imposed by Council for entry or use of that area;
 - 13.2.5 Smoke in any Council building; or,
 - 13.2.6 Remain in a Council building or on Council land after being directed to leave the area by an Authorised Officer.

Penalty for an Infringement Notice: 5 penalty units.

13.3 Permit considerations

In determining whether or not a permit under this Local Law should be issued under clause 13.1, and what conditions should be included on that permit, Council must consider the following:

- 13.3.1 The nature of the event;
- 13.3.2 The duration of the event;
- 13.3.3 The proposed hours of operation;
- 13.3.4 The location of the land;
- 13.3.5 The suitability of the land for the type of event or use proposed;
- 13.3.6 The availability of sanitary facilities to the land;
- 13.3.7 The likely damage to be caused;
- 13.3.8 The availability of parking;
- 13.3.9 The likely effects on traffic in the area;
- 13.3.10 The expected number of visitors/patrons;
- 13.3.11 The effect on the quiet enjoyment of the proposed event location for those in the locality;

13.3.12 The views received by Council during any consultation process it undertakes in relation to the request to grant a permit; and,

13.3.13 Any other matters relevant to the application or circumstances.

14. Removing or Impounding of Unlawfully Parked Vehicles

14.1 An Authorised Officer may cause a vehicle to be removed, or removed and impounded if, having regard to the risk of nuisance, vehicle or pedestrian accidents, congestion or delay to road users, the Authorised Officer is of the view that it is appropriate to do so.

14.2 The power conferred by clause 14.1 can only be exercised in relation to a vehicle which is in:

14.2.1 A school crossing zone; or

14.2.2 A parking area reserved for vehicles displaying a Disabled Persons Parking Scheme Permit; or

14.2.3 An area such as an intersection zone where the size and nature of the illegally parked vehicle creates an added problem for drivers' and pedestrians' line of sight; or

14.2.4 A special event, where illegal parking is likely to result in unreasonable congestion; or

14.2.5 Where a clear width of 3 metres has not been left for the passage of vehicles; or,

14.2.6 Any other place where an illegally parked or abandoned vehicle is causing or may cause a hazardous obstruction.

14.3 If a registered vehicle is not impounded but removed to a location less than 250 metres away from its original location, no notice of removal is required to be given to the owner.

14.4 Where a registered vehicle is removed to a location more than 250 metres away from its original location and is relocated on a road, the Authorised Officer must give notice in writing to the owner by attaching the notice to the windscreen or other convenient part of the vehicle.

14.5 If a registered vehicle is impounded the Council under clause 14.1, the Authorised Officer must notify in writing the registered owner in accordance with clause 66 of this Local Law.

15. Overhanging Vegetation

- 15.1 A person who owns or occupies any land abutting any road or public place must not allow a tree, shrub or hedge or any other thing on that land to overhang, or otherwise obstruct, an adjacent road or public place, in such a manner that impedes the safe and unencumbered movement by pedestrians and/or motor vehicles.

Penalty for an Infringement Notice: 2 penalty units.

16. Shopping Trolleys

- 16.1 A person must not leave a shopping trolley in a public place except in an area designated for the storage of shopping trolley.

Penalty for an Infringement Notice: 5 penalty units.

- 16.2 If a shopping trolley has been left in a public place (other than in an area designated for that purpose), an Authorised Officer may direct the owner of the shopping trolley, or the person in charge of the land from which it has apparently been transported, to remove the shopping trolley.

- 16.3 A person to whom a direction has been given under this clause must comply with that direction.

Penalty for an Infringement Notice: 5 penalty units.

- 16.4 An Authorised Officer may impound a shopping trolley left in a public place in contravention of clause 16.1. Clause 66 of this Local Law applies in these circumstances.

17. Clothing Bins

- 17.1 A person must not, without a permit, place, allow to be placed or allow to remain in place a clothing bin in a public place.

Penalty for an Infringement Notice: 2 penalty units.

18. Bulk Rubbish Containers or Obstructions

- 18.1 A person must not, without a permit, leave or allow to be left any:
- 18.1.1 Bulk rubbish container in a public place; or,
 - 18.1.2 Other thing which encroaches on or obstructs the free use of a public place that reduces the breadth, or confines the limits of that place.

Penalty for an Infringement Notice: 5 penalty units.

19. Occupation of Roads or Public Places for Works

- 19.1 A person must not, without a permit:
- 19.1.1 Occupy or fence off;
 - 19.1.2 Erect a hoarding or scaffolding on;
 - 19.1.3 Use a mobile crane or travel tower for any work on;
 - 19.1.4 Make a hole or excavation in;
 - 19.1.5 Fill a hole or excavation in;
 - 19.1.6 Remove, damage or interfere with a traffic control device on; or,
 - 19.1.7 Obstruct in any way
- any public place.

Penalty for an Infringement Notice: 5 penalty units.

20. Substances Deposited on a Road

- 20.1 A person must not deposit, cause or allow any mud, grease, oil, clay, cement, concrete, asphalt, debris or other substance to be deposited on any road or into any drain or public place.

Penalty for an Infringement Notice: 3 penalty units.

21. Collection of Money

- 21.1 A person must not, without a permit, solicit or collect money or any articles from any person for a charitable organisation, or cause or authorise another person to do so in a public place.

Penalty for an Infringement Notice: 1 penalty unit.

22. Distribution of Unsolicited Material

- 22.1 A person must not, without a permit, distribute to any person any advertising or promotional items or any printed material in a public place.

Penalty for an Infringement Notice: 2 penalty units.

23. Open Air Performances and Busking

- 23.1 A person must not, without a permit, busk or conduct an open air performance with the object of collecting money in a public place.

Penalty for an Infringement Notice: 1 penalty unit.

24. Use of Remotely Controlled Aircraft and Drones

- 24.1 A person must not, without a permit, fly or allow another person to fly, a remotely controlled aircraft or drone in a public place in such a way as to obstruct, inconvenience, hinder, endanger, alarm or prevent the free passage of other uses of the public place, or damage property.

Penalty for an Infringement Notice: 2 penalty units.

25. Fireworks

- 25.1 A person must not, without a permit, discharge, or cause or allow to be discharged, any fireworks in a public place.

Penalty for an Infringement Notice: 10 penalty units.

PART C – COUNCIL INFRASTRUCTURE

26. Protection and Use of Drains

26.1 A person must not:

26.1.1 Destroy, damage, tap into or purposefully dispose of any rubbish (whether solid or liquid) into any drain vested in the Council including a kerb and channel, open channel, underground drain, culvert drainage pit and the like;

26.1.2 Allow any drain located on land of which he or she is the owner or occupier to be in:

26.1.2.1 Disrepair; or

26.1.2.2 A condition which is a nuisance or dangerous to Council assets; or,

26.1.2.3 A condition which is dangerous to human health or the environment.

Penalty for an Infringement Notice: 3 penalty units.

26.2 A person must not, without a permit, destroy, damage, or interfere with any Council asset.

Penalty for an Infringement Notice: 3 penalty units.

27. Protection of Council Infrastructure Prior to or During Building Work

27.1 Prior to the commencement of any building work, the person in charge of the building work or the owner of the building site must:

27.1.1 Lodge an application for a Works Within a Road Reserve Permit with the Council if the building works will impact on the road; and,

27.1.2 Not commence works until a Works Within a Road Reserve permit has been issued; and,

27.1.3 Ensure that the requirements of the Works Within a Road Reserve Permit are met at all times.

Penalty for an Infringement Notice: 1 penalty unit.

- 27.2 Clause 27.1 does not apply if the works required by the building permit do not necessitate any works within the road reserve including, but not limited to:
- 27.2.1 Alterations to or construction of vehicle crossings;
 - 27.2.2 Utility Service connections (e.g. plumbing connection to water main);
or,
 - 27.2.3 Drainage connections (e.g. house drain connections to piped drainage in road or to kerb).

28. Vehicle Access

- 28.1 The owner of land must ensure that, at each point of vehicular access from a carriageway on a road to the land, there is a properly constructed vehicle crossover that is constructed in accordance with the specified standards of Council to the satisfaction of an Authorised Officer.

Penalty for an Infringement Notice: 5 penalty units.

- 28.2 A person must not cause or allow, or drive a motor vehicle from or onto land other than by an appropriate vehicle crossover.

Penalty for an Infringement Notice: 5 penalty units.

- 28.3 A person must not, without a Works Within a Road Reserve Permit, construct a temporary or permanent vehicle crossover.

Penalty for an Infringement Notice: 5 penalty units.

- 28.4 Where works on land involves the relocation or closure of a point of vehicular access any redundant part of the vehicle crossover must be removed and the kerb, drain, footpaths, nature strip or other part of the road be reinstated to the satisfaction of an Authorised Officer.

Penalty for an Infringement Notice: 2 penalty units.

- 28.5 Council or an Authorised Officer may, by notice in writing, require the owner of land to:

28.5.1 Construct a temporary or permanent vehicle crossover;

28.5.2 Repair or reconstruct a vehicle crossover;

28.5.3 Remove a vehicle crossover; or

28.5.4 Repair or reconstruct a footpath adjacent to the land to the extent that any damage is attributable to the vehicle crossover on that land.

- 28.6 A person must comply with a notice issued under clause 28.5.

Penalty for an Infringement Notice: 2 penalty units.

PART D – AMENITY & SAFETY

29. Numbering of Allotments

- 29.1 Council may allocate a number to land and may, from time to time, change the numbering.
- 29.2 The owner or occupier of land to which a number has been allocated by the Council must mark the land with the number in a form, of sufficient size and in an unobstructed position, so as to be clearly visible and legible from the adjacent road at all times.

Penalty for an Infringement Notice: 1 penalty unit.

30. Visibility at Intersections

- 30.1 The owner or occupier of any land within 9 metres of an intersection of two or more roads must not allow a tree, shrub or hedge located on the land to grow, or a structure, container, bin, building materials or any other object to be placed, so that there is an obstruction to the clear view:

30.1.1 By a driver of a motor vehicle of a pedestrian, other motor vehicle or traffic control item; or,

30.1.2 By a pedestrian of a motor vehicle or traffic control item.

Penalty for an Infringement Notice: 5 penalty units.

31. Condition of Land

- 31.1 An owner or occupier of land must not allow or permit the land to be kept in a manner which is dangerous, or likely to cause danger to life or property, including land which is:

31.1.1 A haven for vermin, rodents or reptiles, spiders, European wasps, environmental weeds or insects; or,

31.1.2 Used without a permit for the storage of any substance which is dangerous or is likely to cause danger to life or property.

Penalty for an Infringement Notice: 5 penalty units.

31.2 An owner or occupier of land must not allow or permit his or her land to be kept in a manner which is unsightly, offensive or detrimental to the general amenity of the neighbourhood, including land which:

31.2.1 Harbours rubbish;

31.2.2 Contains disused excavation or waste material; or,

31.2.3 Is unsightly or detrimental for any other reason.

Penalty for an Infringement Notice: 5 penalty units.

31.3 An owner or occupier of land must not allow or permit his or her land to be kept in a manner which interferes with the reasonable comfort of any person, including:

31.3.1 The escape of dust, smoke or fine particulate matter;

31.3.2 The emission of light, noise or odours.

Penalty for an Infringement Notice: 5 penalty units.

32. Machinery, materials, goods or vehicles on land

32.1 Unless permitted under the Planning Scheme a person must not, without a permit, use any land for the:

32.1.1 Storage or use of temporary buildings, or other similar structures;

32.1.2 Assembly or dismantling of machinery, materials or goods unless for personal or recreational use of the owner or occupier of the land and not for financial gain;

32.1.3 Storage of unregistered vehicles or parts of vehicles;

32.1.4 Storage of caravans and trailers in a dilapidated condition;

32.1.5 Storage, assembly or dismantling of machinery or vehicles;

32.1.6 Storage of building materials; or,

32.1.7 Storage of buildings in the process of being relocated, including removable houses.

Penalty for an Infringement Notice: 5 penalty units.

33. Camping and Caravans in a Public Place

33.1 A person must not, without a permit, establish or make use of a campsite either in a public place, municipal reserve or Council land in a caravan, tent, motor home or any other temporary or makeshift structure unless all of the following conditions are met:

33.1.1 No Council or other official signs are displayed in the general area or at an approach road or access road prohibiting camping; and

33.1.2 The site and proposed use complies with any Council or other official signs in the areas regulating standards for such use; and,

33.1.3 The site is not within a Residential Zone as defined by the Planning Scheme within the municipal district.

Penalty for an Infringement Notice: 4 penalty units.

33.2 Permit considerations:

In determining whether or not a permit under this Local Law should be issued under clauses 33.1 and what conditions should be included on that permit, Council must consider the following:

33.2.1 The location of the land;

33.2.2 The zoning of the land;

33.2.3 The suitability of the land for camping, including but not limited to the size of the land and proximity of abutting dwellings;

33.2.4 The number of tents or other structures to be located on the land and the proposed number of occupants;

33.2.5 The length of time the tents and other structures will be erected on the land;

33.2.6 The number of other such permits issued for the same time and location;

33.2.7 Whether the proposed tents or other structures are to be within 30 metres of a watercourse;

33.2.8 The availability of sanitary and toilet facilities on the land;

33.2.9 The impact on the amenity, including visual amenity, and the quiet enjoyment of the area; and,

33.2.10 Any other matter relevant to the circumstances associated with the application.

34. Camping and Caravans on Private Land

- 34.1 A person must not, without a permit, store on private land any caravan, mobile home or tent unless there is a dwelling on the land and:
- 34.1.1 The caravan, mobile home or tent is not set up for the ready use of an occupant for overnight accommodation; and
 - 34.1.2 An annex is not attached to a caravan or mobile home; and,
 - 34.1.3 The caravan, mobile home or tent is not within 6 metres of the premise's frontage, or if within this setback distance it is stored in a carport or garage.

Penalty for an Infringement Notice: 4 penalty units.

- 34.2 A person must not, without a permit, use accommodation in any caravan, mobile home or tent on any private land unless all of the following requirements are met:
- 34.2.1 The occupation does not exceed 28 days in any calendar year; and
 - 34.2.2 No rent, licence fee or charge is paid by any person in respect of the occupation; and
 - 34.2.3 Toilet, bathing and laundry facilities are made available without charge to the occupant(s) of the caravan, mobile home or tent; and
 - 34.2.4 Waste water disposal from the caravan, mobile home or tent does not cause a health risk, nuisance or an offensive condition; and,
 - 34.2.5 The caravan, mobile home or tent:
 - 34.2.5.1 Is not within a distance of 6 metres of the frontage of the land; and
 - 34.2.5.2 Within 3 metres of any other boundary; and
 - 34.2.5.3 Is not more than 20 metres from any dwelling on the land; and
 - 34.2.5.4 Is no closer than 30 metres to a watercourse; and,
 - 34.2.5.5 Does not have a rigid annex attached; and
 - 34.2.5.6 There is a dwelling on the land.

Penalty for an Infringement Notice: 4 penalty units.

34.3 **Permit considerations:**

In determining whether or not a permit under this Local Law should be issued under clauses 34.1 and 34.2, and what conditions should be included on that permit, Council must consider the following:

- 34.3.1 The location of the land;
- 34.3.2 The zoning of the land;
- 34.3.3 The suitability of the land for camping including, but not limited to, the size of the land and proximity of abutting dwellings;
- 34.3.4 The number of tents or other structures to be located on the land and the number of proposed occupants;
- 34.3.5 The length of time the tents and other structures will be erected on the land;
- 34.3.6 The frequency, and duration, of permits issued for camping in the past 24 months;
- 34.3.7 The availability of sanitary and toilet facilities on the land;
- 34.3.8 Whether the camping is for the purpose of housing for the applicant while a home is being erected on the land;
- 34.3.9 The impact on the amenity, including visual amenity, and the quiet enjoyment of the area; and,
- 34.3.10 Any other matter relevant to the circumstances associated with the application.

35. **Open Air Burning**

35.1 A person must not, without a permit, burn in the open air or in a properly constructed fireplace any material on land zoned located in a Residential Zone (with the exception of land within a Low Density Residential Zone), Business or Industrial zone under the Planning Scheme within the municipal district, unless the fire is lit for the purpose of:

- 35.1.1 Cooking; or
- 35.1.2 Heating when contained in a fire proof receptacle; or,
- 35.1.3 Fire lit by a member of the Country Fire Authority or other approved agency, in the course of his or her duty.

Penalty for an Infringement Notice: 10 penalty units.

35.2 A person must not, without a permit, burn or cause or allow to be burned, any substance that may:

35.2.1 Be dangerous to the health of any person; or,

35.2.2 Be offensive to any person;

in a manner that causes a hazard, risk or nuisance to another person or property.

Penalty for an Infringement Notice: 5 penalty units.

35.3 A member of an emergency service or an Authorised Officer may direct any person to extinguish a fire that contravenes, or is likely to contravene, this Local Law.

35.4 A person must not fail to comply with a direction given in accordance with clause 35.3.

Penalty for an Infringement Notice: 10 penalty units.

35.5 The Council may exempt in writing a person, class of persons or body corporate from the application of clause 35.1.

35.6 **Permit considerations:**

In determining whether or not a permit under this Local Law should be issued under clauses 35.1 and 35.2, and what conditions should be included on that permit, Council must consider the following:

35.6.1 The location of the proposed burning in proximity to adjoining dwellings and buildings;

35.6.2 The zoning of the land on which the burning is to take place;

35.6.3 Alternative options for the disposal of the material;

35.6.4 The proposed supervision of the burning;

35.6.5 What means are proposed to control and extinguish the spread of fire;

35.6.6 The degree to which the material to be burned may produce offensive, toxic or unpleasant smells or smoke;

35.6.7 The likely duration of the burning;

35.6.8 The volume and nature of the material to be burned;

35.6.9 Any policies of the Environment Protection Authority;

35.6.10 Whether any fire restrictions are or will be in place at the proposed time of the burn; and,

35.6.11 Any other matter relevant to the circumstances associated with the application.

36. Use of Recreational Vehicles

- 36.1 A person must not, without a permit, use a recreational vehicle on Council land (other than a road) or on private land located within any Residential, Business or Industrial Zone under the Planning Scheme within the municipal district.

Penalty for an Infringement Notice: 5 penalty units.

- 36.2 A person must not, without a permit, allow a recreational vehicle to be used on private land within a Rural Zone under the Planning Scheme so as to cause detriment to the amenity of the neighbourhood, whether by:

36.2.1 Emission of dust; or

36.2.2 Constant noise; or,

36.2.3 Any other reason as defined by an Authorised Officer person which is unreasonable or which would cause discomfort to other persons.

Penalty for an Infringement Notice: 5 penalty units.

- 36.3 An Authorised Officer may impound a recreational vehicle being used in contravention of this Local Law in accordance with clause 68 of this Local Law.

- 36.4 A person must not ride an unregistered recreational vehicle on Council land or municipal reserve.

Penalty for an Infringement Notice: 5 penalty units.

- 36.5 A person who owns an unregistered recreational vehicle must not knowingly allow another person to ride the recreational vehicle on Council land or municipal reserve.

Penalty for an Infringement Notice: 5 penalty units.

36.6 **Permit considerations:**

In determining whether or not a permit under this Local Law should be issued under clauses 36.1 and 36.2, and what conditions should be included on that permit, Council must consider the following:

36.6.1 The location of the land where the vehicle(s) is to be used;

36.6.2 The zoning of the land;

36.6.3 The suitability of the land for use by recreation vehicles, including but not limited to the size of the land;

36.6.4 The number of vehicles for which the permit is required;

36.6.5 The days, times and hours the vehicles are to be used;

36.6.6 The impact on the amenity and the quiet enjoyment of the area;

36.6.7 Proximity of residential premises on adjoining land;

- 36.6.8 Opportunities for mitigation of dust, noise and any other adverse impacts on the amenity of the neighbourhood;
- 36.6.9 The likely damage which may be caused to any Council managed land or any other land not managed by Council; and,
- 36.6.10 Any other matter relevant to the circumstances associated with the application.

37. Use of Scareguns

- 37.1 A person must not use, or allow or authorise others to use, a scaregun unless all of the following are satisfied:
 - 37.1.1 The scaregun is only used for the bona fide purpose of scaring birds away from crops during a recognised crop growing period; and
 - 37.1.2 The scaregun is positioned on land within in a Rural Zone under the Planning Scheme; and
 - 37.1.3 The distance in a straight line between the scaregun and any residential premises is 300 metres or greater; and
 - 37.1.4 The distance in a straight line between the scaregun and another scaregun in use (whether located on the same or on another land) is 150 metres or greater; and
 - 37.1.5 The scaregun is only used between 7:00am and sunset on any day; and
 - 37.1.6 The scaregun is not used in excess of 12 hours in any one day; and
 - 37.1.7 The maximum noise level of the scaregun when measured immediately in front of residential premises on another parcel of land is 100dB LIN peak or less; and
 - 37.1.8 The permitted number and regularity of blasts in any one day period does not exceed the number set out in clause 37.2; and
 - 37.1.9 No more than one scaregun is in use at any one time on the land unless a permit has been issued by Council under this Local Law to allow multiple scareguns; and,
 - 37.1.10 Wherever possible, the shielding effects of natural features, buildings or the like are used to reduce the level of the blasts on nearby properties.

Penalty for an Infringement Notice: 4 penalty units.

37.2 For the purpose of clause 37.1.8 the number and regularity of blasts in any one day period is as follows:

37.2.1 In the case of a single blast scaregun, 70 blasts, with the time between blasts to be no less than six minutes;

37.2.2 In the case of a multiple blast scaregun, 70 blasts, with

37.2.2.1 The time between blast sequences being no less than six minutes; and,

37.2.2.2 The time between the first blast of a sequence and the last blast of a sequence being no more than one minute.

37.2.3 Each blast in a sequence from a multiple blast scaregun shall be counted as one blast.

Penalty: 1 Penalty Unit for an Infringement Notice, maximum of 10 Penalty Units if found guilty of an offence.

37.3 A permit may be granted to allow the use of multiple scareguns where the area under crop is twenty hectares or more, but so as not to allow more than two scareguns for each ten hectares of crop.

PART E – ANIMALS, BIRDS AND LIVESTOCK

38. Restriction on the Number of Animals that May be Kept on any Land

38.1 The owner or occupier of any land must not, without a permit, keep or allow to be kept, or remain on any land any more animals or birds other than is stated in the following table:

Column 1 – Type of animal *	Column 2 – Land less than 1000m²*	Column 3 – between 1000 – 4000m²*	Column 4 – Land greater than 4000m²*
Dogs	2	2	4
Cats	2	2	4
Poultry	5	5	Not limited by this Local Law
Roosters, peacocks and donkeys	Not permitted	Not permitted	Not limited by this Local Law
Pigs	Not permitted	Not permitted	Not limited by this Local Law
Other large birds (excluding peacocks, poultry and roosters)	5	5	Not limited by this Local Law
Livestock	Not permitted	Maximum density of one animal per every 2000 square metres of open land (excluding buildings)	Not limited by this Local Law
Maximum total number of animals of any kind	20	20	Not limited by this Local Law

* Note: The Planning Scheme may also affect a person's right to use land for the keeping of animals.

Penalty for an Infringement Notice: 2 penalty units.

38.2 The owner or occupier of any land must not, without a permit, keep or allow to be kept or remain on land in a Rural Zone under the Planning Scheme more than:

38.2.1 4 dogs;

38.2.2 4 cats.

Penalty for an Infringement Notice: 2 penalty units.

38.3 For the purpose of clauses 38.1 and 38.2 any of the following animals are not to be counted:

38.3.1 Any large bird or poultry that is less than 12 weeks old;

38.3.2 Any dog or cat that is less than 3 months old.

38.4 The limits for dogs and cats listed under clause 38.1 and 38.2 does not apply to land with a valid permit issued under the *Domestic Animals Act 1994* for a Domestic Animals Business.

38.5 The limits on the number of dogs under clause 38.2 does not include a working dog.

38.6 An owner of a declared dog may only keep two such dogs in total on any land.

Penalty for an Infringement Notice: 5 penalty units.

38.7 The owner or occupier of any land who keep bees on that land must do so in accordance with the Planning Scheme and the Apiary Code of Practice, May 2011 or such similar code of practice as issued from time to time.

Penalty for an Infringement Notice: 1 penalty unit.

38.8 Permit considerations:

In determining whether or not a permit under this Local Law should be issued under clauses 38.1 and 38.2, and what conditions should be included on that permit, Council must consider the following:

38.8.1 The size of the land on which the animals are to be kept;

38.8.2 The number and type of animals already kept on the land;

38.8.3 The zoning of the land;

38.8.4 The proximity to adjoining habitable dwellings;

38.8.5 Potential adverse impacts on the amenity of the area including, but not limited to, potential noise, smell, disposal of faeces, food storage facilities and the location of proposed accommodation for the animals;

38.8.6 The type and additional numbers of animals to be kept;

38.8.7 The likely impacts on adjoining owners;

38.8.8 The adequacy of proposed animal shelters;

- 38.8.9 History of any complaints received in relation to the keeping of animals or birds on the land to which the application relates; and,
- 38.8.10 Any other matter relevant to the circumstances associated with the application.

39. Conditions Under Which Animals are Kept

- 39.1 The owner or occupier of any land on which any animal is kept must ensure that:
- 39.1.1 The place where the animal is kept is maintained in a clean, inoffensive and sanitary condition;
- 39.1.2 The place where the animal is kept is maintained so as to not to cause any nuisance to any other person or create a condition which is offensive or injurious to health;
- 39.1.3 The place where the animal is kept is adequately fenced to prevent the animal from being at large or escaping;
- 39.1.4 The animal is provided with adequate clean drinking water at all times; and,
- 39.1.5 The animal is provided with adequate sustenance.

Penalty for an Infringement Notice: 5 penalty units.

40. Noise and Smell

- 40.1 The occupier, or owner, of any land on which any animal is kept must not allow any noise or smell to emanate from the animal which interferes with the reasonable comfort or convenience of any person.

Penalty for an Infringement Notice: 5 penalty units.

41. Dog Litter

- 41.1 Whenever a dog is outside the land at which it is normally kept, the person who has the care or control of the animal must:
- 41.1.1 Not allow any faeces from the animal to remain on a road, public place or land owned or occupied by any other person;
- 41.1.2 Carry a litter device and must use it for the purposes of removing any faeces of the animal; and,
- 41.1.3 Dispose of any faeces of the animal in a manner which does not cause any nuisance or health hazard to any person or detriment to the environment.

Penalty for an Infringement Notice: 2 penalty units.

42. Dogs to be on Leads

- 42.1 A person who owns, or is in apparent control of, a dog in a public place within a township (defined as containing land zoned in any Residential, Business or Industrial Zone under the Planning Scheme), must keep the dog under control by a leash, chain or cord connecting that person to the dog unless the public place is designated by Council signage to be an 'off leash' area.

Penalty for an Infringement Notice: 2 penalty units.

- 42.2 Dogs that are unleashed in a Rural Zone, as defined in the Planning Scheme, must remain under effective control at all times.

Penalty for an Infringement Notice: 2 penalty units.

- 42.3 Any dog that has been classified a dangerous or menacing dog or is of a restricted breed must be muzzled and kept on a lead, chain or chord at all times and under the control of a person aged over 17 years of age across the municipal district when in a public place.

Penalty for an Infringement Notice: 2 penalty units.

43. Wandering Animals

- 43.1 The owner or person in charge of any animal must not, without a permit, allow that animal to wander from the land where it is normally kept.

Penalty for an Infringement Notice: 10 penalty units.

- 43.2 The owner or person in charge of any animal must ensure that the land in which the animal is normally kept is adequately fenced to prevent the animal or bird from being at large or escaping.

Penalty for an Infringement Notice: 10 penalty units.

44. Livestock on Roads

- 44.1 A person who is the owner of livestock or in apparent control of any livestock must not allow livestock to graze, or be driven on any Council land, road or municipal reserve, without a permit unless clause 44.5 applies.

Penalty for an Infringement Notice: 10 penalty units.

- 44.2 A person who is the owner of livestock must not, without a permit, allow livestock to be:

44.2.1 Found at large or not securely confined; or

44.2.2 On a road; or,

44.2.3 On land not within their ownership or occupancy.

Penalty for an Infringement Notice: 10 penalty units.

44.3 An Authorised Officer may impound any livestock if the Authorised Officer has a reasonable belief that a person has contravened clauses 44.1 or 44.2 of this Local Law.

44.4 The owner of livestock, or the person in apparent control of livestock, found at large or not securely confined within the owner's land must immediately comply with any instruction or direction to move such livestock given by an Authorised Officer or a member of an emergency service.

Penalty for an Infringement Notice: 10 penalty units.

44.5 A person does not require a permit under clause 44.1 if all of the following are met:

44.5.1 The person has obtained the relevant permission from VicRoads as the road authority for the road(s) where the livestock is to be grazed or driven; and

44.5.2 The person complies wholly with the 'Manual for Traffic Control at Stock Crossings' (VicRoads February 2011) or such other similar guidelines issued by VicRoads from time to time; and

44.5.3 The livestock is to be supervised and kept under the effective control of a person(s) who is competent in the management of livestock; and,

44.5.4 The person has a current public liability insurance policy that relates to stock movement on roads.

44.6 Permit considerations:

In determining whether or not a permit under this Local Law should be issued under clause 44.1, and what conditions should be included on that permit, Council must consider the following:

44.6.1 The period of time requested for the permit, as an applicant can request a permit to be issued for a maximum period of five (5) years;

44.6.2 Whether the permit applicant is able to provide public liability insurance policy for a minimum value of \$20,000,000 that indemnifies Council against all actions, cost claims, charges, expenses and damage whatsoever which may be brought or made or claimed against Council.

44.6.3 Whether the applicant is agreeable to providing a Certificate of Insurance referred to in clause 44.6.2 on an annual basis, and whether the applicant is agreeable to the permit being cancelled should this Certificate of Insurance not be provided to Council.

PART F – WASTE COLLECTION SERVICE

45. Domestic Waste

- 45.1 The occupier of every parcel of land to which the Council supplies a garbage bin:
- 45.1.1 May deposit refuse in the garbage bin and leave the garbage bin out on the nature strip, or at the front of the land, or at an alternative Council designated collection point, for collection on days designated by Council as collection days;
 - 45.1.2 Must not deposit items or material other than refuse in the garbage bin;
 - 45.1.3 Must not leave the garbage bin outside the land for more than one day before or after the designated collection day;
 - 45.1.4 Must place the garbage bin in a position, details of which may be specified in written advice given to the occupier by Council, in front of the land that allows collection by a waste collection vehicle;
 - 45.1.5 Must maintain the garbage bin in a clean and sanitary condition;
 - 45.1.6 Must ensure that the area where the garbage bin is kept on the land is kept in a clean and sanitary condition;
 - 45.1.7 Must ensure that the lid of the garbage bin is closed, other than when refuse is being deposited in it or removed from it;
 - 45.1.8 Must ensure the garbage bin is not overflowing and that the lid can be completely closed;
 - 45.1.9 Must ensure that bins which have blown over are set upright and any refuse cleaned up;
 - 45.1.10 Must ensure that the garbage bin is not removed from the land except for the purpose of collection of refuse in accordance with clause 45.1.1;
 - 45.1.11 Must not deposit refuse in any garbage bin, recycling bin or other collection bin supplied to another land;
 - 45.1.12 Must comply with any policy or service requirements set out by Council in relation to domestic waste collection services.

Penalty for an Infringement Notice: 5 penalty units.

46. Recyclable Goods

- 46.1 The occupier of every parcel of land to which the Council supplies a recycling bin:
- 46.1.1 May deposit recyclable goods in the recycling bin and leave the recycling bin out on the nature strip or at the front of the land, or at an alternative Council designated collection point, for collection on days designated by Council as collection days;
 - 46.1.2 Must not deposit material other than recyclable goods in the recycling bin;
 - 46.1.3 Must not leave the recycling bin outside the land for more than one day before or after a collection day;
 - 46.1.4 Must place the recycling bin in a position, details of which may be specified in written advice given to the occupier by Council, in front of the land that allows collection by a waste collection vehicle;
 - 46.1.5 Must maintain the recycling bin in a clean and sanitary condition;
 - 46.1.6 Must ensure that the area where the recycling bin is kept on the land is kept in a clean and sanitary condition;
 - 46.1.7 Must ensure that the recycling bin is not removed from the land except for the collection of recyclable goods in accordance with clause 46.1.1;
 - 46.1.8 Must ensure that the lid of the recycling bin is closed, other than when recyclable goods are being deposited in it or removed from it;
 - 46.1.9 Must ensure the recycling bin is not overflowing and that the lid can be completely closed;
 - 46.1.10 Must ensure that bins which have blown over are set upright and any recyclable goods cleaned up;
 - 46.1.11 Must not deposit recyclable goods in any garbage bin, recycling bin or other collection bin supplied to another parcel of land;
 - 46.1.12 Must comply with any policy or service requirements set out by Council in relation to domestic recyclable goods collection services.

Penalty for an Infringement Notice: 5 penalty units.

47. Restriction on the Use of Rubbish Bins in Public Places

- 47.1 A person must not place or deposit any refuse or recyclable goods that have been generated on or from land owned or occupied by that person in a rubbish bin in a public place.

Penalty for an Infringement Notice: 2 penalty units.

48. Bulk Rubbish Containers on Private Land

- 48.1 An Authorised Officer may, by notice in writing, direct the owner or occupier of any land to install, repair, replace or modify a fence near or other means of screening of a garbage bin, recycling bin, or bulk rubbish container so that it is not in public view.

Penalty for an Infringement Notice: 2 penalty units.

- 48.2 An owner or occupier of any land containing a bulk rubbish container must keep the land free of unsightly refuse in or around the bulk rubbish container, even if the unsightly refuse is due to the illegal dumping of rubbish or waste by others who are not connected with the land but able to access the bulk rubbish container from a public place.

Penalty for an Infringement Notice: 2 penalty units.

- 48.3. Each of the owner and occupier of any land must wherever possible locate a bulk rubbish container in a location which avoids the possibility of illegal dumping due to ease of access to the bulk rubbish container from a public place.

49. Depositing of Waste at the Resource Recovery Centre

- 49.1 A person must not, without a permit, deposit any hazardous, dangerous or infectious materials at the Resource Recovery Centre.

Penalty for an Infringement Notice: 5 penalty units.

- 49.2 A person, while at the Resource Recovery Centre, must not do anything contrary to any sign or act contrary to any lawful direction given by an Authorised Officer.

Penalty for an Infringement Notice: 5 penalty units.

50. Scavenging at the Resource Recovery Centre

- 50.1 A person must not, without a permit, remove material of any kind which has been deposited at the Resource Recovery Centre.

Penalty for an Infringement Notice: 5 penalty units.

PART G – BUILDING SITES

51. On Site Facilities

- 51.1 Prior to the commencement of any building work on any land, and continuing until all building works have been completed on the land, the owner, builder or appointed agent must provide:
- 51.1.1 Either a sewered toilet, a septic system or a fresh water flushing portable toilet, ensuring it is serviced and available for the use of the people on that site; or,
 - 51.1.2 A sewered toilet, septic system or fresh water flushing portable toilet on an adjacent site under the control of the owner, builder or appointed agent providing that:
 - 51.1.2.1 No more than three adjacent building sites rely on the same sewered toilet or fresh water flushing toilet; and,
 - 51.1.2.2 Access to the sewered toilet, septic system or fresh water flushing toilet is available for any person working on all three adjoining building sites.

Penalty for an Infringement Notice: 2 penalty units.

52. Stormwater Protection

- 52.1 Where any building work is being carried out on any land the owner, builder or appointed agent must ensure that the building site is developed and managed to minimise the risk of stormwater pollution through the contamination of run off by chemicals, sediments, animal wastes or gross pollutants through measures such as:
- 52.1.1 Minimising the amount of sediment, mud, dirt, sand, soil or stones deposited on the abutting roads, or washed into the stormwater system; and,
 - 52.1.2 Prevention of building clean-up, wash down or other wastes being discharged offsite or allowed to enter the stormwater system.

Penalty for an Infringement Notice: 5 penalty units.

53. Builder's Refuse

- 53.1 Prior to the commencement of any building work on any land, and continuing until all building works have been completed on the land, the owner, builder or appointed agent:
- 53.1.1 Must provide a closed facility for the purpose of disposal of builders' refuse that may be wind-blown; and
 - 53.1.2 Must place that facility on the land within their control and keep it in place (except for such periods as necessary to empty the facility); and
 - 53.1.3 Must not place the facility on Council land or a road, without a permit; and
 - 53.1.4 Must empty the facility whenever full and, if necessary, provide a replacement facility during the emptying process; and
 - 53.1.5 Must ensure any adjoining public place is kept tidy; and
 - 53.1.6 Must ensure that no materials, vehicles or items are placed on nature strips or other Council land without a permit; and,
 - 53.1.7 Must ensure that any footpath adjacent to the land affected by the building work is kept clear of refuse, mud and dirt at all times.

Penalty for an Infringement Notice: 5 penalty units.

- 53.2 The Council may exempt in writing a person, class of persons or body corporate from the application of clause 53.1.
- 53.3 The owner, builder or appointed agent must ensure that all builders' refuse is removed within 21 days of the completion of the building work.

Penalty for an Infringement Notice: 5 penalty units.

54. Identification of Building Sites

- 54.1 Prior to the commencement of any building work on any land, and continuing until all building works have been completed on the land, the owner, builder or appointed agent must erect and maintain a sign at the main entrance of the building site which:
- 54.1.1 Is of sufficient size so as to clearly identify the address, whether it be the street number allocated by Council or the lot number of the site as per the Certificate of Title, when viewed from the road; and,
 - 54.1.2 Identifies the name, postal address and contact telephone number of the person in charge of the building work.

Penalty for an Infringement Notice: 2 penalty units.

54.2 If, prior to the completion of building work on any land, there is a change of builder the owner of the land must, within 7 days of that change ensure that the information displayed on the sign required under clause 54.1.2 has been updated.

Penalty for an Infringement Notice: 2 penalty units.

PART H – ADMINISTRATION

55. Council May Issue Permits

- 55.1 Council may:
 - 55.1.1 Issue a permit;
 - 55.1.2 Include conditions on a permit;
 - 55.1.3 Renew or extend a permit; or,
 - 55.1.4 Refuse to issue a permit.

- 55.2 Council may prescribe:
 - 55.2.1 The manner and form in which applications for permits under this Local Law should be made;
 - 55.2.2 Any policy or guidelines that must apply when considering whether or not a permit should be issued or refused;
 - 55.2.3 Any standard conditions which must be included in certain classes of permits issued;
 - 55.2.4 The fee payable to apply for a permit, or to renew or extend a permit by way of a Council resolution;
 - 55.2.5 The parameters for the waiving of the need for a permit under particular circumstances or conditions; and,
 - 55.2.6 Any other matter related to issuing permits under this Local Law.

- 55.3 Council may request a permit applicant to provide further information prior to issue, or refusing to issue, a permit.

- 55.4 Council may require that notice of an application for a permit is publicised or otherwise brought to the attention of any affected person at the expense of the permit applicant.

- 55.5 An appeal against any decision to refuse to issue a permit or to issue a permit with conditions must be made in writing to the Chief Executive Officer within 28 days of notification of Council's decision.

- 55.6 Council may waive, reduce or alter any fee or charge with or without conditions in respect of a class of a permit, a class of applicant or any other circumstances.

- 55.7 A permit will expire on the date specified on the permit, unless it is extended at an earlier date, or if no date is specified one year after the date of issue.

- 55.8 Council may exempt a person from the requirement to hold a permit under this Local Law.

- 55.9 A permit may be issued subject to conditions including, but not limited to:
- 55.9.1 The payment of a fee or charge;
 - 55.9.2 The lodgement of a guarantee or security bond;
 - 55.9.3 A standard to be applied;
 - 55.9.4 A time limit to be applied or specifying the duration, commencement or completion date;
 - 55.9.5 The happening of an event;
 - 55.9.6 The rectification, remedying or restoration of a situation or circumstance;
 - 55.9.7 The consent of the owner of land, or any other person affected by the issuing of a permit;
 - 55.9.8 The currency of public liability insurance in respect of any activity or conduct related to the issue of a permit;
 - 55.9.9 The requirement to comply with any Council policy, code of practice or guidelines in force; or,
 - 55.9.10 The granting of some other permit of authorisation which may be required by Council wither under this Local Law or otherwise.
- 55.10 A person must comply with the conditions of any permit.
- 55.11 Council may authorise staff members to issue, refuse to issue, renew or extend permits under clause 55.1.
- 55.12 Council must keep a register of permit applications, permits issued and permits refused.

56. Considering Applications for Permits

- 56.1 In considering an application for a permit the Council or authorised staff member must consider:
- 56.1.1 Any Council policy or guidelines that relates to the permission(s) sought by the application for the permit;
 - 56.1.2 Any submission that may be received in respect of the application;
 - 56.1.3 Any comments that may be made in respect to the application by any public authority, Government department, community organisation, emergency service or any other body or person;
 - 56.1.4 The risk posed to public safety, property or Council assets by the proposed activity;
 - 56.1.5 Any anticipated impact on other persons of the proposed activity;
 - 56.1.6 Whether the concerns or issues raised regarding the proposed activities can be adequately controlled or mitigated by permit conditions;

56.1.7 The objectives of this Local Law; and,

56.1.8 Any other relevant matter.

56.2 Council must notify the permit applicant, and any relevant submitter referred to in clause 56.1, in writing of its determination on the permit application.

57. Amendment or Cancellation of Permits

57.1 The Council may amend a condition of a permit or cancel a permit at any time if Council considers that there has been:

57.1.1 A clerical mistake or an error arising from any error, slip or omission;

57.1.2 A material misstatement or concealment of fact in the application for the permit;

57.1.3 A material change of circumstances since the permit was issued;

57.1.4 An evident and material miscalculation of figures or any evident and material mistake in the description of any person, thing or property referred to in the permit; or

57.1.5 A failure to comply with a permit condition or notice to comply relating to the permit.

57.2 A copy of any corrected permit must be provided to the permit applicant as soon as practicable.

57.3 The Council must note all corrections in the permit register.

58. Process for Cancellation of, or Amendments to, Permits

58.1 Prior to cancelling or amending a permit under clause 57.1, the Council must notify the holder of the permit of:

58.1.1 The Council's intention to amend or cancel the permit; and

58.1.2 Council's reasoning for proposing this action; and,

58.1.3 The permit holder's right to make a written submission to the Chief Executive Officer within a specified time for consideration by the Council.

58.2 The Council or the authorised staff member must consider any written submission made by the permit holder under clause 58.1.3 prior to making a decision to cancel or amend the permit.

58.3 The Council must notify the permit holder in writing of the decision to cancel or amend the permit.

58.4 Council must record the cancellation of, or amendment to, the permit in the register of permits.

PART I – ENFORCEMENT

59. Offences

- 59.1 A person is guilty of an offence if a person contravenes this Local Law by:
- 59.1.1 Doing something which a provision of this Local Law prohibits to be done;
 - 59.1.2 Failing to do something which a provision of this Local Law requires to be done;
 - 59.1.3 Failing to comply with a notice to comply by the due date specified in the notice to comply;
 - 59.1.4 Engaging in activity without a current permit where a provision of this Local Law requires that person to obtain a permit before engaging in that activity;
 - 59.1.5 Breaching or failing to comply with a condition of a permit issued under this Local Law; or,
 - 59.1.6 Failing to comply with a direction of an Authorised Officer.
- 59.2 If a person is guilty of an offence, he or she is liable to:
- 59.2.1 A maximum penalty of 20 penalty units for a first offence;
 - 59.2.2 A further penalty of 1 penalty unit for each day after a conviction during which the contravention continues; and,
 - 59.2.3 Upon conviction for a second or subsequent offence, 20 penalty units.
- 59.3 As an alternative to prosecution for an offence, a person may be served with an official warning or infringement notice under this Local Law in accordance with clauses 62 and 63.

60. Discretionary Powers of Authorised Officers

- 60.1 On becoming aware of a contravention of this Local Law an Authorised Officer may, considering all of the circumstances known at the time, do any of the following:
- 60.1.1 Take no action; or
 - 60.1.2 Issue an official warning; or
 - 60.1.3 Issue an infringement notice; or
 - 60.1.4 Issue a notice to comply; or
 - 60.1.5 Commence Court proceedings; or,
 - 60.1.6 Take any other action permitted by law.

60.2 An Authorised Officer who takes any action described under 60.1 may take any other action in respect to the same breach unless expressly prohibited by operation of law.

61. Direction of an Authorised Officer

61.1 An Authorised Officer may, by an official warning, infringement notice or notice to comply, give any reasonable direction to a person in respect of:

61.1.1 Any matter under this Local Law;

61.1.2 A person's use of a public place; or,

61.1.3 A permit issued under this Local Law.

61.2 The person to whom the official warning, infringement notice or notice to comply is issued must comply with the direction(s) of the official warning, infringement notice or notice to comply.

62. Official Warnings

62.1 An Authorised Officer may issue an official warning in writing for an offence identifying what clause(s) of this Local Law has been breached.

62.2 The official warning does not incur a penalty.

62.3 The person to whom the official warning is issued must comply with the direction(s) of the official warning. Failure to do so will trigger a review by the Authorised Officer as to whether further action under clause 60.1 is required.

63. Infringement Notices

63.1 As an alternative to a prosecution, an Authorised Officer may issue an infringement notice to any person committing, or who has committed, an offence against this Local Law.

63.2 The fixed penalty in respect of an offence for which an infringement notice is issued is the amount as specified in this Local Law or, if no amount is specified, is 10 penalty units.

64. Notice to Comply

- 64.1 The Council may, by serving a notice to comply, direct any owner, occupier or other person apparently in breach of this Local Law to remedy anything which constitutes an offence under this Local Law in accordance with clause 59.
- 64.2 A notice to comply must contain the following particulars:
- 64.2.1 The name of the person to whom the notice to comply is directed; and
 - 64.2.2 The last known address of the person that the notice to comply is directed to; and
 - 64.2.3 Where relevant, the address or particulars of the property that the notice to comply relates to; and
 - 64.2.4 The clause or clauses of the Local Law that are alleged to have been breached; and
 - 64.2.5 The date that the alleged breach(es) were observed; and
 - 64.2.6 Clear instructions specifying what steps must be taken by the person to comply with the notice to comply; and
 - 64.2.7 The date and time by which the person must comply; and
 - 64.2.8 The name and contact details of the Authorised Officer who issued the notice to comply; and
 - 64.2.9 Instructions advising how the person may view the content of the Local Law; and
 - 64.2.10 A statement that further enforcement action may be taken if there is a failure to comply with the notice, including a statement regarding potential maximum penalties that apply; and,
 - 64.2.11 A statement to the effect that *'If you do not understand this Notice to Comply, or if you disagree with this notice, you should contact the Local Laws Officer named on this notice or obtain legal advice'*.
- 64.3 The time required by a notice to comply for the thing(s) to be remedied must be reasonable and will vary depending on the matters to be remedied, but should take into account, if applicable:
- 64.3.1 The amount of work involved;
 - 64.3.2 The degree of difficulty of remedying the thing(s);
 - 64.3.3 The availability of the necessary materials or items to remedy the thing(s);
 - 64.3.4 Climatic conditions;
 - 64.3.5 The degree of risk or potential risk of the thing(s) continuing in breach of the Local Law;
 - 64.3.6 The potential for adverse impacts on the health and safety of other person(s) or animal(s); and,
 - 64.3.7 Any other relevant matter.

65. Power to Act in Urgent Circumstances

- 65.1 In urgent circumstances arising as a result of a failure to comply with this Local Law, an Authorised Officer may take action to remove, remedy or rectify a situation either without first serving a notice to comply, or where a notice to comply has been served on a person but that person has not complied with the notice, provided that:
- 65.1.1 The Authorised Officer considers the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of or compliance with a notice, may place a person, animal, property or thing at risk or in danger; and
 - 65.1.2 The action taken is no more than the minimum that is reasonably necessary to remedy the urgent circumstance; and,
 - 65.1.3 The person to whom a notice would have otherwise been served, or who has been served, is, as soon as possible, notified of the urgent circumstance and the action taken by the Authorised Officer to remedy it.

66. Power of an Authorised Officer to Impound

- 66.1 An Authorised Officer may impound any item or thing found in contravention of:
- 66.1.1 This Local Law;
 - 66.1.2 A permit issued under this Local Law; or,
 - 66.1.3 A notice to comply served under this Local Law.
- 66.2 Where any item has been impounded under this Local Law an Authorised Officer must serve a notice:
- 66.2.1 If practicable in person; or,
 - 66.2.2 By registered mail;
- on the person(s) who appears to be the owner of the impounded item setting out the fees and charges payable in respect of the impounding and the time within which the impounded item or thing must be claimed.
- 66.3 If the identity or whereabouts of the owner of an impounded item(s) under clause 66.1 is or are unknown, the Authorised Officer must take reasonable steps to ascertain the owner's identity or whereabouts prior to exercising its powers under clause 66.1.

- 66.4 Council must surrender an impounded item(s) to:
- 66.4.1 The owner of the item(s); or,
 - 66.4.2 A person acting on behalf of the owner who provides evidence to the satisfaction of an Authorised Officer of his or her authority from the owner,
- upon:
- 66.4.2.1 The Authorised Officer being provided with evidence to his or her satisfaction of the owner's right to the item; and,
 - 66.4.2.2 Payment of any fee determined by a resolution of the Council.
- 66.5 Any impounded item not claimed within the time limit specified on the notice of impounding or within 28 days of the impounding, may be disposed of by the Council by tender, public auction, dispense to the Resource Recovery Centre or given away to a not for profit organisation.
- 66.6 Any proceeds from the disposal of impounded items under this Local Law must be paid to the owner or to the person who, in the opinion of the Council or an Authorised Officer, appears to be authorised to receive the money except for the reasonable costs incurred by the Council in the administration of this Local Law.
- 66.7 If a person described in clause 66.6 cannot be identified or located and the money is held by the Council for 12 months, the Council must comply with requirements of the *Unclaimed Money Act 2008*.

67. Offences in Relation to an Authorised Officer

- 67.1 A person must not directly or indirectly:
- 67.1.1 Give or offer or promise to give any bribe (pecuniary or otherwise) to an Authorised Officer;
 - 67.1.2 Make any agreement with an Authorised Officer to induce that Authorised Officer to forego his or her duty; or,
 - 67.1.3 Give information to an authorised officer acting in the course of his or her duties under this Local Law that the person knows or believes to be false.

Penalty for an Infringement Notice: 10 penalty units

68. Appeal Mechanism for requesting the Withdrawal of an Official Warning or Notice to Comply

- 68.1 Subject to this clause, a person issued with an official warning or notice to comply under clauses 62 and 64 may make a written representation to the Chief Executive Officer within 28 days after the date of issue of the official warning or notice to comply, or such shorter time specified in the official warning or notice to comply, requesting that the official warning or notice to comply be withdrawn.
- 68.2 The Chief Executive Officer must, in considering a request for withdrawal of the official warning or notice to comply, consider:
- 68.2.1 The written representations from the person upon whom the official warning, infringement notice or notice to comply was issued;
 - 68.2.2 Representations from any other affected party, emergency service or public agency that the Chief Executive Officer determines to be affected by the alleged breach(es) of this Local Law that led to the issue of the official warning or notice to comply;
 - 68.2.3 Any other relevant information; and,
 - 68.2.4 Any such material brought to his or her attention
- 68.3 The Chief Executive Officer, after complying with clause 68.2, may decide to withdraw an official warning, infringement notice or notice to comply, whether the appropriate penalty has been paid or not, at any time after the service of the notice, by sending by post a notice in writing signed by the Authorised Officer that issued the official warning or notice to comply to the effect that it has been withdrawn.
- 68.4 The decision of the Chief Executive Officer must be provided in writing to the person issued with the official warning or notice to comply as soon as practicable.
- 68.5 A person who makes a request under clause 68.1 is not relieved of their obligation to comply with the official warning or notice to comply.
- 68.6 Where the Authorised Officer who issues an official warning or notice to comply is of the opinion that urgent compliance is necessary, the right of review provided by clause 68.1 may be expressly excluded by the official warning or notice to comply.
- 68.7 The appeal mechanism for the review of an infringement notice is set out under section 22 of the *Infringements Act 2006*.

Schedule 1 Alcohol Free Zone – Mansfield Township

