

# Community **Local Law** *2023*

Adopted by Council on 23 August 2023



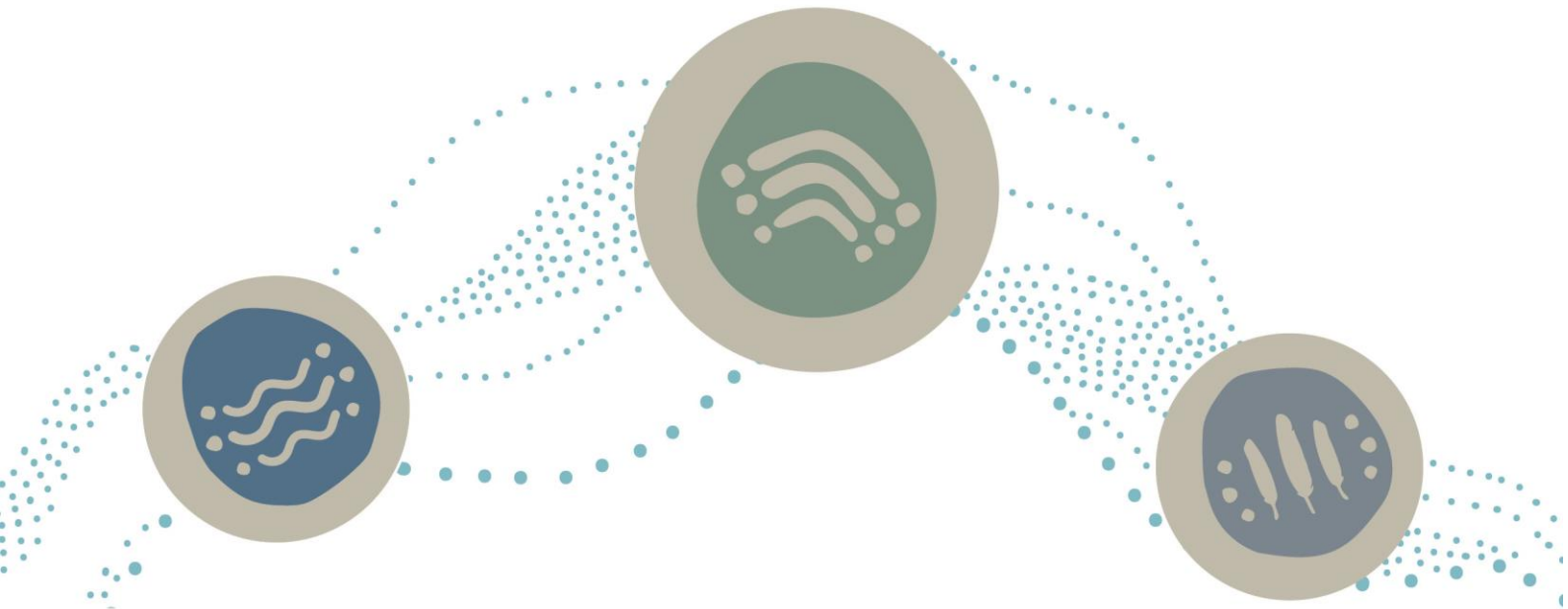
# Acknowledgment of Country

Macedon Ranges Shire Council acknowledges the Dja Dja Wurrung, Taungurung and Wurundjeri Woi-wurrung Peoples as the Traditional Owners and Custodians of this land and waterways. Council recognises their living cultures and ongoing connection to Country and pays respect to their Elders past, and present.

Council also acknowledges local Aboriginal and/or Torres Strait Islander residents of Macedon Ranges for their ongoing contribution to the diverse culture of our community.

## Artwork by Taungurung artist Maddi Moser

“Both artworks talk about our connection, connection to Country, connection to places and connection to each other. This is signified by the whimsical circles that form the ‘rivers; that wrap around our lands and ourselves. It reminds us that we should look out for one another.”



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## **PART 1 - PRELIMINARY**

### **1. Title**

This is the Community Local Law 2023.

### **2. Objectives**

The objectives of this Local Law are to provide for the health, safety and good governance of the municipal community in a manner which is consistent with the Council Plan and to facilitate those objectives by:

- (a) regulating activities which may otherwise be detrimental to another person's enjoyment;
- (b) prohibiting activities which create adverse impacts;
- (c) protecting Council assets; and
- (d) promoting a cohesive, sustainable and flourishing environment for the enjoyment of current and future generations.

### **3. Authorising Provision**

Council's power to make this Local Law is contained in section 71 of *the Local Government Act 2020* and section 42 of the *Domestic Animals Act 1994*.

### **4. Commencement, Revocation and Application**

- (1) This Local Law:
  - (a) commences on 25 September 2023;
  - (b) unless it is revoked sooner, ceases to operate on 24 September 2033, being 10 years after the date it commenced; and
  - (c) operates throughout the municipality.
- (2) Where this Local Law prohibits an activity or other thing or provides that such activity can only take place or other thing can only be done with a permit, that provision will not apply if the activity can lawfully take place, or the thing can lawfully be done under the Planning Scheme or other legislation.
- (3) Notes which are included within this Local Law are provided to assist understanding. They do not form part of this Local Law.

### **5. Repeal of other Local Laws**

From the date of commencement of this Local Law, the *Macedon Ranges Shire Council General Local Law No. 10 of 2013* (as amended to include the *Amendment Local Law No. 13 of 2019*) is repealed, save that any notice or approval given, permit issued or matter or thing commenced under the repealed Local Law, is not affected.

## 6. Definitions

In this Local Law, words which are not defined will adopt their ordinary meaning, and unless the contrary intention appears, the following words have the definition stated:

<b>Word</b>	<b>Definition</b>
Abandoned vehicle	means a vehicle that has not been moved for 2 months as referred to in clause 3(4) of Schedule 11 of the <i>Local Government Act 1989</i> .
Act	means the <i>Local Government Act 2020</i> .
Advertising sign	means any board, notice, banner, poster, panel, pointer board or other similar device, used for the purposes of: <ul style="list-style-type: none"><li>(a) soliciting sales;</li><li>(b) notifying people where goods and services may be obtained;</li><li>(c) advising or directing people to an event, festival or gathering;</li><li>(d) promoting elections or political campaigns; or</li><li>(e) promoting charitable, social, or religious causes.</li></ul>
Alcohol	means a beverage intended for human consumption with an alcohol content greater than 0.5 per centum by volume at a temperature of 20 degrees Celsius.
Authorised Officer	means a person appointed as an Authorised Officer under section 224 of the <i>Local Government Act 1989</i> and includes a police officer appointed in accordance with section 224A of that Act.
Barbecue	means any fixed or portable device designed exclusively for meals preparation fired by gas, electricity or other flammable materials.
Bird	includes poultry.

Building site	means any land on which building work is carried out.
Building work	includes any work for or in connection with the construction, demolition, renovation, alteration or removal of any building or structure that is being conducted in accordance with a building permit and includes major landscaping or earthmoving works which may be conducted without a building permit.
Bulk rubbish container	means a container, bin, skip, hopper or other receptacle which is designed or used for holding refuse or rubbish and is unlikely to be moved without mechanical assistance but does not include a rubbish receptacle used in connection with Council's domestic waste collection service.
Camp	means erecting and occupying a tent or other similar structure but does not include a caravan or motorhome.
Caravan	means a vehicle or wheeled structure used for habitation or adapted for living and includes any annexe or similar structure attached to or used in conjunction with that caravan whilst it is stationary.
Chief Executive Officer	means the Chief Executive Officer of Council.
Commercial filming	means recording images by film, video, digital or other technology to broadcast or publicly exhibit for commercial purposes as defined under the <i>Filming Approval Act 2014</i> , but does not include photography or filming related to the production of news reporting.
Commercial waste	means any rubbish, refuse, sludge, slurry, liquid, hard garbage or other matter whatsoever arising from any trade, industry or commercial undertaking.



Commercial zone	means land zoned commercial under the Planning Scheme.
Corporation	includes any body corporate, whether formed or incorporated within or outside the state of Victoria and any incorporated association within the meaning of the <i>Associations Incorporation Reform Act 2012</i> , but does not include Council.
Council	means Macedon Ranges Shire Council.
Council asset	means any road, drain, infrastructure, vehicle crossing, vegetation (including street trees) or other property owned, vested in or under the management of Council.
Council drain	includes surface drains, swale drains and drainage systems.
Council land	means land, buildings, reserves and facilities which are owned, occupied or vested in Council or in respect of which Council has the care and management and to which the public has access whether an entry fee is paid or not.
Domestic waste	means general waste, recycling, glass, food organic and garden organic waste (FOGO), or any other waste placed in a Council issued bin issued for domestic waste collection purposes.
Donation bin	means a receptacle designed for the collection of donated clothing, goods or other items.
Farm animal	means any horse, cattle, camel, donkey, mule, sheep, deer, goat, ox, ostrich, emu, alpaca or llama or pig.
FOGO	means food organic garden organic.

Gambling	has the same meaning as used in section 1.3AA of the <i>Gambling Regulation Act 2003</i> .
Heavy vehicle	means a vehicle that has a gross vehicle mass or aggregate trailer mass of more than 4.5 tonnes.
Incinerator	means a structure, device or contraption not enclosed in a building which is: <ul style="list-style-type: none"> <li>(a) used or intended, adapted, or designed to be used or capable of being used for the purpose of burning anything;</li> <li>(b) not licensed or otherwise subject to control under the provisions of any other legislation; and</li> <li>(c) not a barbecue.</li> </ul>
Industrial zone	means land zoned industrial under the Planning Scheme.
Land	includes privately owned land but excludes Council land.
Livestock	has the same meaning as used in the <i>Impounding of Livestock Act 1994</i> .
Long vehicle	means a vehicle that, together with any load or projection, is 7.5 metres long, or longer.
Mobile trading	means any vehicle, caravan, trailer, table, stall or other similar structure used for the purpose of selling food or offering goods or services for sale, including any food or drink.
Motor home	means a motor vehicle on a purpose-built chassis designed to serve as self-contained living quarters for recreational travel also referred to as an “RV” or recreational vehicle.

Nature strip	means an area between a road (except a road related area) and adjacent land, but does not include the shoulder of a road or a bicycle path, footpath or shared path.
Noxious weed	has the same meaning as used in the <i>Catchment and Land Protection Act 1994</i> .
Nuisance	means any item, matter, thing or behaviour which is liable to be, dangerous to health or offensive.
Outdoor dining	means an activity involving the consumption of food and/or beverages from or at a venue in an outdoor setting.
Penalty unit	has the same meaning as used in the <i>Sentencing Act 1991</i> .
Permit	in relation to a use or activity, means a permit issued under this Local Law which authorises that use or activity.
Person	includes an individual or legal entity, whether a corporation or an incorporated association, but excludes Council.
Person in charge	includes the builder carrying out the Building Works on the Building Site and the developer of the Building Site.
Pest animal	means an animal declared as a “pest animal” under Part 8 of the <i>Catchment and Land Protection Act 1994</i> .
Planning Scheme	means the Planning Scheme operating in the Macedon Ranges Shire made under the <i>Planning and Environment Act 1987</i> .
Poultry	includes chickens, fowls, turkeys, ducks, geese, bantams, pheasants, squab, guinea, or other edible birds over the age of 12 weeks but does not include roosters.

Powered recreational vehicles	means all mini-bikes, trail bikes, motor bikes, motor scooters, go-carts, motor cars and any other bike or vehicle solely propelled by a motor, battery, or by electronic means used for recreational or professional purposes, but does not include any vehicle used primarily in respect of primary production, construction or maintenance or motor homes or buses.
Public place	has the same meaning as used in the <i>Summary Offences Act 1966</i> .
Recreational device	includes: <ul style="list-style-type: none"> <li>(a) a vehicle or device designed to be solely or partially propelled by human power and includes a scooter, skate board, roller skates, roller blades and like toys; and</li> <li>(b) a remote-control device, aircraft or vehicle.</li> </ul>
Refuse facility	means a container designed for the containment of litter and waste material within a building site, and which is: <ul style="list-style-type: none"> <li>(a) of robust construction, with side walls of one piece construction of either a welded metal frame and cyclone wire mesh or a solid material welded in each corner;</li> <li>(b) not less than one cubic metre in volume; and</li> <li>(c) lockable and has a lid that is attached to the container with welded hinges.</li> </ul>
Residential zone	means land zoned residential under the Planning Scheme.
Road	has the same meaning as in the <i>Local Government Act 1989</i> and applies to roads for which Council has responsibility under the <i>Road Management Act 2004</i> but does not include a State road under that Act unless a provision in the Local Law is expressly applied to a State road.

Rural zone	means land zoned rural under the Planning Scheme.
Scare gun	means a gas gun or similar gun or noise emitting device designed to scare birds from attacking crops but does not include a firearm.
Schedule	means a Schedule to this Local Law.
Small animal	means rabbits, guinea pigs, ferrets, rats, and mice.
Smoke Free-Area	means an area signposted by Council to be a smoke-free area as supported by Council policy.
Trading	means: <ul style="list-style-type: none"> <li>(a) selling or offering or exposing or promoting the sale, supply, exchange or hire any goods, merchandise, commodity, article, thing or service; or</li> <li>(b) advertising for the purposes of soliciting sales, notifying people where goods or services may be obtained or advertising or directing people to an event or festival; or</li> <li>(c) a fundraising stall or activity operating to raise money for a community group, charity or not for profit organisation (excluding highway collections).</li> </ul>
Vehicle	has the same meaning as “ <i>motor vehicle</i> ” as used in section 3 of the <i>Road Safety Act 1986</i> .
Vehicle crossing	means a constructed driveway or surface used to facilitate vehicular access to and from land.



## PART 2 – COUNCIL LAND AND ROADS

### 7. Use of Council Land and Roads

- (1) A person using Council land or a road must comply with any conditions of use applied to that land or road by Council as evidenced by the display of Council erected signs, conditions of entry or conditions of membership.
- (2) A person using Council land or a road must not behave in a way that could endanger, cause harm to or injure any other person or which interferes with any other person's reasonable enjoyment or use of that land or road including by:
  - (a) using language or behaving in a way that is indecent, intimidating, offensive or abusive;
  - (b) acting in a manner that annoys, disturbs, interferes with or obstructs any person's enjoyment;
  - (c) making unreasonable noise from a speaker, amplifier or other amplified sounds or noise (unless a permit has been obtained from Council in relation to an event on that land), including where that noise is heard inside a habitable room on adjacent land;
  - (d) destroying, defacing, removing or interfering with anything in or on any building, sign, improvement or other infrastructure of any kind, including trees, plants and other vegetation;
  - (e) using vehicles, equipment, toys, recreational devices, bicycles or having animals on that land contrary to any signs or conditions applicable to that land or road;
  - (f) conducting events, ceremonies, competitive sport or group training; or
  - (g) acting contrary to any lawful direction of an Authorised Officer or a person in charge of a facility on Council land.
- (3) Unless permitted by this Local Law, a person must not, on Council land or a road:
  - (a) remove, add to, interfere with or cause damage to anything such as fencing, infrastructure or vegetation including dead trees or fallen limbs from trees;
  - (b) light a fire unless it is in a barbecue;
  - (c) carry out any work or activity or allow any tree, plant or other condition on land owned or occupied by that person to interfere with, cause damage to, or create a risk to that Council land or road; or
  - (d) cause or allow to be caused an obstruction or encroachment to the use of that Council land or road.
- (4) The restrictions and limitations in this clause do not apply to:
  - (a) a member of Council staff, a person contracted by Council, a member of a public authority or an employee of a utility carrying out their duties; or
  - (b) Council events, festivals or processions, functions or ceremonies.

## **8. Trading on Council Land or a Road**

- (1) A person must not, without a permit, use Council land or a road to:
  - (a) sell or display any goods or services;
  - (b) hand out advertising or promotional material for the purpose of soliciting sales, fundraising or collection activities;
  - (c) hand out election materials;
  - (d) promote social, charitable or religious causes including the display of signage;
  - (e) sell or advertise vehicles for sale; or
  - (f) conduct mobile trading.
- (2) The requirement to obtain a permit in this clause does not apply to:
  - (a) a member of Council staff, a person contracted by Council or an employee of a utility carrying out their duties; or
  - (b) a person or organisation who has any other form of consent, including a lease or a licence to use the Council land or the road.

## **9. Events, Filming and Busking**

A person must not, without a permit, on Council land or on a road:

- (a) conduct an event, festival or procession;
- (b) carry out commercial filming; or
- (c) engage in busking, except in areas designated by Council as not requiring a permit.

## **10. Outdoor Dining**

- (1) A person must not, without a permit, use Council land or a road for outdoor dining including the placement of furniture and other equipment used in association with outdoor dining.
- (2) The requirement to obtain a permit in this clause does not apply where there is a planning permit for the use under the Planning Scheme which contains conditions about furniture and other equipment used in association with outdoor dining.

*NOTE: The definition of 'road' includes a footpath and nature strip.*

## **11. Moveable or Temporary Advertising Signs**

- (1) A person must not, without a permit, place moveable or temporary advertising signs on Council land or on a road.
- (2) The requirement to obtain a permit under this clause does not apply to:

- (a) a moveable or temporary advertising sign that requires a permit under the Planning Scheme;
- (b) signs for community events approved by Council; or
- (c) vehicles displaying business logos whilst being used in the passage of travel or for genuine business-related purposes.

## 12. Gambling Advertisements

A person must not display or cause to be displayed, advertising of any form of gambling on Council land or on a road.

## 13. Interference with and Works on Council Land and Roads

- (1) A person other than a utility carrying out emergency works, must not, without a permit, on Council land or a road:
  - (a) carry out any works, including excavating, digging holes, occupying or fencing off part of a road, erecting hoardings or scaffolding or using cranes;
  - (b) place, authorise the placement of or use any building materials, including hoardings, gantries, scaffolding or other heavy equipment;
  - (c) place, authorise the placement of or use a mobile crane;
  - (d) remove, damage, destroy, interfere with, alter, affix to or tap into a Council asset;
  - (e) occupy that land or road;
  - (f) cause, place or allow to continue to be placed an obstruction or encroachment; or
  - (g) place or allow to be kept a bulk rubbish container, commercial bin or shipping container.
- (2) The requirement to obtain a permit under this clause does not apply:
  - (a) to a member of Council staff, a person contracted by Council or an employee of a utility carrying out their duties;
  - (b) where the activity is authorised pursuant to a building permit issued under the *Building Act 1993*; or
  - (c) to any works being conducted in the exercise of emergency powers under the *Emergency Management Act 2013*.
- (3) A utility as defined under the *Road Management Act 2004* must comply with that Act when undertaking works on a road.

*NOTE: Clause 18 of this Local Law applies where a person wishes to carry out planting on a nature strip.*

## **14. Vehicle Crossings**

- (1) An owner or occupier of land may be required by notice in writing from Council to:
  - (a) ensure that there is a properly constructed and maintained vehicle crossing including a temporary vehicle crossing, from a road to the adjacent land, including any required culvert under the vehicle crossing;
  - (b) repair or reconstruct a vehicle crossing;
  - (c) remove a vehicle crossing and reinstate any kerb, channel or other infrastructure in the road;
  - (d) undertake remedial works to prevent damage occurring to other parts of the road because of the location or condition of a vehicle crossing; and/or
  - (e) clean a vehicle crossing, including any required culvert in order to ensure the reasonable flow of water - to the satisfaction of an Authorised Officer.
  
- (2) An owner or occupier of land must not, without a permit:
  - (a) construct a new vehicle crossing; or
  - (b) reinstate or repair an existing vehicle crossing.

## **15. Council Drains**

- (1) A person must not cause or allow a Council drain to be or become damaged, destroyed, interfered with or obstructed.
- (2) A person must not, without a permit, undertake any works in a Council drain.
- (3) A person must not construct anything or conduct an activity which might result in causing an obstruction to a Council drain.

## **16. Obstructions to the Safe Use of the Road**

An owner or occupier of land must ensure that any vegetation, sign, structure or the condition of anything on that land does not:

- (a) obstruct or interfere with the safe and fair use of the road by pedestrians and vehicles by limiting visibility or affecting accessibility of the road, traffic control devices or other users of the road;
- (b) cause a hazard to pedestrians or vehicles because of its location, condition or because it is unsafe; or
- (c) encroach onto or over Council land or a road at a height less than 3 metres.

## **17. Collecting Wood**

- (1) Unless collecting from a Council designated collection site during designated collection times, a person must not collect or remove wood, including dead trees and fallen branches from Council land or a road.
- (2) The prohibition under this clause does not apply if:
  - (a) a person has a planning permit under the Planning Scheme permitting the removal of vegetation;
  - (b) the removal of vegetation is required under Council's *Municipal Fire Management Plan* or *Roadside Management Plan*; or
  - (c) a person is removing wood or vegetation that has fallen from a tree located on privately owned land, that has fallen onto Council land or a road.

## **18. Planting on Nature Strips**

Unless acting in accordance with Council's *Naturestrip Landscaping Policy* as shown on Council's website, a person must not, without a permit, on a naturestrip:

- (a) plant or remove any vegetation (excluding the mowing of non-native grass);
- (b) undertake any landscaping; or
- (c) remove any soil.

## **19. Grazing and Driving Livestock**

A person must not, without a permit, allow any livestock under their control to graze or be driven on Council land or on a road.

## **20. Shopping Trolleys**

- (1) A person must not leave a shopping trolley on any land, including Council land, a road or in a public place, unless it is in an area set aside as a collection area.
- (2) An Authorised Officer may impound a shopping trolley that has been left in an area that is not designated as an area for the return of shopping trolleys.
- (3) An owner of shopping trolleys must:
  - (a) ensure that the shopping trolleys belonging to the owner's business are not left in an area unless it is set aside for shopping trolley collection;
  - (b) demonstrate to Council's satisfaction that they have a regular collection system in place and undertake to respond to reports to collect shopping trolleys responsively;
  - (c) ensure that the shopping trolleys display appropriate business signage to identify ownership of the trolley; and
  - (d) collect a shopping trolley within 12 hours after being directed to do so by an Authorised Officer.



- (4) Where more than 10 shopping trolleys are provided, the owner of those shopping trolleys must ensure that the shopping trolleys are fitted with either a functioning coin deposit and release mechanism or an alternate, locking mechanism approved by Council.

## **21. Unregistered or Abandoned Vehicles**

- (1) A person must not leave or park an unregistered or abandoned vehicle on Council land or on a road.
- (2) A person must not carry out any repairs or maintenance on a vehicle on a road other than to allow it to be removed.
- (3) Where a vehicle is impounded because of a contravention of sub-clause (1) the provisions of clause 3 of schedule 11 of the *Local Government Act 1989* will apply.

## **22. Recreational Devices and Bicycles**

A person using or who allows another person to use a recreational device or bicycle on Council land or on a road must ensure that the use does not obstruct, cause danger, interfere with or cause a nuisance to other users of that Council land or road.

## **23. Donation Bins**

A person must not, without a permit, place a donation bin on Council land or on a road.

## PART 3 – USES AND ACTIVITIES ON LAND

### 24. Use of Scare Guns

- (1) A person must not, without a permit, use a scare gun on land other than land within the farming zone under the Planning Scheme.
- (2) A person may use a scare gun on farming zoned land under the Planning Scheme, provided that the following requirements are complied with:
  - (a) the scare gun is only used for the bona fide purpose of scaring birds from crops during a recognised crop growing period;
  - (b) the distance in a straight line between the scare gun and a residential premises on another property is 500 metres or greater;
  - (c) the distance in a straight line between the scare gun and another scare gun in use (whether located on the same property or on another property), is 150 metres or greater;
  - (d) the scare gun is only used between 7am and sunset on any day and is not used in excess of 12 hours in 1 day;
  - (e) the maximum noise level of the scare gun when measured immediately in front of the residential premises on another property is 100dB LIN peak or less;
  - (f) the scare gun does not emit more than the number or exceed the regularity of blasts in any 1 day period than the number set out in sub-clause (4); and
  - (g) the number of scare guns in use at any one time on the property does not exceed the number set out in sub-clause (6).
- (3) A permit may be granted to reduce the distance requirement set out in sub-clause (1) (b).
- (4) For the purposes of sub-clause (2)(f), the number and regularity of blasts in any 1 day period is:
  - (a) in the case of a single blast scare gun, 70 blasts, with the time between the blasts to be no less than 6 minutes; and
  - (b) in the case of a multiple blast scare gun, 70 blasts with:
    - (i) the time between blast sequences being no less than 6 minutes; and
    - (ii) the time between the first blast of a sequence and the last blast of a sequence being no more than 1 minute.
- (5) For the purposes of sub-clause (4)(b)(ii) each blast in a multiple blast sequence will be counted as 1 blast.
- (6) For the purposes of sub-clause (2)(g), the number of scare guns in use at any one time on the property is as follows:
  - (a) where the area under crop is 4 hectares or less = 1 scare gun;

- (b) where the area under crop is more than 4 hectares and less than 10 hectares = 2 scare guns; or
  - (c) where the area under crop is 10 hectares or more = 3 scare guns.
- (7) A permit may be granted to allow the use of more than 3 scare guns where the area under crop is 20 hectares or more but so as not to allow more than 2 scare guns for each 10 hectares of crop.
- (8) An Authorised Officer may impound a scare gun used in breach of this clause.

*NOTE: In addition to Council's requirements regarding the use of scare guns in clause 24, other requirements also apply within Victoria, including the obligation to obtain approvals under State legislation for interfering with native wildlife.*

## **25. Displaying Property Numbers**

- (1) Where Council has allocated a number to a property, the owner or occupier of that property must ensure that:
- (a) the property is marked with the allocated number;
  - (b) the numbers are of a sufficient size and free from obstructions so that they can be clearly read under normal lighting conditions from the road immediately adjacent to the front boundary of the property; and
  - (c) in the case of a property in a rural zone the numbers are reflective.
- (2) An owner or occupier must ensure the allocated property numbers for a flat or unit are displayed on the front door or clearly visible from the front entrance of the dwelling.

## **26. Heavy and Long Vehicles in Residential Zones**

- (1) A person must not park, store or repair a heavy vehicle or a long vehicle on land in a residential zone that is 2,000 square meters or less in size.
- (2) A person must not, without a permit, park, store or repair a heavy vehicle or a long vehicle on land in a residential zone that is 2,001 square meters or greater in size.
- (3) Irrespective of whether a permit is required under this clause, a person must not cause a nuisance to any other person by parking, storing, or repairing a long vehicle on land in a residential zone.

## **27. Camping, Caravans and Motorhomes**

- (1) A person must not, without a permit, camp in, leave or occupy a caravan or motorhome on Council land or on a road, other than in an area designated by Council for that purpose.
- (2) A person must not, without a permit, camp in, leave or occupy a caravan or motorhome on land, where there is no dwelling on that land.
- (3) A permit granted under sub-clause (2) will expire 6 months after the date it was issued, however Council may grant a 6 month extension provided that:

- (a) there is progress towards completion of construction of a dwelling on the land;
  - (b) no nuisance has been complained of to Council within the previous 6 months; and
  - (c) any other relevant requirements have been satisfactorily complied with and can continue to be complied with.
- (4) The requirement to obtain a permit under sub-clause (2) does not apply:
- (a) to a person who leaves a caravan or motorhome or occupies a caravan or motorhome in a caravan park that is registered with Council: or
  - (b) where the use is specifically authorised in the Planning Scheme or a permit has been granted under the Planning Scheme.
- (5) A person may, without a permit, leave a caravan or motorhome on land on which there is a habitable dwelling provided that the caravan or motorhome is sited on the land so that it does not adversely affect the occupants of other properties.
- (6) A person may, without a permit, occupy a caravan or motorhome on land on which there is a habitable dwelling provided that:
- (a) adequate sanitary facilities are provided for any occupant of the caravan or motorhome;
  - (b) no more than one caravan or motorhome is situated on the land; and
  - (c) the occupation of the caravan or motorhome does not adversely affect the amenity of occupants of other properties; and
  - (d) the caravan or motorhome is used only for private occupation and not for any commercial purpose.
- (7) A person or organisation may apply for a permit to camp on land in the municipal district if camping is associated with a special event and the Authorised Officer is satisfied that any nuisance from camping can be reduced by compliance with conditions on a permit.
- (8) The requirements of this clause may be waived at Council's discretion in the event of extenuating circumstances including the provision of temporary or disaster relief accommodation.

## **28. Powered Recreational Vehicles**

- (1) A person must not, without a permit, use or allow others to use a powered recreational vehicle on land owned or occupied by them if:
- (a) that land is within a residential zone, commercial zone or industrial zone under the Planning Scheme, or the land is affected by an environmental significance overlay, heritage overlay, vegetation protection overlay, or significant landscape overlay under the Planning Scheme; or
  - (b) that land is less than 4 hectares in size.
- (2) Irrespective of whether a permit is required under this clause, a person must not use or allow others to use a powered recreational vehicle on land owned or occupied by them, which in the opinion of an Authorised Officer causes a nuisance because of sound, smell, dust, smoke, soil erosion or any other factor that causes a nuisance.

- (3) In addition to the requirement that the use of a recreational vehicle on land must not cause a nuisance, a person must not use or allow others to use a powered recreational vehicle on land owned or occupied by them:
- (a) unless it is possible to maintain a 500 metre distance from where the recreational vehicle is being used and any neighbouring dwelling;
  - (b) unless it is fitted with a muffler that effectively reduces external noise from motor vehicles or motor cycles and a spark arrester;
  - (c) the number of vehicles is no more than 2 recreational vehicles at any one time on land which is less than 20 hectares or no more than 4 recreational vehicles at any one time on any land greater than 20 hectares;
  - (d) the recreational vehicle is not used continuously for a period in excess of 1 hour after which no recreational vehicle must be used for a minimum 2 hour period;
  - (e) the recreational vehicle is not used other than between 10am to 6pm Monday to Saturday and 1pm to 4pm on Sundays and public holidays; and
  - (f) on a day declared to be a Total Fire Ban Day under the *Country Fire Authority Act 1958*.

## **29. Storing Machinery, Materials, Goods or Vehicles on Land**

- (1) An owner or occupier of land must not, without a permit, store, assemble or dismantle machinery, vehicles or second-hand goods or materials on that land.
- (2) The requirement to obtain a permit under this clause does not apply if:
- (a) the use is specifically authorised in the Planning Scheme or a permit has been granted under the Planning Scheme;
  - (b) the use is for recreational purposes and is not conducted for:
    - (i) financial gain; and
    - (ii) the machinery, vehicles or second-hand goods or materials are not stored in a way that is unsightly or detrimental to the general amenity of the neighbourhood or environment; or
  - (c) the use is established within normal or other lawfully established commercial activities.

## **30. Asset Protection Permit**

An owner of a building site or person in charge of building works on a building site, must obtain an asset protection permit before commencing those works, unless an asset protection permit is not required under Council's Asset Protection Policy.

## **31. Building Site Amenity**

The owner of a building site or a person in charge of building works on a building site must ensure that prior to commencing building works the building site has in place:

- (a) sanitary facilities to the satisfaction of the Authorised Officer;



- (b) an adequate refuse facility that contains all building rubbish on the site to the satisfaction of the Authorised Officer;
- (c) adequate fencing within the perimeter of the building site to the satisfaction of the Authorised Officer;
- (d) a sign at the main entrance to the building site which:
  - (i) is at least 600 millimetres in height and 400 millimetres in width;
  - (ii) is placed in a location which is clearly legible in normal lighting conditions from the road immediately adjacent to the front boundary and contains the lot number as described in the relevant certificate of title; and
  - (iii) identifies the name, postal address and the 24 hour contact number or numbers of the person in charge of the building work.

### **32. Refuse on Building Sites**

During the course of carrying out building works, the owner of the building site, person in charge of carrying out the building works, and each employee, agent, contractor or sub-contractor of the builder must ensure that:

- (a) a suitable refuse facility is placed on the building site for the deposit of building refuse;
- (b) the refuse facility is designed and constructed so as to prevent any building refuse within the refuse facility being blown out of it;
- (c) the lid on the refuse facility remains closed at all times except when placing building refuse within it;
- (d) the refuse facility is emptied immediately once it becomes full or at the discretion of an Authorised Officer;
- (e) all wind blown building refuse created or accumulated on the building site is deposited into the refuse facility upon the building refuse being created or accumulated;
- (f) the refuse facility is removed from the building site within 7 days of the cessation of building work;
- (g) all materials and refuse for or from the building site are contained within the building site; and
- (h) any vehicle exiting the building site does not carry any mud or slurry onto the adjoining or nearby road.

### **33. Sanitary Facilities on Building Sites**

Where any building work is carried out on a building site, the owner of the building site or person in charge of carrying out the building works must ensure that:

- (a) a temporary toilet with hand washing facilities is provided on the building site at all times, and is of a type approved by Council; and

- (b) the temporary toilet is serviced, maintained and placed in a suitable location on the building site to the satisfaction of Council.

### **34. Site Fencing on Building Sites**

Where any building work is carried out on a building site, the owner of the building site or person in charge of carrying out the building works must ensure that a fence is erected around the entire perimeter of a building site which:

- (a) is maintained throughout the duration of the building works;
- (b) is not less than 1500mm in height; and
- (c) is capable of preventing litter from being transported from the building site by the wind.

### **35. Drains on Land**

An owner or occupier of land must ensure that any drain, including both underground and over the surface drains on that land:

- (a) properly discharges to Council's nominated legal point of discharge; and
- (b) does not adversely impact Council land or a road.

### **36. Shipping Containers**

A person must not, without a permit, place a shipping container on land in a residential zone or on land in a rural living zone under the Planning Scheme unless:

- (a) it is permitted under the Planning Scheme; or
- (b) a building permit has been issued for the shipping container under the *Building Regulations 2018*.

*NOTE: The requirement to obtain a permit under this clause only applies to the placement of temporary shipping containers within the zones specified in clause 36 in circumstances where planning and building controls do not apply.*

### **37. Wasps and Bees**

- (1) An owner or occupier of land must ensure that any English or European wasps nesting on the land are destroyed.
- (2) An owner or occupier of land who keeps bees on that land must do so in accordance with the Planning Scheme and the relevant Apiary Code of Practice.
- (3) The owner or occupier of land must ensure that any feral European honey beehive is destroyed or must ensure that any feral European honey bees that are swarming on the land and are considered by an Authorised Officer to be causing a nuisance to any person, are removed from the land.

### **38. Fireworks and Pyrotechnic Displays**

An owner or occupier of land may allow fireworks or pyrotechnic displays to be conducted on that land, provided that the fireworks or pyrotechnics:

- (a) are low noise fireworks;
- (b) do not cause a nuisance to any other person;
- (c) do not endanger any animal;
- (d) are conducted on no more than four occasions in a calendar year;
- (e) are not used during a declared fire danger period;
- (f) are not conducted before midday or after 9.30pm;
- (g) if surrounding properties house livestock, the display must not be within 500m of the property boundary; and
- (h) are not used during the koala breeding season (September – April).

*NOTE: In addition to Council's requirements regarding the display of fireworks and pyrotechnics in clause 38, other requirements also apply within Victoria, including the requirement to notify Worksafe and to ensure that fireworks and pyrotechnics are deployed by a licensed pyrotechnician.*

## **PART 4 – COMMUNITY AMENITY AND SAFETY**

### **Division 1 – Uses and Activities Impacting on Amenity and Safety**

#### **39. Consumption and Possession of Alcohol**

- (1) A person must not, without a permit, consume any alcohol or have in their possession an open container of alcohol on Council land or on a road unless one of the exemptions under sub-clause (2) applies.
- (2) The requirement to obtain a permit under sub-clause (1) does not apply to a person who is consuming alcohol or who has in their possession an open container of alcohol:
  - (a) in licensed premises or authorised premises under the *Liquor Control Reform Act 1998*;
  - (b) in a place which Council has designated to be exempt from the operation of this clause; or
  - (c) in an area designated by Council to be a picnic area listed in Schedule 2 between sunrise and sunset, unless an Authorised Officer reasonably believes that:
    - (i) the person in possession of an open container of alcohol is intoxicated; or
    - (ii) the consumption of alcohol by the person or a group of persons of which the person is a member is causing a nuisance, intimidating or disturbing others in the vicinity;
  - (d) on a sporting field or reserve during a time when that sporting field or reserve is in the exclusive use and control of an incorporated body that has a hire agreement or other arrangement with Council except:
    - (i) when the incorporated body has made a written request for an alternative arrangement as to times and Council has consented; or
    - (ii) during and one hour immediately before and immediately after events intended for participants under 18 years of age.
- (3) In determining whether to grant a permit under sub-clause (1), Council must take into account:
  - (a) the nature of the event; and
  - (b) any other matter relevant to the circumstances of the application.
- (4) Where an Authorised Officer believes on reasonable grounds that a person is contravening or has contravened sub-clause (1), the Authorised Officer may direct the person to seal or dispose of the contents of any unsealed container in that person's possession.

#### **40. Smoke Free Areas**

A person must not smoke in an area designated by Council to be a smoke-free area.

*NOTE: For the purposes of this clause the term 'smoke' has the same meaning as used in the Tobacco Act 1987 which includes the use of e-cigarettes and vaping devices.*

#### **41. Unsightly Land**

- (1) An owner or occupier of land, must not cause or allow that land, including any buildings or structures on that land, to be kept in a manner which is:
  - (a) unsightly; or
  - (b) detrimental to the general amenity of the neighbourhood in which the land is located, regardless of whether the matter is publicly visible
- (2) For the purpose of determining whether a breach of sub-clause (1) has occurred, an Authorised Officer may have regard to the following matters:
  - (a) the accumulation or hoarding of excessive rubbish or other materials;
  - (b) discarded, rejected, surplus or abandoned solid or liquid materials;
  - (c) graffiti;
  - (d) noxious weeds;
  - (e) unkempt vegetation that exceeds 200 millimetres in height;
  - (f) pest animals or vermin;
  - (g) excessive second-hand goods, materials, machinery, vehicles or parts;
  - (h) dilapidated buildings or structures;
  - (i) anything being built which is left incomplete, is partially demolished or gives an appearance of neglect;
  - (j) any other thing making the land visually unsightly or detrimental to the general amenity of the area, including land which is neglected or unsecured; or
  - (k) any other thing which the Authorised Officer considers relevant in making an assessment as to the application of this clause.

#### **42. Dangerous Land**

- (1) An owner or occupier of land, must not cause or allow that land, including any buildings or structures on that land, to be kept in a manner which is:
  - (a) dangerous; or
  - (b) likely to cause danger to a person, life, property or the environment.
- (2) In determining whether land, buildings or structures on land are dangerous, an Authorised Officer may have regard to the following matters:
  - (a) whether the land is a haven for noxious weeds, vermin or pest animals;
  - (b) whether the land is being used to store dangerous substances, chemicals or materials;
  - (c) the presence of any unsecured holes or excavations on the land;
  - (d) any other thing making the land dangerous or likely to cause a danger;



- (e) any other thing which in the Authorised Officer considers relevant in making an assessment as to the application of this clause; or
- (f) where the land is being used for anti-social purposes or unlawful behaviour by unauthorised persons.

#### **43. Dilapidated Buildings**

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

- (a) not permit any structure to become dilapidated or further dilapidated;
- (b) take all reasonable steps to secure the building and land from unauthorised access, including, if required, secure fencing, more adequate locks and any other security options;
- (c) take reasonable steps to prevent or remedy the land from being a haven for regular anti-social or unlawful behaviour by unauthorised persons;
- (d) maintain any building in a state of good repair and appearance, including undertaking temporary repairs as required to ensure on-site safety and security and to avoid the appearance of neglect out of character with other allotments in the vicinity; and
- (e) not allow any graffiti to remain on any building, wall, fence, post or other structure or object erected on that land.

## Division 2 – Open Air burning and Incinerators

### 44. Burning in the Open Air

In addition to the requirements in the *Country Fire Authority Act 1958* or *Fire Rescue Victoria Act 1958* a person must not, without a permit, light a fire on Council land or on a road except where:

- (a) the fire is in a permanent or portable barbecue being used for cooking food; or
- (b) the fire is lit by an officer, employee or authorised agent of a public authority in the course of their duty.

*NOTE: During the declared fire danger period, open air burning and burning incinerators are regulated by permit requirements and other provisions contained in the Country Fire Authority Act 1958. The Municipal Fire Prevention Officer of Council is authorised under that Act to issue permits during that period. Lighting a fire on a day of Total Fire Ban is an offence under that Act.*

### 45. Nuisance from Open Air Burning and Incinerators

- (1) A person who has lit a fire in the open air, or the owner or occupier of the land on which the fire is lit, must ensure that the fire, including in an incinerator:
  - (a) is not offensive or a nuisance to another person in the vicinity or beyond the property boundary;
  - (b) does not cause a hazard to a person's health;
  - (c) does not have an adverse impact on visibility beyond the property boundary, including reducing the visibility of motorists and other users of a public road;
  - (d) does not create a hazard on or near a public road;
  - (e) the fire or use of the incinerator is supervised by an adult at all times;
  - (f) sufficient fire suppression or extinguishing equipment is available to extinguish the fire if required;
  - (g) the vegetation to be burnt is dead and dry prior to lighting it; and
  - (h) at the site of the fire, the wind speed must not exceed 15 kilometres an hour (8 knots).
- (2) For the purpose of sub-clause (1), a person must not light or allow a fire to remain lit on land or in an incinerator owned or occupied by them regardless of whether they lit the fire, if the fire contains any of the following materials:
  - (a) green or wet material;
  - (b) non timber based building materials;
  - (c) rubber or plastic, including plastic mulch, plant pots and packaging materials;
  - (d) furnishings and carpet;
  - (e) manufactured chemicals;

- (f) petroleum or oil products;
- (g) paint, including any container in which paint is kept;
- (h) food waste;
- (i) manure and straw;
- (j) household waste;
- (k) other offensive, noxious or toxic matter; or
- (l) animals or animal parts.

#### **46. Burning in the Open Air – Land 4,000 Square Metres and Less**

- (1) A person must not light or allow a fire to be lit in the open air on land owned or occupied by them regardless of whether they lit the fire, where the land size is 2,000 square metres or less.
- (2) A person must not, without a permit, light a fire in the open air on land, including in an incinerator, or allow such a fire to be lit on land owned or occupied by them regardless of whether they lit the fire, where the land size is over 2,000 square metres and is equal to or less than 4,000 square metres.
- (3) The restriction in sub-clause (1) or the permit requirement in sub-clause (2) does not apply to:
  - (a) a barbecue, pizza oven or other properly constructed appliance while it is being used for cooking food;
  - (b) a fire in a brazier, chimenea or fire pit while it is being used for heating;
  - (c) a tool of trade while being used for the purpose for which it was designed;
  - (d) a fire lit during the course of duty by a member of a fire and emergency services agency; or
  - (e) a fire where Council has granted a permit because it considers that the specific circumstances of the case enable it to provide an exemption.

#### **47. Burning in the Open Air – Land Above 4,000 Square Metres up to 40,000 Square Metres**

- (1) A person may light a fire in the open air on land, including in an incinerator, or allow such a fire to be lit on land owned or occupied by them regardless of whether they lit the fire, where the land size is above 4,000 square metres and is equal to or less than 40,000 square metres, provided that:
  - (a) the fire is lit or allowed to remain alight not before 8am or after 6pm on any day;
  - (b) no more than 10 cubic metres of vegetation is burnt at any one time;
  - (c) the fire is not within 50 metres of any neighbouring dwelling; and
  - (d) the fire is lit or allowed to remain alight in accordance with clause 45.

- (2) Where a person wants to burn in the open air under this clause and the requirements in sub-clause (1) cannot be complied with, a person must obtain a permit.

#### **48. Burning in the Open Air – Land Above 40,000 Square Metres**

- (1) A person may light a fire in the open air on land, including in an incinerator, or allow such a fire to be lit on land owned or occupied by them regardless of whether they lit the fire, where the land size is above 40,000 square metres, provided that:
  - (a) no more than 100 cubic metres (e.g. 5 metres wide x 5 metres long x 4 metres high) of vegetation is burnt at any one time;
  - (b) the fire is not within 100 metres of any neighbouring dwelling; and
  - (c) the fire is lit or allowed to remain alight in accordance with clause 45.
- (2) Where a person wants to burn in the open air under this clause and the requirements in sub-clause (1) cannot be complied with, a person must obtain a permit.

#### **49. Removal of Restrictions on Open Air Burning**

The Municipal Fire Prevention Officer may remove some restrictions on open air burning applied by this Local Law for fire prevention purposes only. The removal of any restrictions will be for a period determined by the Municipal Fire Prevention Officer having regard to discussions with the Country Fire Authority or Fire Rescue Victoria and seasonal conditions. Council will give public notice of this period.

#### **50. Applying for a Permit to Burn**

A person may apply for a permit to burn by:

- (a) lodging an application with Council in a form approved by Council or an Authorised Officer; and
- (b) paying to Council the appropriate application fee, if applicable.

#### **51. Issue of Permits to Burn**

- (1) Council or an Authorised Officer may issue a permit with conditions or refuse to issue a permit based on the specific circumstances of the matter having due regard to:
  - (a) the size of the land;
  - (b) the ability of the landowner to remove the vegetation via more appropriate methods;
  - (c) the proximity to other landowners and risk of smoke nuisance; or
  - (d) any other relevant thing.
- (2) The conditions of the permit must be set out in the permit.
- (3) A person who undertakes open air burning for which Council or an Authorised Officer has issued a permit, must comply with the conditions on the permit.

- (4) Even if a permit has been issued, a person must not light or allow to remain alight any fire in the open air on a day that has been declared as a day of Total Fire Ban or a smog alert day.

## **52. Extinguishing Fires**

A person who has lit or allowed a fire to remain alight contrary to the provisions of this Local Law or any condition contained in a permit, or the owner or occupier of the land on which the fire was lit, must extinguish the fire immediately on being directed to do so by:

- (a) an Authorised Officer; or
- (b) a member of Victoria Police, the Country Fire Authority or Fire Rescue Victoria.

## **Division 3 – Animals**

### **53. Keeping Animals**

A person keeping animals on land must not allow any animal to:

- (a) cause a nuisance to any other person because of noise, smell or any other condition;
- (b) damage any native flora or fauna on the land with the exception of native pasture grasses under controlled grazing;
- (c) pollute any drain, gutter, watercourse or water catchment on or through that land; or
- (d) cause the invasion or spread of noxious or environmental weeds on or from that land.

### **54. Animal Housing**

A person providing housing for animals kept on land must ensure that the animal housing is:

- (a) constructed and maintained to the satisfaction of the Authorised Officer;
- (b) kept clean and sanitary at all times, including keeping food in fly and vermin proof buildings or containers (other than baled, roll, sheaf hay or silage);
- (c) located at a distance no less than 2 metres from dwellings on other land to the satisfaction of the Authorised Officer;
- (d) located at a distance from any property boundary to the satisfaction of the Authorised Officer;
- (e) kept in a manner which does not cause a nuisance or is offensive to adjoining land owners or occupiers; and
- (f) situated in an appropriate location having regard to the topography of the land or other relevant considerations to the satisfaction of the Authorised Officer.

### **55. Condition of Land where Animals are Kept**

- (1) A person keeping animals on land, must ensure that the land is free from;
  - (a) an accumulation of animal waste; and
  - (b) materials, refuse and vegetation that may harbour or attract rats, mice or other vermin.
- (2) A person must ensure that any water provided for animals is kept in a clean condition that is not stagnant or likely to attract mosquitoes.
- (3) An owner or occupier of land must ensure that any dead animal on that land is promptly and lawfully disposed of to the satisfaction of an Authorised Officer.

## 56. Numbers of Animals

- (1) An owner or occupier of land must not, without a permit, keep or allow to be kept, either permanently or temporarily, any more in number for each type of animal than as set out in the table below:

Type of animal	Maximum allowance without a Local Law permit
<b>Dogs</b>	<p>2 – allowed on land less than 4000 square metres (1 acre)</p> <p>4 – allowed on land 4000 square metres (1 acre) and greater</p> <p><i>Note that planning controls may apply</i></p>
<b>Cats</b>	<p>2 – allowed on land less than 4000 square metres (1 acre)</p> <p>4 – allowed on land 4000 square metres (1 acre) and greater</p> <p><i>Note that planning controls may apply</i></p>
<b>Small animals (Rabbits, guinea pigs, ferrets, and rodents)</b>	<p>6 small animals in total allowed on land less than 4000 square metres (1 acre)</p> <p>The Local Law does not limit the number of other small animals on land 4000 square metres (1 acre) and greater</p> <p><i>Note that planning controls may apply</i></p>
<b>Roosters and Peacocks</b>	<p>0 – Roosters and peacocks are not allowed on land less than 4000 square metres (1 acre) without a permit</p> <p>The Local Law does not limit the number of roosters on land 4000 square metres (1 acre) and greater</p> <p><i>Note that planning controls may apply</i></p>
<b>Poultry (other than roosters and peacocks)</b>	<p>10 poultry in total allowed on land less than 2000 square metres (0.5 acre)</p> <p>15 poultry in total allowed on land between 2000 square metres (.5 acre) and 4000 square metres (1 acre)</p> <p>The Local Law does not limit the number of poultry on land greater than 4000 square metres (1 acre)</p> <p><i>Note that planning controls may apply</i></p>



<p><b>Pigs</b></p>	<p>0 – Pigs (including piglets) are not allowed on land less than 10,000 square metres (2.5 acres) without a permit</p> <p>The Local Law does not limit the number of pigs on land 10,000 square metres (2.5 acres) and greater</p> <p><i>Note that planning controls may apply</i></p>
<p><b>Farm animals (Refer to definition)</b></p>	<p>0 – Farm animals are not allowed on land less than 2,000 square metres (.5 acre) without a permit, unless for grazing in accordance with sub-clause (2)(e)</p> <p>The Local Law does not limit the number of farm animals on land 2,000 square metres (.5 acre) and greater</p> <p><i>Note that planning controls may apply</i></p>

- (2) The requirement to obtain a permit under sub-clause (1) does not apply:
- (a) to dogs and cats under 3 months of age;
  - (b) to land that is lawfully used for the purposes of a pet shop, veterinarian business, Council pound, animal breeding or boarding establishment or any other use permitted under the Planning Scheme;
  - (c) if the number of animals kept on land is because of a commercial undertaking on the land and the use is authorised under the Planning Scheme or a permit has been obtained under the planning Scheme;
  - (d) if the dogs are kept for working stock on farm land which is greater than 40 hectares; or
  - (e) if farm animals are on the land for not more than 1 month and are being used for fire prevention or weed management purposes.

## 57. Dog Excrement

A person in charge of a dog in a public place must:

- (a) carry a sufficient and suitable device for the collection of any excrement from that animal;
- (b) produce the suitable device when requested to do so by an Authorised Officer;
- (c) immediately collect and dispose of the excrement in a proper and sanitary manner;
- (d) comply with a verbal direction given by an Authorised Officer to collect and dispose of the excrement in a proper and sanitary manner; and
- (e) ensure that the animal does not defecate on land unless permitted by the owner of that land.

## **58. Effective Fencing and Confinement of Farm Animals**

- (1) An owner or occupier of land must ensure that the land on which a farm animal is kept is adequately fenced or confined in a satisfactory condition to ensure that the farm animal cannot escape from it.
- (2) If a farm animal is found at large or not securely confined to the owner or occupier's land, the owner or occupier of that land is guilty of an offence.

## **59. Pest and Stray Animals**

An owner or occupier of land must not feed or encourage the presence of pest animals, stray animals, wild birds or foxes on that land.

## Division 4 – Waste and Resource Recovery

### 60. Domestic Waste

- (1) An owner or occupier of land to which Council provides a bin and collection service for domestic waste must:
  - (a) deposit all refuse generated on the land into the bin provided by Council;
  - (b) wrap or bag waste (in the general waste bin only) to minimise windblown litter at the disposal facility and environmental impacts;
  - (c) place the bin for collection on the nature strip, roadside, kerb or as advised by Council not more than 24 hours before collection, unless instructed by Council to keep the bin presented for the purposes of repair or removal of service;
  - (d) ensure that the bin's lid is closed at all times;
  - (e) keep the bin in a clean, inoffensive and sanitary condition;
  - (f) return the bin to the land as soon as possible after collection but no later than 48 hours after collection;
  - (g) remove any litter from a road or Council land which has spilled from the bin supplied to the land;
  - (h) ensure that the land on which the bin is kept is adequately drained and kept in a clean, sanitary and inoffensive condition; and
  - (i) comply with any conditions or requirements that Council applies to the waste collection service.
- (2) An owner or occupier of land must not:
  - (a) place for collection any refuse other than the type of waste specified for collection in a general waste, recycling, glass or FOGO bin;
  - (b) place for collection more than two of each general waste, recycling, glass or FOGO bins unless permitted to do so by Council; or
  - (c) damage or interfere with any bin not under their control.
- (3) A person must not, without a permit, remove anything left for collection under this clause.

### 61. Prohibited Waste

A person must not place any of the following substances in a domestic waste bin put out for collection:

- (a) sludge, slurry, semi-liquid or liquid waste;
- (b) oil, paint, solvents and similar substances;
- (c) radioactive waste;

- (d) material containing asbestos;
- (e) any medical or infectious waste;
- (f) any hazardous or chemical waste;
- (g) any volatile or explosive substance;
- (h) any excrement (unless animal excrement is permitted in the FOGO bin);
- (i) any object weighing more than 80 kilograms;
- (j) any item which may damage the bin or reduce its strength or effectiveness;
- (k) any item that would prevent the lid on the bin from closing; or
- (l) any hot ash or embers.

## **62. Hard Waste Collection**

- (1) Where Council or an Authorised Officer has given public notice that a hard waste collection will be provided, any hard waste to be collected must be left for collection in accordance with the conditions of collection as specified by Council.
- (2) A person must obtain a permit to remove anything left for collection under sub-clause (1).
- (3) A person must not place any hard waste on a road or on Council land without Council approval.

## **63. Commercial Waste**

- (1) An owner or occupier of land must ensure that any commercial or trade waste bin kept on land is:
  - (a) constructed of impervious materials, is watertight and fly and pest proof;
  - (b) emptied before it overflows but at least every 7 days or when an Authorised Officer directs;
  - (c) maintained and kept in a clean condition and free from offensive odours;
  - (d) displaying a sign indicating the type of waste or material which may be deposited and stating that it is an offence to deposit material not listed in the notice; and
  - (e) not stored or placed on Council land or a road without a permit.
- (2) A person using a commercial waste collection service that is not provided by Council must provide evidence of that service when requested to do so by an Authorised Officer.
- (3) A person must not place commercial waste in a public litter or recycling receptacle provided by Council.

#### **64. Interference with Public Receptacles**

A person must not interfere with a public litter or recycling receptacle provided by Council, including placing an object or advertising materials on or against the bin.

## **PART 5 – ADMINISTRATION AND ENFORCEMENT**

### **Division 1 – Administration**

#### **65. Exercise of Discretion**

In exercising any discretion contained in this Local Law, an Authorised Officer must have regard to:

- (a) the objectives of this Local Law;
- (b) any applicable Council Policy, including Council’s Compliance and Enforcement Policy; and
- (c) any other relevant matter, including extenuating circumstances.

#### **66. Permits**

- (1) Council or an Authorised Officer in their absolute discretion, may issue a permit under this Local Law with or without conditions, including the payment of any fee Council may require or may refuse to issue a permit.
- (2) Council or an Authorised Officer may prescribe:
  - (a) the manner and form in which applications for permits under this Local Law should be made;
  - (b) the manner in which any permit under this Local Law should be issued; and
  - (c) the fee for any such permit application.
- (3) Council or an Authorised Officer may:
  - (a) waive payment of the permit fee;
  - (b) require the applicant for a permit to give notice of the application; and/or
  - (c) require an applicant for a permit to provide Council with more information before Council or Authorised Officer deals with the permit application.
- (4) A permit expires on the date specified in the permit as determined by an Authorised Officer, or if no such date is specified, will expire 2 years after the date of issue.
- (5) Council or an Authorised Officer may issue a permit with conditions or refuse to issue a permit.
- (6) Council must maintain a register of permits granted, including details of cancellation, corrections or amendments made to any permit or any exemption from a requirement to obtain a permit or conditions applied to that exemption.
- (7) A permit applicant must be 18 years of age or older.

## **67. Considering Applications**

- (1) In considering an application for a permit, Council or an Authorised Officer may consider:
  - (a) any policy or guideline adopted by Council relating to the subject matter of the application for the permit;
  - (b) any submission that may be received in respect of the application;
  - (c) any comments that may be made in respect of the application by any public authority, Government department, community organisation or other body or person; and
  - (d) any other relevant matters, including the views of surrounding business and property owners or occupiers regarding the permit application.
- (2) A person who has applied for a permit may appeal in writing to Council's appeals panel against the decision to refuse to grant a permit within 21 days of being notified of the decision.

## **68. Correction of Permit**

- (1) Council or an Authorised Officer may correct a permit issued if the permit contains:
  - (a) a clerical mistake or an error arising from any accident, slip or omission;
  - (b) a material miscalculation of figures; or
  - (c) a mistake in the description of any person, thing or property referred to in the permit.
- (2) Council or the Authorised Officer must note the correction in the register of permits.

## **69. Grounds for Cancellation or Amendment of Permits**

- (1) Council or an Authorised Officer may cancel or amend any permit if they consider that there has been:
  - (a) a material misstatement, false representation or concealment of facts in relation to the application for a permit;
  - (b) any material mistake in relation to the use of the permit;
  - (c) any material change of circumstances which has occurred since the issue of the permit;
  - (d) a failure to comply with the conditions of the permit; or
  - (e) a failure to comply with a Notice to Comply within the time specified in the Notice to Comply.
- (2) Council or the Authorised Officer must notify the holder of a permit of Council's or Authorised Officer's intention to amend or cancel the permit and give the holder of that permit an opportunity to make a written submission before the permit is amended or cancelled.
- (3) If Council or the Authorised Officer, after considering any written submission made by the permit holder, determines to cancel or amend the permit, Council or the Authorised Officer must note that cancellation or amendment in the register of permits.



## **70. Exemptions**

- (1) A person may request Council or an Authorised Officer by written notice, to exempt any person or class of persons from the requirement to have a permit, either generally or at specified times.
- (2) In determining whether to grant an exemption to the requirement to obtain a permit, Council or an Authorised Officer will have regard to:
  - (a) the circumstances of the application;
  - (b) whether the application is to raise funds for community or charitable purposes;
  - (c) whether the proposed activity or use will have an overall community benefit;
  - (d) whether the proposed activity or use could have a detrimental effect on adjoining properties;
  - (e) whether the applicant will be given an unfair advantage over any other person or organisation; and
  - (f) any other matters relevant to the circumstances of the application.
- (3) An exemption may be granted subject to conditions.
- (4) A person must comply with the conditions of an exemption.
- (5) An exemption may be cancelled, corrected or amended as if it were a permit.

## **71. False Representations**

A person who makes a false representation or declaration (whether oral or in writing), or who intentionally omits relevant information in an application for a permit or exemption is guilty of an offence.

## **72. Bonds**

If a permit holder is required to lodge a bond as a condition of a permit, Council may:

- (a) utilise those funds to remedy a breach of the permit or repair any damage caused by works carried out under the permit;
- (b) request the permit holder increase the bond amount;
- (c) release all or part of the bond back to the permit holder upon completion of any works under the permit; or
- (d) retain the bond amount and place it into Council's general revenue if the permit holder cannot be located or has not collected the bond payment within 12 months of written notice being given to the permit holder.

## Division 2 – Enforcement

### 73. Powers of Authorised Officers

If an Authorised Officer considers that there has been a breach of this Local Law, including a breach of any conditions of a permit, the Authorised Officer may take any or all of the actions provided in this Local Law and may:

- (a) warn the person who is breaching the Local Law, which may also be an official warning issued in accordance with the requirements of the *Infringements Act 2006*;
- (b) direct the person to cease the activity breaching the Local Law;
- (c) serve a Notice to Comply to remedy the breach;
- (d) issue an infringement notice;
- (e) take action to administer and enforce the Local Law;
- (f) issue a Summons to have the matter determined in the Magistrates' Court; or
- (g) in the exercise of the officer's discretion, take no action.

### 74. Impounding and Disposal

- (1) Where any goods, items, animals, objects or equipment are left on a road, Council land or in a public place in contravention of this Local Law, including a breach of any conditions of a permit, an Authorised Officer may impound those goods, items, animals, objects or equipment.
- (2) Where something is impounded in accordance with this clause, an Authorised Officer must, if practicable, serve a Notice of Impoundment specifying a description of the item impounded, details for collection and what action will be taken if the item is not collected in accordance with Council's collection requirements, on the person who appears to be the owner of the impounded item.
- (3) An Authorised Officer must return the impounded item to its owner or person acting on behalf of or with the authority of the owner as confirmed to the satisfaction of an Authorised Officer, on payment of the prescribed fee.
- (4) An Authorised Officer may sell, donate, dispose of or destroy the impounded item if the owner has not paid the prescribed fee and collected the item within 14 days of impounding.
- (5) In the case that the impounded items are perishable and will not survive the period specified in a Notice of Impoundment, the Authorised Officer may dispose of the items sooner.
- (6) Council is entitled to retain from the proceeds of the sale of any impounded item, its reasonable costs incurred in impounding, keeping and selling the item.

## **75. Offences and Penalties**

- (1) A person who:
  - (a) contravenes or fails to comply with any provision of this Local Law or any incorporated document;
  - (b) contravenes or fails to comply with any condition contained in a permit issued under this Local Law;
  - (c) knowingly provides false information in support of an application for a permit issued under this Local Law;
  - (d) knowingly supplies false or misleading information to an Authorised Officer;
  - (e) fails to comply with a verbal or written lawful direction issued by an Authorised Officer;
  - (f) fails to comply with a Notice to Comply served by an Authorised Officer;
  - (g) fails to comply with a Notice of Impoundment served by an Authorised Officer;
  - (h) fails to comply with a sign erected by Council; or
  - (i) makes or attempts to make any agreement with an Authorised Officer to induce that Authorised Officer to compromise their duty

is guilty of an offence which if proven in Court is liable to a penalty not exceeding 20 penalty units.

- (2) After a finding of guilt for an offence under a provision of this Local Law, any person who continues in contravention of that provision is liable to a penalty of 2 penalty units for each day after a finding of guilt during which the contravention continues.
- (3) A person who is guilty of a second or subsequent offence against the same provision in this Local Law is liable to a penalty not exceeding 20 penalty units.
- (4) Where a corporation commits an offence under this Local law, any directors or officers of that corporation also commit an offence.

## **76. Power to Issue a Lawful Direction**

- (1) Where an Authorised Officer reasonably believes that a person has committed an offence against this Local Law, they may issue a lawful direction, requiring a person to stop offending and do anything necessary to rectify the offence.
- (2) A direction may be verbal or written.

## **77. Notices to Comply**

- (1) Where an Authorised Officer considers that there is a breach of this Local Law, including a breach of a permit issued under the Local Law, they may serve a Notice to Comply on the relevant person to remedy the breach.

- (2) A Notice to Comply issued in accordance with this Local Law must state the time and date by which the thing must be remedied.
- (3) The time required by a Notice to Comply served under this Local Law must be reasonable in the circumstances. What will be reasonable will vary depending on the matters to be remedied, but should take into account, if applicable:
  - (a) the amount of work involved;
  - (b) the degree of difficulty;
  - (c) the availability of necessary materials or other necessary items;
  - (d) climatic conditions;
  - (e) the degree of risk or potential risk; and
  - (f) any other relevant matter.
- (4) An owner, occupier or other person served with a Notice to Comply who fails to remedy a situation in accordance with a Notice to Comply within the time specified in the Notice is guilty of an offence under this Local Law.
- (5) Where exceptional circumstances exist, a person having received a Notice to Comply may apply to an Authorised Officer for an extension of time to comply with that Notice.
- (6) If any owner, occupier, or other person served with a Notice to Comply fails to carry out any work stipulated in a Notice to Comply, Council or an Authorised Officer may carry out the work itself or approve another person to carry out the work and recover the cost of performing the work from the owner or appointed agent.

## **78. Power to Act in Urgent Circumstances**

- (1) Where an owner, occupier, builder or other person has failed to comply with any requirement of this Local Law, including a breach of a permit issued under the Local Law, an Authorised Officer may take any action considered necessary to prevent any danger to the environment or any nuisance arising, provided that:
  - (a) Council or an Authorised Officer considers the circumstances to be sufficiently urgent and that the time necessary, or potential difficulty in serving a Notice to Comply may place a person, animal, property or the environment at risk or in danger of substantial detrimental effect;
  - (b) the Chief Executive Officer of the Council or their delegate (not being the Authorised Officer administering this clause,) approves of the proposed action; and
  - (c) details of the circumstances and of the remedial action taken are as soon as practicable forwarded to the owner, occupier, builder or other person.
- (2) Any action taken under this clause shall not extend beyond what is necessary to cause the immediate abatement or minimisation of the risk or danger involved.
- (3) Where work is undertaken in accordance with this clause, Council may recover the cost of performing the work from the owner, builder, appointed agent or responsible person.

## **79. Infringement Notices**

- (1) As an alternative to prosecution, an Authorised Officer may serve an infringement notice on any person who has contravened this Local Law.
- (2) A Local Law infringement notice must contain the information prescribed by the *Infringements Act 2006*
- (3) As an infringement notice issued under the Local Law is an infringement offence under the *Infringements Act 2006*, an internal review application made to Council must be processed in accordance with that Act.
- (4) The amount of the fixed penalty to be specified in an infringement notice is set out in Schedule 1, or if no amount is set out, 2 penalty units is applied.
- (5) In the event of the failure of a person served with an infringement notice to pay the amount specified within 28 days of the issue of the notice or such further time as an Authorised Officer may allow, the Authorised Officer may pursue the matter by commencing prosecution proceedings.

## **80. Operator Onus**

The operator onus provisions under Part 6AA of the *Road Safety Act 1986* apply to any offence provision of this Local Law which involves the use of vehicles.

## SCHEDULE 1 - INFRINGEMENT PENALTIES

Clause Number	Provision	Penalty Unit Person	Penalty Unit Corporation
7(1)(2)(3)	Use of Council Land and Roads	2	4
8(1)	Trading on Council Land or a Road	3	6
9	Events, Filming and Busking	1	2
10(1)	Outdoor Dining	2	4
11(1)	Moveable or Temporary Advertising Signs	2	4
12	Gambling Advertisements	4	8
13(1)	Interference with and Works on Council Land and Roads	4	8
14(1)(2)	Vehicle Crossings	4	8
15(1)(2)(3)	Council Drains	4	8
16	Obstruction to the Safe Use of the Road	2	4
17(1)	Collecting Wood	2	4
18	Planting on Nature Strips	2	4
19	Grazing and Driving Livestock	2	4
20(1)	Shopping Trolleys – a person must leave a shopping trolley in designated collection area	2	4
20(3)	Shopping trolleys – owner’s general obligations	4	8
20(4)	Shopping trolleys – owner to install suitable locking mechanism	4	8
21(1)(2)	Unregistered and Abandoned Vehicles	2	4
22	Recreational Devices and Bicycles	2	4
23	Donation Bins	2	4
24(1)(2)	Use of Scare Guns	2	4
25(1)(2)	Displaying Property Numbers	2	4
26(1)(2)(3)	Heavy and Long Vehicles in Residential Zones	3	6
27(1)(2)(5)(6)	Camping, Caravans and Motorhomes	2	4
28(1)(2)(3)	Powered Recreational Vehicles	2	4
29(1)	Storing Machinery, Materials, Goods or Vehicles on Land	2	4
30	Asset Protection Permit	4	8

Clause Number	Provision	Penalty Unit Person	Penalty Unit Corporation
31	Building Site Amenity	4	8
32	Refuse on Building Sites	4	8
33	Sanitary Facilities on Building Sites	4	8
34	Site Fencing on Building Sites	4	8
35	Drains on Land	4	8
36	Shipping Containers	2	4
37(1)(2)(3)	Wasps and Bees	2	4
38	Fireworks and Pyrotechnic Displays	4	8
39(1)	Consumption and Possession of alcohol	2	4
40	Smoke Free Areas	2	4
41(1)	Unsightly Land	2	4
42(1)	Dangerous Land	4	8
43	Dilapidated Buildings	4	8
44	Burning in the Open Air	2	4
45(1)(2)	Nuisance from Open Air Burning and Incinerators	2	4
46(1)(2)	Burning in the Open Air – Land 4,000 Square Metres and Less	2	4
47(1)	Burning in the Open Air – Land Above 4,000 Square Metres up to 40,000 Square Metres	2	4
48(1)	Burning in the Open Air – Land Above 40,000 Square Metres	2	4
51(3)(4)	Issue of Permits to Burn	2	4
52	Extinguishing Fires	2	4
53	Keeping Animals	2	4
54	Animal Housing	2	4
55(1)(2)(3)	Condition of Land where Animals are Kept	2	4
56	Numbers of Animals	2	4
57	Dog Excrement	2	4
58(1)(2)	Effective Fencing and Confinement of Farm Animals	2	4
59	Pest and Stray Animals	2	4



Clause Number	Provision	Penalty Unit Person	Penalty Unit Corporation
60(1)(2)(3)	Domestic Waste	2	4
61	Prohibited Waste	2	4
62(1)(2)(3)	Hard Waste Collection	2	4
63(1)(2)(3)	Commercial Waste	2	4
64	Interference with Public Receptacles	2	4
70(4)	Compliance with Conditions of a Permit Exemption	2	4
71	False Representations	2	4
75(1)(a)	Fail to Comply with an Incorporated Document	2	4
75(1)(b)	Fail to Comply with a Permit Condition	2	4
75(1)(c)	Knowingly Provides False Information in Support of a Permit Application	2	4
75(1)(d)	Knowingly Supplies False or Misleading Information to an Authorised Officer	4	8
75(1)(e)	Fail to Comply with a Verbal or Written Direction Issued by an Authorised Officer	2	4
75(1)(f)	Fail to Comply with a Notice to Comply served by an Authorised Officer	2	4
75(1)(g)	Fail to Comply with a Notice of Impoundment served by an Authorised Officer	2	4
75(1)(h)	Fail to Comply with a Sign Erected by Council	2	4
75(1)(i)	Make or Attempt to Make Any Agreement with an Authorised Officer to Induce that Authorised Officer to Compromise their Duty	4	8

*NOTE: The amount of a penalty unit is indexed each financial year as determined by the State Government.*

## SCHEDULE 2 – DESIGNATED PICNIC AREAS

- Gisborne
  - ☞ Area between Sankey Reserve and Gardiner Reserve, Aitken Street
  - ☞ The area along the Jacksons Creek at the end of Brantome Street
  - ☞ Gisborne Botanic Gardens, Station Street
- Kyneton
  - ☞ Botanical Gardens, Mollison Street and Clowes Street
  - ☞ Quarry Reserve, Piper Street/Campaspe Crescent
  - ☞ Kyneton Mineral Springs, Burton Avenue
- Lancefield
  - ☞ Lancefield Park, Chauncey Street
- Macedon
  - ☞ Ash Wednesday Park, Smith Street
- Mount Macedon
  - ☞ Centennial Park, Mount Macedon Road
  - ☞ Stanley Park, Waterfalls Road
- Malmsbury
  - ☞ Malmsbury Botanical Gardens, High Street
- Newham
  - ☞ Wesley Park, Rochford Road
- Riddells Creek
  - ☞ Lions Memorial Park, Main Road
  - ☞ Lake Park, Main Road
- Romsey
  - ☞ Lions Park Reserve, 50 Main Street
  - ☞ Lions 5 Mile Creek Park, Main Street
  - ☞ Romsey Park, Park Lane
  - ☞ Eco-therapy Park, Romsey
- Tylden
  - ☞ Tylden Hall Reserve, Tylden Woodend Road
- Woodend
  - ☞ Woodend Children's Park, Nicholson Street
  - ☞ Woodend Campaspe Park, Campaspe Drive

## VERSION CONTROL TABLE

VERSION	DATE	DETAILS
Version 1	23 August 2023	Council adoption
Version 1.1	30 August 2023	Minor administrative correction made to Clause 47 (d) to address typo, with reference to 'clause 46' corrected to 'clause 45'.
Version 1.2	7 September 2023	Minor administrative correction to Clause 38 (h) to correct administrative error in reversal of the stated date period for the Koala breeding season, which has been updated to reflect 'September – April' as the correct date range.
Version 1.3	19 September 2023	Minor administrative correction to table at Clause 56 (1) to correct administrative error at 'Farm animals', with reference made to sub-clause (3) (c) corrected to sub-clause (2) (e).
Version 1.4	6 August 2024	Minor administrative correction to re-insert definitions: 'Outdoor dining' (p.10) and 'Powered recreational vehicles' (p.11). Both definitions were unintentionally deleted due to an administrative oversight when reordering the definitions in the final version of the Local Law. Re-inserting the definitions provides the community with clarity as to the regulation requirements.



**Macedon Ranges**  
Shire Council



5422 0333



[mrsc.vic.gov.au/local-laws](https://mrsc.vic.gov.au/local-laws)



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