



Hindmarsh
Shire Council

HINDMARSH SHIRE COUNCIL

MUNICIPAL LOCAL LAW

MAY 13, 2021
HINDMARSH SHIRE COUNCIL
92 Nelson Street

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PART 1 PRELIMINARY PROVISIONS

1 TITLE

- 1.1 This Local Law is called the Hindmarsh Municipal Local Law 2021, and is referred to below as “this Local Law”.

2 OBJECTIVES OF THIS LOCAL LAW

- 2.1 The objectives of this Local Law are to:
- 2.1.1 regulate and control uses and activities of Council buildings, land and reserves, allowing for public enjoyment of Council places and protecting Council assets by providing minimum standards of behaviour and managing risks;
 - 2.1.2 to promote the health and wellbeing of the people living in the municipal district and to provide a safe and healthy environment that gives the residents of the municipal district the opportunity to enjoy a quality of life that meets the general expectations of the community;
 - 2.1.3 to prohibit, regulate and control activities that may be dangerous, unsafe, detrimental or undesirable to the quality of life in the municipal district;
 - 2.1.4 to control nuisance caused by noise, odour and smoke emissions, and other discharges to the environment which may adversely affect enjoyment of life, health, safety and welfare of persons within the municipal district;
 - 2.1.5 to regulate the keeping of animals within the municipal area and protect their welfare, including providing for the movement of livestock being driven, grazed or kept within the municipal area;
 - 2.1.6 to provide a system for applying for Permits where a Permit is required;
 - 2.1.7 to provide for the administration of the Council's powers and functions;
 - 2.1.8 to provide generally for the peace, order and good government of the municipal district in a way which enhances the environment and quality of life; and
 - 2.1.9 revoke Local Law No. 2 of 2014.

3 AUTHORISING PROVISION

- 3.1 This Local Law is authorised under Part 3, Division 3 – Local Laws of the *Local Government Act 2020* and Part 3 of the *Domestic (Feral and Nuisance Animals) Act 1994*.

4 OPERATION DATE

- 4.1 This Local Law comes into operation on the day following the day on which notice of making this Local Law is published in the Government Gazette, and operates throughout the municipal district.
- 4.2 Unless sooner revoked, this Local Law ceases to operate on the date 10 years following its making.

5 REVOCATION

5.1 Upon this Local Law coming into operation, Local Law no. 2 of 2014 is revoked.

6 SUNSET DATE

6.1 Ten years after law comes into operation.

7 APPLICATION OF LOCAL LAW

7.1 This Local Law will apply to the whole of Council’s municipal district save that anything allowed or required under any Act, Regulation or the Hindmarsh Planning Scheme is not affected by any prohibition, requirement or restriction under this Local Law.

8 DEFINITIONS

Unless the contrary intention appears in the Local Law, the following words and phrases are defined to mean or include:

Act	means the <i>Local Government Act 2020</i>
Advertising sign	means any sign, self-resting “A” frame, poster, panel or other object which advertises or promotes retail premises or merchandise.
Annex	means: <ul style="list-style-type: none"> (a) a structure; (b) an awning; (c) a room; (d) a lean-to; or (e) other enclosed or partially enclosed area which is used or is capable of being used in conjunction with a caravan or tent.
Aquatic facility	means any complex or area designated or set aside for swimming, and includes the building and outbuildings in, and the courtyards, gardens, grounds and car parks of such complex or area.
Attendant	means a person employed or engaged to work in the municipal building or at an aquatic facility
Authorised Officer	means any member of Council staff or other person authorised under section 224 (1) of the <i>Local Government Act 1989</i>
Barbecue	means any structure or device which is designed or constructed for the primary purpose of cooking food in the open air for human consumption.
Bicycle	means a two-wheeled or three-wheeled vehicle designed to be propelled by human power.
Building Works	means: <ul style="list-style-type: none"> (a) work associated with the construction, alteration, demolition or removal of a building; and (b) includes excavation, filing bricklaying and the delivery and assembly of materials and equipment.

Car park	means an area which is: (a) located on land (i) owned by; (ii) occupied by; or (iii) under the care, management and control of Council; and (b) is designated as being, or set aside for the purposes of, a car park but does not include any area reserved for the deposit or return of shopping trolleys.
Caravan	means a dwelling that is designed to be moveable.
Cattle	means any bull, cow, ox, steer, heifer, calf, buffalo or deer.
Chief Executive Officer	means the Chief Executive Officer of Hindmarsh Shire Council
Council	means the Hindmarsh Shire Council.
Council land	means all land either vested in the Council or in respect of which the Council has the care and management.
Deal in goods	includes selling goods or exposing goods for sale.
Declared road	has the meaning ascribed to it in the Transport Act 1983.
Disease	means any contagious or infectious disease or any condition to which livestock is subject, or an exotic disease as declared by the Governor in Council for the purposes of the Livestock Diseases Control Act 1994.
Domestic appliance	means any fixed or portable appliance which is: (a) designed exclusively for the preparation of food; and (b) fired by gas or electricity.
Domestic bird, small	includes but is not limited to budgerigars, canaries, finches and cockatiels, which can be kept in a portable cage or in captivity.
Domestic bird, large	includes but is not limited to pigeons, cockatoos, parrots, galahs, which can be kept in a portable cage or in captivity, but does not include poultry.
Droving of livestock	means moving livestock from one location to another for the purpose of changing their grazing area.
Dwelling	means any building or part of a building used or intended to be used as a place of residence.
Effective control	for the purposes of interpreting PART 4 of the Local Law, “effective control” means control by person or persons alone or using dogs, devices, fences or other equipment so as to ensure that livestock are not trespassing or endangering persons or objects.

For the purposes of interpreting DIVISION 9.363 of the Local Law, “effective control” means confined by a fence and a closed gate or on a leash or confined by such other appropriate method as prevents uncontrolled animal activity, and, in relation to dogs and cats which are not on a leash, means under direct supervision.

Exemption means an exemption issued by or under the authority of council under this Local Law.

Farm means any rateable land which is not less than two (2) hectares in area and is used primarily for carrying on one or more of the following businesses or industries:

- (a) grazing;
- (b) agistment;
- (c) dairying;
- (d) pig farming;
- (e) poultry farming;
- (f) fish farming;
- (g) tree farming;
- (h) bee keeping;
- (i) viticulture;
- (j) horticulture;
- (k) fruit growing; or
- (l) the growing of crops of any kind.

Fire does not include a fire lit by a member of the Country Fire Authority in the course of their duties.

Frontage means

- (a) in relation to land on which a building is erected, the boundary line between the land and the street which it abuts;
- (b) in relation to land on which a building is erected and where the land abuts more than one street, the boundary line between the land and the street onto which the main building fronts; and
- (c) in relation to land on which no building is erected, the shortest boundary line between the land and any street which it abuts.

Heavy motor vehicle means a vehicle with a gross vehicle mass of 4.5 tonnes or more.

Household waste service means the area of the Municipal District which from time to time is included in contracts with the Regional Waste Management Group for the collection of household waste.

Incinerator includes any structure or device which is:

- (a) not enclosed in a building;
- (b) used, intended, adapted or designed to be used or capable of being used for the purpose of burning any matter, material or substance; and
- (c) not licensed or otherwise subject to control under the Environment Protection Act 1970

but does not include a barbecue.

Large cattle	means cattle over nine (9) months of age.
Leave standing	includes parked or unoccupied.
Livestock	has the same meaning as that stated in the <i>Impounding of Livestock Act 1994</i> .
Long vehicle	means a vehicle that, together with any load or projection, is 7.5metres long or longer.
Merchandise	means goods which are sold or offered for sale or in respect of which sale can be arranged from or within retail premises.
Minister	means the Minister responsible for administering the Local Government Act 1989 and the <i>Local Government Act 2020</i> .
Mobile garbage bin	means a receptacle or container fitted with a secure lid which is both fly proof and vermin proof and such lid must have an overlapping flange and a secure handle constructed of heavy duty moulded plastic. Such receptacle or container must conform to Australian Standards Design No. A. 1535.
Municipal building	means any building (a) owned and occupied by; or (b) under the care, management and control of Council but does not include any municipal offices, aquatic facility or public convenience.
Municipal depot	means the area set aside by Council for the storage and maintenance of plant and equipment and includes all buildings, including amenities buildings, or areas set aside for the short term housing of animals.
Municipal district	means the municipal district of the Hindmarsh Shire.
Municipal offices	the office or offices of the Municipal council.
Municipal tip	includes a transfer station.
Notice to comply	means a notice issued by an authorised office requiring a person to remedy any breach of this Local Law.
Nuisance	means a state, condition or activity which is or is liable to be dangerous to health or offensive.
Offensive	means noxious, annoying or injurious to personal comfort.
Organisation	any body, whether incorporated or not, including a club, association, group, league and co-operative.
Open air	means any place which is not within a permanent structure.

Pavement	includes every footpath, lane or other place within the municipal district which is habitually used by pedestrians and not by motor vehicles.
Penalty unit	means the amount of a fine payable for an offence, determined by the Office of the Chief Parliamentary Counsel of the State Government of Victoria.
Permanent structure	any structure of a permanent kind which consists of a <ul style="list-style-type: none"> (a) wall on each side; and (b) roof and includes a caravan but not a tent.
Permit	a permit issued under Clause PART 1179 of this Local Law.
Permit fee	means a fee fixed by resolution of Council under PART 1178 of this Local Law.
Plant	<ul style="list-style-type: none"> (a) shrub; (b) hedge; or (c) other form of vegetation.
Playing arena	means an area within a reserve designated or set aside for competitive games or sport.
Poultry	Includes a rooster, fowl, pheasant, duck, goose, peacock, guinea fowl or turkey.
Pound	has the meaning ascribed to it by section 3 of the Impounding of Livestock Act 1994.
Pound keeper	means the person for the time being appointed by Council to manage the Pound.
Premises	includes land, buildings and a building under construction.
Public authority	means a body corporate established for a public purpose by an Act of the Parliament of Victoria or any other State or Territory of the Commonwealth, or by the Parliament of the Commonwealth.
Public place	<p>other than in PART 4 of this Local Law includes any:</p> <ul style="list-style-type: none"> (a) bridge, footway, footpath, court, alley, passage or thoroughfare formed on private land; (b) park, garden, reserve or other place of public recreation or resort; (c) wharf, pier or jetty; (d) place of public resort; and (e) open place to which members of the public have, or are permitted to have, access. <p>Under PART 4 of this Local Law, Public Place has the meaning ascribed to it in Section 3 of the <i>Summary Offences Act 1966</i>.</p>
Receptacle	Means a mobile garbage bin as defined by the Local Law, recycling bag or other approved receptacle used for the collection of household waste.

Recreational vehicle	<p>means a vehicle used for recreational purposes including:</p> <ul style="list-style-type: none"> (a) motorcycle, trail bike or mini-bike; (b) a motor scooter; (c) a go-cart; and (d) any other vehicle which is propelled by internal combustion, steam, gas, electricity or other power but does not include a <ul style="list-style-type: none"> (i) motor car or vehicle; (ii) motor tractor; or (iii) other vehicle used solely for or in connection with primary production, cultivation, construction or maintenance; or for the conveyance of a person who is physically disabled.
Reptile	<p>means any snake, lizard, turtle or tortoise.</p>
Reserve	<p>means any land within the municipal district</p> <ul style="list-style-type: none"> (a) owned by Council; (b) occupied by Council; or (c) of which Council has the care, control and management <p>which is used for sporting or recreational purposes, and includes parks, gardens, playgrounds, skate parks, and all car-parks, roads, tracks and other areas within the land.</p>
Residence	<p>includes part of a building used or intended to be used as a separate residence, as well as a flat and unit.</p>
Residential area	<p>an area which is zoned as being, or reserved for residential purposes under any applicable Planning Scheme.</p>
Retail premises	<p>any premises used for the carrying on of a business involving the sale or hire of goods or services by retail.</p>
Road	<p>Other than in PART 4 of this Local Law includes:</p> <ul style="list-style-type: none"> (a) a street (whether or not it is a private street); (b) a private road; (c) land reserved or proclaimed as a road or street under the Land Act 1958; (d) a passage; (e) a cul de sac; (f) a public highway; (g) any land described or used as a road or street by the owner in relation to a transfer or conveyance which grants a right of way over the land; (h) any footpath, bicycle path, nature strip or any other matter or thing forming part of a road or street, and (i) the area as defined by the Road Rules published by VicRoads. <p>Under PART 4 of this Local Law "Road" has the meaning ascribed to it in section 3 of the Act and includes a highway</p>
Senior officer	<p>means an officer that the Chief Executive Officer has designated to be a Senior Officer.</p>

Service authority	includes the Council, Police, State Emergency Service or any government, semi government or non-profit agency involved in remedying a problem associated with livestock on a road.
Skateboard	includes any board on wheels designed to enable self-propulsion, and extends to include any rollerblades or scooters.
Skate park	includes a community skate park established by the Hindmarsh Shire Council for the purpose of roller skating, roller blading, roller scooting, bicycle riding or similar activity.
Street	Includes: <ul style="list-style-type: none"> (a) a road, whether or not it is a private road; (b) land reserved or proclaimed as a street under the Land Act 1958. (c) a passage; (d) a cul de sac; (e) a public highway; (f) any land described or used as a street or road by the owner in relation to a transfer or conveyance which grants a right of way over the land; and (g) any footpath, bicycle path, nature strip or any other matter or thing forming part of a street or road.
Street furniture	means a sign, notice, structure, or fixture which is owned, was erected; or is maintained by council, and is located on; or adjacent to a road.
Total fire ban day	a day or part of a day declared to be a day or partial day of total fire ban under section 40 of the Country Fire Authority Act 1958.
Vehicle	means any form of conveyance intended to be used on a road or road-related area, including but not limited to: <ul style="list-style-type: none"> (a) a motor car; (b) a caravan; (c) a motor bike; (d) a trailer; (e) a tractor; (f) a recreational vehicle; (g) a bicycle.
Vehicle crossing	means an opening, or artificial surface which allows or facilitates access from a road to land which abuts that road.
Waste	means: <ul style="list-style-type: none"> (a) household waste includes hard waste, recyclable waste, garden waste and what is prohibited from being put into a receptacle under this Division; (b) recyclable waste includes P.E.T. plastics, paper, cardboard, aluminium, glass, tin or any other substance which Council determines from time to time; (c) hard waste means and includes furniture and household appliances but does not include food waste and other putrescible matter, car bodies or

car parts unless reduced to a size that can be carried by two men, builders rubbish from the erection, alteration or additions to any building, trade wastes, garden waste or broken concrete; and

(d) garden waste means garden organic waste material including tree pruning, lawn clippings and the like.

Waste container any portable container or receptacle specifically designed for the collection of waste, and includes a rubbish hopper and mini-skip but not a refuse receptacle.

Zoned means zoned under any applicable planning scheme.

PART 2 CAMPING

9 Camping on private property

- 9.1 An owner or occupier of any land must not occupy, place or cause to be placed, or use or cause to be used a tent, caravan or annex on any land without a Permit.
- 9.2 Clause 9.1 does not apply to:
- 9.2.1 the storage of a caravan or similar facility on any land;
 - 9.2.2 any occupation, placement or use permitted by or under the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 1999; and
 - 9.2.3 the reasonable use of the tent, caravan or annex for periods of no more than three (3) months in a calendar year in association with the use of the land on which it is located and providing the use of the tent, caravan or annex is not for commercial gain.

CAMPING ON ROADS, PUBLIC PLACES OR COUNCIL LAND

- 9.3 Except with a Permit, a person must not occupy or use or cause to be used any road, Council land or public place for camping.
- 9.4 Except with a Permit, a person must not keep, erect or place any tent, caravan or annex on any road, Council land or in a public place.
- 9.5 Clauses 9.3 and 9.4 do not apply to:
 - 9.5.1 camping on land which is a permitted use under the Planning Scheme; or
 - 9.5.2 land designated as being, or set aside for use as a camping area and the use is authorised under the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 1999.
 - 9.5.3 camping on any road, Council land or public place in non-township areas where Council has designated that overnight camping is permitted.
- 9.6 An authorised officer may exempt any person or class of persons or an authority from the need to apply for a Permit.

Penalty for offences under Part 2: 2 Penalty Unit

10 Left standing or abandoned

- 10.1 A person must not:
 - 10.1.1 in a road or street;
 - 10.1.2 in a parking area provided by Council; or
 - 10.1.3 on land vested in or under the control of Council;
 - (a) leave standing an unregistered vehicle; or
 - (b) abandon a vehicle or cause a vehicle to be abandoned.
- 10.2 Clause 10.1 does not apply to:
 - 10.2.1 Vehicles that comply with and display Club Permit plates.

NOTE: A vehicle is considered abandoned if it has not been moved in two months.

PART 3 CONTROL OF VEHICLES

11 Power to impound

- 11.1 Where a vehicle left standing in a road or street, in a parking area provided by Council, or on any land vested in or under the control of Council is:
 - 11.1.1 causing an unlawful obstruction; or
 - 11.1.2 unlawfully parked;
 an authorised officer may cause the vehicle to be towed or removed to a pound or such other place as Council appoints, and be retained there subject to Clauses 12 and 13 of this Local Law.

12 Notice of impoundment

- 12.1 Where a registered vehicle is impounded, Council must serve a notice on each of the persons who appear to be the owner of the vehicle from the records kept at VicRoads or the equivalent body in the State or Territory in which the vehicle is registered.

13 Surrender of vehicle

- 13.1 Council must surrender a vehicle impounded in accordance with this Local Law to the owner or any person acting on the owner's behalf if:
- 13.1.1 satisfactory evidence is provided indicating that the person is the owner or authorised to act on behalf of the owner; and
 - 13.1.2 the owner or person acting on the owner's behalf pays the reasonable expenses incurred by Council in impounding, moving, keeping and releasing the vehicle (including overhead and other indirect costs) within seven (7) days of Council impounding the vehicle.

14 Power to sell, destroy or give away

- 14.1 Where a vehicle is impounded in accordance with this Local Law, Council must take reasonable steps to notify the owner of the vehicle that it may be:
- 14.1.1 sold by auction or public tender;
 - 14.1.2 destroyed or delivered to a municipal tip; or
 - 14.1.3 given away as Council sees fit;
- if it is not claimed and removed by the owner or person acting on the owner's behalf within fourteen (14) of impoundment.

- 14.2 If Council elects to offer a vehicle for sale (whether by auction or public tender), it must provide seven (7) days' notice of such auction or calling of tenders in a newspaper generally circulating in the municipal district. Every notice must indicate the vehicle:
- 14.2.1 registration number (if any);
 - 14.2.2 label number (if any);
 - 14.2.3 engine number;
 - 14.2.4 chassis number; and
 - 14.2.5 make, model and colour.
- 14.3 Where the net proceeds from the sale of the vehicle exceed the expenses incurred by Council in complying with this Local Law, Council shall hold the excess money to be paid to the owner of the vehicle or any other person who Council deems to be entitled to the money.

15 **Repairing vehicles**

- 15.1 A person must not dismantle, repair or paint a vehicle on a road except in an emergency or where necessary to enable the vehicle to be moved.

PART 4 LIVESTOCK

16 **Fencing of land containing livestock**

- 16.1 An owner or occupier of land on which livestock are kept must ensure that the fencing of that land is adequate to prevent the escape of that livestock.

17 **Droving of livestock**

- 17.1 A permit is required where livestock are to be driven:
- 17.1.1 through the municipal district; or
 - 17.1.2 from outside the municipal district towards a point of destination in the municipal district; or
 - 17.1.3 from inside the municipal district to a point of destination outside the municipal district.
- 17.2 A permit will be issued where the authorised officer is satisfied that:
- 17.2.1 the number of stock proposed to be moved is reasonable in the circumstances;
 - 17.2.2 the livestock are healthy and free from diseases and parasites;
 - 17.2.3 the roads proposed to be travelled is the most practicable direct route and not of high conservation significance;
 - 17.2.4 the owner or drover or person in charge of the livestock is able to adequately water and feed the livestock and to safely contain them overnight;
 - 17.2.5 the stock will remain under effective control at all times; and
 - 17.2.6 the owner or drover or person in charge of the livestock holds adequate public liability insurance.
- 17.3 Upon the issue of a droving permit, Council may notify the Department of Environment, Land, Water and Planning of the route and of the livestock to be driven.
- 17.4 A person who is in charge of livestock which are being driven on a road must ensure that:

- 17.4.1 they are competent in the handling of livestock and take all reasonable steps to minimise risk to other road users or to property in the area;
 - 17.4.2 the livestock are only driven during daylight hours, with a minimum visibility of 300 metres;
 - 17.4.3 proper disposal takes place of any carcass of any livestock that dies on the road under that person's charge;
 - 17.4.4 appropriate warning signs are erected in front of and behind any livestock being driven or camped overnight on a road in accordance with the Road Safety Rules 2009; and
 - 17.4.5 all conditions on the Permit are adhered to.
- 17.5 In the event that livestock is to be moved at a rate of less than one kilometre per hour, a grazing permit must be obtained.

18 Relocation of livestock in an emergency

- 18.1 The provisions in this Part do not apply to relocation of livestock by an authorised officer in an emergency or to avoid or minimize danger.

19 Health and/or fitness of livestock

- 19.1 Where an authorised officer has any doubt as to the health of the livestock to be driven or grazed, he or she may require the stock be subject to a veterinary examination at the cost of the owner.

<p>Penalty for offences under Part 4: 6 Penalty Units.</p>

PART 5 ENVIRONMENTAL AMENITY

DIVISION 5.1 – GENERAL PROTECTION OF AMENITY AND SAFETY

20 Dangerous land

- 20.1 No owner or occupier may allow or permit their land to be kept in a manner which is dangerous or likely to cause danger to life or property, or that is:
- 20.1.1 a haven for vermin, noxious weeds, insects or excessive vegetation growth;
 - 20.1.2 used without a permit for the storage of any substance, which in the opinion of an authorised officer is dangerous or is likely to cause danger to life or property; or
 - 20.1.3 for any reason as determined by the authorised officer.

21 Unsightly land

- 21.1 No owner or occupier may allow or permit their land to be kept in a manner which is unsightly or detrimental to the general amenity of their neighbourhood including land which:
- 21.1.1 harbours unconstrained rubbish, including disused excavation, waste material, or builder's rubble;
 - 21.1.2 has excessive vegetation stockpiles and/or growth, including noxious weeds;
 - 21.1.3 has automobiles and machinery that are unregistered and reasonably deemed to be excessive in number by the authorised officer, having regard to all relevant circumstances; or
 - 21.1.4 for any other reason as determined by the authorised officer.
- 21.2 The number of Unregistered vehicles per property should not, without a permit, exceed three (3).

22 Motor vehicles and machinery

- 22.1 Except with a permit or in conformity with a Planning Scheme, a person must not use:
- 22.1.1 any land, including commercial premises and private dwellings, for storage of four (4) or more old or second hand motor vehicles or machinery or for the dismantling or breaking up of motor vehicles or machinery; or
 - 22.1.2 land which is used or intended to be used primarily for residential purposes, for the repair or servicing of any motor vehicle other than a motor vehicle registered at the address of that land.

23 Noise

- 23.1 A person must not emit noise or cause noise to be emitted from any road or any land if in the opinion of any authorised officer, the noise is unreasonable.
- 23.2 In this clause "unreasonable" is determined having regard to duration, volume, intensity, time and place.
- 23.3 A person must not:

- 23.3.1 operate a vehicle mounted refrigeration unit on any land in a residential area prior to 7.00am or after 10.00pm Monday to Friday or prior to 9.00am or after 10.00pm on any Saturday, Sunday or Public Holiday if it is likely to cause a nuisance to an adjacent residential area;
- 23.3.2 deliver goods to any commercial premises prior to 7.00am or after 10.00pm Monday to Saturday or prior to 9.00am or after 10.00pm on any Sunday or Public Holiday if that delivery of goods is likely to cause a nuisance to an adjacent residential area; or
- 23.3.3 unless with a permit, cause or allow to be caused noise from or related to the construction, demolition or repair of buildings or works (except by repair or maintenance of a dwelling by the occupier) other than between 9.00am and 6.00pm on Saturday, Sunday or public holiday; or 7.00am and 8.00pm on Monday to Friday inclusive other than a public holiday.

DIVISION 5.2 OPEN AIR BURNING AND INCINERATORS

24 Burning generally

- 24.1 Unless permitted to do so by an Act or Regulations or by a Council permit, a person must not burn, or cause or allow to be burned on any land or road and in the open air any:
 - 24.1.1 rubber or plastic substance;
 - 24.1.2 petroleum oil or material containing petroleum oil
 - 24.1.3 paint or receptacle which contains or has contained paint;
 - 24.1.4 manufactured chemicals;
 - 24.1.5 pressurised cans;
 - 24.1.6 textile fabrics; or
 - 24.1.7 food waste.

NOTE: this provision does not apply where that person is a member of the staff of, or a person authorised by a public authority, and is lawfully engaged in an activity for or on behalf of Council or that public authority.

25 Fires in the open air in residential areas

- 25.1 A person must not, without first obtaining a permit or otherwise than in accordance with the conditions of any such permit light a fire or allow a fire to be lit or remain alight in a residential area and in the open air.
- 25.2 Nothing in Clause 25.1 shall restrict or otherwise affect the right of a person to light or use a barbeque, provided that the day is not a day declared under the Country Fire Authority Act 1958 to be a day of “total fire ban” in any part of Victoria that includes the municipal district.

26 Incinerators

- 26.1 No person shall light or allow to remain alight any incinerator in a residential area.
- 26.2 In a non-residential area, no person shall light or allow to remain alight any incinerator which is likely to ignite a fire in the open or constitute a nuisance.

27 Fire hazards

- 27.1 All owners or occupiers of residential land must ensure that all necessary steps are taken to prevent fires and minimise the possibility of the spread of fire and at all time vegetation and any other flammable material or substance be kept at such a length and in such a condition to minimise the possibility of the spread of fire.

28 Directive powers

- 28.1 If, in the opinion of an authorised officer or a member of the Victoria Police, a fire has been lit otherwise than in accordance with this Local Law or any permit issued under this Local Law, they may direct the owner, occupier or person in charge of the land on which the fire is alight to extinguish the fire.

Penalty for offences under DIVISION 5.2: 10 Penalty Units.

DIVISION 5.3 COLLECTION OF HOUSEHOLD WASTE

29 Occupier to maintain receptacle

- 29.1 An occupier of a dwelling must keep and maintain an approved mobile garbage bin (MGB), which must be in a sanitary and inoffensive condition.
- 29.2 The occupier of a dwelling must remove any rubbish which has spilled onto any road, nature strip or surrounding area from a receptacle or any other container left out by that person for collection by Council.

30 Prohibited use of receptacles

- 30.1 A person must not cause or permit to be placed in any receptacle any:
- 30.1.1 slops or liquid waste;
 - 30.1.2 ashes or dirt;
 - 30.1.3 wire or other jagged or rough edged material or object unless the material or object is securely wrapped so as to prevent injury to any person emptying the receptacle.
 - 30.1.4 syringes or other sharp objects which may be contaminated with infectious waste including blood unless wrapped or secured in such a manner as to render it or them harmless or inoffensive;
 - 30.1.5 oil, paint or solvents, or any other thing substance or material whatsoever which may damage such receptacle or reduce its strength;
 - 30.1.6 the carcass of a deceased animal or mammal;
 - 30.1.7 building waste;
 - 30.1.8 hazardous chemicals, or volatile, explosive or flammable substances;
 - 30.1.9 human faeces;
 - 30.1.10 any other object or matter which is or may be deemed by an authorised officer to be unsuitable for collection;
- except in a receptacle approved for that purpose.
- 30.2 An occupier of a dwelling must cause any receptacle to be removed within 24 hours from the time at which the receptacle was emptied.

Penalty for offences under DIVISION 5.3: Penalty Units.

DIVISION 5.4 COMMERCIAL RUBBISH

31 **General**

- 31.1 The occupier of any land other than a residential property must ensure that any receptacle used for the storage of industrial, trade or commercial refuse or other rubbish is:
- 31.1.1 constructed of impervious materials as approved by Council;
 - 31.1.2 maintained in a clean, inoffensive and sanitary condition and able to be cleaned from time to time as prescribed by Council; and
 - 31.1.3 fitted with a vermin-proof close fitting lid and securely closed at all times.

Penalty for offences under DIVISION 5.4: 2 Penalty Units.

DIVISION 5.5 RECYCLABLE AND OTHER WASTE

32 **Recyclable waste, hard waste and garden waste**

- 32.1 Council may, from time to time, and in such manner as it may determine, undertake the collection of other waste including recyclable waste, hard waste and garden waste.
- 32.2 The occupier of a dwelling in the recyclable household service area who is supplied by Council or its contractor with a receptacle for collection must use the receptacle only for the purpose for which it was provided.
- 32.3 Hard waste may only be placed out on the reserve adjacent to the road in such a manner that will not obstruct or hinder the use of any footpath or road and otherwise in a manner which Council resolves from time to time.
- 32.4 Garden waste may only be placed out on the reserve adjacent to the road in such a manner that will not obstruct or hinder the use of any footpath or road and otherwise in a manner which Council resolves from time to time.

33 **Large waste containers**

- 33.1 A person must not, without first obtaining a permit nor otherwise than in accordance with the conditions of any such permit place or allow to be placed on or adjacent to:
- 33.1.1 a street;
 - 33.1.2 a road;
 - 33.1.3 a lane;
 - 33.1.4 a footway;
 - 33.1.5 a nature-strip; or
 - 33.1.6 premises;
- any large waste container or Skip Bin.

34 **Human faeces**

- 34.1 Except with a Permit, a person including builders, sub-contractors and their agents and servants, must not deposit any human faeces on any land or in any water or watercourse.

Penalty for offences under DIVISION 5.5: 4 penalty units

DIVISION 5.6 INTERFERING WITH WASTE COLLECTION

35 General

- 35.1 A person must not, without the consent of an authorised officer, remove or interfere with any household waste, recyclable waste or garden waste which is placed out for collection.
- 35.2 If Council undertakes the collection of recyclable waste, hard waste or garden waste, a person must not place out for collection any waste which is not of the kind of substance specified by Council for collection at that particular time.

<p>Penalty for offences under DIVISION 5.6: 2 penalty units</p>
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DIVISION 5.7 KEEPING OF ANIMALS AND BIRDS

36 General

- 36.1 An owner of animals or person acting on their behalf must ensure animals are kept on land that is securely fenced, or caged as necessary.
- 36.2 All animals must be kept in a sanitary environment that is regularly cleaned and kept in good order and repair with adequate drainage and shade.
- 36.3 Proper provision must be made for the storage and dispersal of food and for adequate supply of water for all animals.
- 36.4 Deceased animals must be disposed of in a hygienic way.
- 36.5 An owner of animals or occupier of land on which they are kept must ensure no noise or smell emanates from the property such that it is a nuisance to neighbours.

37 Dogs and cats

- 37.1 An occupier of land comprising a property confined within the residential or township zone of the municipality must not, without first obtaining a permit, nor otherwise than in accordance with the conditions of any such permit, keep more than:
- 37.1.1 two (2) dogs over three (3) months of age; or
 - 37.1.2 two (2) cats over three (3) months of age; or
 - 37.1.3 two (2) dogs over three (3) month of age and two (2) cats over three (3) months of age.
- 37.2 It is an offence to harbour an unregistered dog/s over three (3) months of age or a cat/s over three (3) months of age.
- 37.3 An owner of animals must not allow a dog or cat to roam at large between dusk and dawn in a zoned residential area.

38 Horse and cattle

- 38.1 In a residential or township area a person must not, without first obtaining a permit nor otherwise than in accordance with the conditions of any such permit, keep:

- 38.1.1 horses;
- 38.1.2 cattle;
- 38.1.3 sheep;
- 38.1.4 goats, or
- 38.1.5 pigs.

39 Domestic birds and poultry

- 39.1 In a residential or township area, a person must not without first obtaining a permit nor otherwise than in accordance with the conditions of any such permit, keep more than:
- 39.1.1 fifty (50) small domestic birds or ten (10) large domestic birds; or
 - 39.1.2 twelve (12) mature poultry; and
 - 39.1.3 one (1) rooster.

NOTE: where Council receives noise and or nuisance complaints about roosters that cannot be resolved, the authorised officer may order the rooster be removed.

40 Rodents and reptiles

- 40.1 A person must not, without first obtaining a permit nor otherwise than in accordance with the conditions of any such permit, and without obtaining the relevant licences, keep more than:
- 40.1.1 six (6) rodents; or
 - 40.1.2 six (6) reptiles.

41 Other animals

- 41.1 An occupier of land in a residential or township area must not, without first obtaining a permit nor otherwise than in accordance with the conditions of any such permit, keep any animal not referred to in this DIVISION 5.7 on their land.

42 Different types of animals

- 42.1 No owner or occupier of property zoned township. residential or business, with the exception of commercial pet shops, may without a permit keep or allow to be kept more than five (5) different types of animals on any one property at any time without approval from the authorised officer.

Penalty for offences under DIVISION 5.7: 2 Penalty Units for a first offence; 4 Penalty Units for a second offence; 10 penalty points for any subsequent offences.

PART 6 MUNICIPAL PLACES

43 General

- 43.1 A municipal place includes municipal offices, municipal buildings, municipal depots, tips, reserves, skate parks and aquatic facilities.

44 Unauthorised entry

- 44.1 A person must not, without the authority of Council or a member of Council's Senior Management Team (SMT), enter any municipal office, municipal building, municipal depot, tip or aquatic facility while they are closed.
- 44.2 Except as determined by resolution of Council, all skate parks and reserves must be open to the public on each day.
- 44.3 Any fee associated with entry to a reserve or aquatic facility must be paid prior to entry.

45 Maintenance

- 45.1 Council or a member of Council staff may close any municipal place for any purpose, including maintenance, cleaning, or hire for use by an individual or group.
- 45.2 A person must not without the authority of Council destroy, damage, change, remove, interfere with or install any notice, seat, furniture, fixture, fitting, carpet, ceiling, wall or plant within a municipal place.

46 Hire and use of municipal places

- 46.1 Subject to the Act, Council may hire out, lease, license or otherwise allow the use of the whole or any part of a municipal place by any person or association for an event on such terms and conditions as Council considers appropriate.
- 46.2 During any period in which a municipal place has been hired out, an authorised officer or an attendant may refuse admission to any person not associated with the hired use of the place.
- 46.3 Council may from time to time set fees and charges for the use of a municipal place including a building or reserve as it considers appropriate.

47 Management agreements

- 47.1 If Council enters or has entered into a contract or agreement with any person to manage or operate an aquatic facility or reserve on behalf of Council, the provisions of that contract or agreement prevail over the provisions of this Local Law to the extent of any inconsistency.

48 Conduct

- 48.1 A person must not in a municipal place, without the authority of Council:
- 48.1.1 behave in a way that:
- (a) offends against decency;
 - (b) interferes with the enjoyment of a municipal place by other persons;
 - (c) endanger other persons or be injurious to health; or

- (d) is likely to cause damage to the municipal place;
- 48.1.2 consume, supply or sell any intoxicating liquor to any person or persons unless all necessary licenses or permits have been obtained;
- 48.1.3 enter or remain whilst under the influence of intoxicating liquor, drugs or any other substances;
- 48.1.4 remain in or upon a reserve after having been lawfully directed to leave by an authorised officer or a member of the Victoria Police;
- 48.1.5 bring any firearm, or any other dangerous or offensive weapon, except for a member of Victoria Police acting in his or her official duties;

NOTE: the authorised officer may carry a firearm except in a customer service centre or Council depot.

- 48.1.6 erect, fix or place any advertisements or notices;
- 48.1.7 distribute or otherwise make available on a weekday any printed electoral material within 100 metres of a municipal office;
- 48.1.8 organize, hold or attend any rally, procession, demonstration or other public gathering;
- 48.1.9 sell, expose or offer for sale on a reserve any food, drink or other article;
- 48.1.10 light a fire or allow a fire to remain alight unless the fire is in a barbecue, or an approved camp oven.
- 48.1.11 permit an animal owned by him or her or of which he or she is in charge to be in a municipal place unless the animal is under effective control;
- 48.1.12 disobey any sign or markings erected or placed by Council, or remove, displace, disfigure or damage such a sign or markings; or
- 48.1.13 play an unlawful game, carry on any form of gambling, or conduct, organise or participate in a game of sport if for commercial gain.

49 Aquatic facilities

- 49.1 A person must not enter or remain in an aquatic facility if he or she is under the age of 10 years, unless that person is in the care of an adult.
- 49.2 A person must not:
 - 49.2.1 act in a manner which endangers or annoys any other person, such as pushing people into a pool;
 - 49.2.2 act in a manner which may cause damage to any pool, aquatic equipment or life saving devices;
 - 49.2.3 pollute, discolour or render unclean any water, equipment or part of an aquatic facility.
- 49.3 Except with the consent of the attendant, a person must not bring into or cause or permit to be brought into or remain in any part of an aquatic facility:
 - 49.3.1 any aquatic toys or equipment that may interfere with the use or enjoyment of an aquatic facility or any part of an aquatic facility by any person;
 - 49.3.2 any wheeled vehicle other than a pram, pusher or wheelchair, such as roller blades or a skateboard;
 - 49.3.3 any chemical substance, liquid or powder which is dangerous or injurious to health or has the potential to pollute, discolour or render unclean any part of an aquatic facility or cause a nuisance to any person.
- 49.4 A person using an aquatic facility must wear a suitable and clean bathing costume so as to preserve public decency to the satisfaction of an attendant.

Penalty for offences under PART 6: 2 Penalty Units

PART 7 USE OF RECREATIONAL VEHICLES

50 General

- 50.1 A person must not, without obtaining a permit nor otherwise than in accordance with the conditions of any such permit ride or use a recreational vehicle on any land within two (2) kilometres of a residential or township area within the municipal district.

Penalty for offences under PART 7: 2 Penalty Units

PART 8 STREET TRADERS AND COLLECTORS

51 General

- 51.1 A person must not, without first obtaining a permit nor otherwise than in accordance with the conditions of any such permit, deal in goods or motor vehicles in or within any:
- 51.1.1 street;
 - 51.1.2 vacant land;
 - 51.1.3 land which he or she does not ordinarily occupy; or
 - 51.1.4 public place;
- within the municipal district.

Penalty for offences under: 2 Penalty Units

PART 9 STREETS, ROADS AND PUBLIC PLACES

DIVISION 9.1 ROAD CLOSURES

52 Permanent and temporary road closures

- 52.1 An application must be made before:
- 52.1.1 closing to through traffic the whole or part of a road, bridge or culvert;
 - 52.1.2 closing for a particular period during the year the whole or part of a road, bridge or culvert; or
 - 52.1.3 stopping all or some traffic through the closed area.

53 Content of application

- 53.1 Every application made must:
- 53.1.1 contain a Traffic Management Plan showing the road, bridge or culvert and the points at which it is proposed to be closed; and
 - 53.1.2 indicate the objectives of the proposed closure.

54 Advertising the application

- 54.1 The relevant Director must, as soon as is practicable after preparing the proposal, give notice of the application to:
- 54.1.1 every person who owns or occupies properties abutting or adjacent to the road, bridge or culvert and any other properties that might be affected by the closure, advising them they may make a submission under the Act.
 - 54.1.2 VicRoads;
 - 54.1.3 the Victoria Police;
 - 54.1.4 the Country Fire Authority;
 - 54.1.5 the Ambulance Service Victoria - Western Region;
 - 54.1.6 the State Emergency Service; and
 - 54.1.7 the Ministers administering the Transport Act 1983 and the Act.

55 Considering the application

- 55.1 Subject to sections 205, 206(b) and 223 of the *Local Government Act 1989*, the relevant Director, in consultation with the Chief Executive Officer, may
- 55.1.1 accept the application;
 - 55.1.2 accept the application with modifications; or
 - 55.1.3 refuse to accept the application;
- having regard to:
- 55.1.4 the particulars of any traffic management strategy for the area in which the road, bridge or culvert is located;
 - 55.1.5 how the closure is to be effected; and
 - 55.1.6 how the costs of carrying out any relevant works will be financed.

Note: a decision of the relevant Director and Chief Executive Officer can be repealed by a resolution of Council.

56 Further advertising the application

- 56.1 If the relevant Director:
- 56.1.1 accepts the application; or
 - 56.1.2 accepts the application with modifications;
- 56.2 the Chief Executive Officer must cause to be published in a newspaper generally circulating within the municipal district a notice for 14 days:
- 56.2.1 advising that the application has been accepted;
 - 56.2.2 indicating the purport of the application; and
 - 56.2.3 advising when the closure and stoppage will take effect.

57 General prohibition

- 57.1 A person must not drive or cause to be driven a vehicle on or onto any:
- 57.1.1 road, bridge or culvert; or
 - 57.1.2 part of a road, bridge or culvert
- which has been closed in accordance with this DIVISION 9.1.

DIVISION 9.2 MOVEABLE ADVERTISING SIGNS, DISPLAYS OF GOODS AND CHAIRS AND TABLES

58 Permit required

- 58.1 A person must not, without first obtaining a permit nor otherwise than in accordance with the conditions of any such permit, place a movable advertising sign, advertising flags, wind barriers, display goods or items, or place tables and chairs on a road or road related area, including a footpath or the shoulder of a road.
- 58.2 Subject to Clause 58.1, a person who carries on a commercial or retail undertaking may place a movable advertising sign, advertising flags, wind barriers, display goods or items or place tables and chairs on an adjacent footpath provided this is done so in accordance with the conditions set out on the permit.
- 58.3 Council or an authorised officer may issue a permit to allow a movable advertising sign, advertising flags, wind barriers, display of goods or items or place tables and chairs in an area outside of the operating envelope described in the permit where he or she is of the opinion that the sign does not unreasonably impede, obstruct or hinder the movement of pedestrian traffic along the footpath by reason of any circumstance including the number of signs, goods or items displayed, advertising flags, wind barriers, tables and chairs and taking into account their proximity to other such items (including items located outside of adjoining premises), street seats, planter boxes or other similar fixed or semi-fixed structures.

59 Public liability insurance

- 59.1 A person who carries on a commercial or retail undertaking and who places an advertising sign or a structure supporting an advertising sign, advertising flags, wind barriers, display of goods or items or the placing of tables and chairs on an adjacent footpath or otherwise in accordance with this Local Law must either.

- 59.1.1 take out and maintain, for the duration of the relevant activity, a public liability insurance policy in the joint names of the relevant person and the Council to the value of not less than \$10 million or such other amount as Council considers is appropriate and must produce a copy of the certificate of currency of that insurance policy on demand to an authorised officer; or
- 59.1.2 enter into a suitable agreement with the Council to cover the advertising sign or a structure on the footpath under Council's public liability coverage.

Penalty for offences under DIVISION 9.2: 4 Penalty Units.

DIVISION 9.3 OTHER PROVISIONS RELATING TO STREETS, ROADS AND PUBLIC PLACES

60 Consumption of alcohol

- 60.1 A person must not consume, possess or have under his or her control any open containers of alcohol within any town boundary except in the following areas and between the hours designated by Council:
- 60.1.1 in Nhill at Jaypex Park, Goldsworthy Park, Davis Park or the Nhill Lake barbeque areas between the hours of 12noon and 10pm;
 - 60.1.2 in Dimboola at Bicentennial Park, Dimboola Recreation Reserve, Nine Creeks Reserve barbeque area or the rear of the Dimboola Library between 12noon and 10pm;
 - 60.1.3 in Rainbow at the Federal Street Barbeque Area and Rainbow Recreation Reserve between 12noon and 10pm; and
 - 60.1.4 in Jeparit at the Riverbank precinct barbeque area, Jeparit Recreation Reserve, Broadway barbeque area, the Wimmera Mallee Pioneer Museum, or Menzies Square between 12noon and 10pm.
- 60.2 Clause 60.1 does not apply to a person who possesses alcohol in a sealed container or consumes or has under his or her control, liquor in premises or at a location which:
- 60.2.1 is licensed under the Liquor Control Reform Act 1998; or
 - 60.2.2 is the subject of a written consent from Council or an authorised officer allowing a person or persons to have in their possession or control any liquor.

61 Shopping trolleys

- 61.1 A person must not leave a shopping trolley on any road or in a car park vested in or under Council's management or control, or in a public place, other than in an area designated by Council as an area where shopping trolleys may be left.
- 61.2 An authorised officer may impound a shopping trolley left in a place where, pursuant to Clause 61.1, it must not be left.

62 Skateboards and bicycles

- 62.1 Council may designate areas in which skateboards and bicycles must not be used or ridden and must erect signs in or at the entrance to any area so designated indicating those prohibitions.
- 62.2 A person must not use a skateboard or bicycle in a prohibited area designated by the Council.
- 62.3 A person may not be prosecuted for an offence under Clause 62.2 where the Council fails to erect and maintain signs as required under Clause 62.1.
- 62.4 A person must not use a skateboard or bicycle, or authorise another person to use a skateboard or bicycle on a road in a manner so as to cause inconvenience or obstruct, hinder, endanger, alarm or prevent the free passage of any pedestrian or other user of the road, whether in or on another vehicle or not.

63 Dogs and cats

- 63.1 A person must not allow any dog or cat owned or in that person's custody to be in or on any road, public place or Council land unless such dog or cat is under effective control.

Note: effective control is defined as being secured by a chain, cord or leash.

- 63.2 A person must not, in a residential or township area, release a dog or cat so as to enable that dog or cat to:
- 63.2.1 attack any person or animal, other than a pest or game animal; or
 - 63.2.2 endanger any person or animal, other than a pest or game animal.
- 63.3 A person in charge of a dog that defecates in a public place must immediately remove the faeces and deposit them as litter in a lawful manner.
- 63.4 A person in charge of a dog in a public place must have in his or her possession the means to collect and dispose of the dog's faeces.

64 Identification of premises

- 64.1 If Council has allotted a numbered premises abutting the road so that they may be identified, the owner and occupier of those premises must:
- 64.1.1 mark or cause to be marked; and
 - 64.1.2 maintain or cause to be maintained
 - 64.1.3 that number on part of the premises.
- 64.2 The number must be marked in such a way that it can, at any reasonable time, be clearly seen by any person using the road which abuts such premises.

65 Vegetation

- 65.1 The owner or occupier of land in a residential or township area must not permit any tree, part of a tree, plant or part of a plant to grow in such manner as to:
- 65.1.1 overhang the boundary between the land and any pavement or road abutting that land to a height of less than 2.5 metres from any road;
 - 65.1.2 obstruct or impair the vision of the driver of any vehicle travelling along a road abutting the land; or
 - 65.1.3 otherwise prejudice the safe and convenient use of any pavement or road abutting the land.
- 65.2 If an authorised officer reasonably suspects that an owner or occupier of land is contravening Clause 65.1, he or she may serve on the owner or occupier a Notice to Comply.

66 Obstructions

- 66.1 A person must not obstruct the lawful use of any road or pavement.
- 66.2 If an authorised officer finds a person contravening Clause 66.1, Council or that authorised officer may:
- 66.2.1 remove the obstruction; or
 - 66.2.2 cause the obstruction to be removed.
- 66.3 Any expenses incurred by Council in its exercising of the powers conferred by Clause 66.2, shall be a debt due and payable to Council by the person found contravening Clause 66.1.

67 Heavy or long motor vehicles

- 67.1 The driver of a heavy vehicle, or long vehicle, must not stop on a length of road in a residential area for longer than one (1) hour, unless the driver is permitted to stop on the length of road for longer than one (1) hour by information on or with a traffic control device, or is permitted to do so by Council.

68 Removal of wood from roadsides

- 68.1 Unless with a permit a person must not collect wood on Council roadsides.

Note: If native vegetation is lopped or removed as part of Council construction or maintenance works, all persons are required to obtain Council permission to collect the wood in addition to the wood collection permit. In recognising the efforts of the Biolink program Council prohibits the collection of firewood from the Nhill-Jeparit roadside between the Glenlee Reserve Road and the Glenlee-Lorquon Road.

69 Cultivation and burning on road reserves

- 69.1 No person without a permit shall carry out any cultivation or burning work on any Council controlled road reserve.

Penalty for offences under DIVISION 9.3: 2 Penalty Units.

Penalty for offences under Clauses 68: 4 Penalty Units

Penalty for offences under Clauses 69: 10 Penalty Units

PART 10 PROTECTION OF COUNCIL ASSETS

70 Street furniture and council land

- 70.1 A person must not:
- 70.1.1 destroy;
 - 70.1.2 remove;
 - 70.1.3 deface;
 - 70.1.4 interfere or tamper with; or
 - 70.1.5 damage;
- any street furniture within a road reserve or public space.
- 70.2 No person without a permit shall:
- 70.2.1 destroy, damage or interfere with any Council land;
 - 70.2.2 destroy, damage or interfere with anything on any Council land; or
 - 70.2.3 remove anything from any Council land.
- 70.3 No person shall allow trees or plants on his or her land to cause damage to or interfere with Council land or infrastructure.
- 70.4 Council may require by notice in writing the owner or occupier of land from which any tree or plant is causing damage to or interference with Council land to undertake works on his or her land or on the adjacent road or public place to ensure compliance with this Clause and to make good any such damage caused.

71 Road opening permits

- 71.1 Clause 71.2 applies to a person who:
- 71.1.1 requires access to infrastructure (such as pipes or wires) located within a road reserve;
 - 71.1.2 is placing the infrastructure (such as pipes or wires) within a road reserve;
 - 71.1.3 is placing or maintaining poles in a road reserve;
 - 71.1.4 for the purpose of undertaking building work must open the surface of a road reserve.
- 71.2 A person may open the surface of the road to the extent necessary if the person applies to the Council for a permit in writing, before opening the surface of the road, footpath, drainage or kerb and channel of the proposed work.
- 71.3 Once a Permit is granted, the Permit holder must:
- 71.3.1 do no more damage to the road, footpath, drainage or kerb and channel surface than is necessary;
 - 71.3.2 comply with any requirements imposed, in writing, by the Council in relation to the carrying out of the work;
 - 71.3.3 reinstate the road, footpath, drainage or kerb and channel surface to the Council's satisfaction; and
 - 71.3.4 advise the Council, in writing, of the completion of the work.

72 Gardening works on nature strips

- 72.1 A person who is the owner or occupier of land in a residential or township area may undertake maintenance of the lawn on the nature strip adjacent to the land.
- 72.2 A person who is the owner or occupier of land in a residential or township area must apply for a Permit in writing to undertake other gardening works on the nature strip adjacent to the land, such as creating garden beds or planting trees.

73 Tapping into drains

- 73.1 No person without a permit shall destroy, damage or tap into a Council drain.

74 Interference with water courses

- 74.1 No person without a permit shall destroy, damage or interfere with a water course, ditch, creek, gutter, drain, tunnel, bridge, levee, culvert or fence which belongs to Council or is under the control of Council or which Council is responsible to maintain.

NOTE: a road opening permit is required to do any works on cross overs.

75 Vehicle crossings

- 75.1 Unless Clauses 75.4, 75.5 or 75.6 applies, a person must not, without a permit, construct, install, remove or alter a vehicle crossing.
- 75.2 An owner and occupier of land must not cause or permit any vehicle to enter or leave that land unless a properly constructed vehicle crossing exists on or abuts the entry to the land.
- 75.3 Every vehicle crossing must be constructed to satisfy the conditions of the Permit.
- 75.4 Council may, by notice in writing served on the owner or occupier of land, require the construction of a satisfactory vehicle crossing to any land, with the full cost of such works being borne by the owner or occupier.
- 75.5 Council may, by notice in writing served on the owner or occupier of land, require the repair of a vehicle crossing which is in a state of disrepair and repair of any drainage pit, footpath, kerb and channel adjacent to such land which has been damaged as a result of being driven over by a vehicle, with the full cost of such works being borne by the owner or occupier.

Note: where works are conducted by or on behalf of the owner or occupier of land and a Building Permit has been issued by Council, Council must be notified in writing at least one week before works commence. Similarly, where such building permits have been issued by Private Building Surveyors, Council must be notified in writing of the start date of the works at least one week before works commence.

- 75.6 Council may, by notice in writing served on the owner or occupier of land, require the removal of a vehicle crossing and reconstruction of the kerb and channel and footpath adjacent to the vehicle crossing if, in the opinion of Council, the vehicle crossing is no longer required, with the full cost of such works being borne by the owner or occupier.

76 **Mobile cranes and large vehicles**

- 76.1 No person without a Permit shall use or cause to be used any Class 1 Over-Size, Over-Mass or Special Purpose Vehicles including mobile cranes or B-Doubles on any municipal road, unless designated otherwise.

Penalty for offences under PART 10: 4 penalty units for individuals and 10 penalty units for companies.

PART 11 APPLICATION FOR PERMITS

77 **Applying for a permit**

- 77.1 A person who wishes to apply for a permit may do so by:
- 77.1.1 lodging with the Council an application, at least twenty-one (21) working days before the proposed activity, in a form approved by the Council; and
 - 77.1.2 paying to the Council the appropriate application fee.

Note: a permit to apply for the closing to through traffic for the whole or part of a road, bridge or culvert, or closing to through traffic for a particular period during the year the whole or part of a road, bridge or culvert, or stopping all or some traffic through the closed area must be applied for by application at least three (3) months prior to the closure.

- 77.2 The Council or an authorised officer may require an applicant to provide additional information before dealing with an application for a permit or for an exemption.
- 77.3 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.
- 77.4 Before dealing with any application or exemption the Council or an authorised officer may require the Applicant to:
- 77.4.1 give notice of the Application to any persons whom Council considers may be detrimentally affected by the grant of the Application; and
 - 77.4.2 publish notice of the Application in a newspaper generally circulating in the municipal district which will entitle any person to make a submission and to be heard in accordance with section 223 of the *Local Government Act 1989*.
- 77.5 Every notice given or published must consist of:
- 77.5.1 a summary of the Application;
 - 77.5.2 an indication that Council will consider the Application after the expiry of 14 days following the giving or publication of the notice;
 - 77.5.3 an indication that all persons affected by the grant of an Application may send to Council any written submissions they may wish to make in relation to the Application;
 - 77.5.4 an indication that all persons making a written submission may request to be heard in support of the written submission; and
 - 77.5.5 an indication that all written submissions received within 14 days of the date of the notice and any subsequent oral submissions made will be taken into account in the determination of the Application.
- 77.6 All written submissions received within the 14-day period and any subsequent oral submissions made must be considered by Council.

78 Fees generally

- 78.1 The Council may, from time to time, determine fees by resolution for the purposes of this Local Law, subject to any penalties set under Commonwealth or State legislation.
- 78.2 The Council may waive, reduce or alter a fee with or without conditions.
- 78.3 A copy of current fees and charges must be available from the Council.

79 Grant of a permit

- 79.1 In considering whether or not to grant a Permit, Council or an authorised officer must consider:
- 79.1.1 any policy or guidelines adopted by Council relating to the subject matter of the application for the Permit;
 - 79.1.2 any objections or submissions that may be received in respect of the Application;
 - 79.1.3 any comment that may be made in respect of the application by any public authority, government department or community organisation;
 - 79.1.4 any special requirement set out in this Local law; and
 - 79.1.5 any other relevant matter.

80 **A permit may be conditional**

- 80.1 A Permit under this Local law may be issued subject to conditions, including conditions relating to payment of fees, commencement and completion dates, rectification or restoration of a situation or circumstance, or the granting of some other license or permit.

81 **Commencement and duration of permits**

- 81.1 A Permit operates from the date specified in the Permit or if no date is specified the day on which it is issued.
- 81.2 A permit is in force until the expiry date indicated on the permit, unless it is cancelled before the expiry date.

82 **Correction of permits**

- 82.1 The Council may correct a permit in relation to:
- 82.1.1 an unintentional error or an omission; or
 - 82.1.2 an evident material miscalculation or an evident material mistake of description of a person, thing or property.
- 82.2 The Council must notify a permit holder in writing of any correction.

83 **Cancellation of a permit**

- 83.1 The Council or an authorised officer may cancel a permit if it considers that:
- 83.1.1 there has been a serious or ongoing breach of any condition of the permit
 - 83.1.2 a notice to comply has been issued, but not complied with within seven days after the time specified in the notice for compliance;
 - 83.1.3 there was a significant error or misrepresentation in the application for the permit; or
 - 83.1.4 in the circumstances, the permit should be cancelled.
- 83.2 Before it cancels a permit, the Council must provide to the permit holder an opportunity to make comment on the proposed cancellation.
- 83.3 If a permit holder is not the owner of the land and the owner's consent was required to be given to the application for the permit, the owner must be notified of any notice to comply and of the reason why it has been served.

84 **Exemptions**

- 84.1 The Council may by written notice exempt any person or class of persons from the requirement to have a permit, either generally or at specified times.
- 84.2 An exemption may be granted subject to conditions.
- 84.3 A person must comply with the conditions of an exemption.
- 84.4 An exemption may be cancelled or corrected as if it were a permit.
- 84.5 Notwithstanding any other considerations, the Council may exempt a person from the requirement to have a permit in respect of:
- 84.5.1 grazing of livestock if it is part of a municipal fire prevention program;

- 84.5.2 any applicant where it is satisfied that past performance by the applicant is such that the council can be confident that no supervision will be required and that full compliance with all conditions of exemption can be expected; or
 - 84.5.3 any applicant where, having regard to all the circumstances of the proposal under consideration, the council considers it is appropriate to do so.
- 84.6 Where compliance with any condition of a permit or an exemption or other condition arising under this Local Law is impracticable in a particular circumstance, the Council may exempt a person from compliance with that condition or vary the condition in a way which is capable of compliance.

85 Permit to be produced on demand

- 85.1 A Permit issued under this Local Law must be produced to an authorised officer upon demand.

86 Register of permits

- 86.1 Council must keep a current Register of Permits that includes all amendments and cancellations of permits.

87 Delegation

- 87.1 Under section 114 of the *Local Government Act 1989*, the Council hereby delegates to the Chief Executive Officer, Director Corporate and Community Services and Director Infrastructure Services all the powers, discretions, authorities and considerations of Council under this Local Law.
 - 87.1.1 including the powers, discretions and authority to issue or refuse permits, fix conditions and durations relevant to such permits, cancel permits, require additional information, apply guidelines or policies of Council to waive the need for any permit, to waive, fix or reduce fees or charges or to do anything necessary or incidental to the exercise of any function or power by the Council.

PART 12 ENFORCEMENT

DIVISION 12.1 NOTICE TO COMPLY

88 Notice to comply

- 88.1 Where an authorised officer has reason to believe that a breach under this Local Law has occurred, he or she may serve on the person committing the breach a Notice to Comply.
- 88.2 A Notice to Comply must:
 - 88.2.1 state the provisions in this Local Law which the Authorised Officer has reason to believe is being breached;
 - 88.2.2 state the time and date by which the situation referred to in the Notice must be remedied;
 - 88.2.3 state the steps that must be taken to remedy the situation; and

- 88.2.4 include:
- (a) the name and address of Council;
 - (b) the name and business address of the Authorised Officer;
 - (c) the signature of the Authorised Officer;
 - (d) the name and address of the person alleged to be in breach of this Local Law;
 - (e) information required to identify the place where the breach occurred, such as the address;
 - (f) the date and, if necessary, the time the breach occurred;
 - (g) the circumstances of the breach;
 - (h) the date of issue of the Notice to Comply; and
 - (i) a statement to the effect that failure to comply with a Notice to Comply is an offence under this Local Law.

88.3 The time to comply specified in a Notice to Comply must be reasonable, having regard to the circumstances surrounding the breach.

88.4 Failure to comply with a Notice to Comply is an offence.

88.5 Where a person has committed an offence under Clause 88.4:

88.5.1 a maximum fine of 4 Penalty Units may be issued for breach of the Notice to Comply; and

88.5.2 if the fine issued under Clause 88.5.1 has been paid but the person still fails to comply with the Notice to Comply, the offender may be fined the amount set by this Local Law for breach of that Part or Division.

89 **Power of authorised officer to act in urgent circumstances**

89.1 If urgent circumstances arise from a failure to comply with this Local Law, the authorised officer may take action to remove, remedy or rectify a situation without first serving a Notice to Comply if:

89.1.1 the Authorised Officer considers the circumstances or situation to be sufficiently urgent that the time required to serve a notice may place a person, animal, property or thing at risk or in danger; and

89.1.2 a senior officer is given prior notice of the proposed action if possible.

Note: in deciding whether circumstances are urgent, the authorised officer must consider whether it is practicable to contact the person who caused the situation to arise and the owner or occupier of the affected premises or property.

- 89.2 The action taken by an authorised officer under Clause 89.1 must not extend beyond what is necessary to cause the immediate abatement of or minimise the risk or danger involved.
- 89.3 An authorised officer who takes action under Clause 89.1 must ensure that, as soon as practicable:
- 89.3.1 details of the circumstances and remedying action are forwarded to the person on whose behalf the action was taken; and
 - 89.3.2 a report of the action taken is submitted to the Chief Executive Officer within seven (7) days.

DIVISION 12.2 INFRINGEMENT NOTICES

90 Infringement notices

- 90.1 An authorised officer may issue an infringement notice in an approved form.
- 90.2 The fixed penalty in respect of an infringement is determined by the State Government of Victoria.
- 90.3 A person issued with an infringement notice is entitled to disregard the notice and defend the prosecution in court.

91 Form of infringement notice

- 91.1 The infringement notice must:
- 91.1.1 state that an offence against any of the provisions of this Local Law has been committed;
 - 91.1.2 state the nature of the offence and the prescribed penalty; and
 - 91.1.3 include:
 - (a) the name and address of Council;
 - (b) the name and business address of the Authorised Officer;
 - (c) the signature of the Authorised Officer;
 - (d) the name and address of the person alleged to have committed the offence;
 - (e) the address or other information required to identify the land where the offence occurred;
 - (f) the date and, if necessary, the time the offence occurred;
 - (g) the circumstances of the alleged offence;
 - (h) the date of issue of the infringement notice;
 - (i) the period for payment and relevant payment details; and
 - (j) a statement to the effect that a person is entitled to disregard the notice and defend the prosecution in court.

DIVISION 12.3 OTHER PROVISIONS RELATING TO ENFORCEMENT

92 Payment of penalty

- 92.1 The person issued with an infringement notice must pay the penalty for the infringement notice to Council within 28 days of the issue of the infringement notice.

- 92.2 1231. Any person issued with an infringement notice may pay the penalty indicated to;
Chief Executive Officer
Hindmarsh Shire Council
P.O. Box 250
Nhill 3418

or at customer service centre as designated by Hindmarsh Shire Council.

- 92.3 If the penalty referred to in an infringement notice is paid within the required timeframe and the offender complies with all requirements on the notice, the offence is expiated and no further proceedings may be taken on that matter.

93 Council may remedy the breach

- 93.1 Council, or an authorised officer with the consent the Chief Executive Officer, may:
- 93.1.1 carry out the action required by a Notice to Comply if the offender failed to do so within the required period; and
 - 93.1.2 recover the costs of the work from the person in breach in any court of competent jurisdiction as a debt.

94 Power of impoundment

- 94.1 An authorised officer may impound any animal, vehicle, recreational vehicle, item or other thing which is related to any circumstances constituting a breach of any provisions of this Local Law.
- 94.2 As soon as practicable after an animal, vehicle, recreational vehicle, item or other thing is impounded under this Local Law, the authorised officer must serve a Notice of Impoundment on the owner or person responsible, which must:
- 94.2.1 be served personally or by registered mail on the person from whose custody, control or responsibility the item or other thing was removed;
 - 94.2.2 indicate how the item can be reclaimed;
 - 94.2.3 set out the fees and charges payable before the item may be retrieved; and
 - 94.2.4 state the time by which the item must be retrieved.

95 Release of an impound item

- 95.1 An impounded an animal, motor vehicle, recreational vehicle, item or other thing under this Local Law may be released once the appropriate fee or charge has been paid to Council.
- 95.2 When the identity or whereabouts of the owner or person responsible for the impounded item is unknown, the authorised officer must take reasonable steps to ascertain the identity or whereabouts of that person and may proceed to dispose of the impounded item once satisfied all reasonable efforts have been made to contact the owner or person responsible for the impounded item.
- 95.3 If an impounded item is not retrieved after the time required in the Notice of Impoundment has expired, the authorised officer may take action to dispose of the impounded item.
- 95.4 The proceeds from the disposal of an impounded item (if any) must be paid to the owner after deducting the reasonable costs incurred by Council in the administration of this Part.

96 Legal proceedings

96.1 An authorised officer may, with the written consent of the Chief Executive Officer, commence legal proceedings on Council’s behalf for an offence under this Local Law.

97 Offences

97.1 Any breach of this Local Law is an offence, including failing to obtain a required Permit and failing to comply with conditions of a Permit that has been issued.

98 Penalties

98.1 Penalties listed for offences under this Local Law are the maximum penalty that may apply in each situation.

98.2 To the extent of any inconsistencies in penalties prescribed by State or Commonwealth legislation and this Local Law, the penalties prescribed under the State or Commonwealth legislation shall prevail.

98.3 A person who is guilty of an offence against this Local Law for which a specific penalty is not stated in this Local Law or prescribed by a State or Commonwealth legislative instrument is liable to a maximum penalty of:

98.3.1 10 (ten) Penalty Units for first offence; and

98.3.2 20 (twenty) Penalty Units for second or subsequent offence.

Resolution for the making of this Local Law was agreed to by Hindmarsh Shire Council on 5 May 2021

The common seal of Hindmarsh Shire Council was hereto
affixed in accordance with its Local Law No 1 2021

Chief Executive Officer

Date

Councillor

Date

Notices of the proposal to make and of the making of this Local Law were included in the Victorian Government Gazette on 11 March 2021 and 13 May 2021.

Public notice of the proposal to make and confirmation of the making of this Local Law were/will be inserted in the following local papers:

Dimboola Banner:	Wednesday 10 March 2021
Nhill Free Press:	Wednesday 10 March 2021
Rainbow Jeparit Argus:	Thursday 11 March 2021
Government Gazette	Thursday 11 March 2021

Dimboola Banner:	Wednesday 19 May 2021
Nhill Free Press:	Wednesday 19 May 2021
Rainbow Jeparit Argus:	Thursday 20 May 2021

A copy of this Local Law was sent to the Minister for Local Government on 9 June 2021.

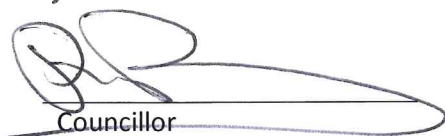
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Chief Executive Officer

9/6/2021
Date




Councillor

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