



LOCAL LAW NO 3

OPERATION AND MAINTENANCE OF ONSITE WASTEWATER TREATMENT SYSTEMS

APRIL 2015

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1. INTRODUCTION

1.1 TITLE

This Local Law will be known as 'Local Law No 3 – Operation and Maintenance of Onsite Wastewater Treatment Systems and is referred to below as 'this Local Law'.

1.2 PURPOSE OF THIS LOCAL LAW

The purpose of this Local Law is to:

- a) provide a mechanism for Council to ensure the ongoing Operation and Maintenance of Onsite Wastewater Treatment Systems so that they do not:
 - I. cause a nuisance to other because of odour;
 - II. cause a nuisance to others because of discharge;
 - III. cause or could cause a risk of public health and;
 - IV. cause or potentially cause environmental damage.
 - b) provide a mechanism for Council to require the owner or occupier of the land on which an Onsite Wastewater Treatment System is installed to:
 - I. make the Onsite Wastewater Treatment System available for inspection by an authorised officer when requested to do so;
 - II. high risk properties as identified in the Domestic Wastewater Management Plan must provide a status report by a suitably qualified professional or servicing agent. The owner/occupier of the land must submit the report to Council within 90 days of the issue date of the initial request by Council and;
 - III. have the septic tank inspected by a suitably qualified professional or servicing agent including submission of a regular maintenance reports as required by EPA Certificates of Approval. The owner/occupier of the land must submit the report to Council within 30 days of the maintenance inspection.
 - c) provide a mechanism for Council should an authorised officer considers that an Onsite Wastewater Treatment System is operating or maintained contrary to subclause (1), the owner or occupier of the land on which the septic system is located may be required to modify the system to the standards prescribed in the EPA Code of Practice for Onsite Wastewater Management and the Australian Standard AS/NZA 1547.
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1.3 THE POWER TO MAKE THIS LOCAL LAW

This Local Law is made under sections 91 and 111(1) of the *Local Government Act 1989*.

1.4 COMMENCEMENT DATE

This Local Law comes into operation on the day following the day on which notice of the making of this Local Law is published in the Victoria Government Gazette.

1.5 REVOCATION

This Local Law ceases to operate on the tenth anniversary of the day on which it commenced operation, unless revoked earlier.

1.6 APPLICATION OF THE LOCAL LAW

This Local Law applies throughout the whole of the *municipal district*.

2. PROCEDURAL

2.1 OPERATION AND MAINTENANCE OF ONSITE WASTEWATER TREATMENT SYSTEMS

Operation and Maintenance of Onsite Wastewater Treatment Systems

1. An owner or occupier of land on which an Onsite Wastewater Treatment System is located must ensure that the system operates and is maintained so that it does not:
 - a) cause a nuisance to others because of odour;
 - b) cause a nuisance to others because of discharge;
 - c) cause or could cause a risk to public health and;
 - d) cause or potentially cause environmental degradation.

2. An owner or occupier of land on which an Onsite Wastewater Treatment System is installed must:
 - a) make the Onsite Wastewater Treatment System available for inspection by an authorised officer when requested to do so;
 - b) provide for high risk properties, as identified in the Domestic Wastewater Management Plan, a status report by a suitably qualified professional or servicing agent. The owner/occupier of the land must submit the report to Council within 90 days of the issue date of the initial request by Council and;
 - c) have the septic tank inspected by a suitably qualified professional or servicing agent including submission of a regular maintenance reports as required by EPA Certificates of Approval. The owner/occupier of the land must submit the report to Council within 30 days of the maintenance inspection.

3. If an authorised officer considers that an Onsite Wastewater Treatment System is operating or maintained contrary to subclause (1), the owner or occupier of the land on which the septic system is located may be required to modify the system to the standards prescribed in the EPA Code of Practice for Onsite Wastewater Management and the Australian Standard AS/NZA 1547.

Penalty: 10 penalty units

3. OFFENCES AND PENALTIES

Council has the authority to prescribe penalties and issue infringement notices for acts in contravention of its Local Laws. This authority is conferred by sections 115 and 117 of the Act.

3.1 ENFORCEMENT

3.1.1 Without affecting any provision entitling any other *person* to do so, this local law may be enforced by an *authorised officer*.

Penalty: 10 penalty units.

3.2 SERVICE OF INFRINGEMENT NOTICE

3.2.1 As an alternative to prosecution, an *authorised officer* may serve an infringement notice on a *person* whom the *authorised officer* believes has committed an offence referred to in clause 3.1, specifying the penalty and;

3.2.2 serve or cause the infringement notice to be served on that *person*.

3.3 NOTICES TO COMPLY AND DIRECTIONS

3.3.1 The *Council* or *authorised officers* may by *Notice to Comply*, direct a *person* to comply with any clause of this local law where the *Council* or *authorised officers* believe there has been a non-compliance by that *person* or in respect to any premises, things or property of which that *person* is owner or occupier.

3.4 EXPIATION OF FINES AVOIDS PROSECUTION

3.4.1 In order to avoid prosecution, the person who is served with an infringement notice must pay the penalty to the Chief Executive Officer of the Council at the Town Hall, 76 Vincent Street, Daylesford 3460 within twenty-eight days after the date of the infringement notice.

3.5 SERVING INFRINGEMENT NOTICES

3.5.1 Without limiting Section 234 of the Act, any infringement notice to be served on a person under this local law, may be served on the person by:

- (a) delivering the notice to the person;
- (b) leaving the notice at that person's usual or last known place of residence or business with a person apparently not less than sixteen years old and apparently residing or employed at that place;

- (c) sending the document by post addressed to the person at that person's last known place of residence or business; or
- 3.5.2 Where an infringement notice is directed to a person who is the owner or occupier of premises or the proprietor of a vehicle and that person's name is not known, the notice issued under this local law may be addressed to "the owner", "the occupier" or the "person in control" as the case may be.
- 3.5.4 An authorised officer may withdraw an infringement notice within twenty-eight days after its date by sending a notice to the person on whom the infringement notice was served. The notice may be sent or given in the same way as the infringement notice was serviced.
- 3.5.5 If an infringement notice is withdrawn, after the person pays the penalty, the person is entitled to a refund of the penalty.
- 3.5.6 If the person pays the penalty within the time specified in the notice and the infringement notice is not withdrawn before a charge is laid in respect of the offence, the following provisions apply:
 - (a) further proceedings for an offence will not be taken against the person and;
 - (b) there is to be no conviction recorded against that person for the offence.
- 3.5.7 If:
 - (a) a person served with an infringement notice has not paid the penalty within the time specified in the notice; or
 - (b) an infringement notice is withdrawn;
 - (c) proceedings may be taken or continued for the offence.

3.6 EVIDENCE OF SERVICE

3.6.1 A statutory declaration by an authorised officer or a person who has served or given a notice or direction in accordance with this local law stating the manner, place, date and time the notice or direction was served or given, is evidence of the notice or direction having been served or given as described in that declaration.

3.7 COMPLIANCE WITH DIRECTIONS AND NOTICES

3.7.1 Where:

- (a) a Notice to Comply or other notice or direction is served or given pursuant to this local law.
- (b) Section 225 of the Act does not apply and;
- (c) the person served with or given the Notice to Comply or other notice or direction fails to give effect to it; the Council, or any other person with the approval of the Chief Executive Officer, may cause the obligation to be complied with.

3.7.2 The Council or the person who complies with the obligation, may recover the cost of doing so from the person who failed to do it.

3.8 DELEGATION

3.8.1 In accordance with Section 114 of the Act, the Council:

- (1) delegates to the Chief Executive Officer all the powers, discretions, authorities and considerations of Council under this local law including the powers, discretions and authority to apply guidelines or policies of Council, waive, fix or reduce fees or charges or to do any act, matter or thing necessary or incidental to the exercise of any function or power by the Council and;
 - (2) delegates to the Environmental Health Officer and the Compliance Officer to, the power to exercise discretions and require additional information.
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3.9 URGENT CIRCUMSTANCES

3.9.1 Where in the opinion of an authorised officer or a delegate, circumstances arise as a result of a failure to comply with this local law or a permit which may place a person, animal or property or thing at risk or in danger and there is not time or it is impractical to serve a Notice to Comply, then the authorised officer or delegate may take reasonable action to immediately abate or minimise the risk or danger involved.

3.9.2 As soon as practicable, the authorised officer or delegate must contact:

- (a) the person by whose fault, permission or decision the situation has arisen; or
 - (b) the owner or occupier of the premises, animal, property, thing involved; and advise them of the action taken.
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4. CERTIFICATION OF LOCAL LAW

Local Law No 3 – Operation and Maintenance of an Onsite Wastewater Treatment System was made by resolution of the Hepburn Shire Council on 17 March 2015

The COMMON SEAL of the
HEPBURN SHIRE COUNCIL

was affixed on this

2015

on the authority of the Council and signed by:

..... Mayor

..... Chief Executive Officer

Council resolved to give notice of its intention to make this Local Law at its meeting held on 2015 and this was duly advertised as follows:

Victoria Government Gazette – 2015

The Courier, Ballarat – 2015

The Advocate – 2015

Council website – 2015

Council resolved to adopt this Local Law at its meeting held on 2015 and this was duly advertised as follows:

Victoria Government Gazette – 2015

The Courier, Ballarat – 2015

The Advocate – 2015

Council website – 2015

5. DEFINITIONS

Unless inconsistent with the subject matter, the following words and phrases having the meaning indicated:

Words	Meaning
Act	<i>Local Government Act 1989</i>
Assembly of Councillors	as defined in section 3(1) of the Act: A meeting of an Advisory Committee where at least one (1) Councillor is present; or A planned or scheduled meeting at which at least half the Councillors and at least one Officer is present, and at which matters are considered that are intended or are likely to be the subject of a Council decision or the exercise of a delegated authority.
Authorised Officer	a person appointed by Council under section 224 of the Act
Chief Executive Officer	Chief Executive Officer of Council or any person acting in that position
Clause	clause of this Local Law
Common seal	common seal of Council
Conflict of interest	direct or indirect interest of the kind described in section 77A of the Act
Council	Hepburn Shire Council
Councillor	a Councillor of Council who has taken the oath of office in accordance with section 63 of the Act
Council Meeting	Includes a meeting at which the Mayor is elected, an Ordinary Meeting and Special Meeting of Council but does not include an Assembly of Councillors
Deputy Mayor	a Councillor who has been elected to the position of Deputy Mayor to act on behalf of the Mayor in his or her absence
Mayor	the Mayor of Council and any other Councillor acting as Mayor.
Meeting	an Ordinary or Special Meeting of Council

Words	Meaning
Minister	Minister responsible for the administration of the Act.
Minutes	record of proceedings of a meeting
Motion	a proposal framed in a way that will result in the opinion of Council being expressed or a Council decision being made
Officer	employee of Council
offence	an act or default contrary to this Local Law
Penalty Unit	as prescribed in the <i>Sentencing Act 1992</i>
Statutory Meeting	a meeting of Council held for the election of the Mayor and Deputy Mayor, and where necessary, for the taking of the Oath or Affirmation of Office by Councillors
Written or in writing	includes duplicated, lithographed, photocopied, photographed, transmitted by facsimile, transmitted electronically by email, printed or typed
Onsite Wastewater Treatment System	a treatment system that generates up to 5,000 litres per day of wastewater on the allotment where it was generated
Septic Tank System	<p>A Conventional Septic Tank System is a living ecosystem contained within a concrete or plastic Tank where good bugs live and digest and treat the wastewater from your kitchen, bathroom, laundry, toilet. The purpose of the septic tank is to allow solid materials to settle, allow the good bugs to breakdown some of the waste materials, and act as a storage chamber for undigested material.</p> <p>The conventional septic tank is not a mechanical system and relies on gravity and good bugs to work so this system, when functioning well, is generally inexpensive to operate.</p>
High Risk Properties	those properties deemed high risk or in high density development areas as identified in the Domestic Wastewater Management Plan 2014
Domestic Wastewater Management Plan	Hepburn Shire Domestic Wastewater Management Plan 2014