



GENERAL LOCAL LAW NO. 2

COMMUNITY AMENITY AND MUNICIPAL PLACES

*17 November 2009
Amended 16 August 2011*

TABLE OF CONTENTS

PART 1 – PRELIMINARY	Page
1.1 Title	6
1.2 Objectives	6
1.3 Authorising Provision	6
1.3 Commencement	6
1.4 Cessation of Local Law.....	6
1.5 Application	6
1.6 Exemptions	6
1.7 Definitions	7
PART 2 - PROCEDURAL	
2.1 Permits and Applications for permits.....	15
2.6 Compliance with Permits	16
2.7 Correction, Amendment, Cancellation and Suspension.....	16
2.8 General Permit Provisions	16
2.11 Powers of Council.....	17
2.12 Impounding	17
2.13 Fees	18
2.14 Declarations.....	18
PART 3 - RESERVES AND COUNCIL LAND	
3.1 Private Access to Reserves.....	19
3.2 Motorised Vehicles	19
3.3 Games and Sport.....	19
3.4 Damage to Public Places.....	19
3.5 Protection of Council Trees	19
3.6 Generally	20
3.7 Festivals, Carnivals and Circuses	20
PART 4 - SAFETY	
4.1 Incinerators and Open Fires	21
4.2 Burning of Offensive Material	21

TABLE OF CONTENTS

PART 5 - THE ENVIRONMENT

5.1	Camping and Caravan Occupation	22
5.3	Unightly Land	22
5.4	Damage Caused by Trees or Plants	22
5.5	Wasp Nests	22
5.6	Bee Hives	22

PART 6 - ANIMALS

6.1	Keeping Animals	23
6.2	Animal Excrement.....	24

PART 7 - BIRDS

7.1	Numbers of Poultry That May be Kept	25
7.2	Siting of Bird Enclosures.....	25
7.3	Construction of Bird Enclosures	25

PART 8 - PUBLIC SAFETY AND WASTE DISPOSAL

8.1	Scavenging	26
8.2	Use of Tip or Transfer Station	26
8.3	Domestic Waste.....	26
8.4	Material for Recycling	27
8.5	Trade Waste	27

PART 9 - USE OF ROADS, PUBLIC PLACES AND RELATED PLACES

9.1	Clothing Bins.....	28
9.2	Bulk Rubbish Containers	28
9.3	Entertainment and Busking	28

TABLE OF CONTENTS

PART 10 - MANAGEMENT OF TRAFFIC AND ROADS

10.1	Protrusions and Overhanging Branches.....	29
10.2	Property Numbers to be Displayed.....	29
10.3	Vehicle Crossings	29
10.4	Permit Required For Vehicle Crossings	30
10.5	Temporary Vehicle Crossings	30
10.6	Redundant Vehicle Crossings	31
10.7	Obstructions on Roads and Council Land.....	31

PART 11 - CONTROL OF ANIMALS, SHOPPING TROLLEYS AND VEHICLES ON ROADS AND ELSEWHERE

11.1	Livestock Control	32
11.2	Shopping Trolleys	32
11.3	Use of Toy Vehicles	32
11.4	Riding Horses on Reservations	33
11.5	Storage and dismantling of vehicles	33
11.6	Sale of Vehicles	33
11.7	Vehicle Repair	33

PART 12 - SECONDARY ACTIVITIES ON ROADS

12.1	Outdoor eating facilities	34
12.2	Removal of Equipment	34
12.3	Occupation of Road for Works	34
12.4	Street Parties, Festivals and Processions.....	34
12.5	Collections	34

PART 13 - DISPLAY AND SALE OF GOODS AND SERVICES

13.1	Road Trading	35
13.2	Soliciting Trade and Similar Activities.....	35
13.3	Advertising Signs	35

PART 14 - CONSUMPTION OF ALCOHOLIC BEVERAGES

14.1	Declaration of Places and Exemptions.....	36
14.2	Alcoholic Beverage Banned	36
14.3	Definitions	36

TABLE OF CONTENTS

PART 15 - ENFORCEMENT

15.1	Enforcement	37
15.2	Penalties	37
15.3	Notices to Comply and Directions	37
15.4	Infringement Notices	37
15.5	Expiation of Fine Avoids Prosecution	37
15.6	Serving Infringement Notices	38
15.7	Evidence of Service	38
15.8	Compliance with Directions and Notices	39
15.9	Direction of Traffic.....	39
15.10	Delegation.....	39
15.11	Urgent Circumstances	39

CERTIFICATION OF LOCAL LAW	41
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Part 1 – PRELIMINARY

Title

1.1 This local law is known as the “General Local Law No. 2”.

Objectives

1.2 This local law is made for the purposes of:

- (1) controlling and protecting *public places*;
- (2) controlling matters which may adversely affect the amenity and environment of the *municipal district* and the safety, health and quality of life of *persons* within it.
- (3) securing the safe and equitable use and enjoyment of *public places* and private land;
- (4) minimising nuisances;
- (5) enhancing and preserving urban character;
- (6) generally preserving the peace, order and good government of the *municipal district*.

Authorising Provision

1.3 This local law is made pursuant to Part 5 Section 111 of the Local Government Act 1989.

Commencement

1.4 This local law commences on the 17 November 2009.

Cessation of Local Law

1.5 Unless this local law is earlier revoked, its operation will cease on 17 November 2019.

Application

1.6 This local law applies throughout the whole of the *municipal district*.

Exemptions

- 1.7
- (1) This local law does not apply to any *person* employed or engaged in any authorised activity or duty being undertaken by or on behalf of the *Council* while so actually employed or engaged.
 - (2) A provision of this local law requiring a *permit* to be obtained does not apply to a *person* employed or engaged in an authorised activity or duty being undertaken by or on behalf of:
 - (a) a government body; or

Exemptions cont..

- 1.7 (2) (b) a *public body*
- while so employed or engaged if notice of the carrying out of the activity or duty has been given to the *Council* beforehand or, if that is impracticable, as soon as possible after it has been carried out.
- (3) The *Council* may, subject to any conditions, *prescribe* a *specified* activity, *area*, *premises* or *person* or a class of any of them to be exempt from a provision of this local law for a specified time.
- (4) Anything in this local law relating to an *animal* in general or a dog in particular does not prevent:
- (a) a blind or deaf *person* being entitled at all times and all places to be accompanied by a guide dog; or
- (b) a *member of the police* in charge of a police dog or horse from carrying out police duties.

Definitions

- 1.8 (1) In this local law, unless the contrary intention appears:

“Act” means the Local Government Act 1989.

“Advertisement” or “Advertising sign” includes any letter, figure, symbol, device, poster, sign, board, notice, banner, structure or message used for or capable of notifying or promoting:

- (a) (i) the existence of; or
(ii) the sale or use of;

any *goods* or *services*;

- (b) the holding of an event or function; or

“Allow” includes cause, permit or suffer.

“Animal” includes bird and reptile but does not include a fish, turtle, tortoise or frog.

“Applicant” means the person who applies for a permit under this local law.

“Authorised Officer” means a *person* appointed by the *Council* to be an authorised officer under Section 224 of the Act or treated by Section 224A of that Act to have been so appointed.

“Barbecue” means a structure, device or contraption:

- (a) designed or constructed for the primary purpose of cooking food in the open air for human consumption; and
- (b) which is being used for the purposes of cooking food or preparatory or subsequent to cooking food.

Definitions cont

1.8 (1) "Battery cage" includes a type of wire and metal mesh *poultry* cage divided into compartments whether standing on wheels or not and comprising one or more tiers and whether mobile or not capable of being moved or carried from one position to another.

"Bird" includes *poultry*.

"Bird enclosure" means an immobile enclosed structure used for the purpose of keeping *birds* (including any fowl run or fowl pen which may be attached to such structure) and includes a *battery cage*.

"Building" includes a part of a building.

"Built up area" means an area in which there is urban development or where street lighting is provided on roads.

"Bulk rubbish container" means a bin, container or other structure designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, other than a container used in connection with the *Council's* regular *domestic* and *trade waste* collections.

"Busk" or "Busking" means providing entertainment in a *public place, Council land or road* by playing a musical instrument, singing, conjuring, juggling, mime, mimicking, dancing, puppetry, recitation, performance art or other theatrical or visual activities conducted or which appear to be conducted for the purpose of attracting money donations rather than for a set fee.

"Carriageway" has the same meaning as in the Road Safety (Traffic) Regulations 1988.

"Cattle" means any bull, cow, ox, steer, heifer, calf, or buffalo.

"Chief Executive Officer" means the chief executive officer of Council.

"Council" means the Hepburn Shire Council.

"Daylight hours" means the hours between sunrise and sunset.

"Declared Road" has the same meaning as in the Transport Act 1983.

"Delegate" means:

- (a) any member of the *Council's staff* to whom a delegation has been made pursuant to Section 98 of the Act; or
- (b) a committee to which a delegation has been made under Section 86 of the Act

for the purposes of this local law.

"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 birds" means small birds such as canaries, finches, budgerigars and the like.

Definitions cont

1.8 (1) "Domestic waste" means normal household garbage and *waste* generated from a residence but does not include sewage, *trade waste*, hard garbage, *building waste* or recyclable material.

"Drover" includes the *person* responsible for the droving of *livestock*, the *owner* of those *livestock* and an employee or contractor of a *person* engaged for the purposes of supervising the droving of those *livestock* or taking them from or to a market.

"Droving of livestock" means the driving of *livestock*, from one location to another for the purpose of changing their grazing area or moving *livestock* from their grazing areas to a location for purposes of sale or from a sale location to a grazing area but does not include movement of *livestock*. It includes the driving of *livestock* in or through a *municipal district* for the purpose of or including supplementing their feeding or taking them from or to a market.

"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.

"Environmental Health Officer" means the *person* for the time being in charge of the *Council's* environmental health activities.

"Exemption" means an exemption issued by or under the authority of *Council* under this local law.

"Festival" means an organized recreational, cultural, commercial or social gathering of people which is held on a road or Council land.

"Footpath" has the same meaning as "footway" in the Road Safety (Traffic Regulations 1988.

"Goods" includes food.

"Grazing of livestock" means causing livestock to enter and remain on a *road or roads* within the municipal district for the purposes of grazing rather than the purposes of *droving or movement of livestock*. It relates to grazing a particular or designated area and not to indiscriminate droving for the purposes of or including supplemental feeding.

"Incinerator" means a structure, device or contraption (not enclosed in a *building*) which is:

- (a) used or intended, adapted or designed to be used or capable of being used for the purpose of burning anything;
- (b) not licensed or otherwise subject to control under the provisions of any *legislation*; and
- (c) not a *barbecue*.

Definitions cont

1.8 (1) “Large birds” means any cockatoo, parrot and other similar sized or larger bird but does not include *poultry*, or *domestic birds*.

“Large cattle” means *cattle* over nine months of age.

“Legislation” includes subordinate legislation as defined in the Interpretation of Legislation Act 1984.

“Leave standing” has the same meaning as in the Road Safety (Traffic) Regulations 1988.

“Livestock” has the same meaning as in Section 3 of the Impounding of Livestock Act 1994.

“Material for recycling” means newspaper, magazines, promotional flyers, office paper, envelopes, unwaxed cardboard, unbroken glass bottles and jars, Code 1(PET), Code 2 (HDP) or Code 3(PVC) plastic bottles, aluminum cans, foil and trays, steel cans and tins, and paperboard containers such as milk and juice cartons, or other material prescribed to be material for recycling for the purposes of this local law.

“Member of the police” or “police member” means a sworn member of the Victoria Police.

“Minor road” means a road which averages less than one hundred vehicle journeys per day.

“Movement of livestock” means individual or regular movement of livestock;

- (a) as part of normal farm management operations of one farming enterprise but not for purposes of grazing;
- (b) from one property within the municipal district to another property within the municipal district or from or to a property in the municipal district to or from a property within an adjacent municipal district;
- (c) at the rate of not less than one kilometre per hour in the direction of movement between the two properties:
 - (i) where the properties concerned are occupied by the one farming enterprise; and
 - (ii) the movement is completed on the day of commencement.

“Municipal district” means the municipal district of Council.

“Notice to Comply” means a notice to comply given under this local law.

“Obstruction” means an object which hinders or blocks access or progress.

“Occupier” includes a *person* having control or management of *premises* whether alone or with other people.

“One farming enterprise” is used only in the context of *movement of livestock* and means a business farming livestock run by one or more *persons* as one business.

“Open fire” means a fire in a place other than in a permanent structure, *barbecue* or *incinerator*.

Definitions cont

1.8 (1) "Owner" in relation to *premises* means:

- (a) the *person* rated or liable to be rated in respect of those *premises* under the Act; or
- (b) if the *premises* are not rated or liable to be rated, the *person* who is the owner as defined in Section 3 of the Act.

"Park" when used as a verb has the same meaning as in the Road Safety (Traffic) Regulations 1988.

"Penalty Unit" means the unit to describe the amount of the fine. The penalty units are set and calculated in the Monetary Units Act 2004.

"Permit" when used as a noun means a permit granted under the provisions of this local law.

"Permit holder" means the *person* to whom Clause 2.5 applies.

"Person" includes a body corporate, an association incorporated under the Associations Incorporation Act 1981, a partnership and an unincorporated association.

"Place" when used as a verb includes *allow* to remain.

"Planning Scheme" means:

- (a) the Hepburn Shire Planning Scheme; and
- (b) any town planning scheme operating in a part of the area in which this local law operates and in the part in which the particular activity in question takes place

"Poultry" includes a fowl, duck, goose, turkey, quail and pigeon and any other class of poultry.

"Pound" has the same meaning as in the Impounding of Livestock Act 1994.

"Pound keeper" means the person for the time being appointed by *Council* to manage a pound.

"Premises" means the whole or part of any:

- (a) land;
- (b) *building*; or
- (c) *building* under construction;

other than a *public* place.

Definitions cont

1.8 (1) "Prescribed" includes decided or specified:

- (a) by resolution of the *Council*; or
- (b) by a *delegate* if the relevant matter is the subject of delegation.

"Procession" and "street festival" mean an organised group of people gathering on or proceeding along a *road or public place* for the purposes of a ceremony or function and includes a fun run and bicycle event.

"Proprietor" when used in relation to a *vehicle* or thing means the *owner, occupier, lessee, licensee, manager* or any other *person* in control or charge of the *vehicle* or thing.

"Public body" has the same meaning as in the Act.

"Public place" means any land owned, leased, vested in, managed or occupied by Council and includes:

- (a) roads and road reserves;
- (b) reserves for recreational purposes; and
- (c) any place prescribed to be a public place

for the purposes of this local law.

"Residentially zoned" means zoned for residential purposes under the *planning scheme*.

"Road" has the same meaning as in the Act.

"Schedule" means a schedule to this local law.

"Sell" includes:

- (a) barter, offer or attempt to sell, receive for sale, have in possession for sale, expose for sale, send, forward or deliver for sale, or *allow* to be sold or offered for sale; and
- (b) sell for re-sale.

"Senior officer" has the same meaning as in the Act.

"Service Authority" includes the *Council*, Police, State Emergency Service or any government or semi-government or non profit agency involved in remedying a problem associated with *livestock* on a road.

Definitions cont

1.8 (1) "Service provider" means:

- (a) a *public body*; or
- (b) a corporation;

authorised by *legislation* to provide telecommunications, gas, electricity or water or facilities for any of them or sewage and drainage facilities.

"Shopping trolley" means a receptacle on wheels usually supplied by a retailer of *goods* to enable customers to transport those *goods* either inside or outside its *premises*.

"Stock crossing" means a location on a road used regularly for the purpose of livestock crossing that road and to which the requirements of the Road Safety (Traffic) Regulations 1988 apply.

"Street party" means an organised social gathering which is held in a *public place*.

"Trade waste" means *waste* (other than sewage) generated from a trade or business *premises* and may include *domestic waste*.

"Toy vehicle" means a *vehicle* (other than a bicycle) designed to be propelled by human power and includes a tricycle, scooter, pedal car, skate-board, roller skates, roller blades and similar equipment.

"Township zoned" means zoned as such under the planning scheme.

"Trolley" includes a *shopping trolley*.

"Vehicle" means a conveyance which is designed to be or is propelled or drawn by any means, but does not include a train, tram, wheelbarrow, *shopping trolley*, *toy vehicle* or wheelchair and as described in the Road Safety Act 1986.

"VicRoads" means the Roads Corporation established by Section 15 of the Transport Act 1983.

"Waste" when used as a noun includes any discarded, rejected, or abandoned matter (whether solid or liquid).

Definitions cont

- 1.8 (2) A reference to a *person* by way of that *person's* position with the *Council* includes a *person*:
- (a) authorised to carry out the powers, duties and functions of that position at the *Council*;
 - (b) acting in the capacity of that position; or
 - (c) if that position in the *Council* ceases to exist, any *person* exercising any power, duty or function which was previously a power, duty or function of the position as it previously existed.

Part 2 – Procedural

Permits and Applications for Permits

- 2.1 Wherever in this local law a *permit* is required, the *Council* may grant or refuse to grant the *permit* or grant it subject to conditions.
- 2.2 (1) An application for a *permit* must be:
- (a) in the form prescribed by Council and must be accompanied by the appropriate fee as prescribed by Council, or
- (2) The *Council* may require an applicant to:
- (a) provide additional information; or
 - (b) give notice of that application or invite any *person* to make a submission or do both;
- before the *Council* processes an application for a *permit*.
- 2.3 In considering an application for a *permit*, the *Council* must consider:
- (1) any policy or guideline adopted by the *Council* relating to the subject matter of the application for the *permit*;
 - (2) any written objection or written submission received in respect of the application;
 - (3) any written comment made in respect of the application by any *public body* or community organisation; and
 - (4) any other relevant matter.
- 2.4 A *permit* may include any condition which the *Council* considers to be reasonable and appropriate having regard to the activity to be authorised by the *permit* and the effects or anticipated effects of that activity, including but not necessarily limited to:
- (1) a requirement that a security deposit or bond or a release, indemnity or guarantee (in a form specified) be lodged with the *Council* to secure the proper performance of the *permit*;
 - (2) a requirement that notice be given to the *Council* as to when the activity authorised by the *permit* will be carried out or will occur;
 - (3) a time limit on the *permit* and on the activity authorised by it;
 - (4) provision for extension of the *permit*;
 - (5) a condition that the *permit* runs with or attaches to the *premises* in respect of which the activity is authorised by the *permit*;
 - (6) the payment of a fee or charge;
 - (7) a standard to be applied;
 - (8) that the *permit* is conditional on the happening of a certain event or prerequisite;

- (9) that the *permit* is conditional upon the rectification, remedying or restoration of any situation or circumstance; or
- (10) where the applicant is not the *owner* of the relevant *premises*, the consent of the *owner* is obtained.

2.5 Unless otherwise stated in the *permit*, a *permit*:

- (1) is personal and authorises only the *person* named in the *permit*; and
- (2) is not transferable.

Compliance with Permits

2.6 Every *person* to whom a *permit* is granted must do every act and thing as may be necessary to ensure compliance with the *permit* and its conditions.

Correction, Amendment, Cancellation and Suspension

2.7 (1) The *Council* may correct a *permit* if the *permit* contains:

- (a) clerical mistake or an error arising from any accident, slip or omission; or
- (b) a material miscalculation of figures or a material mistake in the description or any *person*, *premises*, thing or property referred to in the *permit*.

(2) The *Council* may cancel, suspend or amend any *permit* at any time if:

- (a) it is requested to do so by the *permit-holder*; or
- (b) it considers that there has been:
 - (i) a material mis-statement or concealment of fact in relation to the application for the *permit*;
 - (ii) any material mistake in relation to the issue of the *permit*;
 - (iii) any material change of circumstances which has occurred since the grant of the *permit*; or
 - (iv) there has been a substantial failure to comply with the *permit* or a *notice to comply*.

(3) The *Council* must give written notice to a *permit-holder* of any correction, cancellation, suspension or amendment of a *permit*.

General Permit Provisions

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

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

- 2.9 A *person* applying for a *permit* or amendment of a *permit* must not make or *allow* to be made any false representation or declaration in or in relation to that application.
- 2.10 Unless otherwise stated in this local law or in a *permit*, the *permit* will operate from the date it is granted and will expire twelve months from the date of issue.

Powers of Council

- 2.11 Without affecting the operation of any particular provision of this local law, everything an *authorised officer* or any other specified *person* is capable of doing under this local law is also capable of being done by the *Council* or its *delegate*.

Impounding

- 2.12 (1) An *authorised officer* may impound any item or thing connected with the provisions or objectives of this local law.
- (2) Where any item or thing is impounded pursuant to this local law, notice of the impounding is to be given.
- (3) Any item or thing impounded in accordance with this local law may be held until any fee or charge for its release is paid.
- (4) If after the specified time for retrieval of an impounded item or thing has expired and it has not been claimed then it may be disposed of according to the following principles:
- (a) if it has no saleable value, in the most economical and appropriate way as determined by an *authorised officer*; or
- (b) if it has a saleable value, by public auction, tender or private sale as determined by an *authorised officer*, and failing sale may be treated as in sub paragraph (a).
- (5) The monies realised from the sale of any impounded item or thing must be disbursed as follows:
- (a) in payment of any expenses incurred by the *Council*; then
- (b) to the *owner or person* who in the opinion of the *Chief Executive Officer* appears to be authorised to receive the money.
- (6) If no *person* can be identified for payment of any money then any excess must be treated in accordance with *legislation* dealing with unclaimed money or failing this, taken into the *Council's* revenue.

Fees

- 2.13 (1) The *Council* may by resolution determine fees and charges for the purposes of this local law.
- (2) A resolution may *allow* the waiver, reduction or deferral of a fee in whole or in part with or without conditions.
- (3) Permit fees are as per Council resolution.
- (4) Despite this clause or any resolution, the *Council* may waive, reduce or alter the fee for a *permit* in a particular case.

Declarations

- 2.14 Wherever it is provided in this local law that the *Council* may declare days, times, *Council land*, any *road*, *building*, *premises* or *public place* to prohibit, *allow*, regulate, control or limit an activity or something related to an activity within that area, the declaration must be by resolution of the *Council* and the following procedure must be used:
- (1) the area or place must be clearly described and defined, using a map if necessary;
- (2) any days or times during which the activity is to be prohibited, allowed, regulated, controlled or limited must be determined and specified.
- 2.15 After making a declaration the *Council*:
- (1) must publish a public notice; and
- (2) must cause such signs to be erected at the area to which the declaration applies as the Council considers appropriate.
- 2.16 (1) The *Chief Executive Officer* must maintain a register and record in it details of all declarations made under this local law.
- (3) The register must be open for inspection during office hours.

Part 3 – Reserves and Council Land

Private Access to Reserves

3.1 Unless in accordance with a *permit*, an *owner* or *occupier* of any *premises* abutting a *public place* other than a road must not install:

- (1) a gateway which services; or
- (2) other means of access to or from the *public place*.

Penalty: 5 penalty units

Motorised Vehicles

3.2 Unless in accordance with a permit or within a defined *carriageway* area, a *person* must not ride, drive, park, leave standing or otherwise use any motorised *vehicle* on any public land.

Penalty: 5 Penalty units

Games and Sport

3.3 Unless in accordance with a permit, a person must not in a *public place* engage in, play or practice any game, activity or sport which may interfere with the use or enjoyment of that place by any other person or the safety of other persons or which may cause damage to the public place.

Penalty: 5 Penalty units

Damage to Public Places

3.4 A *person* must not damage, interfere with, remove a sign from, or disfigure a *public place*.

Penalty: 5 Penalty units

Protection of Council Trees

3.5 Unless in accordance with a permit, a *person* must not in a *public place*:

- (1) interfere with a naturestrip or parkland trees, or
- (2) plant trees or shrubs.

Penalty: 2 Penalty units

Generally

3.6 A *person* must not in a public place :

- (1) use volatile, explosive or flammable matter; ;
- (2) act in a way which endangers any other *person*;
- (3) carry or use firearms; or
- (4) shoot, trap, injure or harm in any way any *animal*.

Penalty: 5 Penalty units

Festivals, Carnivals and Circuses

3.7 Unless in accordance with a permit, a person must not conduct a festival, carnival, circus, parade or other similar activity in a *public place*.

Penalty: 10 penalty units

Part 4 – Safety

Incinerators and Open Fires

- 4.1 A person must not light or *allow* to be lit or remain alight any *incinerator* or *open fire* on such days or at such times as are declared by the *Council*.

Penalty: 2 penalty units

Burning of Offensive Material

- 4.2 A person must not burn or *allow* to burn any substance which contains:

- (1) food waste, fish or other offensive or noxious matter;
- (2) any rubber or plastic;
- (3) any petroleum or oil;
- (4) any paint or receptacle which contains or which contained paint; or
- (5) any manufactured chemical.

Penalty: 5 Penalty units

Part 5 – The Environment

Camping and Caravan Occupation

- 5.1 Unless in accordance with a *permit*, a *person* must not:
- (1) camp in a tent, caravan, mobile home or other temporary or makeshift structure in a *public place*; or
 - (2) use a caravan, mobile home or other temporary or makeshift structure for the purpose of habitation.
- 5.2 Clause 5.1 does not apply to camping or the use of a caravan or mobile home in a *Council* registered caravan park or an area determined by the *Council* to be available for camping.
- Penalty: 5 Penalty units

Unightly Land

- 5.3 The *owner* or *occupier* of *premises* must not *allow* the *premises* to be unsightly. In this clause, “unsightly” means any land on which:
- (1) Unused excavation material or general household waste is present and in view.
 - (2) Any other thing that has substantial adverse visual amenity impact to the general public in context with the surrounding area.
- Penalty: 5 Penalty units

Damage Caused by Trees or Plants

- 5.4 A *person* must not *allow* a tree or plant or any other matter on *premises* owned or occupied by that *person* to cause damage to or interfere with a *public place* or any person or or using a *public place*.
- Penalty: 2 Penalty units

Wasp Nests

- 5.5 The *owner* and *occupier* of *premises* must not *allow* an English or European wasp nest to remain on the *premises* and must take action to have it removed and destroyed.
- Penalty: 2 Penalty units

Bee Hives

- 5.6 The *owner* and *occupier* of *premises* must not keep or *allow* to be kept any bee hive on the *premises* unless the *person* or one of them or another person permitted to use the *premises* is a registered beekeeper and the bees and hive are kept in accordance with the Beekeeping Code of Practice.
- Penalty: 2 Penalty units

Part 6 – Animals

Keeping Animals

- 6.1 (1) Unless in accordance with a *permit*, the *owner* and *occupier* of *premises* must not keep or *allow* to be kept more than four different types of *animals* on those *premises* at any time and must not keep or *allow* to be kept any more in number of each type of *animal* than as set out in the following table:

Type of adult <i>animal</i>	Maximum number allowed in built-up areas	Maximum number allowed in non-built up areas
Dogs	2	4
Cats	2	4
Pigeons	50	No maximum limit
<i>Poultry</i>	(Refer to Part 7)	20
<i>Domestic birds</i>	50	100
<i>Large birds</i>	5	10
Domestic rabbits	6	6
Horses/donkeys	2	No maximum limit
<i>Cattle</i>	2	No maximum limit
Sheep	2	No maximum limit
Goats	2	No maximum limit
Pigs	Not permitted	No maximum limit
Other agricultural <i>animals</i>	2	No maximum limit

- (2) Sub-clause (1) does not apply where a planning permit under the *planning scheme* has been issued for *animal* keeping as that term is defined in the *planning scheme*.
- (3) Sub-clause (1) does not apply to the keeping of dogs actively used in farming on properties entitled to the farm rate for the Shire of Hepburn.

Keeping Animals cont

- 6.1 (4) Despite the provisions of sub-clause (1), an *authorised officer* may *allow* a greater number of *animals* to be kept on *premises*.
- (5) For the purpose of calculating the maximum limit of the numbers of *animals* kept, the progeny of any dog or cat lawfully kept will be exempt for a period of twelve weeks after their birth.

Penalty: 2 Penalty units

Animal Excrement

- 6.2 A *person* in charge of an *animal* must not *allow* any of the *animal's* excrement to remain in a *public place* within a built-up area.

Penalty: 2 Penalty units

Part 7 – Birds

Numbers (Poultry)

- 7.1 (1) On residential zoned properties the following restrictions apply to the keeping of poultry:
- (a) Poultry can only be kept in an appropriate enclosure;
 - (b) No more than ten head of poultry are to be kept;
 - (c) All roosters must be kept under the provision of clause 7.2(2)
 - (d) If the provisions of clause 7.2(2) can be achieved, only one rooster is permitted per property.

Penalty: 2 Penalty units

Siting of Bird Enclosures

- 7.2 (1) Unless in accordance with a permit, a *bird enclosure* on any *premises* must be at least three meters from the boundary of any adjoining *premises*.
- (2) Bird enclosures containing a rooster must be a minimum of fifty meters from an adjoining properties dwelling

Penalty: 2 Penalty units

Construction of Bird Enclosures

- 7.3 (1) Unless in accordance with a *permit*, every *bird enclosure*, excluding pigeon enclosures, must comply with the Department of Primary Industries Code of Practice for the Housing of Caged Birds. Pigeon owners must comply with the Victorian Code of Practice for the Keeping and Racing of Pigeons.

Penalty: 2 Penalty units

Part 8 – Public Safety and Waste Disposal

Scavenging

- 8.1 Unless in accordance with a permit, a *person* must not search through or remove any articles of rubbish, recyclables or items from the municipal tip or left for collection on a *public place*.

Penalty: 5 Penalty units

Use of Tip or Transfer Station

- 8.2 A person must not use a municipal tip except in accordance with the directions of an *authorised officer* or tip attendant and any signs.

Penalty: 2 Penalty units

Domestic Waste

8.3

- (1) All *domestic waste* must be placed in an approved container.
- (2) Containers must be placed outside the *premises* for collection in accordance with any directions given by the *Council* and returned to the *premises* by the *owner* or *occupier* when emptied.
- (3) Containers must be maintained by the *owner* and *occupier* of *premises* in a clean, tidy and safe condition.

8.3

- (4) A person must not place the following material in a container for collection by the *Council*:
 - (a) liquid *waste* or offensive material; and
 - (b) ashes, hair or other similar matter or moist refuse, unless it has been securely wrapped in paper or some other impermeable cover or container to prevent its escape; and
 - (c) ashes or other like matter unless they have been mixed with water to form a consistency of a stiff paste before being wrapped and placed in the bin; and
 - (d) glass or other sharp objects unless they are properly contained or wrapped in such a way as to render them harmless and inoffensive; and
 - (e) oil, paint, solvents or similar substance or any other substance which may damage the bin or reduce its strength or effectiveness; and
 - (f) disposable napkins unless they have been cleaned of solids and securely wrapped in impervious material prior to being placed in the bin; and
 - (g) *trade waste* of any kind.

Penalty: 2 Penalty units

Material for Recycling

8.4

- (1) All *material for recycling* for collection by Council shall be placed in an approved container with the exception of newsprint and cardboard which are to be bundled separately and tied with string.
- (2) Containers must be placed outside the *premises* for collection of in accordance with directions given by the *Council* and returned to the *premises* by the *owner* or *occupier* when emptied.

Penalty: 2 Penalty units

Trade Waste

8.5

- (1) The *owner* and *occupier* of *premises* where *trade waste* is generated, whether or not a service for the collection and disposal of *domestic* or *trade waste* is provided must ensure that the *trade waste* is placed in an approved bin, *waste* hopper or recycling bin ready for collection.
- (2) All containers used for the collection of *trade waste* must:
 - (a) be constructed of impervious material to prevent leakage, absorption or escape of *waste*.
 - (b) be water tight, fly and vermin proof with a lid which is continuously kept closed when the container is not being used or emptied; and
 - (c) if not a mobile bin, must have a drain and plug for cleaning purposes.
- (3) *Trade waste* containers, must be located on the *premises* to *allow* for easy access and weekly collection of contents or more regular collection if the contents are likely to become offensive.
- (4) *Trade waste* containers must be:
 - (a) maintained by the *owner* and *occupier* of the *premises* in a clean, tidy and safe condition; and
 - (b) thoroughly cleaned after each emptying.
- (5) *trade waste* containers must display a sign which indicates:
 - (a) the type of *waste* permitted to be deposited in it; and
 - (b) that it is an offence to deposit material contrary to the sign.
- (6) A person must not deposit any *waste* in a *trade waste* container contrary to a sign on the container.

Penalty: 5 Penalty units

Part 9 – Use of Public Places

Clothing Bins

- 9.1 A *person* must not *place* or *allow* the placement of a clothing bin on a *public place* unless:
- (1) (a) in accordance with a *permit*; or
 - (b) the site of the bin is *prescribed* by the *Council* for such use generally or is allocated to that bin; and
 - (2) the *bin* has clearly indicated on at least two sides, the name of the *person* on whose behalf the bin is *placed* and items that are sought for depositing in it.

Penalty: 2 Penalty units

Bulk Rubbish Containers

- 9.2 A *person* must not *place* or *allow* the placement of a *bulk rubbish container* on a *public place* unless:
- (1) in accordance with a *permit*; or
 - (2) a *bulk rubbish container* will only be in place for no more than twenty-four hours and is adequately protected and lit for any night time period.

Penalty: 2 Penalty units

Entertainment and Busking

- 9.3 Unless in accordance with a *permit*, a *person* must not *busk* on a *public place*.

Penalty: 2 Penalty units

Part 10 – Management of Traffic and Roads

Protrusions and Overhanging Branches

- 10.1 (1) The *owner* and *occupier* of *premises* must not:
- (a) *allow* any vegetation, sign, support or structure to extend over a *footpath* at a height of less than three metres; or
 - (b) *allow* any vegetation, sign, support or structure to cause a *road interference*.
- (2) In this clause, the phrase “road interference” means interference with the unobstructed, safe and fair use of roads by people and includes interference with:
- (a) traffic, including pedestrians and *vehicles*;
 - (b) traffic control items; or
 - (c) street lighting.

Penalty: 2 Penalty units

Property Numbers to be Displayed

- 10.2 (1) For each *premises* that has been allocated a property number by the *Council*, the *owner* and *occupier* must ensure that the *premises* display the number.
- (2) The number must be of sufficient size, positioned, made of material and kept in good repair for it to be clearly read from a *road* at all times, and where a property is situated on a corner, the number must be displayed on the side that the property is addressed.

Penalty: 2 Penalty units

Vehicle Crossings

- 10.3 (1) The *owner* of *premises* must ensure that each point of *vehicle* access from a *carriage-way* on a *road* to the *premises* has a properly constructed *vehicle* crossing that is not within ten metres of an intersection.
- (2) For the purposes of this clause, a *vehicle* crossing is properly constructed if:
- (a) it was constructed by or in accordance with the terms of an approval by the *Council*; or
 - (b) the *Council* has approved in writing the method of construction of the *vehicle* crossing.
- (3) The *owner* or *occupier* of *premises* must ensure that each *vehicle* crossing to the *premises* from any adjacent *carriageway* or *road* and any channel or pipe under or forming part of the crossing is maintained and repaired to the satisfaction of an *authorised officer*.

Penalty: 2 Penalty units

Permit Required for Vehicle Crossings

10.4 Unless in accordance with a *permit*, a *person* must not construct, install, remove or alter a *vehicle* crossing whether temporarily or permanently.

Penalty: 2 Penalty units

Temporary Vehicle Crossing

10.5 (1) Where:

(a) because of the nature, size or weight of a *vehicle* or material which may travel or be carried across a kerb, gutter, naturestrip, *footpath* or *vehicle crossing* in the course of access or egress between *premises* and the *carriageway* or a *road* it is likely that damage may be caused to the kerb, gutter, naturestrip, *footpath* or *vehicle* crossing; or

(b) an activity is intended or expected to take place on *premises* making likely an occurrence of the type described in paragraph (a);

the *owner* of *premises* must give written notice to the *Council* of that expected activity or occurrence before it occurs.

(2) Unless in accordance with a *permit*, a *person* must not *allow* entry to or exit from *premises* by any *vehicle* or material referred to in sub-clause (1).

(3) The *owner* and *occupier* must take all reasonable steps to protect the existing kerb, gutter, naturestrip, *footpath*, *carriageway* and *vehicle* crossing at all times during any activity or occurrence referred to in sub-clause (1).

(4) The *person* responsible for an activity or occurrence must maintain the *road* adjacent to the *premises* in a safe and trafficable condition at all times.

(5) The *owner* of the *premises* must immediately and to the satisfaction of an *authorised officer* repair any damage caused to the kerb, gutter, naturestrip, *footpath*, *carriageway* or *vehicle crossing* or, at the discretion of the *Council*, pay to the *Council* the cost of the *Council* doing so.

(6) Where in the opinion of an *authorised officer* a kerb, gutter, naturestrip, *footpath*, *carriageway* or *vehicle* crossing may be or is likely to be damaged in circumstances referred to in the preceding sub-clauses, the *owner* of the *premises* must, when requested to do so by the *authorised officer*, pay or give to the *Council* a bond in an amount specified by the officer, but relative to the likely cost of repairing any damage or reinstating the item.

(7) The bond required under sub-clause (6) may be retained by the *Council* and used to pay for repairing any damage or to reinstate the item, and if the cost to repair any damage or reinstate the item is greater than the bond paid under sub-clause (6), the additional cost must be paid by the *person* who gave the bond to the *Council* when demanded by the *Council*.

(8) Any bond or portion of it not required by the *Council* fourteen days after completion of the repairs necessitated by the activity or occurrence must be refunded or released to the *person* who paid it or lodged it.

Penalty: 2 Penalty units

Redundant Vehicle Crossings

- 10.6 (1) Where works on *premises* involve the relocation or closure of a point of *vehicle* access, making, in the opinion of an *authorised officer*, the *vehicle* crossing or any part of it redundant, the *vehicle* crossing or part of it must be removed by the *owner* of the *premises* and the kerb, drain, *footpath*, naturestrip or other part of the road must be reinstated to the satisfaction of the *authorised officer*.
- (2) The *owner* must undertake the work referred to in sub-clause (1) in accordance with a notice given to the *owner* by the *authorised officer*.

Penalty: 2 Penalty units

Obstructions

- 10.7 (1) Unless in accordance with a permit, a *person* must not make or *place* an *obstruction* or *allow* one to be made, placed or exist on public land.
- (2) For the purpose of this clause “obstruction” includes:
- (a) a hedge, heap or fence;
 - (b) a ditch, hole or drain;
 - (c) *building* material;
 - (d) *goods* for sale;
 - (e) a box or other container;
 - (f) a table or chair;
 - (g) a board, sign, sandwich board or *advertisement*;
 - (h) a bicycle (except in a rank or stand provided by the *Council*) or *vehicle*;
 - (i) a pole, post or basketball ring;
 - (j) scaffolding or a stage, crane, awning, hoarding or hoist, or
 - (k) any other thing
- likely to hinder access to any part of the *public place* if left on a *road* or *premises*.
- (3) Any *obstruction* contrary to sub-clause (1) may be removed and impounded by the *Council* or an *authorised officer*, whether or not a *Notice to Comply* has been given.
- (4) Without affecting Section 225 of the Act and Clause 16.8, a *person* who has *allowed* an *obstruction* to be made, placed or exist and which has been removed by the *Council* or an *authorised officer* must immediately pay the cost of the removal to the *Council*.

Penalty: 5 Penalty units

Part 11 – Control of Animals, Shopping Trolleys and Vehicles on Roads and Elsewhere

Livestock Control

- 11.1 (1) Unless in accordance with a permit, a person must not drive *livestock* for a distance greater than two kilometres along any road.

Penalty: 2 Penalty units

- (2) Unless in accordance with a permit, a person in charge of *livestock* must not allow the *livestock* to graze on a road.

Penalty: 2 Penalty units

- (3) Any local regular movement of *livestock* must be in accordance with Council's policy, Road Safety (Road Rule) Regulations 1999 – Give Way to Stock Regulations 1997 No. 153 and warning light guidelines prepared by VicRoads.

Penalty: 2 Penalty units

Shopping Trolleys

- 11.2 (1) A person must not leave a *shopping trolley* on any *public place* or *premises* except in an area designated for the purpose.

- (2) An *authorised officer* may impound any *trolley* found on any place where sub-clause (1) does not *permit* it to be left.

Penalty: 2 Penalty units

Use of Toy Vehicles

- 11.3 (1) Any person who uses or allows another person to use a *toy vehicle* on a *public place* must ensure that the use does not inconvenience, obstruct, hinder, endanger, alarm or prevent the free passage of any pedestrian or other user of the *public place* whether in or on another *vehicle* or not.

- (2) The Council may declare any *road*, *Council land*, *reserve* or *public place* to be an area where *toy vehicles* must not be used or may only be used during specified times.

- (3) The following designated roads and areas are declared areas where the use of toy vehicles must not be used at any time:

- Vincent Street, Daylesford between Raglan Street & Stanbridge Street.
- Albert Street, Daylesford between Vincent Street & Bridport Street.
- Howe Street, Daylesford between Vincent Street & Camp Street.

Penalty: 2 Penalty units

Riding Horses on Reservations

- 11.4 (1) Unless in accordance with a permit, a *person* must not ride or lead a horse or *allow* another *person* to ride or lead a horse upon a *reservation* between *carriageways* on a *road* or naturestrip unless outside a *built up area*.
- (2) A *person* must not ride or lead a horse or *allow* another *person* to ride or lead a horse on a *public place* if the place has been signposted as being not available for horses.

Penalty: 2 Penalty units

Sale of Vehicles

- 11.5 A *person* must not *park* a *vehicle* in a *public place* for the purposes of promoting the *vehicle* for sale.

Penalty: 2 Penalty units

Vehicle Repair

- 11.6 Unless in accordance with a *permit* or it is necessary for removal of a *vehicle*, a *person* must not dismantle, repair or carry out maintenance on a *vehicle* in a *public place*.

Penalty: 2 Penalty units

Part 12 – Secondary Activities on Roads

Outdoor Eating Facilities

- 12.1 Unless in accordance with a *permit*, a *person* must not establish or *allow* the establishment of an outdoor eating facility on a *road*.

Penalty: 2 Penalty units

Removal of Equipment

- 12.2 Any table, chair, umbrella or other equipment in an outdoor eating facility used in contravention of this Part or of any condition of a *permit* may be removed by an *authorised officer* and impounded.

Occupation of Road for Works

- 12.3 Unless in accordance with a *permit*, a *person* must not on a *road* under the control of the *Council*:

- (1) carry out works involving or from that *road*; or
- (2) do anything in relation to works, which affects or is likely to affect the use of the *road*.

Penalty: 5 Penalty units

Street Parties, Festivals and Processions

- 12.4 (1) Unless in accordance with a *permit*, a *person* must not hold a *street party*, *street festival* or *procession* on a *road*.

Penalty: 5 Penalty units

Collections

- 12.5 A *person* must not solicit or collect a subscription or gift of money or *goods* or *sell* a raffle ticket in a *public place* or from *building to building* or to or from a *person* in a *public place* unless:

- (1) in accordance with a *permit*; or
- (2) to do so is specifically authorised by and in accordance with any *legislation*.

Penalty: 2 Penalty units

Part 13 – Display and Sale of Goods and Services

Road Trading

13.1 Unless in accordance with a *permit*, a *person* must not:

- (1) *sell* or offer for sale any goods or services from a *public place*; or
- (2) erect, place or in any other way, leave any structure or physical thing on a *public place* for the purposes of selling, displaying or offering for sale any *goods* or services.

Penalty: 2 Penalty units

Soliciting Trade and Similar Activities

13.2 Unless in accordance with a *permit*, a *person* must not:

- (1) in a *public place*, solicit or try to attract trade or business or tout or spruik; or
- (2) in *premises* adjacent to a *public place*, solicit or try to attract trade or business or tout or spruik unless the activity cannot be heard or seen by or does not have an influence on a *person* on or in that *public place* except by way of a written *advertisement* or a display or *goods* in or on those adjacent *premises*.

Penalty: 2 Penalty units

Advertising Signs

13.3 Unless in accordance with a *permit*, a *person* must not *place* a portable *advertising sign* in, on or over a *public place* or *allow* that to occur.

Penalty: 2 Penalty units

Part 14 – Consumption of Alcoholic Beverages

Declaration of Places and Exemptions

- 14.1 (1) The *Council* may declare any *public place* to be an area where *alcoholic beverage* must not be consumed or *held* in open containers or may only be consumed or *held* during specified times or in accordance with a permit.
- (2) Sub-clause 14.1 (1) does not apply to any place subject to control or license under the Liquor Control Reform Act 1998.

Alcoholic Beverages Banned

- 14.2 A *person* must not consume or *hold* any *alcoholic beverage* in an open container in any area or place which is subject to a declaration under sub-clause 14.1.

Penalty: 5 Penalty units

Definitions

- 14.3 In the context of this part:

'hold' or 'held' means to have in possession or control any alcoholic beverage;

Part 15 – Enforcement

Enforcement

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

Penalties

- 15.2 A *person* who:
- (1) does not do anything required to be done or does anything forbidden to be done by or under this local law;
 - (2) *allows* any act or omission which is a contravention of this local law;
 - (3) contravenes a *permit* or a condition included in a *permit*; or
 - (4) is the *owner* or *occupier* of any premises upon or in relation to which or the *proprietor* of a *vehicle* in or in relation to which a contravention of this local law occurs;

is guilty of an offence and is liable to a penalty of one penalty unit for that offence and in the case of a continuing offence is liable to a penalty not exceeding the prescribed amount for each day after conviction for the offence during which the contravention continues.

Notices to Comply and Directions

- 15.3 (1) The *Council* or an *authorised officers* may by *Notice to Comply*, direct a *person* to comply with any clause of this local law or a permit issued under this local law where the *Council* or *authorised officer* believes there has been a non-compliance by that *person* or in respect to any *premises*, things or property of which that *person* is the *owner*, *occupier* or *proprietor*.
- (2) A *person* must comply with any *Notice to Comply* directed to him or her by the *Council* or by an *authorised officer*.

Infringement Notices

- 15.4 Where an *authorised officer*, believes that a *person* has committed an offence against this local law, an *authorised officer* may:
- (1) as an alternative to a prosecution for the offence, issue an infringement notice specifying the penalty; and
 - (2) serve or cause the infringement notice to be served on that *person*.

Expiation of Fine Avoids Prosecution

- 15.5 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.

Serving Infringement Notices

- 15.6 (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
 - (d) where the offence involves a *vehicle*, placing it on or attaching it to the *vehicle*.
- (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) 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.
- (4) If an infringement notice is withdrawn, after the *person* pays the penalty, the *person* is entitled to a refund of the penalty.
- (5) 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.
- (6) 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;
- proceedings may be taken or continued for the offence.

Evidence of Service

- 15.7 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.

Compliance with Directions and Notices

- 15.8 (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.
- (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.

Direction of Traffic

- 15.9 (1) For the purpose of enforcing:
- (a) the Road Safety Act 1986 or any Regulation made under that Act: or
 - (b) this local law;
- or if special circumstances so require, an *authorised officer* may give directions for the passage of traffic.
- (2) A *person* must comply with any directions given under sub-clause (1) unless contrary directions are given by a *police member*.

Delegation

- 15.10 In accordance with Section 114 of the Act, the *Council*:
- (1) delegates to the *Chief Executive Officer*, the General Manager Sustainable Development and the General Manager Corporate Services, all the powers, discretions, authorities and considerations of *Council* under this local law including the powers, discretions and authority to issue or refuse *permits*, fix conditions and durations relevant to *permits*, cancel *permits*, require additional information, apply guidelines or policies of *Council*, waive the need for any *permit*, 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 issue or refuse *permits* and apply conditions, exercise discretions and require additional information.

Urgent Circumstances

- 15.11 (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.

- (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.

CERTIFICATION OF LOCAL LAW

This local law was made and issued by the Hepburn Shire Council.

THE COMMON SEAL)
of the **HEPBURN SHIRE COUNCIL**)
was affixed in the presence of:)

.....

MAYOR

.....

CHIEF EXECUTIVE OFFICER

Thisday of 2009.

GENERAL LOCAL LAW NO. 2

The Public Notice required to be given by Section 119(2) of the Local Government Act 1989 appeared in the Government Gazette No. G36 3 September 2009 and in The Courier, Ballarat newspaper on 29 August 2009.

The Public Notice required to be given by Section 119(3) of the Local Government Act 1989 appeared in the Government Gazette No. G8 Thursday 25 February 2010 and in The Courier, Ballarat newspaper on 20 February 2010.

A copy of this local law was sent to the Minister for Local Government on 26 February 2010 to conform with Section 119(4) of the Local Government Act 1989.

This local law commenced operation on 17 November 2009 and will expire on the 17 November 2019.

I certify that this document pages 1 - 41 is a true copy of the General Local Law No. 2. made by the Hepburn Shire Council on, in accordance with the requirements of the Local Government Act 1989.

.....
(CHIEF EXECUTIVE OFFICER)

History of Local Law

Date Made	Amended	Operation Date	Gazettal Date	Title	Council File
17/11/2009		17/11/2009	25/02/2010	General Local Law No. 2	44/06/06