

SOUTH GIPPSLAND SHIRE COUNCIL

# DRAFT General Local Law 2024



*South Gippsland*  
Shire Council

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**Incorporated by Reference**

Building and Works Code of Practice

Camping on Private Property Code of Practice

Footpath Trading Code

## PART 1 – PRELIMINARY

### 1. Title

- (1) This Local Law is the “*General Local Law 2024*”.

### 2. Objectives

- (1) The objectives of this Local Law are to:
  - (a) provide for the peace order and good government of the **municipal district**;
  - (b) regulate and control activities which may be dangerous, unsafe or detrimental to the quality of life in the environment of the **municipal district**;
  - (c) provide a safe and healthy environment in which the residents of the **municipal district** enjoy a quality of life that meets the general expectations of the community;
  - (d) facilitate the provision of general public services, health and other community services, property services, recreational and cultural services, and other services in a way which enhances the environment and quality of life in the **municipal district**; and
  - (e) provide for the administration of **Council’s** powers and functions.

### 3. Authorising Provisions

- (1) This Local Law is made under section 71 of the *Local Government Act 2020* and section 42 of the *Domestic Animals Act 1994*.

### 4. Commencement

- (1) This Local Law commences to operate on 15 April 2024.

### 5. Cessation

- (1) This Local Law ceases to operate on 14 April 2034, unless revoked earlier.

### 6. Revocation of Earlier Local Laws

- (1) **Council’s** *General Local Law 2014* is revoked.
- (2) **Council’s** *Local Law No. 2 2020 Processes of Municipal Government* is also revoked.

### 7. Application

- (1) This Local Law applies throughout the whole of the **municipal district**.
- (2) This Local Law does not apply where any act or thing is authorised by or under any Act, Rule or Regulation or the **Planning Scheme**.
- (3) The provisions of this Local Law do not apply to **Council** contractors, agents or employees to the extent that the proper discharge of their duties and obligations would otherwise constitute a breach of this Local Law.

## 8. Definitions

Unless inconsistent with the context or subject-matter, the following words and phrases have the meanings assigned to them:

Words and phrases	Meaning
Act	Means the <i>Local Government Act 2020</i> .
Advertising sign	Includes any placard, inflatable sign, portable electric sign, illuminated, revolving, spinning or flashing sign, flag, banner, A-frame structure and other object or similar sign that can be securely and safely positioned, being of a fixed or transient nature, including when affixed to a <b>vehicle</b> , trailer, bicycle, tricycle, trolley or other object.
Alcohol	Has the same meaning as <b>liquor</b> .
Animal	Includes a bird, a dog, a cat, a pig, cattle, a horse, sheep, a goat, poultry, a rabbit, a ferret, a reptile and an insect.
Appointed agent	Means the <b>person</b> authorised in writing by an <b>owner</b> of a building or <b>land</b> to make an application, appeal, referral, or representation on their behalf, and includes a property manager.
Asset Protection Permit	Means a <b>permit</b> issued under clause 55 of this Local Law.
Authorised Officer	Means any <b>person</b> appointed by <b>Council</b> to be an Authorised Officer under sections 224 and 224A (members of Victoria Police) of the <i>Local Government Act 1989</i> .
Barbeque	Means a device used for the cooking of food outdoors whether constructed or manufactured and whether powered by gas, electricity, liquid or solid fuel, or any combination of them, and includes a device for spit roasting when used outdoors.
Builder	Means a <b>person</b> who has been nominated as the builder on a building permit and the <b>person</b> in charge of <b>building works</b> being carried out, the <b>person</b> actually conducting <b>building works</b> and the <b>owner</b> of the <b>land</b> on which <b>building works</b> are being carried out.
Building and Works Code of Practice	Means the Building and Works Code as made by <b>Council</b> and amended from time to time, and which is incorporated in this Local Law.
Building works	Includes any works for or in connection with: <ul style="list-style-type: none"> <li>(a) the construction, demolition, renovation, alteration or removal of any building or structure;</li> <li>(b) earthworks, such as excavation, digging or boring associated with the construction, demolition, renovation, alteration or removal of any building or structure; and</li> <li>(c) the delivery and removal of goods or materials associated with any of the activities described in paragraph (a) or (b).</li> </ul>
Bulk rubbish container	Means a bin, skip or other container used for the deposit of waste but excludes a domestic bin.



Words and phrases	Meaning
Busk / busking	Means performing in a public place, whether by acting, juggling, singing, playing a musical instrument or otherwise entertaining passers-by, with or without collecting money.
Camping / to camp	Means the occupation or use as accommodation of a tent, makeshift structure, caravan, mobile home or any other moveable vehicle or relocatable building or structure.
Camping area	Means any <b>land</b> within the <b>municipal district</b> that has been designated by <b>Council</b> to be a 'Camping Area' for the purposes of this Local Law.
Camping on Private Property Code of Practice	Means the Camping on Private Property Code of Practice as made by <b>Council</b> and amended from time to time, and which are incorporated in this Local Law.
Caravan	Means any moveable <b>vehicle</b> which includes sleeping and/or living facilities, whether manufactured to luxury standard or privately converted from a standard <b>vehicle</b> , and includes a caravan, camper trailer, campervan, mobile home and other similar towed living/sleeping trailer facility.
Chief Executive Officer	Means the Chief Executive Officer of <b>Council</b> and any person acting in that position, and includes a person authorised by the Chief Executive Officer to act on their behalf in relation to this Local Law.
Clothing / donation bin	Means a bin or similar container used for the collection of used clothing and/or other goods.
Common Seal	Means the common seal of <b>Council</b> .
Council	Means South Gippsland Shire Council.
Council asset	Means any <b>municipal place</b> or <b>road</b> and includes but is not limited to: (a) kerbs, drains, footpaths, street <b>trees</b> and vegetation; and (b) any thing on a <b>municipal place</b> or <b>road</b> which is owned by, or under the control and management of, <b>Council</b> .
Council staff	Means staff employed and contractors engaged by <b>Council</b> .
Domestic Bin	Means a landfill bin, recycling bin, organics bin or other designated bin provided by <b>Council</b> to premises.
Droving	Means the movement of <b>livestock</b> along a <b>road</b> or through a public area.
Dwelling	Means any building or portion of a building which is used, intended, adapted, or designed for use for living.
E-cigarette	Has the same meaning as in the <i>Tobacco Act 1987</i> .
E-waste	Means any waste item that uses a plug, battery or power cord.
Event	Means an organised recreational, cultural, commercial or social event or gathering of people.

Words and phrases	Meaning
Fence / fencing	Means an enclosure by design or intent that is used for the confinement of an <b>animal</b> or for security, privacy, amenity or boundary marking, and includes (but is not limited to) a gate, grid or similar structure.
Fire	Has the same meaning as in the <i>Country Fire Authority Act 1958</i> .
Fire Danger Period	Has the same meaning as in the <i>Country Fire Authority Act 1958</i> .
Fodder	Means grass grown for the production of food for grazing <b>animals</b> or <b>livestock</b> either by grazing <b>animals</b> directly on the <b>land</b> , or for the production of hay.
Footpath	Has the same meaning as in the <i>Road Safety Road Rules 2017</i> .
Footpath Trading Code	Means the Footpath Trading Code as made by <b>Council</b> and amended from time to time, and which is incorporated in this Local Law.
Grazing	Means allowing <b>livestock</b> to enter and remain on a <b>road</b> for the purpose of grazing.
GVM	Means the Gross Vehicle Mass of a <b>vehicle</b> .
Heavy vehicle	Has the same meaning as in the <i>Heavy Vehicle National Law (Victoria)</i> .
Incinerator	Has the same meaning as in section 38A(1A) of the <i>Country Fire Authority Act 1958</i> .
Infringement Notice	Means an Infringement Notice issued under the <i>Infringements Act 2006</i> .
Land	Has the same meaning as in the <i>Interpretation of Legislation Act 1984</i> .
Large bird	Includes a macaw, peacock, pheasant, cockatoo and any other bird <b>prescribed</b> by <b>Council</b> .
Licensed premises	Means premises licensed under the <i>Liquor Control Reform Act 1998</i> to sell or serve <b>alcohol</b> , and includes premises which have been granted a BYO permit under the <i>Liquor Control Reform Act 1998</i> .
Liquor	Has the same meaning as in the <i>Liquor Control Reform Act 1998</i> .
Livestock	Has the same meaning as in the <i>Impounding of Livestock Act 1994</i> .
Long vehicle	Has the same meaning as in the <i>Road Safety Road Rules 2017</i> .
Manager	Means a person appointed by <b>Council</b> or the <b>Chief Executive Officer</b> to manage any <b>municipal building</b> , <b>municipal reserve</b> or other <b>municipal place</b> , and any <b>Authorised Officer</b> .
Minor building works	Means <b>building works</b> valued at less than \$10,000 but excludes demolition and removal of buildings and structures and the installation of swimming pools (regardless of value).
Motor cycle	Has the same meaning as in the <i>Road Safety Act 1986</i> .



Words and phrases	Meaning
Motor vehicle	Has the same meaning as in the <i>Road Safety Act 1986</i> .
Municipal building	Means any building (and its grounds) owned by, vested in or under the control or management of <b>Council</b> , which has some or all areas designated for public or community access but may also have some or all areas designated for Council only access.
Municipal district	Means the municipal district of <b>Council</b> .
Municipal place	Means any place within the <b>municipal district</b> that is owned by, vested in or under the control or management of <b>Council</b> , and to which the public may or may not have access (whether an admittance fee is required or not), including a <b>municipal reserve</b> and <b>municipal building</b> but excluding a <b>road</b> .
Municipal reserve	Means any <b>land</b> , waterway or water course owned by, vested in or under the control or management of <b>Council</b> , and used or set aside as a reserve but excludes a <b>road</b> and any area leased to other parties.
Notice to Comply	Means a Notice to Comply issued by <b>Council</b> or by an <b>Authorised Officer</b> under this Local Law.
Occupier / occupant	Means the <b>person</b> or <b>persons</b> in charge, or having the management or control, of, or legally entitled to occupy, <b>land</b> (including premises), and includes the <b>owner</b> of the <b>land</b> , a lessee and licensee of the <b>land</b> , and a <b>person</b> who occupies short stay rental accommodation for short stay purposes.
Online	Means electronically via <b>Council's</b> website.
On-Site wastewater management system	Has the same meaning as in the <i>Environment Protection Regulations 2021</i> .
Outdoor eating facility	Means any tables and/or chairs that are used for commercial purposes and are located outdoors at which food or drinks are served and may be consumed.
Owner	In relation to <b>land</b> means the person who is registered on the Certificate of Title as the owner of the <b>land</b> , or the person who is entitled to be so registered, or the person who is otherwise entitled to exercise any rights of ownership of the <b>land</b> .
Penalty unit	Has the same meaning as in the <i>Sentencing Act 1991</i> .
Permit	Means a permit issued under this Local Law.
Permit holder	Means the <b>person</b> to whom a <b>permit</b> is issued.
Person	Includes a natural person, a corporation, an association incorporated under the <i>Associations Incorporation Reform Act 2012</i> and a partnership.
Planning Scheme	Means the South Gippsland Shire Planning Scheme.
Policy	Means a policy applied by <b>Council</b> from time to time for the purposes of

Words and phrases	Meaning
	the particular provision in which the term is used.
Prescribe	Means determined (whether by Resolution or under delegation) and then publish <b>online</b> what is determined.
Private property	Means any <b>land</b> which is privately owned or occupied, and structures and fixtures on such <b>land</b> .
Procession	Means an organised group of people progressing along a <b>road</b> or gathering for a ceremony or function, and includes a fun run and/or bicycle event.
Property address	Means the <b>road</b> name and street number allocated to a property within the <b>municipal district</b> and may include, where there are multiple tenements within a property or multiple properties at one street number, the use of lot or unit numbers.
Recreational vehicle	Means any miniaturised motor cycle, trail bike, motor cycle, motor scooter, go-cart, four-wheel drive vehicle or other <b>vehicle</b> propelled by a motor which can be used for recreational purposes, but does not include: <ul style="list-style-type: none"> <li>(a) a motorised mobility device;</li> <li>(b) a power-assisted pedal cycle that can lawfully be used under the <i>Road Safety Act 1986</i>;</li> <li>(c) an electric scooter that can lawfully be used under the <i>Road Safety Act 1986</i>; or</li> <li>(d) a <b>vehicle</b> while engaged in legitimate farming activities</li> </ul>
Residential area	Means <b>land</b> within one of the Residential Zones of the <b>Planning Scheme</b> .
Retailer	Means a <b>person</b> who sells goods by retail and who provides shopping trolleys to customers.
Road	Has the same meaning as in the <i>Local Government Act 1989</i> .
Service authority	Means an entity (whether publicly or privately owned) which provides or intends to provide emergency services, water, sewerage, drainage, gas, electricity, telephone, telecommunications or like services under the authority of an Act of the Victorian or Commonwealth Parliament.
Shipping container	Has the same meaning as in the <b>Planning Scheme</b> .
Smoke-Free Area	Means an area declared under clause 25(1)(a).
Smoke-Free Event	Means an <b>event</b> declared under clause 25(1)(a).
Street festival	Means an organised recreational, cultural, commercial or social gathering of people that is held in full or in part on a <b>road</b> .
Street party	Means an organised social gathering of people from one or several adjacent <b>roads</b> that is held in full or in part on a <b>road</b> .

Words and phrases	Meaning
Street waste bin	Means a receptacle provided by <b>Council</b> in a public place for the purpose of receiving packaging, papers and other litter arising during the occupation or use of the public place by any <b>person</b> .
Total Fire Ban	Has the same meaning as in section 40 of the <i>Country Fire Authority Act 1958</i> .
Tobacco product	Has the same meaning as in the <i>Tobacco Act 1987</i> .
Toy vehicle	Includes: (a) a <b>vehicle</b> designed to be propelled by human power and includes a scooter, skateboard, roller skates, roller blades and like toys; and (b) a remote control aircraft or <b>vehicle</b> .
Trade waste	Means any waste, refuse, slops, and other matter arising from or generated by any trade, industry or commercial undertaking.
Trade waste bin	Means a purpose-built container for the deposit of <b>trade waste</b> that is ordinarily emptied by mechanical means.
Tree	Includes plants and shrubs.
Vehicle	Has the same meaning as in the <i>Road Safety Act 1986</i> .
Vehicle crossing	Means the constructed surface between the <b>road</b> pavement and the property boundary for <b>vehicle</b> access to the property, including any footpath section, crossing culverts, kerb and channel, layback and end walls.
Vermin	Means pest or noxious <b>animals</b> that are apt to spread disease, including but not limited to rodents, cockroaches, flies, lice, termites, mosquitoes, bedbugs and parasitic worms.

## PART 2 – ROADS AND MUNICIPAL PLACES

### Division 1 – Use of Roads and Municipal Places

*This Part contains provisions to protect the amenity of municipal places and roads through controls prohibiting persons from causing damage to them or acting in a socially unacceptable manner when using them. Municipal places are areas owned or managed by Council and include buildings and reserves.*

#### 9. Behaviour in a Municipal Place

- (1) A **person** must not:
  - (a) behave in a **municipal place** in a manner that interferes with another **person's** reasonable use and enjoyment of that **municipal place**;
  - (b) behave in a **municipal place** in a manner that endangers or is likely to endanger a **person's** health, life, property or conduct of business;
  - (c) use indecent, insulting, offensive, threatening or abusive language in a **municipal place**; or
  - (d) behave in an indecent, offensive, insulting or riotous manner in a **municipal place**.

#### 10. Damaging or Defacing a Municipal Place

- (1) Without a **permit**, a **person** must not:
  - (a) damage, deface or interfere with a **road** or **municipal place**;
  - (b) destroy, damage, deface, remove or interfere with any building, structure, infrastructure or like thing on a **road** or on or in a **municipal place**;
  - (c) destroy, damage, deface, remove or interfere with any other thing belonging to **Council** on a **road** or on or in a **municipal place**, unless authorised by **Council** to do so under this Local Law or otherwise; or
  - (d) destroy, damage, deface, remove or interfere with any **private property** located on any **road** or on or in any **municipal place**.
- (2) Without a **permit**, a **person** must not build or erect a **fence**, or otherwise occupy or place anything, on a **road** or **municipal place**.

#### 11. Tree Protection in a Municipal Place

- (1) Without a **permit**, a **person** must not, on a **road** or on or in a **municipal place**, destroy, damage, remove, prune, lop, or otherwise interfere with any **tree** or allow any person to destroy, damage, remove, lop, or otherwise interfere with any **tree** or vegetation.

#### 12. Access to a Municipal Place

- (1) **Council** or an **Authorised Officer** or a **Council** staff member may determine the days and times when:
  - (a) any **municipal place** will be open to the public; and

- (b) charges or entrance fees may be payable for the use of any **municipal place**.
- (2) A **person** must not enter or remain in a **municipal place** other than:
  - (a) during the days and times when the **municipal place** is open to the public;  
and
  - (b) subject to any conditions or charge or fee imposed upon entry.
- (3) A **person** must not act contrary to any reasonable direction given in or on a **municipal place** by an **Authorised Officer** or a **Council staff** member.

### 13. Obstructions in a Municipal Place

- (1) Without a **permit**, a **person** must not place, permit to be placed, or allow to remain on a **road** or in a **municipal place**:
  - (a) a **bulk rubbish container**;
  - (b) a **clothing/donation bin**;
  - (c) a **shipping container**;
  - (d) animal **fodder**; or
  - (e) any other thing which obstructs the ordinary use of the **road** or **municipal place**.

### 14. Council Sign

- (1) A person must comply with any sign erected, installed or maintained by or on behalf of **Council** on a **road** or on or in a **municipal place**.

### 15. Camping in a Municipal Place

- (1) Without a **permit**, a **person** must not **camp** in a **municipal place** unless such **person** is within a **camping area**.
- (2) In addition to subclause (1) a **person** must comply with all conditions applying to the **camping area** and pay any applicable **Council** charge or fee.
- (3) **Council** or an **Authorised Officer** may exempt any **person** from the application of sub-clauses (1) and (2).

### 16. Circuses, Carnivals, Fairs and Events

- (1) Without a **permit** or a licence or other agreement, a **person** must not hold or allow to be held a circus, carnival, fair or **event** in a **municipal place**.

### 17. Street Festivals and Processions

- (1) Without a **permit**, a **person** must not hold or organise a **street festival, procession** or other similar activity on a **road**.
- (2) A **person** holding or organising a march for a political or industrial cause is exempt from the requirement to obtain a **permit** under sub-clause (1), provided that Victoria Police are informed of the march prior to it taking place.

**18. Commercial Filming**

- (1) Without a **permit**, a **person** must not conduct or allow filming for commercial purposes on a **road** or on or in a **municipal place**.

**Division 2 – Vehicles****19. Repair of Vehicles**

- (1) A **person** must not paint, service, carry out maintenance on, dismantle or repair a **vehicle, caravan, boat** or any other thing on a **road** or **municipal place**, or authorise another **person** to do so, except in an emergency and only then for the purpose of removing it.

**20. Storage of Vehicles on Roads**

- (1) Without a **permit**, a person must not park, place or store, or allow to be parked, placed or stored a **vehicle**:
  - (a) longer than 7.5 metres (including trailer and fittings); or
  - (b) with a **GVM** in excess of 4.5 tonneson a **road** in a **residential area**.
- (2) Sub-clause (1) does not apply in relation to a **vehicle** which is parked, placed or stored for less than one hour.
- (3) A **person** must not display a **vehicle** for sale on a **road** or on or in a **municipal place**.

**21. Abandoned, Derelict and Unregistered Vehicles**

- (1) A **person** must not park or store an abandoned, derelict or unregistered **vehicle** or cause or allow such a **vehicle** to be parked or stored on a **road** or in a **municipal place**.
- (2) Any **vehicle** found on a road or in a **municipal place** that is considered by an **Authorised Officer** to be abandoned, derelict or unregistered may be dealt with under the provisions of Schedule 11 of the **Act**.

**22. Use of Recreational Vehicles in a Municipal Place**

- (1) A **person** must not, in a **municipal place**, drive, ride or use, or cause or allow to be driven, ridden or used any **motor cycle** or **recreational vehicle**, except where the use is authorised by signs placed on or in the **municipal place** by **Council** or where it is permitted under an Act.

**23. Use of Toy Vehicles**

- (1) A **person** must not on a **road** or on or in a **municipal place**:
  - (a) use, place or leave or allow another **person** to use, place or leave a **toy vehicle** or bicycle in such a manner as to:
    - (i) interfere with the passage of;
    - (ii) cause annoyance to any **person**; or



- (iii) cause danger to,  
any **person** or **vehicle** on or using the **road** or **municipal place**; or
- (b) use or allow another **person** to use a **toy vehicle** in an area **prescribed** by **Council** to be a prohibited place for the purpose of this clause.

#### 24. Riding Horses in a Municipal Place

- (1) Without a **permit**, a **person** must not ride or lead a horse, or cause or authorise another **person** to ride or lead a horse, on or in a:
  - (a) **municipal reserve**; or
  - (b) nature strip in a **residential area** in a manner that causes damage to the nature strip.
- (2) Sub-clause (1)(a) does not apply to a **person** riding a horse:
  - (a) in a **municipal reserve** designated for that purpose; or
  - (b) on **land** where the use is permitted by signs placed on that **land** by **Council** or where it is permitted under an Act.

### Division 3 – Alcohol and Smoking

#### 25. Possession and Consumption of Alcohol

- (1) Without a **permit**, a **person** must not on a **road** consume **alcohol** or have in their possession **alcohol** in an open container.
- (2) Without a **permit** a **person** must not while present in a **municipal place** between 10pm and 7am consume **alcohol** or have in their possession **alcohol** in an open container.
- (3) Sub-clauses (1) and (2) do not apply where the consumption of **alcohol** is permitted under the **Planning Scheme** or *Liquor Control Reform Act 1998*.

#### 26. Smoke-Free Areas

- (1) **Council** may, by resolution, declare any:
  - (a) **municipal place** to be a **smoke-free area**; and
  - (b) any **event** to be a **smoke-free event**.
- (2) Any **municipal place** or **event** declared under sub-clause (1) must be advertised as such **online**.
- (3) A **person** must not smoke a **tobacco product** or **e-cigarette** in a **smoke-free area** or at a **smoke-free event**.

## Division 4 – Trading Activities

### 27. Roadside Trading or Performing

- (1) Without a **permit**, a **person** must not erect or place on any **road** or **municipal place** a **vehicle**, **caravan**, trailer, table, stall or other similar structure for the purpose of selling or offering for sale any goods or services.
- (2) Without a **permit**, a **person** must not sell or offer for sale any goods or services from any **private property** or **municipal place** adjacent to a **road**.
- (3) Without a **permit** or unless otherwise authorised by **Council**, a **person** must not on any **road** or on or in any **municipal place** **busk** or play any musical instrument or use any sound amplification equipment for the purpose of public entertainment or performance.
- (4) The **permit holder** under this clause must comply with the **Footpath Trading Code**.

### 28. Displaying Goods for Sale

- (1) Without a **permit**, a **person** must not place or display, or cause or allow another **person** to place or display, any goods for sale on any **road** or on or in any **municipal place**.
- (2) The **permit holder** under this clause must comply with the **Footpath Trading Code**.

### 29. Advertising Signs

- (1) Without a **permit**, a **person** must not erect, place or display on any part of a **road** or on or in any **municipal place**:
  - (a) an **advertising sign**; or
  - (b) a sign promoting a candidate or political party associated with a local, state or federal election.

or cause or authorise another **person** to do so.

### 30. Use of a Municipal Place for Outdoor Eating Facilities

- (1) Without a **permit**, a **person** must not use or allow to be used any **road** or **municipal place** for the purposes of an **outdoor eating facility**.
- (2) The **permit holder** under this clause must comply with the **Footpath Trading Code**.

### 31. Collections

- (1) Without a **permit**, a **person** must not:
  - (a) solicit or collect any money, items or subscriptions; or
  - (b) distribute any products, services, handbills, flyers or other printed material,on or from any **road** or **municipal place**, or from premises to premises, or cause or authorise another **person** to do so.
- (2) Sub-clause (1) does not apply to

- (a) hand delivering printed matter to street-side letterboxes;
- (b) the delivery of newspapers, magazines or other goods at the request of the **occupier** of the premises;
- (c) solicitation or distribution of printed electoral material; or
- (d) the collection of signatures for a petition.

### 32. Shopping Trolleys

- (1) A **person** must not leave a shopping trolley on a **road** or in a **municipal place**, except in an area designated for the leaving of shopping trolleys.
- (2) A **retailer** who provides shopping trolleys intended for the use of customers must not leave a shopping trolley on a **road** or in a **municipal place**, except in an area designated for the leaving of shopping trolleys.
- (3) A **retailer** who provides shopping trolleys intended for the use of customers must ensure that their name and trading name are clearly marked on the shopping trolleys.

## PART 3 – AMENITY

### Division 1 – Your Property

#### 33. Unsightly and Dangerous Properties

- (1) An **owner** or **occupier** of **private property** must ensure that the **private property** and any structure on the **private property**:
  - (a) do not constitute a danger to the health of a **person, animal** or property; and
  - (b) are not unsightly or detrimental to the amenity of the surrounding area, including through a lack of effective maintenance.
- (2) Without limiting sub-clause (1), **private property** or any structure on it may be unsightly or detrimental to the amenity of the surrounding area by reason of the presence of:
  - (a) unconstrained rubbish or **waste** material;
  - (b) conditions conducive to harbouring or breeding **vermin**;
  - (c) disused excavations;
  - (d) excessive vegetation, including grass exceeding 300mm in height;
  - (e) machinery, **vehicles, caravans, boats** or any parts of them;
  - (f) scrap metal;
  - (g) **shipping containers**, unless exempted under the **Planning Scheme**; or
  - (h) a building which is incomplete and not currently under construction.
- (3) Without limiting sub-clauses (1) and (2), a **Notice to Comply** issued by an **Authorised Officer** with respect to an offence against this clause may include a direction that the **private property** or structure be:
  - (a) cleared of any substance, material or equipment;
  - (b) suitably fenced, screened or otherwise enclosed in the manner specified in the **Notice to Comply**;
  - (c) boarded up or otherwise secured to prevent access or to otherwise alleviate a specific danger, unsightliness, a nuisance or detriment to the general amenity of the surrounding area; and/or
  - (d) protected by warning signs or barriers to alert members of the public to the presence on the **private property** of a danger to persons entering the **private property**.
- (4) For the purposes of this clause, a structure includes a building and an outbuilding, fence and any other capital improvement on the **private property**.

**34. Dilapidated Building**

- (1) An **owner** or an **occupier** of **private property** which is unoccupied or unfit for occupation or use must:
  - (a) not allow a building located on the **private property** to become dilapidated or further dilapidated;
  - (b) take all reasonable steps to secure any building located on the **private property** from unauthorised access; and
  - (c) maintain any building located on the **private property** in a state of good repair and appearance, including undertaking temporary repairs as required to ensure on-site safety and security and to avoid the appearance of neglect that is out of character with neighbourhood amenity.
- (2) For the purposes of sub-clause (1), a building is dilapidated if the exterior of the building is in a state of disrepair or has deteriorated or fallen into a state of partial ruin as a result of age, neglect, poor maintenance or misuse or because it has been damaged or defaced.
- (3) For the purposes of this clause, a building includes an outbuilding, fence and any other capital improvement on the **land**.

**35. Obstructions to Pedestrians and Vehicles from Private Property**

- (1) An **owner** or **occupier** of **private property** must not allow any **tree**, vegetation, sign, fence, structure or other thing on that **private property** to constitute a danger to drivers or pedestrians by preventing an unobstructed passage or a clear view of **vehicles** or signs or signals installed to control, direct, guide, regulate or warn traffic.

**36. Property Numbering**

- (1) An owner or **occupier** of **land** must not number or display a number in respect of the **land** unless the number has been allocated to or approved for use by **Council**.
- (2) If **Council** has allocated a number to the **land** or approved the use of a number for the **land**, the **owner** or **occupier** of the **land** must ensure that the **land** is marked with the number allocated or approved by **Council** and the number is of sufficient size and free from obstructions so that it can be clearly read under normal lighting conditions from the **road** immediately adjacent to the front boundary of the **land**.

**37. Heavy and Long Vehicles on Private Property**

- (1) Without a **permit**, a **person** must not keep, store or do work on any **vehicle**:
  - (a) over 7.5 metres in length (including any trailer and fittings); or
  - (b) with a **GVM** in excess of 4.5 tonneson **private property** in a **residential area**.
- (2) Sub-clause (1) does not apply to one (1) **caravan** or boat being stored on **private property** in a **residential area** by the **occupier**.

**38. Use of Recreational Vehicles on Private Property**

- (1) A **person** must not drive, ride or use, or cause or allow to be driven, ridden or used any **motor cycle** or **recreational vehicle** on **private property** in a manner that detrimentally affects the amenity of adjoining **land**.
- (2) Without a **permit**, a **person** must not ride or use or cause or allow to be driven, ridden or used any **motor cycle** or **recreational vehicle** on **private property** with an area less than two (2) hectares, except
  - (a) for the purpose of directly accessing or leaving that **land**;
  - (b) if it is being used for farming purposes or business operations; or
  - (c) where the use is authorised on the **land** by **Council** or is permitted under an Act.

**39. Camping on Private Property**

- (1) A **person** may **camp** on **private property** for a cumulative period of not more than three (3) months in total in any twelve (12) month period provided that:
  - (a) appropriate sanitary facilities are available to the **private property**;
  - (b) there is no detrimental effect to the environment or the amenity of adjoining **land**; and
  - (c) the **person** complies with the conditions or requirements in the **Camping on Private Property Code of Practice**.
- (2) Without a **permit**, a **person** must not camp on **private property** in excess of the period prescribed in sub-clause (1).

**Division 2 - Animals****40. Keeping of Animals**

- (1) Without a **permit**, an **owner** or **occupier** of **private property** must not keep or allow to be kept on the **private property** any more of each species or group of **animals** than is stated in the following table.

Type of animal	Maximum number allowed	
	Residential, mixed use, commercial, township & industrial zones as defined in the <b>Planning Scheme</b> .	Rural conservation and rural living zones as defined in the <b>Planning Scheme</b> .
Dogs	2	2
Cats	2	2
Poultry		
• Hens, ducks, geese, and turkeys	12	No limit
• Roosters	0	0
Domestic birds	50	No limit



Type of animal	Maximum number allowed	
	Residential, mixed use, commercial, township & industrial zones as defined in the <b>Planning Scheme</b> .	Rural conservation and rural living zones as defined in the <b>Planning Scheme</b> .
Large birds	2	No limit
Domestic mice	10	No limit
Guinea pigs	2	No limit
Domestic rabbits	2	No limit
Horses/donkeys	0	No limit
Cattle	0	No limit
Sheep	0	No limit
Goats	0	No limit
Pigs	0	0
Other agricultural animals	0	0

- (2) For the purpose of calculating the numbers of any **animal** kept under sub-clause (1), the progeny of any dog or cat lawfully kept will be counted from twelve (12) weeks after its birth.
- (3) Without a **permit**, an **owner** or **occupier** of **private property** must not keep an **animal** of a species not listed in the table in sub-clause (1) on that **private property**.

#### 41. Animal Housing

- (1) An **owner** or **occupier** of **private property** must ensure that any part of the **private property** used for housing an **animal** is:
- (a) adequately fenced, and the fence and any gates maintained in a satisfactory condition, so that any **animal** kept on the **private property** cannot escape from the **private property**; and
  - (b) maintained in a clean, inoffensive and sanitary condition and does not cause a nuisance to any other **person**, including by ensuring that:
    - (i) the part of the **private property** surrounding the place where the **animal** is kept is free from rubbish or vegetation that could attract or harbour **vermin**;
    - (ii) all **animal** food for consumption kept or stored on the **private property** is kept or stored in a **vermin** and fly-proof receptacle;
    - (iii) **animal** waste is not offensive and does not cause a nuisance to any other person; and
    - (iv) any **animal** odour emanated from the **private property** does not interfere with the immediate amenity of the area.
- (2) Nothing in sub-clause (1) applies to an **owner** or **occupier** of **private property** to whom section 32 of the *Domestic Animals Act 1994* or section 61 of the *Public Health and Wellbeing Act 2008* applies.

**42. Animal Waste on Roads and in Municipal Places**

- (1) A **person** in charge of an **animal** on any **road** or on or in any **municipal place** must carry a facility for the effective removal of **animal** waste that may be deposited by that **animal** and must produce it on the request of an **Authorised Officer**.
- (2) A **person** in charge of an **animal** must not allow any part of **animal** waste generated by that **animal** to remain on any **road** or **municipal place** and must immediately collect and dispose of the **animal waste**.
- (3) Sub-clause (1) does not apply to **livestock** outside a **residential area**, except in an area designated by Council.
- (4) Sub-clause (2) does not apply to a **person** in charge of **livestock** outside a **residential area**, except when present at a **livestock** road crossing if the **animal** waste left on a **road** is sufficient to cause a genuine risk to public safety.

**43. Wasps**

- (1) An **owner** or **occupier** of **private property** must ensure that any European wasp nests on the **private property** are destroyed.

**44. Livestock – Grazing, Droving and Movement on a Road or Municipal Place**

- (1) Without a **permit**, a **person** must not cause, allow or undertake the **grazing** or **droving** of **livestock** on a **road** or on or in a **municipal place**.
- (2) Sub-clause (1) does not apply when the **person** complies wholly with the *Manual for Traffic at Control Stock Crossings (VicRoads, June 2015)*, including obtaining all necessary permissions from the relevant road authority.
- (3) Without a **permit**, a **person** must not install a stock crossing or related sign or other infrastructure on a **road** or on or in a **municipal place**.

**Division 3 – Open Air Burning****45. Restrictions on Burning in the Open Air – Declared Fire Danger Period**

- (1) Nothing in the following clauses permits a **person** to light a fire on any **land** in the **municipal district** during a declared **Fire Danger Period** (including a day of **Total Fire Ban**) or otherwise in contravention of the provisions of the *Country Fire Authority Act 1958* or the *Fire Rescue Victoria Act 1958*.

**46. Burning of Offensive Materials**

- (1) A **person** must not light, cause or allow to be lit any offensive materials, or any materials that may cause offensive emissions of smoke and odour to enter any neighbouring property. This includes but is not limited to:
  - (a) manufactured chemicals or pressurised cans;
  - (b) rubber or plastic;
  - (c) electronic equipment and recyclable materials (excluding timber);
  - (d) petroleum, oil or oil-based products;
  - (e) paint or a receptacle which contains or contained paint;

- (f) food waste, fish or other offensive or noxious matter;
- (g) clothing, appliance furniture or toys;
- (h) construction and demolition waste;
- (i) materials containing asbestos; and
- (j) any other **prescribed** material.

#### 47. Restrictions on Burning in the Open Air – Private Property

- (1) Without a **permit**, a **person** must not light, or cause or allow to be lit, a fire in the open air or in an **incinerator** on any **land** zoned under the **Planning Scheme** as:
  - (a) Residential;
  - (b) Township;
  - (c) Low Density Residential;
  - (d) Commercial 1; or
  - (e) Mixed Use
- (2) A **person** or **occupier** of **land** who has lit, caused or allowed to a fire in the open air to be lit must ensure that:
  - (a) the fire is not within twenty (20) metres of any neighbouring dwelling.
  - (b) the fire is supervised at all times by an adult who has the capacity and means to extinguish the fire;
  - (c) the **person** in charge of the fire is not
    - (i) outside the line of sight of the fire; or
    - (ii) more than fifty (50) metres from the perimeter of the fire.
  - (d) sufficient fire protection equipment is available to extinguish the fire, if required;
  - (e) the vegetation to be burnt is dead and dry prior to lighting it;
  - (f) at the site of the fire the wind speed does not exceed 20 kilometres per hour (11 knots); and
  - (g) notification of the burn has been given to the Emergency Services Telecommunications Authority.
- (3) A **person** who has lit, caused or allowed to a fire in the open air to be lit, or is in charge of a fire in the open air, must, before leaving the place of the fire
  - (a) completely extinguish the fire; and
  - (b) ensure that an adult **person** who has the capacity and means to extinguish the fire remains in charge of the fire at all times.

- (4) Sub-clauses (1) and (2) do not apply to fires that are monitored and attended to by the **person** or **occupier of land** to make sure that smoke is not impacting on neighbouring properties, and are fires:
- (a) in a barbecue, pizza oven or other properly constructed appliance while it is being used for cooking food;
  - (b) in a chiminea, fire pit or other similar and properly constructed appliance while being used for heating;
  - (c) lit by a **person** for the purpose of enjoying their culture or practising their religion;
  - (d) lit by **Council** staff members or any person contracted or authorised by **Council** for the purpose of undertaking controlled burning-off as a part of normal parks maintenance on any **road** or on or in any **municipal place**; or
  - (e) lit by fire and emergency services agencies carrying out training or fire hazard reduction activities.

#### 48. Restrictions on Burning in the Open Air – Municipal Places

- (1) Without a **permit**, a **person** must not light or allow to be lit a **fire** on or in any **municipal place**.

### Division 4 – Waste and Recycling

#### 49. Use of Domestic Bins

- (1) The **occupier** of premises to which **Council** provides a **Domestic Bin** for different classes of **waste**, recyclables or organics must use the **Domestic Bin** only for the purpose for which it was provided.
- (2) An **occupier** of premises to which **Council** provides a **Domestic Bin** must not place, or allow to be placed, in the **Domestic Bin** any:
- (a) concrete, masonry, bricks, building debris or soil, or machinery, engine or vehicle parts;
  - (b) **trade waste**;
  - (c) hazardous chemicals;
  - (d) oil, paint, solvents, acids or similar substances or any other substance that may damage the bin or reduce its strength or effectiveness;
  - (e) nightsoil (except that sanitary, continence aids and disposable nappies may be placed or caused to be placed in a **Domestic Bin** if they are wrapped in impervious material);
  - (f) needles or syringes;
  - (g) medical or infectious waste;
  - (h) **E-waste**; or
  - (i) other matter **prescribed** by **Council**.

## 50. Collection and Storage of Domestic Bins

- (1) An **occupier** of premises may place the **Domestic Bins** issued to those premises out for collection on the nature strip or **road** reserve nearest the premises or in such other location as may be approved or permitted by **Council** or an **Authorised Officer**, and must:
  - (a) not place out any **Domestic Bin** so as to interfere with the free movement of pedestrian or vehicular traffic;
  - (b) place out any **Domestic Bin** so that the opening of the bin is facing, and accessible from, the **road**; and
  - (c) not leave a **Domestic Bin** out for more than (1) day before or after the designated collection day.
- (2) An **occupier** of premises to which a **Domestic Bin** has been issued must ensure that the **Domestic Bin** is:
  - (a) maintained in a clean and tidy manner so as not to cause any health risk or be offensive to any **person**; and
  - (b) stored on the property to which it has been issued when not left out for collection.
- (3) An **occupier** of premises to which a **Domestic Bin** has been issued must ensure that the **Domestic Bin** is covered by its lid at all times to prevent wind-blown waste escaping, except when items are being deposited in or removed from a **Domestic Bin**.
- (4) A **person** must not damage or interfere with a **Domestic Bin** or its contents.
- (5) A **person** must not place materials into a **Domestic Bin** issued to other premises, without permission from the **occupier** of the other premises.

## 51. Hard Waste Collection

- (1) Where **Council** provides a hard waste collection, the **occupier** of the premises who has booked the hard waste collection must ensure that the hard waste to be collected is left for collection in accordance with the instructions given by **Council** or an **Authorised Officer** at the time of booking the hard waste collection.
- (2) A **person** must not remove or interfere with any hard waste placed out for collection.

## 52. Street Waste Bins

- (1) A **person** must not deposit any waste or recyclable material in a **street waste bin** contrary to any sign, notice or label detailing the type of waste that will be received in the **street waste bin**.
- (2) A **person** must not deposit, or authorise the deposit of, any household waste or any waste or recyclable material that has originated from a commercial activity into a **street waste bin**.

**53. Trade Waste Bins (Including Trade Recycling Bins)**

- (1) The **owner** or **occupier** of any **private property** on which waste bins used for the collection and storage of **trade waste** or trade recyclables are kept must ensure that the bin:
  - (a) be constructed of approved impervious material to prevent leakage, absorption or accumulation of any refuse or rubbish that may be deposited in them;
  - (b) be water-tight, fly and vermin proof;
  - (c) if their capacity exceeds 500 litres, contain a removable drainage plug for the purpose of cleaning; and
  - (d) be fitted with a fly and vermin proof lid with overlapping flanges, which must be kept continuously closed to prevent wind-blown waste escaping except when being used for the immediate deposit of **trade waste**.
- (2) The **owner** or **occupier** of any **private property** on which waste bins used for the collection and storage of **trade waste** or trade recyclables are kept must ensure that the bin is regularly emptied to prevent the contents from becoming offensive.
- (3) The **owner** or **occupier** of any **private property** on which waste bins used for the collection and storage of **trade waste** are kept must ensure that:
  - (a) the bin is, or bins are, stored and maintained in a clean, sanitary and inoffensive condition;
  - (b) any public land, including a **road**, adjoining the storage area is kept clean and free from rubbish or run-off at all times;
  - (c) the surface upon which the bin is, or bins are, stored is impervious and graded and drained to the sewer or an approved outlet with such silt traps or other treatment devices;
  - (d) the site on which the bin is, or bins are, stored is supplied with a tap connection and hose; and
  - (e) the bin is, or bins are, adequately constructed, located or secured in such a way as to deny access to the public.
- (4) The **owner** or **occupier** of any **private property** on which waste bins used for the collection and storage of **trade waste** or trade recyclables are kept must ensure the bin displays a notice, sign or label indicating the:
  - (a) type of **trade waste** permitted to be deposited in that bin; and
  - (b) **property address** at which the bin is usually kept.
- (5) A **person** must not place **trade waste**:
  - (a) in a **street waste bin**;
  - (b) in a **clothing/donation bin**;
  - (c) on a hard waste collection pile;



- (d) in a **Council** supplied bin that is used for the purpose of residential collection;  
or
- (e) in a **Council** supplied bin that is used for commercial collection unless they own or occupy the property to which the bin was supplied.

## PART 4 – COUNCIL ASSET PROTECTION

### 54. Occupation of Roads and Municipal Places

- (1) Without a **permit**, a **person** must not occupy all or part of a **road** or **municipal place**.
- (2) The requirement to obtain a **permit** does not apply to the occupation of a **road** or **municipal place**:
  - (a) by a **service authority** in an emergency or in urgent circumstances;
  - (b) in connection with works being carried out in accordance with the *Road Management Act 2004*;
  - (c) by a contractor performing works for or providing services to **Council**; or
  - (d) by a **person** who has been granted a **permit** under another provision of this Local Law which permits that **person** to occupy a **road** or **municipal place**.

### 55. Council Asset Protection – Building Works

- (1) A **builder, owner, occupier** or **appointed agent** must not carry out or allow to be carried out **building works** on or in respect of **private property** unless **Council** or an **Authorised Officer** has issued an **Asset Protection Permit** in respect of that **private property**.
- (2) An **Asset Protection Permit** may be subject to such conditions as **Council** or the **Authorised Officer** deems appropriate.
- (3) Without limiting sub-clause (2), an **Asset Protection Permit** may include a condition that the **permit holder** pays to **Council** a bond, in the form of a bank guarantee or such other form as is specified, before commencing the works to which the **Asset Protection Permit** applies.
- (4) A **builder, owner, occupier** or **appointed agent** of a **private property** must comply with any conditions or requirements in the **Asset Protection Permit** and the **Building and Works Code of Practice**.
- (5) The requirements of sub-clause (1) and (2) do not apply where **minor building works** are being undertaken.

### 56. Damage to Council Assets – Building Works

- (1) The **builder, owner, occupier** or **appointed agent** of **private property** on or in respect of which **building works** have been carried out must repair to **Council's** satisfaction any damage to any **Council asset** caused by the carrying out of the **building works**.
- (2) Where an **Authorised Officer** determines that any **vehicle crossing** or **Council asset** has been damaged as a result of or arising out of the **building works** carried out on **private property**, the **builder, owner, occupier** or **appointed agent** of the **private property** on which the **building works** have been carried out must, if directed by **Council**:
  - (a) repair the damage; or
  - (b) reimburse **Council** for the cost of repairing the damage.

- (3) The amount of reimbursement for such repairs under sub-clause (2)(b) must not exceed the actual cost to **Council** of repairing any damage.

#### 57. Drains

- (1) Without a **permit**, a **person** must not tap into, destroy, damage or interfere with any drain, culvert or sewer vested in or under the control of **Council**.
- (2) A **person** must not discharge or cause to be discharged any material into a drain or watercourse which is vested in or under the control of **Council**, except for the discharge of stormwater.

#### 58. Requirement for Vehicle Crossings

- (1) An **owner** of **private property** must ensure that each point of **vehicle** access from a **road** to the **private property** has a properly constructed **vehicle crossing** between the **road** and the boundary of such **private property** abutting the **road**.
- (2) For the purposes of sub-clause (1), a **vehicle crossing** is properly constructed if:
  - (a) it was constructed, or is in accordance with the terms of an approval given, by **Council**; or
  - (b) **Council** has approved in writing the method of construction of the particular **vehicle crossing**, and the **vehicle crossing** has been constructed in accordance with that approved method.
- (3) An **owner** of **private property** must, at their own cost, ensure that the **vehicle crossing** between the **road** and the boundary of such **private property** is maintained in good condition.
- (4) In the event that a **vehicle crossing** becomes redundant, **Council** or an **Authorised Officer** may direct the **owner** or **occupier** of the **private property** to which the **vehicle crossing** provides access to remove it.
- (5) An **owner** or **occupier** of **private property** to whom a direction is given under sub-clause (4) must comply with that direction.

#### 59. Constructing a Vehicle Crossing

- (1) Without a **permit**, a **person** must not construct, install, remove or alter a **vehicle crossing**, whether temporarily or permanently.
- (2) Without a **permit**, a **person** must not remove, prune or damage any tree growing on a **road** in the course of, or in connection with, the construction, installation, removal or alteration of a **vehicle crossing**.

#### 60. Vehicular Site Access

- (1) The **builder**, **owner**, **occupier** or **appointed agent** of **private property** on or in respect of which **building works** are being carried out must ensure that vehicular entry to the **private property** takes place only across the existing **vehicle crossing** or a temporary **vehicle crossing** constructed to the satisfaction of **Council**.

## PART 5 – ADMINISTRATION

### 61. Permits

- (1) An application for a **permit** under this Local Law must be:
  - (a) submitted in a form approved by **Council** or an **Authorised Officer**; and
  - (b) accompanied by the fee **prescribed** by **Council**, unless waived by **Council** or an **Authorised Officer**.
- (2) **Council** or an **Authorised Officer** may require an applicant for a **permit** to supply more information before **Council** or the **Authorised Officer** deals with the **permit** application, or to give notice of the application in a manner specified by **Council** or an **Authorised Officer**.
- (3) **Council** or an **Authorised Officer** may in their absolute discretion decide:
  - (a) to grant a **permit** with or without conditions; or
  - (b) to refuse to grant a **permit**.
- (4) Council or an Authorised Officer may cancel a permit if:
  - (a) the conditions of the **permit** have been breached;
  - (b) a **Notice to Comply** has been issued and not complied with within the time specified in the **Notice to Comply**;
  - (c) there was an error, misrepresentation, concealment or omission in the application for the **permit**; or
  - (d) there has been a material change of circumstances which has occurred since the issue of the **permit**.
- (5) Council or an Authorised Officer may correct a permit if that permit contains:
  - (a) an unintentional error or an omission; or
  - (b) a miscalculation of figures or a mistake in the description of a **person**, thing, or property referred to in the **permit**.
- (6) Before cancelling or correcting a **permit** under sub-clause (4) or (5), **Council** or an **Authorised Officer** must notify the **permit holder** of the intention to cancel or correct the **permit** and provide the **permit holder** with an opportunity to make written submissions on the proposed cancellation or correction.
- (7) **Council** may exempt a **person** or class of **persons** from the requirement to obtain a **permit** under this Local Law.
- (8) Except where expressly stated in this Local Law or in a **permit**, a **permit** expires one (1) year after the date of issue.
- (9) **Council** must keep a register of **permits** and any correction or cancellation of a **permit** must be noted in this register.
- (10) A **permit holder** must comply with all **permit** conditions.

- (11) In deciding to grant a **permit**, **Council** may require the applicant to lodge with **Council** a bond for such amount and in such a manner as **Council** deems reasonable in the circumstances.
- (12) If **Council** is required to remedy a breach of a **permit** or repair any damage caused by any work carried out under a **permit**, it may for that purpose, use part or all of any bond associated with that **permit**.
- (13) Where the bond or any part is used under sub-clause (12), the **permit holder** may be directed to replenish or increase the bond amount.
- (14) A **permit holder** to whom a direction is given under sub-clause (13) must comply with that direction.
- (15) On satisfactory completion of any works under a **permit**, **Council** must release any applicable bond or remainder of the bond.
- (16) If after 12 months, **Council** cannot locate a **person** entitled to the release of any bond, **Council** may retain the bond and pay the money into its general revenue.

## 62. Setting Fees and Charges

- (1) **Council** may determine the fees, charges, bank guarantees or bonds to apply under this Local Law, which may include an administrative or processing fee or charge.

## 63. Differential or Structured Fees and Charges

- (1) In determining any fees and charges, **Council** may establish a system or structure of fees and charges, including minimum and maximum and pro-rata fees or charges.

## 64. Waiver of Fees and Charges

- (1) **Council** or the Chief Executive Officer may waive the whole or part of any fee or charge otherwise payable under this Local Law, with or without conditions, upon receipt of a written submission from the applicant stating reasons why any such fee or charge should be waived.

## 65. The Common Seal of Council

- (1) The **Common Seal** may only be used on the authority of **Council**.
- (2) The **Chief Executive Officer** must ensure that the **Common Seal** is kept in safe custody at the **Council** office.
- (3) A **person** must not use the **Common Seal** or any device resembling the **Common Seal** without the authority of **Council**.
- (4) **Council's** authority to use the **Common Seal** may be given either generally or specifically, and every document to which the **Common Seal** is affixed must be signed by the **Chief Executive Officer** or another senior officer authorised by them.
- (5) **Council** may, by resolution, give the **Chief Executive Officer** authority to use the **Common Seal** for general classes of activities or transactions.
- (6) If the **Chief Executive Officer** uses the **Common Seal** in a manner described by sub-clause (5) then they must regularly advise **Council** of such use.

## PART 6 – ENFORCEMENT

### 66. Exemptions

- (1) **Council** or an **Authorised Officer** may exempt a person or class of persons from the operation of any provision of this Local Law if it is in the public interest to do so.
- (2) Any exemption under sub-clause (1):
  - (a) must be in writing; and
  - (b) may be subject to conditions.

### 67. Power to Issue a Direction

- (1) An **Authorised Officer** may, by serving a direction, request any **person** apparently responsible for a situation that contravenes this Local Law to remedy that situation.
- (2) A direction issued under sub-clause (1) may be verbal or written.
- (3) A **person** to whom a direction is issued under sub-clause (1) must comply with that direction.

### 68. Notice to Comply

- (1) An **Authorised Officer** may issue a **Notice to Comply** to any **person** who has contravened any provision of this Local Law.
- (2) A **Notice to Comply** issued under sub-clause (1) must:
  - (a) specify the thing in breach of the Local Law;
  - (b) specify the thing to be done or the work to be carried out work to remedy the thing in breach of this Local Law; and
  - (c) state the time and date by which the thing must be done or the work carried out.
- (3) The time required by a **Notice to Comply** issued under sub-clause (1) must be reasonable in the circumstances, having regard to:
  - (a) the amount of work involved;
  - (b) the degree of difficulty;
  - (c) the availability of necessary materials or other necessary items;
  - (d) climatic conditions;
  - (e) the degree of potential risk posed by the breach; and
  - (f) any other relevant factor.
- (4) Within ten (10) days of being issued a **Notice to Comply**, a **person** may make representations to **Council** or the **Authorised Officer** about matters contained in the **Notice to Comply**, unless the **Notice to Comply** is urgent and requires immediate compliance to ensure the safety of the community or an affected **person** or poses a danger to the environment.



- (5) A person to whom a **Notice to Comply** is issued under sub-clause (1) must comply with the **Notice to Comply**.

#### 69. Power to Act in Urgent Circumstances

- (1) **Council** or an **Authorised Officer** may take action to remove, remedy or rectify circumstances which threaten a **person's** or an **animal's** life or health, any property or the natural environment without issuing a verbal direction under clause 67 or a **Notice to Comply** under clause 68, provided that:
- (a) **Council** or the **Authorised Officer** determines that the circumstances are sufficiently urgent and that the time necessary to issue, or potential difficulty in issuing, a **Notice to Comply** may place a **person, animal, property, or the environment** at risk or in danger of substantial detrimental effect;
  - (b) the **Chief Executive Officer** or their delegate, not being the **Council Officer** administering this clause, approves of the proposed action; and
  - (c) details of the circumstances and of the remedial action taken are as soon as practicable forwarded to the **person** apparently responsible for the circumstances that were remedied.
- (2) Action taken by **Council** or an **Authorised Officer** under this clause must not extend beyond what is necessary to cause the immediate abatement or minimisation of the risk or danger involved.

#### 70. Impounding

- (1) An **Authorised Officer** may seize and impound a thing which has been or is being used or possessed in contravention of this Local Law.
- (2) Where a thing has been impounded under this Local Law, **Council** or an **Authorised Officer** must, if it is practicable to do so, serve notice of the impounding personally or by post on the person who appears to be the owner of the impounded thing.
- (3) If the identity or whereabouts of the owner of a thing impounded under this Local Law is or are unknown, **Council** or an **Authorised Officer** must take reasonable steps to ascertain the owner's identity or whereabouts prior to exercising their powers under clause 71.
- (4) An impounded thing must be surrendered to
- (a) its owner; or
  - (b) a person acting on behalf of its owner who provides evidence to the satisfaction of an **Authorised Officer** of their authority from the owner; and
  - (c) on payment of any fee and reasonable costs of impounding determined by **Council** or an **Authorised Officer**.
- (5) Sub-clause (4) does not apply where the impounded thing cannot be kept or possessed in accordance with this Local Law or any Act or regulation.

#### 71. Disposal

- (1) An **Authorised Officer** may sell, destroy or dispose of any thing impounded under this Local Law if:

- (a) the owner or a **person** acting on the owner's behalf has not claimed the impounded thing in accordance with clause 71 within fourteen (14) days of service of the notice of impounding;
  - (b) the owner of the thing or a **person** acting on the owner's behalf has not paid the fee and reasonable costs of impounding as determined under clause 70(4) within fourteen (14) days of service of the notice of impounding; or
  - (c) after reasonable and diligent efforts and enquiries, **Council** or an **Authorised Officer** has been unable to serve a notice of impounding on the owner of the impounded thing.
- (2) If the impounded thing is perishable and will not survive the period specified in sub-clause (1), an **Authorised Officer** may dispose of the thing sooner.
- (3) **Council** is entitled to retain the proceeds of sale of any impounded thing towards its reasonable costs incurred in impounding, keeping, and selling the thing and any remaining proceeds will be returned to the owner or otherwise dealt with in accordance with the *Unclaimed Money Act 2008*.

## 72. Offences

- (1) A **person** is guilty of an offence if the **person** contravenes a provision of this Local Law.
- (2) A **person** is guilty of an offence if the **person** makes a false declaration (whether oral or in writing) or allows such a representation to be made or in relation to the application under this local law.

## 73. Penalties

- (1) The maximum penalty for an offence against this Local Law is 20 penalty units.

## 74. Infringement Notices

- (1) As an alternative to prosecution, an **Authorised Officer** may serve an **infringement notice** on a **person** who they believe on reasonable grounds to have committed an offence against this Local Law.
- (2) The penalties for **infringement notices** are set out in Schedule 1.
- (3) If no penalty for an **infringement notice** in respect of an offence is set out in Schedule 1, the penalty for an **infringement notice** is 2 penalty units.

## SCHEDULE 1 PENALTIES FOR INFRINGEMENT NOTICES

Clause	Topic	Penalty Unit
	<b>Part 2 – Roads and Municipal Places</b>	
	<b>Division 1 – Use of Roads and Municipal Places</b>	
9	Behaviour in a Municipal Place	2
10	Defacing or Damaging a Municipal Place	5
11	Tree Protection in a Municipal Place	5
12	Access to a Municipal Place	1
13	Obstructions in a Municipal Place	3
14	Council Sign	1
15	Camping in a Municipal Place	1
16	Circuses, Carnivals, Fairs and Events	2
17	Street Festivals and Processions	2
18	Commercial Filming	2
	<b>Division 2 - Vehicles</b>	
19	Repair of Vehicles	1
20	Storage of Vehicles on Roads	1
21	Abandoned, Derelict and Unregistered Vehicles	2
22	Use of Recreational Vehicles in a Municipal Place	2
23	Use of Toy Vehicles	1
24	Riding Horses in a Municipal Place	1
	<b>Division 3 – Alcohol and Smoking</b>	
25	Possession and Consumption of Alcohol	2
26	Smoke-Free Areas	2
	<b>Division 4 – Trading Activities</b>	
27	Roadside Trading or Performing	2
28	Displaying Goods for Sale	2
29	Advertising Signs	1
30	Use of a Municipal Place for Outdoor Eating Facilities	2
31	Collections	1
32	Shopping Trolleys	1
	<b>Part 3 - Amenity</b>	
	<b>Division 1 – Your Property</b>	
33	Unsightly and Dangerous Properties	3
34	Dilapidated Buildings	3
35	Obstructions to Pedestrians and Vehicles from Private Property	2
36	Property Numbering	1
37	Heavy and Long Vehicles on Private Property	2
38	Use of Recreational Vehicles on Private Property	2
39	Camping on Private Property	1
	<b>Division 2 - Animals</b>	
40	Keeping of Animals	2
41	Animal Housing	2
42	Animal Waste on Roads and in Municipal Places	1
43	Wasps	1
44	Livestock – Grazing, Droving and Movement on a Road or Municipal Place	3
	<b>Division 3 – Open Air Burning</b>	
46	Burning of Offensive Materials and Safety	5
47	Restrictions on Burning in the Open Air – Private Property	5
48	Restrictions on Burning in the Open Air – Municipal Places	5
	<b>Division 4 – Waste and Recycling</b>	
49	Use of Domestic Bins	1
50	Collection and Storage of Domestic Bins	1

Clause	Topic	Penalty Unit
51	Hard Waste Collection	1
52	Street Waste Bins	2
53	Trade Waste Bins (Including Trade Recycling Bins)	5
	Part 4 – Council Asset Protection	
54	Occupation of Roads and Municipal Places	3
55	Council Asset Protection – Building Works	3
56	Drains	3
57	Damage to Council Assets – Building Works	5
58	Requirement for Vehicle Crossings	3
59	Constructing a Vehicle Crossing	3
60	Vehicular Site Access	3
	Part 5 – Administration	
65(3)	The Common Seal of Council	2
	Part 6 - Enforcement	
67	Power to Issue a Direction	5
68	Notice to Comply	5
72(2)	Making a false declaration	5

Penalty Unit value is set by *Monetary Units Act 2004* and applies from 1 July each year to 30 June the following year. Visit Council's website for the current Penalty Unit value.

**RESOLUTION**

The resolution for the making of this Local Law was made by South Gippsland Shire Council on 15 March 2024.

The COMMON SEAL of )  
SOUTH GIPPSLAND SHIRE COUNCIL )  
was affixed this day of )  
2024 in the presence of

.....  
Mayor/Councillor

.....  
Chief Executive Officer