LOCAL LAW NO. 2

COMMUNITY AMENITY
AND
MUNICIPAL PLACES

Adopted by Council 5th September 2011
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1 PRELIMINARY

1.1 Title

This Local Law is known as the “Local Law No. 2 Community Amenity and Municipal Places”.

1.2 Objectives

This Local Law is made for the purposes of:

1) Providing for the peace, order and good government of the municipal district of Towong Shire Council;

2) Providing for those matters which require a local law under the Local Government Act 1989 and any other Act;

3) Providing for the administration of Council powers and functions and for the issue of permits and infringement notices;

4) Prohibiting, regulating and controlling activities, physical works including construction, events, practices or behaviour in the municipal district so that no detriment is caused to the amenity of the neighbourhood, nor nuisance to a person, nor detrimental effect to the environment or property;

5) Regulating and controlling the consumption of alcohol and possession of alcohol other than in a sealed container in public places;

6) Protecting the assets vested in the Council;

7) Regulating the droving, grazing and movement of livestock throughout the municipal district to minimise damage to road surfaces, formations, drainage, native vegetation and surrounding areas arising from livestock and to alert other road users to the presence of livestock on roads in the interests of road safety;

8) Controlling and protecting public places;

9) 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;

10) Securing the safe and equitable use and enjoyment of public places and private land; and

11) Minimising nuisances.

1.3 Power to make this Local Law

This Local Law is made pursuant to Section 111 of the Local Government Act 1989.

1.4 Commencement and End dates of this Local Law

This Local Law commences on 5th September 2011 and, unless earlier revoked, will cease on 4th September 2021.
1.5 Revocation of Earlier Local Laws

This Local Law is a replacement for the previous Towong Shire Council Local Law No. 2 “Community Amenity Local Law” that expired on 31 December 2009.

1.6 Application

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

1.7 Exemptions

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
   b) other 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.

1.8 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) the:

      (i) existence of; or
      (ii) sale or use of;

      any goods or services; or

   (b) the holding of an event or function;
“alcohol” means a beverage or other prescribed substance intended for human consumption with an alcoholic content greater than 0.5 per centum by volume at a temperature of 20 degrees Celsius;

“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;

“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 any structure or building, whether temporary or permanent, or any part of such structure or 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 greater than one cubic metre 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 or on Council land or a 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;

“camp” means to live in a motor vehicle, caravan, tent or other temporary structure including a prefabricated holiday unit and “camping” has a corresponding meaning;

“caravan” means any caravan whether or not any of the wheels or axles have been removed or the body of the vehicle or structure is resting directly on the ground or other supports and includes any structures annexed thereto;

“cat” means a cat over three months of age;

“cattle” means any bull, cow, ox, steer, heifer, calf or buffalo;

“Chief Executive Officer” means the chief executive officer of the Council or any person acting in that position in their absence;
“circus, carnival or market” means entertainment such as acrobatic feats, tricks of skill, exhibition of animals, side shows, amusements, merry go rounds and other such equipment and stalls for the provision of games or for sale of goods, food or the like;

“clothing bin” means a receptacle used for the collection of donated clothing or household goods of a type which the collecting organization indicates can be deposited there;

“Council” means Towong Shire Council;

“Council assets” means any building, structure, fixture, road, channel, drain, vehicle crossing or infrastructure or other physical asset owned, leased, managed or controlled by the Council;

“Council building” means any building owned, occupied or under the control of the Council;

“Council land” means any land either owned or occupied by, vested in or under the control, care or management of Council including roads, streets, parks, gardens, reserves, lakes, watercourses and reservations;

“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;

“domestic animal” means any cat or dog;

“domestic birds” means small birds such as canaries, finches, budgerigars and the like that can be kept in a caged environment;

“domestic waste” means any waste material generated in any dwelling or on land on which a dwelling is located but does not include sewage, trade waste, hard garbage, building waste or recyclable material;

“droving 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 the movement of livestock. It includes the driving of livestock in or through the municipal district for the purpose of or including supplementing their feeding or taking them from or to a market;

“dwelling” means a house, flat, apartment or any portion thereof, and includes a tent, caravan, bungalow, sleepout or other place of abode whether temporary or permanent;

“Emergency Service” means a body or corporation which has, or accepts and plays, an active role in emergency situations with regard to the protection of persons or property;

“Environmental Health Officer” means a person appointed as an environmental health officer under the Public Health and Welling Act 2008;

“exemption” means an exemption issued by or under the authority of the Council under this Local Law;

“Farm animals - small” includes sheep, goats and pigs of any age;
“Farm animals - large” includes horses, cattle, donkeys, mules, deer and alpacas of any age;

“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 in the Road Safety Road Rules 2009;

“fowl” means any domestic cock or hen but does not include a turkey, goose or duck;

“goods” means any item whatsoever that is offered for sale and includes food, produce, articles, items, tables, chairs, Advertising signs, planter boxes, umbrellas, motor vehicles, motor cycles, caravans, trailers, boats or any other similar item;

“grazing” means livestock being in an area for the purpose of feeding;

“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;

“hard garbage” means refuse, rubbish or waste items which the Council prescribes from time to time as hard garbage for the purposes of this Local Law;

“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;

“large birds” means any cockatoo, parrot and other similar sized or larger bird including turkeys, geese, emus and ostriches but does not include poultry or domestic birds;

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

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

“material for recycling” means newspapers, magazines, promotional flyers, office paper, envelopes, un-waxed cardboard, unbroken glass bottles and jars, Code 1(PET), Code 2 (HDP) or Code 3(PVC) plastic bottles, aluminium 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;

“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 the 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 the Council;

“municipal place” means any land and/or building, river, creek, lake or body of water, which is owned, occupied or under the control of the Council and includes recreation centres, libraries, shopping malls, reserves and other Council land but excludes roads;

“municipal tip” means the place designated by the Council to receive refuse from the public and also includes rubbish tip, recycling centre, transfer station and the like;

“Notice to Comply” means a notice to comply given under this Local Law;

“nuisance” includes any behaviour or condition which is or is liable to be dangerous to health, or is noxious, annoying or injurious to personal comfort;

“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 and also includes an owners corporation created upon the registration of a Plan of Subdivision affecting those premises;

“offence” includes an offence against or a breach of a provision of this Local Law, or a breach of a permit, notice or direction issued under it;

“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;

“owner” in relation to:

(a) premises means:

(i) the person rated or liable to be rated in respect of those premises under the Act; or

(ii) 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;

(b) ownership of a cat or a dog, means the person who is the registered owner and includes the parent or guardian of a minor; or

(c) a motor vehicle, has the same meaning as in Section 3(1) of the Road Safety Act 1986 as amended from time to time;

“park” when used as a verb has the same meaning as in the Road Safety Road Rules 2009;

“penalty unit” has the same meaning as in the Sentencing Act 1991;

“permit” when used as a noun means a permit granted under the provisions of this Local Law;

“permit holder” means the person to whom a permit is issued;

“person” includes a body corporate, an association incorporated under the Associations Incorporation Act 1981, a partnership and an unincorporated
association and also has the meaning ascribed to it by Section 38 of the Interpretation of Legislation Act 1984;

“place” when used as a verb includes allow to remain;

“Planning Scheme” means:
(a) the Towong Shire Planning Scheme; and
(b) any town planning scheme operating in a part of the municipal district 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;

“premises” means the whole or part of any:
(a) land;
(b) building; or
(c) building under construction;

other than a public place;

“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” means an organised group of people gathering on or proceeding along a road or in a public place for the purposes of a ceremony or function and includes a street festival, 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 the Council and includes:
(a) roads and road reserves;
(b) reserves for recreational purposes;
(c) any place prescribed to be a public place; and
(d) any building owned and occupied or controlled by the Council;

“road” has the same meaning as in the Act and in the Road Management Act 2004;

“Schedule” means a schedule to this Local Law;

“sealed container” means a container sealed at the point of manufacture

“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;
“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;

“Small Premises” means any premises with a total floor area of less than 140 square metres, or which is erected on an allotment of less than 450 square metres, or which has less than 200 square metres of available open land adjacent and appurtenant to the premises;

“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;

“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 has the same meaning as in Section 3 of the Road Safety Act 1986;

“vehicle crossing” means a Council-approved and properly constructed driveway or surface for vehicular access to land or a building site;

“VicRoads” means the Roads Corporation established by Section 15 of the Transport Act 1983 and continued under Section 80 of the Transport Integration Act 2000; and.

“waste” when used as a noun includes any discarded, rejected, or abandoned matter (whether solid or liquid).

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; and

b) acting in the capacity of that position.
2 ADMINISTRATION AND ENFORCEMENT

2.1 Permits and Applications for Permits

2.1.1 Wherever in this Local Law a permit is required, the Council may issue a permit with or without conditions or refuse to grant the permit.

2.1.2 An application for a permit must be in the form prescribed by Council and must be accompanied by the appropriate fee prescribed by Council.

2.1.3 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.

2.1.4 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.

2.1.5 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) that where the Applicant is not the owner of the relevant premises, the consent of the owner is obtained before the permit can be acted upon.

2.1.6 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.

### 2.2 Compliance with Permits

2.2.1 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.

### 2.3 Correction, Amendment, Cancellation and Suspension

2.3.1 The Council may correct a permit if the permit contains a:
1) clerical mistake or an error arising from any accident, slip or omission; or
2) material miscalculation of figures or a material mistake in the description or any person, premises, thing or property referred to in the permit.

2.3.2 The Council may cancel, suspend or amend any permit at any time if:
1) it is requested to do so by the permit holder; or
2) it considers that there has been:
   a) a material mis-statement or concealment of fact in relation to the application for the permit;
   b) any material mistake in relation to the issue of the permit;
   c) any material change of circumstances which has occurred since the grant of the permit; or
   d) there has been a substantial failure to comply with the permit or a Notice to Comply.

2.3.3 The Council must give written notice to a permit holder of any correction, cancellation, suspension or amendment of a permit.

2.3.4 Before it cancels a permit, the Council must provide to the permit holder an opportunity to make comment on the proposed cancellation.

2.3.5 If a permit holder is not the owner of the land and the owner’s consent was required to be given to the application for the permit, the owner must be notified of any Notice to Comply and of the reason why it has been served.

### 2.4 General Permit Provisions

2.4.1 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 injury, loss or 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.
2.4.2 Unless otherwise stated in this Local Law or in a permit, the permit will operate from the date it is granted and will expire 12 months from the date of issue.

2.5 **Powers of the Council**

2.5.1 Without affecting the operation of any particular provision of this Local Law, everything an Authorised Officer or any other specified person on behalf of the Council is capable of doing under this Local Law is also capable of being done by the Council or its delegate.

2.6 **Permit Register**

2.6.1 The Council must keep a register of permits, including details of any corrections and cancellations.

2.7 **Fees**

2.7.1 The Council may by resolution determine fees and charges for the purposes of this Local Law.

2.7.2 A resolution may allow the waiver, reduction or deferral of a fee in whole or in part with or without conditions.

2.7.3 Permit fees must be in an amount set out in any Council resolution.

2.7.4 Despite this clause or any resolution, the Council may waive, reduce or alter the fee for a permit in a particular case.

2.8 **Declarations**

2.8.1 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; and

2) any days or times during which the activity is to be prohibited, allowed, regulated, controlled or limited must be determined and specified.

2.8.2 After making a declaration the Council:

1) must publish a notice in a newspaper generally circulating in the municipal district advising of the declaration; and

2) must cause such signs to be erected at the area to which the declaration applies as the Council considers appropriate.
2.8.3

1) The Chief Executive Officer must maintain a register and record in it details of all declarations made under this Local Law.
2) The register must be open for inspection at the Council’s municipal office during office hours.

2.9 Exemptions

2.9.1 The Council may by written notice exempt any person or class of person from the requirement to have a permit, either generally or at specified times and locations.
2.9.2 An exemption may be granted subject to conditions with which the Applicant must comply.
2.9.3 An exemption may be cancelled or corrected as if it were a permit.

2.10 Offences

2.10.1 A person who makes a false representation or declaration (whether oral or in writing), or who intentionally omits relevant information in an application for a permit or exemption is guilty of an offence.
Maximum Penalty: 10 Penalty Units
3 RESERVES AND COUNCIL LAND

3.1 Private Access to Reserves

3.1.1 Each owner and each occupier of premises abutting a public place other than a road must not install:

1) a gateway which provides access to and from the premises to the public place; or

2) other means of access to or from the public place.

Maximum Penalty: 10 Penalty Units

3.2 Motorised Vehicles

3.2.1 A person must not, without a permit, ride, drive, park, leave standing or otherwise use any motorised vehicle in any public place unless that public place is a road.

Maximum Penalty: 10 Penalty Units

3.3 Toy Vehicles

3.3.1 A person must not ride, drive, park, leave standing or otherwise use any toy vehicle in any public place that:

1) interferes with another person’s use and enjoyment of the public place;

2) endangers any other person; or

3) causes damage to any infrastructure in the public place.

Maximum Penalty: 10 Penalty Units

3.3.2 A person must not ride, drive, park, leave standing or otherwise use any toy vehicle in any area which the Council has declared to be an area where toy vehicles must not be used or may only be used during specified times.

Maximum Penalty: 10 Penalty Units

3.4 Games and Sport

3.4.1 A person must not, without a permit, engage in, play or practise any game, activity or sport in a public place which may interfere with the use or enjoyment of that public place by any other person or the safety of other persons or which may cause damage to the public place.

Maximum Penalty: 10 Penalty Units
3.5 **Damage to Public Places**

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

Maximum Penalty: 10 Penalty Units

3.6 **Protection of Council Trees**

3.6.1 3.6.1 A *person* must not, without a *permit*:

1) interfere with a nature strip or parkland trees, or
2) plant trees or shrubs

in any *public place*.

Maximum Penalty: 10 Penalty Units

3.7 **Behaviour Generally**

3.7.1 Unless in accordance with a *permit*, a *person* must not, in or on a *municipal place* or *road*, disobey any Council authorised sign.

Maximum Penalty: 10 Penalty Units

3.7.2 A *person* must not, in a *municipal place* or on a *road*:

1) commit any *nuisance*;
2) interfere with another *person*’s reasonable use and enjoyment of the *municipal place* or *road*; or
3) act in a manner that endangers any other *person*.

Maximum Penalty: 10 Penalty Units

3.7.3 Without limiting the ambit of sub-clauses 3.7.1 and 3.7.2, unless in accordance with a *permit*, a *person* must not, in a *municipal place* or on a *road*:

1) destroy, damage, foul, interfere with or deface anything located in or on the *municipal place* or *road*;
2) deposit, or leave any *goods*, equipment or other items;
3) *sell* any *goods* or services;
4) erect, operate or cause to be erected or operated any amusement or similar activity;
5) *sell* or offer for sale any *vehicle*;
6) plant any vegetation;
7) use an amplifier or similar electronic device;
8) *allow* a horse to enter any wetland, lake or other body of water;
9) *allow* a *dog* to enter any fountain or any specified wetland or lake;
10) allow any animal, other than a domestic animal, to wander;

11) act contrary to any lawful direction of an Authorised Officer including, without limitation, a direction to leave the municipal place, whether or not a fee for admission has been paid;

12) use or interfere with any life saving or emergency device located there, except in an emergency or where allowed by the Council:

13) fish in any river, creek, lake or body of water which the Council has by resolution declared as an area in which fishing is prohibited and which is signposted to indicate that fishing is prohibited;

14) swim, paddle, dive or jump into or in any way enter any wetland, pond or fountain;

15) jump or dive from any bridge or other structure into any wetland, pond, or fountain;

16) use a boat in or on any river, creek, lake or body of water which is signposted to indicate that boating is prohibited;

17) store any goods;

18) alter a nature strip;

19) allow any vegetation growing on that land to interfere with any road, municipal place or Council asset; or

20) place or erect or leave standing any fence or other potential obstruction that impedes or is likely to impede a motor vehicle driver, pedestrian, cyclist or other user.

Maximum Penalty: 10 Penalty Units

3.7.4 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.

Maximum Penalty: 10 Penalty Units

3.8 Markets, Festivals, Carnivals and Circuses

3.8.1 A person must not, without a permit, conduct a market, festival, carnival, circus, parade or other similar activity in a public place.

Maximum Penalty: 10 Penalty Units

3.9 Use of Public Places and Council Buildings

3.9.1 A person must not, without a permit:

1) organise any function or event in a Council building or municipal place;
2) bring any animal into a Council building, or allow any animal under his or her control to remain in a Council building, except for a guide dog being used by a visually impaired person or a hearing dog being used by a hearing impaired person;

3) bring any vehicle into a Council building, except for a pram or pusher being used for or by a child or a wheelchair, a device or aid being used by a disabled person;

4) bring into a Council building or municipal place any substance, liquid or powder which may be dangerous or injurious to health or is illegal, have the potential to foul, pollute or soil any part of the Council building or cause discomfort to any person;

5) ride a bicycle or toy vehicle in a Council building, except in an area set aside or designated by a Council sign as being available for such a purpose;

6) enter or remain in a Council building or municipal place during hours when those areas are not open to the public;

7) enter or remain in a Council building or municipal place without having paid any fee imposed by the Council for entry or use of that area;

8) smoke in any Council building or Council vehicle; or

9) remain in a Council building or municipal place after being directed to leave the area by an Authorised Officer.

Maximum Penalty: 10 Penalty Units
4 Safety

4.1 Incinerators and Open Fires

4.1.1 Unless in accordance with a permit, a person must not, light or allow to be lit or remain alight any incinerator or open fire on private land in any Residential, Business or Industrial Zone under the Planning Scheme except for:

1) a fire in a barbeque while being used for the purpose of cooking food;
2) a fire in a chimanea or potbelly stove or a small open fire in a suitable container for heating, cooking, cultural or social purposes which is not offensive;
3) a fire generated by a tool of trade while being used for the purpose for which it was designed;
4) a fire contained in a properly constructed fireplace within a dwelling for the purpose of heating; and
5) a fire lit by a member of a Country Fire Authority brigade or station in the course of his or her duty or a member of the public who holds a permit under the provisions of the Country Fire Authority Act 1958.

Maximum Penalty: 10 Penalty Units

4.1.2 Unless in accordance with a permit, a person must not, light and maintain any campfire or barbeque using solid fuel unless:

1) the fire is contained in an approved fireplace or trench of at least 30 centimetres deep;
2) the ground and airspace within a distance of 3 metres from the outer perimeter and uppermost point of the fire are clear of all potentially flammable material;
3) the fire does not occupy an area exceeding 1 square metre; and
4) the dimensions of any solid fuel used are the minimum necessary for the purpose.

Maximum Penalty: 10 Penalty Units

4.2 Burning of Offensive Material

4.2.1 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.

Maximum Penalty: 10 Penalty Units
5 The Environment

5.1 Camping and Caravan Occupation

5.1.1 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 for any period greater than four weeks unless a permit has been obtained or camping is permitted under the Planning Scheme.

Maximum Penalty: 10 Penalty Units

5.1.2 Sub-clause 5.1.1 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 or another public body to be available for camping.

5.1.3 A person must not, without a permit, keep or store more than one caravan on any land in the municipal district unless permitted to do so under the Planning Scheme.

Maximum Penalty: 10 Penalty Units

5.2 Dangerous or Unsightly Land

5.2.1 The owner or occupier of premises must not allow the premises to be kept in a dangerous or unsightly condition.

5.2.2 For the purposes of sub-clause 5.2.1 “dangerous or unsightly” means any land which is visually repugnant by reason of:

1) unconstrained rubbish;

2) excessive vegetation growth such that weeds, stubble or grass exceed 30 centimetres in height;

3) disused excavation material or general household waste;

4) a building which is incomplete or in a state of disrepair;

5) a building or other structure or thing which, for some other reason, is detrimental to the amenity of the area in which it is located;

6) graffiti;

7) vehicles, machinery or equipment that are or is in a state of disrepair or appear or appears to be stored on the premises without a permit or under the Planning Scheme; or

8) any other thing that has substantial adverse visual amenity impact to the general public in context with the surrounding area.

Maximum Penalty: 10 Penalty Units
5.3 **Damage Caused by Trees or Plants**

Each *owner* and each *occupier* of any *premises* must not *allow* a tree or plant or any other matter on those *premises* to cause damage to or interfere with any reserve or other land (not being a road) owned, leased, vested in, managed or occupied by the *Council* or any *person* in or using the reserve or other land (not being a road) owned, leased, vested in, managed or occupied by the *Council*.

Maximum Penalty: 10 Penalty Units

5.4 **Wasp Nests**

5.4.1 Each *owner* and each *occupier* of *premises* must not *allow* an English or European wasp nest to remain on the *premises*.

Maximum Penalty: 10 Penalty Units

5.5 **Bee Hives**

5.5.1 Each *owner* and each *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.

Maximum Penalty: 10 Penalty Units
6 Animals

6.1 Keeping Animals

6.1.1 Unless in accordance with a permit, each owner and each occupier of premises must not keep or allow to be kept on the premises more than the number of animals set out in the following table:

<table>
<thead>
<tr>
<th>TYPE OF ADULT ANIMAL</th>
<th>MAXIMUM NUMBER ALLOWED ON A SMALL PREMISES</th>
<th>MAXIMUM NUMBER ALLOWED IN UP TO 1HA</th>
<th>MAXIMUM NUMBER ALLOWED IN 1.1HA-5HA</th>
<th>MAXIMUM NUMBER ALLOWED IN 5.1HA-10HA</th>
<th>MAXIMUM NUMBER ALLOWED IN GREATER THAN 10HA</th>
</tr>
</thead>
<tbody>
<tr>
<td>MAXIMUM NUMBER OF DIFFERENT TYPES OF ANIMALS</td>
<td>4</td>
<td>6</td>
<td>6</td>
<td>No Maximum</td>
<td>No Maximum</td>
</tr>
<tr>
<td>Dogs</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>No restriction on any property if a farming activity is being undertaken as long as relevant codes for the keeping of animals are adhered to.</td>
</tr>
<tr>
<td>Cats</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Domestic rabbits</td>
<td>1</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Guinea Pigs, mice &amp; hamsters</td>
<td>2</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Farm animals – small</td>
<td>0</td>
<td>0</td>
<td>3 per Hectare</td>
<td>5 per Hectare</td>
<td></td>
</tr>
<tr>
<td>Farm animals – large</td>
<td>0</td>
<td>0</td>
<td>1 per Hectare</td>
<td>3 per Hectare</td>
<td></td>
</tr>
<tr>
<td>Bulls</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>All other animals</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>

6.1.2 Sub-clause Error! Reference source not found. does not apply where the keeping of a particular type or number of animals is permitted under the Planning Scheme.

6.1.3 Sub-clause 6.1.1Error! Reference source not found. does not apply to the keeping of dogs actively used in farming on properties classified by the Council as "Farm Land" for differential rating purposes.

6.1.4 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 12 weeks after their birth.

Maximum Penalty: 10 Penalty Units
6.2 **Conditions under which Animals are kept**

6.2.1 A *person* in charge of an *animal* must maintain any structure used for housing the *animals*:

1) in a clean, inoffensive and sanitary condition;

2) so as not to cause any *nuisance*; and

3) in accordance with any standards set by the *Council*, the *Royal Society For The Prevention Of Cruelty To Animals* or a *public body*.

Maximum Penalty: 10 Penalty Units

6.3 **Noise and Smell**

6.3.1 A *person* in charge of an *animal* must not *allow* any noise or smell to emanate from the *premises* on which the *animal* is kept which interferes with the reasonable comfort or convenience of any *person*.

Maximum Penalty: 10 Penalty Units

6.4 **Animal Litter**

6.4.1 Whenever an *animal* is outside the *premises* at which it is normally kept, the *person* who has care and or control of the *animal* must:

1) not *allow* any of the *animal*’s excrement to remain on a *road*, in a *public place* or on land owned or occupied by another *person*;

2) carry a litter device and must use it for the purposes of removing any excrement of the *animal*; and

3) dispose of the litter device and any excrement in a manner which does not cause any *nuisance* or hazard to any *person* or detriment to the environment.

Maximum Penalty: 10 Penalty Units

6.5 **Wandering Animals**

6.5.1 The *owner or person* in charge of any *animal* must:

1) not *allow* that *animal* to wander from the *premises* on which it is normally kept; and

2) ensure that the land on which the *animal* is normally kept is adequately fenced to prevent the *animal* being at large or escaping from the *premises*.

Maximum Penalty: 10 Penalty Units
7  Birds

7.1  Numbers (Birds)

7.1.1  Unless in accordance with a permit, each owner and each occupier of premises must not keep or allow to be kept on the premises more in number of each type of bird than as set out in the following table:

<table>
<thead>
<tr>
<th>Type of Adult Bird</th>
<th>Maximum Number Allowed on a Small Premises Up to 1Ha</th>
<th>Maximum Number Allowed in All Properties 1.1Ha-5Ha</th>
<th>Maximum Number Allowed in All Properties 5.1Ha-10Ha</th>
<th>Maximum Number Allowed in All Properties Greater than 10Ha</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pigeons</td>
<td>0</td>
<td>5</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Poultry</td>
<td>0</td>
<td>5</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Roosters</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Caged Domestic birds</td>
<td>4</td>
<td>5</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Large birds</td>
<td>0</td>
<td>0</td>
<td>2 per Hectare</td>
<td>5 per Hectare</td>
</tr>
</tbody>
</table>

7.1.2  Sub-clause 7.1.1 does not apply where the keeping of a particular type or number of birds is permitted under the Planning Scheme.

7.1.3  Unless in accordance with a permit, each owner and each occupier of premises must not keep or allow to be kept on the premises:

1) any live poultry except in a bird enclosure where such enclosure allows for one bird for every 0.5 square metres of floor space; or

2) more than two:
   a) ducks; or
   b) drakes; or
   c) turkeys; or
   d) geese.

7.1.4  For the purposes of sub-clause 7.1.1, three pigeons or three quail, or one pigeon and two quail, or two pigeons and two quail, equal two head of poultry.

Maximum Penalty: 10 Penalty Units
7.2  **Sitting of Bird Enclosures**

7.2.1 Unless in accordance with a permit, each owner and each occupier of premises must ensure that any bird enclosure on the premises is at least three metres from the boundary of any adjoining premises.

Maximum Penalty: 10 Penalty Units

7.3  **Construction of Bird Enclosures**

7.3.1 Each owner and each occupier of premises must ensure that every bird enclosure on the premises, excluding a pigeon enclosure, complies with the Department of Primary Industries Code of Practice for the Housing of Caged Birds and, where applicable, the Victorian Code of Practice for the Keeping and Racing of Pigeons.

Maximum Penalty: 10 Penalty Units

7.4  **Noise and Smell**

7.4.1 A person in charge of any bird must not allow any noise or smell to emanate from the premises where the bird is normally kept which interferes with the reasonable comfort or convenience of any person.

Maximum Penalty: 10 Penalty Units
8 Public Safety and Waste Disposal

8.1 Scavenging

8.1.1 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 in a public place.

Maximum Penalty: 10 Penalty Units

8.2 Use of Tip or Transfer Station

8.2.1 A person must not use a municipal tip except in accordance with the directions of an Authorised Officer or tip attendant and any signs.

Maximum Penalty: 10 Penalty Units

8.2.2 A person must not, without approval from the Council, deposit any hazardous, dangerous or infectious materials at a Waste Transfer Station.

Maximum Penalty: 10 Penalty Units

8.3 Domestic Waste

8.3.1 Each occupier of premises must ensure that domestic waste on the premises is placed in a container supplied by the Council, and that:

1) the container is 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 within 24 hours of being emptied;

2) container is maintained by the owner and occupier of premises in a clean, tidy and safe condition; and

3) container remains the property of the Council and must be securely stored at the property to which they are assigned.

8.3.2 A person must not place the following material in a container for collection by the Council:

1) liquid waste or offensive material;

2) ashes, hair or other similar matter or moist refuse unless they have been securely wrapped in paper or some other impermeable cover or container to prevent their escape;

3) 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

4) glass or other sharp objects unless they are properly contained or wrapped in such a way as to render them harmless and inoffensive;

5) oil, paint, solvents or similar substance or any other substance which may damage the bin or reduce its strength or effectiveness;
6) disposable napkins unless they have been cleaned of solids and securely wrapped in impervious material prior to being placed in the bin; or
7) trade waste of any kind.
Maximum Penalty: 10 Penalty Units

8.4 Material for Recycling

8.4.1 Each occupier of premises must ensure that material for recycling generated on the premises and available for collection by the Council is placed in a container of a type generally approved by the Council.

8.4.2 Each occupier of premises must ensure that the container referred to in sub-clause 8.4.1 and referable to the premises is placed outside the premises for collection in accordance with and directions given by the Council and returned to the premises within 24 hours of being emptied.
Maximum Penalty: 10 Penalty Units

8.5 Trade Waste

8.5.1 Each owner and each 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.
Maximum Penalty: 10 Penalty Units

8.5.2 Each occupier of premises on which a trade waste container is located must ensure that the container:
1) is constructed of impervious material to prevent leakage, absorption or escape of waste.
2) is water tight, fly and vermin proof with a lid which is continuously kept closed when the container is not being used or emptied; and
3) if not a mobile bin, has a drain and plug for cleaning purposes.
Maximum Penalty: 10 Penalty Units

8.5.3 Each occupier of premises must ensure that any trade waste container referable to the premises is:
1) 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;
2) not located on roadways or public land without a permit issued by the Council;
3) maintained in a clean, tidy and safe condition; and thoroughly cleaned after each emptying.

8.5.4 Each occupier of premises on which a trade waste container is located must ensure that the trade waste container displays a sign which indicates:
1) the type of waste permitted to be deposited in it; and
2) that it is an **offence** to deposit material contrary to the sign.

Maximum Penalty: 10 Penalty Units

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### 8.6 Drainage

**8.6.1** Unless in accordance with a **permit**, a **person** must not, unless subject to a certified plan of subdivision:

1) destroy, damage or tap into any drain vested in the *Council* including a kerb and channel, open channel, underground drain, culvert, drainage pit and the like; or

2) **allow** any drain located on land of which he or she is the **owner** or **occupier** to be:
   a) in disrepair; or
   b) in a condition which is a **nuisance** or dangerous to a **person**'s health or dangerous to *Council*’s assets.

Maximum Penalty: 10 Penalty Units

**8.6.2** A **person** must not, without a **permit**, destroy, damage or interfere with any **road**, watercourse, ditch, creek, gutter, tunnel, bridge, levee, culvert, fence, vegetation or any other asset which is vested in or under the control of the *Council*.

Maximum Penalty: 10 Penalty Units
9 Use of Public Places

9.1 Clothing Bins

9.1.1 A person must not place or allow the placement of a clothing bin in a public place unless:

1) in accordance with a permit; or
2) the site of the clothing bin is prescribed by the Council for such use generally or is allocated to that bin; and

a) the clothing bin has clearly indicated on at least two sides, the name of the person on whose behalf the clothing bin is placed and items that are sought for depositing in it.

Maximum Penalty: 10 Penalty Units

9.2 Bulk Rubbish Containers

9.2.1 A person must not place or allow the placement of a bulk rubbish container in 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 24 hours and is adequately protected and lit for any night time period.

Maximum Penalty: 10 Penalty Units

9.3 Entertainment and Busking

9.3.1 Unless in accordance with a permit, a person must not busk in a public place.

Maximum Penalty: 10 Penalty Units
10 Management of Traffic and Roads

10.1 Protrusions and Overhanging Branches

10.1.1 Each owner and each occupier of premises must not:
1) allow any vegetation, sign, support or structure on the premises to extend over a footpath at a height of less than three metres; or
2) allow any vegetation, sign, support or structure on the premises to cause a road interference.

Maximum Penalty: 10 Penalty Units

10.1.2 In this clause, the phrase “road interference” means interference with the unobstructed, safe and fair use of roads by people and includes interference with:
1) traffic, including pedestrians and vehicles;
2) traffic control items; and
3) street lighting.

10.2 Property Numbers to be Displayed

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

Maximum Penalty: 10 Penalty Units

10.2.2 In relation to rural properties that are required to have a Rural Roadside Number, each owner and each occupier of the property must ensure that the property number is placed at the main entrance gateway to the property.

Maximum Penalty: 10 Penalty Units

10.3 Vehicle Crossings

10.3.1 Each owner of premises must ensure that each point of vehicle access from a carriageway on a road to the premises has a properly constructed vehicle crossing that is not within 10 metres of an intersection.

Maximum Penalty: 10 Penalty Units

10.3.2 For the purposes of this clause, a vehicle crossing is properly constructed if:
1) it was constructed by or in accordance with the terms of an approval by the Council; or
2) the Council has approved in writing the method of construction of the vehicle crossing.

10.3.3 Each owner and each 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.

Maximum Penalty: 10 Penalty Units

10.4 Permit Required for Vehicle Crossings

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

Maximum Penalty: 10 Penalty Units

10.5 Temporary Vehicle Crossing

10.5.1 Where:

1) because of the nature, size or weight of a vehicle or material which may travel or be carried across a kerb, gutter, nature strip, 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, nature strip, footpath or vehicle crossing; or

2) an activity is intended or expected to take place on premises making likely an occurrence of the type described in paragraph 1),

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

Maximum Penalty: 10 Penalty Units

10.5.2 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 10.5.1.

Maximum Penalty: 10 Penalty Units

10.5.3 Each owner and occupier of premises must take all reasonable steps to protect the existing kerb, gutter, nature strip, footpath, carriageway and vehicle crossing at all times during any activity or occurrence referred to in sub-clause 10.5.1.

Maximum Penalty: 10 Penalty Units

10.5.4 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.

Maximum Penalty: 10 Penalty Units

10.5.5 The owner of premises must immediately and to the satisfaction of an Authorised Officer repair any damage caused to the kerb, gutter, nature strip, footpath, carriageway or vehicle crossing or, at the discretion of the Council, pay to the Council the cost of the Council doing so.

Maximum Penalty: 10 Penalty Units
10.5.6 Where a kerb, gutter, nature strip, 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 Authorised Officer, but relative to the likely cost of repairing any damage or reinstating the item.

Maximum Penalty: 10 Penalty Units

10.5.7 The bond required under sub-clause 10.5.6 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 10.5.6, the additional cost must be paid by the person who gave the bond to the Council when demanded by the Council.

10.5.8 Any bond or portion of it not required by the Council 14 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.

Maximum Penalty: 10 Penalty Units

10.6 Redundant Vehicle Crossings

10.6.1 Where works on premises involve the relocation or closure of a point of vehicle access, making 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, nature strip or other part of the road must be reinstated to the satisfaction of the Authorised Officer.

Maximum Penalty: 10 Penalty Units

10.6.2 The owner must undertake the work referred to in sub-clause 10.6.1 in accordance with a notice given to the owner by the Authorised Officer.

Maximum Penalty: 10 Penalty Units

10.7 Cattle Grids

10.7.1 Unless in accordance with a permit, a person must not install a cattle grid in a road reserve or on land owned, leased, vested in, managed or occupied by a public body.

Maximum Penalty: 10 Penalty Units

10.8 Obstructions

10.8.1 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 land.

Maximum Penalty: 10 Penalty Units

10.8.2 For the purpose of this clause “obstruction” includes:

1) a hedge, heap or fence;
2) a ditch, hole or drain;
3) building material;
4) goods for sale;
5) a box or other container;
6) a table or chair;
7) a board, sign, sandwich board or Advertisement;
8) a bicycle (except in a rank or stand provided by the Council) or vehicle;
9) a pole, post or basketball ring;
10) scaffolding or a stage, crane, awning, hoarding or hoist, or
11) any other thing

that is likely to hinder access to any part of the land if left there.

10.8.3 Any obstruction contrary to sub-clause 10.8.1 may be removed and impounded by the Council or an Authorised Officer, whether or not a Notice to Comply has been given.

10.8.4 Without affecting Section 225 of the Act 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 pay the cost of the removal to the Council.

Maximum Penalty: 10 Penalty Units
11 Control of Animals, Shopping Trolleys and Vehicles on Roads and Elsewhere

11.1 Livestock Control

11.1.1 Unless in accordance with a permit, a person must not drove livestock for a distance greater than two kilometres along any road.

Maximum Penalty: 10 Penalty Units

11.1.2 Unless in accordance with a permit, a person in charge of livestock must not allow the livestock to graze on a road.

Maximum Penalty: 10 Penalty Units

11.1.3 Any local regular movement of livestock must be in accordance with any policy adopted by the Council, and warning light guidelines prepared by VicRoads.

Maximum Penalty: 10 Penalty Units

11.2 Shopping Trolleys

11.2.1 A person must not leave a shopping trolley in any public place or on any premises except in an area designated for the purpose.

Maximum Penalty: 10 Penalty Units

11.2.2 If a shopping trolley is in a public place or on premises in breach of sub-clause 11.2.1, an Authorised Officer may direct the owner of the shopping trolley, or the person in charge of the retail premises from which it has apparently been transported, to remove the shopping trolley.

11.2.3 An Authorised Officer may impound any shopping trolley found on any place where sub-clause 11.2.1 does not permit it to be left and has not been removed after a direction under sub-clause 11.2.2.

11.3 Riding Horses on Reservations

11.3.1 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 nature strip unless outside a built up area.

Maximum Penalty: 10 Penalty Units

11.3.2 A person must not ride or lead a horse or allow another person to ride or lead a horse in a public place if the place has been signposted as being not available for horses.

Maximum Penalty: 10 Penalty Units
11.4 **Sale of Vehicles**

11.4.1 Unless in accordance with a *permit*, a *person* must not *park* a *vehicle* in a *public place* for the purposes of promoting the *vehicle* for sale.

Maximum Penalty: 10 Penalty Units

11.5 **Vehicle Repair**

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

Maximum Penalty: 10 Penalty Units

11.6 **Abandoned Vehicles**

11.6.1 A *person* must not, without a *permit*, leave, abandon or dump a registered *vehicle* on any *road* or *public place* for 14 continuous days in any three month period, or after being served with a *Notice to Comply* directing its removal.

Maximum Penalty: 10 Penalty Units

11.6.2 A *person* must not, on a *road* or in a *public place* or parking area vested in or under the control of the *Council*, place any unregistered motor *vehicle* or abandon or cause to be abandoned any motor *vehicle*.

Maximum Penalty: 10 Penalty Units

11.6.3 The *Council* may impound any abandoned or unregistered motor *vehicle* found on any *road* or in any *public place* or parking area vested in or under the control of the *Council* in accordance with the provisions of the *Act*.

11.7 **Substances Deposited on Road or Public Place from Vehicles or Animals**

11.7.1 A *person* who drives or operates a *vehicle* must not *allow* any grease, oil, mud, clay or other substance to fall, or otherwise to be deposited, from the *vehicle* onto a *road* or into a *public place* or drain.

Maximum Penalty: 10 Penalty Units

11.7.2 A *person* must not *allow* any mud, clay or faeces from any *animals* of which they are in charge, to be deposited onto any *road* or into any *public place* or drain.

Maximum Penalty: 10 Penalty Units
12 Secondary Activities on Roads

12.1 Outdoor Eating Facilities

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

Maximum Penalty: 10 Penalty Units

12.1.2 A person must not occupy a chair or otherwise use the equipment in an outdoor eating facility unless he or she intends to use it for the purpose of consuming food or drink to be provided by the permit holder.

Maximum Penalty: 10 Penalty Units

12.1.3 A person must not cause a nuisance to or behave offensively towards another person at or passing an outdoor eating facility.

Maximum Penalty: 10 Penalty Units

12.1.4 A person must leave an outdoor eating facility when requested to do so by the permit holder.

Maximum Penalty: 10 Penalty Units

12.1.5 A permit holder under this Part must ensure that customers consuming alcohol do so in accordance with their liquor licence.

Maximum Penalty: 10 Penalty Units

12.1.6 A permit holder under this Part must move or remove the outdoor eating facility when requested to do so for reasons of public safety by an Authorised Officer or a member of the police or employee of an Emergency Service.

Maximum Penalty: 10 Penalty Units.

12.1.7 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.

12.2 Occupation of Road for Works

12.2.1 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.

Maximum Penalty: 10 Penalty Units
12.3 **Street Parties, Festivals and Processions**

12.3.1 Unless in accordance with a *permit*, a *person* must not hold a *street party, street festival or procession* on a *road*.

Maximum Penalty: 10 Penalty Units

12.4 **Collections**

12.4.1 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) the organisation undertaking the activity is a local organisation based within the *municipal district* and approved by the *Council*, which is conducting an authorised appeal/raffle and which has the permission of the *occupier* of the *premises* outside which it wishes to *sell* the raffle tickets;

2) in accordance with a *permit*; or

3) to do so is specifically authorised by and in accordance with any *legislation*.

Maximum Penalty: 10 Penalty Units
13 Display and Sale of Goods and Services

13.1 Road Trading

13.1.1 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.

Maximum Penalty: 10 Penalty Units

13.2 Soliciting Trade and Similar Activities

13.2.1 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.

Maximum Penalty: 10 Penalty Units

13.3 Advertising signs

13.3.1 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.

Maximum Penalty: 10 Penalty Units
14  Consumption of Alcoholic Beverages

14.1  Consumption of Alcohol or Possession in Unsealed Containers

14.1.1  Unless in accordance with a permit, a person must not have in his or her possession or under his or her control any alcohol other than in a sealed container in or on any road or public place (including in a stationary vehicle) unless the public place is licensed premises under the Liquor Control Reform Act 1998.

Maximum Penalty: 10 Penalty Units

14.1.2  Notwithstanding sub-clause 14.1.1 the Council may designate sites or an area where consumption is permitted between sunrise and sunset.

14.1.3  Notwithstanding sub-clause 14.1.1 the Council may declare an event or part thereof liquor or alcohol free within the municipal places as designated by the Council.

14.1.4  Notwithstanding sub-clause 14.1.1 the Council may grant a permit for the consumption of any alcohol or for the possession of alcohol in unsealed containers in or on any road or public place at any time.
15 Enforcement

15.1 Enforcement

15.1.1 Without affecting any provision entitling any other person to do so, this Local Law may be enforced by an Authorised Officer.

15.2 Warning to comply or desist

15.2.1 Where there is a breach of this Local Law, including any permit or conditions in a permit and the circumstances do not warrant urgent action, an Authorised Officer may first request the person breaching the Local Law to stop or remedy the breach.

15.3 Notice to Comply

15.3.1 The Council or an Authorised Officer may, by serving a Notice to Comply, direct any owner, occupier or other person apparently in breach of this Local Law to remedy anything which constitutes an offence under this Local Law.

15.3.2 A Notice to Comply must state the time and date by which the thing must be remedied.

15.3.3 The time required by a Notice to Comply must be reasonable in the circumstances having regard to:

1) the amount of work involved;
2) the degree of difficulty;
3) the availability of necessary materials or other necessary items;
4) climatic conditions; an
5) the degree of risk or potential risk; and
6) any other relevant factor.

15.3.4 A Notice to Comply remains in force for a period of 12 months after the date of issue.

15.3.5 A person who fails to comply with a Notice to Comply served on that person is guilty of an offence.

Maximum Penalty: 10 Penalty Units

15.4 Penalties

15.4.1 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 the penalty provided for in this Local Law under each clause 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.

15.5 Infringement Notices

15.5.1 Where an Authorised Officer, believes that a person has committed an offence against this Local Law, an Authorised Officer may as an alternative to a prosecution for the offence, issue and serve on the person an infringement notice in the form of the notice in section 13 of the Infringements Act 2006.

15.5.2 The amounts of the fixed penalty payable in respect of an infringement notice is set out in Schedule 1.

15.5.3 In order to avoid prosecution, the person who is served with an infringement notice must pay the penalty to the Council at the address nominated in the Infringement Notice by the date and time specified in the infringement notice.

15.5.4 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:
   1) delivering the notice to the person;
   2) leaving the notice at that person's usual or last known place of residence or business with a person apparently not less than 16 years old and apparently residing or employed at that place;
   3) sending the document by post addressed to the person at that person's last known place of residence or business; or
   4) where the offence involves a vehicle, placing it on or attaching it to the vehicle.

15.5.5 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.

15.5.6 An Authorised Officer may withdraw an infringement notice in accordance with the Infringement Act 2006.

15.5.7 If an infringement notice is withdrawn, after the person pays the penalty, the person is entitled to a refund of the penalty.

15.5.8 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:
   1) further proceedings for an offence will not be taken against the person; and
   2) there is to be no conviction recorded against that person for the offence.

15.5.9 If:
1) a person served with an infringement notice has not paid the penalty within the time specified in the notice; or
2) an infringement notice is withdrawn; proceedings may be taken or continued for the offence.

15.6 Evidence of Service

15.6.1 A statutory declaration by an Authorised Officer or a person who has served or given a notice or direction in accordance with this Local Law stating the manner, place, date and time the notice or direction was served or given, is evidence of the notice or direction having been served or given as described in that declaration.

15.7 Compliance with Directions and Notices

15.7.1 Where:
1) a Notice to Comply or other notice or direction is served or given pursuant to this Local Law.
2) section 225 of the Act does not apply; and
3) 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.

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

15.8 Direction of Traffic

15.8.1 For the purpose of enforcing:
1) the Road Safety Act 1986 or any Regulation made under that Act;
2) this Local Law,

or if special circumstances so require, an Authorised Officer may give directions for the passage of traffic.

15.8.2 A person must comply with any directions given under sub-clause 15.8.1 unless contrary directions are given by a police member.

15.9 Delegation

15.9.1 In accordance with Section 114 of the Act, the Council:
1) delegates to the Chief Executive Officer, the Director Development Services, the Director Technical Services and the Director Community and 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 to the Compliance Officer the power to issue or refuse permits and apply conditions, exercise discretions and require additional information.

15.10 Urgent Circumstances

15.10.1 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.

15.10.2 As soon as practicable, the Authorised Officer or delegate must contact:
   1) the person by whose fault, permission or decision the situation has arisen; or
   2) the owner or occupier of the premises, animal, property, thing involved; and
   3) The Chief Executive Officer or a Director of the Council, and advise them of the action taken.

15.11 Impounding

15.11.1 An Authorised Officer may impound any item or thing being used in contravention of this Local Law.

15.11.2 Where any item or thing is impounded pursuant to this Local Law, notice of the impounding is to be given to the person that is known or appears to be the owner of the impounded item.

15.11.3 Any item or thing impounded in accordance with this Local Law may be held until any fee or charge for its release is paid.

15.11.4 The Council may include in any fee or charge any cost that the Council has incurred in impounding, transporting, holding, storing or disposing of the item or thing.

15.11.5 If 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:
   1) if it has no saleable value, in the most economical and appropriate way as determined by an Authorised Officer; or
   2) 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 1).

15.11.6 The monies realised from the sale of any impounded item or thing must be disbursed as follows:
   1) in payment of any expenses incurred by the Council; then
2) to the owner or person who in the opinion of the Chief Executive Officer appears to be authorised to receive the money.

15.11.7 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.
**SCHEDULE 1 – PENALTIES FOR INFRINGEMENT NOTICES**

**TOWONG SHIRE COUNCIL**

**COMMUNITY AMENITY AND MUNICIPAL PLACES LOCAL LAW NO 2**

Penalties for Infringement Notices issued in respect of *Offences* against clauses in this Local Law

<table>
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<th>Local Law Clause</th>
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CERTIFICATION OF LOCAL LAW

This local law was made and issued by Towong Shire Council.

THE COMMON SEAL

of the TOWONG SHIRE COUNCIL

was affixed in the presence of:

............................................................... CHIEF EXECUTIVE OFFICER

............................................................... WITNESS

This.............................................day of.............................................2011.

COMMUNITY AMENITY AND MUNICIPAL PLACES 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 on [insert date].

This Local Law commenced operation on 5th September 2011 and will expire on the 4th September 2021

I certify that this document (pages 1 – 49) is a true copy of the Community Amenity And Municipal Places Local Law No. 2, made by Towong Shire Council on 5th September 2011, in accordance with the requirements of the Local Government Act 1989.

........................................................................................................
(CHIEF EXECUTIVE OFFICER)

History of Local Law

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