



Wangaratta Rural City Council

LOCAL LAW NO. 1 OF 2008

COMMUNITY AMENITY (AMENDMENT)

Adopted by Council on 20 May 2008

Note: This Local Law needs to be read in conjunction with any other relevant provisions in Council's Policies and Procedures Quality Manual.

COMMUNITY AMENITY (AMENDMENT) LOCAL LAW NO. 1 OF 2008

PART ONE - PRELIMINARY PROVISIONS

1. Title

This is the *Community Amenity (Amendment) Local Law No. 1 of 2008*.

2. Purpose

The purpose of this Local Law is to provide for the peace order and good government within the municipal district of the Wangaratta Rural City Council by:

- (1) regulating and controlling uses and activities on Council roads and land so that the Council is aware of uses or activities which may:
 - (a) interfere with the safety and convenience of people travelling on or using Council roads or land; and
 - (b) impede free and safe access for people, in particular those with sight and movement impairment or disabilities; and
 - (c) cause damage to Council and community assets; and
 - (d) create a danger or expose others to risk; and
 - (e) be detrimental to the amenity of the area or the enjoyment of facilities on roads or land.
- (2) managing, regulating and controlling activities and uses on any land which:
 - (a) may be dangerous, cause a nuisance or be detrimental to the amenity of the area or the environment;
 - (b) are directed at maintaining a healthy and safe environment for residents and visitors;
 - (c) promotes community expectations and demands about their desired lifestyle and the availability of goods and services provided to them;

- (3) identifying activities and uses that are not permitted so as to achieve the purposes in sub-clauses (1) and (2); and
- (4) providing for the administration of the Council's powers and functions.

3. **Authorising Provision**

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

4. **Commencement, revocation and area of operation**

This Local Law:

- (a) commences on 1 June 2008; and
- (b) unless sooner revoked, this Local Law ceases to operate on 31 May 2018; and
- (c) operates throughout the whole municipal district.

5. **Repeal of other Local Laws**

From the date of operation of this Local Law the following Local Laws will cease to operate and are repealed:

- Local Law No. 1 – Community Amenity

6. **Definitions of Words used in this Local Law**

In this Local Law:-

“Act”	means the Local Government Act 1989 .
“advertising sign”	means any placard, banner, sign, price, card invitation or any structure whatsoever used for the exhibition of advertisements.
“animal”	includes every species of quadruped and every species of bird and every species of reptile.
“appropriate fee”	means the appropriate fee determined by the Council in accordance with this Local Law.
“authorised officer”	means a person appointed pursuant to Section 224 of the Act as an authorised officer for the purposes of this Local Law.
“barbeque”	means a structure device or contraption designed or constructed for the primary purpose of cooking food in the open air for human consumption.
“camping area”	means land which has been designated as such

	by Council resolution or land which has been registered with Council as a caravan park.
“Chief Executive Officer”	means the person appointed as the Chief Executive Officer of Council.
“commercial area”	means any part of the municipal district which is in a business zone provided under the Wangaratta Planning Scheme.
“Council”	means Wangaratta Rural City Council.
“Council land”	means land, buildings and facilities which are owned or occupied by or vested in the Council or in respect of which the Council has the care and management and to which the public has access whether an entry fee is paid or not and includes a public place.
“clothing recycling bin”	means a container designed to receive used clothing.
"declared road"	means any road or part of a road or any deviation from or widening of a road declared from time to time by the Roads Corporation to be- (a) a freeway; (b) a State highway; (c) a main road; (d) a tourists' road; (e) a forest road; or (f) a stock route; in accordance with the provisions of Schedule 5, Clause 1 of the Transport Act 1983 .
"display of goods"	means a table or any other structure used for the purpose of and including the display of goods for sale and which is no more than 1.0m wide. Includes a selection of goods, e.g. flowers, plants, planters, pots, shrubs placed on the footpath and which is not more than 1.0m wide.

“droving of livestock”	means an individual driving of livestock in or through the municipal district or from one location to another for the purpose of changing their grazing area or for the purposes of sale or relocation after sale but does not include movement of livestock.
“floodlighting”	means any lighting specifically designed for the purpose of providing exterior floodlighting for recreation, entertainment, sporting security, car parking, advertising or display purposes and being fitted with a lamp of greater output than 4,000 lumens.
“grazing of livestock”	means using a road within a particular or designated area in the municipal district for grazing including supplementary feeding rather than for droving or movement of livestock.
“incinerator”	means a structure or device that is not enclosed in a building which is: <ol style="list-style-type: none">1. used or is intended, adapted or designed to be used or capable of being used for the purpose of burning any matter, material or substance;2. not licensed or otherwise subject to control under the provisions of any other Act;3. not a barbeque.
“industrial area”	means any part of the municipal district which is in an industrial zone provided under the Wangaratta Planning Scheme.
“itinerant trading”	means selling or offering for sale goods or services from a temporary location or from place to place or from a vehicle or other form of transport.
“liquor”	means a beverage intended for human consumption with an alcohol content greater than 0.5 per centum by volume at a temperature of 20 degrees celsius.
“livestock”	has the same meaning as section 3 of the Impounding of Livestock Act 1994 .

“movement of livestock”	means: (1) individual or regular movement of livestock; (2) as part of normal farm management operations of one farming enterprise but not for the purposes of grazing; (3) from one property to another within the municipal district or from or to one property in the municipal district to or from a property within an adjacent municipal district; (4) at the rate of not less than one kilometre per hour in the direction of the movement between the two properties; (5) where the properties concerned are occupied by the one farming enterprise; and (6) the movement is completed on the day of commencement.
“permit”	in relation to an activity, means a permit issued under this Local Law which authorises that activity.
“planning scheme”	means the Planning Scheme operating in the Wangaratta Rural City Council that is made under the Planning and Environment Act 1987 .
“public place”	has the same meaning as in the Summary Offences Act 1966 .
“recreational vehicle”	includes any mini bike, trail bike, motor bike, motor car, motor scooter, go cart and any other vehicle propelled by a motor which is used for recreational purposes and not registered under the Road Safety Act 1986 but does not include a motorised wheelchair or other aid used by persons with disabilities or motorised vehicles used for farming purposes.
“residential area”	means any part of the municipal district which is in a residential zone provided under the Wangaratta Planning Scheme.
“road”	has the same meaning as Section 3 of the Local Government Act 1989 .
“rubbish hopper”	means a purpose built container designed to receive trade waste which is emptied by mechanical means and includes wheel mounted and tray bin type hoppers.
“senior officer”	has the same meaning as in the Local Government Act 1989 .

PART TWO - ACTIVITIES AND USES REQUIRING A PERMIT

DIVISION 1 – MANAGEMENT BY PERMIT

7. Activities and uses requiring a permit

- (1) A permit must be obtained from the Council before a person carries out the following uses or activities:
- (a) constructing or altering a vehicle crossing or installing a temporary vehicle crossing;
 - (b) storing secondhand goods and machinery;
 - (c) droving or grazing livestock;
 - (d) camping on Council roads and land and private land;
 - (e) itinerant trading;
 - (f) keeping excess numbers of animals;
 - (g) tapping into Council drains;
 - (h) street appeals, busking and street stalls;
 - (i) lighting incinerators and open air burning;
 - (j) placing obstructions on Council roads;
 - (k) using rubbish hoppers and clothing recycling bins;
 - (l) using recreational vehicles; and
 - (m) using footpaths for activities.

- (2) A person who fails to obtain a permit for any of the uses or activities listed in sub-clause (1) is guilty of an offence against this Local Law.

Penalty: \$500

- (3) A person must comply with:
- (a) any conditions of a permit; and
 - (b) any additional requirements or limitations that this Local Law applies to the use or activity.

Penalty: \$500

- (4) The Council may grant exemptions from any other requirements or limitations that this Local Law applies to the use or activity.
- (5) In deciding whether to grant a permit the Council may take into consideration whether the proposed activity or use will:

- (a) conform with any related policies, guidelines and strategies of the Council;
- (b) cause a danger or hazard to pedestrians or vehicles;
- (c) disturb, annoy or disrupt adjacent property owners or occupiers;
- (d) be detrimental to the amenity of the area;
- (e) destroy native vegetation on roads or Council land;
- (f) cause damage to Council assets;
- (g) require the consent or should be referred to obtain the opinion of any other public authority or individual;
- (h) require additional arrangements to be made for waste water disposal, litter and garbage disposal, lighting and security;
- (i) obstruct a footpath so that it will not be possible to maintain a clear walkway of at least 2 metres at all times;
- (j) necessitate the applicant to have insurance against any risk;
- (k) necessitate a written indemnification of the Council against liability arising from activities authorised by the permit; and
- (l) any other matters relevant to the circumstances of the application.

DIVISION 2 – EXPANDED REQUIREMENTS, LIMITATIONS AND EXEMPTIONS

8. *Vehicle Crossings and temporary vehicle crossings*

- (1) The requirement to obtain a permit for the construction of a new or altered vehicle crossing applies across the whole municipality.
- (2) A person issued with a building permit must within 14 days of receiving the permit provide to the Council a report of the existing condition of the footpath, kerb and channel, nature strip and the vehicle crossing which is:
 - (a) adjacent to the land to which the building permit relates; or
 - (b) likely to be affected by the building works authorised by the building permit.
- (3) The Council must as soon as is reasonably practical after receiving notice of the issue of an occupancy permit or a final certificate in relation to alterations to an existing dwelling, cause an inspection to be carried out of the footpath, kerb and channel, nature strip and the vehicle crossing.
- (4) If as a result of the inspection, the Council considers that the building works have caused damage to the footpath, kerb and channel, nature strip or vehicle crossing, it may give notice to the holder of the building permit requiring the person to repair the damage within 28 days of the notice.

9. Storage of machinery and secondhand goods

The requirement to obtain a permit to store secondhand goods and machinery applies in a residential area and a commercial area and applies to and includes the storage of used materials and machinery and vehicles that are dismantled or broken up for salvaging parts.

10. Droving of Livestock

- (1) An application for a permit for the droving of livestock must be made at least 2 working days before it is proposed to drive livestock through the municipal district.
- (2) In addition to the requirement to obtain a permit for the droving of livestock, Council roads may only be used for the droving if the requirements in the Council's *Policies and Procedures Quality Manual* are observed.

11. Grazing of Livestock

In addition to the requirement to obtain a permit for the grazing of livestock, Council roads may only be used for grazing if the requirements in the Council's *Policies and Procedures Quality Manual* are observed.

12. Camping

- (1) The requirement to obtain a permit to camp on a Council road or land or a public place does not apply to a Council road or land or a public place that the Council has resolved to designate as a camping area.
- (2) An owner or occupier of land must not allow camping to occur on land owned or occupied by him or her contrary to this Local Law.
- (3) The requirement to obtain a permit to camp, whether in a caravan, tent or other makeshift structure on private land applies:
 - (a) when it is intended that more than one caravan or tent or other makeshift structure will be used for camping on private land at any one time; or
 - (b) it is intended that a caravan or tent or other makeshift structure will be occupied on that private land for more than three weeks in each calendar year.

13. Itinerant Trading

The requirement to obtain a permit for itinerant trading also applies where trading is to be done from a vehicle or from:

- (a) any other temporary method of transport including a caravan, trailer or other similar structure; or
- (b) a road; or
- (c) from a property, including any Council land or public place, adjacent to a road or a person on a road or public place.

14. Itinerant trading from house to house

The requirement to obtain a permit under clause 13 does not apply to:

- (a) newspapers or magazines being home delivered;
- (b) the home delivery of goods purchased at another location;
- (c) the home delivery of goods where such delivery has been requested by the occupier of the house;
- (d) the sale of fundraising products by persons duly authorised by an educational, cultural or recreational facility or organisation which is established within the municipal district.

15. Keeping excess numbers of animals

- (1) The requirement to obtain a permit to keep animals in excess of the number and type specified in the Council's *Policies and Procedures Manual* applies in a residential area and commercial area and:
 - (a) where the numbers of animals to be kept exceeds the numbers specified in the Council's *Policies and Procedures Quality Manual*; or
 - (b) where the animal proposed to be kept is not specifically mentioned in the Council's *Policies and Procedures Quality Manual*.

16. Tapping into Council Drains

The requirement to obtain a permit to tap into or interfere with any Council drain does not apply where the Council has certified a plan of subdivision or given its approval for the drain to be tapped under other legislation administered by it.

17. Street Appeals, Busking and Street Stalls

The requirement to obtain a permit to conduct street appeals also applies where it is intended to collect money, gifts or subscriptions from premises to premises or on Council roads and land.

18. Incinerators and Open Air Burning

The requirement to obtain a permit to light an incinerator or any fire in the open air applies in a residential or commercial area but does not apply to a barbecue or tools of trade being used for the purpose for which they are designed.

19. Obstructions on Council Roads

- (1) The requirement to obtain a permit to place an obstruction on a Council road applies when it is proposed to undertake works or locate goods, including fencing or services on a Council road.
- (2) The requirement to obtain a permit under sub-clause (1) does not apply where the Local Law specifically permits activities or uses to occur on a Council road.

20. Rubbish hoppers and clothing recycling bins

The requirement to obtain a permit to use rubbish hoppers and clothing recycling bins applies where it is intended to place or locate a rubbish hopper or a clothing recycling bin on a Council road or land.

21. Recreational Vehicles

The requirement to obtain a permit to use a recreational vehicle applies where it is proposed to use a recreational vehicle on any land in a residential area.

22. Using Footpaths

Where a person uses a footpath to provide for outdoor eating or for the display of goods or for the placing of free standing advertising signs the requirements in the Council's *Policies and Procedures Quality Manual* must be complied with.

PART THREE- CONDITIONAL ACTIVITIES AND USES

ACTIVITIES AND USES TO COMPLY

23. *Observing Requirements*

- (1) A person must comply with the requirements applied in this Local Law to:
- (a) the location of trees, plants, fences and signs on a person's property;
 - (b) the display of property numbers;
 - (c) vehicle crossings for vehicle access;
 - (d) redundant vehicle crossings;
 - (e) movement of livestock;
 - (f) livestock control fencing;
 - (g) animal housing;
 - (h) disposal of domestic waste and recyclable materials;
 - (i) using scareguns; and
 - (j) using floodlighting.
- (2) A person who does not comply with the requirements applying to the use or activity listed in sub-clause (1) is guilty of an offence against this Local Law.

24. *The location of trees, plants, fences and signs*

- (1) A tree, plant, fence, sign or other similar object must not be planted or located in a way that it is obstructing or interfering with pedestrian or vehicular traffic by:
- (a) overhanging any property boundary onto any footpath or other part of the road used by pedestrians so that it gets in the way of pedestrians or is likely to cause injury or damage; or
 - (b) extending over any part of the road in such a way that it:
 - (i) obstructs the view between vehicles at an intersection; or
 - (ii) obstructs the view between vehicles and pedestrians; or
 - (iii) obstructs any Council assets including drains; or
 - (iv) obscures a traffic control item from an approaching vehicle or pedestrian; or
 - (v) obscures street lighting; or
 - (c) constituting a danger to vehicles or pedestrians or compromises the safe and convenient use of the road.
- (2) The planting or locating of any tree, plant, fence, sign or other similar object must conform with any related policies, guidelines and strategies of the Council.

Penalty: \$200

25. *Display of property numbers*

Where the Council has allocated road numbers to a property the owner or occupier must ensure that the number allocated is clearly displayed by having numbers that can be clearly read under all normal lighting conditions from the road immediately adjacent to the front boundary.

Penalty: \$200

26. *Properly constructed vehicle crossings*

The access to a property by owners or occupiers from the road must have a properly constructed vehicle crossing which must be maintained in a condition that does not cause damage or interfere with other Council assets in the road.

Penalty: \$300

27. *Redundant vehicle crossings*

Where works on a property result in the relocation or closure of a point of vehicle access, the owner or occupier of the property must ensure that any redundant part of the vehicle crossing is removed and the kerb, drain, footpaths, nature strip or other part of the road is reinstated to the satisfaction of the Council.

Penalty: \$300

28. *Movement of Livestock*

The additional requirements or restrictions that will apply to the movement of livestock from one property to another in the municipal district are set out in the Council's *Policies and Procedures Quality Manual*.

Penalty: \$300

29. *Adequate fencing*

Where any livestock is kept on land, the owner or occupier of the land must ensure that the property is fenced in a way that will prevent the type of livestock being kept on the land from escaping from the property.

Penalty: \$300

30. Animal Housing

- (1) Animals kept in residential areas, commercial areas and industrial areas must be housed in a way which is:
 - (a) adequate and appropriate for the type and numbers of animals being housed;
 - (b) maintained in a sanitary and inoffensive condition; and
 - (c) protects adjoining properties from animal noise.
- (2) Animal housing must be sited on a property so that it complies with the requirements in the Council's *Policies and Procedures Quality Manual*.

Penalty: \$200

31. Disposal of waste and recyclable materials

- (1) Where the Council levies waste collection service charges, all waste and recyclable materials left for collection must be placed in a container ready for collection in a way that complies with the requirements in the Council's *Policies and Procedures Quality Manual*.

Penalty: \$200

- (2) Except for a person who has been authorised by the Council, no other person must interfere with or remove waste or recyclable materials left for collection where this collection is part of the service provided by Council.

Penalty: \$300

32. Using Scareguns

The operation of scareguns or similar bird control devices must comply with the requirements in the *Council's Policies and Procedures Quality Manual*.

Penalty: \$200

33. Using Floodlighting

Where floodlighting is installed on land that could result in the spill of light onto adjoining properties, the floodlighting must be installed so that:

- (a) it is shielded with devices to prevent glare causing a nuisance outside of the boundary of the site on which the floodlighting is erected; and
- (b) the level of illumination emitted by the floodlighting must not exceed 8 lux measured at a distance of 1.5m outside the boundary of the property on which the floodlighting is erected whether the illumination is a result of direct, reflected or other incidental light emanating from the property.

Penalty: \$200

PART FOUR- ACTIVITIES AND USES NOT PERMITTED

Activities or uses not permitted

34. *Trading sites*

Where the Council has designated trading sites and has entered into an agreement with a person to trade from a designated site, no other person may trade from that site whether or not that person has a permit from the Council.

Penalty: \$200

35. *Repairing Vehicles*

A person must not dismantle, paint, carry out maintenance or repair a vehicle on a Council road or land except where it is necessary to enable the vehicle to be removed.

Penalty: \$500

36. *Damaging Council Roads or Land*

A person must not behave in such a way that would cause damage or be detrimental to Council roads or land.

Penalty: \$500

37. *Damage from Adjoining Properties*

A person must not allow any tree or plant on land owned or occupied by him or her to cause damage to or interfere with a Council road or land or any drain vested in or under the control of the Council.

Penalty: \$500

38. *Dangerous and Unsightly Land*

An owner or occupier of land must not allow or permit land to be:-

- (a) kept in a manner which is dangerous or likely to cause danger to life or property; or
- (b) unsightly or detrimental to the general amenity of the neighbourhood because it harbours unconstrained rubbish or contains waste material; or
- (c) likely to constitute a fire hazard because weeds, stubble or grass exceeds 15cms in height when the land is in a residential, commercial or industrial area; or
- (d) likely to cause a nuisance because of the existence of regionally prohibited or regionally controlled weeds.

Penalty: \$300

39. *Animal Litter*

The owner or person in charge of an animal must immediately collect and remove all of the excrement left by the animal on a Council road or Council land in a residential, commercial or industrial area or in a public place.

Penalty: \$200

40. *Burning of Materials*

A person must not burn the following substances-

- (a) plastic;
- (b) waste petroleum oil or any waste containing petroleum oil;
- (c) paints or empty paint containers;
- (d) pressurised cans;
- (e) textile fabrics;
- (f) food waste; and
- (g) any other noxious material

Penalty: \$300

41. *Nuisance Noise*

- (1) A person must take all necessary steps to prevent any objectionable noise occurring from any activity or use that is regulated or controlled by this Local Law.
- (2) In the case of private land, noise will be considered to be objectionable where it:
 - (a) occurs at unreasonable times; and/or
 - (b) adversely affects the comfort, convenience, quiet enjoyment or privacy of any other person living in the locality; and/ or
 - (c) results in at least two written complaints being received by the Council from people living on different properties.

Penalty: \$400

42. *Behaviour on Council land*

A person on Council land must not behave in a manner which is boisterous or harmful and which would cause interference with the quiet enjoyment by any other person using the Council land by:

- (a) using language or behaving in a manner which is indecent, offensive or abusive and which annoys, disturbs, interrupts, molests or obstructs any person's enjoyment of a public place; or
- (b) acting in a way which endangers any person; or
- (c) damaging, destroying, removing or interfering with anything in or on any building, improvement or other structure of any kind; or

- (d) using any life saving or fire fighting device unless during an emergency or with the approval of a person in charge or an authorised officer; or
- (e) acting contrary to any conditions or signs that contain conditions that apply to the use of the Council land or contrary to any direction of any authorised officer; or
- (f) riding, driving or parking any vehicle, bicycle, skateboard, roller blade or other conveyance on any footpath in the commercial area unless that form of conveyance is being used as a conveyance by a disabled person.

Penalty: \$200

43. Consumption of alcohol

Except where premises are licensed or are authorised premises under the **Liquor Control Reform Act 1998** or where the Council has granted an exemption or a permit, a person must not consume any liquor or have in his or her possession any liquor in an open container-

- (a) on a road in a residential area or commercial area; or
- (b) in areas or in vehicles in areas designated by the Council; and
- (c) at times designated by the Council.

Penalty: \$200

44. Parking

(1) A person must not leave any vehicle standing in any parking area (whether unattended or not) on any day and during the hours fixed in relation to that parking area:

- (a) contrary to any condition associated with the parking area;
- (b) without having paid the appropriate fee;
- (c) at an expired parking meter or without having paid the fee for the meter;
- (d) without displaying a valid ticket issued by an authorised officer or by a ticket dispensing machine provided for the parking area on the vehicle.

Penalty: \$80

(2) A person must not remove, damage, tamper or interfere with any part of a parking meter or ticket dispensing machine.

Penalty: \$200

45. Shopping Trolleys

A person must not leave a shopping trolley anywhere other than in an area or at a collection point designated for the return of shopping trolleys.

Penalty: \$200

PART FIVE - ADMINISTRATION

DIVISION 1 - PERMITS, FEES AND DELEGATIONS

46. *Applying for a permit*

- (1) A person who wishes to apply for a permit may do so by:-
 - (a) lodging with the Council an application, in a form approved by the Council; and
 - (b) paying to the Council the appropriate application fee.
- (2) The Council may require an applicant to provide additional information before dealing with an application for a permit or for exemption.
- (3) The Council may require a person making an application for a permit to give public notice which will entitle any person to make a submission and to be heard in accordance with section 223 of the Act.

47. *Fees*

- (1) The Council may, from time to time, by resolution determine fees for the purposes of this Local Law.
- (2) In determining any fees and charges the Council may establish a system or structure of fees and charges, including a minimum or maximum fee or charge, if it considers it is appropriate to do so.
- (3) The Council may waive, reduce or alter a fee with or without conditions.

48. *Issue of permits*

The Council may:-

- (a) issue a permit, with or without conditions; or
- (b) refuse to issue a permit.

49. *Duration of permits*

- (1) A permit is in force until the expiry date indicated on the permit, unless it is cancelled before the expiry date.
- (2) If no expiry date is indicated on the permit, the permit expires on 30 June next after the day on which it is issued.

50. Conditional permits

- (1) A conditional permit may be issued subject to conditions which the Council considers to be appropriate in the circumstances including:
 - (a) the payment of a fee or charge; and
 - (b) the payment of a security deposit, bond or guarantee to the Council to secure the proper performance of conditions on a permit or to rectify any damage caused to Council assets as a result of the use or activity allowed by the permit; and
 - (c) a time limit to be applied either specifying the duration, commencement or completion date; and
 - (d) that the applicant be insured against the risk and to provide a written indemnification of the Council against liability arising from the activity or use; and
 - (e) the rectification, remedying or restoration of a situation or circumstance; and
 - (f) where the applicant is not the owner of the subject property, the consent of the owner; and
 - (g) the granting of some other permit or authorisation.
- (2) The conditions of a permit must be set out in the permit.
- (3) The Council may, during the currency of a permit, alter the conditions of a permit if it considers it to be appropriate to do so, after providing the permit holder with an opportunity to make comment on the proposed alteration.

51. Cancellation of permit

- (1) The Council may cancel a permit if it considers that:
 - (a) there has been a serious or ongoing breach of the conditions of the permit; or
 - (b) a notice to comply has been issued, but not complied with within 7 days after the time specified in the notice for compliance; or
 - (c) there was a significant error or misrepresentation in the application for the permit; or
 - (d) in the circumstances, the permit should be cancelled.
- (2) Before it cancels a permit, the Council must provide to the permit holder an opportunity to make comment on the proposed cancellation.

- (3) If a permit holder is not the owner of the land and the owner's consent was required to be given to the application for the permit, the owner must be notified of any notice to comply and of the reason why it has been served.

52. Correction of permits

- (1) The Council may correct a permit in relation to:-
 - (a) an unintentional error or an omission; or
 - (b) an evident material miscalculation or an evident material mistake of description of a person, thing or property.
- (2) The Council must notify a permit holder in writing of any correction.
- (3) If the 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 correction to a permit.

53. Registers

- (1) The Council must maintain a record of permits, including details of corrections and cancellations.
- (2) The Council must maintain a register of determinations made and of guidelines or procedures prepared for the purposes of this Local Law.
- (3) The Council must ensure that the registers are available for public inspection at the office of the Council during normal business hours.

54. Exemptions

- (1) The Council may by written notice exempt any person or class of persons from the requirement to have a permit, either generally or at specified times.
- (2) An exemption may be granted subject to conditions.
- (3) A person must comply with the conditions of an exemption.
- (4) An exemption may be cancelled or corrected as if it were a permit.
- (5) The Council may exempt any person from the requirement to obtain a permit for the grazing of livestock during the period 1 October to 15 December each year if the grazing is part of a municipal fire prevention program approved by the Council.

55. Offences

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.

Penalty: \$1,000

DIVISION 2 - ENFORCEMENT

56. *Compliance with directions*

A person must comply with any reasonable direction or instruction of an authorised officer, member of the Police Force or member of an emergency service when requested to do so whether or not the person has a permit under this Local Law.

Penalty: \$500

57. *Warning to offenders*

Where there is a breach of this Local Law an authorised officer may request the person breaching the Local Law to stop or remedy the breach.

58. *Power of authorised officer – notice to comply*

Where there is a breach of this Local Law, an authorised officer may serve a notice to comply on the person who is breaching the Local Law in the form of Schedule 1.

59. *Time to Comply*

- (1) A notice to comply must state the time and date by which the situation must be remedied.
- (2) The time required by a notice to comply must be reasonable in the circumstances having regard to:
 - (a) the amount of work involved; and
 - (b) the degree of difficulty; and
 - (c) the availability of necessary materials or other necessary items; and
 - (d) climatic conditions; and
 - (e) the degree of risk or potential risk; and
 - (f) any other relevant factor.

60. *Failure to comply with a notice to comply*

- (1) A person who fails to comply with a notice to comply served on that person is guilty of an offence.

Penalty: \$500

- (2) Where a notice to comply requiring works to be undertaken is not complied with an authorised officer may carry out the works to ensure compliance and may recover the costs incurred.

61. Power of authorised officers to act in urgent circumstances

- (1) In urgent circumstances arising as a result of a failure to comply with this Local Law, an authorised officer may take action to remove, remedy or rectify a situation without first serving a notice to comply if:
 - (a) the authorised officer considers the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a notice, may place a person, animal, property or thing at risk or in danger; and
 - (b) wherever practicable, a senior officer is given prior notice of the proposed action.
- (2) In deciding whether circumstances are urgent, an authorised officer must take into consideration, to the extent relevant:
 - (a) whether it is practicable to contact:-
 - (i) the person by whose default, permission or sufferance the situation has arisen; or
 - (ii) the owner or the occupier of the premises or property affected; and
 - (b) whether there is an urgent risk or threat to public health; public safety, the environment or animal welfare.
- (3) The action taken by an authorised officer under sub-clause (1) must not extend beyond what is necessary to cause the immediate abatement of or minimise the risk or danger involved.
- (4) An authorised officer who takes action under sub-clause (1) must ensure that, as soon as practicable:
 - (a) details of the circumstances and remedying action are forwarded to the person on whose behalf the action was taken; and
 - (b) a report of the action taken is submitted to the Chief Executive Officer or member of Council staff nominated by the Chief Executive Officer.

62. Power of authorised officers to impound

- (1) Where any items, goods and equipment are used in contravention of this Local Law an authorised officer may remove and impound them.

- (2) If an authorised officer has impounded anything in accordance with this Local Law, the Council may refuse to release it until the appropriate fee or charge for its release has been paid to the Council.
- (3) The Council may, by resolution, fix charges (generally or specifically) for the purposes of this clause.
- (4) As soon as it is reasonably practicable to do so, the authorised officer must serve written notice on the owner or person responsible for the item which has been impounded setting out the fees and charges payable and time by which the item must be retrieved.
- (5) If after the time required in a notice of impounding an impounded item is not retrieved, an authorised officer may take action to dispose of the impounded item according to the following principles:
 - (a) where the item has no saleable value, it may be disposed of in the most economical way; and
 - (b) where the item has some saleable value the item may be disposed of either by tender, public auction or private sale but failing sale may be treated as in paragraph (a).
- (6) When the identity or whereabouts of the owner or person responsible for the impounded item is unknown, the authorised officer must take reasonable steps to ascertain the identity or whereabouts of that person and may proceed to dispose of the impounded item in accordance with sub-clause (5) once he or she is satisfied that all reasonable efforts have been made to contact the owner or person responsible for the impounded item.
- (7) Any proceeds from the disposal of impounded items under this Local Law must be paid to the owner or to the person who, in the opinion of the Council, appears to be authorised to receive the money except for the reasonable costs incurred by the Council in the administration of this Local Law.
- (8) If a person described in sub-clause (7) cannot be identified or located within six months after the date of the notice of impounding, any proceeds of the sale cease to be payable to that person, and may be retained by the Council for municipal purposes.

63. *Infringement Notices*

- (1) An authorised officer may issue an infringement notice in the form of the notice in Schedule 2.
- (2) The fixed penalty in respect of an infringement is the amount set out in Schedule 3.

64. *Payment of Penalty*

- (1) A person issued with an infringement notice may pay the penalty amount to the Wangaratta Rural City Council at the address indicated in the notice.
- (2) To avoid prosecution, the penalty indicated must be paid within 28 days after the day on which the infringement notice is issued.
- (3) A person issued with an infringement notice is entitled to disregard the notice and defend the prosecution in court.

65. Waiver and withdrawal

- (1) Within 28 days of receiving an infringement notice a person may make a written request to the Council that the infringement notice be withdrawn.
- (2) An authorised officer may at any time withdraw an infringement notice either as a result of the consideration of a written representation received or with a view to prosecuting for an offence.
- (3) Where an infringement notice is withdrawn, the person upon whom it was served is entitled to a refund of any payment which that person has made.

WANGARATTA RURAL CITY COUNCIL
COMMUNITY AMENITY (AMENDMENT) LOCAL LAW

SCHEDULE 1

NOTICE TO COMPLY

To:
(name)

.....
(address)

The following constituted a breach under the provision(s).....of the Council's
Community Amenity (Amendment) Local Law. To remedy this breach you must carry
out the following work within.....days from the date of this Notice.

Breach:.....

Work to be carried out:

.....
.....
.....
.....

You should contact.....(contact officer) at the Council
offices between the hours of.....and.....for further information about this
Notice.

If you fail to comply with this Notice you will be guilty of an offence and liable for the
payment of a penalty of \$.....for the offence. If you do not remedy the breach the
authorised officer may carry out the work and you will be liable for the cost of the work in
addition to the above penalty.

Date :

Name of authorised officer :

Phone number/contact details of Authorised Officer

Note: If this Notice relates to a contravention of a permit or a condition of the permit
and there is failure to comply with this Notice, the permit may be cancelled. If
you do not wish to have the permit cancelled you should comply with this Notice
or write to the Council about why the permit should not be cancelled.

**WANGARATTA RURAL CITY COUNCIL
COMMUNITY AMENITY (AMENDMENT) LOCAL LAW**

SCHEDULE 2

INFRINGEMENT NOTICE

Date:

To: (name and address)

I, (name of authorised officer) have reason to believe that you have committed an offence against the ***Community Amenity (Amendment) Local Law*** of the Wangaratta Rural City Council as indicated below:

Date	Time	Clause of Local Law	Penalty
Description of offence			
Location of offence			

You are entitled to disregard this notice and defend the prosecution for an offence in Court.

Wangaratta Rural City Council
64-68 Ovens Street
Wangaratta VICTORIA 3677

WANGARATTA RURAL CITY COUNCIL COMMUNITY AMENITY (AMENDMENT) LOCAL LAW

SCHEDULE 3

PENALTIES FIXED FOR INFRINGEMENTS

Provision	Offence	Penalty \$
7(2)	Failing to obtain a permit	250
7(3)	Failing to comply with conditions or limitations	250
24	Allowing trees, plants or signs to obstruct or interfere with traffic	100
25	Failing to properly display property numbers	100
26	Failing to maintain a properly constructed vehicle crossing	150
27	Failing to remove a redundant vehicle crossing	150
28	Failing to comply with movement of livestock requirements	150
29	Failing to provide adequate fencing	150
30	Animal housing contrary to Local Law	100
31(1)	Disposal of waste contrary to Local Law	100
31(2)	Interfering with waste contrary to Local Law	150
32	Using scareguns contrary to Local Law	100
33	Using floodlighting contrary to Local Law	100
34	Trading from an unavailable site	100
35	Repairing and maintaining vehicles on a road	250
36	Damaging Council roads or land	250
37	Damaging Council roads or land from adjoining property	250
38	Dangerous or unsightly land	150
39	Failure to remove animal litter	100
40	Burning prohibited materials	150
41	Creating nuisance noise	200
42	Behaving on Council roads or land contrary to Local Law	100
43	Consumption of alcohol contrary to Local Law	100
44(1) (a)	Parking contrary to a condition in a parking area	40
44(1) (b)	Parking without paying the appropriate fee	40
44(1) (c)	Parking at an expired meter	40
44(1) (d)	Parking without displaying valid ticket	40
44(2)	Removing, damaging, or interfering with parking meters or ticket dispensers	100
45	Leaving shopping trolleys contrary to Local Law	100
55	Making false representation or omission of relevant information in application for a permit or exemption	500
56	Failing to comply with directions	250
60	Failing to comply with a notice to comply	250

Wangaratta Rural City Council
Community Amenity (Amendment) Local Law
Local Law No. 1 of 2008

I certify that this is a true copy of a Local Law made by the Wangaratta Rural City Council on 20 May 2008 in accordance with the requirements of section 119 of the Local Government Act 1989 (the Act).

The notices required to be given by section 119(2) of the Act were given in "The Chronicle" newspaper on 18 April 2008 and in the Government Gazette No. G16 on 17 April 2008 at page No. 746.

The notices required to be given by section 119(3) of the Act were given in "The Chronicle" newspaper on 23 May 2008 and in the Government Gazette No. G 21 on 22 May 2008 at page No. 1083.

A copy of the Local Law was sent to the Minister for Local Government on 10 June 2008

The Local Law is operative from 1 June 2008 and will expire on 1 June 2018 being the day 10 years after the day on which it came into operation.

.....
Doug Sharp
CHIEF EXECUTIVE OFFICER