



RURAL CITY OF
WANGARATTA

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LOCAL LAW NO. 1 OF 2014

COMMUNITY AMENITY (AMENDMENT)

Adopted by Council on 16 September 2014

COMMUNITY AMENITY (AMENDMENT) LOCAL LAW NO. 1 OF 2014

Note: This Local Law needs to be read in conjunction with any other relevant provisions in Council's *Community Amenity Local Law No. 1 - Local Laws Policies*.

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PART ONE - PRELIMINARY PROVISIONS

1. Title

This is the ***Community Amenity (Amendment) Local Law No. 1 of 2014.***

2. Purpose

The purpose of this Local Law is to provide for the peace order and good governance 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) is directed at maintaining a healthy and safe environment for residents and visitors;
 - (c) promotes community expectations and manages demands about the community's desired lifestyle and the availability of goods and services provided to them;
- (3) identifies activities and uses that are not permitted so as to achieve the purposes in sub-clauses (1) and (2); and
- (4) provide for the administration of the Council's powers and functions.

3. Authorising Provision

The Council's power to make this Local Law is contained in section 111 (1) of the Local Government Act 1989 and section 42 of the Domestic Animals Act 1994.

4. Commencement, Revocation and Area Of Operation

This Local Law:

- (a) commences on 16 September 2014; and
- (b) operates throughout the whole municipal district; and
- (c) unless earlier revoked, ceases to operate 10 years after the date on which it is made.

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) (Amendment) Local Law No. 1 of 2008.

6. Interpretation of this Local Law

In this Local Law, unless the contrary intention appears:

- (a) a reference to a clause is a reference to a clause in this Local Law;
- (b) a reference to a sub-clause is a reference to a sub-clause of the clause in which the reference is made;
- (c) a reference to a paragraph is a reference to a paragraph of the sub-clause in which the reference is made;
- (d) a reference to a Schedule or Part is a reference to a Schedule or Part of this Local Law;
- (e) a reference to one gender includes a reference to each other gender; and
- (f) a reference to the singular is also a reference to the plural.

7. Conflict with Other Legislation

This Community Local Law does not apply where any act or thing is authorised by or under any legislative instrument or Planning Scheme.

8. **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.
“asset protection permit”	means a written permit issued by Council for the protection of public assets and infrastructure during building work.
“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.
“building works”	means work over the value of \$10,000 for, or in connection with, the construction, renovation and alteration of buildings. This also includes the relocation or removal of a building and/or structure regardless of the value.
“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 commercial zone provided under the Wangaratta Planning Scheme. Includes all businesses within a Mixed Use Zone plus all properties zoned as Commercial 1 and Commercial 2 Zone.
“construction work”	means building or earthworks for which no Building Permit may be required
“Council”	means Rural City of Wangaratta 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.

“charity donation bin”	means a container designed to receive used clothing and other household items for reuse or resale by a registered charity.
"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 VicRoads to be: <ul style="list-style-type: none"> (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 the Road Management Act 2004 .
“designated camping area”	means land designated for the specific use of camping by Council resolution and delineated by signage OR land which has been registered with Council as a caravan park.
"display of goods"	means a table or any other structure used for the purpose of and including the display of goods for sale. This may include a selection of goods, e.g. flowers, plants, planters, pots, shrubs placed on the footpath.
“droving of livestock”	means a person or persons 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.
“heavy vehicle”	means a vehicle with a GVM of 4.5 tonnes or more.

“incinerator”	means a structure or device that is not enclosed in a building which is: <ul 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 and zoned as Industrial 1 Zone.
“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”	has the same meaning as in Section 3 of the Liquor Control Reform Act 1998 .
“livestock”	has the same meaning as in Section 3 of the Impounding of Livestock Act 1994 .
“motor home”	means any vehicle designed for temporary accommodation purposes including campervans and recreational vehicles.
“municipal place”	means land, excluding a road, which is owned, occupied, managed or controlled by Council;
“penalty unit”	the amount fixed with respect to a financial year by the Treasurer by notice published in the Government Gazette under the Monetary Units Act 2004 .
“permit”	in relation to an activity, means a permit issued under this Local Law which authorises that activity.
“planning scheme”	means the Wangaratta Planning Scheme operating in the Rural City of Wangaratta Council that is made under the Planning and Environment Act 1987 .
“public place”	has the same meaning as in Section 3 of the Summary Offences Act 1966 .

“recreational vehicle”	includes any mini bike, trail bike, quad 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 and zoned Residential 1, General Residential Zone, Neighbourhood Residential Zone, Residential Growth Zone, Low Density Residential Zone, Township Zone and Rural Living Zone.
“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 .
“unreasonable times”	for the purposes of a “nuisance offence”, unreasonable times are the hours between 8 pm and 7 am on weekdays and 8 pm and 9 am on weekends.
“unsightly land”	is the aggregation or accumulation of any object or material on the premises that is unsightly when viewed from any point outside the premises. This includes property, a building or a structure: <ul style="list-style-type: none"> • that is in a ruinous or dilapidated condition; or • the condition of which seriously depreciates the value of land or buildings in the vicinity; or • that is in such a state of non-repair as to be no longer suitable for human habitation or business purposes; or • that is an allurements to children who may play there to their danger; or • that is unsightly in relation to neighbouring properties because the exterior finish of the building or structure is not maintained; or • that is a fire hazard to itself or to surrounding lands or buildings; or • that has been excavated or had fill placed on it in a manner that results in a hazard

PART TWO – ACTIVITIES AND USES REQUIRING A PERMIT

9. 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 second hand goods and machinery;
 - (c) droving or grazing livestock;
 - (d) camping on Council roads, Council land and private land;
 - (e) itinerant trading;
 - (f) keeping excess numbers of animals;
 - (g) connecting into Council drains;
 - (h) street appeals, busking and street stalls;
 - (i) lighting incinerators and open air burning in a residential, commercial or industrial area;
 - (j) placing obstructions on Council roads and roadsides;
 - (k) installing or operating rubbish hoppers and charity recycling bins;
 - (l) planting any vegetation or trees on road sides or nature strips;
 - (m) using recreational vehicles;
 - (n) using footpaths for activities;
 - (o) conducting exercise and/or personal training in public parks where a fee is for the service paid
 - (p) advertising vehicles for sale on Council managed roads, car park areas or municipal places
 - (q) cutting, collecting, gathering or storing firewood on a road, roadside, municipal place or Council depot.
- (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: 2 Penalty Units

- (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 business or activity.

Penalty: 2 Penalty Units

- (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) conform with the requirements of the Commonwealth **Disability Discrimination Act 1992** in which a minimum width passage must be provided for pedestrians and that in a retail shopping strip the guidance line for visually impaired pedestrians must be the building line as opposed to any other line marked on the footpath;
 - (c) cause a danger or hazard to pedestrians or vehicles;
 - (d) disturb, annoy or disrupt adjacent property owners or occupiers;
 - (e) be detrimental to the amenity of the area;
 - (f) destroy native vegetation on roads or Council land;
 - (g) cause damage to Council assets;
 - (h) require the consent or should be referred to obtain the opinion of any other public authority or individual;
 - (i) require additional arrangements to be made for waste water disposal, litter and garbage disposal, lighting and security;
 - (j) obstruct a footpath so that it will not be possible to maintain a clear walkway of at least 2 metres at all times;
 - (k) necessitate the applicant to have insurance against any risk;
 - (l) necessitate a written indemnification of the Council against liability arising from activities authorised by the permit; and
 - (m) any other matters relevant to the circumstances of the application.

10. Storage of Machinery and Second Hand Goods

The requirement to obtain a permit to store second hand goods applies in residential and commercial areas for the storage of used materials. The storage of machinery and/or vehicles to be broken down or dismantled in some locations is prohibited.

11. Droving of Livestock

- 1) An application for a permit for the droving of livestock must be made at least 7 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 Community Amenity Local Law No. 1 - Local Laws Policies are observed.

12. 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 *Community Amenity Local Law No. 1 - Local Laws Policies* are observed.

13. Camping and Temporary Dwellings

This clause does not apply to dependent persons accommodation that has been authorized by other legislation such as planning approval from council.

- 1) A person must not, without a permit, camp in any municipal place in a caravan, tent, motor home or any other temporary dwelling unless it is in a designated camping area.
- 2) A person must not, without a permit, place for accommodation on any private land any caravan, tent, motor home or any other temporary dwelling unless all of the following conditions are met:
 - (a) There is a dwelling on the land;
 - (b) The occupation does not exceed 28 days;
 - (c) No rent, licence fee or charge is paid by any person in respect to the occupation;
 - (d) The toilet, bathing and laundry facilities provided in the dwelling are made available without charge to the occupant/s of the caravan, tent, motor home or any other temporary dwelling;
 - (e) Waste water from the caravan, tent, motor home or any other temporary dwelling does not cause a nuisance or an offensive condition; and

- (f) The caravan, tent, motor home or temporary dwelling is not within a distance of 6 metres of the frontage of the property or within 1.2 metres of any boundary of the dwelling and not more than 20 metres from the dwelling, and no closer than 30 metres to a watercourse.
- 3) A person must not, without a permit, store on any land a temporary dwelling unless there is a dwelling on the land or
- (a) The caravan, motor home or tent is not set up for the ready use of overnight accommodation;
 - (b) An annex is not attached to the caravan or mobile home; and
 - (c) The caravan, motor home or tent is not within 6 metres of the front of the land.
- 4) A person must not dispose of the contents of any chemical toilet other than at a site or facility approved by Council.

14. 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.

Itinerant traders must not:

- (a) trade within 300 metres of an established permanent business that is selling the same or a similar product
- (b) trade within 500 metres of a Council approved festival without holding the appropriate permit or authorisation for that festival approved by Council
- (c) restrict the flow of pedestrian traffic
- (d) interfere with entry to or exit from any building or driveways
- (e) obstruct any footway or roadway

Penalty: 2 Penalty Units

15. Itinerant Trading from House to House

The requirement to obtain a permit under clause 14 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, welfare or charity based organisation, cultural or recreational facility or organisation which is established within the municipal district.

16. 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 *Community Amenity Local Law No. 1 - Local Laws Policies* applies in a residential area and a commercial area and:
 - (a) where the numbers of animals to be kept exceeds the numbers specified in the Council's *Community Amenity Local Law No. 1 - Local Laws Policies*; or
 - (b) where the animal proposed to be kept is not specifically mentioned in the Council's *Community Amenity Local Law No. 1 - Local Laws Policies*.

17. Connecting into Council Drains

The requirement to obtain a permit to connect to 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.

18. 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.

19. 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, commercial or industrial area but does not apply to a barbeque or tools of trade being used for the purpose for which they are designed.

20. 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.

21. 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 or adjacent to a Council road or Council land.

22. 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 property in a residential area. The use of recreational vehicles must also comply with clause 44 (Nuisance Noise) of Council's *Community Amenity (Amendment) Local Law No. 1*.

23. Using Footpaths

Where a person uses a footpath to provide outdoor eating facilities or for the display of goods or for the placing of free standing advertising signs the requirements in the Council's *Community Amenity Local Law No. 1 - Local Laws Policies* must be complied with.

24. Conducting Exercise and/or Personal Training In Public Parks

The requirement to obtain a permit to conduct exercise and/or personal training in public parks applies where a fee is charged for the service. The cost of the permit is determined by the *Tour Operator Licence Fee Regulations* as published by the Department of Environment & Primary Industries.

PART THREE – CONDITIONAL ACTIVITIES AND USES

ACTIVITIES AND USES TO COMPLY

25. Observing Requirements

- (1) A person must comply with the requirements applied in this Local Law in relation 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 other scare devices; 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.

26. 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) (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) constitutes 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: 2 Penalty Units

27. *Display of Property Numbers*

Where allocated, property numbers must be displayed in such a manner as to ensure that numbers can be clearly read under all normal lighting conditions from the road immediately adjacent to the most likely point of entry to a property.

Penalty: 2 Penalty Units

28. *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: 2 Penalty Units

29. *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: 2 Penalty Units

30. *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 *Community Amenity Local Law No. 1 - Local Laws Policies*.

Penalty: 2 Penalty Units

31. 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: 2 Penalty Units

32. Keeping of Animals

- (1) Animals kept in residential, commercial or industrial areas must be contained in a way such that:
 - (a) an acceptable number of animals to be kept as specified in the Council's *Community Amenity Local Law No. 1 - Local Laws Policies*; and
 - (b) housing is adequate and appropriate for the type and numbers of animals being housed; and
 - (i) maintained in a sanitary and inoffensive condition; and
 - (ii) protects adjoining properties from animal noise; and
 - (iii) in accordance with animal welfare standards
- (2) Animal housing must be sited on a property so that it complies with the requirements in the Council's *Community Amenity Local Law No. 1 - Local Laws Policies*.

Penalty: 2 Penalty Units

33. Control of Cats

The owner of any cat must confine the cat to the owner's property, either within the dwelling or within another escape proof building between the hours of sunset and sunrise.

Penalty: First Offence: 1 penalty unit; Subsequent Offences: 2 Penalty Units

34. Prohibition of Animals in a Public Place

Council may place restrictions or prohibitions on all animals, or any class of animals, from any public place during public events or any other time deemed appropriate by Council. Any restriction or prohibition must be advertised in a newspaper generally circulating in the municipality.

Penalty: 2 Penalty Units

35. 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 *Community Amenity Local Law No. 1 - Local Laws Policies*.

Penalty: 2 Penalty Units

- (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: 2 Penalty Units

36. Using Scareguns

The operation of scareguns or similar bird control devices must comply with the requirements in the Council's *Community Amenity Local Law No. 1 - Local Laws Policies*.

Penalty: 2 Penalty Units

37. 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 height of 1.3m and a distance of 1.5m from 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: 2 Penalty Units

PART FOUR- ACTIVITIES AND USES NOT PERMITTED

38. *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: 2 Penalty Units

39. *Damaging a Road, Roadside, Municipal Place or Council Depot*

A person must not behave in such a way that will cause, or in the Authorised Officer's opinion may cause, damage to a road, roadside, municipal place or Council depot.

Penalty: 2 Penalty Units

40. *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: 4 Penalty Units

41. *Dangerous and Unsightly Land*

An owner or occupier of land must ensure that the land and any structure on the land:

- (a) does not constitute a danger to health or property;
- (b) does not constitute a fire hazard;
- (c) does not contain grass or weeds in excess of 150 mm in height;

- (d) is not unsightly, or detrimental to the general amenity of adjoining land or the neighborhood due to:
 - (i) storage of unregistered motor vehicles;
 - (ii) storage of machinery or any parts of them;
 - (iii) storage of scrap metal;
 - (iv) storage of second-hand timber, or building materials;
 - (v) waste material;
 - (vi) soil or similar materials; or
 - (vii) overgrown vegetation.
- (e) is kept free of any graffiti;
- (f) is not used in any manner that may cause a nuisance or become detrimental to the amenity of the immediate area.

Penalty: 2 Penalty Units

42. *Effective Animal Control*

A person in charge of a dog on a road or in a municipal place must:

- (1) not allow the excrement of the dog to remain on that road or in that municipal place;
- (2) carry a device suitable for the removal of any excrement that may be deposited by the dog;
- (3) produce the device on demand by an authorised officer.
- (4) have the animal secured by chain, cord or leash unless in a designated Off-Leash area

Penalty: 2 Penalty Units

43. *Burning of Materials*

A person must not burn the following substances anywhere within the municipality-

- (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) rubber;
- (g) food waste;
- (h) illegal substances; or
- (i) any other noxious material

Penalty: 2 Penalty Units

44. *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) A person must not breach the noise control guidelines or environmental protection policy or policies on noise abatement of the Environment Protection Authority of Victoria (whether such guidelines or policy are mandatory or advisory and whether a breach of them could result in a pollution abatement notice being issued under Section 31A of the Environment Protection Act 1970 or otherwise).
- (3) 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: 2 Penalty Units

45. 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 lifesaving or firefighting 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: 2 Penalty Units

46. 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 a permit, an exemption, designated an area or prescribed times, a person must not consume or have in his or her possession any liquor in an open container-

- (a) On a road, pathway, carriageway, easement, park or any other land which is owned, occupied or managed by Council or is a municipal place

Penalty: 2 Penalty Units

47. Prohibition on Smoking

(1) A person must not smoke

(a) Within 10 metres of the entrance to a building on Council Land

(b) Within 10 metres of a building on a reserve located on Council Land

(c) In areas designated as a Smoke Free Area by Council

This clause does not apply in designated smoking areas.

(2) Where an authorised officer believes on reasonable grounds that a person is contravening or has contravened clause 47(1) of this local law the authorized officer may direct the person to extinguish and then dispose of the tobacco product.

Penalty: 2 Penalty Units

48. 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: Up to 2 Penalty Units

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

Penalty: Up to 2 Penalty Units

(3) The owner or driver of a Heavy Vehicle must not, without a permit, park or allow the Heavy Vehicle to be parked, kept, stored or repaired in any residential area for a period longer than 1 hour.

Penalty: 2 Penalty Units

49. *Repairing Vehicles, Abandoned and Derelict Vehicles*

- (1) A person must not leave a vehicle stopped on or in a road, a parking area or any land vested in Council which:
- (a) is causing an unlawful obstruction; or
 - (b) is unregistered; or
 - (c) is registered and has been left standing for at least seven (7) consecutive days and has, in the opinion of an authorised officer, been abandoned; or
 - (d) is adversely affecting the amenity of the area in which the road, parking area or land is located.

Penalty: 3 penalty units plus vehicle removal and/or storage costs

- (2) A person must not dismantle, paint, carry out maintenance or repair a vehicle on a Council road or land.

Penalty: 3 Penalty Units

If an authorised officer finds a vehicle which has been left standing in contravention of clause 48(1), the Officer may remove the vehicle from the road, parking area or land vested in Council, and take it to a place appointed by Council. Council may release a vehicle to a person upon:

- (a) being satisfied that the person is the owner or an agent of the owner of the vehicle; and;
- (b) payment of any fee fixed by Council.

If, after 30 days of a vehicle having been taken to an appointed place, the vehicle has not been released, Council may:

- (a) cause the vehicle to be delivered to a municipal tip;
- (b) sell the vehicle by auction or public tender; or
- (c) dispose of the vehicle as it sees fit.

50. *Shopping Trolleys*

A person must not leave a shopping trolley unattended other than in an area or at a collection point designated for the return of shopping trolleys. If not collected by the owner once requested by an authorized officer, shopping trolleys will be impounded for a period of one (1) month and subsequently disposed of.

Penalty: 2 Penalty Units

51. Vehicle Crossings and Temporary Vehicle Crossings

- (1) The owner of land must ensure that at each point of vehicular access from a carriageway on a road to the land there is a properly constructed driveway that is constructed in accordance with the specified Council standard.
- (2) A person must not cause or allow, or drive a motor vehicle from or onto land other than by an approved driveway.
- (3) A person must not, without a permit, construct a temporary or permanent driveway, except that a permit is not required under this sub-clause in respect of any temporary driveway that is required under an Asset Protection Permit issued under section 53.
- (4) An Authorised Officer may serve a Notice to Comply on the owner and or occupier of land requiring the repair, removal or replacement of a driveway

52. Building Work

- (1) A person in charge of building works must not without an Asset Protection Permit undertake any building work unless the building site has:
 - (a) toilet facilities;
 - (b) a refuse facility/ies of sufficient size to cater for all refuse generated by the building works;
a single stabilised and maintained vehicle crossing approved by Council in accordance with Clause 51; and
 - (c) an approved erosion and sediment control plan in accordance with the Erosion & Sediment Control Guidelines for Building Sites Policy, the Protection of Council's Assets & Infrastructure Policy, to the satisfaction of an Authorised Officer.
- (2) A person in charge of building work must:
 - (a) undertake all building work on the building site;
 - (b) store all building related material on the building site;
 - (c) place all litter capable of being blown from the building site into an approved refuse facility on the site;
 - (d) prevent any sediment or erosion or other site run off from leaving the building site;
 - (e) store all building waste on the building site in an approved location;
 - (f) not allow any dust or air pollutants to escape from a building site so as to adversely affect the amenity of the area; and
 - (g) ensure vehicle access to the building site is via an approved vehicle crossing only.
- (3) Waste produced as a result of building work on a building site must be disposed of by the person in charge of the building work in a waste container, recycled or other approved method.

- (4) A person in charge of building work must not allow any vehicle to deposit any mud, sediment, slurry or similar material from the building site in any public or municipal place or road.
- (5) A person in charge of building work must not allow any building work to impede vehicular or pedestrian traffic.
- (6) A person in charge of building work must not allow any camping on a building site.
- (7) A person in charge of building work must not allow a building site to become unsightly.

Penalty: 4 Penalty Units

53. Asset Protection Permits

- 1) For the protection of Council assets wherever they are requiring protection, or if there is potential danger to the safety of persons on, adjacent to, opposite, or passing a building or construction site, the owner, builder or appointed agent must obtain an Asset Protection Permit prior to carrying out any building work, or allowing any building or construction work to be carried out, on that land, where the following asset categories exist:
 - (a) Constructed footpath or walkways
 - (b) Kerb and channel
 - (c) Storm water drains and pits
 - (d) Formed and or constructed vehicle crossingsFormed urban nature strips including street trees and street gnage
- 2) The Asset Protection Permit may be subject to such conditions as determined by Council or an authorised officer which may require:
 - (a) asset and environment protection works to be done;
 - (b) payment of a security bond;
 - (c) erection of temporary fencing;
 - (d) repair, replacement or reinstatement of any or all Council assets damage;
 - (e) installation of any temporary vehicle crossing before the commencement of any building works or delivery of any materials to the land;

- (f) excavation, demolition, construction, replacement and reinstatement standards to be met;
- (g) the fixing of timeframes for the commencement and completion of any excavation, demolition, construction, replacement and reinstatement works; and
- (h) the carrying out of any works to minimise public risk.

54. Security Bond

- (1) The amount of any security bond required under clause 53(2)(ii) must be proportionate to the likely costs of repairing any potential damage to any Council asset arising from the building works.
- (2) Where Council so determines, it may accept an alternative form of security to a security bond.
- (3) Upon completion of the building works and subject to inspection by Council, the amount of the security bond, in full or in part:
 - (a) may be retained by Council in full or in part to offset the costs of repairing any damage or replacing any Council asset damaged, destroyed or removed; or
 - (b) may be refunded to the person who lodged it, upon Council's satisfaction that no damage has been caused, or that any damage caused has been repaired by, or on behalf of that person to Council's satisfaction.

PART FIVE - ADMINISTRATION

PERMITS, FEES AND DELEGATIONS

55. *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 where applicable.
- (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 the Local Government Act 1989 section 223. .

56. *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.
- (4) The Council may waive, reduce or alter a fee with or without conditions.

57. *Issue of Permits*

The Council may:-

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

58. *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 twelve months after the day on which it is issued.

59. 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 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.

60. 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.

61. 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.

The Council must notify a permit holder in writing of any correction.

- (2) 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.

62. Registers and Records

- (1) The Council must maintain a register 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.

63. 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.

64. 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: 8 Penalty Units

ENFORCEMENT

65. 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: 4 Penalty Units

66. 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. Should this not occur either a formal Caution or Notice to Comply may be issued.

67. 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.

68. 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.

69. 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: 4 Penalty Units

- (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.

70. 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 in writing, 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.

71. 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.

72. *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.

73. *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.

74. 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 section XX of Council's ***Community Amenity (Amendment) Local Law of 2014***. 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:

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

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.

FIXED PENALTIES FOR INFRINGEMENTS

Note: A Penalty Unit for the 2013/2014 is \$144.36 as defined in the *Monetary Units Act 2004*.

Provision	Offence	Number of Penalty Units
9(2)	Failing to obtain a permit	2
9(3)	Failing to comply with conditions or limitations	2
14	Failure to obtain Itinerant Trading Permit or failing to abide with Permit Requirements	2
26	Allowing trees, plants or signs to obstruct or interfere with traffic	2
27	Failing to properly display property numbers	2
28	Failing to install or maintain a properly constructed vehicle crossing	2
29	Failing to remove a redundant vehicle crossing	2
30	Failing to comply with movement of livestock requirements	2
31	Failing to provide adequate fencing	2
32	Animal housing contrary to Local Law	2
33	Control of Cats <ul style="list-style-type: none"> • First Offence • Subsequent Offences 	1 2
34	Prohibition of animals in public places	2
35(1)	Disposal of waste contrary to Local Law	2
35(2)	Interfering with waste contrary to Local Law	2
36	Using scareguns or scare devices contrary to Local Law	2
37	Using floodlighting contrary to Local Law	2
38	Trading from an unavailable site	2
39	<i>Damaging a road, roadside, municipal place or Council Depot</i>	4
40	Cause Damage to an Adjoining Property	2
41	Dangerous or unsightly land	2
42	Fail to provide effective Animal Control	2

Provision	Offence	Number of Penalty Units
43	Burning of Materials	2
44	Creating Nuisance Noise	2
45	Behaving on Council roads or land contrary to Local Law	2
46	Consumption of alcohol contrary to Local Law	2
47	Smoking contrary to Local Law	2
48(1)(a)	Parking contrary to a condition in a parking area	Up to 2
48(1)(b)	Parking without paying the appropriate fee	Up to 2
48(1)(c)	Parking at an expired meter	Up to 2
48(1)(d)	Parking without displaying valid ticket	Up to 2
48(2)	Removing, damaging, or interfering with parking meters or ticket dispensers	Up to 2
48(3)	Park a Heavy Vehicle on residential property.	2
49(1)	Leave a vehicle stopped contrary to section 48(1)	3
49(2)	Maintain or repair a vehicle on a Council road	3
50	Leave a shopping trolley contrary to local law	2
52	Undertake building work or building site management contrary to Council requirements	4
64	Making false representation or omission of relevant information in application for a permit or exemption	8
65	Failing to comply with directions	4
69	Failing to comply with a notice to comply	4

Wangaratta Rural City Council
Community Amenity (Amendment) Local Law
Local Law No. 1 of 2014

I certify that this is a true copy of a Local Law made by the Wangaratta Rural City Council on 16 September 2014 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 of the Act were given in "The Chronicle" newspaper on 3 October 2014 and in the Government Gazette No. G40 on 2 October 2014 at page No. 2252.

A copy of the Local Law was sent to the Minister for Local Government on 2 October 2014.

The Local Law is operative from 17 September 2014 and will expire on 17 September 2024 being the day 10 years after the day on which it came into operation.

.....
Brendan McGrath
CHIEF EXECUTIVE OFFICER