BALLARAT CITY COUNCIL

COMMUNITY LOCAL LAW

LOCAL LAW NO. 15

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BALLARAT CITY COUNCIL

COMMUNITY LOCAL LAW

LOCAL LAW NO. 15

PART 1 PRELIMINARY

1.1 Title

This is Community Local Law No. 15 made by Ballarat City Council.

1.2 Purpose

The purposes of this Local Law are to:-

(a) provide for the peace, order and good government of the municipal district of the City of Ballarat;

(b) provide a safe and healthy environment, in which the residents of the municipality enjoy a quality of life that meets the general expectations of the community;

(c) control and regulate emissions to the air in order to improve the amenity, environment and quality of life in the municipality;

(d) ensure that the public can properly use and enjoy public reserves by regulating activities and behaviour in public reserves;

(e) prohibit, regulate and control the consumption of alcohol in designated areas within the municipality;

(f) manage, regulate and control the different uses to which roads, Council land and footpaths can be put to ensure that there is a proper balance between private uses and the need to maintain freedom of movement for the public; and

(g) manage, regulate and control the keeping of animals and birds.

1.3 Operation Date

This Local Law comes into operation on 1 January 2008.

1.4 Revocation Date

This Local Law ceases to operate on the 31 December 2017.

1.5 Repeal

Ballarat City Council Community Local Law No 5 (and Local Law Nos. 6, 7 and 9) are revoked on the date this Local Law comes into operation.

1.6 Definitions

Unless the contrary intention appears in this Local Law the following words are defined to mean:-

"Act" means the Local Government Act 1989.

"advertising sign" includes any board, notice, structure, banner or other similar device used for the purpose of soliciting sales or services or notifying people of the presence of an adjacent property where goods or services may be obtained.

"Aerodrome movement area" means that portion of the Ballarat Aerodrome defined in Schedule 2.

"agent of the owner or builder" means a person authorised in writing by the owner or builder to make an application, appeal, referral or representation on the owner's or builder's behalf in connection with building work.

"Authorised Officer" means any person appointed pursuant to section 224 of the Act.

"bin" means a receptacle for the storage of household refuse and rubbish as approved by the Council.

"commercial activity" includes the sale of goods or services, the use of Council land when that use forms part of a service being sold or provided for gain, the use of fixtures on Council land where the use of those fixtures forms part of a service being sold or provided for gain and the collection of abandoned goods for gain or reward but does not include the use of public roads or thoroughfares for the purpose of travelling from place to place.

"Council" means Ballarat City Council.

"Council land" means land owned by, vested in, leased by or otherwise occupied by the Council or under its management or control, and includes any building, structure or fence thereon and every sewer and drain vested in the Council by section 198 of the Act.

"Council sewer or drain" means any sewer or drain vested in the Council pursuant to section 198 of the Act.

"Dry area" means an area set aside by the Council in a Public Reserve wherein a person must not consume liquor.

"emergency service" includes ambulance, fire brigade, police or state emergency service.

"footpath" means any path that is provided for the use of pedestrians only or that is regularly used by pedestrians and not vehicles, or that is a segregated footway or a shared footway, and includes a "footpath" as defined in the Road Rules-Victoria 1999.

“land” includes buildings and other structures permanently affixed to land, land covered with water and any estate, interest, easement, servitude, privilege or right in or over land.

“liquor” means a beverage intended for human consumption with an alcohol content greater than 0.5% by volume at a temperature of 20^0 celsius.

“livestock” includes cattle, horses, sheep, pigs, goats and other animals used for the purposes of primary production.

"municipal district" means the municipal district of the Council.

“outdoor eating facility” means any table and or chairs located on a footpath at which food or drink is consumed.

“park” means a Public Reserve, or part of a Public Reserve that has been improved by the construction of a playing field, or contains playground equipment, or contains provision for cooking or other eating facilities or has established and maintained lawns and garden beds.

“penalty unit” means the amount prescribed by or under section 110 of the Sentencing Act 1991.

“permit” means a written permit issued pursuant to this Local Law and signed by an Authorised Officer.

“poultry” includes duck, goose, turkey, squab, guinea fowl and any other such birds.

“private land” means any land which is not public land.

“procession” means an organised group of people proceeding along a road or a gathering for a ceremony or function, and includes a fun run and bicycle event.

“public car park” means a car park vested in or under the management or control of the Council.

“public land” means any land vested in or under the management or control of the Council.

“Public Reserve” means any park, garden, lake, sporting or recreation ground or common owned by the Council or under its management or control, and includes any road, parking area, hall or other building located thereon.

"Public Swimming Pool" means a swimming pool which is operated by or on behalf of the Council, and includes the land on which the swimming pool is located.

“recreational vehicle” means any motorised bike, trail bike, motor bike, motor car, motor scooter, go-cart and other vehicle which is propelled by a motor and which is normally used for recreation.

“road” has the same meaning as “Road” in the Act.

"Rural Residential" means a zoning of Rural Living or Rural Conservation under the Ballarat Planning Scheme.

“sell” includes offer for sale.

“shopping trolley” means a wheeled container or receptacle supplied by a retailer for enabling customers to transport goods.

“street festival” means an organised recreational, cultural, commercial or social gathering of people that is held on a road.

“street party” means an organised social gathering of people from one or several adjacent roads that is held on a road.

“toy vehicle” means a vehicle, other than a bicycle, ordinarily used by a child at play and designed to be propelled by human power, and includes a child’s tricycle, scooter, roller blades, roller skates, and skate-boards and similar toy.

"Urban Residential" means a zoning of Residential 1, Low Density or Mixed Use under the Ballarat Planning Scheme.

“vehicle” has the same meaning as “vehicle” in the Road Rules - Victoria 1999.

PART 2 ANIMALS

2.1 Scope Of This Part

(a) Clauses 2.4, 2.5, 2.6, 2.7, 2.8 and 2.9 of this Part apply to the whole of the municipal district.

(b) Clauses 2.2 and 2.3 of this Part apply to the whole of the municipal district except where the provisions of any planning scheme in force within the municipal district allows for the keeping of a specific number of or type of animal or bird.

2.2 Keeping Of Animals

A person must not without a permit:-

(a) keep or allow to be kept more than 4 different types of animals on any Urban Residential land at any time; or

(b) keep or allow to be kept any more in number for each type of animal as is set out in the following table:-

	ANIMAL	URBAN RESIDENTIAL	RURAL RESIDENTIAL	RURAL
(a)	**Dogs**	**2**	**2**	**5 (other than dogs kept for working stock /primary production))**
(b)	**Cats**	**2**	**2**	**2**
(c)	**Fowls (excluding roosters)**	**5**	**20**	**No Local Law permit required**
(d)	**Roosters**	**0**	**0**	**No Local Law permit required**
(e)	**Pheasants**	**4**	**20**	**No Local Law permit required**
(f)	**Squabs**	**20**	**40**	**No Local Law permit required**
(g)	**Other poultry (including ducks, geese, turkey, guinea fowl or similar)**	**0**	**10**	**No Local Law permit required**
(h)	**Ostriches / emus / peacocks**	**0**	**0**	**No Local Law permit required**
(i)	**Cockatoos / galahs (caged)**	**0**	**2**	**No Local Law permit required**
(j)	**Sheep**	**0**	**5**	**No Local Law permit required**
(k)	**Goats**	**0**	**5**	**No Local Law permit required**
(l)	**Horses**	**0**	**1**	**No Local Law permit required**

	ANIMAL	URBAN RESIDENTIAL	RURAL RESIDENTIAL	RURAL
(m)	**Pigs**	**0**	**0**	**No Local Law permit required**
(n)	**Cows**	**0**	**1**	**No Local Law permit required**
(o)	**Other primary production animals**	**0**	**0**	**No Local Law permit required**

2.3 Progeny of Animals

For the purpose of calculating the maximum limit of the number of animals kept, the progeny of any dog or cat lawfully kept will be exempt for a period of 3 months after their birth, and the young of any sheep, goats, horses, cows or other primary production animals will be exempt for a period of 6 months after their birth.

2.4 Stables

A person must not, without a permit, construct a stable on any land:-

(a) within a distance of less than twenty (20) metres from any road to which such land has a frontage;

(b) within a distance of less than five (5) metres from any other road;

(c) within a distance of less than two (2) metres from the boundary of any adjoining land; or

(d) within a distance of less than ten (10) metres from any dwelling, whether erected on the same or an adjoining land.

2.5 Nuisances

For the purposes of this clause 2.5 "owner" shall have the same meaning as "owner" under the provisions of the Domestic (Feral and Nuisance) Animals Act 1994

(a) The owner or occupier of any land where any animal (other than a dog or cat) or bird is kept must ensure that the keeping of the animal (other than a dog or cat) or bird does not create a nuisance.

Penalty: 2 Penalty Units

(b) The owner or occupier of any land where any animal (other than a dog or cat) or bird is kept must ensure all animal and bird litter and refuse and rubbish associated with the keeping of the animal (other than a dog or cat) or bird are disposed of in such a manner so as not to create any nuisance.

Penalty: 2 Penalty Units

Please note that it is an offence under the Domestic (Feral and Nuisance) Animals Act 1994 for the occupier of any premises where a dog or cat is kept or permitted to remain to allow the dog or cat to be a nuisance.

2.6 Dog Control

(a) The owner of a dog that defecates in a public place must immediately remove the faeces and deposit them as litter in a lawful manner.

Penalty: 2 Penalty Units

(b) The failure of a dog owner to have in his or her possession the means to collect and dispose of the dog's faeces shall not be a defence to a charge brought under the provisions of this sub-clause (a).

2.7 Effective Fencing

(a) Each owner and occupier of land is responsible for ensuring that livestock kept or grazed on land under his or her control does not cause a threat to public safety.

(b) Each owner and occupier of land must not use that land for the grazing or keeping of livestock unless it is adequately fenced for the purpose of preventing the livestock from straying onto any road or Council land.

(c) If an Authorised Officer is of the opinion that land used for the grazing or keeping of livestock is not adequately fenced then, in addition to any penalty that may be imposed, he or she may issue a Notice to Comply directing the owner or occupier of the land to do any or all of the following:

(i) install, repair, replace or modify fences and gates;
(ii) remove any livestock from the land; or
(iii) direct that the land may not be used for the grazing and keeping of livestock until required works have been completed.

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

2.8 Grazing

(a) A person must not, without a permit, graze any stock on any Council land or road.

(b) Any livestock found on any road or Council land in breach of the provisions of sub-clause (a) may be impounded by an Authorised Officer.

2.9 Bees/Wasps

(a) Any person keeping bees must comply with the Beekeeping Code of Practice as prepared and amended from time to time by the Victorian Apiarists Association Inc.

Penalty: 2 penalty units

(b) An owner or occupier of land must destroy any English or European wasp nesting on the land.

Penalty: 2 Penalty Units

PART 3 ENVIRONMENT

3.1 Domestic Waste Collection

The occupier of any land to which the Council provides a domestic waste service must comply with the requirements contained in Part B of Schedule 1.

Penalty: 2 penalty units

3.2 Recycling

(a) Where the Council has given notice to an occupier of the availability of a recycling collection service, the occupier must, when utilizing the service, comply with any requirements stipulated in that notification in relation to:-

(i) the type of material allowable;

(ii) the date and time of collection;

(iii) the manner in which the material must be left; and

(iv) the placement of the material on the road reserve.

(b) A person must not deposit any putrescible material, garden waste, food scrap, item of clothing or anything other than prescribed material in a receptacle expressly provided to an occupier of land for recycling.

Penalty: 2 penalty units

(c) For the purpose of sub-clause (b) "prescribed material" is material declared to be prescribed material by Council resolution and published from time to time in the *Ballarat Courier*.

3.3 Occupier onus

If any item is deposited in a receptacle expressly provided to an occupier for the recycling of waste contrary to the provisions of sub-clause 3.2 (b) the following persons may be issued an Infringement Notice:

(a) the occupier of a land to whom the receptacle has been provided; and
(b) the person that placed the receptacle on the roadside for collection by the Council or person acting on behalf of the Council.

3.4 Depositing of Waste at a Municipal Tip/Transfer Station

(a) Every person using a municipal tip or transfer station must deposit waste in accordance with the directions of the attendant and any signs erected at the facility and must pay the appropriate fee as set by Council resolution from time to time.

(b) The Council may require a person or organisation to be registered with it before he, she or it are able to use a municipal tip or transfer station.

(c) The Council may prohibit categories of waste from being deposited at a municipal tip or transfer station.

(d) A person must not deposit at a municipal tip or transfer station any waste which is within a category of prohibited waste.

3.5 Human Waste/Night Soil

A person must not, without a permit, deposit any night soil, human waste or any liquid mixture of night soil or human waste or the contents of any septic tank on any land or in water or in a watercourse.

3.6 Disused Refrigerators

A person must not place or leave or allow to remain a disused refrigerator, freezer, ice-chest, ice-box, trunk, chest or any other similar article having a compartment which has a capacity of around 0.04 cubic metres or more on any land without first:-

(a) removing every lock and catch attached to a door or lid; or

(b) otherwise rendering every door and lid incapable of being fastened; and

(c) removing the gas in a proper manner.

Penalty: 5 penalty units.

3.7 Clean-up Order

(a) An Authorised Officer may issue a Clean-up Order on the owner or occupier of residential land where:-

(i) rubbish and refuse has accumulated on the land;

(ii) second hand goods or other materials not usually associated with the maintenance of residential land are being stored on the land;

(iii) derelict motor vehicles, machinery or parts thereof, or more than two unregistered vehicles, are being stored on the land;

(iv) excavation material has accumulated on the land;

(v) noxious weeds are growing on the land;

(vi) there is unkempt vegetation on the land that is detrimental to the amenity of the area;

(vii) premises or buildings on the land are in a dilapidated state or in a state of disrepair or have been damaged or defaced so as to have a substantial adverse visual impact on the amenity of the land or area in which it is located; or

(viii) there is graffiti on any building, structure or side fence on the land,

and such matter or condition is visible from any road.

(b) Sub-clause (a) does not apply to materials stored in good faith on land for the purposes of construction or renovations of buildings on the land.

(c) An Authorised Officer may issue a Clean-up Order on the owner of any vacant or unoccupied land in an urban residential, business or industrial zone where:

(i) rubbish and refuse has accumulated on the land;

(ii) noxious weeds are growing on the land;

(iii) there is unkempt vegetation on the land that is detrimental to the amenity of the area; or

(iv) premises or buildings on unoccupied land are in a dilapidated state or in a state of disrepair or have been damaged or defaced so as to have a substantial adverse visual impact on the amenity of the land or area in which it is located,

and such matter or condition is visible from any road.

(d) An Authorised Officer may issue a Clean-up Order on the owner of any used or disused business premises where:

(i) premises or buildings on the land are in a dilapidated state or in a state of disrepair or have been damaged or defaced so as to have a substantial adverse visual impact on the amenity of the land or area in which it is located; or

(ii) there is obsolete advertising on the premises,

and such matter or condition is visible from any road.

(e) An Authorised Officer may issue a Clean-up Order on the owner or occupier of any land if the land is kept in such a manner that it constitutes a danger or is likely to constitute a danger to health or property.

(f) It is an offence not to comply with a Clean-up Order issued under this clause 3.7.

Infringement Notice: 2 penalty units

(g) A Clean-up Order must:-

(i) be in writing;

(ii) be dated and signed by the Authorised Officer;

(iii) contain a description of the state of the land;

(iv) specify the period of time in which the rectification works must be completed;

(v) contain a statement that is an offence under the Local Law to fail to comply with the notice;

(vi) set out the penalty for failing to comply; and

(vii) advise the owner / occupier that he / she is entitled to make representations to the Chief Executive Officer or nominee.

(h) For the purposes of this clause 3.7, unkempt vegetation is detrimental to the amenity of the area if it has a substantial adverse visual impact taking account of the appearance of the area.

3.7.1 Duration of Order

If a Clean-up Order is not complied with, it remains in force until it is complied with or cancelled by an Authorised Officer.

3.7.2 Representations by Owner / Occupier

An owner or occupier of land on whom a Clean-up Order is served may make representations to the Chief Executive Officer or his or her nominee about the matters contained in the Clean-up Notice. The Chief Executive Officer or his or her nominee may cancel a Clean-up Order if he/she considers it is appropriate to do so after considering any representations made by the owner or occupier.

3.8 The emission of offensive material, odour and noise

(a) A person must not cause or allow any domestic chimney, incinerator or open air fire to discharge dust, grit, ashes or smoke to such an extent that it is dangerous to health or causes a nuisance to another person.

(b) A person must not, without a permit, light a fire or allow a fire to remain alight in the open air or in an incinerator on any land of less than two (2) hectares.

(c) A person may apply for a permit to light a fire for purposes in connection with their cultural beliefs (eg for cooking)

Note that permits cannot be issued under sub-clause (b) during a Fire Danger Period declared under the Country Fire Authority Act 1958

(d) Any owner or occupier of land who uses an incinerator must ensure that at all times of use the incinerator is properly constructed and fitted with a lid, flue and spark arrester.

(e) Any person who, in the opinion of an Authorised Officer or a member of the Victoria Police or an officer or member of the Country Fire Authority, is causing a nuisance to any person by burning any material must immediately extinguish the fire upon being directed to do so by such officer.

(f) A person must not burn or cause to burn any offensive materials in any part of the municipal district including any substance which contains:-

(i) any manufactured chemical that causes dense or foul smoke or noxious fumes;

(ii) any rubber or plastic;

(iii) any petroleum or oil, other than in a properly constructed and operating heating appliance;

(iv) any paint or receptacle which contains or which contained paint;

(v) food waste, fish or other offensive or noxious matter; or

(vi) any other material which emits dense or foul smoke or noxious fumes.

Infringement Notice: 2 penalty units

(g) A person must not cause or allow the emission of any dust, grit, ashes, fumes or other material created by any chemical, mechanical or manual process from any land owned or occupied by him or her to such an extent that it is offensive to another person not within the boundaries of such land.

(h) A person must not cause or allow the emission of any noise created by any mechanical or manual process from land owned or occupied by him or her to such an extent that it causes a nuisance to another person not within the boundaries of such land.

3.9 Application

(a) The provisions of this Part 3 shall not apply to a barbecue while the barbecue is being used for the purpose of cooking food.

(b) The provisions of this Part 3 shall not apply to:-

(i) any structure or device licensed under the provisions of the Environment Protection Act 1970;

(ii) any structure or device located on a commercial or industrial premises subject to control under the provisions of the Environment Protection Act 1970; or

(iii) any person engaged in fuel reduction burning pursuant to section 11(2) of the Summary Offences Act 1966 or in order to comply with the Country Fire Authority Act 1958 or any Regulations made under that Act.

3.10 Lakes

(a) A person must not take, injure or destroy or attempt to take, injure or destroy or wilfully disturb any fish (other than whilst legitimately fishing) in such water or wilfully disturb, worry or ill-treat any waterfowl, swan or bird within the lake and its environs.

(b) A person must not foul or pollute a lake or cause a lake to become polluted by causing any filth, rubbish, dead animal, night soil, sewerage or putrid or offensive matter to enter a lake.

(c) A person must not lay down any moorings in or drive any stake into the bed of a lake without the written consent of the Council.

(d) A person must not enter upon, climb, interfere with or damage any building, structure, ornamental fountain, navigation aid or like device erected in or upon any part of a lake.

3.11 Waste Management Plan

(a) The owner of a building must ensure that before any person commences demolition work on the building a waste management plan that complies with the provisions of this clause 3.11 is lodged with Council.

For the purpose of this sub-clause (a) "owner" includes any occupier and any person to whom a permit to demolish has been issued under the provisions of the Building Act 1993.

Infringement Notice: 2 penalty units

(b) An Authorised Officer may require a person lodging a waste management plan to amend the plan in order to comply with other legislation.

(c) A person required to amend a plan pursuant to sub-clause (b) will be deemed not to have complied with that sub-clause (a) until the required amendment has been made.

(d) A waste management plan must include the following information:

The name of the waste owner;
The address of the waste owner;
Contact details for the waste owner;
Where the waste is being generated;
A description of the waste;
How and where it is proposed to dispose of the material; and
If another person or company is being employed to generate, treat or carry the waste then the name of that person or company and appropriate contact details must be included.

(e) For the purpose of this clause 3.11 "demolition work" includes any demolition work that requires a permit under the provisions of the Building Act 1993, where such work generates more than 2 cubic metres of waste material which contains material such as masonry, timber, concrete, scrap iron, cables, pvc pipe or the like.

3.12 Failure to comply

A person must not, without the prior written approval of an Authorised Officer, dispose of any material or allow any material to be disposed of in a manner contrary to the provisions of a waste management plan, or an amended waste management plan which he or she has lodged with the Council.

Infringement Notice: 2 penalty units

3.13 Containment of Refuse on Building Sites

(1) Where any building work (other than building work exempted from the need for a building permit under the Building Act 1993) is being carried out on any land, the owner, builder or agent of the owner or builder must:

(a) provide a solid, lidded, enclosed facility (being a skip bin or similar container) for the purpose of disposal of builders' refuse;

(b) provide a separate facility for building materials or aides (for example polystyrene blocks or similar) that are capable of being strewn by weather elements or human intervention, but which can not be placed in the facility referred to in sub-clause (a);

(c) ensure that the provided facility properly contains all builders' refuse which is capable of being strewn by weather elements or human intervention to the satisfaction of the authorised officer;

(d) place the facility on the land and keep it in place (except for such periods as are necessary to empty the facility) for the duration of the building work;

(e) not place the facility on any road, part of the stormwater system or other Council land without first obtaining a permit; and

(f)\ empty the facility whenever full and, if necessary, provide a replacement facility during the emptying process.

Infringement Notice: 2 penalty units

(2) The requirement to provide a facility may be waived at the discretion of an Authorised Officer if it is considered by the Authorised Officer that the building work is unlikely to generate enough refuse to warrant the provision of a facility.

(3) Where building work is being carried out on any land, the builder or person in charge of the building work must:

(a) prevent mud, dirt, soil, sand or other materials from being deposited on the adjoining roads or from entering the stormwater system;

(b) prevent building cleanup, washdown or other waste from being discharged offsite or allowed to enter the stormwater system; and

(c) prevent delivery vehicles from discharging excess materials onto Council land, roads or other land.

(4) An Authorised Officer may direct the builder or person in charge of the building work to remove any materials referred to in Clause (3).

Infringement Notice: 2 penalty units

3.14 Removal of Builders' Refuse

(1) On any land where building work is being, or has been, carried out, the owner, builder or agent of the owner or builder must remove and lawfully dispose of all refuse including, without limiting the generality of the above, the builders' refuse in the facility referred to in clause 3.13, within 7 days of completion of the building work or issue of an occupancy permit, whichever occurs last.

(2) The driver of any vehicle involved in placing or removing builders' refuse facilities must access the building site by way of a temporary vehicle crossing unless otherwise permitted by the Council and in accordance with that permission.

Infringement Notice: 2 penalty units

3.15 Site Fencing at Building Sites

(1) Prior to the commencement of any building work, the owner, builder or agent of the owner or builder must ensure that a site fence is erected at the building site. The site fence must:

(a) be not less than 1800mm in height;

(b) be capable of preventing litter from being windblown from the site; and

(c) have not more than one access opening to the site which is located to correspond with the temporary vehicle crossing.

(2) The site fence is to be erected on the site boundary.

(3) No part of the fence, including the footing, is to protrude into or onto any other privately owned or Council land at any time.

(4) If a builder has two or more adjoining sites, the site fence may enclose all sites under the builder's control.

(5) The site fence must remain erected and in place until such time as the building works are completed and the site is cleared prior to occupancy.

3.16 Building Site Identification

(1) Prior to the commencement of any building work, the owner, builder or agent of the owner or builder must provide adequate and appropriate site identification including:

(a) the builder's business name and postal address;

(b) the builder's contact phone number; and

(c) the site address, including lot number.

(2) All site identification must be visible from the road at all times and must remain in place until such time as the building works are completed and the site is cleared prior to occupancy.

PART 4 PROTECTION OF COMMUNITY ASSETS

4.1 Drainage Tappings

A person must not, without the approval of the Council, tap into any drain under the control of the Council.

4.2 Stormwater Contamination

A person must not deposit, or allow to be deposited, any waste material into a drain other than stormwater.

4.3 Damage to Watercourses and Roads

A person must not, without a permit:

(a) destroy, damage or interfere with a ditch, creek or drain or other watercourse on Council land; or
(b) destroy, damage or interfere with any road, path, footpath or shared footpath.

4.4 Interference with Drains

A person must not, without the approval of the Council, interfere with, obstruct or alter any drain under the control of the Council.

4.5 Vehicle Crossings

(a) The owner or occupier of any land must ensure that each point of vehicular access from a road to the land has an appropriately constructed vehicle crossing.

(b) A person must not, without a permit, construct, install, remove or alter a vehicle crossing.

(c) An Authorised Officer may serve a Notice to Comply on the owner or occupier of any land, requiring the construction, repair or removal of a vehicle crossing.

(d) An Authorised Officer may serve a Notice to Comply on any person who has constructed a vehicle crossing requiring the repair, removal or replacement of a vehicle crossing.

(e) If the construction or repair of a vehicle crossing is not carried out in accordance with a Notice to Comply the Council may carry out the work at the full cost of the owner or occupier of the land.

4.6 Asset Protection Permits

(a) Where building work on any land will involve vehicles leaving a road or entering the land, the person responsible for the work must obtain an Asset Protection Permit for a temporary vehicle crossing which protects the existing road, kerb, drains, footpath and street trees.

(b) The person responsible for the building work must repair any damage to the existing road, kerb, drains and footpath.

(c) Where, in the opinion of the Council, an existing driveway crossing, footpath, street tree, kerb or other part of the road may be damaged, the person responsible for the building work must pay a bond to the Council.

(d) The permit holder must, within 48 hours of completion of the building work, arrange with the Council for an inspection of the site.

(e) The amount of the bond required under sub-clause (c) must be proportionate to the likely cost of repairing any damage and may be refunded on completion of the inspection referred to in sub-clause (c) or may be retained by the Council to offset the costs of repairing any damage.

4.7 Redundant Vehicle Crossings

(a) Where works on any land involve the relocation or closure of a point of vehicular access, any redundant part of a vehicle crossing must be removed and the kerb, drain, footpaths, nature strip or other part of the road reinstated to the satisfaction of the Council.

(b) An Authorised Officer may serve a Notice to Comply on the owner of any land, requiring the removal of part or all of a vehicle crossing which does not provide an effective point of vehicle access to the land.

(c) If the removal of all or part of a vehicle crossing or the reinstatement of the road is not carried out in accordance with the Notice to Comply the Council may carry out the work at the full cost of the owner or occupier of the land.

(d) The Notice to Comply may require the reinstatement of any part of the road.

4.8 Street Levels

(a) A person must not carry out any building or other works or fencing on any part of any land immediately abutting a road or public land which is inconsistent with the level fixed by the Council for the road or public land.

(b) An Authorised Officer may serve a Notice to Comply on any person who has not complied with sub-clause (a).

(c) If the works required in accordance with the Notice to Comply are not complied with the Council may carry out the work at the full cost of the owner.

(d) Any person may obtain details of the levels fixed by the Council for any road or public land by making application to the Council.

4.9 Repairs On Roads

(a) A person must not dismantle, paint, carry out maintenance on or repair a vehicle on a road or permit or authorise another person to do so.

(b) Nothing in sub-clause (a) prevents a person from undertaking minor maintenance or making a temporary repair to a vehicle on a road solely for the purpose of removing that vehicle from the road, or to allow the vehicle to be driven.

PART 5 COMMUNITY SAFETY AND AMENITY

5.1 Ballarat Aerodrome

(a) A person must not enter or remain on the Aerodrome Movement Area other than:-

(i) a pilot or crew member of an aircraft;

(ii) an employee or agent of the Council, the Civil Aviation Authority or an emergency service in performance of their duties;

(iii) a person who is a passenger either in an aircraft or in the process of entering or leaving an aircraft;

(iv) a person lawfully involved in the refuelling or servicing of an aircraft; or

(v) any other person authorised by the Aerodrome Manager and acting in accordance with that authority

Penalty: 5 penalty units

(b) The Aerodrome Manager may issue any person with an authority to leave a vehicle standing on the Aerodrome Movement Area.

(c) Any person who leaves a vehicle standing within the Aerodrome Movement Area without an authority referred to in sub-clause (b) shall be guilty of an offence under this Local Law.

Penalty: 5 penalty units

5.2 Road Obstructions

(a) A person must not on any road without first obtaining a permit:-

(i) occupy or fence off part of a road;

(ii) erect a hoarding or overhead protective awning;

(iii) use a mobile crane or travel tower for any work;

(iv) remove or prune any street tree;

(v) plant any tree or shrub or landscape any part of a road.

(b) The Council may from time to time determine fees for the reinstatement of roads or street trees damaged or altered by works of a type listed in sub-clause (a).

(c) The Council may require payment of the fees prior to the issue of a permit.

(d) The Council may, before issuing a permit, require the payment of a bond to secure the cost of repairs to a road or Council asset damaged or affected by works of a type listed in sub-clause (a).

(e) The permit holder must within 48 hours of completion of the work arrange with the Council for an inspection of the site.

(f) The amount of the bond must be proportionate to the likely cost of repairing any damage or replacing any Council asset and may be refunded on completion of the inspection referred to in sub-clause (e) or may be retained by the Council to offset the cost of making good any damage.

5.3 Storage of Materials on Road

(a) A person must not, without a permit, deposit or place any:

(i) building materials, building refuse, building excavation material, sand, soil, gravel or similar;

(ii) skip bin, refuse container, (excludes Council-approved rubbish bins, recycling bins and greenwaste bins) shipping container or similar;

(iii) electrical cords, hoses or similar obstructions;

(iv) trade equipment, tools including concrete mixers, generators, wheelbarrows, ladders or similar items; or

(v) any other item that an Authorised Officer deems to be detrimental to the general amenity of the area

on, upon, across or over any road or Public Reserve.

(b) A person must not deposit, leave or allow to remain any soil, garden refuse (including lawn clippings, prunings, branches, leaves, compost materials or similar item) on, upon, across or over any road or Public Reserve or private land without the consent of the owner or occupier of such land.

5.4 Events, Street Parties, Street Festivals And Processions

(a) A person must not, without a permit, hold an event, street party, street festival or procession on any road.

Penalty: 5 penalty units

(b) In determining whether or not to grant a permit for an event, street party, street festival or procession, the Council may take into account:-

(i) whether the event, street party, festival or procession will unreasonably inconvenience road users or owners and occupiers of land with vehicular access to the section of road to be closed;

(ii) whether the written permission of the Victoria Police and the Roads Corporation has been obtained and their requirements met;

(iii) whether the road can be closed to vehicular traffic, or partly closed with safe and effective separation of vehicular traffic and festival or procession patrons and equipment; and

(i) any other matter relevant to the circumstances of the application.

(c) In determining whether to grant a permit for a street party, the Council must take into account:-

(i) whether the road can be closed to vehicular traffic for the duration of the street party without detriment to the traffic management of the area;

(ii) whether all owners or occupiers of land with any vehicular access via the section of road to be closed have been advised by letter and given seven days to comment or object;

(iii) whether a person on behalf of the applicant has been nominated to erect and remove the barriers which close the road at locations and times specified by an Authorised Officer;

(iv) whether the footpath on at least one side of the road can be kept clear of obstructions; and

(v) any other matter relevant to the circumstances of the application.

(d) Where an application is to conduct a street party the application must be made at least 14 days before the street party is to take place.

(e) Where an application is to conduct an event, street festival or procession, the application must be made at least 28 days before the event is to take place.

5.5 Street Activities

(a) A person must not, without a permit, solicit or collect on any Council land or road any gifts of money.

(b) A person must not, without a permit, busk by way of singing, acting or playing an instrument or similar activity for the purposes of soliciting for money on any road or Council land.

(c) A person must not, without a permit, write on, draw on, paint on or otherwise place markings on any road.

(d) Any person who has applied for and been granted a permit to busk must comply at all times with the Council's Busking Guidelines (as amended from time to time).

(e) A person must not, without a permit, on any road or Council land:-

(i) distribute any handbills (other than electoral material on Commonwealth, State and Local Government polling days), goods, gifts or advertising material or other printed matter;

(ii) deliver any public address;

(iii) use any sound amplification equipment;

(iv) spruik or call out from any business or retail premises in order to attract customers from a road to the premises; or

(v) organise any concert, public assembly or public event.

(f) Permits referred to in sub-clause (e) above will not be issued to individual businesses to spruik or call out from their businesses. However, a permit may be issued for special events such as "Crazy Day" sales or similar events where numerous businesses are participating and will benefit from the organised promotion. In determining whether to grant a permit under sub-clause (e), the Council must take into account any person's right to freedom of expression. However, the Council may decide not to issue a permit if there is a reasonable risk of the rights and reputation of another person are being affected are being affected or for the protection of national security, public order, public health or public morality.

(g) A person must not, without a permit, on any road or Council land:-

(i) sell any raffle tickets or other similar items;

(ii) fundraise by way of public approach or other similar activity;

(iii) hold an information stall or display; or

(iv) any other such promotional activity.

Penalty: 5 penalty units

(h) The Council may from time to time exempt any person or class of persons or any particular collection activity from the need for a permit under sub-clause (g).

5.6 <u>Cleaning car windows</u>

A person must not solicit or collect money by cleaning vehicle windscreens while such vehicles are on the carriageway of any road.

Penalty: 2 penalty units

5.7 <u>Trees and Plants Not To Obstruct or Obscure</u>

A person must not allow any tree or plant in or growing on land owned or occupied by him or her to obstruct or interfere with the passage of traffic by:-

(a) overhanging 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 where they come close to each other; or

(iii) obscures a traffic control item from an approaching vehicle or pedestrian;

(iv) obscures street lighting;

(ii) obstructs the safe passage of persons using devices like a_pram, wheel-chair, child's pusher or walking frame; or

(vi) otherwise constitutes a danger to vehicles or pedestrians or otherwise compromises the safe and convenient use of the road.

Penalty: 2 penalty units

For the purposes of this clause 5.7 a tree or plant in or growing on land owned or occupied by a person, is to be regarded as an obstruction if it enters the air space directly above a footpath constructed on Council land and is within 2.8 metres of ground level.

5.8 Access to Public Reserves

All Public Reserves are to be open to the public at all times free of charge except where otherwise determined by the Council.

5.9 Behaviour in Public Reserves

A person must not while in a Public Reserve:-

(i) commit any nuisance;

(ii) act to endanger any person;

(iii) act to interfere with the quiet enjoyment of the area by any person;

(iv) destroy, damage or interfere with any Council property;

(v) use any vehicle or recreation vehicle except in an area designated for the purpose;

(vi) light any fire other than a portable barbecue unless in a fireplace provided or subject to a permit;

(vii) act contrary to any sign;

(viii) play any games with a hard ball except in an area set aside for that purpose;

(ix) ride or lead a horse in a public reserve other than on a roadway or in an area designated for the riding of horses; or

(x) camp or erect a tent.

5.10 Motor Vehicles

A person must not park any motor vehicle within a Public Reserve except;

(a) in an area set apart for the purpose;

(b) when and where directed or authorised by Council or an Authorised Officer; or

(c) upon such payment of such fees (if any) as may be prescribed and authorised by the Council.

5.11 Removal of Offenders from a Reserve

(a) An Authorised Officer may direct a person who, in the opinion of the Authorised Officer is offending or has offended against the provisions of this Local Law in a Public Reserve, to forthwith leave the Public Reserve.

(b) A person to whom a direction is given under sub-clause (a) must comply with that direction.

5.12 Erection of Signs by the Council in Public Reserves

(a) The Council may for the purposes of this Part 5 and for the better control, management and preservation of a Public Reserve erect therein such signs as it sees fit designating where and in what manner entry to or access to a Public Reserve or any part thereof or any specified activity is allowed, prohibited or otherwise controlled.

(b) A person must not erect or remove such notice or sign except with the authority of the Council.

(c) A person must not contravene the provisions of any such sign or resolution.

5.13 Public Swimming Pools

A person attending a Public Swimming Pool must not:-

(i) commit any nuisance in the Public Swimming Pool;

(ii) act to endanger any person in the Public Swimming Pool;

(iii) act to interfere with the quiet enjoyment of the Public Swimming Pool by any person;

(iv) destroy, damage or interfere with any Council property located in the Public Swimming Pool;

(v) bring any animal into the Public Swimming Pool;

(vi) enter the Public Swimming Pool without paying the appropriate fee as determined by the Council; or

(vii) bring into the Public Swimming Pool any glass container.

Penalty: 5 penalty units

5.14 Camping

A person must not, without the written approval of the Council, camp on Council or public land or on any road in a tent, caravan or other temporary or makeshift structure unless he or she is within a Caravan Park licensed under the Residential Tenancies Act 1997.

Penalty: 2 penalty units.

5.15 Caravans

(a) A person must not, without a permit, use a caravan on any private land other than land within a Caravan Park licensed under the Residential Tenancies Act 1997.

(b) Nothing in sub-clause (a) prevents the use of a caravan on private land for sleeping purposes for seven (7) consecutive nights or less.

Penalty: 2 penalty units.

5.16 Temporary Dwellings

(a) Subject to sub-clause (b) a person must not establish, erect or occupy a temporary dwelling.

(b) Nothing in sub-clause (a) prevents a person who has obtained a permit from the Council from establishing, erecting or occupying a temporary dwelling in association with the construction of a permanent detached dwelling.

(c) A permit issued pursuant to sub-clause (b) operates from the date of issue and expires on the expiry date stipulated in the permit or if no expiry date is stipulated after 12 months.

(d) A person must not, after the issue of an occupancy permit for the permanent detached dwelling or the expiration of a permit for the temporary dwelling, occupy the temporary dwelling.

5.17 Leaving Shopping Trolleys

(a) A person must not leave, or cause or authorise another person to leave, a shopping trolley in a prohibited area.

(b) A retailer must not leave or allow to remain, a shopping trolley in a prohibited area.

Penalty: 5 penalty units

5.18 Abandoned Shopping Trolleys

(a) If a shopping trolley has been left in a prohibited area an Authorised Officer may direct the owner of the shopping trolley, or the person in charge of the retail premises from which it has apparently been transported, to remove the shopping trolley.

(b) A person to whom a direction has been given under sub-section (a) must comply with that direction.

(c) An Authorised Officer may impound any shopping trolley left in a prohibited area.

(d) An Authorised Officer who has impounded a shopping trolley must notify the owner of the shopping trolley as soon as it is practicable.

(e) Any shopping trolley which has been impounded under sub-clause (c) must be returned to the owner or person acting on the owner's behalf if:

(i) evidence of ownership of the shopping trolley is provided, to the satisfaction of the Authorised Officer; and
(ii) payment of fees as determined from time to time by Council have been paid in full

(f) After three months, shopping trolleys that have been impounded may be disposed of by Council by tender or public auction or may be destroyed or given away.

(g) For the purposes of clause 5.17 and this clause 5.18, a prohibited area means:-

(i) any road;

(ii) any Council car park except in an area designated by the Council for the purpose of storing shopping trolleys; or

(i) any other public place.

5.19 Council To Approve Road Names

(a) A person must not apply a name to a road (including a road on common property or private land) without the consent of the Council.

(b) Sub-clause (a) does not apply to any freeway or to any supplementary name applied to the entire length of a declared road by the Roads Corporation.

(c) In determining whether to allow a person to apply a name to a road or whether to give a name to a road or whether to change the name of a road, the Council must take into account the principles contained in the *Guidelines for Geographic Names* and, in particular, whether the name is likely to be confused with the name of another road in the municipality or a nearby area in an adjoining municipality.

5.20 Property Numbers To Be Displayed

(a) The Council may allot such numbers as are in its opinion necessary to identify each property in the municipal district.

(b) If the Council has allocated a number to a property the owner or occupier of that property must mark the property with the number and must renew or replace the number as often as may be necessary.

Penalty: 5 penalty units

(c) The owner or occupier of a property must ensure that the number is of a sufficient size and placed in such a position as to be clearly read from the road on which the property has its frontage.

Penalty: 5 penalty units

(d) The Council may from time to time by resolution determine a minimum size and the appropriate design of street numbers.

5.21 Residential Parking Scheme

(a) The Council may from time to time designate any area as an area in which a residential parking scheme is in operation.

(b) The Council may at any time rescind, amend or vary any residential parking scheme so designated.

(c) A person who resides in an area in which a residential parking scheme is in operation may make application to the Council for a Residential Parking Permit.

(d) Unless special circumstances apply, the Council may grant up to two Residential Parking Permits per residence on application subject to such conditions as may be determined from time to time.

(e) A Residential Parking Permit must specify the vehicle to which the permit applies.

(f) A Residential Parking Permit may specify the road or roads or part of the road to which the permit applies.

(g) The holder of a residential parking permit may park an eligible vehicle in the road or roads as specified in the permit without being required to comply with any parking restrictions as to time indicated by parking signs associated with the road or roads.

(h) The Council may from time to time by resolution determine a fee to be paid for a residential parking permit.

(i) Prior to the introduction of a new Residential Parking Scheme the Council must notify the owner and occupier of every residence in the area advising as to:-

(i) eligibility;

(ii) how to apply for a permit;

(iii) the cost of the permit; and

(iv) how the scheme operates.

5.22 Use Of Skate-boards and Bicycles

(a) A person must not use a skate-board, or a bicycle, or roller skates, or in-line skates in any shopping mall or an area that has been declared to be an area where such activity has been prohibited by;

(i) Council resolution advertised in the *Ballarat Courier*, or

(ii) signage authorised by Council resolution.

Penalty: 2 penalty units

(b) A Council resolution referred to in this section may specify any or all of the conveyances mentioned.

(c) An Authorised Officer must direct the person to stop using the skate-board, or a bicycle, or roller skates or in-line skates in the prohibited area.

(d) Where any person uses a skate-board, or a bicycle, or roller skates, or in-line skates in contravention of sub-clause (a) and (c) an Authorised Officer may remove the item and impound it.

Penalty: 2 penalty units

5.23 Unregistered, Derelict and Abandoned Vehicles

(a) A person must not leave an unregistered or derelict vehicle or abandon a vehicle on any road or Council land;

(b) An Authorised Officer may remove or cause to be removed or order the removal of any unregistered or abandoned motor vehicle from any road or Council land in accordance with clause 9.1.

(c) Any vehicle which has been impounded under sub-clause (b) must be returned to the owner or person acting on the owner's behalf if:

(i) evidence of ownership of the vehicle, to the satisfaction of the Authorised Officer, has been provided; and

(ii) release fees, as determined from time to time by the Council, have been paid in full.

(d) Where a vehicle impounded in accordance with sub-clause (b) is not claimed by the owner or person acting on the owner's behalf within 7 days of the vehicle being impounded, the Council may dispose of the vehicle by tender or public auction, or may destroy or give away the vehicle, including anything in, on or attached to the vehicle.

(e) The Council and any person who obtains the vehicle from the Council under sub-clause (d), is not liable to the owner of the vehicle at the time that it was impounded, or any other person in respect of any action taken under sub-clause (d).

(f) An unregistered vehicle permit obtained from the Roads Corporation does not constitute a temporary registration of a vehicle for the purposes of this clause 5.23 and does not authorise the vehicle to be left on a road or Council land.

For the purposes of this clause 5.23:

(i) "vehicle" includes any motor car, trailer, caravan or other mechanical conveyance;

(ii) "unregistered vehicle" is a vehicle that is of the type or class that is required to be registered under the Road Safety Act 1986 and is not currently registered;

(iii) "derelict vehicle" includes a vehicle which is damaged, incomplete, or out of repair; and

(iv) "abandoned vehicle" is a currently registered vehicle that has remained stationary on any road or Council land for at least 14 days and is deemed abandoned for the purposes of this clause 5.23.

PART 6 CONSUMPTION OF LIQUOR IN PUBLIC PLACES

6.1 Roads/Car Parks

A person must not at any time on a road or public car park or in a motor vehicle parked on a road or in a public car park:-

(a) consume any liquor; or

(b) have in his or her possession or control any liquor other than liquor in a sealed container .

Infringement Notice: 2 penalty units

6.2 Consumption and Possession on Public Reserves

Between the hours of 10.00 pm and 6.00 am a person must not in any Public Reserve or in any motor vehicle in any Public Reserve:-

(a) consume any liquor; or

(b) have in his or her possession or control any liquor other than liquor in a sealed container.

Infringement Notice: 2 penalty units

6.3 Dry Areas in Public Reserves

(a) The Council may set apart by the use of notices or signs as it sees fit any part of a Public Reserve on such days during such hours as it may determine to be "dry areas", into which the bringing or consumption of alcoholic liquor is prohibited.

(b) A person must not erect or remove such notice or sign except with the authority of the Council.

(c) A person must not contravene the provisions of any such notice or sign.

Infringement Notice: 2 penalty units

6.4 Consumption and Possession at Public Swimming Pools

A person attending a Public Swimming Pool must not bring into or possess alcohol in a Public Swimming Pool.

Infringement Notice: 2 penalty units

6.5 Exemption from this part

The provisions of this Part 6 do not apply to any person who consumes liquor or who has in his or her possession or control liquor while taking part in a public ceremony or function or patronising an outdoor eating facility licensed for the consumption of liquor that has been authorised by the Council.

PART 7 BEHAVIOUR

7.1 Ballarat Botanical Gardens fenced area

(a) A person must not, without a permit, between dusk and dawn enter any fenced part of the Ballarat Botanical Gardens where such entry is prohibited by signage.

Infringement Notice: 2 penalty units

(b) A person found in a prohibited part of the Ballarat Botanical Gardens between dusk and dawn who on demand is unable to produce to an Authorised Officer or any member of the Victoria Police a permit must immediately leave the prohibited area upon being directed to do so by such Authorised Officer or member of the Victoria Police.

Infringement Notice: 2 penalty units

7.2 Misuse of Shopping Trolleys

Any person whilst in a public car park or other public place who uses a shopping trolley for any purpose other than for what the shopping trolley has been specifically designed shall be guilty of an offence.

Infringement Notice: 2 penalty units

7.3 Urination in public

A person must not urinate or defecate in a public place other than in a toilet facility constructed for such a purpose.

Infringement Notice: 2 penalty units

7.4 Behaviour in certain public places

(a) An Authorised Officer or any member of the Victoria Police may direct a person to leave any public car park or any pedestrian mall or any footpath or any other public place if the Authorised Officer or member of the Victoria Police believes, on reasonable grounds, that the person is behaving in a riotous, indecent, offensive, threatening or insulting manner is using or has used threatening, abusive, obscene, indecent or insulting words.

(b) A person to whom a direction is given in accordance with sub-clause (a) must comply with that direction.

Infringement Notice: 2 penalty units

7.5 Music Noise (Vehicles, Public Places)

(a) A member of the Victoria Police or an Authorised Officer may direct a person playing amplified music in a public place (including in a road or public car park or in a motor vehicle in a road or public car park) to cease playing such music if the music is audible 20 metres or more from the source.

(b) A person to whom a direction is given under sub-clause (a) must comply with that direction.

(c) This clause 7.5 does not apply to a person who has the permission of the Council or the owner of the public place to play the amplified music.

Infringement Notice: 2 penalty units

7.6 Damage to Council Property

Any person who is involved in an activity that is damaging or defacing Council property or assets, or that could reasonably be foreseen as damaging Council property or assets, must immediately cease such activity upon being directed to do so by an authorised officer or member of the Victoria Police.

Infringement Notice: 2 penalty units

PART 8 COMMERCIAL ACTIVITY ON COUNCIL LAND

8.1 Commercial activity on Council Land

(a) A person must not, without a permit, carry out any commercial activity on Council land.

(b) For the purpose of this clause 8.1 a person is deemed to have complied if;

(i) the commercial activity is an integral part of an activity authorised by a permit issued under the provisions of another clause of this Local Law; or

(ii) the commercial activity forms the basis of some other binding agreement entered into with the Council.

8.2 Advertising Signs / Display Of Goods

(a) A person must not, without a permit, place or cause or authorise another person to place:-

(i) an advertising sign on any Council land;

(ii) an advertising sign attached to a vehicle where the vehicle is parked in any road for a continuous period of 30 minutes or more; or

(iii) any goods for display or sale on any road.

(b) Council may by resolution exempt any person or class of person or any particular type of advertising activity from the requirement to obtain a permit under the provisions of this clause 8.2.

Penalty: 5 penalty units

(c) Council's Footpath Trading Policy 2007 (as amended from time to time) and any other matter relevant to the application will be used as a basis for determining whether a permit may be issued.

(d) When any advertising signs or goods are placed or displayed contrary to this Local Law or in contravention of any permit conditions the advertising sign or the goods may be removed by an Authorised Officer and impounded.

8.3 Trading From Roadside

(a) A person must not, without a permit:-

(i) erect or place on any Council land or in any public place a vehicle, caravan, trailer, table, stall or other similar structure for the purpose of selling any goods or services; or

(ii) sell any goods or services from a property or road, Council land or public place adjacent to a road to any person who is on that road, Council land or public place.

Penalty: 5 penalty units

(b) In determining whether or not to grant a permit the Council may take into account:-

(i) whether permits required by the Health Act 1958, Food Act 1984 or any other legislation have been obtained;

(ii) whether the activity will disturb, annoy or disrupt adjacent property owners or occupiers;

(iii) whether the activity will be detrimental to the amenity of the area;

(iv) whether the safety of road users or the passage of vehicles will be affected by the placement;

(v) whether appropriate arrangements can be made for:-

* waste water disposal;
* litter and garbage;
* lighting;
* advertising signs; and

(vi) any other matter relevant to the circumstances of the application.

(c) If the Council has entered into an agreement (by way of lease, licence or otherwise) in relation to trading from a particular site, no person other than the person with whom the Council has the agreement may trade from that site.

Penalty: 5 penalty units

(d) In addition to any other power which it has, the Council may by resolution determine a fee, charge, fare or rent payable by the seller of any goods or services from a property or public place adjacent to a road to any person who is on that road or public place.

(e) Where, in the opinion of an Authorised Officer, the provisions of this clause 8.3 or the conditions of any permit are not being complied with the Authorised Officer may serve a Notice to Comply on the owner or occupier or permit holder.

(f) Where the use of a site or the contravention of any conditions on a permit continue after a Notice to Comply has been served any goods and associated equipment may be removed by an Authorised Officer and impounded.

8.4 Outdoor Eating Facilities

(a) A person must not, without a permit, establish an outdoor eating facility on any footpath or other part of a road.

Penalty: 5 penalty units

(a) Council's Footpath Trading Policy 2007 (as amended from time to time) and any other matter relevant to the application will be used as a basis for determining whether a permit may be issued.

(b) Where, in the opinion of an Authorised Officer, the provisions of this clause 8.4 or the conditions of any permit are not being complied with the Authorised Officer may serve a Notice to Comply on the owner or occupier or the permit holder.

(c) The Council may revoke a permit at any time if the behaviour of patrons using an outdoor eating facility becomes rowdy, offensive or otherwise disruptive of the quiet use and enjoyment of the road by other persons.

8.5 Outdoor Eating Facilities - Hotels And Licensed Restaurants

The Council may revoke a permit at any time if the owner, occupier or proprietor of a hotel or licensed restaurant who operates an outdoor eating facility in connection with premises licensed under the Liquor Control Reform Act 1998 breaches any provisions of the Liquor Control Reform Act 1998.

PART 9 GENERAL

9.1 Power to Impound

(1) Subject to the provisions of this Local Law, an Authorised Officer may seize and impound a vehicle or sign or goods where there has been a contravention of this Local Law.

(2) As soon as possible after impounding any vehicle or sign or goods an Authorised Officer must, if the name and address of its owner is known, serve a Notice of Impounding on the owner.

(3) The Council may determine by resolution from time to time, a fee which must be paid by the owner of any impounded sign or goods before the Council is required to release the sign or goods. Any impounded vehicle or sign or goods may be claimed by its owner after the payment of the relevant fees.

(4) Any impounded vehicle or sign or goods not claimed within the time specified on the Notice of Impounding or within 7 days of the impounding may be disposed of by the Council by tender or public auction, may be transferred to the municipal tip or given away.

9.2 Notice To Comply

(a) An Authorised Officer may, by serving a Notice to Comply, direct any owner, occupier or other relevant person to remedy any situation which constitutes a breach under this Local Law.

(d) A Notice to Comply must state the time and date by which the situation must be remedied.

(c) The time required by a Notice to Comply served under this Local Law must be reasonable in the circumstances, and what will be reasonable will vary depending on the matters to be remedied, but should take into account, if applicable:

(i) the amount of work involved;

(ii) the degree of difficulty;

(iii) the availability of necessary materials or other necessary items;

(iv) climatic conditions;

(v) the degree of risk or potential risk; and

(vi) any other relevant factor.

9.3 Failure To Adhere To Notice

Any person who fails to remedy a situation in accordance with a Notice to Comply served under this Local Law is guilty of an offence.

Infringement Notice: 2 penalty units

9.4 Power To Act In Urgent Circumstances

(a) An Authorised Officer may, in urgent circumstances arising as a result of another person's failure to comply with this Local Law, take action to remove, remedy or rectify a situation without the necessity to serve a Notice to Comply provided:

(i) he or she considers the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a Notice to Comply, may place a person, animal, property or thing at risk or in danger;

(ii) the Chief Executive Officer or nominee approves of the proposed action;

(iii) details of the circumstances and remedying action are as soon as possible, forwarded to the person on whose behalf the action was taken; and

(iv) the Council is advised as soon as practicable of the action taken.

(b) The action taken by an Authorised Officer under sub-clause (a) must not extend beyond what is necessary to cause the immediate abatement of the risk or danger involved.

9.5 Notice To Comply - Not A Precondition To Enforcement Proceedings

An Authorised Officer is able to prosecute a person or issue an infringement notice under this Local Law without first serving a Notice to Comply.

9.6 Appeal Against Notice To Comply

Any person who is aggrieved by the requirements of a Notice to Comply may apply to the Council to be heard and may make a written submission for consideration by the Council, but this right will not in any way remove that person's obligation to act in accordance with any directions or notices which are applicable under this Local Law.

9.7 Application For Permit

(a) An application must be in writing and must be accompanied by the appropriate fee, as determined by Council resolution from time to time.

(b) 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.

(c) The Council may require additional information to enable an application for a permit to be properly considered and for the purposes of administering and enforcing the provisions of this Local Law.

9.8 Permits May Be Conditional

A permit under this Local Law may be issued subject to conditions, including but not limited to conditions relating to:-

(i) the payment of a fee or charge;

(ii) a standard to be applied;

(iii) a time limit to be applied either specifying the duration, commencement or completion date;

(iv) that the permit is subject to the happening of an event;

(v) the rectification, remedying or restoration of a situation or circumstance;

(vi) where the applicant is not the owner of the subject property, the consent of the owner; and

(vii) the granting of some other permit or approval which may be required by the Council or another statutory or public authority whether under this Local Law or otherwise.

9.9 Additional Information

The Council or an Authorised Officer may require an applicant to provide additional information before considering an application for a permit.

9.10 Duration Of Permits

Except where expressly stated in this Local Law or in the permit, the permit will operate from the date it is issued and will expire one year after the date of issue.

9.11 Cancellation Of Permits

(a) A permit may be cancelled by the Council at any time if it is clear that the conditions under which the permit was issued have not been complied with provided:-

(i) a Notice to Comply has been served upon the permit holder; and

(ii) the time required under the Notice to Comply has expired.

(b) Where 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 the Notice to Comply.

(c) Where any permit issued under this Local Law contains conditions, any person who contravenes or fails to comply with a condition is guilty of an offence.

9.12 Offences

(a) Where any provision in this Local Law requires that something may not be done at all, any person who does that act is guilty of an offence.

(b) Where any provision in this Local Law requires that something may not be done between specified hours of the day or night, during specified months of the year, or in or at specified locations or specified parts of those locations, any person who does that act between the hours, during the months, on the days, in or at the location or a specified part is guilty of an offence.

(c) Where any provision in this Local Law requires that a person obtain a permit from the Council before engaging in any particular activity, that person is guilty of an offence if that person engages in that activity without a current permit issued by the Council (unless the Council in its discretion has waived the requirement for a permit).

(d) Where any provision in this Local Law requires that something must be done, any person who fails to do that act is guilty of an offence.

9.13 General Penalty

(a) A person who is guilty of an offence against this Local Law for which a specific penalty is not provided is liable to a penalty not exceeding ten (10) penalty units.

(b) The penalty for a second or subsequent offence against this Local Law is twenty (20) penalty units.

9.14 Infringement Penalty

An Infringement Notice may be issued as an alternative to prosecution in respect of offences against this Local Law. In the event that an infringement notice is issued the infringement penalty will be one (1) penalty unit, unless otherwise stated.

9.15 Infringement Notices

(a) An Authorised Officer may serve an infringement notice on a person whom the Authorised Officer believes has committed an offence against this Local Law requiring the person to pay the penalty for that offence within 28 days of the issue of the infringement notice. Any member of the Victoria Police may serve an infringement notice for an offence committed under Part 6 and Part 7 of this Local Law.

(b) If the infringement notice is not withdrawn and the person pays to the Council the amount referred to in the infringement notice within the period of 28 days or such further period as the Council or an Authorised Officer may allow, the person on whom the infringement notice was served has expiated the offence.

(c) In the event of the failure of a person served with an infringement notice to pay the amount specified within 28 days of the issue of the notice or such further time as the Council or the Authorised Officer may permit, the Council or the Authorised Officer may pursue the matter by prosecuting for an offence or by taking any steps which may be available for enforcing penalties by registration of infringement notices.

(d) Any person served with an infringement notice is entitled to disregard the notice and defend the prosecution in Court.

9.16 Council officers, Employees and Contractors

Despite anything to the contrary in this Local Law, where the proper discharge of a contact with the Council or duties of office requires a member of Council staff or contractor to do something that requires a permit under the provisions of this Local Law, those provisions do not apply.

BALLARAT CITY COUNCIL

COMMUNITY LOCAL LAW

SCHEDULE 1

WASTE COLLECTION

Part A

1. Number Of Garbage Bins

Each rateable dwelling in the municipality is entitled to have emptied by the Council once a week, one approved type mobile bin with a capacity no greater than 140 litres, per garbage charge.

The Council may vary the bin size, collection frequency, or number of bins collected from a rateable dwelling from time to time after giving 3 months notice.

2. Recycling Bins

A recycling bin may be provided by the Council for use at each rateable dwelling in the municipal district. The recycling bin shall remain the property of the Council. A recycling bin may only be used in a manner approved by the Council and to dispose of prescribed recyclable material.

Part B

1. Garbage Bins

Any occupier who has purchased a 140 litre bin must maintain the bin and keep the bin clean at all times.

2. Other material

Material that is capable of being recycled, but not prescribed for disposal in a recycling bin, may be left by the occupier at the kerbside only at the times and in the manner which the Council prescribes from time to time by publication in the *Ballarat Courier*.

3. Placement of Bins

An occupier must ensure that any bin referable to his or her land is placed in a manner prescribed by the Council in a written notice sent to the occupier or any notice generally published by the Council in the *Ballarat Courier*..

4. Prohibited Waste

An occupier must ensure that the following material is not placed in any bin placed out for collection by the Council:-

(a) any syringe;

(b) any slops or liquid waste;

(c) hot ashes;

(d) any oil, paint solvents or similar substances;

(e) trade wastes or any kind; and

(f) any other waste prescribed by the Council as prohibited.

5. Removal Of Bins

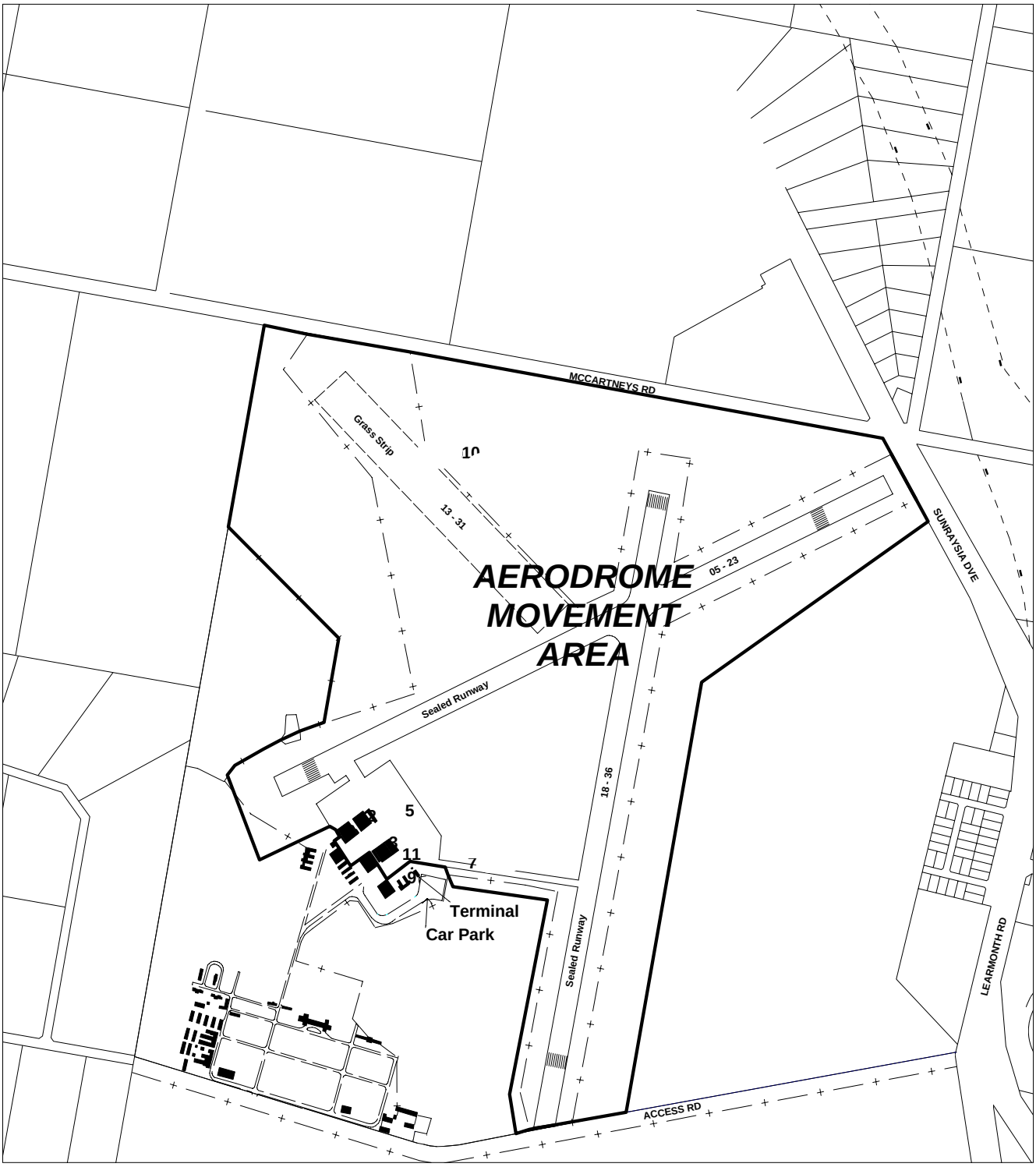
Once the bin has been emptied by or on behalf the Council, the occupier of the land to which the bin is referable must ensure that the emptied bin is removed from the road reserve as soon as practicable.

6. Spillage

If any waste which has spilled onto the road reserve as a result of over filling (whether because a bin lid has not been completely closed or otherwise) while the bin is awaiting collection or while it is being emptied, the occupier of the land to which the bin is referable must, as soon as possible, remove the spillage.

SCHEDULE 2

BALLARAT AERODROME MOVEMENT AREA



BALLARAT CITY COUNCIL

COMMUNITY LOCAL LAW

SCHEDULE 3

APPLICATION FOR RESIDENTIAL PARKING PERMIT

RESIDENTIAL AREA No: _____

I wish to apply for a permit to allow my vehicle to be parked in accordance with Council's Residential Parking Scheme.

Name: _____ _____
Surname Other Names

Address: _____

Vehicle Registration No: _____

Description of vehicle (eg. make, model, colour): _____

_____

I declare that I reside permanently at the above address.

I have attached a copy of my vehicle registration certificate to this application.

Dated: _____

Signature: _____

Note: In accordance with section 5.21(e), up to two Residential Parking Permits per residence may be granted on application subject to such conditions as may be determined from time to time

BALLARAT CITY COUNCIL

COMMUNITY LOCAL LAW

SCHEDULE 4

NOTICE TO COMPLY

TO: _____
(Name)

_____
(Address)

_____

The following constitutes a breach under provision ..... of the Council's Community Local Law. To remedy the breach you must carry out the following work, within ..... days from the date of this notice.

_____

_____

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

If you fail to comply with this Notice you will be guilty of an offence. **You may be issued an infringement notice for the offence, and liable for payment of a penalty of $200.00. Alternatively, the offence may be prosecuted in the Magistrates Court and, if found guilty, a penalty of up to $1000 may be issued. If you fail to comply with this Notice, the authorised officer may proceed to carry out the work, the cost of which you will be liable for, in addition to any penalty.**

Date _____ _____
(Insert Date) (Name of Authorised Officer)

Telephone _____ _____
(Signature of Authorised Officer)

NOTE: If this Notice relates to a contravention of a permit and the Notice is not complied with, the permit may be cancelled. If you do not wish to have the permit cancelled you should comply with the conditions in this Notice or show cause to the Council in writing why the permit should not be cancelled.

Under Local Law clause 9.6 of the Council Community Local Law, any person who is aggrieved by the requirements of a Notice to Comply may apply to the Council to be heard and may make a written submission for consideration by the Council, but this right will not in any way remove that person's obligation to act in accordance with any directions or notices which are applicable under this Local Law.