

Amenity Local Law

Local Law made by Council: 26 November 2013

Notice in Government Gazette: 5 December 2013

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PART 1 - PRELIMINARY

1. Local Law

This Local Law is a local law made under Part 5 of the *Local Government Act 1989* and Part 3 of the *Domestic Animals Act 1994*.

2. Objectives

The objectives of this Local Law are to provide for the:

- a) safe and fair use and enjoyment of public places;
- b) safe and fair use of roads;
- c) regulation of street activities;
- d) keeping and control of animals;
- e) fair and reasonable use and enjoyment of private land; and
- f) uniform and fair administration of this Local Law
- g) peace, order and good government of the municipality.

3. Commencement

This Local Law commences on 6 December 2013.

4. Date this Local Law ceases operation

Unless this Local Law is revoked sooner, its operation will cease on .

5. Revocation of Local Law

On the commencement of this Local Law, Council's Amendment (Amenity Local Law No 5) Local Law is revoked.

6. Application of Local Law

This Local Law applies throughout the municipality.

This Local Law does not apply where any act or thing otherwise prohibited is authorised by any Act, Rule, Regulation or Planning Scheme.

7. Administrative Policy Guidelines

The Guidelines are incorporated into this Local Law as published by Council from time to time.

8. Definitions

In this Local Law:

'advertising sign' – includes any letter, figure, symbol, device, poster, sign, banner or message used for notifying:

- a) the existence of the sale or use of any goods or services; or
- b) the holding of an event or function; or
- c) the promotion of any person, company, organisation or thing.

'applicant' - means the person who applies for a permit under this Local Law;

'authorised officer' - means a person appointed by the Council under section 224 of the *Local Government Act 1989*;

'bird' – includes poultry

'caravan' - means any structure, other than a building, used on land for residential purposes and includes a 'vehicle' and 'trailer' as defined in section 3 (1) of the *Road Safety Act 1986*;

'commercial zone' – means a commercial zone under the Nillumbik Planning Scheme

'the Council' - means the Nillumbik Shire Council;

'Council land' - means all land (including a road) under the control of the Council;

'fire danger period' - means the period declared pursuant to the *Country Fire Authority Act 1958* to be a fire danger period;

'fire hazard' - includes anything that, because of its flammable nature, its position or its quantity, exposes people, property or livestock to significant risk of harm, damage or destruction by fire ;

'Guidelines' means the Administrative Policy Guidelines as adopted by the Council from time to time;

'industrial zone' - means an industrial zone under the Nillumbik Planning Scheme;

'land' - includes private land;

'large heap' - means any windrow or accumulation of felled, fallen or cleared trees, shrubs or vegetation which occupies an area exceeding ten (10) square metres or is over 25 cubic metres in volume;.

'liquor' - has the same meaning as in the *Liquor Control Reform Act 1998*;

'livestock' - has the same meaning as in the *Impounding of Livestock Act 1994*, namely an animal (including a bird) of any species used in connection with primary production or kept for recreational purposes, other than a dog or cat;

'motorised toy vehicle' – means any mini bike, trail bike, motor bike, motor scooter, go-cart and any other vehicle propelled or operated by a motor and which is normally used for recreational purposes but excludes a motorised wheelchair or scooter designed to transport a person of limited mobility;

'municipality' - means the municipal district of the Council;

'Notice to Comply' - means a Notice to Comply issued under this Local Law;

'park' – has the same meaning as in the *Road Safety Rules 2009*;

'permit' – means a permit issued under this Local Law

'poultry' – includes a fowl, duck, goose, turkey, quail and pigeon and any other class of poultry

'public place' – has the same meaning as in the *Summary Offences Act 1966* and means any place prescribed by the Council as a public place and includes;

- a) any public highway, road, street, bridge, footpath or thoroughfare notwithstanding that it may be formed on private property;
- b) any park, garden or reserve or other place of public recreation;
- c) any railway station platform or carriage and/or
- d) land which is owned, occupied or managed by the Council;

'residential zone' - means a residential zone under the Nillumbik Planning Scheme;

'road' - has the same meaning as in the *Local Government Act 1989*, namely:

- a) a street;
- b) a right of way;

- c) any land reserved or proclaimed as a street or road under the *Crown Land (Reserves) Act 1978* or the *Land Act 1958*;
- d) a passage;
- e) a cul de sac;
- f) a by-pass;
- g) a bridge or ford;
- h) a footpath, shared path or nature strip; and
- i) any culvert or kerbing or other land or works forming part of a road.

'rural zone' – means a rural zone under the Nillumbik Planning Scheme, which includes the Green Wedge and Rural Conservation Zones.

'toy vehicle' - means a vehicle designed to be propelled by human power and includes a tricycle, scooter, skateboard, roller skates, roller blades or similar vehicle but excludes a bicycle, pram and wheelchair.

'vehicle' – has the same meaning as in the *Road Safety Road Rules 2009*.

PART 2 - PUBLIC PLACES

9. Behaviour

A person must not behave in a public place in such a manner as to:

- a) interfere with another person's reasonable use and enjoyment of that public place; or
- b) endanger, or be likely to endanger, a person's health, life or property, or an animal.

10. Council Signs

Without a permit a person must not do anything on Council land contrary to a sign erected by the Council.

PART 3 - CONSUMPTION OF LIQUOR IN PUBLIC PLACES

11. Liquor

- a) Without a permit, a person must not consume liquor, or be in possession of liquor in an open container, in a prescribed area (as described in Clause 12a)) during a 'no alcohol' period for that area (as described in Clauses 12b) and 12c)).
- b) A person who is in or on a vehicle is to be taken to be in a prescribed area only if that vehicle is stationary.

12. Prescribed areas

- a) The Council may by resolution, or by a delegate if this matter is the subject of delegation, specify areas of the municipality to be prescribed areas for the purposes of Part 3 of this Local Law.
- b) The Council, or a Council delegate, may at the time of specifying an area to be a prescribed area specify in relation to that area:
 - i) periods of the year; or
 - ii) periods of the week; or
 - iii) periods of the day, or

- iv) specified days
that are to be 'no alcohol' periods.
- c) If no period is specified in relation to an area, the 'no alcohol' period for that area is every day and 24 hours a day.
- d) If the Council, or a Council delegate, prescribes an area to be a prescribed area, it shall:
 - i) give public notice accordingly and
 - ii) ensure that a description of the area is available for inspection at the offices of the Council during normal business hours.

13. Exemptions under Part 3

This Part does not apply to:

- a) 'authorised premises' or 'licensed premises' within the meaning of the *Liquor Control Reform Act 1998*; or
- b) Consumption of liquor at an organised event for which a permit under this Local Law has been granted.

PART 4 - SPECIFIC ACTIVITIES

14. Advertising signs

- a) Without a permit a person must not, on Council land:
 - i) erect, fix or place any advertising sign; or
 - ii) stop, stand or leave any vehicle for the purpose of displaying on the vehicle any advertising sign.
- b) Without a permit a person must not attach or allow to be attached to any verandah or awning which is above or overhanging Council land an advertising sign, merchandise, a banner, a flag, bunting or a decoration.

15. Clothing recycling bins

Without a permit a person must not place, cause or allow to be placed a clothing recycling bin in any public place.

16. Collections

Without a permit a person must not in a public place solicit or collect money or any articles from any person, or cause or authorise another person to do so.

17. Distribution of notices, advertising material, busking

- a) Without a permit a person must not on any road, Council land or vacant land:
 - i) give out or distribute to by-standers or passers-by any handbills, placards, notices, advertisements, books, pamphlets or papers;
 - ii) give out, distribute, offer or make available to by-standers or passers-by any goods, gifts or things whatsoever whether by way of gift, sample or otherwise or offer or agree to make such goods, gifts or things available or to deliver the same to such by-standers or passers-by at their place of residence or work;
 - iii) broadcast any advertising material; or

- iv) provide any form of public entertainment in anticipation of a donation or reward.
- b) Sub-clause 17 a) does not apply to electoral material for any election of the Council or any State or Commonwealth election in an electorate, encompassing any part of the municipal district for a period of four weeks before the election.

18. Shopping trolleys

- a) A person must not leave a shopping trolley on any Council land, except in an area set aside for the purpose of storing shopping trolleys.

19. Trading activities

- a) Without a permit a person must not in a public place:
 - i) display or sell any goods or services; or
 - ii) place out any furniture and/or equipment for the purposes of outdoor eating by customers.
- b) The Council may exempt persons from the requirement to obtain a permit where specified criteria are met.

20. Actions affecting council land

Without a permit a person must not on any Council land:

- a) occupy or fence off any part of the Council land;
- b) construct landscaping works or retaining walls;
- c) erect a hoarding or overhead protective awning;
- d) use a mobile crane or travel tower for any work;
- e) make a hole or excavation or reinstate a hole or excavation;
- f) leave any building materials thereon;
- g) leave any rubbish, waste or debris or other goods thereon;
- h) plant trees or vegetation;
- i) remove or damage any tree or vegetation except in accordance with the exemptions outlined in Clause 21;
- j) that comprises a park, garden or reserve, drive on, park or use a vehicle to access private property through that park, garden or reserve for any purpose; or
- k) otherwise cause any change to Council land or anything thereon, or otherwise occupy, plant or put anything on Council land

21. Removal of vegetation on Council land

- a) Without a permit a person must not on any Council land remove any tree or vegetation, including dead trees and fallen timber, other than to prevent the spread of declared noxious weeds pursuant to the provisions of the *Catchment and Land Protection Act 1994* and those weeds listed in Nillumbik Shire Council publication '*Live Local Plant Local*'.
- b) Clause 21a) does not apply to the removal of material or vegetation from a road reserve if it is:
 - i) For the maintenance and mowing of nature strips comprising exotic vegetation (i.e. vegetation which is not native to Australia) within urban areas, where there is kerb and channel drainage construction; or

- ii) Removal of vegetation that has fallen onto the road from abutting private land; or
 - iii) Removal of fine fuels (which include dry grass, leaves, twigs and loose bark, but does not include larger logs or branches) by immediately abutting landowners for fire hazard reduction purposes, provided that the section of the road is not classified as High Conservation Significance; or
 - iv) Removal of dead vegetation (including dead indigenous vegetation) up to 1.5 m in height provided that the section of the road is not classified as High Conservation Significance; or
 - v) Removal of vegetation for fire hazard reduction purposes when in accordance with a fire prevention notice issued by the Municipal Fire Prevention Officer or an Assistant Fire Prevention Officer under:
 - Section 41 of the *Country Fire Authority Act 1958*, or
 - vi) Works undertaken by 'Friends Of', Landcare Groups and community fireguard groups in accordance with a land management agreement approved by Council.
- c) For the purposes of Sub-clauses 21 b) iii) and iv), High Conservation Significance is identified on Council's High/Low Roadside Conservation Significance map which is available on Council's website or can be viewed at the Council Offices.

22. Scare guns

- a) Without a permit the owner or occupier of land which is in a rural zone must not use or allow the use of scare guns (including scatter guns and gas guns) on the land.
- b) The owner or occupier of land which is not in a rural zone must not use or allow the use of scare guns (including scatter guns and gas guns) on the land.

PART 5 - ANIMALS

23. Collection and disposal of dog excrement

A person in charge of a dog in a public place must:

- a) carry a receptacle for the effective removal of any excrement that may be deposited by that dog;
- b) collect and appropriately dispose of any excrement deposited by that dog; and
- c) produce the receptacle to an authorised officer when requested.

24. Keeping of animals - secure confinement

- a) An owner or occupier of land on which livestock or dogs are kept must ensure that the land is adequately fenced so as to prevent the escape of such livestock or dogs from the land.
- b) Without a permit a person must not keep any livestock on any land in a residential zone or any land of an area less than 4,000 square metres.
- c) Without a permit a person must not keep more than:
 - i) two dogs (three months old or older);
 - ii) two cats (three months old or older);
 - iii) five reptiles or rodents;
 - iv) 10 large birds (which means any pigeon, cockatoo or other bird of similar or larger size, but does not include poultry) ;

- v) 25 small birds (which includes any budgerigar, canary, finch or other bird of similar or smaller size);
 - vi) a rooster; or
 - vii) 24 poultry
- on any land.
- d) An owner or occupier of land must ensure that the land and any structure on it used for the purpose of housing animals must be maintained:
 - i) in a clean, sanitary and inoffensive condition and so as not to cause any nuisance;
 - ii) in surroundings that are clear of any material that may harbour vermin; and
 - iii) to the satisfaction of an authorised officer.

25. Control of noisy livestock

The occupier of any land where livestock is kept or permitted to remain must not allow the animal to make noises or sounds which may unreasonably adversely affect the peace, comfort or convenience of any persons on any other land.

26. Dogs prohibited in markets

A person must not cause or permit any dog in their possession to be present on any land determined by Council by resolution, or by a delegate if this matter is the subject of a delegation, from time to time to be a market for the purposes of this Local Law, except in accordance with the Guidelines.

PART 6 - AMENITY

27. Alarm systems

The owner of any land must not cause or permit any audible or visual alarm system installed on that land or in a vehicle left on that land:

- a) to activate unless there is an emergency situation or an intruder is on the land; or
- b) to sound or omit a bright light longer than is reasonably necessary to attract attention to such land (where a total period of alarm (whether continuous or intermittent) of 10 minutes is considered as being a reasonably necessary time if the land is in a residential zone or 15 minutes if the land is in a commercial zone or industrial zone);

except where such alarm is being repaired or tested.

28. Condition of land

An owner or occupier of land must ensure that the land:

- a) does not constitute or is not likely to constitute a danger to health or a source of infestation or contamination to property, in that it is a haven for vermin, (including European Wasps and feral bees), noxious weeds or has overgrown vegetation or a substance thereon which could cause danger to health or property; and
- b) is not unsightly or detrimental to the general amenity of the neighbourhood, where 'unsightly' means an appearance which is inconsistent with and detrimental to the appearance of other properties in the area .

29. Trees and plants not to obstruct or obscure

An owner or occupier of land must not cause or permit:

- a) Any vegetation on his or her land to overhang any road (including the footpath and nature strip) to such an extent that it interferes with or obstructs the clear passage of pedestrians or vehicles; or
- b) Any boundary fence to be placed or vegetation to grow in such a manner that it causes a danger to traffic, pedestrians or drivers including by preventing a clear view of other vehicles or of signs or signals installed to control, direct, guide, regulate or warn drivers.

30. Chimneys

An owner or occupier of land must not cause or permit any chimney on the land to discharge dust, grit, ashes, smoke, effluvia or odour to such an extent that it is dangerous to health or is offensive to another person.

31. Incinerators

An owner or occupier of land must not cause or permit any incinerator on the land to be lit or to allow such to remain alight.

32. Open air burning

A person must not cause or permit a fire to be lit or remain alight in the open air unless for fire hazard reduction purposes and only in accordance with the following table:

Open air burning for fire hazard reduction purposes		
Period	Tenements less than 0.4 Ha	Tenements 0.4 Ha and over
The period commencing on 1 October and ending on 1 February (or the date of commencement of a fire danger period if sooner)	Permit Required	Fires are allowed without a permit
During the Fire Danger Period as declared by the CFA each year	*** Permit Required	*** Permit required
At all other times	No burning allowed	Fires are allowed without a permit

Notwithstanding the above:

- a) the requirements of the *Country Fire Authority Act 1958* and
- b) *Summary Offences Act 1966* must be adhered to;
- c) no fire may be lit or allowed to remain alight on a Total Fire Ban Day or a Smog Alert Day; and
- d) a person may light a fire in a barbecue for the purpose of cooking food but only under strict conditions as defined by the CFA.

*** A permit to burn-off during the Fire Danger Period will **only** be granted under exceptional circumstances. People wishing to burn-off must apply in writing to either the CFA or Council and, then, an inspection will be conducted to ascertain if a Schedule 13 permit under the *Country Fire Authority Regulations 2004* (Permit to Burn by an Individual) will be granted.

33. Large heap burning

A person must not cause or permit to remain alight a fire in a large heap unless in accordance with the following table:

Open air burning of large heaps		
Period	Tenements less than 1.0 Ha	Tenements 1.0 Ha and over
The period commencing on 15 October and ending on 1 May (or the date of commencement of a fire danger	No burning allowed	Permit required
During the fire danger period as declared by the CFA each year	*** Permit required	*** Permit required
At all other times	No burning allowed	Fires are allowed without a permit

Notwithstanding the above:

the requirements of the *Country Fire Authority Act 1958* and

- a) *Summary Offences Act 1966* must be adhered to
- b) no fire may be lit or allowed to remain alight on a Total Fire Ban Day or a Smog Alert Day

*** A permit to burn-off during the Fire Danger Period will **only** be granted under exceptional circumstances. People wishing to burn-off must apply in writing to either the CFA or Council and, then, an inspection will be conducted to ascertain if a Schedule 13 permit under the *Country Fire Authority Regulations 2004* (Permit to Burn by an Individual) will be granted.

34. Domestic waste, recyclables and organic material collections

- a) All domestic waste and recycling must be placed in bins provided by the Council and ready for collection on the times and days specified by the Council. They must be placed for collection no more than 24 hours before 6.00 am on the collection day.
- b) The Council may by resolution determine the fee or charge that may apply to households for provision of bins for domestic waste, recyclables or organic material.
- c) Any receptacles placed for collection which have not been supplied by the Council will not be emptied.
- d) The Council may by resolution determine the fee or charge that may apply to households for provision of a modified waste collection service, where such a service is provided by the Council upon the request of a household. An occupier is entitled to place for collection:
 - i) one (1) 120 litre mobile organics bin weighing not more than 25 kilograms, containing food and organic material per week;
 - ii) one (1) 240 litre recycling bin containing only the recyclables specified from time to time per fortnight; and
 - iii) one (1) 120 litre mobile other bin weighing not more than 25 kilograms containing materials not accepted in either of (i) or (ii) above per fortnight.
- e) An occupier of land must ensure that any bin referable to that land is kept within the occupier's premises in a location and condition which are not offensive to any person.

- f) Bins must be placed for collection outside the occupier's premises and must meet the following conditions:
 - i) be within 300 mm of the back of the kerb or roadside drain; and
 - ii) not be within 0.5 m of each side of another bin or object;
 - iii) have a minimum of 3.0 m vertical clearance;
 - iv) be placed in area that is safe and accessible to waste vehicles;
 - v) with the handles facing away from the roadway;
 - vi) not so that they pose a hazard to traffic or pedestrians.
- g) Bins must be placed in an area in accordance with direction from a Council waste officer or an authorised Council officer.
- h) An occupier of land must not store or place any of the following materials in a bin:
 - i) hot ashes or liquid waste;
 - ii) ashes, dirt, dust or fine particulate matter from a vacuum cleaner, unless it has been first wrapped in paper or some other impermeable cover to prevent its escape;
 - iii) broken window glass (or similar) or other sharp objects unless they have been properly contained or wrapped in such a way as to render them harmless;
 - iv) oils, paint, solvents or other hazardous substances or liquids;
 - v) disposable napkins unless they have been cleaned of solids and securely wrapped in impervious material prior to being placed in the bin;
 - vi) trade wastes of any kind;
 - vii) any other waste or materials specified by the Council from time to time.
- i) Waste collection operators may refuse to empty bins from any occupier who does not comply with a direction of the Council, an authorised officer or the waste collection operator.
- j) An occupier of land must not place any rubbish, recycling or organic material in the bin of another occupier without that other occupier's consent.
- k) A person must not remove or tamper with the bin or contents thereof of another occupier without the other occupier's consent.
- l) An occupier of land must ensure that material placed in a bin does not exceed a volume which prevents the lid being closed.
- m) After collection, an occupier of land must ensure that the empty bins referable to that land are retrieved from the street or road as soon as is practicable but within 24 hours of collection.
- n) An occupier of land is responsible for removing any spillage from a bin collected from the nature strip or pavement adjoining the occupier's land.
- o) Each occupier of land is responsible for the cleaning and disinfecting of bins referable to that land as needed to prevent odour or a nuisance to any person.
- p) An occupier of land must report any damage to his or her bins to the Council as soon as possible.

35. Hard Waste Collections

- a) Where the Council has notified occupiers of a hard waste collection and an occupier of land proposes to leave material for collection, the material must be left for collection in accordance with the conditions contained in the notice to occupiers.
- b) A person must not cause or permit a disused refrigerator, ice chest, icebox, chest or any other similar article to be put out for collection without first removing every door and lid.
- c) A person must not add to or take from the contents of a land occupier's materials left out for a hard waste collection without the permission of the land occupier.
- d) Waste collection operators may refuse to collect hard rubbish from any occupier who does not comply with a direction of the Council, an authorised officer or the waste collection operator.

36. Bulk rubbish containers

Without a permit a person must not place, cause or permit another person to place a skip or bulk rubbish container on a road unless all of the following requirements are complied with:

- a) the capacity of the skip or container does not exceed 2.5m³
- b) it is placed on the nature strip and does not obstruct vehicle or pedestrian traffic
- c) it is placed for no more than 4 days in any one calendar month and
- d) it is placed in accordance with the Guidelines

37. Trade wastes

- a) An occupier of commercial or industrial premises must provide a container for the storage of trade wastes which:
 - i. is constructed of impervious materials, water tight, fly-proof and vermin-proof;
 - ii. is emptied before it overflows;
 - iii. if unsightly, dangerous or detrimental to the general amenity of the neighbourhood, is fenced or screened in accordance with the direction of an authorised officer; and
 - iv. is maintained and kept to the satisfaction of an Environmental Health Officer from the Council.
- b) Without a permit, a person must not place, cause or permit another person to place a trade waste container on Council land.

38. Dumping of rubbish and waste

Without a permit a person must not:

- a) cause or permit rubbish, litter or waste to be placed on any Council land, unless as part of a hard waste collection as described in Clause 35; or
- b) dump household or business waste in any public litter bin.

39. Parking of vehicles

- a) The Council from time to time may, by resolution, or by a delegate if this matter is the subject of a delegation, fix the days, hours and conditions under which a vehicle may be left in or on:
 - i) any road;
 - ii) any parking area under the control of the Council; or

- iii) Council land;
and may erect appropriate signs.
- b) Without a permit a person must not park a vehicle on any park, garden or reserve under the control of the Council.

40. Resident parking scheme

The Council from time to time may, by resolution, introduce a permit parking scheme which:

- a) exempts any vehicle of a resident or specified person or specified class of person from the restrictions of time limited parking; or
- b) prohibits parking in specified areas by persons other than permit holders.

41. Motorised Toy Vehicles

- a) Without a permit a person must not use or allow the use of a motorised toy vehicle on any land.
- b) Without a permit a person must not use or allow the use of a motorised toy vehicle on any Council land other than a road.

42. Other Toy Vehicles

- a) A person who uses a toy vehicle must ensure that the use does not inconvenience, obstruct, hinder, endanger, alarm or prevent the free passage of any pedestrian or other user of a public place.
- b) The Council may by resolution, or by a delegate if this matter is the subject of a delegation, specify areas of the municipality to be toy vehicle-free areas.
- c) If the Council prescribes land to be a toy vehicle-free area, it shall:
 - i) unless the land is a public place, obtain the written agreement of the occupier of the land;
 - ii) give public notice and erect signs accordingly;
 - iii) ensure that a description of the area is available for inspection at the offices of the Council during normal business hours.
- d) A person must not use a toy vehicle in a toy vehicle-free area

43. Repair and sale of vehicles on roads and council land

Without a permit a person must not on any road or Council land:

- a) park or cause a vehicle to be parked or left for the purpose of exposing or displaying that vehicle for sale; or
- b) paint or dismantle any vehicle or (except where necessary to enable it to be removed there from) repair any vehicle.

44. Identification of premises

If the Council has allotted street numbers to premises abutting a road so that individual premises may be identified, the owner or occupier of the premises must mark and maintain the allotted number on the premises.

Such number must be marked so that it can, at any reasonable time, be clearly seen by any person using the road which abuts the premises.

45. Siting of caravans

Without a permit a person must not use a caravan for habitation unless in a registered caravan park or camping area.

46. Camping

Without a permit a person must not:

- a) camp on any Council land;
- b) camp or allow camping on any land he or she owns or occupies for more than one month at a time and on no more than three occasions in any one year and without making available on site suitable contained toilet facilities for the use of those camping.

47. Circuses, carnivals and festivals

Without a permit a person shall not conduct on any land a circus, carnival or festival.

PART 7 - ADMINISTRATION

48. Permits

- a) An application for a permit under this Local Law must be in a form approved by the Council and accompanied by the appropriate fee as prescribed by the Council.
- b) The Council may require an applicant to supply additional information or to give public notice of the application.
- c) The Council is exempt from the requirement to hold a permit under this Local Law.
- d) A permit may be issued subject to conditions.
- e) A person must comply with the conditions of the permit issued to them.

49. Exemptions

- a) The Council may, by resolution, or by a delegate if this matter is the subject of a delegation, exempt any person or class of persons from one or more of the requirements of this Local Law including the requirement to obtain a permit.
- b) The Guidelines may also exempt a class of persons from one or more of the requirements of this Local Law, including the requirement to obtain a permit.
- c) An exemption may be granted subject to conditions.
- d) A person must comply with the conditions of an exemption.

50. Setting fees and charges

The Council may, from time to time, by resolution, determine the fees, charges, guarantees or bonds to apply under this Local Law which may include an administrative or processing fee or charge and the Council must give reasonable public notice of any such resolution.

51. Direction of authorised officer

An authorised officer may make any reasonable direction, including a verbal direction, to a person in respect of:

- a) any matter under this Local Law ; or
 - b) a person's use of a public place,
- and a person must comply with any direction so given.

52. Notices to comply

- a) An authorised officer may, by serving a Notice to Comply, direct any owner or occupier of land or other person on whom an obligation is imposed by this Local Law to remedy anything which constitutes a breach of this Local Law,
- b) A person to whom a Notice to Comply is issued must comply with that notice.
- c) A Notice to Comply must state the date and time by which the thing must be remedied.
- d) The date and time stated by the Notice to Comply must be reasonable in the circumstances, having regard to:
 - i) the amount of work involved;
 - ii) the degree of difficulty;
 - iii) the availability of necessary materials or other items;
 - iv) climatic conditions;
 - v) the degree of risk or potential risk which continued breach of this Local Law poses to persons; and
 - vi) any other relevant matter.

53. Power of authorised officer - urgent circumstances

An authorised officer may act to remedy any circumstance which threatens a person's life, health or property, or an animal, without serving a Notice to Comply provided that:

- a) the circumstance arises out of a person's use of a public place or failure to comply with a provision of this Local Law;
- b) the action taken is no more than the minimum reasonably necessary to remedy the urgent circumstance; and
- c) the person to whom a Notice to Comply would have otherwise been served is as soon as possible notified of the urgent circumstance and the action taken to remedy it.

54. Impounding

- a) An authorised officer may:
 - i) impound any item that encroaches or obstructs the free use of a public place or any item that contravenes or is being used in contravention of this Local law;
 - ii) release the item to its owner on payment of a fee determined by the Council, which is not to exceed an amount that reasonably represents the cost to the Council of impounding, keeping and releasing the item; and
 - iii) sell, destroy, dispose of or give away the impounded item if the owner of the item has not paid the fee within 14 days of service of a notice under sub-clause 54 b) or after taking the steps required under sub-clause 54 c) .

- b) If the authorised officer impounds an item under sub-clause 54 a), he or she must serve on the owner a notice, in a form approved by the Council, as soon as possible after the impoundment.
- c) If the identity or whereabouts of the owner of the item impounded under sub-clause 54 a) is unknown, the authorised officer must take reasonable steps to ascertain the owner's identity and/or whereabouts prior to exercising his or her powers under sub-clause 54 a).
- d) The Council is entitled to retain out of the proceeds of sale of any impounded item its reasonable costs incurred in impounding, keeping and selling the item.

55. Council signs

Without a permit a person must not do anything on Council land contrary to a sign erected by the Council.

56. Delegation

The powers of the Council under this Local Law to:

- a) impound under sub-clause 54 a)
- b) issue, refuse or revoke a permit
- c) issue, sign, revoke, exempt, require or cancel any notice, order or agreement; and
- d) enforce any matter;

are delegated to the Chief Executive Officer of the Council and to all authorised officers who are also members of Council staff.

PART 8 - ENFORCEMENT

57. Offences

A person is guilty of an offence if the person:

- a) does something which a provision of this Local Law prohibits to be done;
- b) fails to do something which a provision of this Local Law requires to be done;
- c) engages in activity without a current permit where a provision of this Local Law requires that person to obtain a permit before engaging in that activity;
- d) breaches or fails to comply with a condition of a permit issued under this Local Law;
- e) fails to comply with a direction of an authorised officer under this Local Law; or
- f) fails to remedy a thing in accordance with a Notice to Comply by the date and time stated in the Notice to Comply.

58. Infringement notice

- a) Where an authorised officer reasonably believes that a person has committed an offence against this Local Law, the authorised officer may issue to that person an infringement notice, in a form approved by the Council, as an alternative to a prosecution for the offence.
- b) A person to whom an infringement notice has been issued must pay to the Council the amount specified in the notice within 28 days.
- c) Any person served with an infringement notice is entitled to disregard the notice and defend the prosecution in Court.

- d) An infringement notice may be waived by an authorised officer following representations from any person served with an infringement notice or made on behalf of that person.
- e) The fixed penalty in respect of an infringement notice is set out in Schedule 1.

59. Penalties

A person guilty of an offence under this Local Law is subject to the penalties set out in Schedule 1.

The resolution for making this Local Law was agreed to by the Nillumbik Shire Council on
26 November 2013

THE COMMON SEAL of the NILLUMBIK SHIRE COUNCIL was affixed hereto on
theday of 2013

on the authority of the Council and signed by:

..... Councillor

..... Chief Executive Officer

Schedule 1 – Penalties

1. General penalties

Unless specified in the following table the penalties for a contravention of this local law are:- Infringement

Notice fixed penalty - 1 penalty unit

On conviction for a first offence - up to 10 penalty units

2. Table of higher penalties

Clause	Offence (short description)	Infringement notice fixed penalty \$	On conviction first offence
			Maximum penalty - units
9 a)	Interfering with another person's use and enjoyment of a public place	200	10
9 b)	Endangering health, life, property or an animal	500	20
11 a)	Consuming or possessing liquor in a prescribed area	200	10
14 a)	Placing an advertising sign without a permit	200	10
14 b)	Attaching advertising signs and other materials to verandah or awning without a permit	200	10
15	Placing a clothing bin without a permit	200	10
16	Soliciting or collecting money without a permit	200	10
17 a)	Distributing notices, advertise or busking without a permit	200	10
18	Leaving a shopping trolley on Council land	200	10
19	Trading in a public place without a permit	200	10
20	Undertaking unauthorised works on, or interfering with, council land	200	10
21	Removing vegetation on Council land without a permit	200	10
22	Unauthorised use of scare guns	200	10
23 a)	Failure to carry a receptacle for dog excrement	100	5
23 b)	Failure to collect and dispose of dog excrement	200	10
24 a)	Inadequate fencing in of livestock or dogs	500	10
24 b)	Keeping of livestock on residential land or land under 4000 m ² without a permit	500	10
24 c)	Keeping more than the permitted number of animals	500	10
24 d)	Inadequate maintenance of animal housing	500	10
25	Not controlling noisy livestock	200	10

Clause	Offence (short description)	Infringement notice fixed penalty \$	On conviction first offence
			Maximum penalty - units
26	Causing or permitting a dog to be present in a market	200	10
27	Causing or permitting an audible and/or visible alarm to activate inappropriately	200	10
28 a)	Not ensuring that land does not constitutes a danger to health or property	200	10
28 b)	Not ensuring that land is not unsightly or detrimental to the general amenity of an area	200	10
29 a)	Causing or permitting vegetation to overhang a road and obstruct passage	200	10
29 b)	Causing or permitting a boundary fence or vegetation to cause a danger to traffic	200	10
30	Causing or permitting chimneys to discharge and be dangerous to health or offensive	200	10
31	Causing or permitting an incinerator to be alight	200	10
32	Causing or permitting inappropriate open air burning	200	10
33	Burning a large heap in contravention of clause 33	500	20
34 f)	Bin placed incorrectly	100	2
34 m)	Bin not retrieved within 24 hours of collection	100	2
36	Placing a skip on a road contrary to requirements	200	2
37	Failure to provide a container for trade waste in the appropriate manner	200	10
38	Inappropriate disposal of rubbish and waste	200	10
39 b)	Parking on a Council Reserve without a permit	45	1
41 a)	Using a motorised toy vehicle on private land without a permit	200	10
41 b)	Using a motorised toy vehicle on Council land without a permit	200	10
42 a)	Inappropriately using a toy vehicle in a public space	45	1
42 d)	Using a toy vehicle in a toy vehicle-free area	45	1
43	Advertising vehicles for sale or working on them on any road or Council land	200	10
44	Failure to maintain allotted number on premises	200	10
45	Living in a caravan without a permit	200	10
46 a)	Camping on Council land without a permit	200	10
46 b)	Causing or permitting camping on private land without a permit	200	10
47	Conducting a circus, carnival or festival without a permit	200	10
51	Failure to comply with a direction of an authorised officer	500	20
52	Failure to comply with a Notice to Comply	500	20

Penalties for Repeated and Continuing Offences

In addition to the penalties specified in clauses 1 and 2 of this schedule the following penalties apply: On conviction

For a second or subsequent offence - up to 20 penalty units

After conviction for a continuing offence - up to 2 penalty units per day