



LOCAL LAW NO. 6 2012

COMMUNITY LOCAL LAW

1 October 2012

WEST WIMMERA SHIRE COUNCIL

COMMUNITY LOCAL LAW NO. 6 2012

PART ONE - PRELIMINARY PROVISIONS

1. Title

This is the Community Local Law No. 6 of 2012.

2. Objectives

The objectives of this Local Law are to provide for the peace order and good government of the West Wimmera Shire by:

- (1) managing, regulating and controlling activities and uses on any land which:
 - (a) may be dangerous, cause a nuisance or be detrimental to the amenity of the area or the environment;
 - (b) are directed at maintaining a healthy and safe environment for residents and visitors;
 - (c) promotes an environment in which residents and visitors to the municipal district can enjoy a lifestyle that is expected of the area;
- (2) protecting against behaviour which causes detriment to the amenity and environment of the municipality.
- (3) identifying activities and uses that are not permitted so as to achieve the purposes in subclauses (1) and (2); and
- (4) providing for the administration of the Council's powers and functions.

3. Authorising Provision

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

4. Commencement, Revocation and Area of Operation

This Local Law:

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- (a) commences on 1 October 2012; and
- (b) unless it is revoked sooner, ceases to operate on 1 October 2022; and
- (c) operates throughout the whole municipal district.

5. Repeal of other Local Laws

From the date of operation of this Local Law the following Local Laws will cease to operate and are repealed:

- Droving of Livestock Local Law No. 2 1999
- Control of Unsightly, Untidy, Dangerous or Hazardous Premises No. 3 1999 •
Consumption of Liquor in Public Places Local Law No. 4 2005
- Environmental Local Law No. 5 2001.

6. Definitions of Words used in this Local Law

In this Local Law the following words have the meaning given to them unless stated otherwise:

“the Act”	means the Local Government Act 1989 .
“alcohol”	means a beverage intended for human consumption with an alcohol content greater than 0.5 per centum by volume at a temperature of 20 degrees Celsius.
“animal”	includes every species of quadruped and every species of bird.
“appropriate fee”	means the appropriate fee determined by the Council in accordance with this Local Law.
“Authorised Officer”	means a person appointed as an Authorised Officer under section 224 of the Local Government Act 1989 .
“camp”	means using a tent, caravan, mobile home or any other movable temporary form of accommodation including sleeping bags or swags.
“Chief Executive Officer”	means the person appointed as the Chief Executive Officer of the Council.
“Council”	means the West Wimmera Shire Council.

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“Council land”	means land, buildings and facilities which are owned, occupied or vested in the Council or in respect of which the Council has the care and management and to which the public has access whether an entry fee is paid or not and includes a public place.
“livestock”	means an animal (including a bird) of any species used in connection with primary production or kept or used for recreational purposes other than a dog or cat.
“noxious weed”	has the same meaning as in the Catchment and Land Protection Act 1994 .
“penalty unit”	has the same meaning as in section 110 of the Sentencing Act 1991 .
“permit”	in relation to a use or activity, means a permit issued under this Local Law which authorises that use or activity.
“Planning Scheme”	means the Planning Scheme operating in the West Wimmera Shire made under the Planning and Environment Act 1987 .
“poultry”	means birds kept for the production of eggs or meat for human consumption but does not include roosters.
“public place”	has the same meaning as in the Summary Offences Act 1966 .
“road”	has the same meaning as in the Local Government Act 1989 and applies to roads for which the Council has responsibility under the Road Management Act 2004 but does not include a State road under the Road Management Act unless a provision in the Local Law is expressly applied to a State road.
“shopping precinct”	means within the area outlined in orange in the Township maps attached in Schedule 5 of this Local Law.
“Township”	means an area defined on the maps attached in Schedule 5 of this Local Law.

PART TWO - ACTIVITIES AND USES REQUIRING A PERMIT

7. Activities and uses requiring a permit

- (1) A permit must be obtained from the Council before a person carries out any of the following activities:
 - (a) driving livestock through the municipal district in the circumstances described in clause 8;
 - (b) storing vehicles and machinery in the circumstances described in clause 10;
 - (c) keeping animals in excess of that permitted in accordance with clause 11.
 - (d) erecting a temporary dwelling in the circumstances described in clause 12;
 - (e) camping on land in the circumstances described in clause 13; and
 - (f) providing an area adjacent to licensed premises in which alcohol can be consumed in the circumstances described in clause 20.
- (2) A person who fails to obtain a permit for any of the uses or activities listed in sub clause (1) is guilty of an offence against this Local Law and liable to the penalty stated in the provision.
- (3) A person must comply with any conditions of a permit.

Penalty: 2 Penalty Units

8. Livestock Travelling through the Municipal District

- (1) The requirement to obtain a permit applies where it is proposed to drive livestock on Council roads¹ from outside the municipal district through any part of the municipal district to a point of destination beyond the municipal district.

Penalty: 10 Penalty Units

¹ This requirement only applies to roads under the care and management of the Council (a Council road). Any proposal to move cattle on a State road (VicRoads road) should be referred to VicRoads to ensure that any requirements of VicRoads are met.

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(2) An application for a permit must:

- (a) be made at least 24 hours before the time proposed to drive the livestock through the municipal district;
- (b) be made in the form of Schedule 1 and providing information about the proposed route to be travelled through the municipal district;
- (c) include a certificate of currency of public liability insurance covering risks likely to arise from driving and for an amount that is sufficient to meet any liability from a claim made against the policy; and
- (d) be accompanied by a fee of \$200.

(4) A permit will be issued if the Authorised Officer is of the opinion that:

- (a) the application and the information required by it have been provided;
- (b) the most practicable direct route from the point of departure to the point of destination is through part of the municipal district and the route does not affect roads that are classified as “significant” under the Council’s Roadside Management Plan;
- (c) the livestock are able to travel a minimum distance of 4 ½ kilometres for ewes and lambs and 9 kilometres for all other livestock each day in a forward direction towards the destination; and
- (d) the livestock are healthy and free from diseases and parasites and free from noxious weed seeds.

9. Conditions on a Permit

(1) A permit that allows livestock movement under clause 8 must contain the following conditions:

- (a) a requirement as to the number of people who must be in attendance while the livestock are camped overnight;

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- (b) that livestock camped overnight be contained by an electric fence or some other means which will secure the livestock to the satisfaction of the Authorised Officer and that signs or flashing lights remain in place while livestock are camped overnight;

- (c) that signs:
- (i) advising “Stock Ahead” or “Give Way to Stock Next [] km” are placed at least 250 metres in front of and behind the livestock and on each approaching road but no more than 5 kilometres from the livestock ;
 - (ii) comply with the design and information requirements in the **Road Safety Road Rules 2009¹**; and
 - (iii) remain in place until the livestock are confined on the destination property, but must be removed when the droving is completed;
- (d) that flashing amber lights are with the “Stock Ahead” or “Give Way to Stock Next [] km” signs and remain functioning while the signs are in place;
- (e) a maximum limit on the number of type of livestock which may be driven by 2 people in charge that may travel through the municipal district at any one time, (being a maximum of 2,000 sheep or 200 cattle) unless a greater amount has been previously approved by an Authorised Officer in writing;
- (f) that the livestock travel not less than any distance specified by the Authorised Officer;
- (g) that the person in charge of the droving is at least 16 years of age, is competent in handling livestock, is present and supervises the livestock at all times and conducts the activity in a safe way;
- (h) that appropriate precautions are taken to ensure livestock do not cause a risk to other road users or damage to fences, roads or flora;
- (i) that the person in charge of livestock must properly dispose of the carcass of any livestock under his or her care which die while they are travelling through the municipal district;
- (j) that overnight camp sites are located a minimum 500 metres from any community facility, building or service including schools, churches, fire brigades, telephone exchange, hall, sport or recreation area or dam or 500 metres from any clearly identifiable private property entrance; and

¹ The **Manual for Traffic Control at Stock Crossings** 2011 published by VicRoads contains information that a person in charge of livestock on or crossing a road should have regard to.
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- (k) that the livestock are only driven between sunrise and sunset and in weather conditions when visibility for all road users is at least 300 metres.
- (2) A permit issued under clause 8 may prescribe the route that is to be taken which may only be varied if the Authorised Officer consents to the variation in writing and the variation is endorsed on the permit.
- (3) A permit issued under clause 8 expires as soon as the driving which it permits is completed or the date specified in the permit has expired.

Penalty: 10 Penalty Units

10. Storage of Vehicles and Machinery

The requirement to obtain a permit to store old and second-hand vehicles and machinery applies in a Township where more than one (1) old or second-hand vehicle or machinery is kept or stored in a place that is visible from a public place.

Penalty: 5 Penalty Units

11. Keeping excess animals²

- (1) The requirement to obtain a permit to keep animals applies in a Township where the number and type of animal or bird exceeds the number prescribed in the following table.

Penalty: 5 Penalty Units

Type of Animal	Land 0.4ha or less	Land greater than 0.4ha
Dogs	2	4
Cats	2	4
Reptiles	2	2 or more

² For the purposes of calculating the maximum limit of numbers of animals kept, the progeny of any animal lawfully kept will be exempt for a period of three months after their birth.
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Ferrets, guinea pigs, rabbits or rodents	5	5 or more
Roosters Poultry	1 10	1 10 or more
Birds (such as cockatoos)	1	

Sheep, alpacas, goats	0 – except that up to 4 sheep may be kept on land during the declared fire danger period	2 - except that up to 4 sheep may be kept on land during the declared fire danger period
Horses	0	2
Cows	0	1
Pigs	0	0

- (2) The requirement to obtain a permit under this provision does not apply where a planning permit or a domestic animal business permit has been obtained for:
- (a) animal boarding or breeding; or
 - (b) for training animals on the land.

12. Temporary Dwellings

- (1) The requirement to obtain a permit for a temporary dwelling applies where it is proposed to construct or occupy a temporary dwelling on any land greater than 80 hectares in the municipal district.
- (2) In addition to the requirement to obtain a permit, a person must be able to:
- (a) connect the temporary dwelling to a Council approved septic system;

- (b) satisfy the Council that the proposed temporary dwelling will satisfy the minimum requirements for a dwelling under the **Building Code of Australia**; and
 - (c) satisfy the Council that the proposed temporary dwelling will meet a minimum Bushfire Attack Level of 12.5³ if the temporary dwelling is to be constructed outside of a Township.
- (3) Construction of a permanent dwelling must commence within 6 months and must be completed with 2 years of a permit being issued for a temporary dwelling under this Local Law.
- (4) A person must not construct or occupy a temporary dwelling on land included in a Bushfire Management Overlay under the Council's Planning Scheme.

Penalty: 20 Penalty Units

13. Camping on Land in Townships

- (1) The requirement to obtain a permit applies where a person camps or allows any other person to camp on land in a Township for a period in excess of 28 days in any 12 month period.

Penalty: 5 Penalty Units

- (2) In addition to any other conditions on a permit a person must satisfy an Authorised Officer that proper sanitary facilities are available and maintained so as not to be a nuisance or offensive to other occupiers of land in the vicinity.
- (3) The requirement to obtain a permit does not apply to a person camping in a registered caravan park or camping ground.

PART 3 – COMPLIANCE WITH REQUIREMENTS

14. Uses and activities to comply with requirements

- (1) A person must comply with the requirements applied in this Local Law to:

³ The *Building Amendment (Bushfire Construction) Regulations 2011* require that all new houses or alterations/additions in a designated bushfire prone area must meet a minimum Bushfire Attack Level (BAL) of 12.5.
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- (a) keeping animals;
 - (b) animal control;
 - (c) livestock movements within the municipal district; and
 - (d) roadside grazing by livestock for fire hazard reduction.
- (2) A person who does not comply with the requirements applying to the use or activity listed in subclause (1) is guilty of an offence against this Local Law and liable to the penalty stated in the provision.

15. Standards required for Keeping Animals

- (1) Whether a permit is required or not, a person keeping animals must provide shelter for them that is reasonable and appropriate for the type of animal being kept and having regard to:
- (a) the capacity to protect neighbours from any noise or nuisance from the animals; and
 - (b) the capacity to maintain the housing in an inoffensive and sanitary condition.
- (2) All animal shelters must be maintained so that a nuisance or offensive condition is not caused to adjoining properties by:
- (a) locating shelters or housing too close to the boundary of any adjoining property so that nuisance noise or smell are experienced beyond the land on which the animals are kept;
 - (b) manure and other waste on the land;
 - (c) a failure to keep food and other materials in fly and vermin proof containers;
 - (d) inadequate drainage of the land;
 - (e) allowing grass, weeds, refuse, rubbish and other material to build up within three metres of the animal shelter; and
 - (f) a failure to keep the animal shelter and the land in a clean and sanitary condition.

Penalty: 5 Penalty Units

16. Animal Control

(1) A person keeping a dog or housing a dog must not allow that dog to be housed on land within:

- (a) 6 metres of the frontage of the land; and
- (b) 3 metres of any adjacent dwelling.

Penalty: 5 Penalty Units

(2) A person with the care and control of an animal must immediately collect and dispose of any excrement left by that animal in a public place in a way that does not cause a nuisance to any other person.

Penalty: 2 Penalty Units

(3) A person disposing of dead livestock or parts of dead livestock must dispose of the livestock in a way that does not cause a nuisance or is detrimental to the health of another person or detrimental to the environment.

Penalty: 2 Penalty Units

(4) A person must not allow any animal that he or she is the owner or carer of to stray from the land on which the animal is being kept.

Penalty: 2 Penalty Units

(5) A person keeping any animals on land must ensure that the animals is contained by fencing that is adequate to prevent the type of animal being kept on the land escaping from it.

Penalty: 2 Penalty Units

(6) A person must not keep any animal in a way that would create a nuisance, be offensive, dangerous or injurious to the health of another person.

Penalty: 2 Penalty Units

17. Livestock movements within the Municipal District

A person may drive livestock on roads within the municipal district from one farm to another or to or from saleyards to a farm in the municipal district provided the following requirements are complied with:

- (a) the livestock are only moved on a road between sunrise and sunset and in weather conditions for the duration of each movement where the visibility for road users is at least 300 metres;
- (b) that the person in charge of the livestock is at least 16 years of age, is competent in handling livestock, is present and supervises the livestock at all times and conducts the activity in a safe way;
- (c) that signs:
 - (i) advising “Stock Ahead” or “Give Way to Stock Next [] km” are placed at least 300 metres in front of and behind the livestock but no more than 5 kilometres from the livestock; and
 - (ii) remain in place until the livestock are confined on the destination property, but must be removed when the droving is completed;
- (d) the owner of the livestock has in place public liability insurance covering risks likely to arise from moving livestock on roads and for an amount that is sufficient to meet any liability from a claim made against the policy;
- (e) that appropriate precautions are taken to ensure livestock are not permitted to cause a risk to other road users or damage fences, roads or flora; and
- (f) that the livestock are healthy and free from diseases and parasites and free from noxious weed seeds.

Penalty: 5 Penalty Units.

18. Roadside grazing by livestock for fire hazard reduction

A person may graze livestock on roadsides in the municipal district as a way of reducing fire hazards on the roadside provided that:

- (a) the livestock are grazed no more than 3 kilometres from the property on which they are usually kept and are returned to that property on the same day;
- (b) the owner of the livestock has in place public liability insurance covering risks likely to arise from grazing livestock on roads and for an amount that is sufficient to meet any liability from a claim made against the policy;
- (c) the livestock graze only between sunrise and sunset and in weather conditions where the visibility for road users is at least 300 metres;
- (d) that the person in charge of the livestock is at least 16 years of age, is competent in handling livestock, is present and supervises the livestock at all times and conducts the activity in a safe way;
- (e) that signs:
 - (i) advising “Stock Ahead” or “Give Way to Stock Next [] km” are placed at least 300 metres in front of and behind the livestock and on each approaching road but no more than 5 kilometres from the livestock; and
 - (ii) remain in place until the livestock are confined on the destination property, but must be removed when the droving is completed;
- (f) a requirement that appropriate precautions are taken to ensure livestock do not cause a risk to other road users or damage to fences, roads or flora; and
- (g) the livestock are healthy and free from diseases and parasites and free from noxious weed seeds.

Penalty: 5 Penalty Units.

19. Additional requirements applying to livestock on roads

Where livestock are being moved within the municipal district under clause 17 or are grazing under clause 18, the following additional requirements apply:

- (a) livestock being driven on or across a road classified as an “A” road, must have two people in attendance, one in front and one behind the livestock, while they are on or crossing the road.

Penalty: 5 Penalty Units.

PART FIVE- PROHIBITED ACTIVITIES AND USES

20. Consumption and Possession of Alcohol on Roads or in Car Parks

(1) A person must not consume any alcohol or have in their possession or control any alcohol other than in a sealed container at any time while they are in a shopping precinct identified within the Township maps in Schedule 5.

**Penalty: 10 Penalty Units for a first offence
20 Penalty Units for a subsequent offence.**

(2) The prohibition in this clause does not apply to any person who consumes alcohol or has in their possession or control any alcohol while:

- (a) taking part in a public ceremony or a function which the Council has permitted; or
- (b) at a licensed premises or authorised premises under the **Liquor Control Reform Act 1998** in a defined area immediately adjacent to licensed premises which is set aside for meals, for which a permit under this Local Law has been obtained.

21. Consumption and Possession of Alcohol on Reserves

(1) A person must not consume any alcohol or have in their possession or control any alcohol other than in a sealed container while they are on any reserve or in any vehicle on a reserve between the hours of 11pm and 6am.

**Penalty: 10 Penalty Units for a first offence
20 Penalty Units for a subsequent offence.**

(2) The prohibition in this clause does not apply to any person who consumes alcohol or has in their possession or control any alcohol while taking part in any organised function which the Council has permitted.

22. Unsightly, untidy and dangerous premises

A owner or occupier of land must not allow any land to be used, kept or remain in a condition that in the opinion of the Council:

- (a) is detrimental or destructive to the amenity of the neighbourhood; or
- (b) which may constitute a danger, hazard or nuisance to others –

because of:

- (i) the state of the land or because its appearance is untidy or unsightly;
- (ii) the nature, type, composition or growth of any vegetation on the land;
- (iii) the nature, type or composition of any goods or materials stored on the land or in premises on the land; or
- (iv) graffiti or writing is on any building or other structures or fittings associated with the land.

Penalty: 10 Penalty Units

23. Pest animals and noxious weeds

An owner or occupier of land must ensure that pest animals or noxious weeds are not present or grow on his or her land.

Penalty: 10 Penalty Units

24. Unregistered vehicles on roads or Council land

A person must not leave standing any unregistered vehicle, moveable dwelling or unregistered moveable dwelling on a road or Council land.

Penalty: 10 Penalty Units

PART SIX– ADMINISTRATION AND ENFORCEMENT

DIVISION 1 - PERMITS, FEES AND DELEGATIONS

25. Applying for a permit

- (1) A person who wishes to apply for a permit may do so by:

- (a) lodging with the Council an application in a form of Schedule 1; and
 - (b) paying to the Council the appropriate application fee.
- (2) The Council may require an applicant to provide additional information before dealing with an application for a permit or for an exemption to the requirement to obtain a permit.
- (3) The Council may require a person making an application for a permit to give public notice which will entitle any person to make a submission and to be heard in accordance with section 223 of the Act.
- (4) In deciding whether to grant a permit the Council may take into consideration whether the proposed activity or use will:
- (a) cause a danger or hazard to pedestrians or vehicles;
 - (b) disturb, annoy or disrupt adjacent property owners or occupiers;
 - (c) be detrimental to the amenity of the area;
 - (d) destroy native vegetation on Council land or roads;
 - (e) cause damage to Council assets;
 - (f) require the consent or whether the application should be referred to obtain the opinion of any other public authority or individual;
 - (g) obstruct a footpath so that it will not be possible to maintain a clear walkway at all times;
 - (h) necessitate the applicant to have insurance against any risk;
 - (i) necessitate a written indemnification of the Council against liability arising from activities authorised by the permit; and
 - (j) any other matters relevant to the circumstances of the application.

26. Issue of permits

The Council may:

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

27. Right of Appeal

- (1) A person who has applied for a permit may appeal in writing to Chief Executive Officer against the decision of an Authorised Officer to refuse to grant a permit within 21 days of being notified of the decision.
- (2) The Chief Executive Officer may obtain any additional information to assist with the determination of the appeal.
- (3) The Chief Executive Officer will advise the applicant in writing of the decision and the reasons for it within one month of receiving the request to review the decision of an Authorised Officer or within one (1) month of receiving any additional information requested of the applicant.

28. Duration of permits

- (1) A permit is in force until the expiry date indicated on the permit, unless it is cancelled before the expiry date or it is a permit issued under clause 8 of this Local Law.
- (2) If no expiry date is indicated on the permit, the permit expires 2 years after the date on which it is issued.
- (3) Before the permit expires, a person may request the Council to extend the permit for a further period of time.

29. Conditional permits

- (1) A conditional permit may be subject to conditions which the Council considers to be appropriate in the circumstances including:
 - (a) the payment of a fee or charge;
 - (b) the payment of a security deposit, bond or guarantee to the Council to secure the proper performance of conditions on a permit or to rectify any damage caused to Council assets as a result of the use or activity allowed by the permit;
 - (c) a time limit to be applied either specifying the duration, commencement or completion date;

- (d) that the applicant be insured against the risk and to provide a written indemnification of the Council against liability arising from the activity or use;
 - (e) the rectification, remedying or restoration of a situation of circumstance;
 - (f) where the applicant is not the owner of the subject property, the consent of the owner is obtained; and
 - (g) the granting of some other permit or authorisation.
- (2) The conditions of a permit must be set out in the permit.
- (3) The Council may, during the currency of a permit, alter the conditions of a permit if it considers it to be appropriate to do so, after providing the permit holder with an opportunity to make comment on the proposed alteration.

30. Cancellation of permit

- (1) The Council may cancel a permit if it considers that:
- (a) there has been a serious or ongoing breach of the conditions of the permit;
 - (b) a Notice to Comply has been issued, but not complied with within seven days after the time specified in the notice for compliance;
 - (c) there was a significant error or misrepresentation in the application for the permit; or
 - (d) in the circumstances, the permit should be cancelled.
- (2) Before it cancels a permit, the Council must provide the permit holder with an opportunity to make a submission on the proposed cancellation.
- (3) If a permit holder is not the owner of the land and the owner's consent was required to be given to the application for the permit, the owner must be notified of any Notice to Comply and of the reason why it has been served.

31. Correction of permits

- (1) The Council may correct a permit in relation to:

- (a) an unintentional error or an omission; or
 - (b) an evident material miscalculation or an evident material mistake in the description of a person, property or thing.
- (2) The Council must notify a permit holder in writing of any correction.
 - (3) If the permit holder is not the owner of the land and the owner's consent was required to be given to the application for the permit, the owner must be notified of any correction to a permit.

32. Fees

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

33. Registers

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

34. Exemptions

- (1) The Council may by written notice exempt any person or class of persons from the requirement to obtain a permit, either generally or at specified times.
- (2) In determining whether to grant an exemption to the requirement to obtain a permit, an Authorised Officer will have regard to:
 - (a) the circumstances of the application;

- (b) whether the application is to raise funds for community or charitable purposes;
 - (c) whether the proposed activity or use will have an overall community benefit;
 - (d) whether the proposed activity or use could have a detrimental effect on adjoining properties;
 - (e) whether the applicant will be given an unfair advantage over any other person or organisation; and
 - (f) any other matters relevant to the circumstances of the application.
- (3) An exemption may be granted subject to conditions.
- (4) A person must comply with the conditions of an exemption.
- (5) An exemption may be cancelled or corrected as if it were a permit.

35. Offences

A person who makes a false representation or declaration (whether oral or in writing), or who intentionally omits relevant information in an application for a permit or exemption is guilty of an offence.

Penalty: 5 Penalty Units

DIVISION 2 – ENFORCEMENT

36. Compliance with directions

A person must comply with any reasonable direction or instruction of an Authorised Officer when requested to do so in urgent circumstances or for public safety reasons, whether or not the person has a permit under this Local Law.

Penalty: 5 Penalty Units

37. Warning to offenders

- (1) Where there is a breach of this Local Law an Authorised Officer may request the person breaching the Local Law to stop or remedy the breach.
- (2) If a breach of this Local Law continues after an Authorised Officer has requested a person to remedy or stop the breach, the Authorised Officer may issue an official warning which must comply with the requirements of the **Infringements Act 2006**.

38. Power of Authorised Officer – Notice to Comply

Where there is a breach of this Local Law, an Authorised Officer may serve a Notice to Comply on the person who is breaching the Local Law in the form of Schedule 2.

39. Time to Comply

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

40. Failure to comply with a Notice to Comply

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

Penalty: 5 Penalty Units

- (2) Where a Notice to Comply requiring works to be undertaken is not complied with an Authorised Officer may cause any works to be carried out to ensure compliance and may recover the costs incurred to the Council.

41. Power of Authorised Officers to act in urgent circumstances

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

42. Power of Authorised Officers to impound

- (1) Where any items, goods and equipment are used in contravention of this Local Law an Authorised Officer may remove and impound them.
- (2) Where any items, goods and equipment are impounded under this provision, an Authorised Officer must as soon as possible and where practicable, serve a Notice of Impounding in the form of Schedule 3 on the owner or the person responsible for the item setting out the fees and charges payable and the time by which the item must be retrieved.
- (3) Where the identity or whereabouts of the owner or the person responsible for the impounded item is unknown the Authorised Officer must take reasonable steps to establish the identify or whereabouts of the person and may dispose of the impounded item in the following way:
 - (a) where the item is declared by a senior officer or another officer authorised for the purpose to have no saleable value, it may be disposed of in the most economical way determined by that officer;
 - (b) where the item is declared by a person in paragraph (a) to have some saleable value the item may be disposed of by tender, public auction or private sale but may be given away or disposed of if the sale is unsuccessful.
- (4) Any proceeds from the disposal of an impounded item will be paid to the owner or the person who in the opinion of the Council appears to be authorised to receive the money, except for the reasonable costs incurred to the Council in the administration of this Local Law.
- (5) If the person described in subclause (4) cannot be identified or located within 1 year of serving the Notice of Impounding, any proceeds of sale cease to be payable to that person and may be retained for municipal purposes.
- (6) If an Authorised Officer has impounded anything in accordance with this Local Law, the Council may refuse to release it until the appropriate fee or charge for its release has been paid to the Council.
- (7) In exercising any of the powers in this clause an Authorised Officer must have regard to any specific requirements in the Act. ⁴

⁴ Schedule 11 of the Local Government Act sets out Councils' powers over traffic. There are specific powers relating to the removal of unregistered or abandoned vehicles.
1 October 2012

43. Penalties and Infringement Notices and Penalties

- (1) As an alternative to prosecution an Authorised Officer may issue an infringement notice to any person whom the Authorised Officer reasonably considers has committed an offence against this Local Law.
- (2) A person issued with an infringement notice is entitled to disregard the notice and defend the prosecution in court.
- (3) The penalty fixed in respect of an infringement for which an infringement notice is issued is the amount set out in Schedule 4.
- (4) A person issued with an infringement notice may pay the penalty amount to the West Wimmera Shire Council at the address indicated in the notice.
- (5) To avoid prosecution and subject to the **Infringements Act 2006**, the penalty indicated in the infringement notice must be paid within 28 days after the day on which the infringement notice is issued.

44. Waiver and withdrawal

- (1) Within 28 days of receiving an infringement notice a person may make a written request to the Chief Executive Officer that the infringement notice be withdrawn.
- (2) The Chief Executive Officer may consider the written request and may make a decision or a recommendation to the Council that the infringement notice be withdrawn.
- (3) Where an infringement notice is withdrawn, the person upon whom it was served is entitled to a refund of any payment which that person has made other than any costs which the Council has paid as part of the enforcement process.

WEST WIMMERA SHIRE COUNCIL COMMUNITY LOCAL LAW

SCHEDULE 1

(Clauses 8 & 25)

APPLICATION FOR A PERMIT

I, _____
(Name of applicant)

of _____
(address)

apply for a permit for _____
(identify use of activity)

The relevant details are:

I wish to be able to:

For further information, I may be contacted on _____ (telephone)

between the following times: _____ and _____.

Date: _____

Signed by applicant

Fees: _____

Signature of owner where required

Paid: _____/_____/_____

Name of owner

Receipt No: _____

Address of owner

WEST WIMMERA SHIRE COUNCIL COMMUNITY LOCAL LAW

Schedule 2 (Clause 38)

NOTICE TO COMPLY

To:
(name)

.....
(address)

.....

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

Breach:.....

Work to be carried out:

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

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

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

Date:.....

Name of Authorised Officer:.....

Phone number/contact details of Authorised Officer:.....

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

WEST WIMMERA SHIRE COUNCIL COMMUNITY LOCAL LAW

SCHEDULE 3 (Clause 42)

IMPOUNDING NOTICE

To: _____
(Name)

(Address)

The following item(s) has/have been impounded in accordance with clause 42 of the Council's Community Local Law.

Description of items impounded:

You may collect the items by attending at the Municipal Offices at _____
_____ (insert address) between the hours of _____ to
see _____ (contact officer) and by paying the following:

Details of fees and charges	\$
_____	_____
_____	_____
_____	_____
TOTAL	\$ _____

If you fail to collect the item(s) and pay the required fees and charges by _____
(date), the Authorised Officer will proceed to dispose of the item(s) in accordance with Council's policy.

Date: _____

(Name of Authorised Officer)

Telephone: _____

(Signature)

**WEST WIMMERA SHIRE COUNCIL COMMUNITY LOCAL
LAW**

SCHEDULE 4 (Clause 43)

PENALTIES FIXED FOR INFRINGEMENT NOTICE PURPOSES

Provision	Offence	Penalty Unit
Clause 7(1)	Failing to comply with the conditions of the permit	2
Clause 8	Failing to obtain a permit to drive livestock	5
Clause 10	Failing to obtain a permit to store vehicles and machinery	2
Clause 11	Failing to obtain a permit to keep excess animals	2
Clause 12	Failing to obtain a permit to erect a temporary dwelling	5
Clause 12	Failing to obtain a permit to camp in excess of the period	2
Clause 15	Failing to comply with requirements for keeping animals	2
Clause 16	Failing to comply with requirements for animal control	1
Clause 17	Failing to comply with requirements for livestock movements within the municipal district	2
Clause 18	Failing to comply with additional requirements for livestock on roads	2
Clause 19	Failing to comply with requirements for grazing on roadsides for fire hazard reduction	3
Clause 20	Consumption and possession of alcohol on roads or car parks contrary to the Local Law	3
Clause 21	Consumption and possession of alcohol on reserves contrary to the Local law	3
Clause 22	Unightly, untidy and dangerous premises	5

Clause 23	Allowing noxious weeds and pest animals on land	2
Clause 24	Unregistered vehicles on roads or Council land	2
Clause 35	Making a false declaration or representation	3
Clause 36	Failing to comply with directions	3
Clause 40	Failing to comply with a Notice to Comply	3

WEST WIMMERA SHIRE COUNCIL COMMUNITY LOCAL LAW

SCHEDULE 5

TOWNSHIP MAPS





















West Wimmera Shire Council
Community Local Law 2012

The resolution for making this Local Law was agreed to by the Council of the West Wimmera Shire on 25 September 2012.

THE COMMON SEAL of THE WEST)
WIMMERA SHIRE COUNCIL was)
hereunto affixed in the presence of:)
)



..... Councillor
..... Councillor
..... Chief Executive Officer

Notices of the proposal to make and of the making of this Local Law were included in the Victorian Government Gazette dated the 2 August 2012 & 25 October 2012.

Public Notice of the proposal to make and confirmation of the making of the Local Law were inserted in the:

1. Wimmera Mail Times on the 1 August 2012 & 24 October 2012
2. West Wimmera Advocate on the 1 August 2012 & 24 October 2012
3. Kaniva Times on the 2 August 2012 & 25 October 2012

A copy of this Local Law was sent to the Minister for Local Government on 22 October 2012.