

# Local Law No 3 - 2011

## Municipal Places



The resolution for making this Local Laws was passed  
at a meeting of the Wellington Shire Council held on  
**Tuesday 19 July 2011.**



WELLINGTON  
SHIRE COUNCIL  
*The Heart of Gippsland*

## TABLE OF CONTENTS

<b>PART 1 – PRELIMINARY</b>	<b>1</b>
1.1 TITLE	1
1.2 OBJECTIVES OF THIS LOCAL LAW	1
1.3 THE POWER TO MAKE THIS LOCAL LAW	2
1.6 SCOPE OF THIS LOCAL LAW	2
1.7 HOW TO READ THIS LOCAL LAW	2
1.8 DEFINITIONS	2
<b>PART 2 - ADMINISTRATION OF THIS LOCAL LAW</b>	<b>4</b>
2.1 EXERCISE OF DISCRETIONS	4
2.2 REGISTER OF DETERMINATIONS	4
2.3 NOTICE TO COMPLY	4
2.4 TIME TO COMPLY	4
2.5 REASONABLE TIME TO COMPLY	4
2.6 FAILURE TO ADHERE TO A NOTICE TO COMPLY	5
2.7 POWER OF AUTHORISED OFFICERS TO ACT IN URGENT CIRCUMSTANCES	5
2.8 POWER OF AUTHORISED OFFICERS TO IMPOUND	5
2.9 REVIEW RIGHTS	6
2.10 NAME AND ADDRESSES	6
2.11 ENFORCEMENT	6
2.12 PENALTIES	7
2.13 INFRINGEMENTS	7
2.14 COUNCIL TO CARRY OUT WORK AT COST	8
<b>PART 3 - PERMITS</b>	<b>8</b>
3.1 APPLICATION FOR A PERMIT	8

<b>3.2</b>	<b>CONSIDERING APPLICATIONS</b>	<b>8</b>
<b>3.3</b>	<b>INDEMNITY</b>	<b>9</b>
<b>3.4</b>	<b>INSURANCE</b>	<b>9</b>
<b>3.5</b>	<b>PRIVACY AGREEMENT</b>	<b>9</b>
<b>3.6</b>	<b>PERMIT MAY BE CONDITIONAL</b>	<b>9</b>
<b>3.7</b>	<b>ADDITIONAL INFORMATION</b>	<b>10</b>
<b>3.8</b>	<b>DURATION OF PERMITS</b>	<b>10</b>
<b>3.9</b>	<b>UTILITY PROVIDER</b>	<b>10</b>
<b>3.10</b>	<b>CANCELLATION OF PERMITS</b>	<b>10</b>
<b>3.11</b>	<b>CORRECTION OF PERMITS</b>	<b>10</b>
<b>3.12</b>	<b>EXEMPTIONS FROM PERMITS</b>	<b>11</b>
<b>3.13</b>	<b>APPLICATION OFFENCE</b>	<b>11</b>
	<b>PART 4 - FEES, CHARGES AND COST</b>	<b>11</b>
<b>4.1</b>	<b>SETTING FEES AND CHARGES</b>	<b>11</b>
<b>4.2</b>	<b>DIFFERENTIAL OR STRUCTURED FEES AND CHARGES</b>	<b>11</b>
<b>4.3</b>	<b>WAIVER OR ALTERATION TO FEES AND CHARGES</b>	<b>11</b>
	<b>PART 5 - BEHAVIOUR</b>	<b>11</b>
<b>5.1</b>	<b>BEHAVIOUR IN MUNICIPAL PLACES</b>	<b>11</b>
<b>5.2</b>	<b>FEES AND ACCESS</b>	<b>12</b>
<b>5.3</b>	<b>PROHIBITION OF ENTRY</b>	<b>12</b>
<b>5.4</b>	<b>USE OF DRESSING ROOMS, SHOWERS OR TOILETS</b>	<b>13</b>
<b>5.5</b>	<b>MOTOR VEHICLES ON PUBLIC RESERVES AND MUNICIPAL PLACES</b>	<b>13</b>
<b>5.6</b>	<b>TREES OR PLANTS NOT TO INTERFERE WITH A MUNICIPAL PLACE</b>	<b>13</b>
	<b>PART 6 - SMOKING</b>	<b>14</b>
<b>6.1</b>	<b>SMOKING IN MUNICIPAL PLACES</b>	<b>14</b>
	<b>PART 7 - CONSUMPTION OF LIQUOR</b>	<b>14</b>

<b>7.1</b>	<b>LICENSED PREMISES OR AUTHORISED PREMISES -----</b>	<b>14</b>
<b>7.2</b>	<b>CONSUMPTION AND POSSESSION ON ROADS -----</b>	<b>14</b>
<b>7.3</b>	<b>EXEMPTION ON ROADS -----</b>	<b>14</b>
<b>7.4</b>	<b>CONSUMPTION AND POSSESSION ON PUBLIC RESERVES -----</b>	<b>14</b>
	<b>PART 8 - MANAGEMENT AND CONTROL OF CARAVAN PARKS -----</b>	<b>15</b>
	<b>PART 9 - BOAT LAUNCHING RAMPS -----</b>	<b>15</b>
	<b>SCHEDULE 1 – NOTICE TO COMPLY -----</b>	<b>16</b>
	<b>SCHEDULE 2 – NOTICE OF IMPOUNDING -----</b>	<b>17</b>
	<b>SCHEDULE 3 – APPLICATION FOR A PERMIT -----</b>	<b>18</b>
	<b>SCHEDULE 4 - FORM OF INDEMNITY -----</b>	<b>20</b>
	<b>SCHEDULE 5 - PERMIT -----</b>	<b>21</b>
	<b>SCHEDULE 6 - PENALTIES FIXED FOR INFRINGEMENT NOTICES -----</b>	<b>22</b>

**WELLINGTON SHIRE COUNCIL**  
**MUNICIPAL PLACES LOCAL LAW**  
**LOCAL LAW NO. 3 - 2011**

**PART 1 – PRELIMINARY**

**1.1 Title**

This Local Law is the Wellington Shire Council Municipal Places Local Law No. 3 -2011 and is referred to as this Local Law.

**1.2 Objectives of this Local Law**

The objectives of this Local Law are to:

- a) Provide for those matters that require a local law under the *Local Government Act 1989* and any other Act
- b) Allow and protect the quiet enjoyment by people of municipal places within the Municipal District;
- c) Enable people in the Municipal District to carry out their day to day activities and to enjoy their recreational pursuits without having their peace and enjoyment interfered with or destroyed;
- d) Recognise and respond to community expectations relating to the quality of life they expect and require and are capable of influencing;
- e) Control and prevent behaviour which is a nuisance, or which may be detrimental to health and safety or which affects the enjoyment of recreational or other facilities;
- f) Protect Council and community assets and facilities on or in municipal places;
- g) Prohibit, regulate and control:-
  - i. behaviour in municipal places which is harmful or intimidating;
  - ii. behaviour in municipal places which is offensive, dangerous or threatening or which, for other reasons, is inappropriate in a municipal place;
  - iii. the consumption of alcohol in designated areas and smoking in specified places;
- h) Provide for the administration and exercise of Council powers and functions;
- i) Provide for the peace, order and good government of the Municipal District; and
- j) Repeal any redundant local laws.

### 1.3 The Power to make this Local Law

This Local Law is made under the provisions of Section 111(1) of *the Local Government Act 1989* and Section 87(4) of the *Road Safety Act 1986*. This Local Law was prepared following due consideration of the *Charter of Human Rights and Responsibilities Act 2006*.

### 1.4 Operational date of this Local Law

This Local Law comes into operation on the day following publication in the Victorian Government Gazette at which time Municipal Places Local Law No 3 - 2005 adopted by Council on 21 December 2004 will be revoked and cease to operate.

### 1.5 Date this Local Law ceases operation

Unless this Local Law is revoked sooner, its operation will cease on the tenth anniversary of its making.

### 1.6 Scope of this Local Law

This Local Law applies to the whole of the Municipal District, except where it is apparent from its wording that a clause or schedule applies to a specific area or areas. Its provisions apply to the extent that they are not inconsistent with any Act, Regulation or Planning Scheme applicable to the Council or to its Municipal District.

### 1.7 How to read this Local Law

#### 1) Division of Parts

This Local Law is divided into Parts. Each Part is divided into separate clauses. Some of the clauses may be divided into sub-clauses which may, in turn, be divided into paragraphs.

Schedules form a part of this Local Law.

References to a particular provision of this Local Law or one of its Standards or Schedules may appear abbreviated, for example:

- S1 means Standard 1 of this Local Law
- 7.3 means clause 7.3 of this Local Law
- SCH1 means Schedule 1 of this Local Law

#### 2) Local Law Provisions and their relationships

Parts 1 to 9 of this Local Law set out the legal obligations, enforcement and penalties.

### 1.8 Definitions

Expressions used in this Local Law have the same meaning as in the *Local Government Act 1989* as defined in Section 3 of that Act including Chief Executive Officer, Municipal District and senior officer except where otherwise defined.

- 1) In this local law, and any other incorporated documents, unless the context otherwise requires:

<b>WORDS</b>	<b>MEANING</b>
Act:	Means the <i>Local Government Act 1989</i> .
Authorised Officer:	Means an Authorised Officer appointed under Section 224 of the Act and includes any member of the Victoria Police Force so appointed under the Act.
Caravan Park:	Means any public caravan park or camping area owned or under control of the Council.
Council:	Means the Wellington Shire Council.
Licensed Premises:	Means a premises for which a liquor licence has been granted under the - <i>Liquor Control Reform Act 1998</i> .
Liquor:	Means a beverage intended for human consumption with an alcoholic content greater than 0.5 per centum by volume at a temperature of 20 degrees celsius.
Manager:	Means the relevant person being the employee of the Council or an employee of a contractor to the Council who is from time to time in charge of the relevant Municipal Place.
Motor Vehicle:	Has the same meaning as in the <i>Road Safety Act 1986</i> .
Municipal District:	Means the district under the local government of the Wellington Shire Council.
Municipal Facility:	Means a Council owned or occupied building or complex of buildings and the land upon which it is located, designed for a specific purpose. This includes but is not limited to Council swimming centres, recreation centres, centres for the holding of sporting activities, libraries, civic centres, art galleries and entertainment centres.
Municipal Place:	Means a public place which is owned or occupied by the Council which the public has access whether an admittance fee is required or not and Includes the Port Of Sale.
Nuisance:	Has the same meaning as under the <i>Public Health and Wellbeing Act 2004</i> .
Penalty Unit:	Has the same meaning as given in the <i>Sentencing Act 1991</i>
Permit:	Means a permit issued by the Council under this Local Law.
Permit Holder:	Is a person to whom a Permit has been issued under this Local Law.
Public Assets:	Includes all property owned by Council or any other statutory authority or body corporate that is constituted for a public purpose.
Public Reserve:	Means any parks, gardens, sporting grounds, public reserve or other reserve owned by, vested in, maintained by or under the jurisdiction or control of the Council by any authority whatsoever.
Restaurant:	Includes but is not limited to any indoor area where seating is provided to customers who consume food prepared or served at food premises in the immediate vicinity of that area.
Road:	Has the same meaning as the <i>Local Government Act 1989</i> and <i>Road Management Act 2004</i> and includes: <ul style="list-style-type: none"> <li>(a) a street; or</li> <li>(b) a footpath; or</li> <li>(c) nature strip; or</li> <li>(d) a public road under the Road Management Act 2004; or</li> <li>(e) a right of way; or</li> <li>(f) a bicycle path; or</li> <li>(g) a carriageway; or</li> <li>(h) any land reserved or proclaimed as a street or road under the Crown Land (Reserves) Act 1978 or the Land Act 1958; or</li> <li>(i) any culvert or curbing.</li> </ul>

WORDS	MEANING
Tobacco Product:	Has the same meaning as in the <i>Tobacco Act 1987</i> .

## PART 2 - ADMINISTRATION OF THIS LOCAL LAW

### 2.1 Exercise of Discretions

- 1) In exercising any discretion contained in this Local Law the Council must have regard to:
  - a) the objectives of this Local Law;
  - b) the standards contained in this Local Law; and
  - c) any Guidelines prepared by the Council from time to time.
  
- 2) The Council may from time to time prepare Guidelines for use by the Council, Council officers and other persons for the purposes of this Local Law.
  - a) Guidelines prepared by the Council must not be inconsistent with the objectives of this Local Law or with the standards contained in this Local Law.
  - b) In preparing Guidelines the Council must have regard to the objectives of this Local Law and the standards contained in this Local Law.
  - c) The guidelines may be amended by the Council from time to time in accordance with Section 112(2) of the Act.

### 2.2 Register of Determinations

- 1) Any determination made or Guidelines prepared by the Council for the purposes of this Local Law must be maintained by the Council in a register kept for that purpose.
  
- 2) The register kept for the purposes of this clause must be made available for inspection at the office of the Council during normal office hours.

### 2.3 Notice to Comply

Council or 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 of this Local Law.

### 2.4 Time to Comply

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

### 2.5 Reasonable Time to Comply

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:-

- 1) the amount of work involved;
- 2) the degree of difficulty;
- 3) the availability of necessary materials or other necessary items;
- 4) climatic conditions;
- 5) the degree of risk or potential risk; or
- 6) any other relevant matter.



## 2.6 Failure to Adhere to a Notice to Comply

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 and liable to the amount of the penalty specified by this Local Law.

## 2.7 Power of Authorised Officers to Act in Urgent Circumstances

If an Authorised Officer is of the opinion that:

- a) a person has breached any provision of this Local Law in respect of which a Notice to Comply may be issued and:
  - any person; or
  - any animal; or
  - any property; or
  - the environment of the Municipal District is in danger of substantial detriment due to the breach; and
- b) that danger may be exacerbated by the length of time it may take to serve and ensure compliance with a Notice to Comply, an Authorised Officer may take such action as he or she considers necessary to abate or minimise the danger without serving a Notice to Comply provided a subsequent notice in writing is given, if practicable;
- c) the subsequent notice must include:
  - the reasons for taking the action; and
  - the action taken to the person in breach of the provision of this Local Law in respect of which the action was taken.

## 2.8 Power of Authorised Officers to Impound

- 1) An Authorised Officer may seize and impound any thing which has been or is being used or possessed, or which has been left, in contravention of this Local Law.
- 2) Where a thing has been impounded under this Local Law, Council or an Authorised Officer must, if it is practicable to do so, serve a written notice of the impounding personally or by mail on the owner of the impounded item or object.
- 3) An impounded thing must be returned to:
  - a) its owner; or
  - b) a person acting on behalf of its owner who provides evidence to the satisfaction of an Authorised Officer of his or her authority from the owner: –  
upon
    - i. evidence to the satisfaction of the Authorised Officer being provided of the owner's right to the thing; and
    - ii. payment of any fee determined by Council or an Authorised Officer from time to time. Council may refuse to release the impounded thing or object until the appropriate fee or charge for its release has been paid to Council.

- 4) Clauses 2 and 3 does not apply to the impounding of alcohol under this Local Law or other items where the nature of the item impounded is such that it would be impracticable to return the item to the person from whom it was impounded or the owner.
- 5) If an impounded thing has not been surrendered to its owner or a person acting on the owner's behalf within 28 days of the notice of impounding being served or, if no notice of impounding has been served on the basis that it is impracticable, of the act of impounding, Council may, at its discretion,
  - i. sell;
  - ii. dispose;
  - iii. give away; or
  - iv. destroy,the impounded thing.
- 6) Any proceeds from the disposal of impounded items under this Part must be paid to the owner except for the reasonable costs incurred by the Council in the administration of this Part.
- 7) In the event that the owner cannot be identified or located within one year any proceeds from the disposal of impounded items under this part must be paid into the Council's General Account.

## 2.9 Review Rights

- 1) If any person is aggrieved by the level of fairness of any action taken by Council or an Authorised Officer under this Local Law, he or she may request Council's Chief Executive Officer to review the fairness or reasonableness of the action taken.
- 2) Where Council's Chief Executive Officer reviews the fairness or reasonableness of any action taken by Council or an Authorised Officer, the result of that review must be communicated to the person who made the request in accordance with clause 2.9 (1).

## 2.10 Name and Addresses

A person is guilty of an offence if:

- a) an Authorised Officer finds the person is committing or has committed an offence under this Local Law; and
- b) the person fails to give his or her correct name and correct address to the Authorised Officer upon request.

## 2.11 Enforcement

- a) Where any provision in this Local Law requires that something must not be done under any circumstances, any person who does that act is guilty of an offence.
- b) Where any provision in this Local Law requires that something must not be done between specified hours of the day or night during specified months of the year, on days meeting a recognized category\* 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.

\*E.g. extreme fire danger days.

- c) Where any provision in this Local Law requires that a person must have a permit for 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 Permit issued under this Local Law contains conditions, any person who contravenes or fails to comply with a condition of the Permit is guilty of an offence.
- e) 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.

## 2.12 Penalties

Except where otherwise indicated the penalty for breach of any provision of this Local Law is 20 Penalty Units.

Schedule 6 of this Local Law sets out penalties for infringement notices which may be issued in respect of offences against this Local Law where the Council or its Authorised Officers determine to issue an infringement notice.

## 2.13 Infringements

- 1) An Authorised Officer may serve an infringement notice under this Local Law on any person whom the officer believes has committed an offence referred to in this Local Law in accordance with Section 12 of the *Infringements Act 2006*.
- 2) The infringement notice must be in the form required in Section 13 of the *Infringements Act 2006*.
- 3) If the infringement notice is not withdrawn and the person pays to the Council the amount required by the infringement notice within the period of 28 days or such further period as the Council or an Authorised Officer may allow, no further action will be taken against that person for the alleged offence.
- 4) Any person issued with an infringement notice may apply for internal review to the Chief Executive Officer, officer in charge of Local Laws administration or any other person authorised by the Council to receive such representations in accordance with Section 22 of the *Infringements Act 2006*.
- 5) An application or internal review received by the Council in accordance with sub-clause (4) within 28 days of the issue of the infringement notice must be considered in accordance with Section 24 of the *Infringements Act 2006*.
- 6) The Council or the Chief Executive Officer or officer in charge of Local Laws administration or such other person as the Council authorises may make a decision on the application for internal review in accordance with Section 25 of the *Infringements Act 2006*.
- 7) Subject to sub-clause (12) the decision of the Chief Executive Officer or officer in charge of Local Laws administration or such other person as the Council authorises on any representations received will be final.

- 8) 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 on the infringement notice.
- 9) If the penalty referred to in an infringement notice has been paid within the required period of its issue and no application for internal review has been received by the Council or its officers, no decision may be made to withdraw the infringement notice and prosecute the offence after the expiry of 28 days from the issue of the infringement notice.
- 10) A withdrawal of an infringement notice must be served in accordance with Section 234 of the Act.
- 11) 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.
- 12) Any person served with an infringement notice under this Local Law is entitled to disregard the notice and defend the prosecution in Court.

#### **2.14 Council to Carry Out Work at Cost**

- 1) Where Council requires a person to carry out work under this Local Law and that person fails to carry out that work:
  - a) the Council may cause any other person to carry out the work; or
  - b) the Council may carry out the work.
- 2) If a person carries out the work on behalf of the Council, that person may recover the cost of carrying out such work from the person who failed to do it.
- 3) If the Council carries out the work the Council may recover the cost of carrying out the work from the person who failed to do it.

### **PART 3 - PERMITS**

#### **3.1 Application for a Permit**

- 1) The form of an application for a Permit under this Local Law will be in the form of Schedule 3 except where this Local Law specifies otherwise, and be accompanied by the appropriate fee.
- 2) 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 be heard in accordance with Section 223 of the Act.

#### **3.2 Considering Applications**

In considering an application for a Permit, Council or an Authorised Officer may consider any:

- a) relevant standard, policy or guideline adopted by Council relating to the subject matter of the application for the Permit. Policy or Guidelines may be updated from time to time;
- b) submission that may be received in respect of the application;
- c) impacts, if any, on other persons or places within the municipality;
- d) comments that may be made in respect of the application by any public body, community organisation or other person; and
- e) other relevant matter.

### **3.3 Indemnity**

Council may request that an Indemnity Form indemnifying Council from any loss or damages may be completed. If an applicant is a company, the Indemnity must be guaranteed by an individual who is a director of that company.

### **3.4 Insurance**

Council may request that prior to a Permit being granted the applicant must provide a copy of a public liability insurance policy with a cover of no less than \$10 million per claim. The policy must be maintained for the duration of the Permit. Council must be named as an "interested party" and the policy is required to contain a "cross liability" clause between Council and the applicant.

### **3.5 Privacy Agreement**

Personal information that is requested on an application form is collected for the purpose of processing an application for a Permit.

The personal information will be used solely by Council for that primary purpose or directly related purposes. The Council may disclose some of this information to relevant organisations or people (including property owners) if the nature of the activity for which the Permit has been applied requires consent by parties other than Council or has the potential to affect neighbourhood amenity.

If sufficient information is not collected on the application, Council may not be able to effectively process the application and in most cases will refer the application back to the applicant for further details.

The applicant understands that the personal information provided is for the purpose of applying for a Permit and that they may apply to Council for access to or amendment of the information.

### **3.6 Permit may be Conditional**

A Permit under this Local Law may be issued subject to the Council determining the conditions on which it is prepared to issue the Permit including conditions relating to:

- a) the payment of a fee or charge;
- b) a standard to be applied;

- c) a time limit to be applied which may specify the times, duration, commencement or completion date;
- d) that the Permit is subject to the happening of an event;
- e) the rectification, remedying or restoration of a situation or circumstance;
- f) where the applicant is not the owner of the subject property, the consent of the owner;
- g) the granting of some other permit which may be required by the Council whether under this Local Law or otherwise; or
- h) any other condition as is required to give effect to the objectives of this Local Law.

### **3.7 Additional Information**

The Council or an Authorised Officer may require an applicant to provide additional information before determining an application for a Permit. If sufficient information is not collected on the application, Council may not be able to effectively process the application and in most cases will refer the application back to the applicant for further details. The Council may require additional information for the purpose of administering and enforcing provisions of this Local Law.

### **3.8 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.

### **3.9 Utility Provider**

- 1) A Utility Provider or a person employed by or acting on behalf of a Utility Provider is not required to obtain a Permit under this Local Law in respect of work which is for the ordinary purposes or course of business of the Utility Provider.
- 2) A person who would, but for clause 3.9(1), be required to obtain a Permit in respect of any activity must notify the Council in writing of the activity prior to its commencement.

### **3.10 Cancellation of Permits**

- 1) A permit may be cancelled or modified by the Council at any time, if a hazard or a danger to the public exists; or if any of the conditions under which the permit was issued have not been complied with providing:
  - a) a Notice to Comply has been served upon the permit holder;
  - b) there has been a failure to comply with the Notice to Comply;
- 2) 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 by the permit holder of the Notice to Comply without delay.

### **3.11 Correction of Permits**

- 1) Council or an Authorised Officer may correct a Permit issued if the Permit contains:

- a) a clerical mistake or an error arising from any accident, slip or omission; or
  - b) an evident and material miscalculation of figures or any evident and material mistake in the description of any person, item or object or property referred to in the Permit.
- 2) Council or the Authorised Officer must note the correction in the register of permits.

### **3.12 Exemptions from Permits**

An Authorised Officer may, with the written authority of the Chief Executive Officer, grant an exemption from any requirement to obtain a Permit.

The exemption may be granted subject to conditions.

A person must comply with the conditions of an exemption.

An exemption may be withdrawn or corrected as if it were a Permit.

Where compliance with any condition of a Permit or an exemption or other condition arising under this Local Law is impracticable in a particular circumstance, the Council may exempt a person from compliance with that condition or vary the condition in a way which is capable of compliance.

### **3.13 Application Offence**

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.

## **PART 4 - FEES, CHARGES AND COST**

### **4.1 Setting Fees and Charges**

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

### **4.2 Differential or Structured Fees and Charges**

In determining any fees and charges the Council may establish a system or structure of fees and charges, including a minimum or maximum fee or charge, if it considers it is appropriate to do so.

### **4.3 Waiver or Alteration to Fees and Charges**

The Council may waive, reduce or alter any fee or charge with or without conditions

## **PART 5 - BEHAVIOUR**

### **5.1 Behaviour in Municipal Places**

A person must not whilst in or on a Municipal Place:

- 1) use language or behave in a manner which, in the opinion of an Authorised Officer, is offensive, indecent, insulting or harmful and which would cause the quiet enjoyment of any person using the Municipal Place to be interfered with.
- 2) behave in any Municipal Place in a way which, in the opinion of an Authorised Officer, would be detrimental to the Municipal Place or other Public Assets.
- 3) act in a way which endangers any person.
- 4) use any volatile, explosive or flammable matter posing a threat to public safety.
- 5) damage, destroy, write on, interfere with or remove any thing to any building, improvement or other structure of any kind.
- 6) distribute, leave or post any pamphlet, poster, literature other than with the consent of the facility manager;
- 7) affix or display any thing to any building, improvement or other structure of any kind unless in accordance with a permit under the Wellington Planning Scheme.
- 8) use any life saving or fire fighting device unless during an emergency or with the approval of a person in charge or an Authorised Officer.
- 9) act contrary to any conditions of use, written notice or rules laid down by Council from time to time;
- 10) act contrary to reasonable instructions from any Authorised Officer of Council or a member of Council staff;
- 11) act contrary to any signage authorised and installed by Council;
- 12) use any computer or other device for the downloading or display of pornography, illegal or offensive picture, words, works or for transmitting viruses in a Municipal Facility.

## **5.2 Fees and access**

- 1) The Council may from time to time by resolution determine any fees and charges for the use of a Municipal Place.
- 2) The Council may determine or change the time of which a Municipal Place is open to the public.
- 3) An Authorised Officer or Manager may at any time close a Municipal Place or any part of it for any purpose, including maintenance and cleaning.

## **5.3 Prohibition of Entry**

A person must not:

- (a) enter or remain in a Municipal Place without paying the appropriate fee (if any);
- (b) enter or leave a Municipal Place except through an entrance or exit provided for the purpose of the public unless:
  - i. in the event of an emergency; or



- ii. that person is one of a class for whose use the entrance or exit is specifically designated;
- (c) enter or remain in a Municipal Facility if that person has been excluded from the Municipal Facility by an Authorised Officer or Manager;
- (d) re-enter a Municipal Facility within 24 hours (or such other time as directed) after being excluded from a Municipal Facility;
- (e) enter or remain in a Municipal Facility if that person is under the influence of alcohol;
- (f) eat or drink in a Municipal Facility unless in an area which may be designated for such a purpose;
- (g) have in their possession in or on a Municipal Place any Liquor except:
  - i. in accordance with a Permit; or
  - ii. in accordance with any other law.

#### **5.4 Use of dressing rooms, showers or toilets**

A person must not:

- (a) Enter or use any dressing room, shower or toilet in or at a Municipal Facility, or any passage leading to it which has been appointed or appropriated to persons of the opposite sex unless that person is:
  - i. a child under the age of 6 years; or
  - ii. in the care of a responsible person of the opposite sex; or
  - iii. a person authorised by the Manager.

#### **5.5 Motor Vehicles on Public Reserves and Municipal Places**

A driver of a Motor Vehicle, must not drive or park a Motor Vehicle on any Public Reserve or Municipal Place within the Municipal District, other than where existing Roadways or car parks exist, unless:

- a) the driver is a Council employee or contractor, carrying out duties in respect of Council;
- b) the driver is a member of the Victoria Police or other emergency service acting in the course of their duties; or
- c) the driver of a Motor Vehicle has been given written permission by the relevant Manager or Authorised Officer.

#### **5.6 Trees or plants not to interfere with a Municipal Place**

No person who owns or occupies land in the Municipal District may allow trees, plants or any other matter on his or her land to cause damage to or interference with a Municipal Place.

## **PART 6 - SMOKING**

### **6.1 Smoking in Municipal Places**

- 1) A Council may declare a Municipal Place or part of a Municipal Place to be an area where Tobacco Products must not be consumed (a smoke free area).
- 2) A Council must erect signs in any Municipal Place or part of a Municipal Place which has been declared a smoke free area.
- 3) No person may smoke in or on any Municipal Place or part of a Municipal Place which has been declared by the Council to be a smoke free area.
- 4) No person may be prosecuted for an offence under this Part where a sign required to be erected under sub-clause (2) is not visible to the public due to its location or state of repair.

## **PART 7 - CONSUMPTION OF LIQUOR**

### **7.1 Licensed Premises Or Authorised Premises**

This Part shall not apply to any licensed premises or authorised premises under the *Liquor Control Reform Act 1998*.

### **7.2 Consumption and possession on Roads**

A person must not, at any time on a Road within the Municipal District:-

- a) consume any Liquor; or
- b) have in his or her possession or control any Liquor, other than Liquor in a packaged and sealed container.

### **7.3 Exemption on Roads**

Part 7 does not apply to any person who:

- a) consumes Liquor or who has Liquor, in his or her possession or control, whilst taking part in a public ceremony or a function to which Council has given written permission or where a Permit has been issued for Street Parties, Street Festivals and Processions or other events pursuant to Local Law No. 2 - 2011.
- b) is a patron of a business issued with a Local Law No. 2 - 2011 Permit for an Alfresco Dining area with an endorsement for the consumption of alcohol and the person is within the designated area in accordance with the conditions of the Permit and any Liquor Licence under the *Liquor Control Reform Act 1995*.

### **7.4 Consumption and possession on public reserves**

Between sunset and sunrise, unless in accordance with a Permit, a person must not, in any Public Reserve, or in any Motor Vehicle on any Public Reserve:

- a) consume any Liquor; or
- a) have in his or her possession or control, any Liquor other than Liquor in a packaged and sealed container.

## **PART 8 - MANAGEMENT AND CONTROL OF CARAVAN PARKS**

### **8.1 Camping Areas**

- 1) The Council may:
  - (a) set aside any portion of a Caravan Park as a camping area;
  - (b) set aside individual camp sites within any camping area;
- 2) No person shall camp in any area except on a site as indicated in clauses 8.1(1)(a) or (b).

## **PART 9 - BOAT LAUNCHING RAMPS**

The Council may:

- (a) set apart any portion of a Public Reserve as a boat launching ramp; and
- (b) fix and collect such fees or set conditions as it may from time to time determine for the use of such boat launching ramp.



**SCHEDULE 1 – NOTICE TO COMPLY**

To\*: \_\_\_\_\_ [*INSERT COMPANY NAME IF APPLICABLE*]

Address: \_\_\_\_\_

Address to which this Notice to Comply applies  
(if different from above): \_\_\_\_\_

You/the company (delete as applicable) have breached provision(s) \_\_\_\_\_ of Local Law  
Municipal Places No.3-2011, as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To remedy the breach you must carry out the following action or work, within  
\_\_\_\_\_ days from the date of this Notice being \_\_\_\_\_ am/pm on  
\_\_\_\_\_ (Date).

The following action or work is required:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you fail to comply with this Notice you will be guilty of an offence and liable to a penalty  
of \$ \_\_\_\_\_ (penalty).

A further penalty of one (1) Penalty Unit for each date during which the contravention  
continues applies; and upon conviction for a second or subsequent offence, double the  
penalty stated under the provision of Penalty Units.

If you fail to comply with this Notice to Comply within the specified time the Council or the  
Authorised Officer may proceed to carry out the action or work. You will be liable for any  
cost incurred by the Council in carrying out such action or work.

Name of Authorised Officer: \_\_\_\_\_

Signature of Authorised Officer: \_\_\_\_\_

Date: \_\_\_\_\_

You may contact the Authorised Officer on 1300 366 244 during offices hours for further information  
about this Notice to Comply.

In person: Wellington Shire Council

70 Foster Street, Sale

Post: PO Box 506 Sale Vic 3860

Email: [Enquiries@wellington.vic.gov.au](mailto:Enquiries@wellington.vic.gov.au)

Website: [www.wellington.vic.gov.au](http://www.wellington.vic.gov.au)



**SCHEDULE 2 – NOTICE OF IMPOUNDING**

To\*: \_\_\_\_\_ [\*INSERT COMPANY NAME IF APPLICABLE]

Address: \_\_\_\_\_

The following item(s) has/have been impounded in accordance with Municipal Places Local Law No. 3 – 2011.  
(Describe items impounded)

- 
- 
- 
- 

You may arrange to collect the items by contacting the Wellington Shire Council on 1300 366 244 during office hours.

The following fees and charges are payable prior to collecting the items:

_____	_____
_____	_____
_____	_____
_____	_____
TOTAL	\$ _____

If you fail to collect the item(s) and pay the required fees and charges by \_\_\_\_\_ the Authorised Officer will proceed to dispose of the item(s) in accordance with the law.

Name of Authorised Officer: \_\_\_\_\_

Signature of Authorised Officer: \_\_\_\_\_

Date: \_\_\_\_\_

You may contact the Authorised Officer on 1300 366 244 during offices hours for further information about this Notice of Impounding.

In person: Wellington Shire Council  
70 Foster Street, Sale  
Post: PO Box 506 Sale Vic 3860  
Email: [Enquiries@wellington.vic.gov.au](mailto:Enquiries@wellington.vic.gov.au)  
Website: [www.wellington.vic.gov.au](http://www.wellington.vic.gov.au)



### SCHEDULE 3 – APPLICATION FOR A PERMIT

**Please carefully read both sides of this application before completing it. Please indicate the type of permit you need (see list overleaf).**

Name of Applicant\*:

*[\*INSERT COMPANY NAME IF APPLICABLE]*

Address of Applicant:

Address to which this permit applies (if different from above):

Telephone No:

Email Address:

Permit Type Required:

I wish to be able to: (Describe activity)

Have you attached a site map if required? (see overleaf)	YES	NO
Have you attached a completed indemnity form and proof of public liability insurance if required? (see overleaf)	YES	NO
Have you advised any of your neighbours before making this application if required? (see overleaf)	YES	NO

Names and addresses of all adjoining neighbours advised (If insufficient space please attach additional pages)

Name	Address
1.	
2.	

I warrant that the above information is true and correct. I agree to abide by all conditions specified in the permit and Local Law and any other relevant Guidelines.

Signature (Applicant):

Date:

**OFFICE USE ONLY** Permit Fee: \$

Receipt Number:

**Please return completed application form with payment. By mail to: PO Box 506, Sale Vic 3850  
Cheques made payable to: Wellington Shire Council. In person, during office hours: 70 Foster Street Sale or 156 Grant Street Yarram.** For further information contact Wellington Shire Council on: **1300 366 244**

Personal information that is requested on an application form is collected for the purpose of processing an application for a Permit. The personal information will be used solely by Council for that primary purpose or directly related purposes. The Council may disclose some of this information to relevant organisations or people (including property owners) if the nature of the activity for which the Permit has been applied requires consent by parties other than Council or has the potential to affect neighbourhood amenity. If sufficient information is not collected on the application, Council may not be able to effectively process the application and in most cases will refer the application back to the applicant for further details. The applicant understands that the personal information provided is for the purpose of applying for a Permit and that they may apply to Council for access to or amendment of the information.

**Local Laws no 3, 2011,**

**Clause**

**Site plan**

**Public liability**

**Required to**

**Other**

<b>Municipal places Types</b>	<b>Permit</b>	<b>required</b>	<b>insurance and indemnity form required</b>	<b>advise adjoining neighbours</b>	
Consumption and possession of liquor on public reserves	7.4	Yes	Yes	No	



**SCHEDULE 4 - FORM OF INDEMNITY**

This deed is made on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Between: (the permit holder) \_\_\_\_\_

And the Wellington Shire Council ('the Council') \_\_\_\_\_

Whereas:

Under the *Local Government Act 1989* ("the Act") and Local Law No 3 - 2011 Municipal Places ("the Local Law"), the Council may grant permits for particular uses or activities.

The Council has issued a permit to the Permit holder for the use or activity the subject of the permit on the condition that the Permit holder enters into this deed with the Council.

**Operative Provisions**

1. The Permit holder indemnifies and releases the Council, its officers, employees and agents ("those indemnified") from and against all actions, claims, demands, losses, costs and expenses for which those indemnified shall or may become liable in respect of and arising from any loss, damage or injury from any cause whatsoever to property or persons caused or contributed to by the exercise of the rights granted to the Permit holder by the permit or any purported right arising as a consequence of the grant of the permit and without limiting the generality of the foregoing including any actions, claims, demands, losses, damages or injury alleged to arise as a consequence of:
  - a) the grant of the permit;
  - b) the permitted conduct activities or actions;
  - c) the placement of any goods or equipment on any Road;
  - d) the service of any food or drink to any patron of the Permit holder's establishment on a Road;
  - e) the failure of the Permit holder to observe or perform any of the conditions subject to which the permit was granted.

**EXECUTED** as a Deed  
**SIGNED SEALED AND DELIVERED** by .....

.....  
Signature of Applicant

In the presence of:  
.....  
Signature of Witness

.....  
Name and address of Witness





**SCHEDULE 5 - PERMIT**

Name of Permit Holder: *[\*INSERT COMPANY NAME IF APPLICABLE]*

Address of Permit Holder

Address to which this permit applies (if different from above):

Is permitted under Clause: 7.4 of Local Law no 3, 2011, Municipal Places to:  
Consume and possess liquor on a public reserve

In addition to the relevant standards set out in the Local Law no 3, the following conditions apply to the granting of this permit:

- 
- 
- 

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

The permit will come into effect on:

The permit expires on:

Fee \$

Name of Authorised Officer:

Signature of Authorised Officer:

Date:



### SCHEDULE 6 - PENALTIES FIXED FOR INFRINGEMENT NOTICES

Clause	Offence	Penalty Units
2.6	Failure to adhere to a Notice to Comply	2
2.10	Name and addresses	2
3.1	Failure to obtain a Permit where required by this Local Law.	2
3.6	Failure to comply with the conditions of a Permit	2
3.12	Failure to adhere to conditions of an exemption.	2
3.13	Wilfully make a false representaiton or declaration to obtain a Permit	2
5.1	Behaviour in a Municipal Places	2
5.3	Prohibition of Entry	2
5.4	Use of dressing rooms, showers or toilets	2
5.5	Motor Vehicle on Public Reserves	2
5.6	Trees or plants to interfere	2
6.1	Smoking in declared smoke free area	2
7.2	Consuming or having Liquor in unsealed containers	2
7.4	Consumption of Liquor on Public Researves	2
8.1	Camping	2

A further penalty of one (1) Penalty Unit for each date during which the contravention continues applies; and upon conviction for a second or subsequent offence, double the penalty stated under the provision of Penalty Units.

Where no Penalty Unit is specified, two (2) Penalty Units apply.

**Note:** Section 110 of the *Sentencing Act 1991* describes the value of a Penalty Unit.