

# **LODDON SHIRE COUNCIL**

## **LOCAL LAW NO. 3**

**MUNICIPAL PLACES LOCAL LAW**

**(Amendment No. 4) 2006**

# LODDON SHIRE COUNCIL

## Municipal Places Local Law

### Table of Contents

<b>Part 1 — Preliminary .....</b>	<b>4</b>
1. Title .....	4
2. Objectives .....	4
3. The power to make this local law.....	5
4. Commencement.....	5
5. Definitions .....	5
<b>Part 2 — Behaviour .....</b>	<b>7</b>
6. Behaviour in Municipal Places or on Council Land .....	7
7. Damage to Council Land.....	7
8. Restitution.....	7
<b>Part 3 — Smoking.....</b>	<b>8</b>
9. Smoking in municipal places .....	8
<b>Part 4 - Consumption of Liquor.....</b>	<b>9</b>
10. Consume or possess liquor .....	9
11. Seal or dispose of an open container .....	9
<b>Part 5 —Control of Animals .....</b>	<b>10</b>
12. Control of Animals.....	10
13. Remove dog faeces .....	10
<b>Part 6 - Municipal Reserves .....</b>	<b>11</b>
14. Use of Municipal Reserves.....	11
<b>Part 7 —Administration.....</b>	<b>11</b>
<b>Division 1 — Permits, fees and delegations</b>	<b>12</b>
15. Applying for a permit .....	12
16. Fees .....	12
17. Issue of permits.....	12
18. Duration of permits.....	12
19. Conditional permits .....	12
20. Cancellation of a permit .....	13
21. Correction of permits.....	13

22. Registers .....	13
23. Exemptions .....	14
24. Offence to make a false representaion.....	14
25. Delegation .....	14
<b>Division 2 — Enforcement</b>	<b>14</b>
26. Notice to Comply - Power of authorised officers to direct .....	14
27. Time to comply.....	15
28. Failure to comply with a notice to comply .....	15
29. Power of authorised officer to act in urgent circumstances.....	15
30. Power of authorised officer to impound .....	16
31. Infringement notices.....	17
32. Payment of penalty .....	17
<b>Schedule 1 - Infringement notice .....</b>	<b>18</b>
<b>Schedule 2 - Penalties fixed for infringements .....</b>	<b>19</b>
<b>Schedule 3 - Notice to Comply .....</b>	<b>20</b>
<b>Schedule 4 - Local Law Permit.....</b>	<b>21</b>
<b>Schedule 5 - List of Designated Reserves.....</b>	<b>22</b>

## Loddon Shire Council

### Municipal Places Local Law 2006

#### (Amendment No. 4)

#### Part 1 — Preliminary

##### 1. Title

This is the Municipal Places Local Law 2006 (Amendment No 4).

##### 2. Objectives

The principal objectives of this local law are:

- (a) to allow and protect the quiet enjoyment by people of municipal places within the municipal district; and
- (b) to 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; and
- (c) to recognise and respond to community expectations relating to the quality of life they expect and require and are capable of influencing; and
- (d) to 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; and
- (e) to enable the community and visitors and their families who use municipal places that are available to the public to be confident in their choice of the use of those facilities or places; and
- (f) to protect Council and community assets and facilities on or in municipal places; and
- (g) in a way which is consistent with, and in furtherance of, the objectives specified in paragraphs (a) to (f) of this clause to prohibit, regulate and control-
  - (i) behaviour in municipal places which is boisterous or 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 places where alcohol may not be consumed;
  - (iv) smoking in specified circumstances and places; and
- (h) to provide generally for the peace, order and good government of the municipal district; and

- (i) to provide for the administration of the council's powers and functions.

### 3. The power to make this local law

The Council's authority to make this Local Law is contained in section 111(1) of the **Local Government Act 1989**.

### 4. Commencement

- (1) In this clause “**commencement date**” means.....
- (2) This local law comes into operation on the commencement date.
- (3) This local law ceases to operate on .....unless sooner revoked.

### 5. Definitions<sup>1</sup>

In this local law, unless inconsistent with the context:

“ <b>Act</b> ”	means the <b>Local Government Act 1989</b> .
“ <b>appropriate fee</b> ”	means the appropriate fee determined by the Council in accordance with this local law.
“ <b>authorised officer</b> ”	means an authorised officer under section 224 of the Act.
“ <b>built-up area</b> ”	means a road where vehicle speed is regulated to 80 kilometres per hour or less and includes any public place adjoining that road.
“ <b>Council</b> ”	means the Loddon Shire Council.
“ <b>Council Land</b> ”	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, lake and river.
“ <b>licensed premises</b> ”	means a premises for which a licence has been granted under the <b>Liquor Control Reform Act 1998</b> .

---

<sup>1</sup>Expressions used in this local law have the same meaning as in the **Local Government Act 1989**, unless the contrary intention appears. Expressions used in this local law which are defined in s 3 of the **Local Government Act 1989** include: Chief Executive Officer, senior officer and public notice.

“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.
“Management Committee”	means any committee appointed under Section 86 of the <b>Local Government Act 1989</b> , or appointed by <b>Department of Sustainability and Environment</b> .
“municipal district”	means the municipal district of the Council.
“municipal place”	includes a “public place” which is owned or occupied by, or vested in the Council, or in respect of which the Council has the care, control or management, to which the public ordinarily has access whether by payment or not.
“municipal property”	includes a building, or part of a building, used for the purposes of the Council.
“notice to comply”	means a notice to comply issued under this local law.
“owner”	includes any person for the time being in charge of an animal
“permit”,	in relation to an activity, means a permit issued under this local law which authorises that activity.
“planning scheme”	means the applicable planning scheme under the <b>Planning and Environment Act 1987</b> .
“public place”	has the same meaning as in the <b>Summary Offences Act 1966</b> .
“responsible person”	means an attendant or person for the time being in charge of any Council Land or municipal place, or, an authorised officer.
“road”	has the same meaning as in the <b>Local Government Act 1989</b> .
“smoke free area”	means an area in a municipal place which has been declared by the Council to be a “smoke free” or “no smoking” area.

## Part 2 — Behaviour

### 6. Behaviour in Municipal Places or on Council Land

A person must not, in any municipal place, or, on any Council Land:

- (1) behave in a manner that interferes with another persons use or enjoyment of that place.
- (2) act in such a manner which endangers any person; or
- (3) use language or behave in a manner which is indecent, offensive or abusive; or
- (4) damage, destroy, deface, remove or interfere with anything in or on any building or structure of any kind; or
- (5) damage or interfere with any Council Land; or
- (6) allow any vehicle or equipment to cause damage to or interfere with Council land; or
- (7) light or allow to be lit any fire on any council land except in a permanent fireplace, barbeque or temporary barbeque; or
- (8) act contrary to any signs that contain conditions that apply to the use of the Council Land; or
- (9) act contrary to the lawful direction of a responsible person.

**Penalty: 5 penalty units.**

### 7. Damage to Council Land

A person must not allow any tree or plant on land owned or occupied by him or her to cause damage to or interfere with any Council Land or a road under the control of Council.

**Penalty: 5 penalty units**

### 8. Restitution

If a person destroys, damages or interferes with Council Land or facilities on Council Land they will be responsible for any costs associated with the restoration of the Council Land or facilities on the Council Land.

## Part 3 — Smoking

### 9 Smoking in municipal places

- (1) A person must not 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.
- (2) A Council must cause signs to be displayed in any municipal place or Council Land which has been declared a smoke free area.

**Penalty: 5 penalty units.**

## Part 4 - Consumption of Liquor

### 10. Consumption of Liquor

- (1) A person must not in a public place or within a motor vehicle which is in a public place,
  - (a) consume liquor, or
  - (b) possess liquor other than in a sealed container.
  
- (2) Sub-Clause (1) does not apply in such places as for the time being are;
  - (a) licensed premises within the meaning of the Liquor Control Reform Act 1998; or
  - (b) an area in which Council has issued a permit for the consumption of liquor.

**Penalty: 5 penalty units.**

### 11. Requirement to seal or dispose of an alcoholic beverage

- (1) If an Authorised Officer believes on reasonable grounds that a person is contravening or has contravened Clause 10(1), the Authorised Officer may direct the person to seal any container or dispose of the contents of any unsealed container.
  
- (2) A person must comply with a direction of an Authorised Officer under Sub-Clause 11(1).

**Penalty: 5 penalty units.**

## Part 5 —Control of Animals

### 12. Control of Animals

- (1) A person in charge of a dog must at all times keep the dog restrained and on a leash in a built up area.

**Penalty: 5 penalty units.**

#### Exemptions

- (2) A person may exercise a dog off a leash in the reserves designated by Council resolution in Schedule 5 if the owner;
- (a) Carries a chain, cord or leash sufficient to bring the dog under effective control or,
  - (b) Does not allow the dog to worry or threaten any person or animal or,
  - (c) Always keeps the dog in sight or,
  - (d) Carries a bag, receptacle or other means of picking up, and removing any of the dog's faeces.

#### Exemption not applicable in some circumstances

- (3) The exemptions in sub-Clause (2) do not apply if the dog is or is likely to be within twenty metres of;
- (a) The arena or ground of an organised sporting or practice event.
  - (b) An occupied children's play equipment area.
  - (c) A principal location of an organised public meeting.
  - (d) An occupied permanent barbecue or picnic area.

### 13. Removal of dog faeces from public places

Every person who for the time being has care of a dog shall remove and dispose of faeces deposited in a public place by the dog.

**Penalty: 5 penalty units.**

## Part 6 —Municipal Reserves

### 14. Use of Municipal Reserves

Except with Council permission a person, in or upon any Municipal Reserve, must not:-

- (a) act contrary to any condition of use set by a Management Committee appointed by Council, or,
- (b) engage in, play or practice any games in such a manner as to be a danger to the safety of any person or property or interfere with the reasonable use and enjoyment of the Municipal Reserve, or any part thereof by any other person, or,
- (c) ride or drive any horse into or upon any Municipal Reserve, or,
- (d) drive any motor vehicle other than on a designated roadway or parking area, or,
- (e) ride a bicycle or use a toy vehicle in a manner that interferes with the use or enjoyment of the Municipal Reserve, or,
- (f) fly or permit to be flown any model aeroplane, aircraft or similar apparatus of any kind (excluding kites) over such reserve, or,
- (g) light any fire except in a permanent fireplace or barbeque provided.

**Penalty : 5 penalty units.**

## Part 7 —Administration

## **Division 1 — Permits, fees and delegations**

### **15. Applying for a permit**

- (1) A person who wishes to apply for a permit may do so by:
  - (a) lodging with the Council an application, in a form approved by the Council; and
  - (b) paying to the Council the appropriate application fee.
- (2) The Council may require an applicant to provide additional information before dealing with an application for a permit or for exemption.
- (3) The Council may require a person making an application for a permit to give public notice which will entitle any person to make a submission and to be heard in accordance with section 223 of the Act.

### **16. 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.

### **17. Issue of permits**

The Council may:

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

### **18. Duration of permits**

- (1) A permit is in force until the expiry date indicated on the permit, unless it is cancelled before the expiry date.
- (2) If no expiry date is indicated on the permit, the permit expires on 30 June next after the day on which it is issued.

### **19. Conditional permits**

- (1) A permit may be subject to conditions which the Council considers to be appropriate in the circumstances.

- (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.
- (4) A person who undertakes an activity for which the Council has issued a permit must comply with the conditions of the permit.

**Penalty: 5 Penalty units**

**20. Cancellation of a permit**

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

**21. Correction of permits**

- (1) The Council may correct a permit in relation to:
  - (a) an unintentional error or an omission; or
  - (b) an evident material miscalculation or an evident material mistake of description of a person, thing or property.
- (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.

**22. Registers**

- (1) The Council must maintain a record of permits, including details of corrections and cancellations.

- (2) The Council must maintain a register of determinations made, and of guidelines 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.

### **23. Exemptions**

- (1) The Council may by written notice exempt any person or class of persons from the requirement to have a permit, either generally or at specified times.
- (2) An exemption may be granted subject to conditions.
- (3) A person must comply with the conditions of an exemption.

**Penalty: 5 penalty units.**

- (4) An exemption may be cancelled or corrected as if it were a permit.

### **24. Offence to make a false representation or declaration**

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: 10 penalty units.**

### **25. Delegation**

- (1) In accordance with section 114 of the Act, the Council hereby:
  - (a) delegates to the Chief Executive Officer, the Director Operations, the Director Corporate Services and to any person for the time being acting for such persons all the powers, discretions, authorities and considerations of Council under this Local Law including the powers, discretions and authority to issue or refuse permits, fix conditions and durations relevant to such permits, cancel permits, require additional information, apply guidelines or policies of Council, to waive the need for any permit, to waive, fix or reduce fees or charges or to do any act, matter or thing necessary or incidental to the exercise of any function or power by the Council.

## **Division 2 — Enforcement**

### **26. Notice to Comply - Power of authorised officers to direct**

An authorised officer may, by a written notice given to a person who appears to be in breach of this local law, direct that person to remedy any situation which constitutes a breach under this local law.

**27. Time to comply**

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

**28. Failure to comply with a notice to comply**

A person who fails to comply with a notice to comply served on that person is guilty of an offence.

**Penalty: 10 penalty units.**

**29. Power of authorised officer to act in urgent circumstances**

- (1) In urgent circumstances arising as a result of a failure to comply with this Local Law, an authorised officer may take action to remove, remedy or rectify a situation without first serving a notice to comply if:
  - (a) the authorised officer considers the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a notice, may place a person, animal, property or thing at risk or in danger; and
  - (b) wherever practicable, a senior officer is given prior notice of the proposed action.
- (2) In deciding whether circumstances are urgent, an authorised officer must take into consideration, to the extent relevant:
  - (a) whether it is practicable to contact:
    - (i) the person by whose default, permission or sufferance the situation has arisen; or
    - (ii) the owner or the occupier of the premise or property affected; and
  - (b) whether there is an urgent risk or threat to public health; public safety, the environment or animal welfare.

- (3) The action taken by an authorised officer under sub-clause (1) must not extend beyond what is necessary to cause the immediate abatement of or minimize the risk or danger involved.
- (4) An authorised officer who takes action under sub-clause (1) must ensure that, as soon as practicable:
  - (a) details of the circumstances and remedying action are forwarded 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.

### **30. Power of authorised officer to impound**

- (1) 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.
- (2) The Council may, by resolution, fix charges (generally or specifically) for the purposes of this clause.
- (3) As soon as possible after the impounding and where practicable to do so, the authorised officer must, serve written notice on the owner or person responsible for the item which has been impounded setting out the fees and charges payable and time by which the item must be retrieved.
- (4) If after the time required in a notice of impounding an impounded item is not retrieved, an authorised officer may take action to dispose of the impounded item according to the following principles:
  - (a) where the item has no saleable value, it may be disposed of in the most economical way; and
  - (b) where the item has some saleable value the item may be disposed of either by tender, public auction or private sale but failing sale may be treated as in paragraph (a).
- (5) When the identity or whereabouts of the owner or person responsible for the impounded item is unknown, the authorised officer must take reasonable steps to ascertain the identity or whereabouts of that person and may proceed to dispose of the impounded item in accordance with sub-clause (4) once he or she is satisfied that all reasonable efforts have been made to contact the owner or person responsible for the impounded item.
- (6) Any proceeds from the disposal of impounded items under this Local Law must be paid to the owner or to the person who, in the opinion of the Council, appears to be authorised to receive the money except for the reasonable costs incurred by the Council in the administration of this Local Law.
- (7) If a person described in sub-clause (6) cannot be identified or located within six months after the date of the notice of impounding, any proceeds of the sale cease to be payable to that person, and may be retained by the Council for municipal purposes.

**31. Infringement notices**

- (1) An authorised officer may issue an infringement notice in the form of the notice in Schedule 1.
- (2) The fixed penalty in respect of an infringement is the amount set out in Schedule 2.

**32. Payment of penalty**

- (1) A person issued with an infringement notice may pay the penalty indicated to the Chief Executive Officer, Loddon Shire Council, P.O. Box 21, Wedderburn 3518.
- (2) To avoid prosecution, the penalty indicated must be paid within 28 days after the day on which the infringement notice is issued.
- (3) A person issued with an infringement notice is entitled to disregard the notice and defend the prosecution in court.

## Schedule 1 - Infringement notice

Date:

To: *[name and address]*

I, *[name of authorised officer]* have reason to believe that you have committed an offence against the Municipal Places Local Law 1996 of the Loddon Shire Council, as indicated below:

Date	Time	Clause of local law	Penalty
<b>Description of the offence:</b>			
<b>Location of the offence:</b>			

---

Authorised Officer

If you pay the penalty indicated above within 28 days from the date of service of this Notice upon you to the Loddon Shire Council this matter will not be brought to the Court and no conviction will be recorded.

You are entitled to elect to have the infringement offence heard and determined in the Court and if you are a child, by the Children's Court in accordance with the Children, Youth and Families Act 2005.

Failure to pay the infringement penalty by the specified due date may result in further enforcement action being taken and incurring of further costs.

Should you wish to make any submission concerning this infringement Notice contact should be made with the Council's Compliance Officer.

## Schedule 2 - Penalties fixed for infringements

6	Misbehaviour in a municipal place or on Council land	1
7	Damage to Council Land or facilities	1
9 (1)	Smoke in a smoke free area	1
10	Consume liquor or possess liquor in an unsealed container	1
11	Seal or dispose of container	1
12	Failure to restrain a dog	1
13	Remove and dispose of dog faeces	1
14	Use of municipal reserves	1
19 (4)	fail to comply with permit conditions	1
23 (3)	fail to comply with exemption conditions	1
24	false representation or omission of relevant information in application for a permit or exemption	3
28	Fail to comply with a Notice to Comply	1



## Schedule 4 Local Law Permit

PERSON TO WHOM ISSUED: \_\_\_\_\_

PERMIT NUMBER \_\_\_\_\_

A permit is hereby granted under Section \_\_\_\_\_ of the \_\_\_\_\_  
\_\_\_\_\_ Local Law No. \_\_\_\_\_ for the  
purposes of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and subject to any condition attached and signed by the Authorised Officer.

The address/place to which the permit relates is \_\_\_\_\_

If you have any queries regarding these conditions, you should telephone \_\_\_\_\_  
\_\_\_\_\_ on \_\_\_\_\_

Failure to comply with these conditions may result in cancellation of the permit and payment of a penalty.

DATE OF ISSUE OF PERMIT : \_\_\_\_\_

DATE ON WHICH THIS PERMIT EXPIRES \_\_\_\_\_

Date :     /     /     \_\_\_\_\_

Authorised Officer

Fees                     \$ \_\_\_\_\_

Paid                     /     /

Receipt Number \_\_\_\_\_

**NOTE:**

A copy of this permit must be available for inspection at the address/place to which the permit relates on demand by an Authorised Officer.

## Schedule 5 – List of Designated Reserves

Boort Historic Reserve  
Boort Myrnong Beach  
Boort Nolans Park  
Boort Park  
Boort Rotary Park  
Boort Sailing Club  
Boort Ski Club  
Boort Sunnyside Court Playground  
Boort Walking Track  
Bridgewater Recreation Reserve  
Calivil Recreation Reserve  
Dingee Recreation Reserve  
Inglewood Gordon Park  
Inglewood Recreation Reserve  
Korong Vale Recreation Reserve  
Laanecoorie River and Recreation Reserve  
Mitchell Park Showgrounds & Recreation Reserve  
Mitiamo Recreation Reserve  
Mitiamo RJ Phelan Reserve  
Newbridge Public Park (river same both sides)  
Newbridge Recreation Reserve  
Pyramid Hill Lions Community Park  
Serpentine Recreation Reserve  
Tarnagulla Historic Reserve  
Tarnagulla Recreation Reserve  
Wedderburn AE Couper Park  
Wedderburn Donaldson Park  
Wedderburn Market Square  
Wedderburn Racecourse Reserve (Golf Course)

This document is issued by the Loddon Shire Council.

The COMMON SEAL of the )  
LODDON SHIRE COUNCIL )  
was affixed hereto in accordance )  
with the resolution of Council )  
made on this 22<sup>nd</sup> day of May 2006. )

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 \_\_\_\_\_ and \_\_\_\_\_ respectively.

Public Notice of the proposal to make and confirmation for the making of this Local Law were inserted in the Loddon Times Newspaper on \_\_\_\_\_ and \_\_\_\_\_ respectively.

A copy of this Local Law was sent to the Minister for Local Government on \_\_\_\_\_

**Certification of Local Law No. 3**

This is to certify that the above writing contained on 23 pages of paper is a true copy of the Local Law of the Loddon Shire Council and that we have informed ourselves of the legislative requirements necessary to giving validity to such Local Law and as to our observance and belief that such requirements have been fulfilled. And we further certify that such Local Law will come into force on the \_\_\_\_\_

Sealed this \_\_\_\_ day of.

Chief Executive Officer .....

Seal