

Greater Bendigo City Council
Local Law No. 10 - Administration

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Greater Bendigo City Council Local Law No. 10 - Administration

1. Title

This is the Greater Bendigo City Council Local Law No. 10 - Administration.

2. Objectives of this Local Law

The objectives of this Local Law are:

- (a) to provide procedures for the administration of the local laws;
- (b) to provide procedures for the setting of fees and charges in relation to local laws;
- (c) provide penalty values for penalty infringement notice purposes; and
- (d) to provide procedures for the issue of:
 - i) Permits
 - ii) Notices to Comply
 - iii) Notices of Impounding
 - iv) Infringement Notices

3. Power to make this Local Law

The Council's authority to make this Local Law is contained in Section 111 of the Local Government Act 1989.

4. Operational Date of this Local Law.

This Local Law operates from the 1 September 2018.

5. Revocation of Local Law

On the commencement of this Local Law, the previous version of this Local Law No.10 – Administration, is revoked.

6. Application of this Local Law

The provisions of this Local Law apply to all City of Greater Bendigo Local Laws except where it is apparent that a Clause indicates otherwise or provides alternative provisions.

7. Date that this Local Law Ceases Operation

Unless this Local Law is revoked sooner its operation will cease on the day which is 10 years after the day on which it came into operation.

8. Exemption

The Council may prescribe specified persons, premises or areas within the municipality to be exempt from all or any of the provisions of this local law for a specified time and on specified conditions provided that;

- i) The exemption is in writing, with specified conditions

- ii) The exemption is complied with

An exemption may be cancelled or corrected as if it were a permit.

9. Definitions

Authorised Officer means an Officer appointed under Section 224 of the Local Government Act 1989.

Chief Executive Officer means the Chief Executive Officer of the Greater Bendigo City Council.

PERMITS, FEES AND DELEGATIONS

10. Applying for a Permit

- (a) An application for a permit under a Local Law shall be in the form of Appendix 5 (except where a Local Law specifies otherwise) and be accompanied by the appropriate fee.
- (b) In considering such an application the Authorised Officer may:
 - i) require a person making an application for a permit to give public notice of such application
 - ii) take into consideration any response to that notice, any policy or guidelines adopted by the Council, any objections or submissions, any comments from other authorities, government departments or community organisations, any other matter that is considered relevant.
- (c) Submissions made in relation to an application may be heard in accordance with Section 223 of the Local Government Act 1989.
- (e) An Authorised Officer may require an applicant to provide additional information before considering an application for a permit or request for exemption under the Local Law.

11. Fees & Charges

- (a) The Council may from time to time by resolution determine the fees and charges to apply under a Local Law and the Council shall give public notice of its resolution to set or alter fees and charges.
- (b) 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.
- (c) The Council or Authorised Officer may waive, reduce or alter any fee or charge with or without conditions.

12. Issue of Permits

The Council or Authorised Officer may:

- (a) Issue a permit in the form of Appendix 6 (unless a Local Law specifies otherwise), or
- (b) Refuse to issue a permit.

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

13. Appeal of Decision to Refuse

- (a) An applicant may appeal a decision to refuse to issue a permit.
- (b) Applications must be in prescribed form of Appendix 7 and be accompanied by the appropriate fee.
- (c) Appeals will be considered by a three member panel made up of a Director, a person with legal qualifications and an Authorised Officers.
- (d) The applicant may make written or verbal submissions to the panel within the time specified in writing by an Authorised Officer.
- (e) Within 10 days of considering any written submissions received from the applicant or after hearing the applicant's verbal submissions, an Authorised Officer shall notify the applicant in writing of the panel's decision.

14. Duration of Permits

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

15. Conditional Permits

- (a) A permit may be subject to such conditions which the Council or Authorised Officer considers appropriate, including but not limited to:
 - i) the payment of a fee or charge;
 - ii) 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;
 - iii) the application of an appropriate standard;
 - iv) a time limitation specifying the duration, commencement or completion date of the permit;
 - v) the happening of an event, or the rectification, remedying or restoration of any damage caused to the place or thing by the activity permitted;
 - vi) where the applicant is not the owner of the subject property, the

- consent of the owner.
- (b) before the granting of some other permit which may be required by the Authorised Officer whether under a Local Law or otherwise.

16. Cancellation of Permit

- (a) The Chief Executive Officer or his or her delegate may cancel a permit if it is considered that:
- i) there has been a serious or ongoing breach of the conditions of the permit; or
 - ii) a notice to comply has been issued, but not complied with within seven days after the time specified in the notice to comply; or
 - iii) there was a significant error or misrepresentation in the application for the permit; or
 - iv) in the circumstances, the permit should be cancelled.
- (b) Before a permit is cancelled under sub-clause 16(a), the permit holder shall be invited to submit within a nominated time a written statement giving reasons why the permit should not be cancelled.

ENFORCEMENT

17. Compliance with Directions

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

PENALTY: Two penalty units

18. Power of Authorised Officer

An Authorised Officer may issue a warning, a Notice to Comply and an Infringement Notice on a person who is in breach of a Local Law, commence legal proceedings and may impound items, goods or equipment relevant to a breach of the Local Law.

19. Notice to Comply

An Authorised Officer may serve a written Notice to Comply in the form of Appendix I on any owner, occupier or other relevant person to remedy any breach of a Local Law.

20. Time to Comply

- (a) A Notice to Comply must state the time and date by which the breach must be remedied.
- (b) The time required by the Notice to Comply to remedy the breach must be

reasonable in the circumstances having regards to:

- i) The amount of work involved;
- ii) The degree of difficulty;
- iii) The availability of necessary materials or other necessary items;
- iv) Climatic conditions;
- v) The degree of actual risk or potential risk to health and safety;
- vi) Any other relevant factor.

21. Failure to comply with a “Notice to Comply”

- (a) Any person who fails to remedy a breach of a Local law in accordance with a Notice to Comply is guilty of an offence and liable to the amount of the penalty specified by the Local Law.
- (b) Where such failure to remedy occurs an Authorised Officer may take action to remedy the breach and the person who has failed to remedy the breach shall be liable to reimburse Council for all costs associated with such action.

22. Power of Authorised Officers to Act in Urgent Circumstances

- (a) An Authorised Officer may, in urgent circumstances arising as a result of a failure to comply with a Local Law take action to remove, remedy or rectify the breach without the necessity to serve a Notice to Comply provided:
 - i) The Authorised Officer considers the circumstances of the breach to be sufficiently urgent and that the time involved or difficulties associated with the serving of a Notice to Comply may place a person, animal, property or thing at risk or in danger.
 - ii) Wherever practicable, a senior officer of the Council is given prior notice of the proposed action.
 - iii) Details of the circumstances and remedial action taken are as soon as possible given to the person responsible for the breach.
- (b) Where action is taken by the Authorised Officer pursuant to Clause 22(a) the person responsible for the breach shall be liable to reimburse Council for all costs associated with such action.

NOTICES OF IMPOUNDING

23. Power of Authorised Officer to Impound

- (a) Where in the opinion of an Authorised Officer there is a risk to the environment or to the safety of a member of the public an Authorised Officer may seize and impound any goods, animals, birds, items or things where there is a breach of a Local Law.
- (b) If an Authorised Officer has impounded an item in accordance with this

clause the Council may refuse to release it until a charge equivalent to all costs incurred by it in such impounding has been paid to Council. Any such fee shall be determined by resolution of the Council.

- (c) At the time of the impoundment or as soon as practicable thereafter the Authorised Officer shall serve a Notice of Impounding in the form of Appendix 2 on the owner or registered owner or person apparently responsible for the good, animal, bird, item or thing setting out the fees and charges payable and time by which it must be retrieved from the Council. Where good, animal, bird, item or thing is required for evidence for a prosecution the owner or person responsible for it shall be advised of the time for collection following resolution of the prosecution.
- (d) If, after 28 days from the date of impoundment, an impounded good, animal, bird, item or thing has not been retrieved then the Authorised Officer may dispose of it by such means as is determined by the Chief Executive Officer including sale by public auction, public tender or private treaty, by disposal at a municipal land fill or transfer station or otherwise. Any proceeds of sale shall be paid into the municipal fund.
- (e) Where an impounded item has been disposed of in accordance with sub clause (d) the owner of the particular item may apply in writing to the Council for reimbursement of any proceeds from the sale. Subject to receipt of satisfactory proof of ownership by the Authorised Officer the proceeds from the disposal shall be paid to the owner except for the reasonable costs incurred by Council which may be retained by the Council.
- (f) Where 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 only proceed to dispose of the impounded item in accordance with sub clause (d) once he or she is satisfied that all reasonable efforts have been made to contact the owner or the person responsible for the impounded item.
- (g) A person must not, except with the authority of an Authorised Officer or pursuant to an order of a Court, remove, alter or interfere in any way with an animal or other thing, seized or detained by an Authorised Officer in the exercise of his power, functions or duties under this Local Law

PENALTY: First offence - Two penalty units
Second or subsequent offence - Four penalty units

OFFENCES AND PENALTIES

24. Offences

- (a) A person must not refuse or neglect to furnish information to an Authorised Officer when reasonably required under this Local Law to do so.

PENALTY: First offence - Two penalty units
Second or subsequent Offence – Four penalty units

- (b) 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: First Offence – Five penalty units
Second or subsequent offence - Ten penalty units

- (c) A person must not assault, obstruct, or attempt to obstruct, threaten, abuse, insult, intimidate, or attempt to intimidate any Authorised Officer in the exercise of his powers, function or duties under this Local Law.

PENALTY: First Offence – Two penalty units
Second or subsequent offence - Four penalty units

- (d) A person must not refuse to state his name and address of his usual place of residence or state a false name or address to an Authorised Officer when required under this Local Law to do so.

PENALTY: First Offence – Two penalty units
Second or subsequent offence – Four penalty units

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

PENALTY: First Offence – Two penalty units
Second or subsequent offence – Four penalty units

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

PENALTY: First Offence – Two penalty units
Second or subsequent offence – Four penalty units

- (g) Where any provision in a Local Law requires that a person obtain a permit before engaging in any particular activity a person is guilty of an offence if that person engages in that activity without a current permit (unless the requirement for a permit has been waived by an Authorised Officer).

PENALTY: First Offence – Two penalty units
Second or subsequent offence – Four penalty units

- (h) Where any permit issued pursuant to a Local Law contains conditions, any person who breaches or fails to comply with a condition of such a permit is guilty of an offence.

PENALTY: First Offence – Two penalty units
Second or subsequent offence – Four penalty units

- (i) A person is guilty of an offence if he or she:
 - i) Falsely represents himself or herself to be an Authorised Officer.
 - ii) Fails to comply with any reasonable direction, instruction or signal of an Authorised Officer, member of Victoria Police or an Emergency Service.

PENALTY: Ten penalty units

25. Penalty Units

Where a penalty unit(s) has been prescribed by a Local Law, the value of the penalty unit(s) shall be have the same value of a penalty unit prescribed at the time of the offence by the *Sentencing Act 1991*.

26. Infringement Notices

In accordance with the *Infringements Act 2006* the CEO, or his/her delegate may:

- (a) As an alternative to a prosecution, an Authorised Officer may issue and serve an Infringement Notice on a person who:
 - i) has committed one of the offences referred to in clause 24, or
 - ii) is reasonably suspected of having committed on of the offences referred to in clause 24.
- (b) A person served with an Infringement Notice may pay the penalty specified in the Notice to the cashier of the Council within 28 days after service of the Notice, failing which a prosecution may be instituted against that person by an Authorised Officer.
- (c) A person served with an Infringement Notice may make a written representation to the Chief Executive Officer or his delegate within 28 days of the service of the Infringement Notice.
- (d) The Chief Executive Officer or his delegate may by written notice withdraw an Infringement Notice within 28 days of the service of the same and then initiate a prosecution regardless of whether the Infringement Notice penalty has been paid or not. If the penalty indicated in the Infringement Notice has been paid, the payment shall be refunded to the alleged offender prior to the prosecution being initiated.
- (e) The Chief Executive Officer or his delegate may withdraw an Infringement Notice and not proceed to prosecute, providing the circumstances warrant such action in the opinion of the Chief Executive Officer or his delegate.
- (f) In the event of the failure of a person served with an Infringement Notice to pay the amount specified within 28 days of the service of the Notice or such further time as the Authorised Officer may permit, the Authorised Officer may pursue the matter by prosecuting for an offence or by taking any other appropriate steps which may be available for enforcing penalties.

- (g) Any person served with an Infringement Notice is entitled to defend the prosecution in Court rather than pay the penalty specified therein.

CITY OF GREATER BENDIGO

LOCAL LAW No. 10 - APPENDIX TWO

NOTICE OF IMPOUNDING

TO _____
(Name)

(Address)

The following item(s) has/have been impounded in accordance with Local Law No. _____

(Title _____)

Describe Items Impounded

You may collect the items by attending at the Municipal Office / Depot between the hours of _____ and _____ to see _____ (Contact Officer) upon providing satisfactory proof of ownership and by paying the following:

Details of Fees and Charges

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

If you fail to collect the item(s), or fail to provide satisfactory proof of ownership and pay the required fees and charges by _____ (date), the Authorised Officer will proceed to dispose of the item(s) in accordance with Local Law No. 10 - Administration.

DATE: / /

(Name of Authorised Officer)

TELEPHONE:

(Signature of Authorised Officer)

CITY OF GREATER BENDIGO

LOCAL LAW No. 10 - APPENDIX THREE

INFRINGEMENT NOTICE

DATE OF NOTICE: _____ NO. OF NOTICE: _____

REG. NO. OF ANY VEHICLE: _____ (STATE) _____

TO: SURNAME OR ORGANISATION NAME

OTHER NAMES

ADDRESS

I, _____ (name of Authorised Officer) being a duly Authorised Officer of the above Council have reason to believe that you have committed an offence against a Local Law of the Council. The nature of the alleged offence and the amount of the penalty is indicated below:

	Local Law Number	Clause Number	Nature of Infringement	Penalty

Other particulars of alleged offence:

TIME: _____ LOCATION: _____

If you pay the penalty indicated within 28 days from the date of service of this Notice to the City of Greater Bendigo by:

- * CHEQUE or MONEY ORDER for the FULL AMOUNT posted to P0 Box 733, Bendigo, 3550
- * CHEQUE, MONEY ORDER or CASH for the FULL AMOUNT to Municipal Offices at Lyttleton Terrace, Bendigo, 3550.

this matter will not be brought to Court (subject to Clause 25(d) of Local Law 10) and no conviction will be recorded.

You are entitled to elect to have the matter of 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.

Should you wish to make any submission concerning this infringement notice contact should be made with _____

(telephone _____) at the Municipal Office.

(Signed by Authorised Officer)

CITY OF GREATER BENDIGO

LOCAL LAW No. 10 - APPENDIX FOUR

INFRINGEMENT NOTICE

**PENALTIES FOR INFRINGEMENT NOTICE PURPOSE IN RESPECT OF
OFFENCES AGAINST LOCAL LAWS**

CLAUSE		PENALTY
Offences Against Local Law No.2 Keeping of Animals		
Clause 9	Keeping of Animals	2 penalty units
Clause 10	Limit on number of animals	2 penalty units
Clause 11	Keeping of poultry	2 penalty units
Clause 12	Fences of properties to restrain animals	2 penalty units
Clause 13	Animal litter	1.5 penalty units
Offences Against Greater Bendigo City Council Community Local Law Part B – Environment		
Clause 2.1	Kerbside waste collection	2 penalty units
Clause 2.2	Open air burning	2 penalty units
Clause 2.3	Burning of offensive materials	2 penalty units
Clause 2.4	Motorised vehicles on council land	2 penalty units
Clause 2.5	Dangerous or unsightly land	2 penalty units
Clause 2.6	Heavy vehicles	2 penalty units
Clause 2.7	European wasps and bees	1 penalty unit
Clause 2.8	Protection and preservation of scheduled Council reserves and park land	2 penalty units
Part C – Streets & Roads		
Clause 3.1	Vehicle crossings	2 penalty units
Clause 3.2	Advertising signs placed on roads	2 penalty units
Clause 3.3	Sale of motor vehicles or goods on road or road reserves	1 penalty unit
Clause 3.4	Waste skip bins placed on the road or road reserve	2 penalty units
Clause 3.5	Occupancy of footpath or road reserve for works	2 penalty units
Clause 3.6	Third party advertising on footpaths or road reserves	2 penalty units
Part D – Municipal Places		
Clause 4.1	Consumption of liquor	2 penalty units
Clause 4.2	Designation of smoke-free zones within the municipality	2 penalty units
Clause 4.3	Activities in public places	2 penalty units
Clause 4.4	Activities in the Mall	2 penalty units
Clause 4.5(a)	Outdoor dining and street trading	1 penalty units
Clause 4.6	Camping and caravans	1 penalty units
Clause 4.7	Behaviour	2 penalty units

Part E - Process of Municipal Government		
Clause 5.1	Use of common seal	2 penalty units
Clause 5.2 (a-c)	Maintenance of order	2 penalty units
Clause 5.2 (d)	Councillor refusal to leave Chamber	5 penalty unit
Offences Against Local Law No.9 Bendigo Livestock Exchange		
Clause 12	Use of Bendigo livestock exchange	2 penalty units
Clause 14	Sales before and after opening or closing of market or on non-sale days	2 penalty units
Clause 17	Pre-sale procedure	2 penalty units
Clause 18(b)	Allocations	2 penalty units
Clause 19	Penning of Stock	2 penalty units
Clause 20(a)	Stock not connected with sale	1 penalty units
Clause 22	Agents	2 penalty units
Clause 23	Behaviour	1 penalty units
Clause 24(b)	Exclusion from Bendigo livestock exchange	2 penalty units
Clause 25(a)(b)(c)	Dogs	1 penalty unit
Clause 26(b)	Removing the stock	1 penalty units
Clause 27	Moving Stock	1 penalty units
Clause 28(b), (c)	Vehicles	1 penalty units
Clause 29	Dead/Injured stock	2 penalty units
Clause 30	Obstruction	2.5 penalty units
Clause 33	Selling of sundry items	2.5 penalty units
Clause 36	Allotted time for selling	1 penalty unit
Offences Against Local Law No. 10 Administration		
Clause 24	Offences	2 penalty units
Clause 17	Compliance with directions	2 penalty units
Clause 21	Failure to Adhere to Notice to Comply	2 penalty units
Clause 23	Power of Authorised Officer to Impound	2 penalty units
Offences Against Local Law No. 11 Protection of Public Assets & Control of Building Sites		
Clause 21	Infringement Notices – Penalty Fixed	2 penalty units

CITY OF GREATER BENDIGO

LOCAL LAW No. 10 - APPENDIX FIVE

APPLICATION FOR LOCAL LAW PERMIT

I, _____
(Name of Applicant)

of _____
(Address)

wish to apply for a _____
(Type of permit)

The relevant details are as follows:

The address / place to which the permit will relate to is _____

Local Law Number _____ Section Number _____

I wish to be able to: _____

For further information I may be contacted on _____ telephone)

between the following times: _____ and _____.

Signed by the Applicant _____

Signature of Owner where required _____

Name of Owner _____

Address of Owner _____

CITY OF GREATER BENDIGO

LOCA LAW NO. 10 - APPENDIX SEVEN

APPLICATION TO APPEAL DECISION TO REFUSE PERMIT

NAME OF APPEALANT: _____

POSTAL ADDRESS OF APPEALANT: _____

CONTACT NUMBER : _____

APPLICATION DETAILS

APPLICATION NO.:- _____

WHAT WAS THE APPLICATION FOR _____

THE ADDRESS OR PLACE THE APPLICATION RELATES: _____

REASONS OF APPEAL

Date : / /

Signature of Appellant

Fees \$ _____

Paid / /

Receipt Number _____