

Nillumbik General Local Law 1 Procedure and Protocol Manual



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Acknowledgement of Country

Nillumbik Shire Council acknowledges the Wurundjeri Woi-wurrung people as the Traditional Owners of the Country on which Nillumbik is located, we pay our respects to Elders past, present and future, and extend that respect to all First Nations People. We respect the enduring strength of the Wurundjeri Woi-wurrung and acknowledge that sovereignty was never ceded.

Inclusion Statement

Nillumbik Shire Council is committed to creating a fair, equitable and inclusive community where human rights are respected, participation is facilitated, barriers are reduced and diversity is celebrated. We support the rights of all people regardless of age, gender, ability or background. We value the diverse and changing nature of our community and understand that some groups and individuals experience more barriers than others.

If you require this document in another format, email nillumbik@nillumbik.vic.gov.au or phone 9433 3111.

Council can be contacted through the National Relay Service (NRS). The NRS is available as a phone solution for people who are deaf or have a hearing or speech impairment. All calls are confidential. Users must be registered via www.relayservice.gov.au to make and receive calls:

TTY users phone 133 677, then ask for Council on 9433 3111.

Speak and Listen (speech-to-speech) users phone 1300 555 727, then ask for Council on 9433 3111.

A Hearing loop is located at the Civic Drive Customer Service Counter, Civic Centre, Civic Drive Greensborough



If you need an interpreter, please call TIS National on 131 45 and ask them to call Nillumbik Shire Council on 9433 3111.

Explanatory notes

Purpose of this Procedure and Protocol Manual

This Procedure and Protocol Manual shows why the Nillumbik General Local Law 1 (**Local Law**) prohibits or regulates some common activities which affect the amenity of the Shire. It explains how Council and staff will administer the various controls and how decisions are made. Each Procedure or Protocol states the purpose of the relevant control.

Ongoing review

The Local Law review and community consultation process is extensive and lengthy. This Procedure and Protocol Manual supplements the Local Law and provides procedures which can be readily updated by resolution of Council, to reflect the changing needs of the community and its expectations as to amenity. The Procedure and Protocol Manual is required to be reviewed and updated every 2 years.

Council intends that this Procedure and Protocol Manual be kept under constant review by Council, Management, staff, community groups and individuals who are affected or interested by the issues addressed in the Local Law.

Responsibilities

Each Procedure or Protocol nominates which Council Officers have responsibilities. The particular functional responsibilities in each category are:

Policy Management	Administration	Enforcement
Local Law and Procedure and Protocol Manual Review	Public information and enquires	Public education
Interpretation	Applications	Surveillance
Monitoring Effectiveness	Permits and fees	Issuing directions
Community Education	Registers	Infringement notices
Prevention Programs	Records	Withdrawal notices
Coordinating the Policy, Administration and Enforcement Tasks	Correspondence	Interviews
Internal and External Liaison	Advertising	Evidence
Budget and Resource Allocation		Briefs
Strategic plans and decisions		Prosecutions
Appeals and objections		

Exemptions

The Procedure and Protocol Manual identifies exempt persons or activities. Provided that the objectives of the Local Law are protected, additional exemptions can be added from time to time by Council.

Permits

The Local Law prescribes what is not permitted.

The Procedure and Protocol Manual explains what a person can do and advises where a permit is the most appropriate mechanism for balancing individual rights with community standards.

Where a permit is required the relevant Procedure or Protocol shows what criteria are used in considering an application. Many of these are expressed in broad terms which will be made more precise with experience.

The Procedure and Protocol Manual also shows the likely conditions which will be applied to permits. Again these are general but will evolve to be more specific.

Document control

The Procedure and Protocol Manual is a controlled document. This means that there is one master document that can only be changed with appropriate authority of the Council.

One member of staff will have authority and responsibility for the updating, security and distribution of authorised copies of the Procedure and Protocol Manual.

Document control may be subject to internal audit.

Amendments

The Procedure and Protocol Manual was adopted by resolution of the Council on 13 December 2022 and has been amended as follows:

Date of amending resolution:

Nature of amendment:

Behaviour in or on Council Land

Local Law Clause Number 16

Purposes of the Clause

To control behaviour and activities to ensure the fair and equitable use of Council Land and prohibit persons from causing damage to or endangering the safety of other persons on Council Land.

Policy responsibility

Operations and Infrastructure

Administration

Operations and Infrastructure

Enforcement

Operations and Infrastructure

What public places are affected?

All Council land

Who requires a permit?

Persons who wish to undertake the activities listed in clause 16(2)

Exemptions

Areas prescribed from time to time by Council resolution

Criteria for interpretation

Behaviour considered a breach of the Local Law in, on or within Council Land by any person includes:

- interfering with the quiet enjoyment of the land by any other person; or
- behaving in a manner which may endanger a person; or
- behaving in a manner which is offensive, indecent, insulting, riotous or disorderly or engage in any conduct which is dangerous; or
- destroying, damaging, write upon or interfere with anything; or
- unless the person is a player, official or competitor at any sports match or sports gathering authorised under this Part, enter or remain within or upon the playing arena during the progress of such sports match or sports gathering, in on or within Council Land.

Behaviour in Council buildings

Local Law Clause Number 17

Purposes of the Clause

To control behaviour and activities to ensure the fair and equitable use of Council buildings and prohibit persons from causing damage to or endangering the safety of other persons in Council buildings.

Applies to

All persons entering Council buildings

Policy responsibility

Operations and Infrastructure

Administration

Operations and Infrastructure

Enforcement

Operations and Infrastructure

What public places are affected?

All Council buildings

Who requires a permit?

Persons who wish to undertake the activities listed in clause 17(1)

Exemptions

None

Criteria for interpretation

Behaviour considered a breach of the Local Law in a municipal building by any person includes:

- entering or remaining in a municipal building while intoxicated or under the influence of any illegal drug or bring any illegal drug into a municipal building, except only a person attending a function in a municipal building organised with the approval of Council or the Manager in accordance with a liquor licence or permit or a person delivering Liquor to the building in accordance with an order of Council;
- bringing any animal into a municipal building or allowing any animal under his or her control to remain in a municipal building, except an assistance animal as defined by the Disability Discrimination Act 1992, or a person attending a Council approved function involving the showing of animals;
- bringing into a municipal building any Wheeled Non-Motorised Recreational Device or Wheeled Child's Toy other than a pram or pusher with a child or a wheelchair or other apparatus for the purpose of assisting a disabled person or a trolley or other similar device in the process of assisting the delivery or removal of goods;
- bringing into a municipal building any chemical, substance, liquid or powder which is dangerous to health or has the potential to foul, pollute or soil any part of a municipal building or to cause discomfort to any persons in a municipal building whether by offensive or noxious smell or otherwise;
- obstructing, hindering or interfering with any Manager, attendant, or other member of Council staff or any person employed at the municipal building in the performance of their duties; and
- re-entering a municipal building within 24 hours after being directed by the Manager, an Authorised Officer or a Delegated Officer or an attendant to leave for any breach of the Local Law or any other law

Activities prohibited in a Council reserve

Local Law Clause Number 18

Purposes of the Clause

To prohibit activities in the use of Council reserves and prohibit persons from causing damage to or endangering the safety of other persons in Council reserves.

Applies to

All persons using Council reserves

Policy responsibility

Operations and Infrastructure

Parks and Open Space

Administration

Operations and Infrastructure

Parks and Open Space

Enforcement

Operations and Infrastructure

Parks and Open Space

What Council reserves are affected?

All Council reserves

Who requires a permit?

Not applicable

Activities which may be permitted in Council reserves

Local Law Clause Number 19

Purposes of the Clause

To permit the use of activities in or on Council reserves with a permit

Applies to

All persons

Policy responsibility

Operations and Infrastructure

Parks and Open Space

Administration

Operations and Infrastructure

Parks and Open Space

Enforcement

Operations and Infrastructure

Community Safety and Amenity

What Council reserves are affected?

All Council reserves

Who requires a permit?

All persons who wishes to undertake the activities listed in clause 19 of Nillumbik General Local Law 1

Exemptions

An exemption for a permit for permitted activities in a Council reserve would apply to the following:

- Council Staff and contractors
- Approved events
- Areas prescribed by Council
- Emergency Services

Events that meet one of the following criteria require an event permit

- 50 attendees or more; and one or more of the following
- Ticketing for participants (free or paid)
- Amplified sound, excluding personal audio devices
- Food or beverages, for sale or donation
- A ceremony, such as a wedding or funeral
- Exclusive use of a section or whole of public space
- Erection of large structures (greater than 3x3m), such as marquees or stages
- Vehicle access to site, or changes to parking arrangements
- Required permissions from other agencies, such as a liquor licence
- Access to restricted water or electricity.

Liquor in public places

Local Law Clause Number 20

Purposes of the Clause

To prevent drunken behaviour in a prescribed place that may affect amenity.

Applies to

A person or organisers of festivals and events to be held in prescribed places.

Policy responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

What public places may become a prescribed place?

Public places used for vehicle and pedestrian traffic including streets, roads, footpaths, nature strips, median strips, roundabouts, bicycle paths, bridges, malls and car parks.

Public places provided as parks, gardens, lawns, memorials, playgrounds, playing fields and public open space.

Criteria for prescribing public places

When prescribing where and when a permit will be required to consume liquor, the Council will consider the following factors:

- the purpose of the public place
- whether liquor consumption is consistent with the normal use of the public place
- the health and safety of persons, property and the environment
- any effect on quiet enjoyment of the public place
- what parts of the public place and what times or periods should be exempted and
- any submissions or comments received.

When liquor consumption is prohibited

For some public places the Council may prohibit liquor consumption at specific times, days or periods. Otherwise liquor is prohibited at all times in a prescribed public place without a permit. For example, a permit may not be required by family groups in a picnic or barbecue area during the daytime.

Who requires a permit?

Any person wishing to undertake an activity listed in clause 20(1).

Exemptions

Refer to clause 20(2)

Applying for a permit

A completed permit application form should be submitted 14 days prior to the period applied for.

Criteria for issuing permits

Permits are available for the organisers of events or functions which are to be held in public places. (Permits will only be issued to individuals in exceptional circumstances).

When dealing with applications for permits the Council or its delegate will consider the following factors:

- the effect on the quiet enjoyment of other users of the public place and the amenity of the neighbourhood
- the nature, time, location and duration of the event or function
- the availability of sanitary facilities, rubbish removal, police or security services and public health and safety services
- protection of Council assets and the environment in the public place
- any comments received in respect of the application
- any further information required from the applicant
- any other matters that may apply to the particular application
- the applicant's record in conducting similar events or functions and
- an appropriate permit fee and any refundable deposit required.

Permit conditions

Public Place Liquor Consumption Permits will be subject to conditions pertaining to the following matters:

- the name and description of the public place
- the times and duration of the permit
- the event or function
- the persons or groups permitted to consume liquor
- required facilities and services eg. rubbish, toilets, security, health and safety services
- promotion and advertising
- public liability insurance cover and
- restitution of damage and the forfeiture of any refundable deposit.

Signs, goods, and furniture

Local Law Clause No 21

Purposes of the clause

To regulate the use of roads and Council land for advertising and placement of goods and furniture and other items by requiring a permit.

Applies to

All roads and Council land or any other location which may interfere with the vision of a pedestrian or a driver of a vehicle.

Policy responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

What public places are affected?

All roads and Council land as defined by the Local Law.

Who requires a permit?

Any person wishing to advertise or place goods and furniture on any road, Council land or any other location as specified in clause 21

Exemptions

- Signs used for Council, educational or charitable purposes
- Conducting activities within an event permit

Applying for a permit

A completed permit application form should be submitted 14 days prior to the advertising period applied for.

Permit Application form should be used by applicants.

Criteria for issuing permits

Permits for advertising signs (other than complying "A Frame" signs) will only be issued in exceptional circumstances.

When dealing with applications for permits the Council or its delegate will consider the following factors:

- the amenity of the proposed location and the surrounding area
- the proposed advertising material including the location, size, colours and content
- any limitations on advertising within private land
- whether Australian Standard 1428.2 – 1992 „Design for access and mobility" or other disability standards can be complied with
- the effect on the quiet enjoyment of other users of the public place
- any comments received in respect of the application
- any further information required from the applicant
- any other matters that may apply to the particular application
- the applicants record in using public places for advertising and
- an appropriate permit fee and any refundable deposit required.

Permit conditions

Advertising permits will be subject to conditions pertaining to the following matters:

- the period of the permit (maximum one (1) year)
- each sign must not exceed 900mm height or 600mm width
- signs or displays on footpaths must be placed on the outer edge of the footpath and be set back 500 mm from the face of the kerb
- a clear distance of 6 metres must be maintained between any 2 signs
- a minimum footpath width for pedestrian traffic of 1.8 metres is to be maintained
- the total space occupied by any sign or display must not exceed four (4) square metres
- no sign or display is to have any moving, rotating, illuminated or reflective components
- times allowed will generally be restricted to daylight hours
- only one (1) sign per business premises will usually be permitted;
- businesses sharing tenancies must also share a sign advertising signs in relation to a land auction or sale will be allowed, but only a maximum of 2 signs per property, which must be removed within 2 weeks of the acceptance of a bid or offer
- each sign must be made and maintained in a professional manner to ensure safety to the user and general public
- all signs and displays must be kept to the front of the business that they promote
- maintenance of the advertising sign and the site
- repairs, cleaning and graffiti removal, and
- public liability insurance cover.

Example of A-Frame permit conditions

A permit to display an A-Frame may be granted subject to the following conditions:

1. The sign shall be placed on the footway or nature strip directly outside the premises to which the permit applies in accordance with Australian Standard 1428.2.
2. The sign shall not have a display area which exceeds 1.5m in total, eg. an A-Frame sign having 0.75mm on each side.
3. This permit is valid for a period of one (1) year from the date of issue.
4. An annual fee determined by Council is paid.
5. Wording on the sign is limited to advertising the trader's name and business sales.
6. The sign shall be of solid design and construction and built in such a manner that:
 - a) there are no protrusions or sharp edges
 - b) it will not rotate in the wind or have any other mechanical movable parts which may be the cause of danger to the public
 - c) it is free standing and not reliant on being affixed to any street furniture, light pole
 - d) or other fitting or fixture not owned and attached to the business house
 - e) it is locked in position and will not collapse.
7. The sign shall be placed in such a location and in such a manner that it does not:
 - a) restrict access to the shop
 - b) obstruct or hinder persons boarding or alighting from vehicles
 - c) obstruct or hinder pedestrians
 - d) obstruct or hinder the view of motorists or pedestrians.
8. The sign shall be removed during inclement weather conditions which may render the sign a danger to the public.
9. The sign shall only be displayed during the trading hours of the permit holder.
10. The permit is subject to Council being indemnified and being kept indemnified against any loss or claim which may result from the use of the sign and the permit holder shall hold Public Liability Insurance to the sum of \$10 million.
11. The sign shall immediately be removed upon the direction or request of an Authorised Officer of Council, a member of the Victorian Police, Emergency Service of any authority engaged in the repair or maintenance of roads or services.

12. The permit may be suspended or its conditions amended at any time by Council or an Authorised Officer if the circumstances or conditions under which the permit was issued change.
13. The permit holder will be responsible for all losses incurred as a result of the sign being removed as a result of action under condition 11 or where a permit is amended or suspended under condition 12.
14. The permit is not transferable to any other Company or person without the expressed written consent by Council.
15. This permit or a copy must be kept on site and produced upon demand by an Authorised Council Officer or Member of the Victorian Police Force.
16. The sign shall not contain any language motif, picture or depiction of an indecent or offensive nature.

Display of goods:

- Displays on footpaths must be placed on the outer edge of the footpath and be set back 500 mm from the face of the kerb
- A minimum footpath width for pedestrian traffic of 1.8 metres is to be maintained
- The total space occupied by any display must not exceed four (4) square metres
- No display is to have any moving, rotating, illuminated or reflective components
- Times allowed will generally be restricted to daylight hours
- Only one (1) display per business premises will usually be permitted, and
- All displays must be kept to the front of the business that they promote.

Street trading:

- The location of a stand or fixture is to have due regard for vehicle and pedestrian safety
- The nature and type of goods to be sold will be designated
- The capacity of roads, footpaths and parking areas may limit the extent of trading and
- The duration of the activity and the time of day may be limited.
- Placement of eating facilities:
- A minimum footpath width for pedestrian traffic of 1.8 metres is to be maintained
- Compliance with the *Public Health and Wellbeing Act 2008* and the *Food Act 1984*
- Tables, chairs, umbrellas or moveable barriers must not unduly impair motorist or pedestrian vision
- Tables, chairs, umbrellas or barriers (whether moveable or not), or the like must not display any word, image, device or logo which advertises goods, products or services, except where a valid planning permit exists for such
- Umbrellas or awnings must allow a minimum height clearance of two metres above the footpath
- All furniture and equipment must be properly used and maintained for public safety
- All facilities must be kept in a clean and tidy condition at all times, and
- Waste and litter minimisation by the use of non-disposable food containers and eating utensils.

Insurance:

- Public liability insurance which also indemnifies the Council must be held at all times. A minimum cover of \$10 million is required.

Fees:

- Permit fees will be based on cost recovery plus a reasonable rental for the public land occupied.

Period:

- Permits are issued for a period of one year or specified duration at discretion of council.

Open air performances and busking

Local Law Clause Number 22

Purposes of the clause

To regulate the use of public places for busking or performing by requiring a permit.

Applies to

Persons wishing to use a public place for busking or performing

Policy responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

What public places are affected?

All public places as defined by the Local Law..

Who requires a permit?

Any person desiring to use a public place to busk or perform.

Exemptions

Conducting an activity within an event permit

Persons, who meet specified criteria to use a public place to busk or perform without a permit.

Specified Criteria

Persons who meet the following criteria will be permitted to use a public place to busk or perform without a Permit:

- broadcasting material directly relates to a charity or community activity conducted for the benefit of residents of the municipality;
- pedestrian traffic shall not be unduly obstructed or impeded;
- all litter within the immediate vicinity and generated through this activity must be removed ;
- the material must not be of an indecent or offensive nature;
- any person busking is a student of a school located within the municipality
- the proceeds of any busking will be used for educational purposes or personal development

Permit conditions

When dealing with applications for permits the Council or its delegate will consider the following factors:

- the amenity of the proposed location and the surrounding area
- the purpose and beneficiary of the activity
- whether Australian Standard 1428.2 – 1992 „Design for access and mobility" or other disability standards can be complied with
- the effect on the quiet enjoyment of other users of the public place
- any comments received in respect of the application
- any further information required from the applicant
- any other matters that may apply to the particular application
- the applicants record in conducting similar activities and
- an appropriate permit fee.

The permit holder at the request of an Authorised Officer must cease busking immediately or relocate to another site if the officer is of the opinion that the performance is:

- Loud or intrusive
- Excessively repetitive
- Causing public inconvenience

Clothing Recycling Bins

Local Law Clause No 23

Purposes of the clause

To regulate the location of clothing recycling bins to protect public safety, convenient access and neighbourhood amenity.

Applies to

Any person or organisations wishing to place a clothing recycling bin on any land.

Policy responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

What places are affected?

Any land used for the operation of clothing recycling bins including streets, roads, footpaths, nature strips, malls, and public car parks.

Who requires a permit?

Any person or organisation wishing to place a clothing recycling bin on any land must first obtain a permit. Permits are usually issued only to recognised charitable organisations.

Exemptions

None.

Applying for a permit

A completed permit application form should be submitted 30 days prior to the period applied for.

Criteria for issuing permits

Permits are available for charitable organisations.

(Permits will only be issued to commercial organisations or individuals in exceptional circumstances).

When dealing with applications for permits, the Council or its delegate will consider the following factors:

- the amenity of the proposed location and the surrounding area
- the bin should not obstruct vision for pedestrian and vehicle traffic or any driveway, hydrant, mailbox or other facility to which access is required
- the clothing recycling bin are to be highly visible and well lit
- safety and convenience for persons making donations, for those clearing the bin and any other person
- the construction, size, colour and signage of the clothing recycling bin, which should be limited to four (4) colours and be non-reflective.
- the owner's name and contact details must be kept displayed on the clothing recycling bin
- the number and location of other clothing recycling bins in the same area
- the effect on the quiet enjoyment of other users of the public place and the amenity of the neighbourhood
- any comments received in respect of the application
- any further information required from the applicant
- any other matters that may apply to the particular application
- the applicants record in managing clothing recycling bins
- whether the applicant is a member of the National Association of Charitable Recycling Organisations, and
- an appropriate permit fee and any refundable deposit required.

Permit conditions

Clothing Recycling Bin permits will be subject to conditions pertaining to the following matters:

- the period of the permit (maximum one (1) year)
- Maintenance of the bin and the site, including shared management arrangements with other bin owners at the site.
- the frequency of clearing the bin and any rubbish left at the site
- repairs, cleaning and graffiti removal
- labelling of the bin, including the identity of the owner, the benefiting charity, owner contact details
- litter and rubbish dumping warning signs
- separate approval is required for any advertising, and
- public liability insurance cover

Charitable collections

Local Law Clause No 24

Purposes of the clause

To control soliciting for any money, gifts, donations or subscriptions in public places by requiring a permit.

Applies to

Any person or organisation desiring to conduct a collection.

Policy responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

What public places are affected?

All public places

Who requires a permit?

Any person or organisation wishing to conduct a collection.

Exemptions

No exemptions

Applying for a permit

A completed permit application form should be submitted 14 days prior to the period applied for.

Criteria for issuing permits

When dealing with applications for permits the Council or its delegate will consider the following factors:

- the amenity of the proposed location and the surrounding area
- the purpose and beneficiary of the collection
- whether Australian Standard 1428.2 – 1992 „Design for access and mobility" or other disability standards can be complied with
- the effect on the quiet enjoyment of other users of the public place
- any comments received in respect of the application
- any further information required from the applicant
- any other matters that may apply to the particular application
- the applicant's record in conducting collections and
- any appropriate permit fees

Permit conditions

Collection permits will be subject to conditions pertaining to the following matters:

- the period of the permit (maximum one (1) year)
- the extent of the public places where collections are permitted
- disclosure of the name and nature of the benefiting organisation
- the identification of collectors
- the issue of receipts to donors.

Distribution of handbill, advertising material and selling of goods

Local Law Clause No 25

Purposes of the Clause

To regulate the use of public places and private land adjacent to public places for displaying goods for sale, distributing handbills or advertising material by requiring that a permit be obtained.

Applies to

Persons wishing to display goods for sale, distribute handbills or selling of goods or service

Policy responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

What public places are affected?

All public places and private land adjacent to a public place

Who requires a permit?

Any person wishing to undertake an activity listed in clause 25

Exemptions

Council events

Conducting an activity within an event permit

Electoral material - does not apply to electoral material for any election of the Council or any State or Commonwealth election in an electorate, encompassing any part of the municipal district for a period of four weeks before the election.

Applying for a permit

Permits are available for advertising material and distributing of handbills to be placed on or over Council land or on a vehicle left on Council land.

A completed permit application form should be submitted 28 days prior to the period applied for. A Planning Permit application may also be required.

When dealing with applications for permits the Council or its delegate will consider the following factors:

- the amenity of the proposed location and the surrounding area
- the proposed advertising material including the location, size, colours and content
- any limitations on advertising within private land
- whether Australian Standard 1428.2 – 1992 „Design for access and mobility“ or other disability standards can be complied with
- the effect on the quiet enjoyment of other users of the public place
- any comments received in respect of the application
- any further information required from the applicant
- any other matters that may apply to the particular application
- the applicants record in using public places for advertising and
- an appropriate permit fee and any refundable deposit required.

Permit conditions

Display of goods:

- Displays on footpaths must be placed on the outer edge of the footpath and be set back 500 mm from the face of the kerb
- A minimum footpath width for pedestrian traffic of 1.8 metres is to be maintained
- The total space occupied by any display must not exceed four (4) square metres
- No display is to have any moving, rotating, illuminated or reflective components
- Times allowed will generally be restricted to daylight hours
- Only one (1) display per business premises will usually be permitted, and
- All displays must be kept to the front of the business that they promote.

Street trading:

- The location of a stand or fixture is to have due regard for vehicle and pedestrian safety
- The nature and type of goods to be sold will be designated
- The capacity of roads, footpaths and parking areas may limit the extent of trading and
- The duration of the activity and the time of day may be limited.
- Placement of eating facilities:
- A minimum footpath width for pedestrian traffic of 1.8 metres is to be maintained
- Compliance with the *Public Health and Wellbeing Act 2008* and the *Food Act 1984*
- Tables, chairs, umbrellas or moveable barriers must not unduly impair motorist or pedestrian vision
- Tables, chairs, umbrellas or barriers (whether moveable or not), or the like must not display any word, image, device or logo which advertises goods, products or services, except where a valid planning permit exists for such
- Umbrellas or awnings must allow a minimum height clearance of two metres above the footpath
- All furniture and equipment must be properly used and maintained for public safety
- All facilities must be kept in a clean and tidy condition at all times, and
- Waste and litter minimisation by the use of non-disposable food containers and eating utensils.

Insurance:

- Public liability insurance which also indemnifies the Council must be held at all times. A minimum cover of \$10 million is required.

Fees:

- Permit fees will be based on cost recovery plus a reasonable rental for the public land occupied.

Period:

- Permits are issued for a period of one year or specified duration at discretion of council.

Illegal signage:

Political signage is not permitted to be displayed on council land, this includes all roads and reserves within the Municipality. Authorised Officers will investigate and remove/impound any illegal signage posted on council controlled land.

Under the planning scheme most signage on private property will require a planning permit, however an election sign is permitted on private land without a permit subject to the following conditions:

- The advertising area of the sign does not exceed 5sqm
- Only one (1) sign may be displayed on each property
- The sign must not be an animated or internally illuminated
- Signage must not be displayed longer than 14 days after the election is held.

Any reports of multiple signage for one or more election candidates on a single private property are not permitted without a planning permit, this includes multiple copies of the same sign on an individual property.

Shopping Trolleys

Local Law Clause No 26

Purposes of the clause

To encourage shops to regularly retrieve shopping trolleys left on any road or Council land by impounding abandoned trolleys.

Applies to

Applies to the people who leave the trolley on the street

Policy responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

What public places are affected?

All roads and council land

Who requires a permit?

Not applicable

Exemptions

None

Procedure and Protocol Manual for shopping trolley owners

Owners of shopping trolleys should:

- provide designated bays for the return of trolleys by customers. Such bays should be indicated by clearly visible signs
- provide signs on trolleys and in the shop asking customers to return trolleys to bays designated for the purpose
- Ensure the owners name and/or a contact telephone number are clearly marked on every trolley, and
- at least once every day retrieve all trolleys that have been left by customers on Council land other than designated trolley return bays.

Procedure for Authorised Officer to impound shopping trolley

An authorised officer may:

- impound any item that encroaches or obstructs the free use of a public place or any item that contravenes or is being used in contravention of Nillumbik General Local Law 1.;
- release the item to its owner on payment of a fee determined by the Council, which is not to exceed an amount that reasonably represents the cost to the Council of impounding, keeping and releasing the item; and
- If the authorised officer impounds an item under sub-clause 83 (1), they must serve on the owner a notice, in a form approved by the Council, as soon as possible after the impoundment.
- sell, destroy, dispose of or give away the impounded item if the owner of the item has not paid the fee within 30 days of service of a notice under sub-clause 83 (2)
- If the identity or whereabouts of the owner of the item impounded under sub-clause 83 (1) is unknown, the authorised officer must take reasonable steps to ascertain the owner's identity and/or whereabouts prior to exercising his or her powers under sub-clause 83 (2).
- Any proceeds of sale left after the Council costs have been reimbursed of any impounded item are to be dealt with pursuant to the Unclaimed Money Act 2008

Fireworks

Local Law Clause Number 27

Purposes of the Clause

To prohibit the discharge of any fireworks on or from any land outside the urban growth boundary and regulate requirement of a permit for any land within the urban growth boundary.

The objective of this Local Law is to prohibit and regulate the discharge of fireworks in certain parts of the municipality:

- to restrict activities in a bushfire prone rural environment that can impact on the health and wellbeing of residents, specifically those who have experienced catastrophic bushfires;
- to reduce the risk of danger and injury to animals and wildlife arising from the discharge of fireworks;
- to address nuisance, amenity and environmental impacts of fireworks activities;
- apply standards that address safety matters directed at reducing risk to the community

Applies to

Applies to all land owners within the Municipality

Policy responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

What part of the Municipal district is affected?

All land outside and within the urban growth boundary. The urban growth boundary is the boundary defined in the Nillumbik Planning Scheme identifying the scope of urban growth within the municipality and identified on the plan in Schedule 1.

Who requires a permit?

All land owners within the urban growth boundary Nillumbik Shire who wish to discharge fireworks.

Exemptions

Council events

Procedure and Protocol Manual for Fireworks permit requirements

A person must not discharge any fireworks on or from private property outside the urban growth boundary.

An application for a permit must be submitted to Council not less than 60 days before the proposed discharge of fireworks

Information required on an application for permit

A person applying for a permit must provide the following information with the application:

- a site plan of the land, showing all existing buildings, all vegetation, the firing points for the types of fireworks to be discharged, the distances of firing points from adjoining land, access roads and where the audience will be located;
- a risk management plan that assesses the risk associated with discharging fireworks from the intended location, including:
 - an assessment of the risk of fire on the intended location and adjoining land and how those risks will be managed;
 - the risk of harm to people, domestic animals, livestock and wildlife from the noise caused by the fireworks to be used and how those risks will be managed; and
 - an emergency evacuation plan that will apply if there needs to be emergency evacuation from the land;
- any initiative to be applied by the applicant to reduce harm to domestic animals, livestock and wildlife on land within 1.5km of the land where fireworks will be discharged or fireworks displayed;
- evidence that the fire protection measures and separation distances prescribed by the Dangerous Goods (Explosives) Regulations 2011 are complied with;

- (e) a copy of the licence issued by Worksafe Victoria for the person to conduct fireworks displays;
- (f) a copy of the notice provided to Worksafe and the Country Fire Authority advising of the intention to discharge fireworks on the land;
- (g) whether any temporary advertising signs will be placed on Council land or roads and that they comply with Council's Temporary and Community Signage Policy
- (h) a certificate of currency in the name of the occupier that shows adequate public liability insurance is in place for the event (minimum \$5 million); and
- (i) any other information required by an Authorised Officer to make a proper assessment of the application
- (j) If you plan to conduct a fireworks display, you must notify and seek approval from CASA for the display. This will ensure that the fireworks don't pose an aviation safety risk. You must do this at least 10 days before the scheduled event.

An approval will be required if:

- any projectiles in the display can reach more than 400 feet above ground level
- the display will be within three nautical miles (5.5 km) of an aerodrome including an airfield or helipad – this includes in the approach or departure path.

Notification requirements

Upon receiving an application Council will request from the applicant:

- evidence of notification by mail issued to all occupiers of land within 1.5km of the land where it is intended to discharge the fireworks;
- evidence of notification by mail any other person Council considers could be directly affected by the proposed discharge of fireworks; and
- evidence of public notice advising of the application that includes details about the location and the time and duration of the discharge of fireworks.

Upon receiving an application Council will, on behalf of the applicant:

- notify by text message (SMS) all owners of registered dogs within 5km of the land where it is intended to discharge the fireworks;
- inform community by public notice advising of the details about the location and the time and duration of the discharge of fireworks.

In addition to any fees or charges to be paid under clause 77, the applicant will pay to the Council the costs of notifications required under this provision.

Criteria for assessing applications

In determining whether to grant a permit, an Authorised Officer must consider whether:

- the information submitted with the application under clause 28 is satisfactory;
- the identified risks have been adequately assessed and responded to;
- adequate measures have been taken to manage the risk to livestock on adjoining or nearby properties;
- any other permits or consents from Council are required;
- any additional requirements of the CFA that have been made;
- any comments that have been made in response the notifications given under clause 9; and
- any other matters relevant to the circumstances of the application.

Conditions on a permit

The permit may contain conditions such as:

- compliance with any requirements or conditions applied by the CFA and CASA;
- prescribing the times during which the discharge of fireworks can occur;
- prohibiting the discharge of fireworks from occurring if unpredictable weather conditions, such as winds in excess of 10 knots occur; and
- compliance with any other permits or consents that may be required for community events in the Nillumbik Shire.

Prohibition on Council issuing permits

Council will not grant a permit under clause 27:

- during the declared fire danger period; or
- after 1 November or the declared fire danger period, whichever is earlier, and before 30 March or the end of the declared fire danger period, whichever is the later.

Scare guns

Local Law Clause No 28

Purposes of the clause

To preserve amenity by prohibiting the use of scare guns outside of rural zones and ensuring their appropriate monitoring and management within rural zones (which include the Green Wedge and Rural Conservation Zones) by requiring a permit.

Applies to

All persons who wish to use or allow the use of a scare gun

Policy responsibility

Environmental Health

Administration

Environmental Health

Enforcement

Environmental Health

What places are affected?

All public and private land

Who requires a permit?

Any person within a rural zone who intends to use a bird scare gun, scatter gun or gas gun.

Exemptions

None

Applying for a permit

A completed permit application form for an annual permit should be submitted a minimum 14 days prior to the period applied for, and for subsequent applications for a permit in that year a minimum of 7 days prior.

Criteria for issuing permits

Permits are available for persons requiring to scare birds from their crop site.

When dealing with applications for permits the Council or its delegate will consider the following factors:

- the effect on the quiet enjoyment of adjoining properties and the amenity of the area
- the location, area and nature of the land, its zoning and its suitability for the use intended
- the nature, time, location and duration of the noise control device being used
- the effects on the amenity of other land and the health and safety of persons
- the applicant record in operating noise control devices
- any further information required from the applicant
- any other matters that may apply to the particular application, and
- an appropriate permit fee

Permit conditions

Use of bird scare guns or similar control devices other than a registered firearm will be subject to the following conditions:

- Bird scare guns or similar control devices must not be operated if the distance between the scare gun and any residential premises (other than the applicants) is less than 300 metres
- Bird scare guns or similar control devices other than a registered firearm must be set to provide not less than a minimum average clear interval between a cycle of shots of 10 minutes for six hours maximum per day, and 20 minutes for the remaining daylight hours each day. A cycle of shots may be up to 2 shots (single or double shots) and should not exceed five seconds from the first shot of the cycle to the last shot of the cycle. (NB this would limit a single shot gun to 54 shots maximum per day and a double shot gun to 108 shots maximum per day)
- The scare gun must not emit more than 70 blasts/day.
- The number of bird scare guns or similar control devices must not exceed the ratio of one gun to four hectares of crop area or part thereof, and shall not be closer than 150 metres to any adjoining bird scare gun or similar bird control device in operation

- Bird scare guns or similar control devices other than a registered firearm must not be used earlier than 7am or later than sunset
- The total time of operation of a bird scare gun or similar control devices must not exceed 12 hours' maximum in any one day (NB The time of operation may be divided into two separate periods, provided the interval between blasts is not less than six minutes, in order to achieve compliance)
- Bird scare guns or similar bird control devices, other than a registered firearm, shall be located by operators as far away as possible from all residential premises and wherever possible, the shielding effects of natural features, buildings, etc. shall be used to reduce the level of the blasts of scare guns or similar bird control devices at residential premises
- The guidelines are based on an average maximum level of 100 dB LIN Peak of the loudest 20 per cent of blasts measured at the complainant's home when the weather favours noise propagation. The dB LIN Peak is measured with the sound level meter set to linear ('Z') frequency-weighting and peak ('P') time weighting.
- Where the level of the blast from a scare gun can be adjusted, then the distance between the scare gun and any complainant's house may be less than 300 metres. In this case the adjusting mechanism must be permanently fixed such that the average maximum level of the blasts at the house does not exceed 100 dB LIN Peak
- Weather conditions affect the propagation of noise. Received levels are loudest when the wind blows from the source to the receiver. Temperature inversions, which often occur in the early mornings after a clear night, also increase noise propagation.

Collection and disposal of animal excrement

Local Law Clause No 29

Purposes of the clause

To require animal excrement to be removed from public places.

Applies to

Persons in apparent control of animals in or on public places.

Policy responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

What public places are affected?

All public places within the Municipal district.

Who requires a permit?

Not applicable

Exemptions

Not applicable

Keeping animals

Local Law Clause No 30

Purposes of the clause

To protect amenity by regulating the keeping of animals on private land.

Applies to

All land owners and occupiers of land where livestock, dogs, cats, birds and certain animals are kept.

Policy responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

Who requires a permit?

Any person wishing to keep more than the number of animals' specified.

Exemptions

None

Applying for a Permit

A completed permit application form should be submitted 14 days prior to the use of land applied for.

Permit conditions

If the land is within a Special Use Zone Schedule 1 and Schedule 2 as defined in the Nillumbik Planning Scheme, no permit will be issued unless the provisions of Clause 66 have been met.

When dealing with applications for permits the Council or its delegate will consider the following factors:

- the amenity of the proposed location and the surrounding area
- the location, area and nature of the land, its zoning and its suitability for the use intended
- the siting of the area or structures within the land and proximity to other occupiers
- the effects on the amenity of other land and the health and safety of persons and property
- the type and numbers of animals to be kept
- membership and compliance with any recognised association or standards
- any comments received in respect of the application
- any further information required from the applicant
- any other matters that may apply to the particular application
- the applicant's record in keeping animals, and
- an appropriate permit fee and any refundable deposit required.

Animal buildings and cleanliness

Local Law Clause Number 31

Purposes of the Clause

To protect the amenity of neighbouring properties by regulating the location and cleanliness of animal buildings

Applies to

Owners or occupiers of premises where animals are kept or permitted to remain.

Policy responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

Who requires a permit?

Not applicable

Exemptions

None

Permit conditions

Animal housing includes kennels, stables, pens, poultry houses and bird cages and should be located and constructed to the following standards:

- 15.0 metre setback from a property frontage to a road
- 6.0 metre setback from any other street alignment
- where the property is less than 4000m² in area 1 metre setback from any boundary fence
- where the property is 4000m² or more in area, a 4.5 metre setback from any boundary fence, and
- a clearance of at least 10 metres from any dwelling on the property or an adjoining property
- Structure must be fit for intended purpose
- All animal areas must be maintained in a clean, inoffensive and sanitary condition; and
- Not cause a nuisance to any other person or to be offensive

Animal noise

Local Law Clause No 32

Purposes of the clause

To protect the amenity by ensuring that animal noise is not nuisance.

Applies to

Any owner or occupier of private land on which an animal is kept.

Policy responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

Who requires a permit?

Not applicable

Exemptions

None

Permit Conditions

Not applicable

Criteria for interpretation

Barking dog

Before lodging a complaint, resident must first show that they have:

- Have spoken to or attempted to speak with the dog owner to try and resolve the problem with them. (This includes leaving letter in letterbox)
- Allow 14-day period for the dog owner to address the dog barking concerns after being informed

Council may request a barking dog log be completed for a duration of seven (7) consistent days to measure the nuisance level of barking.

To be considered a nuisance, barking must:

- be persistent over time, and
- unreasonably disturb your usual activities.

Barking dog diary

- Complete a 7-day barking dog diary.
- Send diary into Council with signed Statement/Statutory Declaration form acknowledging that all information written in barking dog diary is true and correct.
- Diary to be completed and sent back to Council within 14 days of receiving. Please note if the diary is not received within 14 days that Council may close off the service request for matter until received.

Feeding of wild birds

Local Law Clause Number 33

Purposes of the Clause

To protect the amenity by ensuring that wild bird feeding does not cause a nuisance

Applies to

All land in the Municipal district

Policy responsibility

Environmental Health

Administration

Environmental Health

Enforcement

Environmental Health

Who requires a permit?

Not applicable

Exemptions

None

Criteria for interpretation

Council Authorised officers will conduct an inspection of the site following evidence provided of:

- Frequency of feeding
- Damage caused/ evidence required
- Impact of noise from wild birds
- Duration of noise from wild birds

Bees and wasps

Local Law Clause Number 34

Purposes of the Clause

To regulate the keeping of bees and the removal of bees and wasp nests.

Applies to

All private land in the Municipal district

Policy responsibility

Environmental Health

Operations and Infrastructure

Administration

Environmental Health

Operations and Infrastructure

Enforcement

Environmental Health

Operations and Infrastructure

Who requires a permit?

Not applicable

Exemptions

None

Dead Livestock

Local Law Clause Number 35

Purposes of the Clause

To protect the amenity by ensuring that dead livestock is not a nuisance or detrimentally affect the amenity of the area

Applies to

All private land in the Municipal district

Policy responsibility

Environmental Health

Operations and Infrastructure

Administration

Environmental Health

Operations and Infrastructure

Enforcement

Environmental Health

Operations and Infrastructure

Who requires a permit?

Not applicable

Exemptions

None

Alarm systems

Local Law Clause No 36

Purposes of the clause

To preserve amenity by regulating the use of alarm systems and external lighting.

Applies to

All owners and occupiers of private land or owner of a motor vehicle who install security alarm systems which emit a sound and light signal when activated.

Policy responsibility

Environmental Health

Administration

Environmental Health

Enforcement

Environmental Health

What places are affected?

All premises or vehicles with alarms

Who requires a permit?

Not applicable

Exemptions

No Exemptions

Applying for a permit

Not applicable

Unightly and dangerous land

Local Law Clause No 37

Purposes of the clause

To preserve amenity by preventing unsightly land, protecting persons and property from dangerous conditions on private land and containing the spread of noxious and environmental weeds and vermin and insects.

Applies to

All private land in the Municipal district

Policy responsibility

Operations and Infrastructure

Parks and Open Space

Community Safety & Amenity

Administration

Operations and Infrastructure

Parks and Open Space

Community Safety & Amenity

Enforcement

Operations and Infrastructure

Parks and Open Space

Community Safety & Amenity

What places are affected?

All private land

Who requires a permit?

Not applicable

Exemptions

None

Applying for a permit

Not applicable

Criteria for interpretation

Matters to consider in determining whether something is unsightly on any land must fit the description of:

- unconstrained or excessive rubbish
- disused excavation, machinery, vehicles or waste material
- accumulated items
- excessive vegetation, including grass or weeds exceeding 200mm in height
- graffiti which is visible to the public

During declared Fire Danger Period unsightly properties that fit the description below on private land may be issued a Fire Prevention Notice.

- excessive vegetation, including grass or weeds exceeding 200mm in height

Obstruction to Visibility

Local Law Clause No 38

Purposes of the clause

To prevent trees, plants or fences on private land from obscuring the clear sight of vehicle or pedestrian traffic.

Applies to

Owners and occupiers of Private Land

Policy responsibility

Operations and Infrastructure

Community Safety & Amenity

Administration

Operations and Infrastructure

Community Safety & Amenity

Enforcement

Operations and Infrastructure

Community Safety & Amenity

What public places are affected?

All private land in the Municipal district

Who requires a permit?

Not applicable

Exemptions

Not applicable

Criteria for interpretation

An obstruction is deemed to occur if a tree or plant:

- obstructs the clear sight between vehicles at an intersection or at a bend in the road
- obstructs the clear sight between pedestrians and vehicles
- obstructs the clear sight between any vehicle or pedestrian and any traffic signal or signs
- encroaches on to a footpath to reduce the width available for pedestrians
- encroaches onto a footpath and creates a slippery surface when wet
- obscures a street light, or
- other wise creates a danger to any vehicle or pedestrian.

Fences and trees or plants at minor street intersections are to be kept below a height of 1 metre in the triangular area between the corner of each property at the intersection and a line drawn between points 3 metres back from the intersection, which would otherwise prevent a clear view of other vehicles or traffic signs or signals. A minor intersection is where the vehicle speed limit is 60 kph or less in both streets.

Where a higher speed limit applies in a street or road which forms part of an intersection a greater sight distance will be nominated by the responsible council officer.

The same criteria will apply to any street tree or plant or Council owned fence, tree or plant.

Overhanging and encroaching vegetation

Local Law Clause No 39

Purposes of the clause

To prevent trees, plants or other vegetation from overhanging or encroaching onto a road or Council land.

Applies to

Owners and occupiers of Private land

Policy responsibility

Operations and Infrastructure

Community Safety & Amenity

Administration

Operations and Infrastructure

Community Safety & Amenity

Enforcement

Operations and Infrastructure

Community Safety & Amenity

What land is affected?

All Private land in the Municipal district Private land

Who requires a permit?

Not applicable

Exemptions

Not applicable

Criteria for interpretation

Overhanging or encroaching is defined by tree, plant or any other vegetation that:

- overhangs a road or footpath at a clear height of less than 4 metres from the surface of the road or
- encroaches on to a footpath to reduce the width available for pedestrians
- encroaches onto a footpath and creates a slippery surface when wet

Chimneys and other nuisances

Local Law Clause No 40

Purposes of the clause

To protect amenity by preventing undue discharges from chimneys.

Applies to

Owners and occupiers of buildings on Private land with chimneys.

Policy responsibility

Environmental Health

Administration

Environmental Health

Enforcement

Environmental Health

What land is affected?

Owners and occupiers of buildings on Private land with chimneys.

Who requires a permit?

Not applicable

Exemptions

None

Applying for a permit

Not applicable

Containment and disposal of swimming pool wastewater

Local Law Clause No 41

Purposes of the clause

To regulate the correct disposal of wastewater or backwash water from a swimming pool filtration system.

Applies to

Owners and occupiers of Private land

Policy responsibility

Environmental Health

Administration

Environmental Health

Enforcement

Environmental Health

What land is affected?

All Private land in the Municipal district with a swimming pool

Who requires a permit?

Not applicable

Exemptions

None

Applying for a permit

Not applicable

Incinerators

Local Law Clause No 42

Purposes of the clause

To regulate the prohibition of incinerators on private land.

Applies to

The owners and occupiers of Private land in the Municipal district

Policy responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

Who requires a permit?

Not applicable

Exemptions

None

Open air burning

Local Law Clause No 43

Purposes of the clause

To protect public safety and amenity by regulating the use of fires in the open air on private land by the requirement of a permit.

Applies to

The owner and occupier of all private land in the Municipal district

Policy responsibility

Emergency Management

Administration

Emergency Management

Enforcement

Community Safety & Amenity

Who requires a permit?

An owner or occupier of private land that is less than 0.4 hectare who wishes to carry out open air burning

Exemptions

Barbecues and/or fire pits when used for the sole purpose of preparing a meal and/or for the means of generating warmth.

Burning without a permit

- No strong winds are blowing.
- No fire is to be lit on a day declared by the EPA as a day of high pollution.
- The fire is to be extinguished by 6pm or upon direction by an Authorised Officer, member of Victoria Police or member of a Fire Brigade.
- No solvents, petroleum products, rubber or any substance that may give off toxic smoke are to be used to start or maintain the fire.
- The fire is not left unattended at any time.
- Ample water supply is available to extinguish fire.
- Only one fire is to be alight at any one time.
- Fires are to be lit only in an area away from other combustible material and overhanging trees, shrubs, etc.
- Notify VicFire or online at Fire Permits Victoria of your intention to burn and date(s) burning is to take place.

Your attention is drawn to Section 11 of the *Summary Offences Act 1966*.

Applying for a permit

A completed permit application form should be submitted at least four business days prior to the burn applied for.

Criteria for issuing permits

When dealing with applications for permits the Council or its delegate will consider the following factors:

- the amenity of the proposed location and the surrounding area
- the location, area and nature of the land
- the purpose of the proposed burn
- the effects on the amenity of other land and the health and safety of persons and property
- any further information required from the applicant and
- any other matters that may apply to the particular application.

Permit conditions

May include all or any of the following:

- the times and days when burning is allowed
- the name and address of the person permitted to use fire
- the purpose of the fire
- the material proposed to be burned
- the volume to be burned at any one time
- the permit to be kept on site and be available on demand
- advance notice to be given to the fire-fighting authority
- the name of the person responsible for the burn who must be present
- the climatic conditions when burning is not allowed or when a fire must be extinguished
- a fire must not be left unattended at any time
- the name and contact arrangements of a natural person who will be responsible for the fire
- the resources and methods to be used for managing and controlling the fire
- the number of fires lit at any one time
- minimising annoyance or inconvenience to other residents and
- no fire is to be lit on a fire ban day or a smog alert day

A permit does not release a person's obligations under other legislation. The provisions of the *Country Fire Authority Act 1958* apply in the rural parts of the Shire.

Section 11 of the *Summary Offences Act 1966* applies to fires in the open air at any time of the year.

Large fire and multiple fires

Local Law Clause No 44

Purposes of the clause

To protect public safety and amenity by regulating the burning of large heaps.

Applies to

The owner and occupier of all land in the Municipal district.

Policy responsibility

Emergency Management

Administration

Emergency Management

Enforcement

Community Safety & Amenity

Who requires a permit?

Not applicable

Exemptions

None

Large fire and multiple fires burning conditions

- No strong winds are blowing.
- No fire may be lit on any day during the declared Country Fire Authority Fire Danger Period.
- No fires are to be lit on a day of Total Fire Ban. No fire is to be lit on a day declared by the EPA as a day of high pollution.
- The fire is to be extinguished by or upon direction by an Authorised Officer, member of Victoria Police or member of a Fire Brigade.
- No solvents, petroleum products, rubber or any substance that may give off toxic smoke are to be used to start or maintain the fire.
- The fire is not left unattended at any time.
- One fire is maintained at any time.
- No inconvenience is caused to nearby residents.
- Adequate water supply is available, e.g. garden hose.
- Fires are to be lit only in an area away from other combustible material and overhanging trees, shrubs, etc.
- Notify VicFire or online at Fire Permits Victoria of your intention to burn and date(s) burning is to take place.
- Your attention is drawn to Section 11 of the *Summary Offences Act 1966*.

Bulk Waste containers

Local Law Clause No 45

Purposes of the clause

To control the placement of skips or bulk waste containers on a road or Council land by requiring a permit.

Applies to

The person operating the skip bin or bulk waste business wishing to place a skip or bulk waste container on a road or Council land.

Policy responsibility

Infrastructure

Administration

Infrastructure

Enforcement

Infrastructure

What places are affected?

All roads and Council land

Who requires a permit?

Any person operating the skip bin or bulk waste business wishing to place a skip or bulk waste container on a road or Council land

Exemptions

None

Applying for a permit

A completed permit application form should be submitted 14 days prior to the day a skip or bulk waste container is to be placed on the road or Council land.

Permit Conditions

In determining whether to grant a permit for the placement of a bulk waste container on a road or Council land the authorised officer must take into account:

- whether the placement will obstruct the passage of vehicles and pedestrians, obscure the view of motorists or present a physical hazard;
- whether the placement will contravene any traffic control signs;
- whether hazard lights can be securely attached on the side nearest passing traffic or placed on a carriageway so as an approaching motorist can identify the extent and form of the container; protection of Council assets;
- whether an indemnity/guarantee has been provided to Council; and
- any other matter relevant to the circumstances of the application.

Use of recreational vehicles

Local Law Clause No 46

Purposes of the clause

To protect amenity by regulating the use of recreational vehicles on private land.

Policy responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

What places are affected?

All Private land in the Municipal district

Who requires a permit?

A person who wishes to use a recreational vehicle on private land

Exemptions

None

Criteria for issuing permits

When dealing with applications for permits the Council or its delegate will consider the following factors:

- the amenity of the proposed location and the surrounding area, including
- the type, size, noise and nature of the vehicles involved and
- the days, times and duration of the proposed use.
- any potential damage may be caused to the land
- the nature and intensity of the use and any precautions to be taken to protect the land.
- any comments received in respect of the application
- any further information required from the applicant
- any other matters that may apply to the particular application
- the applicants record in using motorised toy vehicles and
- an appropriate permit fee required in respect of Council land.

Criteria for consideration

- property under 2 hectares or
- does not contain a dwelling/residence or
- has more than 2 vehicles being used at any one time.

Recreational vehicles are not permitted in the area covered by Schedule 2 in the Special Use Zone, as identified by the Nillumbik Planning Scheme eg: Bend of Islands.

Permit conditions

Permits for recreational vehicles will be subject to conditions which limits the intended use, including:

- the times, days and duration of the permit
- the number of vehicles involved
- the type of vehicles
- precautions to be taken to protect amenity and Council land
- permit holders must comply with the requirements of the Nillumbik Planning Scheme in relation to any modification of land for the use of motorised toy vehicles
- any specific insurance requirements

The use of a recreational vehicle must adhere to the following permit conditions:

1. The use of any recreational vehicle must not create any dust which detrimentally affects neighbouring properties and must not be used on any of the following days:
 1. Total Fire Ban
 2. Severe, Extreme and Code Red days
 3. Smog alert days
2. The vehicle is used between the hours of 7am and 8pm Monday to Friday; and 9am and 8pm weekends and public holidays.

Toy vehicles

Local Law Clause No 47

Purposes of the clause

To protect amenity by prohibiting the use of toy vehicles on a road or public place.

Applies to

Users of toy vehicles on a road or public place

Policy Responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

What places are affected?

All roads and public places.

Who requires a permit?

Not applicable

Exemptions

None

Repair and sale of vehicles on roads and council land

Local Law Clause No 48

Purposes of the clause

To protect amenity by requiring a permit for the repair or sale of vehicles on any road or Council land.

Applies to

Owners, repairers and sellers of vehicles

Policy Responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

What places are affected?

All roads and Council land

Who requires a permit?

The owner, repairer or seller of a vehicle on a road or Council land

Exemptions

None

Applying for a permit

A completed permit application form should be submitted 7 days prior to the commencement of the intended use.

Criteria for issuing permits

When dealing with applications for permits the Council or its delegate will consider the following factors:

- the reason for the application i.e. any special needs of the applicant
- the location of the land
- the amenity of the area
- the zoning of the land
- the suitability of the land for the intended use
- the number of vehicles
- the days, times and hours of the intended use
- any likely damage to the land and
- alternative sites.
- If minor repairs to a vehicle which has broken down are reasonably necessary to enable the vehicle to be removed under its own power within a reasonable time

Permit conditions

Permits will be subject to conditions, including:

- the times, days and duration of the permit
- the number of vehicles involved
- the type of vehicles and
- precautions to be taken to protect area amenity and the land.

Identification of premises

Local Law Clause No 49

Purposes of the clause

To facilitate the convenient location of premises by number allotted by the council clearly displayed for emergency, postal and delivery services.

Applies to

Owners and Occupiers of land

Policy responsibility

Rates and Valuations

Administration

Rates and Valuations

Enforcement

Rates and Valuations

What land is affected?

All land within the Municipal district

Who requires a permit?

Not applicable

Exemptions

Vacant land

Applying for a permit

Not applicable

Criteria for enforcement

When dealing with complaints or breaches the Council or its delegate will consider the following factors:

- whether the owner or occupier has been requested in writing to comply and
- whether numbers displayed are clearly visible under normal daylight conditions.

Permit conditions

Not applicable

Caravans, movable and temporary dwellings

Local Law Clause Number 50

Purposes of the Clause

To regulate the placement of caravans, camper trailers, movable dwellings vehicles and other temporary structures on private land by requiring a permit

Applies to

Persons wishing to conduct the activities specified in clause 50 of the Local Law.

Policy responsibility

Community Safety & Amenity

Infrastructure

Administration

Community Safety & Amenity

Infrastructure

Enforcement

Community Safety & Amenity

Infrastructure

What land is affected?

All Private land in the Municipal district

Exemptions

Caravans, camper trailers, movable dwellings, a vehicle or temporary structures stored on private land not in use

Criteria for enforcement

A permit is required to enable owners or occupiers of private land to permit a caravan, camper trailer or any other movable dwellings on private land:

- that is to be occupied on private land for more than 30 consecutive days

Shipping containers

Local Law Clause Number 51

Purposes of the Clause

To regulate the placement of shipping container on any land by requirement of a permit

Policy responsibility

Community Safety & Amenity

Infrastructure

Administration

Community Safety & Amenity

Infrastructure

Enforcement

Community Safety & Amenity

Infrastructure

What land is affected?

Any land in the Municipal district

Who requires a permit?

Any owner or occupier of any land who wishes to place, or cause or allow to be placed a shipping container

Exemptions

Private properties greater than 4.0 hectare

Permit applications and permit conditions

- A statement of purpose for the use of the shipping container must accompany any permit application
- Any permit issued under these conditions may be subject to planning approval
- Permit for placement of shipping container on any private land will be in place for a maximum of 12 months.
- Shipping container must not be placed in a location that is detrimental to the amenity

Shipping container placement on council land is referred to Infrastructure

Shipping container placement on private property is referred to Community Safety and Amenity

Protection of amenity trees

Local Law Clause Number 52

Purposes of the Clause

To regulate the removal, destruction or killing of, damage to and interference with any substantial tree on private land by requiring a permit

Applies to

All private land within the Municipality district

Policy responsibility

Planning Services

Administration

Planning Services
Community Safety & Amenity

Enforcement

Planning Services
Community Safety & Amenity

What land is affected?

All private land in the Municipal district

Who requires a permit?

Thirty days from the date of commencement of Nillumbik General Local Law 1, persons wishing to remove, destroy, kill, damage or interfere with any substantial tree on private land.

Exemptions

- A permit under the Local Law is not required to prune a substantial tree if the tree is pruned by a qualified arborist in accordance with Australian Standard AS 4373-2007 Pruning of Amenity Trees.
- A permit under the Local Law is not required to remove any part of a tree that is an immediate threat to life or property
- A permit under the Local Law is not required to remove, destroy, kill, damage or interfere with any substantial tree if the vegetation is identified as a pest plant in the Shire of Nillumbik Environmental Weed List 2009
- A permit under the Local Law is not required to remove, destroy, kill, damage or interfere with any substantial tree if the tree is dead
- A permit under the Local Law is not required to remove, destroy, kill, damage or interfere a Pinus Radiata (Pine Tree)

Criteria for interpretation

A '**substantial tree**' means a tree or palm:

- that has a trunk circumference of 50 cm or greater measured at one metre above ground level;
- that has a total circumference of all its trunks of 50 cm or greater measured at one metre above ground level;
- that has a trunk circumference of 50 cm or greater measured at its base; or
- that has a trunk circumference of all its trunks of 50 cm or greater measured at its base.

Application for Permit

Required Supporting Documentation

An application to remove or interfere with a substantial tree under the local law must be accompanied by the following information:

- completed application form, including the application fee;
- an Arborist Report - an application may be determined without an Arborist Report in the circumstances described below;
- a scaled and dimensioned site plan showing: all property boundaries; the location of the tree/s proposed to be removed or otherwise damaged or interfered with; all buildings on the property; and driveways; and
- a written summary of why the tree removal is proposed.

The requirement for an Arborist Report can be waived at the discretion of the assessing Council Officer if they are satisfied that it is appropriate to do so in the circumstance. Such circumstance may include, but not be limited to, where: the tree has been determined to be a risk to safety (including presenting an unacceptable bushfire risk); the tree is structurally unstable or in a state of decline.

An **Arborist Report** must be prepared by an arborist. This report must be prepared in accordance with Australian Standard AS4970/2009, prepared by a person suitably qualified and experienced, for all trees proposed to be removed. The report should detail as a minimum:

- a. The species, height, girth, canopy width and approximate age of all native and exotic trees proposed to be removed.
- b. A statement regarding the health, structure and vigour of the tree/s;
- c. Comments in relation to the future health of the tree/s
- d. A recommendation based on all of the above.

Optional supporting documentation

Depending on the reason for the application, the following documentation may be requested to assist the assessing officer with their assessment of the application:

- engineer report;
- development plans;
- relevant building or planning permits;
- photographs;
- bushfire risk documentation (see below for details); and
- other supporting information reasonably required.

Assessment guidelines

In deciding whether to grant a permit under cl 52 of the Local Law, the assessing officer must take the following into consideration, to the extent that they consider appropriate:

- a. the effect on the aesthetics of the neighbouring area;
- b. the condition of the tree, i.e. health and structural integrity;
- c. whether the act is for health and safety reasons;
- d. the appropriateness of the tree for its location on the property having regard to the existing buildings and conditions on the property;
- e. whether the tree has caused, or is causing, property damage and the nature and extent of the damage;
- f. the nature of the zoning of the land under the Nillumbik Planning Scheme;
- g. whether the tree is, or is causing or contributing to, a bushfire hazard and the act is a legitimate bushfire protection measure to mitigate risk to life and property; and
- h. any other matter relevant to the circumstances associated with the application.

Bushfire risk

In assessing an application to remove a substantial tree for the purpose of managing bushfire risks, the assessing officer may consider, as appropriate:

- a. whether the property is located within the Bushfire Management Overlay and/or a Bushfire Prone Area;
- b. the nature of the tree and whether fruit, litter or other drop from the tree gives rise to any unreasonable bushfire risks (e.g. as fuel)
- c. the location of buildings and trees and the proximity of the tree to any buildings on the property;
- d. likely bushfire scenarios at the property;
- e. alternatives to removal that would mitigate the bushfire risk at the property; and
- f. the need for defensible space at the property.

To assist the officer in their assessment the officer may request the applicant to submit further details on any of the above factors and/or supporting documentation verifying the bushfire risk presented by the tree, including:

- a bushfire hazard assessment; or
- a report on the bushfire attack level for the property, determined in accordance with AS 3959; and/or
- other advice from a relevantly qualified individual recommending removal of the tree for bushfire protection purposes, supported by verifiable information and evidence on which the conclusions are drawn (e.g. advice from the Country Fire Authority, a report prepared by a fire engineer or surveyor).

Conditions for permits issued under the local law

1. The tree removal as shown on the endorsed plans must not be altered without the prior written consent of Council.
2. Only the tree(s) marked "tree to be removed" on the endorsed plans is permitted to be removed or destroyed to the satisfaction of Council.
3. No other vegetation on site shall be removed, damaged, destroyed, felled, lopped or uprooted without the prior written consent of Council.
4. A replanting program of a 3 to 1 (*or another rate having considered the capacity to replant a tree on the property*) replacement must be undertaken for any tree removal from the subject site within 3 months of the removal of the trees hereby permitted. Species must be indigenous and of local provenance, and selected from the following or other species having considered the capacity to replant a tree on the property:
 - Eucalyptus leucoxylon (Yellow Gum)
 - Eucalyptus melliodora (Yellow Box)
 - Eucalyptus polyanthemos (Red Box)
 - Eucalyptus radiata* (Narrow-leaved
 - Peppermint*)
 - Eucalyptus rubida (Candlebark)
5. The replacement planting must be carried out, completed and maintained to the satisfaction of Council.
6. This permit will expire if the tree(s) hereby permitted to be removed under this permit are not removed within 12 months of the date of this permit.

Commercial waste collection

Local Law Clause No 53

Purposes of the clause

To prohibit the collection of commercial waste during specific hours and regulate the manner in which commercial waste is collected and bins are placed.

Applies to

All occupiers of commercial premises

Policy responsibility

Environmental Health

Administration

Environmental Health

Enforcement

Environmental Health

What places are affected?

Not applicable. The Local Law applies to the collection of commercial waste wherever the commercial waste is collected.

Who requires a permit?

Not applicable

Exemptions

Not applicable

Applying for a Permit

Not applicable

Considerations

Construction of commercial waste containers:

1. Waste hoppers, bins or containers used for collection and storage of commercial waste must:
 - be constructed of an impervious material to the satisfaction of an Environmental Health Officer to prevent leakage or absorption of any refuse or rubbish which may be deposited in it
 - be watertight, and fly and vermin proofed
 - contain a removable drainage plug for the purpose of cleaning
 - be fitted with a fly and vermin proof lid with overlapping flanges, and
 - must display a notice indicating the type of waste or material which is permitted to be placed in it and stating that it is an offence to deposit any
 - material contrary to the notice.
2. Emptying of commercial waste containers
 - commercial waste containers must be emptied at least weekly or more often if necessary to prevent the contents becoming offensive.
3. Cleanliness and Storage of commercial waste containers The occupier must ensure that:
 - commercial waste containers are stored and maintained in a clean, sanitary and inoffensive condition and must at all times keep clean any footway, pavement or ground adjoining the storage area to the satisfaction of an Environmental Health Officer
 - commercial waste containers are kept closed except while depositing materials or emptying them
 - the surface on which the container is stored is impervious, graded and drained to a sewer or approved outlet with such silt traps or other treatment devices as an Environmental Health Officer requires
 - the storage site is supplied with a tap connection and a hose of a size approved by an Environmental Health Officer
 - the container is screened with suitable material in such a way as to preserve amenity to the satisfaction of an Environmental Health Officer
 - the container does not unduly obstruct vehicle or pedestrian traffic
 - the container is fenced or so constructed as to deny access by the public and
 - the container is thoroughly cleaned after each emptying.

Domestic waste collection, and recyclable materials

Local Law Clause Number 54

Purposes of the Clause

To regulate the use and operation of domestic waste and recycling receptacle.

Applies to

The occupier of any land

Policy responsibility

Waste Management

Environment

Administration

Waste Management

Environment

Enforcement

Community Safety & Amenity

What land is affected?

All land in the Municipal district

Who requires a permit?

Not applicable

Exemptions

None

Procedure and Protocol Manual for the construction, use and maintenance of domestic waste receptacle

All domestic waste and recycling must be placed in bins provided by the Council and ready for collection on the times and days specified by the Council. They must be placed for collection no more than 24 hours before 6.00 am on the collection day.

- The Council may by resolution determine the fee or charge that may apply to households for provision of bins for domestic waste, recyclables or organic material.
- Any receptacles placed for collection which have not been supplied by the Council will not be emptied.
- The Council may by resolution determine the fee or charge that may apply to households for provision of a modified waste collection service, where such a service is provided by the Council upon the request of a household. An occupier is entitled to place for collection:
 - one (1) 120 litre mobile organics bin weighing not more than 25 kilograms, containing food and organic material per week;
 - one (1) 240 litre recycling bin containing only the recyclables specified from time to time per fortnight; and
 - one (1) 120 litre mobile other bin weighing not more than 25 kilograms containing materials not accepted in either of (i) or (ii) above per fortnight.
- An occupier of land must ensure that any bin referable to that land is kept within the occupier's premises in a location and condition which are not offensive to any person.

Bins must be placed for collection outside the occupier's premises and must meet the following conditions:

- be within 300 mm of the back of the kerb or roadside drain; and
- not be within 0.5 m of each side of another bin or object;
- have a minimum of 3.0 m vertical clearance;
- be placed in area that is safe and accessible to waste vehicles; v) with the handles facing away from the roadway;
- not so that they pose a hazard to traffic or pedestrians.
- Bins must be placed in an area in accordance with direction from a Council waste officer or an authorised Council officer.

An occupier of land must not store or place any of the following materials in a bin:

- hot ashes or liquid waste;
- ashes, dirt, dust or fine particulate matter from a vacuum cleaner, unless it has been first wrapped in paper or some other impermeable cover to prevent its escape;
- broken window glass (or similar) or other sharp objects unless they have been properly contained or wrapped in such a way as to render them harmless;
- oils, paint, solvents or other hazardous substances or liquids;
- disposable nappies unless they have been cleaned of solids and securely wrapped in impervious material prior to being placed in the bin; vi) trade wastes of any kind;
- An occupier of land must not place any rubbish, recycling or organic material in the bin of another occupier without that other occupier's consent.
- A person must not remove or tamper with the bin or contents thereof of another occupier without the other occupier's consent.
- An occupier of land must ensure that material placed in a bin does not exceed a volume which prevents the lid being closed.
- After collection, an occupier of land must ensure that the empty bins referable to that land are retrieved from the street or road as soon as is practicable but within 24 hours of collection.
- An occupier of land is responsible for removing any spillage from a bin collected from the nature strip or pavement adjoining the occupier's land.
- Each occupier of land is responsible for the cleaning and disinfecting of bins referable to that land as needed to prevent odour or a nuisance to any person.
- An occupier of land must report any damage to his or her bins to the Council as soon as possible

Transportation of waste

Local Law Clause Number 55

Purposes of the Clause

To regulate the conveying of waste from a motor vehicle.

Applies to

All persons in control of a motor vehicle with the Municipality

Policy responsibility

Community Safety & Amenity

Operations and Infrastructure

Administration

Community Safety & Amenity

Operations and Infrastructure

Enforcement

Community Safety & Amenity

Operations and Infrastructure

What roads are affected?

All roads within the municipality

Who requires a permit?

Not Applicable

Exemptions

None

Procedure and Protocol Manual for the transportation of waste

- Motor vehicle must be constructed, fitted, loaded and covered so that no leakage occurs or matter dropped or deposited
- Driver must not drive, allow or cause to be driven a motor vehicle on a road unless the wheels and tyres of the motor vehicle are free from soil, earth, clay, mud, liquid waste or like substances;
- Driver must not allow any material, produce or substance to fall or escape onto a road from any motor vehicle which the person is driving or any equipment which the person is operating;
- Vehicle owner must not allow any grease, oil, mud, clay or like substance to run off a motor vehicle the person is cleaning onto a road or into a drain.

Use of Council recycling centre

Local Law Clause Number 56

Purposes of the Clause

To regulate the use of the Council recycling centre by members of the public

Applies to

All persons who use the Council recycling centre

Policy responsibility

Waste Management

Administration

Waste Management

Enforcement

Community Safety & Amenity

Waste Management

Who requires a permit?

Not applicable

Exemptions

Council staff and contractors

Emergency Services

Procedure and Protocol Manual for the use of Council recycling centre

- Children must remain in vehicle at all time
- Follow disposal direction of staff at all times
- Respect all staff members

Disposal of the following items is not permitted:

- asbestos
- bricks
- building or renovation rubble
- cement
- chemicals
- hazardous materials
- commercial quantities or truck loads
- concrete
- coolant
- dirt
- fire extinguishers
- fuels
- gas bottles
- household garbage
- liquid waste
- paint
- sand
- soil
- tiles

Hard waste collections

Local Law Clause Number 57

Purposes of the Clause

To impose a responsibility on owners and occupiers for items to be disposed of and to determine conditions of hard waste collection on private land

Policy responsibility

Waste Management

Administration

Waste Management

Enforcement

Coordinator Community Safety & Amenity

Waste Management

What places are affected?

All private land

Who requires a permit?

Not applicable

Exemptions

None

Procedure and Protocol Manual for the condition of hard waste collection

Nillumbik Shire Council provides a hard waste collection service for all residential properties we collect rates from. The hard waste service is managed by WM Waste Management Services, all occupiers of private land can book one free hard waste collection per financial year.

Hard rubbish collection pile must not exceed up to two cubic metres, which is:

- 1 metre wide x 1 metre high x 2 metres long
- Two cubic metres is equivalent to:
 - two double mattresses, or
 - one double mattress and an additional one cubic metre of material, or
 - one stove, one fridge, two paint tins, or
 - one stove, one chair, one roll of carpet, or
 - one fridge, one chair, 10 pieces of bundled and tied timber

These items **can** be collected:

- carpet rolled and tied - a maximum of one roll no longer than 1.5 metres and able to be lifted by two people
- crockery
- empty and clean paint tins with the lids off
- household appliances such as refrigerators with doors removed, stoves, washing machines, dishwashers
- electrical appliances
- household furniture
- mattress or mattress base - a maximum of two
- old tins, scrap iron and other waste metal
- sheet glass and mirror wrapped in several layers of strong paper and taped - this must be marked 'GLASS'
- tools, mowers and small car parts
- up to 10 pieces of timber neatly tied and less than 1.5 metres in length

These items **cannot** be collected:

- batteries of any type
- bricks, concrete, stone
- clay, sand, soil
- fence panels
- gas bottles
- green waste
- hazardous waste including asbestos
- household garbage
- liquids including paint, oil, garden sprays, chemicals
- renovation material, building waste and cement sheeting
- tyres
- waste from commercial and industrial premises

Actions affecting Council land

Local Law Clause Number 58

Purposes of the Clause

To prevent damage and undue interference with Council land where permitted works are carried out by requirement of a permit.

Applies to

Persons wishing to undertake the activities listed in clause 58

Policy responsibility

Parks and Open Space

Operations and Infrastructure

Administration

Parks and Open Space

Operations and Infrastructure

Enforcement

Parks and Open Space

Operations and Infrastructure

What public places are affected?

All Council land in the Municipal district

Who requires a permit?

Persons desiring to undertake works on any Council land.

Exemptions

Council staff and contractors

Approved events

Emergency Services

Procedure and Protocol Manual for action affecting Council land

Conditions of permit

- works to be in accordance with the approved plans and specifications or standard Council requirements
- the times and conditions during which works must not be carried out
- Council inspections during the works
- the period of the permit
- public safety, pedestrian and vehicle traffic flow and safety
- insurance requirements
- compliance with the Councils road opening and reinstatement procedures if damage to Council assets has occurred during the permit period.

Additional permit considerations – Reserves and open space

- In addition to any or all of the permit conditions above, permission to access Council reserves and open space will be provided based upon the following considerations:
- the nature, type, location and use of the reserve
- amenity of the general public and adjoining properties
- the potential impact on the reserve asset, including the grass, trees and other vegetation as well as built assets
- assessment of reasons provided for access via the reserve
- suitability and proximity of the point of access onto the reserve
- the nature of the building works, duration and expected use of the reserve

Maintenance of drains

Local Law Clause Number 59

Purposes of the Clause

To impose a responsibility on occupiers for maintenance of drains, gutter, downpipe on the land that connects to a drain owned or managed by Council.

Applies to

Any owner or occupier of any land

Policy responsibility

Infrastructure

Administration

Infrastructure

Enforcement

Infrastructure

What public places are affected?

Any land that connects to a drain owned or managed by Council.

Who requires a permit?

Not applicable

Exemptions

None

Stormwater drainage connections under the footpath

Local Law Clause Number 60

Purposes of the Clause

To impose a responsibility on occupiers for maintenance of stormwater pipes on any land that connects to a drain owned or managed by Council.

Applies to

Any owner or occupier of any land that connects to a drain owned or managed by Council

Policy responsibility

Infrastructure

Administration

Infrastructure

Enforcement

Infrastructure

What land is affected?

Any land that connects to a drain owned or managed by Council.

Who requires a permit?

Not applicable

Exemptions

None

Protection of drains

Local Law Clause Number 61

Purposes of the Clause

To regulate protection of drains on any land by requirement of a permit

Applies to

Any owner or occupier of any land

Policy responsibility

Infrastructure

Administration

Infrastructure

Enforcement

Infrastructure

What land affected?

Any land that connects to a drain.

Who requires a permit?

Any owner or occupier of any land desiring to undertake works to any drain vested in the Council.

Exemptions

Council staff and contractors

Emergency Services

Protection of roads

Local Law Clause Number 62

Purposes of the Clause

To regulate protection of roads by requiring a permit.

Applies to

Any person seeking to undertake works to any road within the Municipal district.

Policy responsibility

Infrastructure

Administration

Infrastructure

Enforcement

Infrastructure

What roads are affected?

All roads

Who requires a permit?

Any person desiring to undertake works to any road within the Municipal district.

Exemptions

None

Protection of vegetation

Local Law Clause Number 63

Purposes of the Clause

To regulate removal of trees and vegetation on any road or council land by requiring a permit

Applies to

Persons wishing to remove vegetation on Council land or road

Policy responsibility

Environmental Works

Parks and Open Space

Administration

Environmental Works

Parks and Open Space

Enforcement

Environmental Works

Parks and Open Space

What places are affected?

All roads and Council land

Who requires a permit?

Persons wishing to remove vegetation on Council land or road

Exemptions

Council staff and contractors

Emergency Services

Removal of vegetation of noxious and environmental weeds, fire fuels and certain dead vegetation, or exotic vegetation on urban nature strips, Council land and roadsides, for the removal, when in accordance with a fire prevention notice.

Procedure and Protocol Manual for protection of roads

Conditions of permit

Permits for vegetation removal on Council land and roads will be subject to conditions pertaining to the following matters:

- works to be in accordance with the approved plans and specifications or standard Council requirements
- the times and conditions during which works must not be carried out
- Council inspections during the works
- the period of the permit
- pedestrian and vehicle traffic flow and safety and
- insurance requirements

Vehicle crossings

Local Law Clause Number 64

Purposes of the Clause

To regulate vehicle crossings works by requiring a permit.

Applies to

Any person seeking to undertake works to any vehicle crossing within the Municipality.

Policy responsibility

Infrastructure

Administration

Infrastructure

Enforcement

Infrastructure

What land affected?

All land in the Municipal district

Who requires a permit?

Any person seeking to undertake works to any vehicle crossing within the Municipality.

Exemptions

None

Asset protection permits

Local Law Clause Number 65

Purposes of the Clause

To regulate protection of council assets for any building works on any land by requiring of a permit.

Applies to

Any person seeking to undertake building works to any land within the Municipality.

Policy responsibility

Infrastructure

Administration

Infrastructure

Enforcement

Infrastructure

What Council assets are affected?

Council assets include:

- footpaths
- nature strips
- street vegetation and trees
- kerbs and channels
- drains and storm water pits
- roads and right of ways
- street furniture
- signage.
- Vehicle crossings (driveways)
- Any other Council or Government department infrastructure

Who requires a permit?

Any person seeking to undertake work that requires a building permit, including demolition must obtain an asset protection permit before works begins

Exemptions

- Works on unsealed roads
- VicRoads roads (except when there is a footpath, then asset protection permit is required)

Procedure and Protocol Manual for protection of roads

Considerations

Common building works that require an asset protection permit:

- construction of a dwelling, unit, garage, pool house or building;
- demolition or removal of a structure;
- extension to a dwelling;
- additions or alterations to a dwelling;
- construction or installation of a swimming pool or spa;
- fencing with continuous concrete strip footing, brick or masonry fencing;
- commercial or industrial development; and
- structural or civil works.
- delivery of materials using heavy machinery over four tonnes
- use of a concrete truck/pump
- use of a crane
- excavation
- access via a council reserve

The asset protection permit fee is a non-refundable administration fee, no bond required.

Council must be notified within seven (7) days of completion of building works.

Restriction on animals within Bend of Islands

Local Law Clause Number 66

Purposes of the Clause

To prohibit the keeping or possession of domestic pets and livestock to protect and preserve the unique ecology within the area of the Special Use Zone Schedule 1 and 2.

Applies to

All owners and occupiers of land within the Special Use Zone Schedule 1 and 2 of the Nillumbik Planning Scheme

Policy responsibility

Planning Services
Community Safety and Amenity

Administration

Planning Services
Community Safety and Amenity

Enforcement

Community Safety & Amenity

What land is affected?

All land within the Special Use Zone Schedule 1 and 2 of the Nillumbik Planning Scheme

Who requires a permit?

Not applicable

Exemptions

Properties built pre 1982 that can provide proof that there has not been a period of more than 2 years where no domestic pet or livestock existed on the land.

Property owners will have three months from the date of commencement of Nillumbik General Local Law 1 to provide proof of animal ownership and /or registration of animal.

Procedure and Protocol Manual for restriction of animals within Bend of Islands

Special Use Zone refers to Special Use Zone Schedule 1 and Schedule 2 of the Nillumbik Planning Scheme (SUZ1 and SUZ2).

Evidence of microchip, PIC tag and/or registration must be supplied

The keeping of **domestic pets** or livestock by residents and or/visitors, is prohibited.

Hours of building work

Local Law Clause Number 67

Purposes of the Clause

To regulate building works during specific hours by requiring a permit.

Applies to

Any person seeking to undertake building works to any land within the Municipal district.

Policy responsibility

Manager Community Safety & Amenity

Manager Infrastructure Maintenance

Administration

Manager Community Safety & Amenity

Manager Infrastructure Maintenance

Enforcement

Coordinator Community Safety & Amenity

Manager Infrastructure Maintenance

What land is affected?

All land within the Municipal district

Who requires a permit?

Any person seeking to undertake any building work outside of the specified hours.

Exemptions

None

Stormwater protection

Local Law Clause Number 68

Purposes of the Clause

To regulate protection of stormwater system on any land where building works are being carried out.

Applies to

Any owner of any land, builder or appointed agent undertaking works to any land in the Municipal district.

Policy responsibility

Manager Community Safety & Amenity

Manager Infrastructure Maintenance

Administration

Manager Community Safety & Amenity

Manager Infrastructure Maintenance

Enforcement

Coordinator Community Safety & Amenity

Manager Infrastructure Maintenance

What public places are affected?

All land in the Municipal district

Who requires a permit?

Not applicable

Exemptions

None

Containment of refuse

Local Law Clause Number 69

Purposes of the Clause

To regulate the requirement of facility for the purpose of disposal of refuse and waste on any land

Applies to

Any owner of any land, builder or appointed agent undertaking building work to any land in the Municipal district.

Policy responsibility

Manager Community Safety & Amenity

Manager Infrastructure Maintenance

Administration

Manager Community Safety & Amenity

Manager Infrastructure Maintenance

Enforcement

Coordinator Community Safety & Amenity

Manager Infrastructure Maintenance

What public places are affected?

All land within the Municipal district

Who requires a permit?

Not applicable

Exemptions

None

Building site fencing

Local Law Clause Number 70

Purposes of the Clause

To regulate the requirement of adequate site fencing on any land within designated zone.

Applies to

Any owner of any land, builder or appointed agent engaged in building work to any land within the designated zone in the Municipality.

Policy responsibility

Manager Community Safety & Amenity

Manager Infrastructure Maintenance

Administration

Manager Community Safety & Amenity

Manager Infrastructure Maintenance

Enforcement

Coordinator Community Safety & Amenity

Manager Infrastructure Maintenance

What public places are affected?

This clause only applies to all land that is in a residential zone, commercial zone, activity centre zone or industrial zone, and is less than 1500m² in size.

Who requires a permit?

Not applicable

Exemptions

None

Procedure and Protocol Manual for building site fencing

For this clause, residential zone, commercial zone, activity centre zone or industrial zone means those zones in the planning scheme

Sanitary facilities on building sites

Local Law Clause Number 71

Purposes of the Clause

To regulate the requirement of sanitary facilities on any land prior to building work commencement.

Applies to

Any owner or of any land, builder or appointed agent engaged in building works to any land in the Municipality.

Policy responsibility

Manager Community Safety & Amenity

Manager Infrastructure Maintenance

Administration

Manager Community Safety & Amenity

Manager Infrastructure Maintenance

Enforcement

Coordinator Community Safety & Amenity

Manager Infrastructure Maintenance

What public places are affected?

All land in the Municipal district

Who requires a permit?

Not applicable

Exemptions

None

Procedure and Protocol Manual for building site fencing

The owner, builder or appointed agent must advise council within 7 days of the installation of a sewerer toilet and obtain council written consent prior to removing the toilet from the land.

Identification of building sites

Local Law Clause Number 72

Purposes of the Clause

To regulate the requirement of identification signage of building sites on any land prior to building work commencement.

Applies to

Any owner of any land, builder or appointed agent engaged in building work to any land in the Municipal district.

Policy responsibility

Manager Community Safety & Amenity

Manager Infrastructure Maintenance

Administration

Manager Community Safety & Amenity

Manager Infrastructure Maintenance

Enforcement

Coordinator Community Safety & Amenity

Manager Infrastructure Maintenance

What land affected?

All land in the Municipal district

Who requires a permit?

Not applicable

Exemptions

None

Equipment and materials delivery

Local Law Clause Number 73

Purposes of the Clause

To regulate the placement of equipment and materials delivery by requiring an Asset Protection Permit

Applies to

Any person who delivers building work equipment and materials to any land.

Policy responsibility

Manager Community Safety & Amenity

Manager Infrastructure Maintenance

Administration

Manager Community Safety & Amenity

Manager Infrastructure Maintenance

Enforcement

Coordinator Community Safety & Amenity

Manager Infrastructure Maintenance

What public places are affected?

All land in the Municipal district

Who requires a permit?

Not applicable

Council may issue permits

Correction amendment, cancellation and suspension of a permit

Local Law Clause No 74 & 75

Purposes of the clause

To provide a procedure for the issuance of permits.

Application

Council staff who consider applications and issue permits.

Procedural Procedure or Protocol Manual for permits

Applications

Permit applications must be completed on the forms provided by the Council, this may be electronically, paper based or other means.

Consideration

The relevant criteria is to be taken into account when an application is being considered. The objection, support or comments of other interested or affected persons are to be considered. Requirements of other legislation, permits and approvals are also to be taken into account.

Conditions

Permit conditions may include any of the following:

- specific things or activities necessary to achieve set standards
- limitations or restrictions on times, days, duration of the permitted activity;
- any restoration or reinstatement required after the permitted activity and
- any other matter relevant to the application.

Cancellation or amendment

A permit may be cancelled, revoked or amended at any time if:

- an application conceals, omits or fails to disclose all known information relevant to the activity
- any error or omission occurred during the consideration of the application and
- circumstances have changed, unforeseeably, since the issue of the permit.

An amendment to a permit must be noted in the register and file and a replacement permit issued as soon as possible.

Not Transferable

Permits are not transferable. A transfer of the rights conferred by the permit will normally require a new application. In some cases, an amending permit may be issued.

Register of permits:

A permit register is to be kept and all permits issued, amended or cancelled are to be entered daily.

Copies of permits are to be kept on the relevant property or subject file.

Fees and charges

Local Law Clause Number 76

Purposes of the Clause

To provide a procedure for setting fees and charges.

Applies to

Any person impacted by fee or charges associated with any application under Nillumbik General Local Law 1

Policy responsibility

Prosecutions and Appeals

Administration

Prosecutions and Appeals

Enforcement

Prosecutions and Appeals

Procedural Procedure or Protocol Manual for fees and charges

Council may from time to time by resolution determine the fees or charges under Nillumbik General Local Law 1.

Council may from time to time by resolution determine an administrative inspection or processing fee or charge in addition to any standard fee or charge under Nillumbik General Local Law 1.

Council must give reasonable public notice of its resolution to act or alter fees and charges.

In determining any fees and charges 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.

The Council, may waive, reduce, alter or refund in whole or in part, any fee, charge, bond or guarantee with or without conditions.

Delegation

Exemption from the requirements of this Local Law

Local Law Clause No 77 & 78

Purposes of the clause

To provide a procedure delegation and exemption of this Local Law.

Application

Council staff who consider applications and issue permits.

Procedural Procedure or Protocol Manual consideration

Delegation

All staff to be delegated under section 78 of the *Local Government Act*.

Exemption from the requirements of this local law

- Written notice must be provided to exempt any person or class of persons from the requirement to obtain a permit
- ☐ Any person specified in this document from the list below may be exempt from the requirement to obtain a permit.
- Council Staff and contractors
- Approved events
- Areas prescribed by Council
- Emergency Services

Failure to comply with this Local Law, a permit or a notice to comply

Local Law Clause Number 79

Purposes of the Clause

To provide a procedure for failure to comply with any direction under Nillumbik General Local Law 1.

Applies to

Any person issued a Notice to Comply under Nillumbik General Local Law 1 who has not complied with direction.

Policy responsibility

Community Safety & Amenity

Infrastructure

Environmental Works

Operations and Infrastructure

Environmental Health

Emergency Management

Building Services

Administration

Community Safety & Amenity

Infrastructure

Environmental Works

Operations and Infrastructure

Environmental Health

Emergency Management

Building Services

Enforcement

Community Safety & Amenity

Procedural Procedure or Protocol Manual for failure to comply with Nillumbik General Local Law 1

A person is guilty of an offence if the person fails to:

- comply with any provision of this Local Law;
- obtain a permit under this Local Law;
- comply with a condition of a permit issued in accordance with this Local Law;
- comply with a Notice to Comply issued in accordance with this Local Law;
- comply with any written direction of an Authorised Officer.

Notices to comply

Local Law Clause Number 80

Purposes of the Clause

To provide a procedure for Notices to Comply with any direction under Nillumbik General Local Law 1.

Applies to

Any person issued a Notice to Comply under Nillumbik General Local Law 1

Policy responsibility

Community Safety & Amenity

Infrastructure

Environmental Works

Operations and Infrastructure

Environmental Health

Emergency Management

Building Services

Administration

Community Safety & Amenity

Infrastructure

Environmental Works

Operations and Infrastructure

Environmental Health

Emergency Management

Building Services

Enforcement

Community Safety & Amenity

Manager Infrastructure Maintenance

Procedural Procedure or Protocol Manual for Notices to comply with Nillumbik General Local Law 1

The Council may, by serving a Notice to Comply in the form or to the effect of Schedule 1, direct the person to whom the Notice is directed to, remedy anything which constitutes an offence under Nillumbik General Local Law 1.

Power to act in urgent circumstances

Local Law Clause Number 81

Purposes of the Clause

To provide a procedure for Council to act in urgent circumstances with any direction under Nillumbik General Local Law 1.

Applies to

Council staff who have been delegated the power to issue Notices to Comply and permits.

Policy responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

Procedural Procedure or Protocol Manual for Authorised Officer to act in urgent circumstances

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

- the circumstance arises out of a person's use of a Council land or a road or failure to comply with a provision of this Local Law ["and Council considers..." etc];
- the action taken is no more than the minimum reasonably necessary to remedy the urgent circumstance; and
- the person to whom a Notice to Comply would have otherwise been served is as soon as possible notified of the urgent circumstance and the action taken to remedy it.

Impounding

Local Law Clause Number 82

Purposes of the Clause

To provide a procedure for staff who have been delegated the power to impound any item in contravention of the Local Law.

Applies to

Council staff who may be required to impound any item

Policy responsibility

Community Safety & Amenity

Administration

Community Safety & Amenity

Enforcement

Community Safety & Amenity

Procedural Procedure or Protocol Manual for Authorised Officer to impound any item

An authorised officer may:

- impound any item that encroaches or obstructs the free use of a public place or any item that contravenes or is being used in contravention of Nillumbik General Local Law 1.;
- release the item to its owner on payment of a fee determined by the Council, which is not to exceed an amount that reasonably represents the cost to the Council of impounding, keeping and releasing the item; and
- If the authorised officer impounds an item under sub-clause 83 (1), they must serve on the owner a notice, in a form approved by the Council, as soon as possible after the impoundment.
- sell, destroy, dispose of or give away the impounded item if the owner of the item has not paid the fee within 30 days of service of a notice under sub-clause 83 (2)
- If the identity or whereabouts of the owner of the item impounded under sub-clause 83 (1) is unknown, the authorised officer must take reasonable steps to ascertain the owner's identity and/or whereabouts prior to exercising his or her powers under sub-clause 83 (2).
- Any proceeds of sale left after the Council costs have been reimbursed of any impounded item are to be dealt with pursuant to the Unclaimed Money Act 2008

Infringement Notices

Local Law Clause No 83

Purposes of the clause

To provide a procedure for the issuance of infringement notices.

Application

Authorised officers

Procedural Procedure and Protocol Manual

Service of an Infringement Notice

Infringement notices are served in accordance with section 315 of the *Local Government Act 2020*. Service may be personally delivered to a person or by delivery to the person's usual or last known place of residence or business with a person apparently not less than 16 years of age who apparently resides or is employed at that place or sending the document by post addressed to the person at the person's last known place of residence or business.

Infringement notices may be issued via Pinforce or generated in Pathway and are in sequence, which is pre-numbered.

An authorised officer may issue an infringement notice i.e. it is a discretionary decision left to the officer's judgment.

Representations

Written explanations or other relevant information or representations in respect of any infringement notice will be considered by the issuing officer provided it is received within 28 days of the date of issue. Such representations or information may be taken into account when deciding to proceed with or withdraw the notice or to grant additional time in which to pay the penalty.

Withdrawal

If unpaid and not withdrawn within 28 days, the relevant Infringement Review Officer will decide whether to take further proceedings. The Infringement Review Officer may withdraw an infringement notice for the purpose of taking a prosecution instead provided the penalty has not been paid. Eg: for repeated offences.

Prosecution

Prosecutions may be taken:

- if the infringement notice penalty remains unpaid or
- the offence is a continuing one, a second or subsequent alleged offence by the same person or an offence of a serious nature warranting a prosecution.
- The Infringement Review Officer recommends prosecution to the relevant Manager or Coordinator who in turn, recommends prosecution to the Prosecutor or Council Solicitor.

Register

An Infringement Notice register is to be kept and all Infringement Notices issued or withdrawn are to be entered daily. Details of penalty payments and any further action are to be entered daily.

Schedule 1

Penalties

Clause	Description	Max Penalty Unit	Fixed Penalty Unit
15	Unauthorised use of the common seal	20	3
16-17	Person contravenes behaviour requirements in a Municipal Place or on Council land.	20	2
18-19	Undertaking unauthorised works on, or interfering with council land	20	4
20	Consuming or possessing liquor in a prescribed area	20	2
21	Placing an advertising sign without a permit	20	2
22	Soliciting or collecting money without a permit	20	2
24	Placing a clothing bin without a permit	20	2
25	Person conducts street stall or street appeal without a permit.	20	3
26	Distributing handbill, advertise or busking without a permit	20	2
27	Leaving a shopping trolley on Council land	20	2
28	Unauthorised use of Fireworks Failure to obtain a permit to discharge fireworks	20	3
29	Unauthorised use of scare guns	20	2
30	Failure to collect and dispose of dog excrement	20	2
31	Keeping more than the permitted number of animals	20	2
32	Inadequate maintenance of animal housing	20	2
33	Not controlling noisy livestock	20	2
34	Feeding wild birds	20	3
35	Failure to remove wasps	20	2
36	Failure to dispose of dead livestock	20	2
37	Causing or permitting an audible and/or visible alarm to activate inappropriately	20	2
38	Not ensuring that land is not unsightly or detrimental to the general amenity of an area	20	2
39	Causing an obstruction to visibility	20	2

Clause	Description	Max	Fixed Penalty Unit
40	Causing or permitting vegetation to overhang a road and obstruct passage	20	2
41	Causing or permitting chimneys to discharge and be dangerous to health or offensive	20	2
42	Failure to appropriately contain and dispose of swimming water	20	2
43	Causing or permitting an incinerator to be alight	20	3
44	Causing or permitting inappropriate open air burning	20	2
45	Burning a large heap in contravention of clause 45	20	3
46	Placing a skip on a road contrary to requirements	20	2
47	Using a motorised toy vehicle on private land without a permit Using a motorised toy vehicle on Council land without a permit	20	2
48	Inappropriately using a toy vehicle in a public space Using a toy vehicle in a toy vehicle-free area	20	1
49	Person services, paints, dismantles or repairs any motor vehicle on a road or Council land.	20	2
50	Failure to maintain allotted number on premises	20	1
51	Causing or permitting camping on private land without a permit Camping on Council land without a permit Living in a caravan without a permit	20	2
52	Failure to apply for permit to store shipping container	20	2
53	Failure to apply for a permit to remove amenity trees	20	3
54	Owner or occupier fails to comply with maintenance of waste, organic and recycling bins requirements.	20	1
55	Bin not retrieved within 24 hours of collection Bin placed incorrectly	20	1
56	Inappropriate disposal of rubbish and waste	20	2
57	Failure to dispose of items correctly at Council recycling centre	20	2
58	Person fails to comply with hard waste collection requirements.	20	2
59	Person removes, damages or interferes with a structure or item on a road, footway or Council land without a permit.	20	4
60	Person destroys, damages, defaces, interferes with, excavates or taps into drain.	20	3
61	Owner or occupier allows drain or stormwater retention system to operate outside the purpose for which it was designed.	20	3

Clause	Description	Max	Fixed Penalty Unit
62	Person destroys, damages, defaces, interferes with, excavates or taps into drain.	20	3
63	Failure to apply for a permit for Protection of roads	20	4
64	Failure to obtain permit for tree removal	20	4
65	Person fails to obtain a permit to construct, install, remove or alter a vehicle crossing or temporary vehicle crossing. Person causes or allows a motor vehicle to enter or exit land other than via a vehicle crossing	20	4
66	Person fails to comply with a condition of Asset Protection Permit. Person carries out work on land without Asset Protection Permit.	20	4
68	Owner, occupier or builder fails to comply with building works hours. Owner, occupier or builder fails to comply with direction to cease building works.	20	2
69	Owner, occupier or builder discharges substance other than stormwater into a Council stormwater drain.	20	4
70	Failure to provide a container for trade waste in the appropriate manner	20	2
71	Failure to secure Building site Endangering health, life, property or an animal	20	4
72	Failure to provide adequate sanitary facilities.	20	2
73	Failure to maintain signage identification on premises	20	2
74	Person fails to comply with pick up or delivery of goods to commercial premises requirements.	20	2
80	Failure to comply with a Notice to Comply	20	3
81	Failure to comply with a direction of an authorised officer	20	4

Unless specified in the penalty table the penalties for a contravention of this local law are:

Infringement Notice fixed penalty - 1 penalty unit

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

On conviction for a second or subsequent offence - up to 20 penalty units After conviction for a continuing offence - up to 2 penalty units per day

