

# Alpine Shire Livestock Local Law

## No. 4

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## Livestock Local Law No.

### Part 1 - Preliminary

#### 1. Title

This Local Law is the Alpine Shire Council's Livestock Local Law No. 4 and is referred to subsequently as this local law.

#### 2. Objectives

The objectives of this Local law are:

- (a) to regulate the movement and droving of livestock through and within the municipal district and the grazing of livestock within the municipal district;
- (b) to minimise any damage to road pavements, formations, drainage, vegetation and surrounding areas arising from livestock;
- (c) to minimise the spread of livestock disease and noxious weeds in the municipal district;
- (d) to provide for the welfare of livestock when being driven, grazed or moved;
- (e) to alert other road users to the presence on roads of livestock in the municipal district in the interests of safe use of roads;
- (f) to regulate the adequacy of fencing of livestock;
- (g) to put in place mechanisms for rectifying inadequate fencing;
- (h) to fix fees or charges relating to the impounding of livestock and all other costs incidental thereto and for road use by livestock within the municipal district;
- (i) to enter arrangements with neighbouring councils relating to impounding, collecting trespassing livestock, housing and releasing those livestock;
- (j) to prescribe penalties for contravention of any provisions of this local law;
- (k) to provide generally for the peace, order and good government of the municipal district including in particular the administration of council's powers and functions; and
- (l) to repeal any redundant local laws.

**3. Power to make this local law**

The council's power to make this local law is contained in section 111 of the Local Government Act 1989.

**4. Commencement**

This local law operates from the day following its making.

**5. Cessation of operation of this local law**

Unless this local law is revoked sooner, its operation will cease on the 10th Anniversary of its making.

**6. Scope of this local law**

This local law applies to the whole of the municipal district except when it is apparent from its wording that it only applies to a specified area or areas. Where it applies to a road, it applies to all parts of the road reserve. Its provisions apply to the extent that they are not inconsistent with any Act, regulations or planning scheme applicable to the council or its municipal district.

**7. Definitions**

In this local law, unless inconsistent with the context:

Act	means the Local Government Act 1989 unless the context in which it is used indicates otherwise.
Applicant	means the person who applies for a permit under this local law.
Authorised Officer	means an authorised officer appointed under section 224 of the Act.
Cattle	means any bull, cow, ox, steer, heifer, calf or buffalo.
Chief Executive Officer	means the member of council staff appointed to be its principal executive.
Council	means the <u>Alpine Shire Council</u>
Council land	means all land either vested in the council or in respect of which the council has the care and management.
Daylight hours	means the hours between sunrise and sunset.
Declared Road	has the meaning ascribed to it in the Transport Act 1983.

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Disease	means any contagious or infectious disease or any condition to which livestock is subject, or an exotic disease as declared by the Governor in Council for the purposes of the Livestock Diseases Control Act 1994.
Drover	means the person responsible for the droving of livestock and includes the owner of those livestock or an employee or contractor of that person engaged for the purposes of supervising the droving of those livestock or taking them from or to a market.
Droving of livestock	means an individual driving livestock, from one location to another for the purpose of changing their grazing area or moving livestock from their grazing areas to a location for purposes of sale or from a sale location to a grazing area but does not include movement of livestock. It includes mere driving of livestock in or through a municipal district for the purpose of or including supplementing their feeding or taking them from or to a market.
Effective control	means control by person or persons alone or using dogs, devices, fences or other equipment so as to ensure that livestock are not trespassing or endangering persons or objects.
Environmental Health Manager	means the person for the time being in charge of the council's environmental health activities.
Exemption	means an exemption issued by or under the authority of council under this local law.
Grazing of livestock	means causing livestock to enter and remain on a road or roads within the municipal district for purposes of grazing rather than for purposes of droving or movement of livestock. It relates to grazing a particular or designated area and not to indiscriminate droving for purposes of or including supplementing feeding.

High Conservation Value Road Reserve	Means a roadside or a section of roadside which may have the following characteristic:- a relatively pristine vegetation community; the presence of a rare, threatened or significant flora species; a faunal area; a section of remnant vegetation not common locally; or an area of cultural, historical or geological importance; as determined by the Council.
High Country	means Crown land in North Eastern Victoria on which livestock are seasonally grazed in accordance with a lease or licence.
Large cattle	Means cattle over 6 months of age (2 cattle under 6 months is equivalent to 1 large cattle.)
Livestock	has the meaning ascribed to it by section 3 of the Impounding of Livestock Act 1994.
Low Country	means the land owned or occupied by the owner or person in charge of the livestock grazed seasonally on the high country, to which the livestock are returned for winter grazing.
Movement of livestock	means: <ul style="list-style-type: none"> <li>(i) individual or regular movement of livestock;</li> <li>(ii) as part of normal farm management operations of a single farming enterprise but not for purposes of grazing;</li> <li>(iii) from one property within the municipal district to another property within the municipal district or from or to one property in the municipal district to or from a property within an adjacent municipal district;</li> <li>(iv) at the rate of not less than one kilometre per hour in the direction of movement between the two properties;</li> <li>(v) where the properties concerned are occupied by the single farming enterprise; and</li> <li>(iv) the movement is completed on the day of commencement.</li> </ul>
Municipal District	means the municipal district of the council.

Native Vegetation	Means plants that are indigenous to Victoria, including trees, shrubs, herbs and grasses. Plants indigenous to Victoria are those species that occurred naturally within the State before European settlement.
Notice to comply	means a notice to comply referred to in clauses 8 and 31 of this local law.
Single farming enterprise	means a business of farming livestock run by one or more person as one business at one or more locations with at least one location in the municipal district.
Permit	means a permit in writing issued by or under the authority of council under this local law.
Permit holder	is the person to whom a permit has been issued under this local law.
Person	Includes a natural person, a body or association (corporate or unincorporated) and a partnership.
Pound	has the meaning ascribed to it by section 3 of the Impounding of Livestock Act 1994.
Pound keeper	means the person for the time being appointed by council to manage the pound.
Public place	has the meaning ascribed to it in section 3 of the Summary Offences Act 1966.
Regulations	means the Road Safety (Road Rules – Give Way to Stock) Regulations 1997.
Road	has the meaning ascribed to it in section 3 of the Act and includes a highway.
Roads Corporation	has the meaning ascribed to it in the Road Safety Act
Road Management Act	Means the Road Management Act 2004
Schedule	means a schedule to this local law.
Senior Officer	has the meaning ascribed to it in section 3 of the Act.
Service Authority	includes the Council, Police, State Emergency Service or any government, semi government or non profit agency involved in remedying a problem associated with livestock on a road.
Sheep	Includes ewes, wethers, rams and lambs.
Stock Crossing	means a location on a road used regularly for the purpose of livestock crossing that road and to which the requirements of the Regulations and the guidelines referred to in them, apply.

References to:

- The singular includes the plural and the plural includes the singular.
- A gender includes a reference to each other gender.
- A statute shall include any statutes amending consolidating and replacing same and regulations made under such Statute.
- Headings are for ease of reference only and shall not be taken into account in the construction or interpretation of this Local Law.



## Part 2 - Livestock on Roads

### 8. Fencing of Land

- (1) An owner or occupier of land on which livestock are kept must ensure that the fencing of that land is adequate to prevent the escape of that livestock.
- (2) Unless otherwise permitted under this Local Law, no person shall erect any fence on a road reserve within the municipality district (including an electric fence).

*Penalty: First Offence: 10 Units*

*Second Offence: 20 Units*

*and a further penalty of 2 Units for each day the offence continues after conviction for an offence.*

- (3) Where in the opinion of Council, there is a failure to comply with sub-clause (1), the council may serve a notice to comply on the owner or occupier of the land requiring that owner or occupier to install, repair, replace, remove or modify fencing, gates or grids.
- (4) A person must comply with a notice served under sub-clause (2)

### 9. Offence Concerning Livestock on Roads

- (1) A person who owns or is in charge of livestock must not cause or allow the livestock to be on a road unless:
  - (a) a permit has been issued for the droving of livestock in accordance with Clause 10;
  - (b) the stock are being grazed in accordance with Clause 11;
  - (c) the stock are being moved in accordance with Clause 12.

*Penalty: First Offence 10 Units*

*Second Offence 20 Units*

*and a further penalty of 2 Units for each day during which the offence continues after conviction for the offence.*

### 10. Droving of Livestock

- (1) The Council must not issue a permit for the droving of livestock if:
  - (a) there are more than:

- (i) 6,000 sheep, ewes, wethers and rams; or
  - (ii) 500 large cattle; or
  - (iii) 200 of any other livestock; or
- (b) it is not satisfied that the livestock are able to travel:
- (i) eight kilometres each day (being livestock referred to in paragraph (a)(i) or (iii)) in one direction; or
  - (ii) ten kilometres each day (being livestock referred to in paragraph (a)(ii)) in one direction-
- towards their destination; or
- (c) the roads proposed to be travelled:
- (i) are or will be in use for the purpose for the droving of other livestock at the time proposed;
  - (ii) are carrying such an extent of traffic or in such a condition or being used for such other purposes at the time proposed for the droving that the droving is impracticable; or
  - (iii) contain areas of high conservation significance and the applicant cannot or is not prepared to give an undertaking to take all reasonable measures proposed to ensure that such areas are protected; or
- (d) the owner or drover or person in charge of the livestock refuses to pay fees determined by the council or to provide any bond, guarantee or indemnity requested by the council as security against road or adjacent fence or property damage; or
- (e) the owner or drover or person in charge of the livestock does not provide evidence, to the satisfaction of council, of an ability to adequately water and feed the livestock and to safely contain them overnight; or
- (f) the owner or drover does not supply a declaration of his/her knowledge of the health and fitness of the livestock in a form acceptable to the Council; or
- (g) a person proposing to introduce cattle into Victoria has not first obtained permission in writing from an Inspector of Livestock under the Livestock Disease Control Act 1994, provided certification regarding the Livestock to the Inspector nearest the first point of entry and ensured that the livestock are eartagged with approved eartags prior to entry or otherwise complied with the Livestock Disease Control Act.
- (2) A person who is in charge of livestock which are being driven on a road must ensure that:
- (a) the livestock are supervised and under effective control at all times by a person who is competent in the management of such livestock;

- (b) livestock camped overnight are enclosed by a substantial and secure barrier (or otherwise isolated so as to prevent escape or danger to other road users);
- (c) proper disposal takes place within 12 hours of the death, of any carcass of any livestock , under that person's charge, which die on the road;
- (d) the livestock are only driven during daylight hours or as otherwise stated; and
- (e) the livestock are not driven on roads which the council or an authorised officer has notified the person must not be used for the driving of livestock

*Penalty: First offence            10 Units*  
*Second offence        20 Units and*

- (f) an Inspector of Livestock of Agriculture Victoria administering the Livestock Disease Control Act 1994 is notified if the person in charge of such livestock becomes aware or suspects that livestock (or any of them) have a disease or has died of a disease listed as a notifiable disease under that Act; and
  - (g) he or she complies with the provisions of the Livestock Disease Control Act 1994 and the Prevention of Cruelty to Animals Act 1986; and
  - (h) in respect of any declared roads, the written permission of the Roads Corporation has been obtained.
- (3) In determining conditions applying to any permit for the driving of livestock, the council in addition to any conditions referred to in clause 25 may impose such conditions as it considers appropriate including requirements that:
- (a) livestock not be camped in an area which is a declared or designated area of high conservation value;
  - (b) appropriate reflective signs or flashing lights be erected in front of, and at the rear of, any livestock camped overnight on a road;
  - (c) the number of livestock which may be driven in the municipal district at any one time not exceed the number specified in respect of the permit;
  - (a) the livestock travel not less than the distances specified by an authorised officer (which distances may allow for a rest day in appropriate circumstances);
  - (b) the permit holder has a current public liability policy of \$10 million

- (c) the public liability policy note the interests of the Council and the Roads Corporation, proof of such notation is to be produced to Council prior to the issue of a permit;
  - (g) the livestock be healthy and free of disease;
  - (h) signs conforming with the guidelines prepared by the Roads Corporation and referred to in the Regulations are in place;
  - (i) livestock are only to be driven on any road during daylight hours or other laws as specified.
  - (j) landowners/occupiers be given at least 48 hours notice in the form of Schedule 6 of the intended movement of livestock along the permitted route, but where droving of livestock is to or from the High Plains, notice of same only be given as determined by the authorised officer.
- (4) The route to be travelled must be specifically determined by council having regard to:
- (a) the route requested by the applicant;
  - (b) the practicality of that route or alternative routes given:
    - (i) the respective volume of traffic regularly using roads in the vicinity;
    - (ii) the proposed commencing and finishing locations;
    - (iii) the sensitivity of vegetation on that route;
    - (iv) the duration and/or frequency of livestock droving proposed;
    - (v) the number of livestock involved in the droving or each livestock droving;
    - (vi) any permits already granted for livestock droving, grazing or movement on or adjacent to the proposed area;
    - (vii) the condition of the road and prevailing weather conditions at the time of the proposed droving of livestock or throughout the proposed livestock droving;
    - (viii) the availability of alternative routes;
    - (ix) the distance to be covered each day;
    - (x) the health and condition of the livestock;
    - (xi) the nature of any weeds or growth along any proposed route and the potential for livestock to spread noxious or environmental weeds;
    - (xii) the potential for safely accommodating any livestock overnight;
    - (xiii) the capacity to adequately warn other road users of the presence of livestock on the road;
    - (xiv) procedures for varying any route in situations of hardship;
    - (xv) the availability of water and feed;

- (xvi) the outcome of any consultation with the Department of Sustainability and Environment regarding native vegetation;
  - (xvii) the views of the Roads Corporation concerning any driving on declared roads; and
  - (xviii) any other matters considered relevant by the Council.
- (5) Upon the issue of a permit under this clause, the Council must notify the Department of Primary Industries of the permit and of the livestock to be driven.

## 11. Grazing of Livestock

- (1) A permit for the grazing of a road by livestock is not required provided that:
- (a) the roadway to be grazed is adjacent to land owned or under control of the owner or person in control of such livestock
  - (b) all conditions as set out in subclause 2 are complied with
- (2) A person who is in charge of livestock which are being grazed on a road must ensure that:
- (a) the livestock are supervised and under effective control at all times by a person who is competent in the management of livestock; and
  - (b) the carcass of any livestock under that person's charge which dies on a road is properly disposed of within 12 hours of such death; and
  - (c) livestock are grazed only during daylight hours; and
  - (d) signs conforming with guidelines prepared by the Roads Corporation and referred to in the Regulations are in place; and
  - (e) appropriate precautions are taken to ensure that no damage occurs to road surfaces, furniture, drains, culverts, bridges and private entrance ways or to trees and shrubs growing within the road reserve and that erosion is not caused by excessive grazing; and
  - (f) in the event that livestock are causing damage including where overgrazing occurs, they are removed from the road reserve; and
  - (g) the livestock are enclosed by an appropriate form of fencing or other control or removed from the road before daylight hours finish unless an authorised officer agrees to some other level of supervision or overnight arrangement; and
  - (h) the person has a current public liability policy of \$10 million on which the Council's (and, where appropriate, the Roads Corporation's) interest is noted, and that proof of such notation is produced to the Council prior to commencement of grazing; and

- (i) an Inspector of Livestock of Agriculture Victoria administering the Livestock Disease Control Act 1994 is notified if the person in charge of such livestock becomes aware or suspects that livestock (or any of them) have a disease or has died of a disease listed as a notifiable disease under that Act; and
  - (j) he or she complies with the provisions of the Livestock Disease Control Act 1994 and the Prevention of Cruelty to Animals Act 1986.
  - (k) the road or roads or part of them proposed to be grazed can be grazed without threat to areas of high conservation significance; and
  - (l) in respect of any declared roads, the permission of the Roads Corporation has been obtained.
- (3) Where a permit for the grazing of livestock is required all conditions as set out in sub clause 2 must be complied with

## 12. Movement of Livestock

- (1) A person must not move livestock across and/or along a road to travel from one property being part of a single farming enterprise to another being part of the same farming enterprise or from one part of a property to another part of the same property unless:
  - (a) in respect of any movement or part of any movement before daylight hours commence or after daylight hours end, suitable warning lights conforming with guidelines prepared by the Roads Corporation and referred to in the Regulations are in place;
  - (b) the length of travel is minimised so far as is practicable;
  - (c) areas of high conservation significance are avoided or protected;
  - (d) the location of any road crossing is chosen having regard to the safety of all road users;
  - (e) any other stock crossing requirements of the Roads Corporation or the council are met;
  - (f) there is compliance with any appropriate Code of Practice; and
  - (g) the applicant has a current public liability policy of \$10 million on which the Council's (and where appropriate the Roads Corporation's) interest is noted, and that proof of such notation is produced to the Council on written request.
- (2) A person who is in charge of livestock being moved across or along a road must ensure that:
  - (a) the livestock are supervised and under effective control by a person who is competent in the management of livestock; and
  - (b) except where paragraph (e) applies, signs conforming with guidelines prepared by the Roads Corporation and referred to in the Regulations are in place and removed or deactivated following completion of the movement; and
  - (c) subject to sub-clause (1), the livestock are not moved other than during daylight hours; and
  - (d) the livestock are moved promptly, to prevent unnecessary grazing of roads; and

- (e) if there are more than 12 movements of livestock during any 3 month period on any declared road or any other road specifically determined by Council, there is compliance with guidelines prepared by the Roads Corporation and referred to in the Regulations relating to signage and lighting;
  - (f) if, due to the nature of the terrain, volume of traffic or visibility, drivers' vision may be restricted, additional warning is given to other road users;
  - (g) where livestock are to be moved across or along and across any road in fog or other than in daylight hours, there is compliance with whichever of the livestock crossing guidelines prepared by the Roads Corporation and referred to in the Regulations as is appropriate to the circumstance of the crossing;
  - (h) any livestock deposits, on any road pavement, which cause or are likely to cause danger to other road users are removed as soon as practicable; and
  - (i) the livestock are healthy and free of disease.
- (3) In the event of livestock being moved at a rate of less than one kilometre per hour, a grazing permit must be obtained.

*Penalty: First Offence            10 Units*  
*Second Offence        20 Units*

### **13. Non Application of Clauses**

- (1) The provisions of clauses 9 to 12 do not apply to livestock being transported by vehicle or other means in circumstances where there is no contact between the livestock and the road reserve.
- (2) The provisions of clauses 9 to 12 do not apply to a horse being ridden or driven or led by some attachment when the horse is being ridden driven or led by its owner or by a person authorised to do so by its owner.



#### 14. Right of Way

- (1) Travelling livestock (being livestock driven in accordance with a valid livestock driving permit) have right of way over other stock on a road.
- (2) If a person responsible for livestock on a road is notified of the approach of travelling livestock, the person must move the livestock for which he or she is responsible to an adjoining location or keep them separate from the travelling livestock by means suitable for the purpose.

*Penalty: First Offence            10 Units*  
*Second Offence        20 Units*

#### 15. Warning Signs

- (1) A person involved in driving of livestock, grazing of livestock or movement of livestock in the municipal district must ensure that adequate warning of the presence of livestock on the road is given to other road users or potential road users.

*Penalty: First Offence            10 Units*  
*Second Offence        20 Units*

- (2) Apart from any other warnings considered appropriate by the person involved in such activities under sub-clause (1), such a person must display signs conforming with guidelines prepared by the Roads Corporation and referred to in the Regulations.

*Penalty: First Offence            10 Units*  
*Second Offence        20 Units*

- (3) A person involved in droving of livestock or grazing of livestock must ensure that any signs referred to in sub-clause (2) are removed from the road at the time of completing such droving of livestock or grazing of livestock, or otherwise deactivated as set out in the guidelines referred to in the Regulations.
- (4) A person involved in movement of livestock across a road must comply with whichever of the crossing guidelines prepared by the Roads Corporation and referred to in of the Regulations as is appropriate to the relevant stock crossing.

*Penalty: First Offence            10 Units*  
*Second Offence        20 Units*

- (5) In addition to any other permit or livestock movement conditions relating to warning signs to other road users, lighting requirements and the location, size, contents and colour of such devices, the person in charge of livestock on roads must have regard to:
- (a) any Australian Standards for such purposes;
  - (b) any other signage for road safety having regard to topography, conditions, livestock type and numbers; or
  - (c) any other requirements of the Roads Corporation communicated to the council in respect of declared roads.

#### **16. Authorised relocation of livestock other than in daylight hours**

The provisions prohibiting livestock droving or movement on roads other than in daylight hours do not apply to:

- (a) relocation of livestock by an authorised officer; or
- (b) relocation of livestock in an emergency or to avoid or minimise danger; or
- (c) movement of livestock in accordance with the requirements of clauses 12 and guidelines prepared by the Roads Corporation and referred to in the Regulations.

#### **17. Refuse to give Name and Address**

Any person apparently in charge of any livestock must give his name or address when requested to do so by an authorised office and any person who refuses to do so shall be guilty of an offence against this Local Law.

*Penalty: First Offence            10 Units*  
*Second Offence        20 Units*

## **Part 3 - Administration**

### **Division 1 - Permits, Fees and Delegations**

#### **18. Applying for a permit**

- (1) A person who wishes to apply for a permit may do so by:
  - (a) lodging with the Council an application, at least 5 days before the proposed activity, in a form approved by the Council; and
  - (b) paying to the Council the appropriate application fee; and
  - (c) in the case of a permit for driving of livestock, lodging with the Council a bond of \$1,000 in cash or by bank cheque.
- (2) The Council may require an applicant to provide additional information before dealing with an application for a permit or for an exemption.
- (3) The Council may require a person making an application for a permit to give public notice which will entitle any person to make a submission and to be heard in accordance with section 223 of the Act.

#### **19. Fees**

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

#### **20. Fees and Charges relating to impounded or impounding livestock**

- (1) The charges to be paid under section 16(2)(b) of the Impounding of Livestock Act 1994 and any other fees relevant thereto are those determined by Council from time to time.
- (2) A copy of current fees and charges must be available from the Council.

- (3) In determining fees and charges relevant to the impounding of livestock or impounded livestock, the council must have regard to **the costs** incurred in:
- (a) the process of impounding;
  - (b) the housing and feeding of impounded livestock;
  - (c) arranging any veterinary care or treatment;
  - (d) advertising;
  - (e) investigating ownership;
  - (f) calling and letting tenders;
  - (g) auctioning;
  - (h) reimbursing owners or occupiers of land trespassed by the impounded livestock;
  - (i) destruction and/or disposal;
  - (j) record keeping; and
  - (k) any other action necessary or convenient to be done in connection with the functions;

but these considerations do not prevent the council from determining unit fees or charges payable in respect of each or any element of the impounding, housing, feeding, releasing, selling, treating, destroying, disposal and recording process or of any combination or combinations of them.

- (4) Nothing in this local law prevents the council agreeing with another council to fix or determine fees or charges incurred by either council or jointly by both or partly be one and partly by the other in respect of the costs outlined in sub-clause (3) by one or other or both and imposing those fees or charges or retaining those fees or charges from any proceeds of sale or suing for recovery of those fees or charges.
- (5) Any agreement under sub-clause (4) may include arrangements for any councils to reimburse another for services rendered.

## **21. Fees and Charges relating to livestock movement**

In determining fees and charges relevant the droving or grazing of livestock along any road in the municipal district, the council may do all or any of the following:

- (a) fix daily fees and/or per capita charges;
- (b) fix fees and/or per capita charges according to the duration for which any permit is to operate;
- (c) fix different fees and/or per capita charges for differing types of livestock;

- (d) fix different fees and/or per capita charges for droving of livestock and for grazing of livestock;
- (e) fix fees and/or per capita charges on an annual basis or pro rata those fees according to the period of the year yet to elapse when the permit is granted;
- (f) fix any bond or guarantee amount to be paid or provided as an alternative to or an addition to an indemnity against damage or actions.

## **22. Bonds**

- (1) The Council must refund a bond, on application:
  - (a) within seven days after refusing to issue a permit; or
  - (b) if a permit is issued, after the departure from the municipal district of the livestock if the applicant has, in the opinion of an authorised officer, complied with the conditions of the permit.
- (2) The Council may retain all or part of a bond, to the extent of:
  - (a) the cost to the Council of repairing any damage to roads or other property which, in the opinion of an authorised officer, has occurred as a result of the driving of the livestock; and
  - (b) the amount of unpaid daily fees due in relation to the livestock the subject of the permit application or permit.
- (3) A deduction under sub-clause (2) may be made at any time before the bond or any remaining part of it is refunded.
- (4) If a deduction is made from a bond before the livestock have left the municipal district, the permit holder must, within 48 hours, make further payment to maintain the amount of the bond at \$1,000.
- (5) In the event of any unpaid fees and the cost to Council of repairing any damage exceeding the amount of the bond, the applicant must pay the outstanding amount to the Council and the Council may serve a notice to comply on the applicant.

## **23. Issue of Permits**

The Council may:

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

## 24. Duration of Permits

- (1) A permit is in force until the expiry date indicated on the permit, unless it is cancelled before the expiry date.
- (2) If no expiry date is indicated on the permit, the permit expires on 30 June next after the day on which it is issued except that a droving permit expires at the expiry of the period for which it was given.

## 25. Conditional Permits

- (1) In addition to any other conditions which it may impose, the Council may include in a permit or exemption other conditions which it considers to be appropriate, including conditions relating to:
  - (a) the payment of a fee or charge; and
  - (b) a time limit to be applied either specifying the duration, commencement or completion date; and
  - (c) the happening of an event; and
  - (d) the rectification, remedying or restoration or a situation or circumstance; and
  - (e) where the applicant is not the owner of the subject property, the consent of the owner; and
  - (f) the granting of some other permit or authorisation.
- (2) Apart from any mandatory provisions or conditions under this local law, the conditions of a permit must be set out in or attached to the permit.
- (3) The Council may, during the currency of Permit, alter the conditions of a permit if it considers it to be appropriate to do so, after providing the permit holder with an opportunity to make comment on the proposed alteration.
- (4) A person who undertakes an activity for which the Council has issued a permit must comply with the conditions of the permit.

*Penalty: First Offence 10 Units  
Second Offence 20 Units*

*and a further penalty of 2 Units for each day the offence continues after conviction.*

- (5) Where an authorised officer considers that doubt arises as to the health and/or fitness of livestock to be driven, grazed or moved within the municipal district without potential adverse health effect to other livestock in the municipal district, he or she may require the owner, drover or person in charge of the livestock being or proposed to be driven, grazed or moved to have the livestock examined by a suitable veterinary practitioner

appointed by the Council for the purpose at the cost of the owner, drover or person in charge of that livestock.

- (6) In the event that the veterinary practitioner confirms that the livestock are unhealthy or unfit to be driven, grazed or moved in the municipal district, the authorised officer may refuse to allow such driving, grazing or movement.

## **26. Cancellation of a Permit**

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

## **27. Correction of permits**

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

## **28. Exemptions**

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

*Penalty: First Offence 10 Units  
Second Offence 20 Units*

*and a further penalty of 2 Units for each day the offence continues after conviction.*

- (4) An exemption may be cancelled or corrected as if it were a permit.
- (5) Despite any provision in this local law requiring a permit to undertake any particular activity, no offence will arise where the council or its delegate has granted an exemption from the requirements to hold any such permit and the holder of that exemption carries out the activity authorised by, and in accordance with any conditions contained in, that exemption.
- (6) Notwithstanding any other considerations, the Council may, by resolution, exempt a person from the requirement to have a permit in respect of:
  - (a) livestock being driven on a once yearly basis from a “high country” location back to their “low country” grazing property while passing through the municipal district;
  - (b) livestock being driven on a once yearly basis from a “low country” grazing property to their “high country” location while passing through the municipal district;
  - (c) grazing of livestock if it is part of a municipal fire prevention program;
  - (d) any applicant where it is satisfied that past performance by the applicant is such that the council can be confident that no supervision will be required and that full compliance with all conditions of exemption can be expected; or
  - (e) any applicant where, having regard to all the circumstances of the proposal under consideration, the council considers it is appropriate to do so.
- (7) The Council may, in addition to any other conditions, render any exemption under sub-clause 6(a) or (b) subject to seven (7) days notice, appropriate supervision, warning signs, overnight camping requirements and other conditions as appear reasonable to the council in the circumstances.
- (8) Where compliance with any condition of a permit or an exemption or other condition arising under this local law is impracticable in a particular circumstance, the Council may exempt a person from compliance with that condition or vary the condition in a way which is capable of compliance.



**29. Application Offence**

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

*Penalty: 10 Units*

**30. Delegation**

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

## Division 2 - Enforcement

### 31. Power of authorised officers to direct - notice to comply

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

### 32. Time to Comply

- (1) A notice to comply must state the time and date by which the situation must be remedied.
- (2) The time required by a Notice to Comply must be reasonable in the circumstances and what will be reasonable will vary depending on the matters to be remedied, but should take into account if applicable:
  - (a) the amount of work involved;
  - (b) the degree of difficulty;
  - (c) the availability of necessary materials or other necessary items;
  - (d) climatic conditions;
  - (e) the degree of risk or potential risk; and
  - (f) any other relevant factor.

### 33. Failure to comply with a notice to comply

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

*Penalty: First Offence 10 Units  
Second Offence 20 Units*

*and a further penalty of 2 Units for each day during which the offence continues after conviction for that offence.*

2. If a person fails to cause to be carried out any work stipulated in a 'Notice to Comply', the Council or an authorised officer may in accordance with Section 225 of the Act enter onto the land which is the subject of the 'Notice to Comply' and carry out the work stipulated in the 'Notice to Comply'
3. If the Council or an authorised officer carries out the work in accordance with this Local Law, the Council may recover the cost of carrying out the

work from the person who failed to do it in any court of competent jurisdiction as a debt.

4. Interest shall be payable on any moneys which are due but unpaid under this Local Law in accordance with Section 227A of the Act as if those moneys were a rate or charge.

#### **34. Power of authorised officer to act in urgent circumstances**

- (1) In urgent circumstances arising as a result of a failure to comply with this Local Law, an authorised officer may take action to remove, remedy or rectify a situation without first serving a notice to comply if:
  - (a) the authorised officer considers the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a notice may place a person, animal, property or thing at risk or in danger; and
  - (b) wherever possible, a senior officer is given prior notice of the proposed action.
- (2) In deciding whether circumstances are urgent, an authorised officer must take into consideration, to the extent relevant:
  - (a) whether it is practicable to contact:
    - (i) the person by whose default, permission or sufferance the situation has arisen; or
    - (ii) the owner or the occupier of the premises or property affected; and
  - (b) whether there is an urgent risk or threat to public health, public safety, the environment or animal welfare.
- (3) The action taken by an authorised officer under sub-clause (1) must not extend beyond what is necessary to cause the immediate abatement of or minimise the risk or danger involved.
- (4) An authorised officer who takes action under sub-clause (1) must ensure that, as soon as practicable:
  - (a) details of the circumstances and remedying action are forwarded to the person on whose behalf the action was taken; and
  - (b) a report of the action taken is submitted to the Chief Executive Officer within seven (7) days.

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

- (1) An authorised officer may impound livestock which is on a road other than in accordance with this local law.

- (2) Any livestock impounded by an authorised officer must be dealt with in accordance with the Impounding of Livestock Act 1994.

### **36. Infringement Notices**

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

### **37. Payment of Penalty**

- (1) A person issued with an infringement notice may pay the penalty indicated to the Chief Executive Officer, *[name of Council, address]*.
- (2) To avoid prosecution, the penalty indicated must be paid within 28 days after the day on which the infringement notice is issued.
- (3) A person issued with an infringement notice is entitled to disregard the notice and defend the prosecution in court.

### **38. General Penalty**

A general penalty applies to any failure to comply with a provision of this local law in respect of which no separate penalty is specified.

*Penalty: First Offence 10 Units  
Second Offence 20 Units*

*and a further penalty of 2 Units for each day during which the offence continues after the conviction for the offence.*

### Schedule 1 – Infringement Notice

Date:

To: *[name and address]*

I, *[name of authorised officer]* have reason to believe that you have committed an offence against the of Livestock Local Law 2008 of the *[name of the Council]*, as indicated below:

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

---

(Signature)

*You are entitled to disregard this notice and defend the prosecution for an offence in Court.*

**Schedule 2 – Notice to Comply**

TO: Name \_\_\_\_\_

Address \_\_\_\_\_

The following constitutes a breach under Provision ( ) of the Council’s Local Law No.

To remedy the breach you must carry out the following work within \_\_\_\_\_ days from the day of this Notice.

You should contact \_\_\_\_\_ (at the Municipal Offices) between the hours of \_\_\_\_\_ for any further information about this Notice.

If you fail to comply with this Notice you will be guilty of an offence and liable for payment of the penalty of \$\_\_\_\_\_ for the first/second \* or subsequent offence and the Council will proceed to carry out the work, for the cost of which, in addition to the above penalty, you will be liable.

Date:

(Name of authorised officer) \_\_\_\_\_

Telephone No. \_\_\_\_\_

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

**\*strike out whichever is not applicable**

**Schedule 3 – Application for Permit to Drive/Graze Livestock**

I, \_\_\_\_\_

(INSERT FULL NAME IN BLOCK LETTERS)

Of \_\_\_\_\_

(INSERT FULL ADDRESS)

Hereby apply for a Permit to drive/graze livestock through\within the municipal district of the Alpine Shire.

**PLEASE COMPLETE THE FOLLOWING INFORMATION**

Type of Livestock \_\_\_\_\_

Number of Livestock \_\_\_\_\_

Owner of Livestock \_\_\_\_\_

Designated Person in Charge of Livestock \_\_\_\_\_

Address of Owner \_\_\_\_\_

Brand \_\_\_\_\_

Point of entry into the municipal district \_\_\_\_\_

Point of exit from the municipal district \_\_\_\_\_

Date of entry into the municipal district \_\_\_\_\_

Date of exit from the municipal district \_\_\_\_\_

**ATTACHMENTS**

- **Detailed route showing daily locations, overnight camps and other relevant information if droving Livestock.**
- **Certificate of Currency from Public Liability Insurance Company showing cover of \$10 million and noting Council's interests.**

Signed \_\_\_\_\_

Date \_\_\_\_ / \_\_\_\_ /20 \_\_\_\_



### **Attachments**

Detailed route showing dates and overnight camps, etc. hereunder.

### Form of Indemnity

THIS INDEMNITY is given the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

By

\_\_\_\_\_ (herein after called “the Indemnifier/s”) to the Alpine Shire (herein after called “the Council”)

WHEREAS the Indemnifier/s have applied to the Council for a permit to drive livestock within the municipal district under the Control of Livestock Local Law.

NOW THIS INDENTURE WITNESSETH that in consideration of the Council granting such Permit the Indemnifier/s INDEMNIFY and will KEEP the Council, its officers, servants and agents INDEMNIFIED against any actions, suits, claims and demands made by or on behalf of any natural person or corporation including the indemnifier/s and any employee agent of subcontractor or the indemnifier/s in respect of any death or bodily injury, loss of income or damage to property resulting from the activities or the indemnifier/s.

(a) SIGNED, SEALED AND DELIVERED by the

Said \_\_\_\_\_

In Victoria in the presence of:

(b) THE COMMON SEAL of \_\_\_\_\_

Was hereto affixed in accordance with its

Articles of Association in the presence of:

Director \_\_\_\_\_ Secretary \_\_\_\_\_

(a) *to be completed by an individual, partnership etc.*

(b) *to be completed by a Registered Company or Incorporated body possessing a Common Seal.*

**Schedule 4 – Evidence Act**

I, \_\_\_\_\_

Of \_\_\_\_\_

do solemnly and sincerely declare that the livestock to which the attached permit application relates have been examined by me within the past seven (7) days and to the best of my knowledge are fit, healthy, free from disease and:

in respect of livestock (other than sheep) are able to travel at least ten kilometres on each and every day the livestock will be driven through the municipal district of  
\_\_\_\_\_

in respect of sheep are able to travel at least eight kilometres on each and every day the sheep will be driven through the municipal district of  
\_\_\_\_\_

in respect of livestock being grazed pursuant to a permit or exemption for that purpose present no danger of transmitting disease to any livestock adjacent to any area to be grazed.

And I make this solemn declaration conscientiously believing the same to be true and correct and acknowledging that by virtue of the provisions of an Act of the Parliament of Victoria persons making false declarations are rendered punishable for wilful and corrupt perjury.

.....  
19.....  
SIGNED DATE

Declared at  
.....

this .....day of ..... 20.....

before me  
.....

Note: It should be appreciated that Council reserves the right under sub-clauses (5) and (6) of clause 24 to have the livestock examined by a veterinary practitioner at the applicant owner's cost.

**Schedule 5 – Droving/Grazing Permit**

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

**OF:** \_\_\_\_\_

Being the drover/person in charge of the livestock specified in this permit.

**PERMIT HEREBY GRANTED:**

A permit under Clause \_\_\_\_\_ of Local Law No. \_\_\_\_\_ of the Alpine Shire is hereby granted to drive /graze livestock through or within the municipality on the streets or roads named in this permit.

**STREETS OR ROADS TO BE USED BY DROVER:**


**LIVESTOCK TO WHICH THIS PERMIT RELATES:**

Type Of Livestock \_\_\_\_\_

Number of Livestock \_\_\_\_\_

Brand \_\_\_\_\_

**SEE OVER FOR CONDITIONS APPLYING TO THIS PERMIT**

Receive the sum of \$50, being the fee payable for the issue of this Permit, \$1000 bond, plus daily fees of \$

\_\_\_\_\_

\_\_\_\_\_

DATE OF ISSUE OF PERMIT

AUTHORISED OFFICER

The person to whom this permit is issued acknowledges that Council may deduct at any time the cost of any damage to roads or Council property, caused by livestock to which this permit relates from the amount of the bond, and that if this occurs, he is required to repay the amount of the costs so deducted within 48 hours so as to maintain the bond at \$1000 or the Council may impound livestock without notice.

### **Droving/Grazing Permit Conditions**

This permit is issued to the following conditions:

1. The maximum number of livestock which may be driven through the municipal district under this permit is:  
  
6000 sheep, ewes, wethers and rams in total;  
  
500 large cattle in total; or  
  
200 pigs, horses, goats or other livestock in total.
2. droving only, the livestock to which this permit relates shall be driven a distance of not less than kilometres each day along the specified route or as otherwise directed by an authorised officer in accordance In with this Local Law.
3. Signs conforming with the guidelines prepared by the Roads Corporation and referred to in the Road Management Act 2004 are in place.
4. Livestock camped overnight must be enclosed by a substantial and secure barriers. Such barriers, where necessary, to have appropriate reflective signs or flashing lights affixed to the satisfaction of an authorised officer.
5. Livestock are not to be camped on areas which are declared or designated high conservation value road reserve.
6. The person in charge of the livestock shall within 12 hours of death dispose of the carcasses of any livestock under his charge which die whilst within the municipal district.
7. This permit ceases to operate when the livestock to which it refers leave the municipal district via the specified route.
8. Livestock are to be fit, healthy and free from disease and parasites.
9. Livestock are only to be driven between the hours of sunrise and sunset or other hours as specified.
10. The permit holder shall obtain and maintain for the duration of the permit, Public Liability Insurance Cover in the sum of at least \$10 million which shall have the Councils interest noted upon it.
11. The livestock when not enclosed by properly constructed yards or fences shall be supervised and accompanied at all times by a person who is competent in livestock management so as to ensure the safety of all road users.
12. Compliance with verbal or written instructions given by an authorised officer or the Council's Chief Executive Officer or delegate.

13. The requirement that the provisions of the Livestock Disease Control Act 1994 and the Prevention of Cruelty to Animals Act 1986 are complied with at all times.

14. Special conditions *(to be inserted here)* \_\_\_\_\_

—

15. In the event that livestock are causing damage including where overgrazing occurs they must be removed from the road reserve without delay.

16. All livestock grazing on the road reserve pursuant to this permit shall be removed from the road reserve into a secure fenced area on the approach of driven livestock and shall not be allowed back onto the road reserve until the driven livestock have fully passed the permit area.

17. This permit will cease and be inoperative and stock grazed pursuant to this permit shall be removed from the permitted area within two hours of an instruction to so remove if the conditions of this permit have been disregarded or if a notice to remove for other reasons have been given to the supervising stockman or the livestock owner.

The roadway reserve or area where the stock are to be grazed may be fenced in a temporary manner with an effective fence capable of containing such stock whilst such stock are on the road reserve or area, removing the need for constant supervision. Such fences shall not be placed on the shoulders of the roadway.

18. The permit holder shall give at least 48 hours notice in the form of Schedule 6 to landowners/occupiers of the intended movement of livestock along the permitted route.

**Schedule 6 – Notice to Landholder/Occupier**

Notice is hereby given that I intend to move stock past your property in accordance with the required permit.

**DATE OF LIVESTOCK MOVEMENT:** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**NUMBER OF LIVESTOCK:** \_\_\_\_\_

**TYPE OF LIVESTOCK:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DATE OF NOTICE:** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**SIGNED:** \_\_\_\_\_

(PERMIT HOLDER)

**Schedule 7 – Notice of Impounding**

**LIVESTOCK LOCAL LAW**

TO: \_\_\_\_\_

Of \_\_\_\_\_

\_\_\_\_\_

The following item(s) has/have been impounded in accordance with Council Livestock Local Law.

Description \_\_\_\_\_

Items \_\_\_\_\_

Impounded \_\_\_\_\_

You may collect the item(s) by attending at the municipal offices between the hours of 9:00am to 5:00pm and see \_\_\_\_\_ and by paying the following:

\$

Details \_\_\_\_\_

Of \_\_\_\_\_

Fees and \_\_\_\_\_

Charges \_\_\_\_\_

TOTAL \$ \_\_\_\_\_

If you fail to collect the item(s) and pay the required fees and charges by \_\_\_\_\_ (date), the authorised officer will proceed to dispose of the item(s) in accordance with the Council’s policy.

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

\_\_\_\_\_  
(Name of Authorised Officer)

Phone: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Authorised Officer)



**Seal**

This document is issued by the [name of Council]

The COMMON SEAL of the )  
[NAME] COUNCIL ) Chairperson

\_\_\_\_\_ )  
was affixed hereto in accordance )  
with the resolution of Council ) Councillor

\_\_\_\_\_ )  
made on

Chief Executive Officer

This \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

Notices of the proposal to make and of the making of this Local Law were included in  
the Victorian Government Gazette dated the  
\_\_\_\_\_ and the  
\_\_\_\_\_ respectively.

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

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

**Certification of Local Law No. 4**

This is to certify that the above writing contained on .....  
(.....) pages of paper is a true copy of the Local Law of the  
..... Council and that we have informed  
ourselves of the legislative requirements necessary to giving validity to such Local  
Law and as to our observance and belief that such requirements have been  
fulfilled. And we further certify that such Local Law came into force on the  
..... day of ....., 20.....

Sealed in our presence this ..... day of  
....., 20.....

Mayor (Chairperson) \_\_\_\_\_

Councillor (Commissioner) \_\_\_\_\_

Chief Executive Officer \_\_\_\_\_

Seal

### Table of Charges for Droving and Grazing of Livestock

The \_\_\_\_\_ Council determined by resolution on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ that the fees and charges under clause 21 of its Livestock Local Law No. \_\_\_\_\_ are:

<b>Droving of Livestock</b>	Fee for application \$50 (non-refundable) Bond \$ 1,000 Permit Fee Nil
Daily Fee - Cattle	10 cents per head per day
Daily Fee - Sheep	1 cents per head per day
Daily Fee - Other Livestock	2 cents per head per day
<b>Grazing of Livestock</b>	No fee while adjacent to own property, otherwise: Fee for application \$50 (non -refundable) Permit Fee Nil
Daily	10 cents per head per day 1 cent per head per day 2 cents per head per day
Daily Fee - Cattle	
Daily Fee - Sheep	
Daily Fee - Other Livestock	

Note: for purposes of calculating fees, Cattle under 6 months and Sheep under 3 months of age will not be counted