

SHIRE OF PEPPERMINT GROVE

EMISSION OR REFLECTION OF LIGHT

LOCAL LAW

LOCAL GOVERNMENT ACT 1995



**SHIRE OF PEPPERMINT GROVE
EMISSION AND REFLECTION OF LIGHT LOCAL LAW**

TABLE OF CONTENTS

EMISSION AND REFLECTION OF LIGHT LOCAL LAW

PART 1 - PRELIMINARY

- 1.1 *Citation*
- 1.2 *Application*
- 1.3 *Definitions*
- 1.4 *Repeal*

PART 2 - LIGHT

- 2.1 *Emission or reflection of light*
- 2.2 *Use of floodlights*
- 2.3 *Power lines and cables to be underground*
- 2.4 *Notice*

PART 3 - OBJECTIONS AND APPEALS

- 3.1 *Application of Part 9 Division 1 of the Act*

PART 4 - ENFORCEMENT

DIVISION 1 - NOTICES GIVEN UNDER THIS LOCAL LAW

- 4.1 *Offence to fail to comply with notice*
- 4.2 *Local government may undertake requirements of notice*

DIVISION 2 - OFFENCES AND PENALTIES

SUBDIVISION 1 - GENERAL

- 4.3 *Offences and general penalty*

SUBDIVISION 2 - INFRINGEMENT NOTICES AND MODIFIED PENALTIES

- 4.4 *Prescribed offences*
- 4.5 *Form of notices*

SCHEDULE 1

LOCAL GOVERNMENT ACT 1995

SHIRE OF PEPPERMINT GROVE

EMISSION AND REFLECTION OF LIGHT LOCAL LAW

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Peppermint Grove resolved on 20th November 2000 to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the Shire of Peppermint Grove Emission and Reflection of Light Local Law.

1.2 Application

This local law applies throughout the district.

1.3 Definitions

In this local law unless the context otherwise requires -

"**Act**" means the *Local Government Act 1995*;

"**district**" means the district of the local government;

"**local government**" means the Shire of Peppermint Grove;

"**lot**" has the meaning given to it in the *Town Planning and Development Act 1928*; and

"**Regulations**" means the *Local Government (Functions and General) Regulations 1996*.

1.4 Repeal

The following local laws are repealed -

By-laws Relating to Flood Lights and Other Exterior Lights, published in the Government Gazette of 6 November 1981, as amended by publication in the Government Gazette of 12 December 1995.

PART 2 –LIGHT

2.1 Emission or reflection of light

- (1) Where artificial light is emitted or reflected from anything on a lot so as to illuminate land outside the lot to more than 50 lux, then every owner and occupier of the lot commits an offence.
- (2) Where natural light is reflected from anything on a lot so as to create or be a nuisance to any –
 - (a) owner or occupier of land; or
 - (b) person using a thoroughfare as a thoroughfare,

then every owner and occupier of the lot commits an offence.

2.2 Use of floodlights

An owner or occupier of a lot on which floodlights or other exterior lights are erected or used shall not allow the floodlights or other exterior lights to shine directly onto an adjoining lot.

2.3 Power lines and cables to be underground

All electric power lines and cables within a lot on which floodlights or other exterior lights are erected or used to which those lights are connected are to be underground.

2.4 Notice

The local government may give a notice to the owner or occupier of a lot -

- (a) requiring that any reflective surfaces creating a nuisance within clause 2.1(2) be painted or otherwise treated so as to abate the nuisance; and
- (b) on which floodlights or other exterior lights are erected, requiring that -
 - (i) the hours of use of the lighting be limited to the hours specified in the notice; or
 - (ii) the direction in which the lights are shining be altered as specified in the notice.
 - (iii) Where the power lines and cables have been erected in contravention of clause 2.3, requiring that the power lines and cables be relocated under the ground.

PART 3 – OBJECTIONS AND APPEALS

3.1 Application of Part 9 Division 1 of the Act

When the local government makes a decision under clause 2.4 the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

PART 4 - ENFORCEMENT

Division 1 - Notices given under this local law

4.1 Offence to fail to comply with notice

Whenever the local government gives a notice under this local law requiring a person to do any thing, if a person fails to comply with the notice, that person commits an offence.

4.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 2.4, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

Division 2 - Offences and penalties

Subdivision 1 - General

4.3 Offences and general penalty

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

Subdivision 2 - Infringement notices and modified penalties

4.4 Prescribed offences

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorized person should be satisfied that –
 - (a) commission of the prescribed offence is a relatively minor matter; and
 - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

4.5 Form of notices

For the purposes of this local law -

- (a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (b) the form of the notice referred to in Section 9.20 of the Act is that of Form 3 in Schedule 1 of the regulations.

SCHEDULE 1

PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.1 (1)	Emitting light of more than 50 lux	100
2.2	Erection or use of lights shining directly onto adjoining lot	100
2.3	Erection of power lines and cables above ground	100
4.1	Failure to comply with notice	100

Dated Nineteenth of March 2000

The Common Seal of the)
Shire of Peppermint Grove)
was affixed by)
authority of a resolution)
of the Council in the)
presence of -)

.....
R J H SMITH, DEPUTY PRESIDENT

.....
G K SIMPSON, CEO

LOCAL LAW REVIEW SUMMARY REPORT

Council: _____ *Shire of Peppermint Grove* _____

Name of Local Law: _____ *Emission or Reflection of Light Local Law* _____

Nature of Local Law Review: Proposed Local Law
 Existing Local Law
 Amendment

Council contact details of responsible officer: Name: _____ *Neil Snook* _____

 Telephone: _____ *9384 0099* _____

Review Process: Date Review Commenced: 9th October 2000
 Date Review Completed: 16th December 2000
 Consultants Used Yes No

Discussion Paper: Completed (Please attach)
 Not Completed

Consultation Details:

This is a continuation of an existing local law (relevant to underground power lines)

Overall Objectives of the Law:

To maintain the aesthetic standards established by custom in the Shire of Peppermint Grove.

FOR EXISTING LOCAL LAWS AND AMENDMENTS:

Indicate Proposed Modifications

__ The existing By-laws relating to Flood Lights and Other Exterior Lights (repealed) __
__ by this Local Law) require power lines and cables to be underground. This provision __
__ is continued in the Local Law which is a modification of Part 2 Division 2 of the ____
__ WAMA model on Urban Environment and Nuisance. _____

Council Resolution (attach copy) Date: 19th March 2001

Signature of Responsible Officer: _____

Number/Name and Details of the Clause: 2.3 Power lines and cables to be underground.

Objective(s) of the Clause:

To prohibit unsightly power lines and cables to floodlights or other exterior lights
 on private land. _____

Nature of Restrictions to Competitions in the Clause:

Underground power is more expensive than overhead power. _____

Disadvantages/Costs to Society of the Restrictions in the Clause:

More expensive to erect floodlights or other exterior lights. _____

Magnitude of impact:

Minor Moderate Major

Benefits/Advantages to Society of Restriction in the Clause:

Aesthetic and capital values of land in the district are maintained in accordance _____
 with its "exclusive" character. _____

Magnitude of impact:

Minor Moderate Major

Overall net public benefit of the clause:

Positive Negative

Alternate means of Achieving the objectives of the clause:

Decision on Overall Status of clause:

Retain Modify Remove

Details

This complements the underground power lines on all thoroughfares, accessways and reserves.

