
**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 *[insert date]* 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The following local laws are repealed –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 5.1, 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