

PYRENEES
— S H I R E —



Pyrenees Shire Council

Local Law No. 4

Use of Agricultural Scareguns

(Adopted – July 2013)

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PART 1 – PRELIMINARY

1.1 TITLE

This is a Local Law for the use of agricultural Scareguns and may be referred to as the Scaregun Control Local Law 2013.

1.2 OBJECTIVES OF THIS LOCAL LAW

The objective of this Local Law is to:

- a) balance effective farmland usage and residential compatibility in a social environment free from hazards to health in which the residents of the municipal district can enjoy a quality of life that meets the general expectations of the community;
- b) protect and promote amenity within the municipal district;
- c) provide regulation for the use of scareguns within the municipal district in a manner that prevents their use being detrimental to the environment or to the quality of life of persons residing in the municipal district;
- d) provide a fair balance between the need of local producers to protect their crops with the responsible use of scareguns, and protecting the rights of residents from exposure to excessive noise.

1.3 The Power to Make this Local Law

The Council's power to make this Local Law is contained in Section 111 (1) of the Local Government Act 1989.

1.4 Commencement

This Local Law comes into operation at the beginning of the day on which it is made.

1.5 Revocation Date

Unless sooner revoked, this Local Law ceases to operate 5 years after the date on which it is made.

1.6 Definitions

In this Local Law, unless inconsistent with the context:

- | | |
|------------------------|--|
| “Act” | means the Local Government Act 1989. |
| “another property” | means property other than the property on which the scaregun is located and which is occupied by a person or persons other than the person who is using or who is allowing or authorising the use of the scaregun. |
| “Council” | means the Pyrenees Shire Council. |
| “farm land” | has the same meaning as it has in the Valuation of Land Act 1960. |
| “residential premises” | means a building used to permanently or temporarily accommodate persons and includes dwelling, residential hotel, motel, boarding home, and bed and breakfast establishment. |

“Scaregun” means a gas gun or audible noise device designed to scare pests & vermin from attacking crops, but does not include a firearm.

Part 2 - Use of Scareguns

2.1 Use of scareguns

2.1.1 A person must not use or allow or authorise others to use a scaregun unless all of the following are satisfied:

- a. the scaregun is only used for the bona fide purpose of scaring pests from crops during a recognized crop growing period; and
- b. the scaregun is positioned on farm land; and
- c. the distance in a straight line between the scaregun and a residential premises on another property is 300 metres or greater. Average maximum level blasts does not exceed 100 db LIN Peak; and
- d. the distance in a straight line between the scaregun and another scaregun in use (whether located on the same property or on another property) is 150 metres or greater; and
- e. the scaregun is only used between 7-00am and sunset on any day; and-
- f. the maximum noise level of the scaregun when measured immediately in front of a residential premises on another property is 100db LIN peak or less.
- g. emit more than the number or exceed the regularity of blasts in any one day period than the number set out in clause 2.1.2; and
- h. the number of scareguns in use at any one time on the property does not exceed the number set out in clause 2.1.2.
- i. the scaregun must not be pointed within a 45 degree arc at any adjoining properties residential dwelling. This does not apply to guns heads which randomly rotate within 360 degrees in a firing pattern.
- j. In the two weeks leading up to harvest, scareguns may operate an hour pre-dawn and post dusk, only if necessary, and following notification in writing to adjoining property owners.
- k. Bird scare guns or similar bird control devices not operated in accordance with this Local Law may be impounded by an Authorised Officer in accordance with the impounding provisions of Council’s Local Laws.

1. These guidelines are based on an average maximum level of 100dB LIN Peak of the loudest 20% 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 and peak.

2. *Sunset on any given day shall be the official daily time for sunset as predetermined by the Bureau of Meteorology and recorded in the daily Melbourne newspapers.*

Penalty: First Offence – 4 Penalty Units

Second or Subsequent Offence – 10 Penalty Units

2.1.2 For the purpose of clause 2.1.1 (g), the number and regularity of blasts in any one day period is as follows:

- a. in the case of a single blast scaregun, 70 blasts, with the time between blasts to be no less than six minutes;
- b. in the case of a multiple blast scaregun, 70 blasts, with
 - i. the time between blast sequences being no less than six minutes; and
 - ii. the time between the first blast of a sequence and the last blast of a sequence being no more than one minute.
- c. For the purposes of Clause 2.1.2 (b) each blast in a sequence from a multiple blast scaregun shall be counted as one blast.

2.1.3 For the purposes of clause 2.1.1(i), the number of scareguns in use at any one time on the property is as follows unless prior agreement has been reached with Council:

- a. where the area under crop is four hectares or less – one scaregun;
- b. where the area under crop is more than four hectares and less than ten hectares – two scareguns;
- c. where the area under crop is ten hectares or more – three scareguns.

Penalty: First Offence – 4 Penalty Units

Second or Subsequent Offence – 10 Penalty Units

2.2 Use of scareguns during extreme conditions

2.2.1 During days of Total Fire Ban scareguns must not operate. Regulations regarding use of power and electrical equipment during days of Total Fire Ban should be obtained from the CFA and must be adhered to at all times. Failure to comply with this legislation is subject to Police prosecution.

2.2.2 It is the advice of the CFA that gas powered scareguns may only be operated during specified Fire Danger Periods with a Schedule 14 CFA permit. Permits can be obtained through the CFA Regional Office, 390 Barkly Street Ararat.

2.2.3 The CFA advises that gas powered scareguns must not be in operation on days of Total Fire Ban.

2.2.4 Scare guns must be securely anchored and wherever possible have a 10m clear area of operation.

Penalty: First Offence – 4 Penalty Units
Second or Subsequent Offence – 10 Penalty Units

2.3 Communication and Mediation

Any operation of a scaregun outside the guidelines of this Code of Practice, other than that regarding Total Fire Ban Days and extreme heat in section 2.2, can only occur following consultation and agreement with residences in the vicinity who may be effected by such operation, and with the knowledge and agreement of the Pyrenees Shire Council

2.4 Industry regulation and monitoring

The Environment Protection Agency remains the expert authority with regard to the operation of scareguns, and their advice aligning guidelines should be adhered to.

2.5 Infringement Notices

2.5.1 An authorised officer may issue an infringement notice in a form determined by Council.

2.5.2 The fixed penalty in respect of an infringement notice shall be one half of the specified penalty.

2.6 Payment of penalty

2.6.1 A person issued with an infringement notice may pay the amount indicated to the Chief Executive Officer, Pyrenees Shire Council, 5 Lawrence St BEAUFORT 3373 VIC.

2.6.2 To avoid prosecution, the amount indicated must be paid within 28 days after the day on which the infringement notice is issued.

2.6.3 A person issued with an infringement notice is entitled to disregard the notice and defend the prosecution in court.

2.7 Penalty unit

The penalty units indicated in this Local Law are maximum penalties which may apply if the offence is decided by a court.