

PYRENEES SHIRE COUNCIL

Code of Practice – Use of Agricultural Scareguns

Part 1 – Preliminary

1. Title

This is a Code of Practice for the use of agricultural Scareguns and may be referred to as the Scaregun Code of Practice.

2. Objective

The objective of this Code of Practice is to:

- (i) 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;
- (ii) protect and promote amenity within the municipal district;
- (iii) provide consistent guidelines 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;
- (iv) ensure that the agricultural industry promote responsible management & operation of scareguns within the municipality; and
- (iv) 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.

3. The Reason behind the instigation of this Code of Practice.

The Council has agreed to trial this Code of Practice in partnership with local agricultural industry and the community in an effort to regulate the use of scareguns throughout the Pyrenees Shire. Council recognizes the fact that this measure does not provide enforcement capability and relies entirely on the support, promotion and cooperation of the local agricultural industry to succeed. Council understands and respects that there will remain diverse and opposing views about the use of noise generating devices for crop protection. The Council does, however, aim to consider the views of affected parties to help it structure a document which promotes the ‘reasonable’ use of these devices having regard for the impact on residents.

4. Effective Period of Code of Practice.

Council has committed to an initial 12 month period to monitor the industry's commitment to a spirit of cooperation and responsible practice. At the end of this time Council will review the effectiveness of the Code of Practice, and if there is evidence that industry has not supported the Code of Practice, Council will adopt a Local Law which would ensure Council has powers to enforce and regulate operation of scareguns.

5. Area of Operation

This Code of Practice is to be promoted and supported throughout, but not restricted to, the municipality of the Pyrenees Shire.

6. Definitions

In this Code of Practice, 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 Code of Practice - Use of Scareguns

7. Use of scareguns

7.1 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. Where however the level of the blast from the scaregun can be adjusted, then the distance between the scaregun and the complainants house may be less than 300m. In this case the adjusting mechanism must be permanently fixed such that the 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 scaregun is not used in excess of twelve hours in one day; and
- (g) 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.
- (h) emit more than the number or exceed the regularity of blasts in any one day period than the number set out in clause 7.3; and
- (i) the number of scareguns in use at any one time on the property does not exceed the number set out in clause 7.3.
- (j) the scaregun must not be pointed directly at any adjoining properties residential dwelling.
- (k) In the two weeks leading up to harvest, scareguns may operate an hour pre-dawn and post dusk, only if necessary, and following notification of adjoining property owners.

(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.)

- 7.2 For the purpose of clause 7.1 (h), 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 7.2 (b) each blast in a sequence from a multiple blast scaregun shall be counted as one blast.
- 7.3 For the purposes of clause 7.1(i), the number of scareguns in use at any one time on the property is as follows:
- (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.

8. Use of scareguns during extreme conditions

- 8.1 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.
- 8.2 In times of extreme heat, no property with a scaregun operating should be left unattended.
- 8.3 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.
- 8.4 It is the advice of the CFA that gas powered scareguns not be in operation on days of Total Fire Ban.
- 8.5 Scare guns must be securely anchored and wherever possible have a 10m clear area of operation.

9. Communication and Mediation

- 9.1 Primary Producers must accept responsibility to use scaring devices in a manner that does not unreasonably interfere with the enjoyment of the area by other residents. Communication between primary producers and with neighbours will help to minimize any unreasonable interference. However, in the event of a dispute, if all parties are to have confidence in receiving fair treatment, the whole community needs to accept a role in reconciling conflicts, and providing a transparent complaint management process.
- 9.2 Industry supporting this Code of Practice, such as the Pyrenees Grape Growers Association, and the Victorian Farmers Federation, must be prepared to participate in any necessary mediation and negotiation with effected parties.
- 9.3 The Environment Protection Agency remains the expert authority with regard to the operation of scareguns, and their advice aligning guidelines should be adhered to.
- 9.4 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 9, can only occur following consultation and agreement with residences in the vicinity who may be effected by such operation, and with the support and knowledge of an agent from a suitably aligned industry group.

10 Industry regulation and monitoring.

- 10.1 Individual growers need better information on bird scarers and their impact. Industry may require assistance in providing education and training regarding best practice bird scaring. A proactive approach by above mentioned industry groups to develop and adopt self regulation measures will provide more effective local bird and wildlife management and assist in avoiding adverse impacts on local communities, conflicts and the imposition of external regulatory controls.
- 10.2 Council maintain the right to introduce an enforceable Local Law at any stage following the introduction of this Code of Practice, if it believes that the industry is not providing support or encouraging operation and appropriate communication as suggested within these guidelines,