

Short Stay Rental Accommodation Local Law Frequently Asked Questions



Lifestyle Capital of Victoria

The objectives of the *Short Stay Rental Accommodation Local Law 2020* are to:

- Regulate and control the use of Short Stay Rental Accommodation within the Municipal District of the Frankston City Council
- Ensure an appropriate Standard of Management and presentation of such accommodation
- Minimise the risk of such accommodation affecting the amenity of the neighbours
- Implement a registration requirement
- Provide for a Standard of Management under the Local Law

To be read in conjunction with the Frankston City Council *Short Stay Rental Accommodation Local Law 2020*.

Q: Where can I get a copy of the *Short Stay Rental Accommodation Local Law 2020* and the 'Standard of Management'?

You can obtain a copy of these by visiting www.frankston.vic.gov.au Both documents can be downloaded and printed as required.

Q: How do I apply to register?

You can apply to register online via www.frankston.vic.gov.au. Applications must be complete and be accompanied by the prescribed registration fee.

Q: What is the Standard of Management?

PART 3 – STANDARD OF MANAGEMENT

- 3.1 The *owner* must not use or allow to be used a *Registered Short Stay Rental Accommodation property* in breach of this Local Law.
- 3.2 The *owner* must provide the occupiers of each contiguous property with the current contact details of the designated person required in clause 2.5.1(b).
- 3.3 The *owner* must display and make this Local Law available to all *occupants* and *visitors* to the *property* including availability on their website or any social media used by the *owner* to promote the *Short Stay Rental Accommodation property* and must incorporate the Provisions of Part 3 of this Local Law into rental terms and conditions.
- 3.4 The *owner* and *occupant* must ensure the use of the *property* does not interfere with the reasonable use and enjoyment by nearby residents of their land, or otherwise cause a nuisance.

- 3.5 Any person who behaves in an unacceptable manner shall be guilty of an offence. Unacceptable behaviour includes but is not limited to:
- (a) Loud or aggressive behaviour; or
 - (b) Yelling, screaming or arguing.
- 3.6 Off-street parking should be provided for all *occupant* and *visitor* motor vehicles. The *owner* must provide information to *occupants* on parking arrangements prior to arrival.
- 3.7 Additional accommodation is not allowed on site by way of tents, caravans, campervans or similar facilities.
- 3.8 The *owner* and *occupant* must ensure outdoor areas including swimming pools, spas, outdoor decking and balconies are not to be used between 11.00pm and 7.00am.
- 3.9 The *owner* must inform *occupants* of waste disposal arrangements and remove any excess waste left at the *property* by any person within 24 hours.
- 3.10 An *owner* or *occupier* must not leave a *receptacle* out for more than one day before or after the designated collection day.

Q: How much does it cost to register?

The annual fee of \$150.00 is payable by 30 June each year.

The fee will be calculated Pro rata quarterly for registrations within the year.

Q: What are the registration requirements?

To apply for registration of your Short Stay Rental Accommodation, the following information is required:

- The address of the Short Stay Rental Accommodation
- A designated person's name and phone number
- A postal address for correspondence
- Details of any property manager (if managing the property for you)
- Payment of the prescribed application fee

Applicants must provide a designated person's name and telephone number. A designated person must respond to any contact they receive in relation to the Short Stay Rental Accommodation, within a two hour period at any time. Further information on the designated person can be found at **www.frankston.vic.gov.au**.

Applications to register cannot be submitted or accepted by Council without all fields of the application form being completed. To apply for registration please visit **www.frankston.vic.gov.au**.

Q: I am a Real Estate Agent; do I need to register with Council for Short Stay Rental Accommodation?

The Short Stay Rental Accommodation registration is property specific, the registration is allocated to a physical property address. Real Estate Agents and Property Managers should ensure that they register all Short Stay Rental Accommodation properties they manage (on behalf of clients) with Council. Properties cannot be advertised unless they are currently registered with Council, this includes Real Estate listings.

Q: Who is the designated person and how can I get their details?

Many owners of Short Stay Rental Accommodation do not live locally or are unable to attend in person to complaints about occupant behaviour. The 'Short Stay Rental Accommodation Local Law' requires owners to nominate a designated person who will respond within two hours (at any time day or night).

A designated person could be:

- A security company
- A real estate or managing agent
- An Individual (including the owner)

The designated person's details must be provided, in writing, by the owner, to any contiguous neighbours of a registered Short Stay Rental Accommodation. This includes a neighbouring property directly across the street from the accommodation.

Please note that Council does not expect any person to be placed in harmful or threatening situations. This includes the designated person. In the event of loud music or aggressive behaviour, call Victoria Police on 000.

Q: What are Council expectations of the designated person's response?

Council holds the following expectation of a designated person:

- The designated person is the local liaison between the owner and the occupants
- The designated person is expected to respond to complaints (within 2 hours of the enquiry being made, anytime day or night) by:
 - a. Taking details of the concerns of the neighbour
 - b. Contacting the occupant(s) and asking them to change their behaviour immediately.
 - c. Attending the Short Stay Rental Accommodation and ensuring the inappropriate behaviour has ceased.
 - d. Updating the neighbour or complainant with details of your response to the matter
- If the designated person finds the occupant to be exhibiting aggressive behaviour, they should contact Victoria Police on 000

Council does not expect any person to be placed in harmful or threatening situations including the designated person. In the event of threatening or aggressive behaviour, please call Victoria Police on 000.

Any action taken by the designated person in response to a complaint, will be taken into consideration by the Authorised Officer when a complaint matter is investigated.

Please make yourself familiar with what constitutes a breach of the Local Law.

Q: How can an owner reduce the likelihood of complaints being made against their Short Stay Rental Accommodation in relation to noise or parties?

The terms and conditions of your Short Stay Rental Accommodation are not directed by the Local Law or Council. If an owner is unsure how to determine terms and conditions, they may contact an industry professional to seek their advice on running a Short Stay Rental Accommodation.

Appropriate vetting and screening of potential occupants is an effective way of reducing the likelihood of complaints being made against the Short Stay Rental Accommodation due to occupant behaviour. The Short Stay Rental Accommodation penalties and subsequent consequence (such as deregistration) for breaching the *Short Stay Rental Accommodation Local Law 2020* may be greater than the expense incurred for obtaining professional advice.

Q: What will the registration provide me?

The Standard of Management is consistent across the industry for properties registered for Short Stay Rental Accommodation in the Frankston City Council municipality. Council has created several on line resources for Owners of Short Stay Rental Accommodation to use.

A template 'Letter to Neighbours' for Owners can be found by visiting **www.frankston.vic.gov.au** to add designated person's details for neighbour advice. Under Section 3.2 of the 'Short Stay Rental Accommodation Local Law', the owner is required to provide contiguous neighbours with the current contact details of the designated person.

Q: What is the cost of processing the applications that justifies the application fee being charged? How would a fee benefit the residents and home owners?

Council have set a prescribed annual fee of \$150.00 for the registration of a Short Stay Rental Accommodation property. The fee has been set to cover the administration costs for the property registered and to meet the estimated expense of investigation, enforcement and prosecution of proven complaints.

Q: Can I apply to register a property on behalf of someone else? I am a property manager and several clients would like me to complete the application process on their behalf?

Property Managers and Real Estate agents can complete the application for a Short Stay Rental Accommodation property on behalf of a client. The person completing the application must ensure the information they provide is true and correct. Any changes to the Short Stay Rental Accommodation information provided at the time of the Short Stay Rental Accommodation Registration must be advised to Council immediately.

When completing the online application form, the section titled 'Applicant Details' will be the person named on the Short Stay Rental Accommodation Certificate of Registration. If you do not wish this to occur and you are the managing agent, please provide your details in the section titled 'Property Manager Details'.

Q: Do I need to register under Short Stay Rental Accommodation if my property is governed by a Body Corporate or Owners Corporation?

With regards to properties such as apartments, units and villas, the State Government has passed changes that govern how these properties are used as Short Stay Rental Accommodation. The 'Owners Corporation Amendment (Short-Stay Accommodation) Bill 2016' was recently passed by the Victorian Parliament and came into operation February 2019. Under the legislation, Owner's corporations can deal with short-stay tenants who breach the short-stay standards of conduct, which includes:

- Creating unreasonable noise and behaviour
- Causing a health, safety and security hazard
- Damaging common property
- Obstructing a resident from using and enjoying the property

However, at this time registration is required for any accommodation that meets the definition of a Short Stay Rental Accommodation under the *Short Stay Rental Accommodation Local Law 2020*. The definition is 'accommodation provided by the *owner* of a *property*, for fee or reward, to another person, for no more than 30 consecutive days on that *property*, but does not include any *property* that is required to be registered under any other Act or regulation.'

Q: What are the penalties if I don't comply with regulations? Where can I find this information?

You can view enforcement information under the Short Stay Rental Accommodation Local Law Schedule 1, "Specific Penalties for Infringement Notice Purposes".

The enforcement section of the Short Stay Rental Accommodation Local Law details what is considered an Offence under the Short Stay Rental Accommodation Local Law, as well as the penalty units for noncompliance.

Occupant behaviour is the responsibility of the Owners and Council has further information on managing occupant behaviour for owners. Please visit www.frankston.vic.gov.au

Q: What are the penalties and how much are they?

The current value of a penalty unit is \$100. Under the Short Stay Rental Accommodation Local Law Schedule 1, you will find the specific penalties for Infringement Notice Purposes.

Q: How do I make a complaint?

To make a complaint please contact the designated person or Victoria Police on 000.

If you wish to complain to Council during business hours, you can call 1300 322 322.

Please refer to the Local Law to make yourself familiar with what constitutes a breach of the Local Law including the following sections.

4.1.2 A person must not make a false, or misleading, or harassing, or vexatious complaint in relation to an alleged breach of this Local Law.

4.1.3 A person must not outside of business hours, make a complaint about an alleged breach of this Local Law if there is no occupant at the Short Stay Rental Accommodation at the time of making the complaint.

Q: What happens if a neighbour complains about my Short Stay Rental Accommodation?

If a neighbour complains about your property to Council, this will be investigated by an Authorised Officer and a determination made as to whether it is substantiated. Substantiated complaints may lead to cancellation of the registration of a Short Stay Rental Accommodation if:

- Council receives no less than three substantiated complaints within a rolling twelve-month period

OR

- A substantiated complaint is of such severity that immediate cancellation is warranted

If a neighbour of your Short Stay Rental Accommodation complains to Council, their complaint must be substantiated before further action is taken. Complaints relating to the operation of the Short Stay Rental Accommodation can affect your property's registration with Council and owners found in breach of their obligations may also be issued a Notice to Comply.

If you do not agree with a Council decision or an enforcement matter you may lodge an appeal in writing to Council. For further information regarding this please see the 'Short Stay Rental Accommodation Local Law', Section 2.7 'Rights of Appeal'.

Q: We don't get on with our neighbours anyway and they complain about everything. Do you have any advice for dealing with our neighbours regarding our Short Stay Rental Accommodation?

You may find the following suggestions helpful:

- Employ a security company (as the designated person) to be available to attend immediately upon request by a neighbour or yourself
- Undertake thorough vetting of potential occupiers before accepting a booking
- Ensure you have mobile phone contact details for incoming occupants. If the designated person can contact the occupants of the Short Stay Rental Accommodation by telephone to resolve the issue (rather than attend in person), this is potentially the simplest way to resolve a complaint or matter
- Send an automated text message or email through an online platform to the occupant on the day they arrive at your accommodation informing them that an agent (or security company) will be actively monitoring the accommodation and where there is a disturbance of amenity the occupant will be asked to leave immediately
- Where possible enclose balconies or install blinds and screens to reduce the line of sight and noise spill
- Introduce yourself and develop a good relationship with neighbours that live near the Short Stay Rental Accommodation

Q: Do I need to tell my neighbours I have a Short Stay Rental Accommodation?

Under the *Short Stay Rental Accommodation Local Law 2020*, owners must provide contiguous neighbours with the current contact details of the designated person, required in clause 2.5.1(b) of the *Short Stay Rental Accommodation Local Law 2020*.

Council suggests that owners of a Short Stay Rental Accommodation introduce themselves to neighbours of your accommodation and endeavour to develop a good relationship with them.

Q: How will Council find out about all the Short Stay Rental Accommodation properties in the Frankston City Council Municipality? What if an owner decides not to register their property?

Council will undertake measures to locate unregistered properties. If you believe a property near you is being used as a Short Stay Rental Accommodation, you can contact the Council to advise this. The Council will be able to check the location and confirm whether the property is registered for the Short Stay Rental Accommodation under the Local Law.

Q: I have read the Council will be using Security Agents to patrol areas during the evening, what does this mean?

Council has engaged a Security Company to proactively patrol. The Security Company and Victoria Police will report complaints and other matters to Council for investigation by our Authorised Officers during business hours.

Q: If someone calls and complains about a Short Stay Rental Accommodation and they are in the system as registered I assume enforcement will be taken?

A complaint received by Council will be investigated by an Authorised Officer. Complaints must be substantiated before enforcement will occur. Three substantiated complaints, within a 12 month period, may result in the cancellation of registration.

Q: I received contact details for a Short Stay Rental Accommodation in my street, but I want to speak to the owner, can I have their contact information?

Complaints regarding Short Stay Rental Accommodation must be directed to the designated person nominated by the owner or Council. If you have a complaint regarding the property, Council will take this information from you to undertake an investigation. All complaints should initially be directed to the designated person for the property, to allow them to respond and potentially resolve the matter. The *Short Stay Rental Accommodation Local Law 2020* does not authorise Council to release property owner contact details.

Q: Why do I have a security company phone number as a designated person from the Owner?

Under the Local Law, a designated person is a requirement for Short Stay Rental Accommodation registration. Many owners of the Short Stay Rental Accommodation do not live locally or are not able to attend in person to complaints about occupant behaviour. The Local Law requires owners to nominate a designated person who will respond within two hours at any time.

The designated person may be a security company, a Real Estate agent or Managing agent or an individual. The designated person must respond to any contact made to them, within a 2 hour period.

If an owner is not able to attend their property during a period of rental accommodation, they may have nominated a third party as listed above to act on their behalf.

Q: I have a property I advertise on Airbnb, HomeAway and/or similar online platforms. Do I need to register?

If your property is defined as a Short Stay Rental Accommodation, as per the 'Short Stay Rental Accommodation Local Law', then you are required to be registered. Short Stay Rental Accommodation means accommodation provided by the owner of a property, for fee or reward, to another person, for no more than 30 consecutive days on that property, but does not include any property that is required to be registered under any other Act or regulation

Q: I own a unit and want to rent this out as a Short Stay Rental Accommodation. Can I do this with a Body Corporate governing the units on the property?

With regards to properties such as apartments, units or villas, the State Government has legislation that governs how these properties are used as Short Stay Rental Accommodation. 'The Owners Corporation Amendment (Short-Stay Accommodation) Bill 2016' came into operation on 1 February 2019. Under this legislation, Owner's Corporations can deal with Short Stay Rental Accommodation tenants who breach the short stay Standards of Management.

However, at this time Registration is required for any accommodation that meets the definition of a Short Stay Rental Accommodation under the 'Short Stay Rental Accommodation Local Law'. The definition is 'accommodation provided by the owner of a property, for fee or reward, to another person, for no more than 30 consecutive days on that property, but does not include any property that is required to be registered under any other Act or regulation.'

Q: We have a noisy Short Stay Rental Accommodation in our street and I want to speak to the property owner, can I have the owner's contact details or address that Council has?

Council is not able to disclose property owner details, unless they have nominated themselves as the designated person. Council can provide the designated person's details to neighbours. You should:

- Call the designated person to advise of the issue
- Call the Council to report the matter on the next business day (or lodge an online report)
- If the matter is serious, call Victoria Police on 000 immediately

Q: How can Council locate all the Short Stay Rental Accommodation properties in the Frankston City Council Municipality?

Council has engaged a specialist third party who is working with Council in locating any Short Stay Rental accommodation properties. If the property is confirmed as a Short Stay Rental Accommodation and is not registered at the time of the investigation they may receive an infringement.