

Frankston City Council

Short Stay Rental

Accommodation Local Law 2020



Lifestyle Capital of Victoria

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SHORT STAY RENTAL ACCOMMODATION LOCAL LAW 2020

PART 1 – INTRODUCTORY

1.1 Title

This Local Law is the *Short Stay Rental Accommodation* Local Law of the Frankston City Council.

1.2 Objectives

The objectives of this Local Law are to:

- (a) Regulate and control the use of *Short Stay Rental Accommodation* within the *municipal district* of the Frankston City Council;
- (b) Ensure an appropriate standard of management and presentation of such accommodation;
- (c) Minimise the risk of such accommodation affecting the peace of neighbours; and
- (d) Implement a *registration* requirement.

1.3 Authorising provision

This Local Law is made under section 111 of the *Local Government Act 1989*.

1.4 Commencement Date

This Local Law comes into operation on the day following the day on which notice of the making of this Local Law is published in the Victoria Government Gazette.

1.5 End Date

This Local Law ceases to operate on the 10th anniversary of its commencement.

1.6 Application of this Local Law

This Local Law applies and has operation throughout the whole of the *municipal district*.

1.7 Definitions

Unless the contrary intention appears in this Local Law, the following words are defined to mean:

WORDS	MEANING
<i>Act</i>	Means the <i>Local Government Act 1989</i>
<i>Authorised Officer</i>	Means any person appointed as an <i>Authorised Officer</i> under Section 224 of the <i>Act</i>
<i>Council</i>	Means the Frankston City Council
<i>Infringements Act</i>	Means the <i>Infringements Act 2006</i>
<i>material change</i>	Means any change in the details of the application for <i>registration</i> of the <i>property</i>
<i>motor vehicle</i>	Has the same meaning as in the <i>Road Safety Act 1986</i>
<i>municipal district</i>	Means the municipal district of <i>Council</i>
<i>Notice to Comply</i>	Means a notice served under clause 4.2
<i>occupant</i>	Means a person who:

	<ul style="list-style-type: none"> - is listed as occupying the <i>property</i> on the booking form or reservation; or - stays overnight at <i>property</i>; or - pays for the booking
<i>online</i>	Means electronically via <i>Council's</i> website
<i>owner</i>	Means the <i>owner</i> of the <i>property</i> or the appointed <i>property manager</i>
<i>penalty unit</i>	Has the same meaning as in the <i>Sentencing Act 1991</i>
<i>property</i>	Means the parcel of land used for <i>Short Stay Rental Accommodation</i> as identified in <i>Council's</i> records
<i>property manager</i>	Means the person engaged by the <i>owner</i> of the <i>property</i> to manage and/or maintain the <i>property</i> , and includes an agent
<i>Registered Short Stay Rental Accommodation</i>	Means <i>Short Stay Rental Accommodation</i> registered under this Local Law
<i>registration</i>	Means <i>registration</i> under and for the purposes of this Local Law
<i>registration fee</i>	Means the fee for <i>registration</i> that is determined by <i>Council</i> by resolution from time to time
<i>receptacle</i>	Means a container specifically intended for the collection of different classes of refuse, including garbage, recycling and food/garden waste
<i>Short Stay Rental Accommodation</i>	Means accommodation provided by the <i>owner</i> of a <i>property</i> , for fee or reward, to another person, for no more than 30 consecutive days on that <i>property</i> , but does not include any <i>property</i> that is required to be registered under any other Act or regulation
<i>visitor</i>	Means any person attending the <i>property</i> other than the <i>occupant</i>

PART 2 – REGISTRATION

2.1 *Registration required*

2.1.1 The *owner* of any *property* must not advertise, use, or allow to be used, the *property* for *Short Stay Rental Accommodation*:

- (a) Unless the *property* is currently registered with *Council* under this Local Law; and
- (b) Other than in accordance with
 - (i) the conditions of *Registration*; and
 - (ii) the provisions of this Local Law.

(Penalty: 20 Penalty Units)

2.1.2 *Registration* does not affect the requirement of a *property owner* or *property manager* or any other person to comply with any relevant law.

2.2 *Application for Registration*

An application to *Council* for the issue or renewal of a *registration* in respect of a *Short Stay Rental Accommodation property* must:

- (a) Be in writing and/or *online*;
- (b) Be made by the *owner* of the *Short Stay Rental Accommodation property*;
- (c) Contain the details specified and required in *Council's* application form; and
- (d) Be forwarded or lodged with the *registration fee* to *Council*.

2.3 Application Details

The details referred to in clause 2.2 must be completed in full before the application will be accepted by *Council* for consideration.

A person must not knowingly submit or lodge a *registration* application that is false or in any way fraudulent.

2.4 Determining an application

If an application for *registration* of a *Short Stay Rental Accommodation property* complies with the requirements of clause 2.2 and the applicant pays the *registration fee* the *Council* or its delegate may issue to the applicant a certificate of *registration* and *registration* number.

2.5 Conditions of *Registration*

2.5.1 The conditions of *registration* are that the *owner* must at all times:

- (a) Comply with this Local Law;
- (b) Ensure, as far as is reasonably practicable, the *owner* has provided *Council* and occupiers of contiguous properties with the contact details for a designated person(s) for the *property* who can be contacted at any time of the day or night;
- (c) Ensure the designated person referred to in clause 2.5.1.b responds to any complaint in relation to a breach of this Local Law within two hours of that enquiry being made; and
- (d) Inform *Council* and the occupiers of each contiguous *property* in writing of any change that would affect the currency of the contact details submitted with the application for the *registration*.

Note: *Council* may provide the contact details to any resident living within close proximity to the *Short Stay Rental Accommodation*.

2.5.2 A person must comply with the conditions of registration.

2.5.3 *Registration* is valid for a period of 12 months and must be renewed on an annual basis unless it is cancelled under this Local Law.

2.5.4 *Registration* cannot be transferred to another *owner*.

2.6 Cancellation

2.6.1 *Registration* may be cancelled when:

- (a) Any *material change* occurs to the application details, provided under clause 2.2(c) on the basis of which the certificate of *registration* was issued; or
- (b) Council receives no less than three substantiated complaints concerning the activities taking place at the *property* from residents located within the proximity of the *property* over a rolling period of 12 months and such complaints would amount to a breach of this Local Law; or

- (c) A substantiated complaint is of such severity that immediate cancellation is warranted; or
- (d) The owner no longer requires the property to be registered as a Short Stay Rental Accommodation property; or
- (e) There is a breach of any other legislation that has an impact on the safety of occupants (e.g. pool fencing inadequate or non-existent, illegal building conversions of garages etc.).

Note: For instance any breach of this Local Law that places any person at risk of injury.

- 2.6.2 Subclause 2.6.1(a) does not apply where the change is merely a change of appointed *property manager*, the details of which are given to *Council* within 14 days of that change.
- 2.6.3 *Council* is not required to refund any part of the *registration fee* paid by the applicant in respect of cancelled *registration*.

2.7 Rights of Appeal

- 2.7.1 An *owner* who disagrees with the determination to cancel the *registration* of a *Short Stay Rental Accommodation property* may seek a review of that determination by lodging a written request for review within 28 days of being notified of the determination.
- 2.7.2 *Council* will appoint a committee to consider and determine any request for review. The committee will comprise of suitably qualified persons and may include the Director Community Development, Manager Governance & Information and Manager Community Safety.
- 2.7.3 An *owner* may make written and/or oral representations to the committee for the purposes of the review. If representations are not provided to the committee within 14 days of the request for review being made, or such longer period provided by the committee, the committee may determine the request for review without them.
- 2.7.4 The committee will determine the review within a reasonable time of receiving it and will inform the *owner* of its decision in writing.
- 2.7.5 The decision of the committee is final and will not be subject to further internal review.

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.

PART 4 - ENFORCEMENT

4.1 Offences

- 4.1.1 A person who:
- (a) Does not do any thing required to be done or does anything forbidden to be done by or under this Local Law; or
 - (b) Fails to comply with a *Notice to Comply*; or
 - (c) Accepts a rental booking for a *Short Stay Rental Accommodation* that is not registered as required by this Local Law; or
 - (d) Causes or permits by any act or omission a contravention of this Local Law;
- is guilty of an offence and liable to a penalty not exceeding 20 penalty units and in the case of a continuing offence is liable to a penalty not exceeding 2 penalty units for each day after a finding of guilt by a court of law for an offence during which the contravention continues.
- 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.
- 4.1.4 Any breach of this Local Law carries a penalty of 20 penalty units.

4.2 Notice to Comply

Where there is a breach of this Local Law an *authorised officer* may serve a *Notice to Comply* on the person who is in breach of this Local Law by either;

- (a) Ordinary post; or
- (b) In person, or leaving the notice with a person at the *property* who appears to be over the age of 16; or
- (c) Email; or
- (d) Leaving the notice in the *property's* letterbox; or
- (e) Inserting the notice into or under the front door of the *property*.

4.3 Compliance with directions

A person must comply with any reasonable direction of an *Authorised Officer* or a member of the Victoria Police when requested to do so.

4.4 Infringement notices

- 4.4.1 Where an *Authorised Officer* has reason to believe that a person is guilty of an offence or offences for which an Infringement Notice may be issued under this Local Law, the *Authorised Officer* may serve on that person an Infringement Notice.
- 4.4.2 The penalty fixed for an Infringement Notice is the fixed penalty stated in Schedule 1 of this Local Law.
- 4.4.3 Infringement Notices are to be served as per the provisions of the *Infringements Act 2006*.

Schedule 1 – Specific Penalties for Infringement Notice Purposes

Infringements	Penalty
Clause 2.1.1	5 Penalty Units
Clause 2.3.1	5 Penalty Units
Clause 2.5.3	5 Penalty Units
Clause 3.1.1	5 Penalty Units
Clause 3.1.2	5 Penalty Units
Clause 3.1.3	5 Penalty Units
Clause 3.1.5	5 Penalty Units
Clause 3.1.8	5 Penalty Units
Clause 3.2	5 Penalty Units
Clause 4.1.1	5 Penalty Units
Clause 4.1.2	5 Penalty Units
Clause 4.1.3	5 Penalty Units
Clause 4.1.4	5 Penalty Units
Clause 4.3	5 Penalty Units
Clause 4.4	5 Penalty Units