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**Local Government Act 1995
City of Fremantle**

Short Stay Accommodation Local Law 2008

In pursuance of the powers conferred upon it by the Local Government Act 1995 and of all other powers enabling it, the Council of the City of Fremantle hereby records having resolved on 26th November 2008, to make this local law.

Part 1 Preliminary

1.1 Citation

This local law may be cited as the *City of Fremantle Short Stay Accommodation Local Law 2008*.

1.2 Commencement

This local law commences 3 months after the date of its publication in the *Gazette*. (*note - Local Law will take effect on 10 March 2009*)

1.3 Application

This local law applies throughout the district.

1.4 Terms used in this local law

In this local law -

“Act” means the *Local Government Act 1995*;

“applicant” means an applicant for a registration;

“application fee” means the application fee for registration that is imposed by the City under the Act;

“CEO” means -

(a) the CEO of the City; and

(b) any other employee of the City to whom the CEO has delegated his or her powers under this local law;

Note: the CEO’s delegation powers are set out in section 5.44 of the Act.

“City” means the City of Fremantle;

“Council” means the council of the City;

“district” means the district of the City;

“month” means calendar month;

“occupant” mean a person who is over the age of 16 years and who occupies a short stay dwelling for short stay accommodation purposes;

“proprietor” means a person who is -

- (a) the owner;
- (b) the occupier; or
- (c) the manager,

of a short stay dwelling;

“relevant law” means a written law, as defined in the *Interpretation Act 1994*, that applies to, or in respect of, the use of a short stay dwelling;

Note: in the Interpretation Act 1984, ‘written law’ is defined to mean ‘all Acts for the time being in force and all subsidiary legislation for the time being in force’.

“registered short stay dwelling” means a short stay dwelling registered under this local law;

“registration” means registration, under and for the purposes of this local law, of a short stay dwelling;

“registration fee” means the fee for registration that is imposed by the City under the Act;

“short stay accommodation” means accommodation for not more than 6 occupants at a short stay dwelling for no more than 3 consecutive months;

“short stay dwelling” means a single house, grouped dwelling or multiple dwelling (as these terms are defined in the *Residential Design Codes of Western Australia*) that is used for the purpose of providing short stay accommodation.

Note: in the Residential Design Codes of Western Australia -

(a) ‘Single House’ is defined to mean -

‘A dwelling standing wholly on its own green title or survey-strata lot, together with any easement over adjoining land for support of a wall or for access or services and excludes dwellings on titles with areas held in common property’;

(b) ‘Grouped Dwelling’ is defined to mean -

‘A dwelling that is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partially vertically above another, except where special conditions of landscape or topography dictate otherwise, and includes a dwelling on a survey-strata with common property’; and

(c) ‘Multiple Dwelling’ is defined to mean -

‘A dwelling in a group of more than one dwellings on a lot where any part of a dwelling is vertically above part of any other but does not include a Group Dwelling’.

Part 2 Registration

2.1 Registration required

1. Subject to clause 2.2, a proprietor must not use, or allow to be used, the short stay dwelling of which he or she is a proprietor, for short stay accommodation –

- a) unless the short stay dwelling is registered under this local law; and

- b) other than in accordance with –
 - i. the conditions of the registration; and
 - ii. the provisions of this local law.
- 2. Registration does not affect the obligations of a proprietor or any other person to comply with a relevant law.
- 3. For the avoidance of doubt, registration does not affect the rights and obligations of an owner or occupier under the by-laws of a strata company, including any requirement to obtain approval, or to comply with any restrictions, in connection with the use of premises as a short stay dwelling.

2.2 Exemptions

Clause 2.1 does not apply in respect of a short stay dwelling that is the subject of a written planning approval by the City authorising its use for short stay accommodation under a town planning scheme of the City.

2.3 Application for registration

An application for registration in respect of a short stay dwelling must –

- a) be in writing;
- b) be made by a proprietor of the short stay dwelling;
- c) be signed by the owner of the short stay dwelling;
- d) contain the details specified in clause 2.4; and
- e) be forwarded, with the application fee, to the CEO.

2.4 Application details

The details, referred to in clause 2.3(d), that must be included in an application for registration in respect of a short stay dwelling are –

- a) a floor plan of the short stay dwelling;

- b) the location and number of bedrooms proposed to be used for short stay accommodation;
- c) one proposed on-site parking bay – unless registration is sought for accommodation for not more than 4 occupants; and
- d) the name of the manager of the short stay dwelling, his or her contact details, at any time of the day or night, and an undertaking that he or she will respond, within 12 hours, to any contact relating to the short stay dwelling.

2.5 Determining an application

1. If:

- a) an application for registration in respect of a short stay dwelling complies with the requirements of clause 2.3; and
- b) the applicant pays the registration fee,

the City must issue, to the applicant, a certificate of registration in the form prescribed in Schedule 1.

2. The certificate of registration issued under subclause is to be: -

- a) for not more than 4 occupants for a short stay dwelling having one bedroom for the purpose of short term accommodation; or
- b) for not more than 6 occupants for a short stay dwelling having 2 or more bedrooms for the purpose of short term accommodation.

2.6 Conditions of registration

The conditions of registration are that –

- a) each short stay accommodation booking and tariff must be for a minimum stay of 2 consecutive nights;
- b) a short stay dwelling registered for not more than 6 occupants must at all times have a minimum of one on-site parking bay for the exclusive use of one or more of the occupants;

- c) the manager of the short stay dwelling must be contactable, using the contact details given to the City, at any time of the day or night and the manager must respond, within 12 hours, to any contact relating to the short stay dwelling; and

- d) the proprietor must promptly inform the CEO in writing of any change that would affect the currency of the details submitted with the application for the registration.

2.7 Registration period

A registration is valid unless and until it is cancelled under this local law.

2.8 Cancellation

1. A registration is deemed to have been cancelled when any material change occurs to the application details, provided under clause 2.4, on the basis of which the certificate of registration was issued.
2. Subclause (1) does not apply where there is a change of manager, the details of which are given to the City.
3. The City is not required to refund any part of the registration fee paid by the applicant in respect of a cancelled registration.

2.9 No renewal or transfer

A registration cannot be renewed or transferred.

2.10 Objection and appeal rights

A person adversely affected by a decision made under this Part may be entitled to object or appeal against the decision under the Act.

Note: objection and appeal rights are dealt with in Part 9, Division 1 of the Act and in the Local Government (Functions and General) Regulations 1996.

Part 3 - Enforcement

3.1 Offences and penalties

1. A person who breaches a provision of this local law commits an offence.

2. A person who commits an offence under subclause is liable -
 - a) to a penalty of \$4,000; and
 - b) if the offence is of a continuing nature, a further penalty of \$400 in respect of each day or part of a day during which the offence has continued.

3.2 Infringement notices

1. An offence against any provision of this local law is a prescribed offence for the purposes of clause 9.16(1) of the Act.
2. For the purposes of this local law -
 - a) the form of the notice referred to in clause 9.17 of the Act is set out in Schedule 2; and
 - b) the form of the notice referred to in section 9.20 of the Act is that set out in Schedule 3.
3. The modified penalty for an offence against any provision of this local law is \$400.

Schedule 1– Certificate of Registration

CITY OF FREMANTLE
SHORT STAY ACCOMMODATION LOCAL LAW 2008
REGISTRATION

Date..../..../....

This certifies that the premises at _____
are registered as a short stay dwelling for short stay accommodation use for not more than
[insert 4 or 6] occupants (over the age of 16 years) in accordance with -

- (a) the provisions of the *Short Stay Accommodation Local Law 2008*;
- (b) any other relevant law; and
- (c) the conditions set out on the back of this certificate.

Signature of CEO/CEO's delegate

Note: registration does not affect the rights and obligations of an owner or occupier under the by-laws of a strata company, including any requirement to obtain approval, or to comply with any restrictions, in connection with the use of premises as a short stay dwelling 9

Conditions of Registration

The conditions of registration are that -

1. each short stay accommodation booking and tariff must be for a minimum stay of 2 consecutive nights;
2. a short stay dwelling registered for not more than 6 occupants must at all times have a minimum of one on-site parking bay for the exclusive use of one or more of the occupants;
3. the manager of the short stay dwelling must be contactable, using the contact details given to the City, at any time of the day or night and the manager must respond, within 12 hours, to any contact relating to the short stay dwelling; and
4. the proprietor must promptly inform the CEO in writing of any change that would affect the currency of the details submitted with the application for registration.

Footnote:

1. For the avoidance of doubt, registration does not affect the rights and obligations of an owner or occupier under the by-laws of a strata company, including any requirement to obtain approval, or to comply with any restrictions, in connection with the use of premises as a short stay dwelling. 10

Schedule 2– Infringement Notice

SHORT STAY ACCOMMODATION LOCAL LAW 2008
INFRINGEMENT NOTICE

Date..../..../....

Infringement Notice No.

To:

of:

it is alleged that on // at _____

you committed the offence indicated below:

Clause Description of Offence Penalty

If you do not wish to have a complaint of this offence heard and determined by a court, you may pay the modified penalty of \$400.00 within 28 days after the date of service of this notice.

Payments may be made either by posting this form, together with the amount mentioned above, to the Chief Executive Officer, City of Fremantle or by delivering this form and paying that amount to the City of Fremantle, 8 William Street, Fremantle, Western Australia between 8.30am and 5pm Monday to Friday.

Signature of CEO/CEO's delegate 11

Schedule 3 – Withdrawal of Infringement Notice

CITY OF FREMANTLE
SHORT STAY ACCOMMODATION LOCAL LAW 2008
WITHDRAWAL OF INFRINGEMENT NOTICE

Date...../...../.....

To:

of:

Infringement Notice No: dated _____

for the alleged offence of: _____

having a modified penalty of: _____

is withdrawn.

The modified penalty of \$400:

has been paid and a refund is enclosed.

has not been paid and should not be paid.

(delete as appropriate)

Signature of CEO/CEO's delegate

The Common Seal of the City of Fremantle was hereunto affixed by authority of a resolution of the Council in the presence of:

Mayor, Peter Tagliaferri

Chief Executive Officer
Graeme Mackenzie

Date