

THURINGOWA CITY COUNCIL

LOCAL LAW NO. 6M (RENTAL ACCOMMODATION WITH SHARED FACILITIES)

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PART 1 - PRELIMINARY

Citation

1. This local law may be cited as Local Law No. 6M (Rental Accommodation with Shared Facilities).

Object

2. The object of this local law is to ensure that rental accommodation provided on a basis involving sharing of facilities complies with adequate standards of health, safety and amenity.

Definitions

3. In this local law:-

“**accommodation to which this local law applies**” see section 4.

“**authorised person**” means a person authorised by the local government to exercise the powers of an authorised person under this local law.

“**compliance notice**” see section 14(1).

“**facilities**” includes 1 or more of the following:-

- (a) a dormitory or bedroom;
- (b) a toilet;
- (c) a bathroom, shower or other bathing facility;
- (d) a laundry;
- (e) dining facilities;
- (f) cooking facilities;
- (g) recreation facilities.

“**operator**” means a person who carries on the business of providing accommodation to which this local law applies and includes a person who is entitled to share in the rents or profits of premises that are used to provide accommodation to which this local law applies.

“**premises**” means premises at which accommodation to which this local law applies is, or is to be, provided.

“**stop order**” see section 13(1).

“**the Act**” means the *Local Government Act 1993*.

Application

4. (1) This local law applies to accommodation provided for payment at premises within the area on a basis involving sharing of facilities by the persons for whom the accommodation is provided.

(2) However, this local law does not apply to accommodation in:-

- (a) a hotel or motel; or
- (b) a hospital, nursing home, or other institution where people are cared for on a live-in basis; or
- (c) a residential college or boarding school; or
- (d) a religious institution; or
- (e) a community titles scheme under the *Body Corporate and Community Management Act 1997*; or
- (f) a private home in which accommodation is provided for not more than 3 boarders; or
- (g) premises excluded from the application of this local law under the local law policies.

Authorised persons

5. In authorising persons to exercise the powers of authorised persons under this local law, the local government must:-
- (a) have regard to the classes of persons who rely on accommodation to which this local law applies; and
 - (b) ensure as far as practicable that authorised persons who are involved in the administration of this local law, as far as it relates to accommodation for people who are physically, intellectually or psychiatrically disabled, possess or have access to appropriate professional expertise.

PART 2 - PERMITS

Requirement for permit

6. A person must not carry on the business of providing accommodation to which this local law applies at premises within the area unless authorised to carry on the business from the premises by a permit under this Part.

Maximum penalty-200 penalty units.

Application for permit

7. (1) An application for a permit must include or be accompanied by:-

- (a) a plan of the premises; and
- (b) details of the facilities that are to be shared by persons for whom accommodation is provided; and

(c) other information and materials required under the local law policies.

(2) If an applicant for a permit is not the owner of the premises for which the permit is sought, the application must be accompanied by the written consent of the owner.

Grant of permit

8. (1) The local government may grant a permit authorising the holder of the permit to carry on the business of providing accommodation to which this local law applies from specified premises if satisfied that:-

(a) the premises can be lawfully used for providing the accommodation; and

(b) the premises can be used for providing the accommodation without significant risk to health or safety.

Examples:-

Under paragraph (a) the local government would, for example, need to be satisfied that the premises may lawfully be used for the purpose of providing accommodation on a commercial basis under the Integrated Planning Act 1997.

Under paragraph (b) the local government would, for example, need to be satisfied that the premises are free from fire hazards and comply with relevant laws about fire safety.

(2) The local government may, under the local law policies:-

(a) specify requirements with which the holder of a permit must comply; and

(b) provide for exemption from the relevant requirements if there are adequate reasons for the exemption in a particular case.

(3) In deciding requirements to be made of the holders of permits under local law policies, the local government must have regard to:-

(a) reasonable expectations of persons who were, before the commencement of this local law, providing accommodation of the relevant type to be able to continue to provide the accommodation; and

(b) the needs of socially disadvantaged people who rely on the availability of accommodation to which this local law applies; and

(c) the need for a reasonable degree of uniformity between local government areas; and

(d) the need to encourage prospective operators to enter the market for accommodation to which this local law applies as a way of promoting tourism.

Term of permit

9. (1) A permit is granted for a term specified in the permit.

- (2) The local government may, from time to time, on application by the operator, renew a permit for a further term.
- (3) The term for which a permit is granted or renewed is to be:-
 - (a) fixed as required by a relevant local law policy; or
 - (b) in the absence of a relevant local law policy-decided by the local government when it grants the permit or the renewal.

Conditions of permit

10.(1) A permit may be granted on conditions the local government considers appropriate.

- (2) The conditions of a permit may, for example:-
 - (a) limit the number of persons for whom accommodation may be provided in the premises, or a specified part, of the premises;¹ and
*Example:-
The permit might, for example, provide that a dormitory or bedroom is not to contain more than a specified number of beds.*
 - (b) require that specified modifications, or other specified building work related to the premises, be carried out within a specified period²; and
 - (c) require the regular maintenance of the premises (including internal and external paintwork); and
 - (d) require the provision and maintenance of specified facilities; and
 - (e) require the provision and maintenance of specified furniture and equipment; and
 - (f) require the regular cleaning of the premises; and
 - (g) if relevant to the type of accommodation provided-require the regular provision of clean linen and towels; and
 - (h) require the provision of services of specified kinds (eg the safe custody of valuables) for the persons using the accommodation; and
 - (i) require that the operator or a representative of the operator approved by the local government reside on the premises; and
 - (j) require the operator to keep specified records.

- (3) It is a condition of a permit that the operator must not permit a person to sleep in a part of the premises to which the permit relates unless the relevant part of the premises is approved by the local government as a dormitory or a bedroom.

- (4) However, the conditions of the permit must be consistent with the conditions of any statutory authorisation or approval for the establishment of the premises in which the accommodation is to be provided.
- (5) The local government may, by local law policy, prescribe conditions that must be imposed in a permit or that will ordinarily be imposed in a permit.

Compliance with conditions of permit

- 11. An operator must ensure that the conditions of the permit are complied with.

Maximum penalty-200 penalty units.

PART 3 - ENFORCEMENT

Division 1 - Inspection

Inspection

- 12.(1) An authorised person may enter³ and inspect premises where accommodation to which this local law applies is being provided to find out whether the requirements of this local law and the conditions of the permit are being complied with.
- (2) The authorised person may require a person apparently in charge of the premises to produce for inspection records that are required under this local law.
- (3) A person must not refuse or fail to comply with a requirement under subsection (2).

Maximum penalty-10 penalty units.

Division 2 - Stop Orders

Stop orders

- 13.(1) If a person provides rental accommodation to which this local law applies without a permit under this local law, an authorised person may, by written notice given to the person (a “**stop order**”), order the person to stop providing the accommodation.

- (2) A person against whom a stop order is made must comply with the order.

Maximum penalty-200 penalty units.

- (3) However, if a person against whom a stop order is made undertakes to make an application for a permit as soon as practicable, the authorised person may suspend the stop order to give the person a reasonable opportunity to apply for and obtain a permit.

Division 3 - Compliance notices

Compliance notices

14.(1) If the operator contravenes a provision of this local law or a condition of the permit, an authorised person may give the operator a written notice (a “**compliance notice**”) under this section.

(2) A compliance notice may:-

- (a) if the contravention is of a continuing or recurrent nature- require the operator to stop the contravention; and
- (b) whether or not the contravention is of a continuing or recurrent nature- require the operator to take specified action, within a time specified in the notice, to remedy the contravention.

(3) The operator must comply with a notice under this section.

Maximum penalty-50 penalty units.

Division 4 - Suspension or cancellation of permit

Suspension or cancellation of permit

15.(1) If an operator fails to remedy contravention of this local law or a condition of a permit within the time allowed in a compliance notice, the local government may, by written notice given to the operator, suspend or cancel the permit.

(2) However, before suspending or cancelling a permit, the local government must:-

- (a) give written notice to the operator of the proposed suspension or cancellation; and
- (b) allow the operator a reasonable period stated in the notice to make written representations to the local government about the proposed suspension or cancellation; and
- (c) consider representations made in response to the notice.

Division 5 - Local government’s power to carry out work

Local government’s power to have work carried out

16. If an operator fails to have work required by a compliance notice carried out, the local government may itself have the work carried out.

Powers of entry and cost recovery

17.(1) The local government may enter land to perform work under section 1066 of the Act.

- (2) If the operator is the owner of the relevant land, the amount properly and reasonably incurred by the local government in performing the work is recoverable (together with interest) under sections 1066, 1067 and 1068 of the Act.
- (3) If the operator is not the owner of the relevant land, the amount properly and reasonably incurred by the local government is recoverable as a debt from the operator together with interest on the same basis as applies to an owner of land under section 1067 of the Act⁴.

Summary closure to prevent nuisance etc.

18.(1) If, in the local government's opinion, it is urgently necessary to stop the use of premises for accommodation to which this local law applies because of a serious risk to health or safety, the local government may, by written notice given to the operator, prohibit use of the premises for providing accommodation to which this local law applies.

(2) If a permit was in force for the premises, a notice under this section cancels the permit.

(3) A person must not use premises to provide accommodation to which this local law applies knowing that the local government has given a notice under this section.

Maximum penalty-200 penalty units.

(4) However, if the local government revokes the notice and grants a permit for the premises, the premises may be again used for providing accommodation to which this local law applies.

Need to consider the needs of socially disadvantaged people

19.(1) Before the local government gives a notice under this division prohibiting the use of premises for providing accommodation to which this local law applies, the local government must consider the needs of socially disadvantaged people who rely on the accommodation provided at the premises.

(2) The local government may make alternative arrangements for accommodating socially disadvantaged people who may lose their accommodation because of a prohibition imposed under this division.

PART 4 - LOCAL LAW POLICIES

Local law policies

20. The local government may make local law policies about:-

- (a) information and materials required to accompany applications for permits;⁵ or
- (b) criteria for granting permits;⁶ or

- (c) the term for which a permit is to be granted or renewed;⁷ or
- (d) conditions that must, or will ordinarily, be imposed in a permit;⁸ or
- (e) other matters about which this local law specifically allows for the making of local law policies.

Footnotes

- 1 Under section 10 of the *Building Fire Safety Regulation 1991* the occupier of a building must ensure that the number of persons present in the building at any one time does not cause overcrowding and does not exceed the maximum number that may be accommodated in compliance with clause D 1.13 of the Building Code of Australia. A condition of the permit could impose a limitation that is more stringent than section 10 of the *Building Fire Safety Regulation 1991* but could not allow for the accommodation of more people than is permissible under that section.
- 2 A development permit for the proposed modification or other building work would be necessary under the *Integrated Planning Act 1997*.
- 3 For power to enter premises, see Chapter 15, Parts 4 and 5 of the Act.
- 4 Section 1067(2) of the Act provides for the payment of interest on the same basis as for an overdue rate.
- 5 See section 7(1)(c).
- 6 See section 8(2).
- 7 See section 9(3).
- 8 See section 10(5)

This and the preceding 8 pages bearing my initials is a certified copy of Local Law No. 6M (Rental Accommodation with Shared Facilities) made in accordance with the provisions of the Local Government Act 1993, by the Thuringowa City Council by resolution dated nineteenth day of May, 1999.

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Chief Executive Officer