



Hobsons Bay
CITY COUNCIL

Recreation Vehicles

LOCAL LAW

Effective 1st March 2008.

RECREATION VEHICLES LOCAL LAW

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PART 1:
PRELIMINARY

1. Title

This Local Law of Hobsons Bay City Council is known as the "Recreation Vehicles Local Law".

2. Objectives

The objectives of this Local Law are to provide for the peace order and good government of Hobsons Bay by:

- (1) regulating and controlling the use of **recreation vehicles** to ensure that:
 - (a) the amenity of the area is not affected by the use of **recreation vehicles**;
 - (b) a nuisance is not caused to adjoining owners or occupiers; and
 - (c) obstructions or dangers are not caused to others because of the use of **recreation vehicles**.
- (2) providing for the administration of the **Council's** powers and functions.

3. Authorising Provision

This Local Law is made under the provisions of Part 5 of the *Local Government Act 1989*.

4. Commencement

This Local Law comes into operation on **1 March 2008**

5. Cessation of the Local Law

Unless this Local Law is revoked earlier, it will cease operation on **1 March 2018**

6. Repeal of Local Laws

From the date that this Local Law comes into operation, the following Local Law will cease to operate and is repealed:

- Community Local Law – Clause No. 44

7. Application of this Local Law

This Local Law applies to the whole of the municipal district.

8. Definitions

- (1) In this Local Law:

“**Act**” means the *Local Government Act 1989*.

"Authorised Officer" means a person appointed as an authorised officer under section 224 of the *Local Government Act 1989*.

"Chief Executive Officer" has the same meaning as section 3 of the Act.

"Council" means Hobsons Bay City Council.

"Owner" means:

- (a) in the case of a vehicle registered under the *Road Safety Act 1986*, the person in whose name the vehicle is registered; or
- (b) in the case of any other vehicle, the person who has the immediate right to the vehicle's possession.

"Public Place" has the same meaning as the *Summary Offences Act 1966*.

"Recreation Vehicle" means:

- (a) a mini bike, trail bike or go kart; or
- (b) a motor bike, motor scooter, motor car or any other vehicle that is propelled by a motor and usually used for recreation purposes.

9. Council Policies and Guidelines

- (1) The **"Council"** may make policies or guidelines that apply to an activity or use permitted under this Local Law.
- (2) Where the Local Law or a condition on a permit requires a person to comply with any policies or guidelines that the **"Council"** has made, failure to comply with the policy or guideline will be an offence against the Local Law.

: 1st Offence 2 Penalty Units
2nd & subsequent offences 5 Penalty Units

- (3) The **"Council"** may have regard to any policies or guidelines that it has made for application with this Local Law.

PART 2:
PROCEDURAL

10. Applications for Permits

- (1) Where this Local Law requires a permit for a use or activity, a person may make an application by:
 - (a) submitting to the “**Council**” an application in the form of Schedule 1 that includes the following particulars:
 - (i) the name and address of the applicant;
 - (ii) the capacity in which the applicant makes the application;
 - (iii) a statement of the purpose for which the permit is sought;
 - (iv) the location of the proposed activity;
 - (v) the days and times at which the proposed activity is to take place and its expected duration; and
 - (vi) the signature of the applicant or a person authorised to sign for and on behalf of the applicant; and
 - (b) forwarding it to the person or office described on the application form with the fee that the “**Council**” has fixed for the use or activity.
- (2) The “**Council**” may require an applicant to provide additional information before dealing with an application for a permit.
- (3) The “**Council**” may require an applicant for a permit to give notice of that application and to invite any person to make a submission.
- (4) In considering an application for a permit the “**Council**” must have regard to:
 - (a) any policy or guideline adopted by the “**Council**” relating to the subject matter of the application for the permit;
 - (b) any written submission received in respect of the application;
 - (c) any written comment made in respect of the application by any public body or community organisation; and
 - (d) any other relevant matter.

11. Issue of permits

The “**Council**” may:

- (a) issue a permit with or without conditions; or
- (b) refuse to issue a permit.

12. **Conditional Permits**

- (1) A permit may include any condition which the “**Council**” determines to be reasonable and appropriate (having regard to the use or activity authorised by the permit and the effects or anticipated effects of that activity), including:
 - (a) a requirement that a security deposit, bond, or guarantee be lodged with the “**Council**” to secure the proper performance of any condition of the permit;
 - (b) a requirement that notice be given to the “**Council**” as to when the activity authorised by the permit will be carried out or will occur;
 - (c) a time limit on the permit and on the activity authorised by it;
 - (d) provision for extension of the permit;
 - (e) a condition that the permit runs with or attaches to the premises in respect of which the activity is authorised by the permit;
 - (f) the payment of a fee or charge;
 - (g) a standard to be applied;
 - (h) that the permit is conditional on the happening of a certain event or prerequisite;
 - (i) that the permit is conditional upon the rectification, remedying or restoration of any situation or circumstance; or
 - (j) where the applicant is not the owner of the relevant premises, the consent of the owner.
- (2) Unless otherwise stated in the permit, a permit:
 - (a) is personal and authorises only the person named in the permit or failing that, the applicant to carry out the activity authorised by the permit; and
 - (b) is not transferable without the “**Council’s**” consent.

13. **Rights of appeal**

- (1) An applicant or an objector to a permit may lodge an appeal in writing to “**Council**” against the decision of an “**Authorised Officer**” to grant or refuse a permit within 21 days of being notified of the decision to grant or deny the permit.
- (2) The “**Council**” will appoint a Committee to consider any written appeal lodged with it.
- (3) A person is not permitted to appear before the Committee to make oral representation.
- (4) The Committee will inform all parties to an appeal in writing of its decision.
- (5) The decision of the Committee is final and binding on all parties.

14. **Compliance with Permits**

Every person to whom a permit is granted must do every act and thing as may be necessary to ensure compliance with the permit and its conditions.

15. **Correction, Amendment, Cancellation and Suspension**

- (1) The "**Council**" may correct a permit if the permit contains:-
 - (a) a clerical mistake or an error arising from any accident, slip or omission; or
 - (b) a material miscalculation of figures or a material mistake in the description of any person, premises, thing or property referred to in the permit.
- (2) The "**Council**" may cancel, suspend or amend any permit at any time if:
 - (a) it is requested to do so by the permit holder; or
 - (b) it considers that there has been:-
 - (i) a material misstatement or concealment of fact in relation to the application for the permit;
 - (ii) any material mistake in relation to the issue of the permit; or
 - (iii) any material change of circumstances which has occurred since the grant of the permit.
- (3) The "**Council**" may cancel or suspend a permit at any time if the "**Council**" is satisfied that there has been a substantial failure to comply with a:
 - (a) permit condition; or
 - (b) a Notice to Comply relating to the premises, item or activity to which the permit relates.

16. **General Permit Provisions**

- (1) A permit may be granted and a condition included or amended in a permit, but the permit may not be suspended, cancelled or otherwise amended by an "**Authorised Officer**" as the delegate of the "**Council**" except with the consent of the permit holder.
- (2) The holding of a permit or compliance with a condition included in a permit does not of itself relieve the permit holder from:
 - (a) compliance with any other legislation with respect to the subject matter of the permit; or
 - (b) liability for any damage sustained by any other person as a result of an activity undertaken by or on behalf of the permit holder pursuant to the permit.
- (3) Any person applying for a permit or amendment of a permit must not wilfully make or allow to be made any false representation or declaration.

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- (4) Except where expressly stated in this Local Law or in a permit, the permit will operate from the date it is granted and will expire one year after it has been granted.

17. Exemptions

The “**Council**” may resolve to exempt any person, class of persons, article, item or any thing from the requirement to obtain a permit under this Local Law.

PART 3:

RECREATION VEHICLES

18. *Restrictions on using recreation vehicles*

A person must not use a “**recreation vehicle**” on land without a permit unless:

- (a) the land has been designated by the “**Council**” for use by “**recreation vehicles**”; or
- (b) the land is privately owned land and the consent of the owner has been given; or
- (c) the land is owned, occupied or controlled by a public statutory body and the consent of that public statutory body has been given; or
- (d) the vehicle is not being used for a recreation purpose.

Penalty: 1st offence 2 Penalty Units
2nd & subsequent offences 5 Penalty Units

19. *Additional requirements*

- (1) A person granted a permit under this Local Law must:
 - (a) comply with any conditions in a permit; and
 - (b) comply with any conditions, limitations or restrictions applying to an area designated by the “**Council**”; and
 - (b) ensure that any other approval or consents required under other legislation have been obtained.

Penalty: 1st offence 2 Penalty Units
2nd & subsequent offences 5 Penalty Units

- (2) The owner or occupier of privately owned land on which a “**recreation vehicle**” is used must ensure that the vehicle and its driver or rider comply with this Local Law, with any other relevant legislation or with any other consents or approvals that are required.

Penalty: 1st offence 2 Penalty Units
2nd & subsequent offences 5 Penalty Units

20. *Noise and Nuisances*

- (1) A person must not use or allow a “**recreation vehicle**” to be used on any land in a way that causes annoying, unreasonable or objectionable noise or other nuisances to a person on adjoining land or on a road.
- (2) In determining whether noise is annoying, unreasonable or objectionable regard must be had to :

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- (a) its volume, intensity or duration; and
 - (b) the time, place and other circumstances in which it occurs.

Penalty: 1st offence 2 Penalty Units
2nd & subsequent offences 5 Penalty Units

21. Mechanical state of the vehicle

(1) A person must not allow a “**recreation vehicle**” to be used on any land unless that vehicle:

- (a) is in a safe and roadworthy condition; and
- (b) is fitted with a muffler that effectively prevents undue noise.

Penalty: 1st offence 2 Penalty Units
2nd & subsequent offences 5 Penalty Units

(2) A person allowing a “**recreation vehicle**” to be used on any land must ensure that the vehicle:

- (a) does not have a device fitted to it that is capable of producing an open exhaust;
- (b) does not cause undue noise because of:
 - (i) the way in which the vehicle is being driven, ridden or loaded;
 - (ii) the construction, modification or condition of the motor;
 - (iii) the construction, modification or condition of the muffler on the vehicle; or
 - (iv) the state of repair of the vehicle.

Penalty: 1st offence 2 Penalty Units
2nd & subsequent offences 5 Penalty Units

PART 4:
ENFORCEMENT

22. Offences

A person who:

- (a) does not do anything required to be done or does anything forbidden to be done by or under this Local Law;
- (b) fails to comply with a Notice to Comply;
- (c) causes or permits any act or omission which is a contravention of this Local Law;
- (d) contravenes a condition included in a permit;
- (e) is the owner or occupier of any premises upon which a contravention of this Local Law occurs;
- (f) is the “**owner**” of a vehicle in relation to which a contravention of this Local Law occurs -

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 conviction for an offence during which the contravention continues.

23. Notices to Comply

- (1) 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 the Local Law in the form of Schedule 2.
- (2) Where a Notice to Comply requiring works to be undertaken is not complied with an authorised officer may carry out the works to ensure compliance and may recover the costs incurred to the “**Council**”.

24. Compliance with Directions

A person must comply with any reasonable direction of an “**Authorised Officer**”, member of “**Council**” staff who manages and controls “**Council**” land, a member of the Police Force or an emergency service when requested to do so and when acting in the course of his or her duties, whether or not the person has a permit under this Local Law.

25. Infringement Notices

- (1) Where an “**Authorised Officer**” believes that a person has committed an offence against this Local Law, an “**Authorised Officer**” may:
 - (a) as an alternative to a prosecution for the offence, issue an infringement notice specifying a fixed penalty;
 - (b) serve or cause the infringement notice to be served on that person.

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- (2) To avoid prosecution, the person who is served with an infringement notice must pay the fixed penalty in Schedule 4 to the “**Chief Executive Officer**” of the “**Council**” at the Corporate Centre, 115 Civic Parade Altona 3018 within 28 days after the date of the infringement notice.
 - (3) Any infringement notice to be served on or given to a person under this Local Law, may be served on or given to the person by:
 - (a) delivering the notice to the person;
 - (b) leaving the notice at that person’s usual or last known place of residence or business with a person apparently over the age of 18 years and apparently residing or employed at that place; or
 - (c) sending the document by post addressed to the person at that person’s last known place of residence or business.
 - (4) Where an infringement notice is directed to a person who is the occupier of premises and that person’s name is not known the notice issued under this Local Law may be addressed to “the owner”, “the occupier” or “the person in control” (as the case may be).
 - (5) The “**Authorised Officer**” may withdraw the infringement notice within 28 days after its date by sending a notice to the person on whom the infringement notice was served.
 - (6) If the person pays the penalty before the infringement notice is withdrawn, the person is entitled to a refund of the penalty.
 - (7) If the person pays the penalty within the time specified in the notice and the infringement notice is not withdrawn or, if the “**Authorised Officer**” allows, before a summons is served on the person in respect of the infringement, the following provisions apply:
 - (a) further proceedings for an offence are not to be taken against the person;
 - (b) there is to be no conviction recorded against that person for the infringement.
 - (8) A penalty paid under this clause must be applied as if the person who paid it was convicted of the infringement in a Magistrates’ Court on the information of the “**Authorised Officer**”.
 - (9) If -
 - (a) a person served with an infringement notice has not paid the penalty within the time specified in the notice; or
 - (b) an infringement notice is withdrawn -proceedings may still be taken or continued for the infringement.
 - (10) Sub-clause (7) does not affect the obligation of the person to pay a fee pursuant to clause 27 in respect to the impounding of any thing or an obligation to pay monies pursuant to clause 22 of this Local Law or section 225 “**Local Government Act**” 1989 and proceedings may be taken to recover such amounts.

26. ***Evidence of Service***

A declaration by a person who has served or given a notice in accordance with this Local Law stating the manner, place, date and time the notice was served or given is evidence of the notice having been served or given as described in that declaration.

27. ***Power of an authorised officer to Impound***

- (1) Where any items, goods or equipment are used in contravention of this Local Law an **“Authorised Officer”** may remove and impound them and a notice served that complies with Schedule 3.
- (2) Where any items, goods and equipment are impounded under this provision, the **“Council”** must comply with the requirements in the *Impounding Policies and Guidelines*.
- (3) If an **“Authorised Officer”** has impounded anything in accordance with this Local Law, the **“Council”** may refuse to release it until the appropriate fee or charge for its release has been paid to the **“Council”**.
- (4) The **“Council”** may by resolution, fix charges (generally or specifically) for the purposes of this clause.
- (5) The **“Council”** may dispose of any thing that has been impounded and has not been claimed within 14 days of it being impounded.

28. ***Power of Authorised Officers to act in urgent circumstances***

- (1) Any **“Authorised Officer”** may in urgent circumstances arising as a result of a failure to comply with this Local Law, take action to remove, remedy or rectify a situation without the necessity to serve a Notice to Comply provided:
 - (a) he or she considered the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a Notice, may place a person, animal, property or thing at risk or in danger; and
 - (b) details of the circumstances and remedying action are forwarded as soon as practicable to the person on whose behalf the action was taken; and
- (2) The action taken by an **“Authorised Officer”** under sub-clause (1) must not extend beyond what is necessary to cause the immediate abatement of or to minimise the risk or danger involved.

HOBSONS BAY CITY COUNCIL

RECREATION VEHICLES

LOCAL LAW

Clause 10

SCHEDULE 1

APPLICATION FOR PERMIT

I, _____
(Name of applicant)

of, _____
(Address)

wish to apply for a _____ permit.
(Type of permit)

For further information I may be contacted on _____ (telephone) between the following times: _____ and _____.

Date _____
Signed by Applicant

Fees _____
Signature of Owner where required

Paid _____ / _____ / _____ Receipt No: _____

Name of Owner _____

Address of Owner _____

HOBSONS BAY CITY COUNCIL

RECREATION VEHICLES

LOCAL LAW

Clause 25

SCHEDULE 4

**PENALTIES FOR INFRINGEMENT NOTICE PURPOSES IN
RESPECT OF OFFENCES AGAINST THIS LOCAL LAW**

Offences Against the Recreation Vehicles Local Law

Clause number for which
a penalty
is fixed for the purposes
of clause 25 of this
Local Law

Infringement Notice
Penalty

INFRINGEMENTS

PENALTY

2nd & Subsequent

Clause 9	2 penalty units	5 penalty units
Clause 18	2 penalty units	5 penalty units
Clause 19(1) & (2)	2 penalty units	5 penalty units
Clause 20	2 penalty units	5 penalty units
Clause 21	2 penalty units	5 penalty units
Clause 22	20 penalty units	2 penalty units