



SHOPPING TROLLEY LOCAL LAW 2006

No. 10

Local Law 2006 No.10

Frankston City Council resolves:

PART 1 – PRELIMINARY

1.1 Title

This Local Law is known as the Frankston City Council Shopping Trolley Local Law No.10.

1.2 Objectives of the Local Law

The principle objectives of this Local Law are to:

- (1) Provide for the peace, order and good government of the municipal district;
and
- (2) Prevent the abandonment of shopping trolleys so as to;
 - (a) provide for the safety of pedestrians and other road users;
 - (b) protect Council and community assets; and
 - (c) preserve the visual amenity of the municipal district.

1.3 Date of Commencement

This Local Law comes into operation on 1 July 2007.

1.4 Area of Operation

This Local Law applies throughout the municipality.

1.5 Cessation Date

Unless earlier revoked this Local Law ceases to operate upon expiration of 10 years of its commencement date.

1.6 Authorising Provision

This Local Law is made under the provisions of Section 111(1) of the Local Government Act 1989.

PART 2 – DEFINITIONS

2.1 Definitions

Unless the contrary intention appears in this Local Law, the following words are defined as indicated.

Act	Means the Local Government Act 1989.
Authorised Officer	Means a person appointed by the Council pursuant to Section 224 of the Act.
Coin mechanism	Means a coin operated lock that operates with the insertion of an Australian Currency one dollar (\$1.00) or two dollar (\$2.00) coin or equivalent authorised token of the same size.
Authorised Token	Means any object the same size as an Australian Currency one dollar (\$1.00) or two dollar (\$2.00) coin approved by a retailer to release a trolley from a coin mechanism, other than an Australian Currency one dollar (\$1.00) or two dollar (\$2.00) coin.
Municipal District	Means the municipal district of the Frankston City Council.
Municipal place	Means land or any asset, excluding a road, which is owned, occupied, managed or controlled by the Council.
Road	Has the same meaning as defined in the <i>Local Government Act 1989</i> namely – <ul style="list-style-type: none">(a) a street;(b) a right of way;(c) any land reserved or proclaimed as a street or road under the <i>Crown Land (Reserves) Act 1978</i> or the <i>Land Act 1958</i> ;(d) a passage;(e) a cul de sac;(f) a by-pass;(g) a bridge or ford;(h) a footpath, bicycle path or nature strip; and(i) any culvert or kerbing or other land or works forming part of the road.
Retailer	Means a person who sells goods by retail and provides shopping trolleys to their customers
Shopping Trolley	Means a vehicle used primarily for the carriage of goods by customers
The Council	Means the Frankston City Council

PART 3 – SHOPPING TROLLEYS

3.1 Shopping Trolleys and Coin Mechanisms

- (1) Subject to sub-clause (2), a retailer must not make available for use, or permit to be used, a shopping trolley which does not have a coin mechanism attached.

Penalty: 10 Penalty Units

- (2) Sub - Clause (1) does not apply when a retailer makes available for use, or permits to be used, 25 shopping trolleys or less.

3.2 Shopping Trolleys left on a road or in a municipal place

- (1) A person must not leave a shopping trolley on a road or in a municipal place except in an area designated for that purpose.

Penalty: 1 Penalty Unit

PART 4 – PROCEDURES

4.1 Exemptions

- (1) A retailer may apply in writing to Council for an exemption from the application of Clause 3.1(1).
- (2) The Council may decide in its absolute discretion to exempt any retailer from the application of Clause 3.1(1), in respect either, of all shopping trolleys, or particular types of shopping trolleys provided by that retailer, either temporarily or permanently.
- (3) A decision under this clause must be made by a resolution of Council.

4.2 False Representation

A retailer must not obtain or attempt to obtain an exemption by wilfully making or causing to be made any false representation.

4.3 Impounding

- (1) An authorised officer, or a person engaged by Council for this purpose, may seize and impound any shopping trolley which is being made available for use, or which is being used or has been left on a road or in a municipal place, in contravention of this Local Law.
- (2) On the first business day of each month or as soon as possible thereafter a list of shopping trolleys that have been impounded by Council will be forwarded to each retailer stating –
 - (a) the period within which the shopping trolleys must be claimed;
 - (b) that unclaimed shopping trolleys may be disposed of by Council after the period; and
 - (c) that it is an offence for a retailer to not claim an impounded shopping trolley.
- (3) Any impounded shopping trolley may be claimed by the retailer that owns the trolley after payment of the Pound Release Fee set by Council which must not exceed an amount that reasonably represents the cost to Council of impounding, moving, keeping and releasing the shopping trolley including any relevant overhead and other indirect costs.
- (4) Any impounded shopping trolley not claimed within the time specified on the list of impounded shopping trolleys as in sub clause (2) may be disposed of by Council.
- (5) A retailer who does not claim an impounded shopping trolley within the period stated by Council under this clause is guilty of an offence.

4.4 Direction of Authorised Officer and Notice to Comply

- (1) An authorised officer may, by written notice or a Notice to Comply in the form of Schedule 2, make any reasonable direction to a person who breaches this Local Law instructing them to remedy a situation. In the event that a written notice or Notice to Comply is not complied with an authorised officer may issue an infringement notice or prosecute the person in a Magistrates' Court.
- (2) A person must remedy any breach of this Local Law in accordance with any direction of an authorised officer that was given in the form of a written notice or Notice to Comply.

Penalty: 20 Penalty Units

4.5 Infringement Notices

- (1) Where an authorised officer reasonably believes that a person has committed an offence against this Local Law, the officer may issue to that person an infringement notice in a form approved by Council as an alternative to a prosecution for the offence.
- (2) A person to whom an infringement notice has been issued must pay to the Council the amount specified in the notice by the due date.
- (3) The amount to be paid under the infringement notice is set out in Schedule 1.

4.6 Appeals

- (1) A person may apply in writing to Council for review of a written notice, Notice to Comply or infringement notice to that person under this Local Law, within 14 days of the notice being issued.
- (2) Council must give to the person not less than 7 days written notice of the date of the review hearing unless Council decides in its discretion that the hearing will occur earlier because of prejudice to Council or another person.
- (3) Until the person is advised in writing of Council's decision of the review, the person is not required to comply with the notice.

4.7 Penalty

Except where otherwise indicated the penalty for breaches of this Local Law is 10 Penalty Units.

SCHEDULE 1

Penalties fixed for infringement notices

Provision	Offence	Penalty Units
3.1(1)	Coin mechanism not attached to shopping trolley	2
3.2(1)	Shopping trolley left in public place	1
4.4(2)	Failing to comply with a written notice or Notice to Comply	5
4.3(5)	Failing to claim an impounded shopping trolley	1

SCHEDULE 2



NOTICE TO COMPLY

To: Name:

Address:

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You have, in the opinion of Frankston City Council or an authorised officer of the Council committed a breach of clause of the Council's Shopping Trolley Local Law No. 2006 by

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To remedy the breach, within days from the date of this notice you must –

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If you require further information you may contact

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at the Municipal Offices,

between the hours of and

If you fail to comply with this Notice you will be guilty of an offence under the Local Law and liable to pay the penalty of \$ The Council may then carry out the works, the cost of which, in addition to the penalty, you will be liable.

Date:

Name of authorised officer:

Telephone No.:

Signature of authorised officer:

