



**GENERAL (AMENDMENT) LOCAL LAW
2007**

No. 12

GENERAL (AMENDMENT) LOCAL LAW 2007 No. 12.

Frankston City Council resolves:

PART 1 - PRELIMINARY

1.1 Local Law

This Local Law is -

- (i) a local law made under Part 5 of the Local Government Act 1989;
- (ii) called General (Amendment) Local Law 2007 No. 12.

1.2 Objective

The objective of this Local Law is to amend General Local Law 2003 No. 7 to make provision or better provision for -

- (a) the peace, order and good government of the municipality;
- (b) the protection and enhancement of the amenity and environment of the municipality;
- (c) the fair and reasonable use and enjoyment of private land;
- (d) the prevention of the use of a motor cycle in or on a municipal place or road;
- (e) the impoundment and forfeiture of a motor cycle being used in contravention of the Local Law

1.3 Commencement

This Local Law commences on the day following the gazettal of the Local Law in the Victoria Government Gazette.

1.4 Amendment of General Local Law

On the commencement of this Local Law, General Local Law 2003 No. 7 is amended in accordance with the provisions of this Local Law.

1.5 Application of Local Law

This Local Law applies throughout the municipality.

PART 2 – GENERAL LOCAL LAW 2003 NO. 7

1.6 Definitions

The following further definitions shall be included in General Local Law 2003 No. 7 –

“habitable room” means any room other than a kitchen, storage area, bathroom, laundry, toilet or pantry; and

“motor cycle” means any wheeled conveyance, powered by a liquid fuel driven motor, that is not registered under the provisions of the Road Safety Act 1986.

1.7 Use of Vehicles in or on Municipal Places and Roads

The following amendments shall be made to General Local Law 2003 No. 7 -

- (a) Clause 2.11 shall be deleted from General Local Law 2003 No. 7.
- (b) In lieu, the following Clause 2.11 shall be inserted in General Local Law 2003 No. 7:

“2.11 Use of Vehicles in or on Municipal Places and Roads

- (a) A person must not ride or drive any motor car, motor cycle registered under the provisions of the Road Safety Act 1986, bicycle or other vehicle in or on any municipal place other than in an area set aside for vehicle parking or any designated roadway or, in the case of a bicycle, a bicycle pathway.
- (b) A person must not in or on a municipal place or road ride or cause or allow to be ridden any motor cycle.
- (c) The parent or guardian of a person under the age of 17 years who uses a motor cycle in contravention of clause 2.11(b) is guilty of an offence unless the Court is satisfied that the motor cycle was being used without the knowledge or consent of that parent or guardian.”

1.8 Noise

The following clause shall be inserted in General Local Law 2003 No. 7 -

“3.13 Noise

- (a) A person must not on any land emit or cause or allow to be emitted any unreasonable noise which causes or is considered to cause an interference with or to another person’s use or enjoyment of adjacent or nearby land.

- (b) For the purpose of Clause 3.13 (a), in determining whether any noise is unreasonable regard must be had to -
- (i) the volume, intensity or duration of the noise; and
 - (ii) the time, place and other circumstances in which the noise is emitted.
- (c) Without limiting the generality of Clause 3.13 (a), a person must not on any land emit or cause or allow to be emitted any noise that can be heard by another person in a habitable room (regardless of whether or not any door or window giving access to that room is open) from any of the items during any of the prohibited times as set out in the following table -

Group	Items	Prohibited Times
1	A motor vehicle (except a vehicle moving in or out of premises), lawn mower or other grass cutting device and any equipment or appliance not falling within Group 2 having an internal combustion engine.	Monday to Friday: before 7am and after 8pm. Weekends and public holidays: before 9am and after 8pm.
2	An electric power tool, chain or circular saw, gas or air compressor, pneumatic power tool, hammer and any other impacting tool, grinding equipment.	Monday to Friday: before 7am and after 8pm. Weekends and public holidays: before 9am and after 8pm.
3	A domestic air conditioner, swimming pool pump, spa pump, domestic heating equipment (including central heating and hot water systems) and a domestic vacuum cleaner.	Monday to Friday: before 7am and after 10pm. Weekends and public holidays: before 9am and after 10pm.
4	A musical instrument and any electrical amplified sound reproducing equipment including a stereogram, radio, television and public address system.	Monday to Thursday: before 7am and after 10pm. Friday: before 7am and after 11pm. Saturday and public holidays: before 9am and after 11pm. Sunday: before 9am and after 10pm.
5	Any electric equipment or appliance not falling within Group 2, Group 3, or Group 4, including electric gardening equipment.	Monday to Friday: before 7am and after 8pm. Weekends and public holidays: before 9am and after 8pm

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1.9 Impounding

The following amendments shall be made to General Local Law 2003 No. 7 -

- (a) Clause 5.4 shall be deleted from General Local Law 2003 No. 7.
- (b) In lieu, the following Clause 5.4 shall be inserted in General Local Law 2003 No. 7-

"5.4 Impounding

5.4.1 An Authorised Officer may -

- (a) impound any item that unlawfully encroaches on or obstructs the free use of a road or a municipal place or which has been or is being possessed in contravention of this Local Law;
- (b) impound a motor cycle being used in contravention of Clause 2.11(b) of this Local Law;
- (c) release the item or motor cycle to its owner on payment of a fee determined by Council, which is not to exceed an amount that reasonably represents the cost to Council of impounding, keeping and releasing the item or motor cycle, provided that the owner of a motor cycle shall not be entitled to release of an impounded motor cycle for -
 - (i) in the case of a first offence, a term of six months from the date of impoundment; or
 - (ii) in the case of a second or subsequent offence, a term of twelve months from the date of impoundment.;
- (d) sell, destroy, dispose of or give away any item impounded under the provisions of Sub Clause (a) if the owner of the item has not paid the fee within 14 days of service of the notice under Clause 5.4.2 or compliance by Council with Clause 5.4.3;
- (e) sell, destroy, dispose of or give away any motor cycle impounded under the provisions of Sub Clause (b) if the owner of the motor cycle has not paid the fee within 7 days of service of the notice under Clause 5.4.2 or compliance by Council with Clause 5.4.3.

5.4.2 If an Authorised Officer impounds an item or motor cycle under this Local Law Council must serve on the owner by prepaid post a notice in a form approved by Council, as soon as possible after the impounding.

- 5.4.3 If the identity or whereabouts of the owner of an item or motor cycle impounded under this Local Law is unknown, Council must take reasonable steps to ascertain the owner's identity and/or whereabouts prior to exercising its powers under Clauses 5.4.1 (c), (d) or (e).
- 5.4.4 Council is entitled to retain from the proceeds of sale of any impounded item or motorcycle its reasonable costs incurred in impounding, keeping and selling the item or motor cycle."

1.10 Infringement Notice

The following amendments shall be made to General Local Law 2003 No. 7 -

- (a) Clause 6.2.3 shall be deleted from General Local Law 2003 No.7.
- (b) In lieu, the following Clause 6.2.3 shall be inserted in General Local Law 2003 No. 7 -

"6.2.3 The amount to be paid under an infringement notice is -

- (a) Clause 2.11(b) Use of Vehicles in or on Municipal Places and Roads, Clause 3.1A Dilapidated Building, Clause 3.1B Aerosol Spray Paint Containers and Clause 3.6 Building and Works Code of Practice -
 - (i) First Offence – 2 penalty units; and
 - (ii) Second Offence – 5 penalty units.
- (b) Clause 3.13 Noise – 5 penalty units
- (c) Any other infringement – 2 penalty units."

Resolution for the making of this Local Law was agreed to by Council on 1 October 2007.

THE COMMON SEAL of)
FRANKSTON CITY COUNCIL)
was affixed in the presence of:)

_____ Councillor

_____ Chief Executive Officer

this _____ day of _____ 2007.

Notice of the proposal to make and confirmation of the making of this Local Law were included in the Victorian Government Gazette, dated 23 August 2007 and 11 October 2007.

Public Notice of the proposal to make and confirmation of the making of this Local Law were inserted in The Frankston Standard Leader dated 20 August 2007 and 8 October 2007.