



Redland Shire Council

**Local Law No. 12
(Rental Accommodation With Shared
Facilities) 2006**



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Contents

Part 1	Preliminary	4
1	Short title.....	4
2	Object.....	4
3	Definitions—the dictionary.....	4
4	Application	4
Part 2	Control of shared facility accommodation	4
5	Requirement to hold licence	4
6	Application for licence.....	5
7	Grant of licence.....	5
8	Term of licence	6
9	Conditions of licence.....	6
10	Compliance with conditions of licence.....	7
11	Power to change conditions of licence	7
12	Transfer of licence	8
Part 3	Enforcement	8
13	Inspection.....	8
14	Compliance notices	8
15	Local government’s power to have work carried out	8
16	Powers of entry and cost recovery	9
17	Suspension or cancellation of licence	9
18	Summary closure to prevent risk to health or safety	9
19	Need to consider the needs of socially disadvantaged people	9
Part 4	Authorised persons	10
20	Appointment.....	10
21	Limitation on authorised person’s powers	10

22	Authorised person's appointment conditions.....	10	
23	Authorised person's identity card	11	
24	Production of identity card	11	
25	Offence	11	
26	Protection from liability.....	11	
Part 5	Review 12		
27	Reviewable decisions	12	
28	Application for review.....	12	
29	Carrying out review.....	12	
30	Decision on review.....	12	
Part 6	Subordinate local laws		13
31	Subordinate local laws.....	13	
Schedule	Dictionary.....	14	

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 12 (Rental Accommodation with Shared Facilities) 2006*.

2 Object

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.

3 Definitions—the dictionary

The dictionary in the schedule defines particular words used in this local law.

4 Application

- (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) premises used to provide residential services, as defined in the *Residential Services (Accreditation) Act 2002*; or
 - (b) public housing as defined in the *Integrated Planning Act 1997*; or
 - (c) a hotel or motel; or
 - (d) a hospital, nursing home, or other institution where people are cared for on a live-in basis; or
 - (e) a residential college or boarding school; or
 - (f) a religious institution; or
 - (g) a community titles scheme under the *Body Corporate and Community Management Act 1997*; or
 - (h) a private home in which accommodation is provided for not more than 3 boarders; or
 - (i) premises excluded from the application of this local law under a subordinate local law.

Part 2 Control of shared facility accommodation

5 Requirement to hold licence

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 licence under this part.

Maximum penalty—200 penalty units.

6 Application for licence

- (1) An application for a licence 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) if the applicant is not the owner of the premises for which the licence is sought—the written consent of the owner to the application; and
 - (d) other information and materials required by subordinate local law.
- (2) Before the application is granted, the applicant must provide evidence of any necessary statutory permit, authorisation or approval—
 - (a) for the development and use of the relevant land for providing accommodation to which this local law applies; and
 - (b) for the occupation and use of buildings and structures on the land in connection with providing accommodation to which this local law applies.

7 Grant of licence

- (1) The local government may grant a licence authorising the use of premises for accommodation to which this local law applies if satisfied that—
 - (a) any development permit for the premises required under the *Integrated Planning Act 1997* has been granted; 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 will not be so over crowded so as to give rise to a risk of the spread of disease or illness affecting a person.
- (2) The local government may, by subordinate local law—
 - (a) specify requirements with which the holder of a licence 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 holders of licences under a subordinate local law, 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.

8 Term of licence

- (1) A licence is granted for a term specified in the licence.
- (2) The local government may, from time to time, on application by the operator, renew a licence for a further term.
- (3) The term for which a licence is granted or renewed is to be—
 - (a) fixed as required by a relevant subordinate local law; or
 - (b) in the absence of a relevant subordinate local law—decided by the local government when it grants the licence or the renewal.
- (4) However, the local government must, on application for renewal of a licence made before the end of the term for which the licence was granted or last renewed, renew the licence for a further term unless—
 - (a) the local government has given the operator reasonable written notice of its intention not to renew the licence; or
 - (b) there are proper grounds for cancellation of the licence¹.

9 Conditions of licence

- (1) A licence may be granted on conditions the local government considers appropriate.
- (2) The conditions of a licence 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;² and
 - (b) require that specified modifications, or other specified building work related to the premises, be carried out within a specified period³; and
 - (c) require the regular maintenance of the premises (including internal and external paintwork); and

¹ Proper grounds for cancellation of a licence exist if an operator fails to remedy contravention of this local law or a condition of a licence within the time allowed in a compliance notice (See section 14(1)).

² Part 14 of the Queensland Development Code (QDC) includes a minimum floor area for persons in the bedrooms of budget accommodation buildings (defined in the *Building Act 1975*) built, approved or for which a building application was made prior to 1 January 1992. Buildings approved after 1 January 1992 under the Building Code of Australia would comply with more recent fire safety provisions. Local governments could impose as a condition of the licence, a limitation on the number of persons accommodated in the building for health and amenity reasons. However, the numbers must not be more than is permissible under Part 14 of the QDC.

³ A development permit for the proposed modification or other building work may be necessary under the *Integrated Planning Act 1997*.

- (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 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.

Example of paragraph (a)—

The licence might, for example, provide that a dormitory or bedroom is not to contain more than a specified number of beds.

Example of paragraph (h)—

A condition of a licence may, for example, require the safe custody of valuables by the operator.

- (3) It is a condition of a licence that the operator must not permit a person to sleep in a part of the premises to which the licence 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 licence must be consistent with the conditions of any relevant development permit.
- (5) The local government may, by subordinate local law, prescribe conditions that must be imposed in a licence or that will ordinarily be imposed in a licence.

10 Compliance with conditions of licence

An operator must ensure that the conditions of the licence are complied with.

Maximum penalty—200 penalty units.

11 Power to change conditions of licence

- (1) The local government may, by written notice given to an operator, change⁴ the conditions of the operator's licence.
- (2) However, the local government may only change conditions of a licence if—
 - (a) the operator agrees to the proposed change; or
 - (b) the local government—
 - (i) has given the operator reasonable written notice of the proposed change inviting the operator to make written representations about the proposed change within a reasonable period fixed in the notice; and
 - (ii) if the operator makes written representations within the time allowed in the notice—has taken the representations into account.

⁴ A *change* to the conditions of a licence includes a change by addition, exception, omission or substitution (See *Acts Interpretation Act 1954*, section 36).

12 Transfer of licence

- (1) An operator may, with the approval of the local government, transfer the operator's licence to another person.
- (2) The local government may impose conditions on the transfer of a licence.
- (3) However, the local government cannot—
 - (a) unreasonably refuse its approval of the transfer of a licence; or
 - (b) impose unreasonable conditions on the transfer of a licence.

Part 3 Enforcement

13 Inspection

- (1) An authorised person may enter⁵ and inspect premises where accommodation to which this local law applies is provided to find out whether the requirements of this local law and the conditions of the licence 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 comply with a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—10 penalty units.

14 Compliance notices

- (1) If an operator contravenes a provision of this local law or a condition of the licence, an authorised person may give to 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) An operator must comply with a notice under this section.

Maximum penalty for subsection (3)—50 penalty units.

15 Local government's power to have work carried out

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

⁵ For power to enter premises, see Chapter 15, parts 4 and 5 of the Act.

16 Powers of entry and cost recovery

- (1) The local government may enter land under section 1066 of the Act to carry out work under this part.
- (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 the land under section 1067 of the Act.⁶

17 Suspension or cancellation of licence

- (1) If an operator fails to remedy a contravention of this local law or a condition of a licence within the time allowed in a compliance notice, the local government may, by written notice given to the operator, suspend or cancel the licence.
- (2) However, before suspending or cancelling a licence, 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.

18 Summary closure to prevent risk to health or safety

- (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 licence was in force for the premises, a notice under this section cancels the licence.
- (3) However, if the local government revokes the notice and grants a licence for the premises, the premises may be again used for providing accommodation to which this local law applies.

19 Need to consider the needs of socially disadvantaged people

- (1) Before the local government suspends or cancels a licence or gives a notice under this part 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

⁶ Section 1067(2) of the Act provides for the payment of interest on the same basis as for an overdue rate.

action taken under this part.

Part 4 Authorised persons

20 Appointment

- (1) A local government may appoint any of the following persons as authorised persons for this local law—
 - (a) employees of the local government;
 - (b) other persons who are eligible for appointment as authorised persons under Chapter 15, part 5 of the Act⁷.
- (2) An appointment of a person as an authorised person under this part must state the provisions for which the person is appointed as an authorised person.
- (3) A local government may appoint a person as an authorised person under this part only if—
 - (a) the local government considers the person has the necessary expertise or experience for the appointment; or
 - (b) the person has satisfactorily finished training approved by the local government for the appointment.
- (4) In selecting applicants for appointment as authorised persons for this local law, the local government must have regard to the persons who rely on accommodation to which this local law applies.
- (5) The local government must ensure as far as practicable that authorised persons who are involved, under this local law, in matters affecting accommodation for people who are physically, intellectually or psychiatrically disabled, possess or have access to appropriate professional expertise.

21 Limitation on authorised person's powers

An authorised person's powers may be limited in the person's instrument of appointment.

22 Authorised person's appointment conditions

- (1) An authorised person holds office on the conditions stated in the instrument of appointment.
- (2) An authorised person—
 - (a) if the instrument provides for a term of appointment—ceases holding office at the end of the term; and
 - (b) may resign by signed notice of resignation given to the local government; and
 - (c) if the conditions of appointment provide—ceases holding office as an

⁷ Chapter 15, part 5 (Enforcement of Local Government Acts).

authorised person on ceasing to hold another office stated in the appointment conditions (the *main office*).

- (3) However, an authorised person may not resign from the office of authorised person (the *secondary office*) under subsection (2)(b) if a term of the authorised person's employment to the main office requires the authorised person to hold the secondary office.

23 Authorised person's identity card

- (1) A local government must give each authorised person an identity card.
- (2) The identity card must—
 - (a) contain a recent photograph of the authorised person; and
 - (b) be signed by the authorised person; and
 - (c) identify the person as an authorised person for the local government; and
 - (d) include an expiry date.
- (3) A person who ceases to be an authorised person must return the person's identity card to the local government within 21 days after the person ceases to be an authorised person unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

- (4) This section does not prevent the giving of a single identity card to a person for this part and for other purposes.

24 Production of identity card

- (1) An authorised person may exercise a power in relation to someone else (the *other person*) only if the authorised person—
 - (a) first produces his or her identity card for the other person's inspection; or
 - (b) has the identity card displayed so it is clearly visible to the other person.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the other person's inspection at the first reasonable opportunity.

25 Offence

A person must not pretend to be an authorised person.

Maximum penalty—50 penalty units.

26 Protection from liability

- (1) This section applies to—
 - (a) an authorised person; and
 - (b) a person acting under the direction of an authorised person.
- (2) The person does not incur civil liability for an act done or omission made honestly and without negligence under this local law.

- (3) A liability that would, apart from this section, attach to the person attaches instead to the local government.

Part 5 Review

27 Reviewable decisions

A decision of the local government or an authorised person under this local law is reviewable (a *reviewable decision*) unless it is—

- (a) a decision made by resolution of the local government; or
- (b) a decision made on an earlier application for review.

28 Application for review

- (1) A person who is aggrieved by a reviewable decision may apply to the local government for a review of the decision.
- (2) An application for review of a reviewable decision must—
 - (a) be in writing; and
 - (b) state the reasons why the applicant considers the decision should be reviewed; and
 - (c) be lodged at the office of the local government within 28 days after the day on which notice of the decision was given to the applicant or within a further period allowed by the local government (before or after the end of that period).

29 Carrying out review

- (1) The local government must either—
 - (a) carry out a review at a meeting of the local government; or
 - (b) have the review carried out by an authorised person.
- (2) An authorised person who carries out a review under subsection (1)(b) must not be the original decision maker and must be a person who is no less senior than the original decision maker.

30 Decision on review

- (1) On completing a review, the local government may confirm, vary or reverse the decision under review.
- (2) The local government must give the applicant written notice of the result of the review.
- (3) If the local government does not decide an application for review within 28 days after receiving the application, the local government is taken to have confirmed the decision under review.

Part 6 Subordinate local laws

31 Subordinate local laws

The local government may make subordinate local laws about—

- (a) exclusion of premises from the application of this local law;⁸ or
- (b) the information and materials required to be included in, or to accompany, applications for licences;⁹ or
- (c) requirements with which the holder of the licence must comply (and exemption from those requirements);¹⁰ or
- (d) the term for which a licence is to be granted or renewed;¹¹ or
- (e) conditions that must, or will ordinarily, be imposed in a licence;¹² or
- (f) other matters about which this local law specifically allows for the making of subordinate local laws.

⁸ See section 4(2)(h).

⁹ See section 6(1)(d).

¹⁰ See section 7(2).

¹¹ See section 8(3)(a).

¹² See section 9(5).

Schedule Dictionary

section 3

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

authorised person means a person appointed by the local government to be an authorised person for 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 (in whole or part) to 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.

reviewable decision see section 27.

the Act means the *Local Government Act 1993*.

CERTIFICATION

This and the preceding 14 pages bearing my initials is a certified copy of *Local Law No. 12 (Rental Accommodation with Shared Facilities) 2006*, made in accordance with the provisions of the *Local Government Act 1993*, by Redland Shire Council by resolution dated 1st February 2006.

Susan Rankin
Chief Executive Officer
Redland Shire Council