

**IPSWICH CITY COUNCIL
LOCAL LAW NO. 6 (HEAVY AND OTHER VEHICLE PARKING
IN RESIDENTIAL AREAS) 2004**

TABLE OF PROVISIONS

PART 1—PRELIMINARY	2
Short title.....	2
Objects	2
Relationship to other laws.....	2
Exemptions.....	2
PART 2—PERMITS	3
Grant of permit.....	3
Period of permit	4
Conditions of permit	4
Power to change conditions of a permit.....	5
Parking or storage of a heavy vehicle in residential areas without a permit	5
Compliance with conditions of a permit	5
PART 3—ENFORCEMENT	6
Compliance notices	6
Suspension or cancellation of permit	6
PART 4—MISCELLANEOUS.....	7
Subordinate local laws	7
PART 5—REVIEW	7
Reviewable decisions	7
Application for review	7
Carrying out review	7
Decision on review	8
PART 6—AUTHORISED PERSONS	8
SCHEDULE 1—DICTIONARY	9

PART 1—PRELIMINARY

Short title

1. This local law may be cited as *Local Law No. 6 (Heavy and Other Vehicle Parking in Residential Areas) 2004*.

Objects

2. The objects of this local law are to—
 - (a) regulate the parking or storage of a heavy vehicle or unregistered or damaged vehicle on land in or near residential areas in the local government's area; and
 - (b) ensure that the parking or storage of a heavy vehicle or unregistered or damaged vehicle is undertaken in such a manner that it does not cause nuisance or disturbance to the occupiers or users of other nearby land, particularly nearby residents; and
 - (c) ensure that the parking or storage of a heavy vehicle or unregistered or damaged vehicle is compatible with the physical characteristics of the site where the vehicle is to be parked or stored and the character and the amenity of the local area; and
 - (d) give the local government power to issue permits; and
 - (e) give the local government power to take enforcement action.

Examples of adverse effects—

Noise, including the use of air start mechanisms and air compression braking which may have a detrimental effect on the amenity of an area.

Parking or the use of roads to access or exit could create a safety risk to road users, pedestrians or residents.

The heavy vehicle has a load which could be dangerous in the event of fire, spillage, breakage or escape of some or all of the load.

The load or remains of the load may constitute a health or environmental risk by harbouring or encouraging bacteria or vermin, as in the case of heavy vehicle which regularly transport cattle, pigs, chickens, agricultural produce, waste or other putrescible product.

A Heavy vehicle, or signs or visible goods on the heavy vehicle may have a detrimental impact on the amenity of an area.

Relationship to other laws

3. This local law is in addition to, and does not derogate from, any other local law made by the local government to regulate parking.

Exemptions

4. This part does not apply to the following—
 - (a) an emergency vehicle being used for an emergency or other official purpose;
 - (b) a heavy vehicle being lawfully used in the construction, investigation or maintenance of a community facility or undertaking in the immediate vicinity;
 - (c) a heavy vehicle involved in the conduct of a lawful activity reasonably required to be carried out in the residential area;

- (d) any other exemption specified by a subordinate local law.

An example of (c) is a heavy vehicle being used where a residence is being constructed or where a delivery vehicle attends premises for the purpose of delivering goods.

Definitions

5. (1) The definitions for terms used in the local law are included in Schedule 1 – Dictionary.
- (2) With the exception of the terms listed in Schedule 1 – Dictionary, all definitions and any dictionary in the *Transport Operations (Road Use Management) Act 1995*, the *Transport Operations (Road Use Management – Road Rules) Regulation 1999* and the *Transport Operations (Road Use Management) Regulation 1995* apply.

PART 2—PERMITS

Grant of permit

6. (1) In considering an application for a permit, the local government shall have regard to—
- (a) any applicable Commonwealth, State or local government plans, standards, agreements or legislative or other requirements;
 - (b) the public interest;
 - (c) safety issues, including—
 - (i) whether the road network which provides access to the land—
 - (A) is adequate for use by a heavy vehicle;
 - (B) will cause or exacerbate a traffic problem for other road users, including motorists, cyclists and pedestrians; and
 - (C) contains an adequate sealed carriageway;
 - (ii) whether the heavy vehicle has a load which could be dangerous in the event of fire, spillage, breakage or escape of some or all of the load;
 - (d) amenity issues, including—
 - (i) whether the size and dimensions of the lot are sufficient to wholly accommodate the heavy vehicle on the lot and behind the building setback to the road (i.e. the vehicle will not extend onto adjoining land, or within the road reserve, or beyond the street frontage building alignment);
 - (ii) whether noise generated or emanating from the heavy vehicle, including the use of air start mechanisms and air compression braking and the hours at which the heavy vehicle arrives or departs from the land, may have a detrimental effect on the amenity of an area;
 - (iii) whether the load, or the remains of the load may constitute a nuisance or annoyance to other nearby land users, through the generation of odours, noise or the attraction of vermin;
 - (iv) whether the heavy vehicle, or signs or goods on the vehicle may have a detrimental impact on the visual amenity of the area;
 - (v) whether the heavy vehicle is capable of being parked within an enclosed garage, or screened from view from nearby dwellings;

- (vi) whether the heavy vehicle is being parked or stored on land used for a dual occupancy or multiple residential use and therefore is likely to exacerbate amenity impacts;
 - (vii) whether any repair or maintenance activities associated with the parking or storage of a heavy vehicle may adversely affect the amenity of the area through the generation of noise, odours, electrical interference, waste products or otherwise; and
- (e) any additional criteria specified by a subordinate local law.
- (2) A subordinate local law may specify additional criteria for the grant of a permit.

Period of permit

7. (1) A permit may be granted for a specified occasion or for a specified term¹.
- (2) If a permit is granted for a specified term, the local government may, on application by the holder of the permit, renew the permit.
- (3) A term for which a permit is granted or renewed must be fixed as required by a subordinate local law, or as decided by the local government when it grants the permit or renewal.

Conditions of permit

8. (1) A permit may be granted on conditions the local government considers appropriate.
- (2) The conditions of a permit may, for example—
- (a) restrict the use of the permit; or
 - (b) require the permit to be affixed to, or exhibited on, a specified part of the motor vehicle to which it applies; or
 - (c) limit the activities authorised by the permit to a single specified location or to a specified area;
 - (d) require the holder of the permit to take specified measures to protect the safety of persons who may be involved in, or affected by, the activities authorised by the permit;
 - (e) require the holder of the permit to take specified measures to ensure that the activities authorised by the permit do not cause a nuisance or disturbance, such as by—
 - (i) limiting the hours in which a heavy vehicle is permitted to—
 - (A) arrive at or depart from the land;
 - (B) operate motors or refrigeration equipment; or
 - (C) undertake repair or maintenance activities;
 - (ii) limiting repair and maintenance activities to those of a minor nature and type (for example those that would not immobilise the vehicle for a period of more than four hours);

¹ *The term of the permit will generally be for a maximum of one year but may be of a shorter duration as requested by the applicant or as determined by the local government.*

- (iii) requiring repair and maintenance activities to be conducted in a manner such that there is no annoyance or disturbance to nearby land users in terms of noise, odour, electrical interference, or the generation of waste products;
 - (iv) requiring a heavy vehicle to be parked or stored within an enclosed garage or otherwise screened from view from nearby land; or
 - (v) requiring the provision of facilities for waste collection and disposal (ie for oils, radiator fluid, wash down liquids and solids and the like).
- (3) A subordinate local law may specify the conditions that must be imposed or that ordinarily will be imposed on the grant of a permit.
- (4) Notwithstanding any other section of this local law, or any section of a subordinate local law, the local government may refuse a permit, grant a permit without conditions or specify that the conditions in a subordinate local law do not apply or impose such other conditions as the local government considers appropriate.

Power to change conditions of a permit

9. (1) The local government may, by written notice given to the holder of a permit², change the conditions of the permit.
- (2) However, the local government may change conditions of a permit only if—
- (a) the holder of the permit agrees to the proposed change; or
 - (b) the local government—
 - (i) gives the holder of the permit reasonable written notice of the proposed change inviting the holder to make written representations about the proposed change within a reasonable period fixed in the notice; and
 - (ii) if the holder makes written representations within the time allowed in the notice—takes the representations into account.

Parking or storage of a heavy vehicle in residential areas without a permit

10. A person must not park or store a heavy vehicle or allow a heavy vehicle to be parked or stored in a residential area unless authorised by a permit.

Maximum penalty –

- (a) For first offence within any twelve month period – 20 penalty units.
- (b) For second offence within any twelve month period – 30 penalty units.
- (c) For third and any subsequent offence within any twelve month period – 50 penalty units.

Compliance with conditions of a permit

11. The holder of a permit must comply with the conditions of the permit.

Maximum penalty –

- (a) For first offence within any twelve month period – 20 penalty units.
- (b) For second offence within any twelve month period – 30 penalty units.
- (c) For third and any subsequent offence within any twelve month period – 50 penalty units.

² A “change” to the conditions of a license includes a change by omission, substitution or addition (see *Acts Interpretation Act 1954*, section 36).

PART 3—ENFORCEMENT

Compliance notices

12. (1) If a person—
- (a) contravenes this local law; or
 - (b) contravenes a condition of a permit; or
 - (c) parks or stores an unregistered or damaged vehicle or allows an unregistered or damaged vehicle to be parked or stored in a residential area;

an authorised person may give the person a written notice (a “**compliance notice**”) requiring the person to stop the contravention or remove the unregistered or damaged vehicle.

Examples of situations where a “compliance notice” may be issued—

The unregistered or damaged vehicle is in an unsightly condition and is parked or stored on part of the land where it is visible from a road, or public thoroughfare, or other public place, or from other nearby land.

The unregistered or damaged vehicle may attract or harbour weeds or vermin.

- (2) A compliance notice may—
- (a) require the person to stop the contravention; and
 - (b) require the person to take specified action within a time specified in the notice, or immediately if it is necessary to avoid a risk to public safety or public health.
- (3) A person to whom a compliance notice is given must comply with the notice.

Maximum penalty –

- (a) For first offence within any twelve month period – 20 penalty units.
- (b) For second offence within any twelve month period – 30 penalty units.
- (c) For third and any subsequent offence within any twelve month period – 50 penalty units.

Suspension or cancellation of permit

13. The local government may, by written notice to the holder, suspend or cancel the permit if—
- (a) the holder of a permit contravenes this local law or a condition of the permit; or
 - (b) it appears that the permit was granted on the basis of false or misleading information; or
 - (c) the permit was granted on the basis that the holder of a permit lived or worked in the area and the holder no longer lives or works in the area; or
 - (d) the suspension or cancellation is urgently necessary in the interests of public health or safety or to prevent a nuisance; or
 - (e) the suspension or cancellation is necessary to allow for roadworks; or
 - (f) the local government—
 - (i) gives the holder of the permit written notice of the proposed suspension or cancellation inviting the holder to make written representations about the proposed action within a reasonable time fixed in the notice; and

- (ii) if the holder of the permit makes written representations with the time allowed in the notice – takes the representations into account.

PART 4—MISCELLANEOUS

Subordinate local laws

- 14. The local government may make subordinate local laws about—
 - (a) permits³; or
 - (b) other matters about which this local law specifically allows for the making of subordinate local laws.

PART 5—REVIEW

Reviewable decisions

- 15. 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.

Application for review

- 16. (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 14 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).

Carrying out review

- 17. (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 sub section (1)(b) must not be the original decision maker and must be a person who is no less senior than the original decision maker.

³ See Part 2.

Decision on review

- 18.** (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—AUTHORISED PERSONS

- 19.** A local government may appoint a person as an authorised person for the purposes of this local law 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.

SCHEDULE 1—DICTIONARY

Section 5

“adjunct vehicle” means any of the following—

- (a) any trailer designed or adapted for the carriage of goods with a carrying capacity in excess of two (2) tonnes tare including the trailer of an articulated vehicle;
- (b) any trailer designed or adapted for earthmoving or road making purposes, including a vehicle or equipment designed or adapted for excavating materials or equipment such as rollers, compressors or the like designed or adapted to be drawn behind a heavy vehicle;
- (c) any trailer containing a refrigeration unit;
- (d) any earthmoving equipment or vehicle which is capable of being transported on the tray of a heavy vehicle;
- (e) any other trailer or equipment which is consistent with those trailers or equipment listed above.

“combination” has the meaning given to that term in the *Transport Operations (Road Use Management – Road Rules) Regulation 1999* and means a prime mover connected to one or more trailers.

“damaged vehicle” means a vehicle which is in a condition which renders it unable to be used readily on a road.

“driver” has the meaning given to that term in the *Transport Operations (Road Use Management – Road Rules) Regulation 1999* as well as the person in control of a motor vehicle.

“emergency vehicle” means—

- (a) an ambulance; or
- (b) a fire or rescue appliance or vehicle;
- (c) a police vehicle; or
- (d) a State Emergency Service vehicle; or
- (d) such other vehicle as specified in a subordinate local law.

“heavy vehicle” means any of the following—

- (a) a vehicle or combination of vehicles (including an adjunct vehicle) that has a gross vehicle mass (GVM) of more than 4.5 tonnes, or has a total length of in excess of 7.5 metres;
- (b) a trailer or semi trailer standing alone which has a GVM of 3 or more tonnes or has a length exceeding 5 metres;
- (c) any vehicle of whatever size equipped to carry, by whatever means, a motor vehicle;
- (d) a tractor;
- (e) any vessel whose length exceeds nine (9) metres;
- (f) any other vehicle or equipment which is consistent with those vehicle listed above.

“trailer” means any vehicle without motive power attached or designed for attachment to another vehicle.

“owner” of a vehicle means the person in whose name the vehicle is registered under the *Transport Operations (Road Use Management - Vehicle Registration) Regulation 1999*.

“person” includes the owner of a vehicle, the driver of a vehicle or the owner or occupier of land where a vehicle is situated.

“prime mover” has the meaning given to that term in the *Transport Operations (Road Use Management) Regulation 1995*⁴.

“residential area” includes land (other than roads) that is situated in one or more of the following zones under the planning scheme—

- (a) within the Urban Areas Locality—
 - (i) Large Lot Residential Zone;
 - (ii) Residential Low Density Zone;
 - (iii) Residential Medium Density Zone;
 - (iv) Character Areas – Housing Zone;
 - (v) Future Urban Zone;
 - (vi) Character Areas – Mixed Use Zone;
 - (vii) Business Incubator Zone;
 - (viii) Bundamba Racecourse Stables Area Zone;
 - (ix) Special Uses Zone;
 - (x) Special Opportunity Zone;
- (b) within the Rosewood Locality—
 - (i) Character Areas – Housing Zone;
 - (ii) Residential Low Density Zone;
 - (iii) Residential Medium Density Zone;
 - (iv) Urban Investigation Zone;
 - (v) Special Uses Zone;
- (c) within the Township Locality—
 - (i) Township Residential Zone;
 - (ii) Township Character Housing Zone;
 - (iii) Township Character Mixed Use Zone;
 - (iv) Stables Residential Zone;
 - (v) Special Uses Zone;

⁴ Transport Operations (Road Use Management) Regulation 1995 Schedule 13: “prime mover” means a motor vehicle designed to tow a semi trailer.

- (d) within the Rural Locality—
 - (i) Rural Living Zone; or
- (e) all of the Springfield Locality excluding the lands included in the Town Centre Designation.

“residential use” includes a dwelling whether as an exclusive or a mixed use of land but does not include a dwelling used for caretaker’s accommodation on non-residential premises.

“unregistered vehicle” means a vehicle that is not registered or is not required to be registered under the *Transport Operations (Road Use Management – Vehicle Registration) Regulation 1999*.

“vehicle” has the meaning given to that term in the *Transport Operations (Road Use Management – Road Rules) Regulation 1999*.

This and the preceding 10 pages bearing my initials is a certified copy of Local Law No. 6 (Heavy and Other Vehicle Parking in Residential Areas), made in accordance with the provisions of the Local Government Act 1993, by the Council of the City of Ipswich by resolution dated 18 February 2004.

Jamie Quinn
Chief Executive Officer