

## LOCAL GOVERNMENTS ACT 1995

### *Shire of Cocos (Keeling) Islands*

#### LOCAL LAW - OLD MOTOR VEHICLES, MACHINERY AND SEA CONTAINERS

In pursuance of the powers conferred upon it by the Act and all other powers enabling it the Council of the abovementioned Local Government hereby records having resolved on 17 December 2003, to adapt the following Local law.

#### **Citation:**

1. This Local Law may be cited as the *Shire Of Cocos (Keeling) Islands Local Law – Old Motor Vehicles, Machinery and Sea Containers*.

#### **Object:**

2. The object of this Local Law is:-
  - a) to prevent the accumulation of disused motor vehicles, disused machinery and sea containers in residential and kampong areas.
  - b) to maintain the visual amenity of the settlement and kampong areas.

#### **Interpretation:**

3. In this Local Law:-
  - a) "Act" means the Local Government Act 1995.
  - b) "Authorised Person" means the Chief Executive Officer of the Council, or a person authorised by the Council to administer the provisions of this Local Law.
  - c) "District" means the Local Government district of the Shire of Cocos (Keeling) Islands.
  - d) "Old Motor Vehicle" means a vehicle, registered or unregistered, which is disused or unserviceable and includes the motor body parts of any other parts, and also refers to motor cycles, cars, tractors and trucks.
  - e) "Machinery" means all types of mechanical and electrical equipment which is not defined as Old Motor Vehicle and includes outboard motors and parts of outboard motors.
  - f) "Sea Containers" means the metal containers used for the purpose of transport of goods by sea.

#### **Storage and Dismantling of Old Motor Vehicles and Machinery**

4. No person shall:-
  - a) Dismantle or break up Old Motor Vehicles or Machinery;

or

- b) Store a disused motor vehicle, an old motor vehicle body or any old motor vehicle or any machinery

Unless

- c) Inside a building
- d) In an area approved by Council

### **Storage of Sea Containers**

5. No person shall:-

- a) deposit or store a Sea Container in an area which is not zoned as Commercial or Industrial, as defined by the Shire of Cocos (Keeling) Islands Town Planning Scheme No. 1,

or

- b) deposit a Sea Container in any other area without first being granted approval, in writing from Council.

The provisions of this Local Law does not apply when the Sea Container is being used to store material on a site during the construction of a building on that site.

### **Authorised Person:**

- 6. a) The Council may appoint suitable person to be Authorised Persons for the purpose of administering this Local Law.
- b) An Authorised Person may exercise powers conferred by this Local Law on an Authorised Person within the district.

### **Penalties**

- 7. A person who contravenes or fails to comply with the provisions of this Local Law is upon conviction, liable to a penalty of \$200 for each offence, and a daily penalty of \$50 for each day the offence continues.

### **Modified Penalties**

- 8. a) The offences described in the table set out in the First Schedule to this Local Law are prescribed pursuant to Section 3.10 and 9.17 of the Act as offence to which a modified penalty applies and the amount appearing in that table directly opposite an offence is the prescribed modified penalty in respect of that offence if dealt with pursuant to this sub-clause.
- b) Where an authorised person has reason to believe that a person has committed an offence of the kind described in the First Schedule a notice may be served on that person in the form contained in the Second

Schedule (in this case referred to as an “Infringement Notice) informing that person that if the person does not wish to have the complaint of the alleged offence heard and determined by the Court the person may pay to the council, within the time therein specified, the amount prescribed as the modified penalty.

- c) An infringement notice may be served on an alleged offender personally or by posting to that person’s address as ascertained from the person or immediately following the occurrence giving rise to the allegation of the offence.
- d) Where a person who received an Infringement Notice fails to pay the prescribed penalty within the time specified in the Notice, or within any further time as in particular case is allowed by the Council, the person is deemed to have declined to have the allegation dealt with by way of a modified penalty.
- e) An alleged offender on whom an Infringement Notice has been served may, within the time specified on the Notice, or within any time as in particular case is allowed by the Council, send or deliver to the Council the amount of the prescribed penalty, with or without a reply as to the circumstances giving rise to the allegation, and Council may thereupon:-
  - i. appropriate that amount in satisfaction of the penalty and issue an acknowledgement.
  - or
  - ii. withdraw the Infringement Notice and refund the amount so paid.
- f) An Infringement Notice may, whether or not the prescribed penalty has been paid, be withdrawn by Council by sending of a notice in the form contained in the Third Schedule to the alleged offender at the address specified in the Notice or to the person’s last known place of residence or business and in the event any amount received by way of modified penalty shall be refunded and any acknowledgment of the receipt of that amount shall for the purpose of any proceedings in respect of the alleged offence be deemed to have been issued.
- g) Where a person does not contest the allegation that the person committed an offence of a kind to which this clause applies, the production of an acknowledgement from the Council that the modified penalty has been paid to the Council is a defence to a charge of the offence in respect of which the modified penalty was paid.

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*First Schedule*

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Item	Clause	Nature of Offence	Modified Penalty
1.	4	Dismantling and/or storing old motor vehicles or machinery in an area not approved by Council	\$50
		Storing a Sea Container in an area not approved by council.	\$50

*Second Schedule*

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INFRINGEMENT NOTICE

No:.....

Date:...../...../...

To.....

It is alleged that at ..... on the ..... day  
of ..... 199.....you committed an offence in that you

.....  
.....  
.....  
.....

.....  
(Authorised Person)

You may dispose of this matter:

- a) By payment of a penalty of \$..... within twenty eight days of this  
Notice to the Council at Cocos (Keeling) Islands or
- b) By having it dealt with by a court.

If this modified penalty is not paid within the time specified, Court proceedings may  
be taken against you.

*Third Schedule*

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WITHDRAWAL OF INFRINGEMENT NOTICE

No:.....

Date:...../...../...

To.....

.....

Infringement Notice No ..... Dated ...../...../..... for

.....

.....

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.....

Penalty \$..... is hereby withdrawn.

No further action will be taken. It is proposed to institute Court proceeding for the  
alleged offence.

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(To be signed by an Authorised person)