

EXMOUTH TOWN COUNCIL
AGREEMENT FOR BEACH WHEELCHAIR HIRE
TERMS & CONDITIONS

These terms and conditions (**terms**) apply to all hires of beach wheelchairs (**wheelchairs**) between Exmouth Town Council of Town Hall, 1 St Andrews Road, Exmouth Devon, EX8 1AW ("**Exmouth TC**", "**we**", "**us**" or "**our**") and you (the "**hirer**" or "**you**") and form part of the agreement between us and you.

1 HOW TO CONTACT US

1.1 How to contact us. You can contact us by:

- 1.1.1 telephoning our team at 01395 276167; or
- 1.1.2 writing to us at reception@exmouth.gov.uk; or
- 1.1.3 writing to us at Town Hall, 1 St Andrews Road, Exmouth Devon, EX8 1AW

Our phone line is open from 9:00am to 4:30pm Monday to Friday.

1.2 How we may contact you. If we need to contact you for any reason, we will do so by telephone or by writing to you at the email address or postal address that you provide to us in your wheelchair booking.

1.3 "Writing" includes emails. When we use the words "writing" or "written" in these terms, this includes emails.

1.4 "your group" means any person who may use or control a wheelchair hired by you.

1.5 "wheelchair" also means "wheelchairs" in these terms if you have hired more than one wheelchair at any one time.

1.6 Wheelchair collection and drop off point. Wheelchairs must be collected from and dropped off at Queen's Drive, Exmouth.

1.7 Our opening times:

Our opening times vary according to the time of year. Please check our website at [\[insert specific URL\]](#) for up-to-date opening times to avoid disappointment.

2 AGREEMENT FOR HIRE

2.1 The agreement is made up of the following:

- 2.1.1 these terms;
- 2.1.2 our current "Rules of Hire" appended to these terms at Schedule 1 and also viewable at [\[INSERT LINK\]](#);
- 2.1.3 the applicable wheelchair specification for the wheelchair you have selected for hire, viewable at [\[INSERT LINK\]](#).

- 2.1.4 the applicable wheelchair manual produced by the manufacturer for the wheelchair you have selected for hire, viewable at [\[INSERT LINK\]](#);
 - 2.1.5 your wheelchair booking request; and
 - 2.1.6 our wheelchair booking confirmation.
- 2.2 If you hire a wheelchair from us you agree to be legally bound by the agreement.
- 2.3 By submitting the wheelchair booking request, you confirm:
 - 2.3.1 you have read the wheelchair specification thoroughly and confirm the make and model of wheelchair you have selected to hire is suitable for your needs or, if you are not the user of the wheelchair, the wheelchair user's needs;
 - 2.3.2 you have read and understand these terms, the Rules of Hire and the applicable wheelchair manual;
 - 2.3.3 these terms, the Rules of Hire, applicable wheelchair specification and applicable wheelchair manual form part of and are incorporated into the agreement between you and us;
 - 2.3.4 you will make each member of your group aware of the terms of these terms, particularly the Rules of Hire and applicable wheelchair manual prior to allowing them to control your selected wheelchair; and
 - 2.3.5 you are responsible for any misuse of the wheelchair by any member of your group.

3 CONDITION OF THE WHEELCHAIR ON COLLECTION & DURING HIRE

- 3.1 The wheelchair remains the property of Exmouth TC during the period of hire. You agree that you will not sell, hire, lend, abandon, or otherwise part with possession of the wheelchair.
- 3.2 You agree to collect the wheelchair from and return the wheelchair to us at Queen's Drive.
- 3.3 Before we hand over the wheelchair to you, we will give you an opportunity to examine it. By accepting the wheelchair from us, you acknowledge and agree that the wheelchair is (to the extent can be determined by a visual inspection) in good condition in all respects.
- 3.4 You agree not to misuse the wheelchair and to return it in the same condition it was in when you received the wheelchair (allowing for ordinary wear and tear) to us at Queen's Drive at the end of your hire period and no later than the time specified on the wheelchair booking confirmation.
- 3.5 You agree to pay the full cost of any necessary repairs resulting from misuse of the wheelchair.
- 3.6 If the wheelchair breaks due to no fault of your own, we will be responsible for all necessary repairs at our expense. We will also use reasonable endeavours to promptly collect the wheelchair and bring it and the wheelchair user back to Queen's Drive if you are unable to do so without assistance.

4 ON COLLECTION OF THE WHEELCHAIR

- 4.1 You must provide us with photographic proof of identification (e.g., driving licence, passport) and proof of address (e.g., utility bill) on collection of the wheelchair. You authorise us to take and retain a photocopy of this identification and proof of address.
- 4.2 You understand you are responsible for any misuse of the wheelchair by any member of your group.
- 4.3 We will safely and securely store the wheelchair user's personal wheelchair or mobility scooter for the duration of the hire.

5 PERIOD OF HIRE AND RETURNING THE WHEELCHAIR

- 5.1 Where the wheelchair booking is made on our website or in advance of you collecting the wheelchair, the period of hire commences at the time set out on the wheelchair booking confirmation (or the time of collection of the wheelchair from Queen's Drive, if earlier than the time stated on the wheelchair booking).
- 5.2 Where the wheelchair booking is made on the day and the wheelchair is collected at that time, the period of the hire commences at the time of collection of the wheelchair from Queen's Drive (which will be stated on the wheelchair booking confirmation).
- 5.3 The period of hire ends at the time stated on the wheelchair booking confirmation or when the wheelchair is returned to us at Queen's Drive, if later.
- 5.4 If you do not return the wheelchair to Queen's Drive by the time stated on the wheelchair booking confirmation (which will be our closing time) we may be unable to ensure it is ready for use the next day. We therefore reserve the right to ask you to pay a fee to us if the wheelchair is not returned by the agreed time. Additionally, we reserve the right to keep (by way of a lien) the wheelchair user's personal wheelchair or mobility scooter until payment is made.

6 LIMITATION ON OUR LIABILITY

- 6.1 You agree that:
 - 6.1.1 using a wheelchair on a public highway, public footpath, public bridleway, or any other terrain, carries the risk of injury or death; and
 - 6.1.2 you have made your wheelchair booking on the basis that you undertake the hire at your own risk, subject to the remainder of this clause **Error! Reference source not found.**
- 6.2 If the wheelchair breaks or is defective or cannot be used due to events outside our control, we are not responsible for any loss of use or enjoyment.
- 6.3 We are responsible to you for loss or damage you suffer that is a foreseeable result of our breaking this agreement or our failing to use reasonable care and skill in connection with this agreement. We are not responsible for any loss or damage that is not foreseeable to you or to us at the time the agreement between you and us was made.
- 6.4 We will not be responsible to you where any loss or damage results from your own actions or omissions or those of a member of your group, or where the loss or damage

results from the actions or omissions of any third party not connected with the hire. If your loss or damage is partly due to your actions or omissions or those of a member of your group and partly due to our negligence, we will be responsible only to the extent that our negligence caused the loss or damage.

- 6.5 We do not exclude or limit in any way our liability to you where it would be unlawful to do so. This includes liability for death or personal injury caused by our negligence or the negligence of our staff; for fraud or fraudulent misrepresentation; or for breach of your legal rights in relation to this agreement.
- 6.6 Where we are able to limit our liability, our total liability to you under the agreement shall be limited to £2,000,000.

7 EVENTS OUTSIDE OUR CONTROL

- 7.1 We will make every reasonable effort to provide the wheelchair booked by you. If we are unable to do so due to an Event Outside Our Control then, except as described in clause 7.3, we will not be liable to compensate you, or otherwise responsible for any failure to perform any of our obligations under the agreement.
- 7.2 An **Event Outside Our Control** means any act or event beyond our reasonable control, and includes (without limitation) adverse weather, dangerous terrain, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks.
- 7.3 If an Event Outside Our Control affects the performance of our obligations under the agreement, and particularly our ability to provide you with a wheelchair at the time stated on the wheelchair booking confirmation, we will contact you as soon as reasonably possible to notify you. If we have to cancel your wheelchair booking, subject to availability, we will arrange a new wheelchair booking for a time and date convenient to you once the Event Outside Our Control has ceased to affect our ability to provide you with a wheelchair.
- 7.4 In the event of our being unable to fulfil your wheelchair booking (whether due to an Event Outside Our Control or otherwise), we are not liable to you, regardless of the circumstances.

8 OUR RIGHT TO CANCEL THE WHEELCHAIR BOOKING

- 8.1 We reserve the right to cancel a wheelchair booking for Events Outside Our Control such as poor weather.
- 8.2 We reserve the right to cancel a wheelchair booking at any time if we become aware that you or any member of your group have failed to take reasonable care in the use of the wheelchair or have failed to comply with the agreement.
- 8.3 If we exercise this right to cancel, we may give you the option to immediately return the wheelchair to Queen's Drive. If you fail to do so, we may take immediate possession.
- 8.4 You and every member of your group who may be in control of the wheelchair hired by you must attend a pre-hire safety briefing at the time of collection. If for any reason we believe you or any member of your group cannot competently control a wheelchair

we reserve the right not to issue a wheelchair to you. We reserve the right not to hire wheelchairs or equipment to any person without explanation. You are responsible for any misuse of the wheelchair by any member of your group.

9 DATA PROTECTION

We will use the personal details you have provided to provide the wheelchair to you and to process any payment(s). You can access our privacy notice [here](#). We will keep your personal details secure in accordance with our obligations under the Data Protection Act 2018 and UK GDPR. We will not give your personal data to any third party unless the law requires us to do so.

10 OTHER IMPORTANT TERMS

- 10.1 These terms, together with the Rules of Hire, the applicable wheelchair specification, the applicable wheelchair manual, your wheelchair booking and our wheelchair booking confirmation together constitute the entire agreement between us and you.
- 10.2 You may not transfer your rights or your obligations under the agreement to another person.
- 10.3 This contract is between you and us. Nobody else has any rights under the agreement. Nobody else can enforce it and neither of us will need to ask anybody else to sign-off on entering into, ending or changing it.
- 10.4 If a court invalidates some of the agreement, the rest of it will still apply. If a court or other authority decides that some of the agreement is unlawful, the rest will continue to apply.
- 10.5 Even if we delay in enforcing the agreement, we can still enforce it later. We might not immediately chase you for not doing something (like paying) or for doing something you're not allowed to, but that doesn't mean we can't do it later.
- 10.6 The agreement is governed by English law and wherever you live you can bring claims against us in the English courts. If you live in Wales, Scotland or Northern Ireland, you can also bring claims against us in the courts of the country you live in. We can claim against you in the courts of the country you live in.

SCHEDULE 1 RULES OF HIRE

The health and safety of all our wheelchair users and operators is of the greatest importance to all of us at Exmouth TC. We aim to ensure that hiring one of our wheelchairs is enjoyable. Please read and observe the rules below, to protect your health and safety and that of the public:

- 1 The manufacturer's recommended maximum weight is 120kg (19 stone).
- 2 The beach wheelchairs are designed for use on the beach. Their use on the pavement should be restricted to travel to and from the beach to save tyre wear.
- 3 Always cross the road using the pedestrian refuge island beside the wheelchair unit.
- 4 Access onto the beach is via the accessible tarmac ramp opposite the wheelchair unit or via the accessible ramp by Sideshore.
- 5 When in the wheelchair, use sunscreen or an umbrella to avoid sunburn.
- 6 Caution. The wheelchair frame can become hot when left outdoor during hot weather.
- 7 Do not allow children to stand on any part of the wheelchair.
- 8 Do not step on the footrest during transfer, as this could cause the wheelchair to tip.
- 9 Know your limitations in terms of strength and endurance before attempting any manoeuvres e.g., negotiating a ramp or slope.
- 10 Do not leave the user unattended or unsecured whilst in the wheelchair.
- 11 Always ensure the seatbelt is properly adjusted for the user.
- 12 Always set the anti-tip and parking brake when not in use or motion.
- 13 Observe uneven terrain to prevent tipping.
- 14 Observe tidal changes, wave action, wind speed and direction and extreme temperatures.
- 15 Always listen to and follow any advice from the RNLI Lifeguards as appropriate.
- 16 Please note, only the Hippocampe and Mobi wheelchairs are permitted in the sea. All other models of wheelchair must not be taken into the sea. When using the Hippocampe and Mobi wheelchairs near or in water:
 - 16.1 The wheelchair must be accompanied at all times by an adult who can control the wheelchair.
 - 16.2 An adult must maintain physical control of the wheelchair. Use of two operators is encouraged when in water deeper than 6 inches (150mm).
 - 16.3 Observe water depth and wave action when in the water. The balloon wheels will float, so do not exceed water levels above the middle of the wheels.