

**McKINLAY SHIRE COUNCIL
LOCAL LAW NO. 9
(SWIMMING POOLS)**

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PART 1 - PRELIMINARY

1. Citation

This local law may be cited as *Local Law No. 9 (Swimming Pools)*.

2. Objects

The objects of this local law are to ensure:

- (a) swimming pools generally comply with essential standards of health and safety; and
- (b) the operation or use of swimming pools does not result in a nuisance to adjoining occupiers or others;
- (c) public pools are properly managed and supervised.

3. Relationship with other Laws

This local law is in addition to, and does not derogate from other laws about the construction, use or operation of swimming pools.

4. Definitions

In this local law:

"nuisance" includes anything that disturbs or inconveniences people in the vicinity of a swimming pool or detracts from the use or enjoyment of land adjoining or in the vicinity of a swimming pool;

"operate" a swimming pool means to permit access to, or use of, the pool;

"owner" of a swimming pool includes a person in control of land on which the swimming pool is situated;

"public pool" means a swimming pool that is made available for use to:

- (a) members of the public or a section of the public on payment of an entrance fee or other charge; or
- (b) participants in organised swimming or diving competitions or in training for organised swimming or diving competitions; or
- (c) persons who have a commercial relationship with the owner of the pool,

but does not include a swimming pool which is part of a community titles scheme under the *Body Corporate & Community Management Act 1997* for use by the owners or occupiers of lots in the scheme or their invitees;

Examples of swimming pools that are not included:

- *A swimming pool available for use by paying guests in a hotel or motel.*

- *A swimming pool available for use by customers or employees of the owner.*

"swimming pool" means a swimming pool under the *Building Act 1975*;

PART 2 - SWIMMING POOLS GENERALLY

5. Power of inspection

- (1) An authorised person may inspect a swimming pool and associated equipment at any reasonable time.¹
- (2) An authorised person may take samples of water from a swimming pool and have them analysed.

PART 3 - PUBLIC POOLS

6. Approval required for operation of public pool

The owner of a swimming pool must not operate the pool, or permit its operation, as a public pool except in accordance with a current approval issued under this local law for that purpose.

Maximum penalty-200 penalty units.

7. Application for Approval

An application for an approval authorising a person to operate a public pool must include or be accompanied by:

- (a) a plan or other information identifying the swimming pool; and
- (b) details of the nature and extent of the public use that is proposed by the applicant; and
- (c) details of the proposed management and supervision of the swimming pool (including the qualifications and experience of proposed managers and supervisors); and
- (d) if the applicant is a lessee of the land on which the swimming pool is situated-the lessor's consent to the application and if the lessor is not the owner, the owner's consent; and
- (e) other information and materials required under a local law policy.

8. Criteria for Approval

The local government must consider every application for an approval having regard to the following matters:

- (a) whether the equipment for chlorination, filtration and recirculation of swimming pool water is adequate to protect public health; and

¹ For power to enter premises, see Chapter 15, Parts 4 and 5 of the Act.

- (b) whether the management and supervision of the swimming pool will be adequate to protect public safety and prevent nuisance;
- (c) whether the use of the swimming pool as a public pool would be consistent with the objects of this local law and the criteria laid down by local law policies; and
- (d) any other matter prescribed by local law policy.

9. Term of Approval

- (1) An approval is to be granted for a term specified in the approval.
- (2) The local government may, from time to time, on application by the holder of an approval, renew the approval.
- (3) The term for which an approval is granted or renewed is to be:
 - (a) fixed as required by local law policy; or
 - (b) in the absence of a local law policy-decided by the local government when it grants the approval or the renewal.

10. Conditions of Approval

- (1) An approval may be granted on conditions the local government considers appropriate.
- (2) The conditions of an approval may, for example:
 - (a) require the provision of specified equipment for:
 - i) emergency medical treatment and first aid; or
 - ii) rescue of persons in difficulty; or
 - iii) other aspects of public health and safety; and
 - (b) require the erection and display of notices:
 - i) providing information about basic life saving, resuscitation and first aid techniques; or
 - ii) warning about possible dangers; and
 - (c) require the regular testing of the water to ensure that biological contaminants are kept within acceptable levels; and
 - (d) require the installation of special equipment for filtering, purifying and recirculating the water; and
 - (e) require the provision of dressing rooms and facilities for showering and sanitation; and

- (f) require the holder of an approval to take out and maintain a public liability insurance policy in the name of that person and the local government to the value of a specified sum and to the satisfaction of local government.
- (3) The local government may, by local law policy, prescribe conditions that may be imposed on an approval.
- (4) However the conditions of an approval must be consistent with the conditions of any statutory authorisation or approval for the installation of the swimming pool.

11. Compliance with conditions of approval

The holder of an approval must ensure that the conditions of an approval are complied with.

Maximum penalty-200 penalty units.

12. Transfer of approval

- (1) A transferee of an approval may apply for the transfer of an approval.
- (2) An application under subsection (1) must:
 - (a) be signed by the applicant and the current approval holder; and
 - (b) be accompanied by the information and material required under section 12.
- (3) The local government may impose conditions on the transfer of an approval.
- (4) However, the local government cannot:
 - (a) unreasonably refuse its approval of the transfer of an approval; or
 - (b) impose unreasonable conditions on the transfer of an approval.

PART 4 - MISCELLANEOUS

13. Notice of intention to empty public pool

- (1) If the owner of a public pool intends to empty the pool, the owner must give the local government at least 24 hours written notice of intention to empty the pool.

Maximum penalty-50 penalty units.

- (2) The owner must comply with any directions given by an authorised person about when and how the swimming pool is to be emptied.

Maximum penalty-50 penalty units.

14. Indemnity

The holder of an approval indemnifies the Council in respect of injury or damage to a person or property arising out of any act or omission by the holder of an approval, its

servants, agents or contractors relating to the operation of a swimming pool as a public pool.

PART 5 - ENFORCEMENT

15. Compliance notices

- (1) If a swimming pool is unsafe or a risk to health, or the use of the swimming pool or of equipment related to the swimming pool causes a nuisance, an authorised person may, by written notice to the owner of the swimming pool (a “**compliance notice**”), require the owner to take specified action, within a time specified in the notice, to make the swimming pool safe, to remove the health risk, or to stop the nuisance.

Examples:

- *If the noise of filtration equipment causes irritation or annoyance to the occupants of adjoining premises, an authorised person might require the owner of the pool to take specified action to suppress the noise.*
 - *If a sample of water taken from a swimming pool is found to be affected by biological or other contaminants, an authorised person might require the owner to empty and cleanse the pool or to chlorinate the water or treat it with other anti-bacterial agents.*
- (2) If a public pool is not maintained, supervised or operated as required under this local law, an authorised person may give the operator a written notice (a “**compliance notice**”) under this section requiring the operator:
 - (a) if the contravention is of a continuing or recurrent nature to stop the contravention; and
 - (b) whether or not the contravention is of a continuing or recurrent nature to take specified action, within a time specified in the notice, to remedy the contravention.
 - (3) A person to whom a compliance notice is given under this section must comply with the notice within the time allowed in the notice.

Maximum penalty-50 penalty units.

16. Local Government's power to have work carried out

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

17. Powers of entry and cost recovery

- (1) The local government may enter land to perform work under section 1066 of the Act.

- (2) If the person 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 person 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 person (together with interest) on the same basis as applies to an owner of land under section 1067 of the Act.²

PART 6 - LOCAL LAW POLICIES

18. Local law policies

The local government may make local law policies in relation to those matters about which this local law specifically allows for the making of local law policy.

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