

**IPSWICH CITY COUNCIL
LOCAL LAW NO.10 - HEALTH AND SAFETY**

SUMMARY OF PROVISIONS

PART 1 - PRELIMINARY

1. Citation
2. Objects
3. Definitions
4. Local Laws Repealed
5. Application of this local law

PART 2 - HEALTH AND SAFETY

6. Land in a dangerous state to be protected
7. Wells, tanks etc. to be covered/isolated.
8. Dangerous fencing
9. Discharge or escape of waste waters, fluids etc. causing nuisance.
10. Notices

PART 3 - MISCELLANEOUS

11. Local government's power to have work carried out.
12. Powers of entry and cost recovery.
13. Common law remedies.

PART 1 - PRELIMINARY

Citation

1. This Local Law may be cited as *Local Law No.10 (Health and Safety)*.

Objects

2. The objects of this local law are to protect public health and safety, by eliminating or reducing health and safety risks resulting from unsafe and unhygienic environments.

Definitions

3. In this local law -

‘authorised person’ means a person who is authorised by the local government to exercise the powers of an authorised person under this local law.

‘land hazard’ means land in such a state or condition which may cause or result in a person receiving serious injury by being present on or near such land.

‘occupier’ of a place means the person who has the control or management of the place and includes a person in charge of activities in the place that may result in contravention of, or a nuisance under, this local law.

‘the Act’ means the *Local Government Act 1993*.

Local Laws Repealed

- 4.(1) Local Law Chapter 10 Nuisance-Sanitary Convenience-House Refuse-Noises of the Ipswich City Council which was continuing in force from the changeover day in part of the new area (namely in the former local government area of the Shire of Moreton); and
- (2) Local Law No 9 Nuisances and Sanitary Conveniences of the Ipswich City Council which was continuing in force from the changeover day in part of the new area (namely in the former local government area of the City of Ipswich); and
- (3) Local Law No 10 Safety and Convenience of the Ipswich City Council which was continuing in force from the changeover day in part of the new area (namely in the former local government area of the City of Ipswich); and
- (4) Chapter 6 Safety and Convenience of the Ipswich City Council which was continuing in force from the changeover day in part of the new area (namely in the former local government of the Shire of Moreton); and
- (5) Chapter 40 Litter and Rubbish Control of the Ipswich City Council which was continuing in force from the changeover day in part of the new area (namely in the former local government area of the Shire of Moreton) pursuant to Section 1214 of the Act-

are hereby repealed.

Application of this Local Law

5. The powers given by this local law must be exercised in a way that is consistent with the *Workplace Health and Safety Act 1995*.

PART 2 – HEALTH AND SAFETY

Land in a dangerous state to be protected

6. The owner or occupier of premises which poses a danger to the public because of excavation work, trenching or some other land hazard caused by human activity and which is in close proximity to a property boundary abutting a road or land to which the public has access, shall guard and keep guarded the land by sufficient fencing, barriers or other suitable enclosures on the premises, so as to eliminate such danger as far as is reasonably possible.

Wells, tanks etc. to be covered

- 7.(1) The owner or occupier of land upon which is located a well, below ground tank or other similar installation shall securely cover or isolate the installation so as to eliminate any hazard to persons or stock.
- (2) This section does not apply to swimming pools.

Dangerous Fencing

8. The owner or occupier of land shall not erect or maintain on land fronting any road or land to which the public has access, any barbed wire, electrified or other fencing which, in the opinion of an authorised person, creates a hazard to persons or stock using such road or land.

Explanatory note-

In forming an opinion under section 8, the authorised person may have regard to -

- a) *the frequency at which the area of road, or land to which the public may have access is used by persons other than motorists travelling in vehicles;*
- b) *the apparent level of risk of injury to persons by the existence of the fencing; whether the fencing serves an important function for the occupancy of the land; and*
- c) *the economic feasibility of erecting and using alternative types of fencing.*

Escape of waste waters, fluids etc. causing nuisance

9. The occupier or owner of premises shall not discharge, deposit or permit the escape of any waste water or other fluid on to any adjoining land or road so as to cause a nuisance.

Notices

- 10.(1)** An authorised person may by written notice given to the owner or occupier of land to which part 2 applies, require the owner or occupier to take specific action to abate any danger, hazard or nuisance in a manner which may be prescribed in the notice.
- (2) The notice shall specify a time in which to comply with the requirements of the notice.
- (3) The recipient of a notice must comply with a notice under this Part.

Maximum Penalty - 50 penalty units.

PART 3 - MISCELLANEOUS

Local government's power to have work carried out

- 11.** If a person fails to have work required by a notice under this local law carried out, the local government may itself have the work carried out.

Powers of entry and cost recovery

- 12.(1)** The local government may enter land to perform the work under section 1066 of the Act.¹
- (2) If the occupier is also 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 occupier 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 occupier together with interest on the same basis as applies to an owner of land under section 1067 of the Act.

Common law remedies

- 13.** A common law remedy for a hazard, danger or nuisance under this local law cannot be given unless the hazard, danger or nuisance would, apart from this local law, be actionable at common law.

¹ A magistrate may make an order for entry to the land under section 1063 of the Act (Order on occupier who refuses entry) if the occupier refuses to permit entry.