

GOLD COAST CITY COUNCIL



LOCAL LAW NO 9

(PARKS AND RESERVES)

REPEALED (GAZETTE 19/12/08)

**GOLD COAST CITY COUNCIL
LOCAL LAW NO. 9 (PARKS AND RESERVES)**

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PART 1 - PRELIMINARY

Citation

1. This local law may be cited as Local Law No. 9 (Parks and Reserves).

Objects

2. The objects of this local law are to:
 - (a) provide for the establishment of parks and reserves on land under the local government's control; and
 - (b) provide for appropriate public access to parks and reserves for active and passive recreation; and
 - (c) protect the safety of persons using parks and reserves; and
 - (d) preserve features of the natural and built environment and other aspects of the amenity of parks and reserves; and
 - (e) regulate activities in parks and reserves and ensure appropriate standards of conduct.

Definitions

3. In this local law:

"authorised person" means a person authorised by the local government to exercise the powers of an authorised person under this local law.

"park" means land under the local government's control that is designated by local law policy as a park.

"reserve" means land under the local government's control that is designated by local law policy as a reserve.

"trust land" means land:

- (a) dedicated as a reserve, or granted in trust, under the Land Act 1994; (See sections 31 and 35 of the Land Act 1994).
and
- (b) for which the local government is the trustee under the Land Act 1994. (See section 44 of the Land Act 1994.)

Special provision for trust land

4. The local government may only exercise its powers under this local law over trust land if the proposed exercise of powers is consistent with:
- (a) the terms and conditions of the trust; and
 - (b) the Land Act 1994.

PART 2 - PARKS AND RESERVES

Designation of parks and reserves

5. (1) The local government may, by local law policy, designate land under the local government's control as a park.
- (2) The local government may, by local law policy, designate land under the local government's control as a reserve.
- (3) Trust land may (subject to the terms and conditions of the trust) be designated as a park or a reserve under this section (Trust land does not automatically become a park or reserve subject to this local law.

Section

56 of the Land Act 1994 makes the following provision about the regulation of trust land by the local government:

- (4) If the local government is the trustee it may:
- (a) make local laws for the trust land under the Local Government Act 1993 or the City of Brisbane Act 1924; and
 - (b) adopt a model by-law.
- (5) If a local government adopts a model by-law, it must follow the procedure under the Local Government Act 1993 for adopting a model local law when it adopts the model by-law.
- (6) A local law made under subsection (4)(a) must not be inconsistent with this Act.

The local government therefore has 3 alternatives in relation to trust land: (a) it may make a local law specifically dealing with the land in question (See section 6(4)(a) of the Land Act 1994); (b) it may adopt the model by-law under the Land Act 1994 (See section 56(4)(b) of the Land Act 1994); (c) it may designate the trust land as a park or reserve under this local law and thus bring the land under the controls envisaged under this local law.)

- (4) Land should be designated as a park (rather than as a reserve) if it

is to be used predominantly for public recreation.

Change of boundaries

6. The local government may, by local law policy, change the boundaries of a park or reserve. (Under section 31(2) of the Land Act 1994 the Minister may, by Gazette notice, change the boundaries of a reserve if the reserve is unallocated Crown land dedicated as a reserve under that Act.

Hence the power conferred by this section would be inapplicable to such land.)

Name of park or reserve

7. The local government may, by local law policy:
- (a) assign a name to a park or reserve; or
 - (b) change the name of a park or reserve.

PART 3 - ACCESS TO PARKS AND RESERVES

Opening hours for parks and reserves

8. (1) The local government may, by local law policy, fix the times when a park or reserve is open to the public (the "opening hours" for the park or reserve).

(2) If the local government fixes opening hours for a park or reserve, a notice showing the opening hours must be placed at each public entrance to the park or reserve.

(3) A person must not, without the local government's permission, enter or remain in a park or reserve outside the opening hours for the park or reserve.

Maximum penalty 20 penalty units.

Vehicular access to parks and reserves

9. (1) The local government may, by local law policy, designate the whole, or a particular part, of a park or reserve as available for motor vehicle access.

(2) A person must not bring a motor vehicle onto, or drive a motor vehicle on, a park or reserve, unless the whole of the park or reserve is designated as available for motor vehicle access, or the vehicle is kept within a part of the park or reserve designated as available for motor vehicle access.

Maximum penalty 40 penalty units.

(3) The local government may, by local law policy, restrict the kinds of vehicles that may be brought onto a park or reserve, or a particular part of a park or reserve.

Example:

The local government might, for example, prohibit the bringing of off-road vehicles onto a park or reserve or a particular part of a park or reserve.

(4) A person must not bring a motor vehicle onto, or drive a motor vehicle on, a park or reserve in contravention of a restriction imposed under subsection (3).

Maximum penalty 40 penalty units.

Exclusion of animals

10. (1) The local government may, by local law policy, prohibit the bringing of animals, or animals of a specified species, into a park or reserve.

(2) A person must not bring an animal into a park or reserve in contravention of a prohibition imposed under subsection (1).

Maximum penalty 20 penalty units.

Power of closure

11. (1) The local government may temporarily close a park or reserve, or part of a park or reserve, to public access to allow for the carrying out of construction, maintenance, repair or restoration work.

(2) The local government may, by local law policy, permanently close a park or reserve, or part of a park or reserve, to public access to protect sensitive environmental features of the park or reserve.

(3) If the local government closes a park or reserve to public access, a notice of the closure must be placed at each public entrance to the park or reserve and if part of a park or reserve is closed to public access, notices must be placed to indicate clearly to users of the park or reserve the part subject to the closure.

(4) A person must not, without the local government's permission, enter or remain in a park or reserve, or part of a park or reserve, while it is closed to public access under this section.

Maximum penalty 20 penalty units.

PART 4 - REGULATION OF ACTIVITIES IN PARKS AND RESERVES

Lighting of fires

12. A person must not light or maintain a fire in a park or reserve unless:

- (a) the fire is in a fireplace established by the local government for the purpose; or

- (b) the fire is permitted under the local law policies.

Maximum penalty 50 penalty units.

Use of park or reserve for commercial purposes

13. (1) A person must not use a park or reserve for a commercial purpose unless:

- (a) if the park or reserve is established on trust land-the use has been approved under the Land Act 1994; or
- (b) if the park or reserve is not established on trust land-the use has been approved in writing by the local government.

(2) The local government's approval under subsection (1) may be given on conditions the local government considers appropriate.

(3) A person must not:

- (a) use a park or reserve for a commercial purpose in contravention of subsection (1); or
- (b) contravene a condition of an approval for the use of a park or reserve for a commercial purpose.

Maximum penalty 50 penalty units.

Regulation of use of facilities

14. (1) The local government may, by local law policy, prescribe conditions for the use of facilities provided by the local government on a park or reserve.

Examples:

The local law policy might, for example:

× provide that a person wanting to use a tennis court must reserve the court for a specified period and pay a specified fee.

× require compliance with specified standards of dress and behaviour by persons using facilities provided by the local government in the park or reserve.

(2) A person who uses facilities provided by the local government on a park or reserve must not contravene a condition for the use of the facilities prescribed under this section.

Maximum penalty 20 penalty units.

Prohibited activities

15. (1) A local government may, by local law policy, declare a particular activity to be a prohibited activity in a particular park or reserve.

Example:

The local government might, for example, make a local law policy declaring that the playing of sport generally, or the playing of certain games, is a prohibited activity in a particular park or reserve.

(2) Notice of prohibited activities must be exhibited at each public entrance to the park or reserve.

(3) A person must not engage in a prohibited activity in a park or reserve.

Maximum penalty 20 penalty units.

Restricted activities

16. (1) A local government may, by local law policy:

- (a) declare a particular activity to be a restricted activity in a particular park or reserve; and
- (b) impose restrictions on persons engaging in the activity in the park or reserve.

Example:

The local government might, for example, make a local law policy declaring that the playing of sport generally, or the playing of certain games, is a restricted activity in a particular park or reserve and restrict the playing of sport, or the relevant games, to specified parts of the park or reserve.

(2) Notice of restricted activities, and the nature of the restrictions applying to them, must be exhibited at each public entrance to the park or reserve.

(3) A person must not engage in a restricted activity in a park or reserve in contravention of a restriction applying to the relevant activity under this section.

Maximum penalty 20 penalty units.

PART 5 - RIGHTS OF OCCUPATION AND USE

Rights of occupation and use

17. (1) A local government may grant a licence conferring rights of occupation and use of a specified part of a park or reserve.

Examples:

A licence might, for example, authorise a sporting association to:

mark out a playing field in a specified location on the park or reserve;

install specified equipment and facilities (such as goal posts and change rooms);

exclude the public from the relevant part of the park or reserve either temporarily (eg during the playing of a game) or over the whole of the period of the licence.

(2) However:

- (a) a licence may only be granted if the purposes for which the land is to be used under the licence are consistent with the objects of this local law; and
- (b) a licence cannot be granted under this section over trust land (In the case of trust land, rights of occupation are governed by the Land Act 1994.).

Term of licence

18. (1) The term of a licence must be stated in the licence.

(2) The term of a licence cannot be more than 30 years.

Conditions of licence

19. (1) A licence may be granted on conditions the local government considers appropriate.

(2) The conditions may, for example:

- (a) require the holder of the licence to make periodic payments to the local government; and
- (b) require the holder of the licence to make facilities installed under the licence available for use by the public at specified times or over specified periods; and
- (c) require the holder of the licence to take specified precautions to protect the safety of persons who enter the land subject to the licence; and
- (d) require the proper maintenance of equipment and facilities; and
- (e) require the holder of the licence to insure itself and

the local government against liability for injury, loss or damage arising on the land subject to the licence.

(3) The local government may, by local law policy, prescribe conditions that must be imposed in a permit or will ordinarily be imposed in a permit.

Revocation of licence

20. (1) The local government may, by written notice to the holder of a licence, revoke the licence for contravention of a condition of the licence.

- (2) However, before revoking the licence, the local government must:
- (a) give the holder of the licence written notice inviting the holder to make written representations about the proposed revocation within a reasonable time fixed in the notice; and
 - (b) if the holder of the licence makes written representations within the time allowed in the notice-take the representations into account.

PART 6 - ENFORCEMENT

Compliance orders

21. (1) If a person (the "offender") engages in conduct that is, or is preparatory to, a contravention of a provision of this local law, an authorised person may require the offender:

- (a) if the conduct is still continuing- to stop the conduct; and
- (b) whether or not the conduct is still continuing- to take specified action to remedy the contravention.

Example:

If the offender lights a fire in a reserve in contravention of this local law, an authorised person may require the offender to put the fire out.

- (2) A person must comply with an order under this section.

Maximum penalty 20 penalty units.

Power to secure compliance with order

22. If a person does not comply with a compliance order, the authorised

person may take action reasonably necessary to have the order carried out and may use reasonable force for the purpose.

PART 7 - MISCELLANEOUS

Damage to parks and reserves

23. A person must not, without the local government's permission damage or interfere with

- (a) vegetation growing in a park or reserve; or
- (b) facilities, notices or equipment in a park or reserve.

Maximum penalty 50 penalty units.

Local law policies (See section 464 of the Local Government Act 1993.)

24. The local government may make local law policies about

- (a) designating land under the local governments control as a park or reserve, changing the boundaries of a park or reserve, or assigning a name to or changing the name of a park or reserve; (See sections 5,6 and 7.) or
- (b) the opening hours for a park or reserve; (See section 8.) or
- (c) designating a park or reserve or a particular part of a park or reserve as available for motor vehicle access, or restricting the kinds of vehicles that may be brought onto a park or reserve or a particular part of a park or reserve; (See section 9.) or
- (d) prohibiting the bringing of animals, or animals of a specified species into a park or reserve; (See section 10.) or
- (e) closing a park or reserve or part of a park or reserve to public access; (See section 11(2).) or
- (f) permitting fires in a park or reserve; (See section 12(a).) or
- (g) prescribing conditions for the use of facilities provided by the local government on a park or reserve; (See section 14.) or
- (h) prohibited or restricted activities; (See sections 15 and 16.) or
- (i) conditions of licences; (See section 19(3).) or

- (j) other matters about which this local law specifically allows for the making of local law policies.

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