

THURINGOWA CITY COUNCIL

LOCAL LAW NO.18M (SWIMMING POOLS)

SUMMARY OF PROVISIONS

PART 1 - PRELIMINARY

1. Citation
2. Objects
3. Definitions

PART 2 - SWIMMING POOLS GENERALLY

Division 1 - Inspection of swimming pools

4. Power of inspection

Division 2 - Compliance notices

5. Compliance notices

Division 3 - Local government's power to carry out work

6. Local government's power to have work carried out
7. Powers of entry and cost recovery

PART 3 - PUBLIC POOLS

8. Permit required for operation of public pool
9. Application for permit
10. Grant of permit
11. Term of permit
12. Conditions of permit
13. Power to change conditions of permit
14. Compliance with conditions of permit
15. Transfer of permit
16. Suspension or cancellation of permit

PART 4 – MISCELLANEOUS

17. Notice of intention to empty public pool

PART 5 - LOCAL LAW POLICIES

18. Local law policies
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PART 1 – PRELIMINARY

Citation

1. This local law may be cited as Local Law No.18M (Swimming Pools).

Objects

2. 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 nuisance to adjoining occupiers or others;
 - (c) public pools are properly managed and supervised.

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.

“**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.

“**permit**” means a permit to operate a swimming pool as a public pool.

“**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 made available by the body corporate of a group subdivision scheme for use by the owners or occupiers of lots in the scheme or their invitees;

Examples:-

- *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*;

“**the Act**” means the *Local Government Act 1993*.

PART 2 - SWIMMING POOLS GENERALLY

Division 1 - Inspection of swimming pools

Power of inspection

4. (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.

Division 2-Compliance notices

Compliance notices

5. (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.

Division 3 - Local government's power to carry out work

Local government's power to have work carried out

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

Powers of entry and cost recovery

7. (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 3-PUBLIC POOLS

Permit required for operation of public pool

8. The owner of a swimming pool must not operate the pool, or permit its operation, as a public pool unless authorised by a permit under this Part.

Maximum penalty-200 penalty units.

Application for permit

9. An application for a permit 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
 - (e) other information and materials required under local law policies.

Grant of permit

10. (1) The local government may grant a permit if satisfied that:-

- (a) the equipment for chlorination, filtration and recirculation of swimming pool water is adequate to protect public health; and
- (b) the management and supervision of the swimming pool will be adequate to protect public safety and prevent nuisance; and
- (c) 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.

(2) A local law policy may specify criteria for the grant of a permit.

Term of permit

11.(1) A permit is to be granted for a term specified in the permit.

(2) The local government may, from time to time, on application by the holder of a permit, renew the permit.

(3) The term for which a permit is granted or renewed is to be:-

- (a) fixed as required by a relevant local law policy; or
- (b) in the absence of a relevant local law policy-decided by the local government when it grants the permit or the renewal.

Conditions of permit

12.(1) A permit may be granted on conditions the local government considers appropriate.

(2) The conditions of a permit 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;

(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;

(c) require the regular testing of the water to ensure that biological contaminants are kept within acceptable levels;

- (d) require the installation of special equipment for filtering, purifying and recirculating the water;
 - (e) require the provision of dressing rooms and facilities for showering and sanitation.
- (3) However the conditions of the permit must be consistent with the conditions of any statutory authorisation or approval for the installation of the swimming pool.
- (4) The local government may, by local law policy, prescribe conditions that must be imposed in a permit or that will ordinarily be imposed in a permit.

Power to change conditions of permit

- 13.(1) The local government may, by written notice given to the holder of a permit, change³ the conditions of the permit.
- (2) However, the local government may only change the conditions of a permit if:-
- (a) the holder of the permit agrees to the proposed change; or
 - (b) the local government:-
 - (i) gives the holder of the permit reasonable written notice of the proposed change inviting the holder to make written representations about the proposed change within a reasonable period fixed in the notice; and
 - (ii) if the holder makes written representations within the time allowed in the notice-takes the representations into account.

Compliance with conditions of permit

14. The holder of a permit must ensure that the conditions of a permit are complied with.

Maximum penalty-200 penalty units.

Transfer of permit

15. (1) The holder of a permit may, with the approval of the local government, transfer the permit to another person.
- (2) The local government may impose conditions on the transfer of a permit.
- (3) However, the local government cannot:-
- (a) unreasonably refuse its approval of the transfer of a permit; or
 - (b) impose unreasonable conditions on the transfer of a permit.

Suspension or cancellation of permit

16.(1) If the holder of a permit contravenes a condition of the permit, or fails to comply with a compliance notice, the local government may, by written notice given to the holder of the permit, suspend or cancel the permit.

(2) However, before suspending or cancelling a permit, the local government must:-

- (a) give written notice to the holder of the permit of the proposed suspension or cancellation; and
- (b) allow the holder of the permit a reasonable period stated in the notice to make written representations to the local government about the proposed suspension or cancellation; and
- (c) consider representations made in response to the notice.

PART 4-MISCELLANEOUS**Notice of intention to empty public pool**

17.(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.

PART 5-LOCAL LAW POLICIES**Local law policies**

18. The local government may make local law policies about:-

- (a) the information and materials that must be included in or accompany an application for a permit;⁴ or
 - (b) the criteria for granting a permit⁵; or
 - (c) the term for which a permit is to be granted or renewed⁶; or
 - (d) the conditions that must, or will ordinarily, be imposed in a permit⁷; or
 - (e) other matters about which this local law specifically allows for the making of local law policies.
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Footnotes

- 1 For power to enter premises, see Chapter 15, Parts 4 and 5 of the Act.
- 2 Section 1067(2) of the Act provides for the payment of interest on the same basis as for an overdue rate.
- 3 A “**change**” to the conditions of a permit includes a change by omission, substitution or addition. (See *Acts Interpretation Act 1954*, s. 36)
- 4 See section 9(e).
- 5 See section 10(2).
- 6 See section 11(3).
- 7 See section 12(4).

This and the preceding 7 pages bearing my initials is a certified copy of Local Law No. 18M (Swimming Pools) made in accordance with the provisions of the Local Government Act 1993, by the Thuringowa City Council by resolution dated nineteenth day of May, 1999.

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Chief Executive Officer