

Your reference  
Our reference  
Contact Officer  
Telephone



**Ipswich City Council**

45 Roderick St  
PO Box 191  
Ipswich QLD 4305  
Australia

**Tel** (07) 3810 6666  
**Fax** (07) 3810 6731  
**Email** [council@ipswich.qld.gov.au](mailto:council@ipswich.qld.gov.au)  
**Web** [www.ipswich.qld.gov.au](http://www.ipswich.qld.gov.au)

Research Director  
Health and Ambulance Services Committee  
Parliament House  
George Street  
Brisbane Qld 4000

Email: [hasc@parliament.qld.gov.au](mailto:hasc@parliament.qld.gov.au)

11 December 2015

Dear Sir/Madam

**Re: Submission on the Tobacco and other Smoking Products (Smoke-free Places) Amendment Bill 2015**

Thank you for the opportunity to provide a submission on the proposals made in the *Tobacco and Other Smoking Products (Smoke-free Places) Amendment Bill 2015*.

Ipswich City Council is supportive of the State Governments approach to provide more consistency and eligibility of smoke-free places across Queensland. Our Council was the first Council to implement smoke-free places at public transport waiting points and pedestrian malls under the provisions of the current Act and via our own local law. We have seen great behaviour change in those smoke-free places over the last couple of years where the laws have left a positive indent on the social fabric. We are especially supportive of the inclusion of provisions that allow Local Governments to create their own smoke-free local laws for other areas under Local Government control.

Below are some specific observations of the proposals made in the Bill for consideration:

**Public Transport Waiting Points (PTWPs)**

- Agree that a 5m area be allocated to PTWPs smoke-free areas to create consistency with other smoke-free areas in the legislation.
- Council has concerns where there is an exemption for a person walking through the buffer area. Whilst this might be okay for a single PTWP, a quasi-transit area or area where there is a connection of bus and taxi ranks such as those in Bell Street, Ipswich would be a different scenario in that almost the entire street is a PTWP and should a person be caught smoking, they could merely claim that they are walking through the area. This could be exploited by some people. This needs careful

consideration as it weakens the existing laws that Ipswich has in place. It might even be used as an excuse when walking through other smoke free areas eg walking through a mall, a park. These areas should be determined to be free of smoking (full stop) and therefore the 'walk through' defence does not apply.

- Proving the elements of the offence is easier with ICC local law provisions/penalties than those proposed. The offences and definitions are clearer for compliance officers and the general public to understand. We would suggest that the Bill be reflected with the Ipswich City Council provisions given it has been successfully operational for over two years, especially the power to issue a fine if someone doesn't comply with the direction by an Authorised Person to not smoke in a smoke-free area. Copies of the relevant local laws are attached.

### **Outdoor Pedestrian Malls**

- The Bill prescribes that an outdoor pedestrian mall means a mall established under the *Local Government Act 2009* (section 80A) and subsequent Regulation which means it has to be captured in the Planning Scheme. Prescription of the mall under a Planning Scheme is onerous. A Council Resolution or a determination by a local/subordinate local law could provide the same outcome with less administration whilst meeting legislative and community needs.

### **Public Swimming Facilities**

- A public swimming facility includes the associated area, such as the area providing access to the pool, an area adjacent to the pool provided to watch swimmers or sunbathe, the kiosk and seating area. It also includes any area within a fence or wall around the pool (if applicable).
- Proving the elements of an offence may be difficult if a pool is unfenced and determining what an 'associated area' is. This could be rectified by having the associated area defined by a Council resolution for each applicable area- including a map. This would also assist should Councils wish to create a local law in the future to further expand a smoke free area at an unfenced pool (eg lagoon) so it is clear what is a smoke-free area under the Tobacco Act and a potential smoke-free area local law.

### **Skate Parks**

- Council can see the public health benefits of such a proposal.

### **Under-Age Sporting Event - Sporting Grounds and Spectator Areas**

- Council can see the public health benefits of such a proposal.
- The nominated area is stated as 'land within 10m beyond the boundary of the sporting ground or the viewing area (etc)'. This needs further explanation. What if the area is fenced? What is the boundary (sideline or other determined area)? Clearer definitions are required to allow Council staff to undertake compliance duties as required; but also to give clear direction for people using these facilities on what is a smoke-free area.

**Enforcement**

- State and local governments can administer and enforce any provision under the amended Tobacco Act however the amended Bill makes it clear that local governments are not required to enforce any provision under the Tobacco Act but can choose to do so if they wish.
- For each offence within the amended Bill where a 'person must not smoke within a smoke-free area', an additional offence should be included where a 'person does not comply with a verbal direction by an authorised person to cease smoking'. This is captured in some new proposals but not all. It should be across all offences to be consistent.
- In the rollout of Ipswich City Council's smoke-free areas local laws we requested the Queensland Police Service to do joint patrols as they have the power to demand a name and address from offenders. If the Police aren't with Council staff some offenders just ignore Council staff. The proposed amendments should include the power for Council Authorised Persons to demand a name and address; and the Queensland Police Service should be authorised to administer and enforce the proposed Act.

Should you have any queries or require further information about any of the above please contact me on [REDACTED]

Yours sincerely

[REDACTED]

**Barbara Dart**  
**MANAGER - STRATEGIC POLICY AND SYSTEMS**  
**HEALTH, SECURITY AND REGULATORY SERVICES DEPARTMENT**

attach

# Ipswich

City Council

*Local Law No. 8  
(Nuisances and Community  
Health and Safety) 2013*

## Contents

---

<b>PART 1</b>	<b>PRELIMINARY .....</b>	<b>3</b>
1	<i>Short title.....</i>	3
1A	<i>Commencement.....</i>	3
2	<i>Object.....</i>	3
3	<i>Definitions—the dictionary.....</i>	4
4	<i>Relationship to other laws .....</i>	4
<b>PART 2</b>	<b>PERMITS AND PROHIBITED ACTIVITIES .....</b>	<b>4</b>
5	<i>Requirement for a permit .....</i>	4
5A	<i>Prohibited activities .....</i>	6
<b>PART 3</b>	<b>NUISANCES.....</b>	<b>6</b>
6	<i>Prohibition of a nuisance .....</i>	6
7	<i>Commission of a nuisance.....</i>	7
8	<i>Exclusion from liability.....</i>	11
<b>PART 4</b>	<b>WASTE CONTAINER .....</b>	<b>12</b>
9	<i>Placement of waste containers outside property boundaries .....</i>	12
<b>PART 5</b>	<b>SHOPPING TROLLEYS .....</b>	<b>12</b>
10	<i>Definitions for Part 5.....</i>	12
11	<i>Shopping trolleys to remain with retail premises .....</i>	14
12	<i>Identification of shopping trolleys .....</i>	14
13	<i>Impoundment and collection notices.....</i>	15
14	<i>Claiming or collecting a shopping trolley.....</i>	15
15	<i>Disposal of trolleys.....</i>	16
<b>PART 6</b>	<b>SMOKE FREE AREAS.....</b>	<b>16</b>
16	<i>Definitions for part 6— .....</i>	16
17	<i>No smoking in a smoke free area.....</i>	16
18	<i>Direction.....</i>	17
<b>PART 7</b>	<b>SUBORDINATE LOCAL LAWS .....</b>	<b>17</b>
19	<i>Subordinate local laws .....</i>	17
<b>PART 8</b>	<b>TRANSITION, SAVINGS AND REPEALS .....</b>	<b>18</b>
20	<i>Repeals.....</i>	18
21	<i>Existing Permits.....</i>	19
<b>SCHEDULE 1</b>	<b>DICTIONARY.....</b>	<b>20</b>
<b>SCHEDULE 2</b>	<b>PERMIT REGULATED ACTIVITIES.....</b>	<b>25</b>
<b>SCHEDULE 3</b>	<b>PROHIBITED ACTIVITIES .....</b>	<b>26</b>
<b>ENDNOTES.....</b>		<b>27</b>

1	<i>Index to Endnotes.....</i>	<i>27</i>
2	<i>Date to which amendments incorporated.....</i>	<i>27</i>
3	<i>Key.....</i>	<i>27</i>
4	<i>Table of reprints.....</i>	<i>27</i>
5	<i>List of Legislation .....</i>	<i>27</i>
6	<i>List of annotations .....</i>	<i>28</i>

## **Part 1                      Preliminary**

### **1            Short title**

This local law may be cited as *Local Law No. 8 (Nuisances and Community Health and Safety) 2013*

### **1A        Commencement**

- (1)      Section 11(3) of this local law commences on 1 July 2014.
- (2)      The remaining provisions of this local law commence on 1 August 2013

### **2            Object**

The object of this local law is to protect the community and its environment and amenity by eliminating or reducing nuisances and risks to the community's health and safety and in particular those resulting from —

- (a)      inadequate protection against animal and plant pests; and
- (b)      vegetation overgrowth; and
- (c)      visual pollution resulting from accumulation of objects and materials or from waste; and
- (d)      diminution of amenity by the emission of light;
- (e)      containers remaining kerbside for extended periods of time; and
- (f)      fires and fire hazards not regulated by State law; and
- (g)      safety hazards; and
- (h)      release of odours, smoke and waste water; and
- (i)      damaged, abandoned and unregistered vehicles; and
- (j)      unreasonable noise; and
- (k)      abandoned shopping trolleys; and
- (l)      smoking in public places.

### **3 Definitions—the dictionary**

- (1) The dictionary in the Schedule (Dictionary) defines particular words used in this local law.
- (2) The dictionaries in *Local Law No.1 (Administration) 2013* and *Local Law No.4 (Permits) 2013* also define words used in this local law.

### **4 Relationship to other laws**

- (1) The powers given by this local law must be exercised in a way that is not inconsistent with all Acts (including subordinate legislation) including—
  - (a) the *Environmental Protection Act 1994*; and
  - (b) the *Fire and Rescue Service Act 1990*; and
  - (c) the *Land Protection (Pest and Stock Route Management) Act 2002*; and
  - (d) the *Transport Operations (Road Use Management) Act 1995*; and
  - (e) the *Public Health Act 2005*;
  - (f) the *Land Act 1994*; and
  - (g) the *Police Powers and Responsibilities Act 2000*; and
  - (h) the *Plumbing and Drainage Act 2002*; and
  - (i) the *Building Act 1975*; and
  - (j) the *Sustainable Planning Act 2009*; and
  - (k) the *Work Health and Safety Act 2011*; and
  - (l) the *Food Production (Safety) Act 2000*.

## **Part 2 Permits and prohibited activities**

### **5 Requirement for a permit**

- (1) A person (other than a local government) must not undertake an activity which is a permit regulated activity<sup>1</sup>

---

<sup>1</sup> For the definition of *permit related activity* see the Schedule



- (a) unless authorised by a permit granted pursuant to this local law and *Local Law No.4 (Permits) 2013*<sup>2</sup>; or
- (b) unless authorised by an official sign exhibited on a local government controlled area or on a road.

Maximum penalty for subsection (1) –

- (a) for first offence – 20 penalty units.
- (b) for second offence within a 2 year period – 30 penalty units.
- (c) for third or further offences within a 2 year period – 50 penalty units.

unless the activity is an activity referred to in section 7 (Commission of nuisance) in which case the penalty is that prescribed in section 6 (Prohibition of a nuisance).

- (2) A person must not—
  - (a) exhibit a sign which indicates that a permit regulated activity which does not comply with this local law does comply with this local law; or
  - (b) in any manner or by any means indicate that a permit regulated activity which does not comply with this local law does comply with this local law.

Maximum penalty for subsection (2) –

- (a) for first offence – 20 penalty units.
- (b) for second offence within a 2 year period – 30 penalty units.
- (c) for third or further offences within a 2 year period – 50 penalty units.

- (3) Notwithstanding section 5(1) (Requirement for a permit and prohibited activities) of this local law, a permit is not required if—
  - (a) a local law or subordinate local law specifies that a permit is not required in respect of the undertaking of the permit regulated activity; or

---

<sup>2</sup> *Local Law No. 4 (Permits) 2013* sets out the procedures for the application, granting, conditioning and enforcement of permits

- (b) a local law or subordinate local law specifies circumstances under which a permit is not required in respect of the undertaking of the permit regulated activity; or
  - (c) the undertaking of the permit regulated activity is authorised by a Local Government Act.
- (4) Notwithstanding section 5(1) (Requirement for a permit and prohibited activities) of this local law, the holder of the permit must not undertake the permit regulated activity until all approvals required under legislation in respect of the permit regulated activity have been obtained.
- (5) For the purposes of section 5(1) (Requirements for a permit and prohibited activities) and the schedule (permit regulated activity) of this local law the activities specified in column 1 of schedule 2 are permit regulated activities.
- (6) For the purposes of section 5(3)(b) (Requirements for a permit and prohibited activities) of this local law a permit is not required for the permit regulated activities specified in column 1 of schedule 2 in the circumstances prescribed in column 2 of schedule 2.

## **5A Prohibited activities**

- (1) A person must not engage in a prohibited activity.
- Maximum penalty for subsection (1) — 50 penalty units
- (2) For the purposes of section 5A(1) (Prohibited activities) of this local law the activities listed in column 1 schedule 3 are prohibited activities other than in the circumstances listed in column 2 of schedule 3.

## **Part 3 Nuisances**

### **6 Prohibition of a nuisance**

- (1) A person must not do any act or omit to do any act which causes a nuisance.
- Maximum penalty for subsection (1)—
- (a) for first offence —10 penalty units.
  - (b) for second offence within a 2 year period —30 penalty units.
  - (c) for third or further offences within a 2 year period —50 penalty units.

- (2) Notwithstanding subsection (1), where the assessment of whether a nuisance exists is dependent on the opinion of an authorised person, the local government must issue a compliance notice before taking any other action.

## **7 Commission of a nuisance**

For the purposes of section 6 (Prohibition of a nuisance) of this local law, a nuisance shall be deemed to exist if—

- (1) an object or material on premises—
- (a) has been carried away by the wind and has caused—
    - (i) harm to human health or safety or personal injury; or
    - (ii) property damage or a loss of amenity; or
    - (iii) environmental harm or environmental nuisance; or
  - (b) is likely in an authorised person’s opinion to—
    - (i) be carried away by the wind; and
    - (ii) give rise to a risk of—
      - (A) harm to human health or safety or personal injury; or
      - (B) property damage or a loss of amenity; or
      - (C) environmental harm or environmental nuisance; or
- (2) the spillage of light from artificial illumination from a residential premises in a residential area onto a residential premises in a residential area exceeds the relevant light emission standards specified in a subordinate local law; or
- (3) a plant on premises—
- (a) is dangerous or otherwise hazardous; or
  - (b) attracts vermin; or
  - (c) is a fire hazard; or

- (d) has caused personal injury or serious property damage (damage as a result of leaf matter, flower petals, twigs and sap does not constitute serious property damage); or
- (e) is likely in the authorised person's opinion to—
  - (i) be dangerous or otherwise hazardous; or
  - (ii) attract vermin; or
  - (iii) be a fire hazard; or
  - (iv) give rise to a risk of harm to human health or safety, personal injury or serious property damage (damage as a result of leaf matter, flower petals, twigs and sap does not constitute serious property damage); or
- (4) an act or omission on premises—
  - (a) has caused the breeding or harbouring of flies or vermin; or
  - (b) is likely in an authorised person's opinion to give rise to the breeding or harbouring of flies or vermin; or
- (5) a plant or animal on a premises is a declared pest; or
- (6) a declared pest has been sold, displayed or offered for sale or supplied; or
- (7) a release on residential premises of odours, gas, fumes, smoke, dust, particles or aerosols in the authorised person's opinion—
  - (a) has caused—
    - (i) harm to human health or safety or personal injury; or
    - (ii) property damage or a loss of amenity; or
    - (iii) environmental harm or environmental nuisance; or
  - (b) is likely to give rise to a risk of—
    - (i) harm to human health or safety or personal injury; or
    - (ii) property damage or a loss of amenity; or
    - (iii) environmental harm or environmental nuisance; or

- (8) fencing on premises—
- (a) is dangerous fencing; or
  - (b) has caused personal injury or property damage; or
  - (c) is likely in the authorised person’s opinion to give rise to a risk of personal injury or property damage; or
- (9) a dead animal remains on premises—
- (a) has caused harm to human health or safety or personal injury; or
  - (b) is likely in an authorised person’s opinion to give rise to a risk of harm to human health or safety or personal injury; or
- (10) a fire hazard exists on premises; or
- (11) the driving, standing, wheeling or riding of a vehicle on, footpath, water channel or gutter—
- (a) has caused personal injury or property damage; or
  - (b) is likely in the authorised person’s opinion to give rise to a risk of personal injury or property damage; or
- (12) an vehicle has been abandoned on premises or a road by the person who last drove or used it;
- (13) a vehicle has been left unattended on premises or a road where—
- (a) the driver of the vehicle cannot be readily located or has failed to immediately remove the vehicle when required by an authorised person to do so and the vehicle has caused in an authorised person’s opinion, or, is likely to cause in an authorised persons opinion—
    - (i) danger, hindrance or obstruction to traffic or hindrance or obstruction to the use of a road for a lawful purpose; or
    - (ii) harm to human health or safety or personal injury; or
    - (iii) property damage or loss of amenity.
- (14) a wasp nest, bee hive (other than a bee hive to which the *Apiaries Act 1982* applies) or other insect nest on premises—

- (a) has caused personal injury or property damage; or
  - (b) is likely in the authorised person's opinion to give rise to a risk of personal injury or property damage; or
- (15) a fire has been lit and maintained in the open air on premises in a residential area except where the fire—
- (a) has been lit to cook food in or on a gas, wood or coal fire, barbeque or hangi and does not cause a nuisance pursuant to subsection (7); or
  - (b) has been authorised under the *Fire and Rescue Service Act 2004*; or
  - (c) only involves the lighting of a match, cigarette lighter, candle, lamp, blow torch or other such device or the use of a bee smoker.
- (16) there exists on premises a hole, well, excavation or other place which—
- (a) has caused personal injury or property damage; or
  - (b) is likely in the authorised person's opinion to give rise to a risk of personal injury or property damage; or
- (17) the aggregation or accumulation of any object or material on premises is in the reasonable opinion of an authorised person unsightly when viewed from any point outside the premises; or
- Example of paragraph (18)—*  
Unsightly objects or materials include discarded or disused machinery, rusted or broken down cars, bottles, containers, general rubbish or similar objects or materials.
- (18) vegetation on a premises is overgrown to the extent that -
- (a) in the reasonable opinion of an authorised person it has seriously affected the visual amenity of a premises or surrounding area; or
  - (b) in the reasonable opinion of an authorised person is likely to harbour reptiles or vermin;
- (19) a person parks or stores an unregistered or damaged vehicle or allows an unregistered or damaged vehicle to be parked or stored in a residential area;
- (20) a person discharges, deposits or allows the escape any waste water or other fluid onto any adjoining or proximate land or road;

- (21) a person offers or exposes goods for sale on a local government controlled area or road ;
- (22) a person does an act or omission specified in a subordinate local law that will give rise to a risk of—
  - (a) harm to human health or safety or personal injury; or
  - (b) property damage or a loss of amenity; or
  - (c) environmental harm or environmental nuisance.
- (23) in the opinion of an authorised person or the local government—
  - (a) a person does an act or makes an omission with the intention of causing a loss of amenity for neighbouring premises; and
  - (b) the act or omission results in a loss of amenity for neighbouring premises.

## **8 Exclusion from liability**

A person does not commit an offence against section 5 (Prohibition of a nuisance) of this local law if—

- (a) the nuisance is authorised or required in the performance of an express duty, express power or an approval under—
  - (i) the *Environmental Protection Act 1994*; or
  - (ii) the *Fire and Rescue Service Act 1990*; or
  - (iii) the *Land Protection (Pest and Stock Route Management) Act 2002*; or
  - (iv) the *Transport Operations (Road Use Management) Act 1995*; or
  - (v) the *Public Health Act 2005*; or
  - (vi) the *Land Act 1994*; or
  - (vii) the *Plumbing and Drainage Act 2002*; or
  - (viii) the *Building Act 1975*; or
  - (ix) the *Sustainable Planning Act 2009*; or

- (x) the *Workplace Health and Safety Act 1995*; or
  - (xi) the *Food Production (Safety) Act 2000*; or
  - (xii) another Act (including a local law); or
- (b) the act or omission is specified in a subordinate local law not to be a nuisance.
- (c) an approval been obtained permitting an activity which would, but for the conditions of the approval, constitute a nuisance.

## **Part 4            Waste container**

### **9            Placement of waste containers outside property boundaries**

- (1) The owner or occupier of premises where domestic or commercial waste is produced must —
- (a) not place any waste containers outside the property boundary earlier than the day before the day of collection; and
  - (b) bring all waste containers within the property boundary no later than the day after the day of collection.

Maximum penalty — 10 penalty units.

- (2) In relation to domestic waste it is a defence to a breach of, or non-compliance with, subsection (1) if the owner or occupier has a reasonable excuse.

Example

An example of reasonable excuse for domestic waste may include a resident is absent for personal or family reasons; or a resident is absent on business on work related activities.

## **Part 5            Shopping trolleys**

### **10          Definitions for Part 5**

In this Part—

***retail premises*** means the entire area owned, leased or utilised by a retailer including the area which is provided for the use of customers, including any car parking area, pedestrian walkways, common areas within a shopping centre or such other area approved by the local government by resolution.



**retailer** means any person who in connection with a retail or wholesale business owns, leases or otherwise makes shopping trolleys available for use by customers and includes any on-site or designated agent which provides the shopping trolleys for use by customers.

**shopping trolley** means a cart or wheeled basket used primarily for the carriage of goods by customers while on or in the retail premises.

**trolley containment system** means a wheel lock system or such other alternative system as Council may by subordinate local law prescribe to prevent shopping trolleys being removed from a retailer's premises, and to facilitate the return of the shopping trolleys to a designated location within the retail premises.

**wheel lock system** means a disabling device which makes the trolley inoperable, including by locking the wheels of the shopping trolley, if it is removed from or within a certain distance of a retail premises.

**impoundment notice** means a notice stating—

- (a) that the retailer's shopping trolley or shopping trolleys to which the notice relates have been impounded; and
- (b) that the retailer is required to claim the shopping trolley or trolleys; and
- (c) the period of not less than 14 days within which the shopping trolley or trolleys must be claimed ; and
- (d) that it is an offence not to claim an impounded shopping trolley within the period stated in the notice; and
- (e) that if the shopping trolley or trolleys are not claimed within the period stated in the notice that each shopping trolley is forfeited to the local government which may dispose of the shopping trolley or trolleys; and
- (f) the prescribed fee for claiming each shopping trolley.

**collection notice** means a notice stating —

- (a) that the retailer's shopping trolley or shopping trolleys to which the notice relates have been found outside the retail premises; and

- (b) the location at which the shopping trolley or trolleys have been found; and
- (c) the period of not less than 2 working days within which the shopping trolley or trolleys must be collected and removed by the retailer; and
- (d) that it is an offence not to collect and remove a shopping trolley to which the notice relates within the period stated in the notice.

## **11 Shopping trolleys to remain with retail premises**

- (1) A retailer must ensure that all of the shopping trolleys which the retailer provides for its customers remain within the retail premises.

Maximum penalty - 10 penalty units

- (2) It is a defence to a proceeding for a contravention of subsection 1 for the retailer to prove that it took all reasonable measures to ensure that the shopping trolley remains within the retail premises.

*Examples of reasonable measures may include development and implementation of a trolley containment system.*

- (3) A retailer must implement a trolley containment system —
  - (a) if the number of shopping trolleys owned, leased or otherwise made available to customers by that retailer exceeds the number prescribed by subordinate local law; or
  - (b) if otherwise prescribed by subordinate local law.

Maximum penalty - 50 penalty units

- (4) The local government may resolve to exempt a retailer from implementing a trolley containment system on such conditions it considers appropriate.

## **12 Identification of shopping trolleys**

- (1) A retailer must display the following information on each shopping trolley—
  - (a) the name of the retailer;
  - (b) contact details, including a telephone number to report shopping trolleys found or abandoned outside of the retailer's premises; and
  - (c) any other information prescribed by subordinate local law.

- (2) The information must be—
  - (a) legible;
  - (b) conspicuously displayed; and
  - (c) permanently affixed and not easily removed.

Maximum penalty - 10 penalty units

### **13 Impoundment and collection notices**

- (1) If a shopping trolley is found in a public place other than the retail premises then the local government may —
  - (a) seize and impound the shopping trolley and give an impoundment notice to the retailer ; or
  - (b) give the retailer a collection notice.
- (2) An impoundment notice or a collection notice may relate to one or more shopping trolleys.

### **14 Claiming or collecting a shopping trolley**

- (1) A person claiming an impounded shopping trolley within the period stated in an impoundment notice must—
  - (a) prove ownership or right to possession to the local government's satisfaction;
  - (b) sign a release, in the approved form, which releases the local government, an authorised person or other person acting in accordance with a local law from any claim or action for conversion or damages; and
  - (c) pay the prescribed fee.
- (2) It is an offence for a retailer to fail to claim a shopping trolley referred to in an impoundment notice given under section 13(1)(a) within the period stated in the notice.

Maximum penalty for each offence under subsection (2) - 50 penalty units

- (3) It is an offence for a retailer not to collect and remove each shopping trolley referred to in a collection notice given under section 13 (1)(b) within the period sated in the notice.  
Maximum penalty for each offence under subsection (3) - 50 penalty units
- (3) To avoid doubt, a failure to claim or collect each of the shopping trolleys referred to within an impoundment notice or collection notice within the period stated in the notice constitutes a separate offence.

## 15 Disposal of trolleys

- (1) The local government may dispose of any impounded shopping trolley not claimed within the period stated in an impoundment notice in accordance with section 41 (Confiscated goods) of *Local Law No. 1 (Administration) 2013*.
- (2) The retailer of a shopping trolley impounded or disposed of under this local law will have no cause of action for damages, conversion or otherwise against the local government, an authorised person or other person acting in accordance with a local law.

## Part 6 Smoke free areas

### 16 Definitions for part 6—

In this part—

***smoke free area*** means an area or areas declared in a subordinate local law to be a smoke free area.

***smoke*** has the meaning in the *Tobacco and Other Smoking Products Act 1998*.

***no smoking signs*** means a sign in the form and with the content prescribed by subordinate local law.

### 17 No smoking in a smoke free area

A person must not smoke in a smoke free area.

Maximum penalty - 10 penalty units

## **18 Direction**

- (1) A person must comply with a verbal direction of an authorised person not to contravene section 17 (No smoking in a smoke free area) of this local law.

Maximum penalty - 20 penalty units

- (2) Any direction given under subsection (1) is in addition to any other action that may be taken by the local government or authorised person under this or any other local law.<sup>3</sup>

## **Part 7 Subordinate local laws**

### **19 Subordinate local laws**

- (1) The local government may make a subordinate local law with respect to—
- (a) when a permit is not required for undertaking a permit regulated activity pursuant to section 5 (Requirement for a permit) of this local law; and
  - (b) light emission standards for the purposes of section 7(2) (Commission of a nuisance) of this local law; and
  - (d) an act or omission that is a nuisance pursuant to section 7(22) (Commission of a nuisance) of this local law; and
  - (e) an act or omission that is not a nuisance pursuant to section 8(b) (Exclusion from liability) of this local law; and
  - (f) a trolley containment system pursuant to section 10 (Definitions for part 4); and
  - (g) the number of shopping trolleys pursuant to section 10 (Definitions for part 4); and
  - (h) information to be included on shopping trolleys pursuant to section 10 (Definitions for part 4); and
  - (i) areas declared as a smoke free area pursuant to section 11 (Definitions for part 5); and

---

<sup>3</sup> For example the *Environmental Protection Act*, section 440D provides the general offence of littering which would apply to the disposal of cigarette butts.

- (j) a fence as a dangerous fence pursuant to the Schedule (Dictionary— definition of dangerous fence)) of this local law; and
- (k) a place specified as a footpath pursuant to the Schedule (Dictionary— definition of footpath) of this local law; and
- (l) activities that are permit regulated activities pursuant to the Schedule (Dictionary— definition of permit regulated activity) of this local law; and
- (m) a plant or animal as a declared pest pursuant to the Schedule (Dictionary— definition of declared pest) of this local law; and
- (n) a thing as a fire hazard pursuant to the Schedule (Dictionary— definition of fire hazard) of this local law;

## **Part 8 Transition, Savings and Repeals**

### **20 Repeals**

The following Local Laws are repealed —

- Local Law No.8 (Control of Pests) 2005, gazetted 20 May 2005
- Local Law No.9 (Entertainment Venues) 1999, gazetted 18 June 1999
- Local Law No. 10 (Health and Safety) 1999, gazetted 13 August 1999
- Local Law No. 18 (Control of Nuisances) 1998, gazetted 27 November 1998
- Local Law No. 22 (Water Supply) 1999, gazetted 18 June 1999
- Local Law No. 23 (Telecommunications Cabling) 1997, gazetted 5 December
- Local Law No. 28 (Spray Painting) 1999, gazetted 18 June 1999
- Local Law No. 29 (Temporary Homes), gazetted 19 May 2000
- Local Law No. 45 (Construction of Dams) 1999, gazetted 18 June 1999
- Local Law No. 51 (Private Railways) 1999, gazetted 18 June 1999
- Interim Local Law No. 1 (Smoke Free Areas) 2013, gazetted 22 March 2013

## **21 Existing Permits**

Any person who immediately before the commencement of this local law held a permit under any local law to operate an activity which is now a licence regulated activity under this local law is taken to be a holder of a permit under this local law and *Local Law No. 4 (Permits) 2013* to operated that activity.

## Schedule 1     Dictionary

Section 3

**abandoned vehicle** includes an unregistered vehicle parked on a local government controlled area or road.

**approval** has the meaning given in *Local Law No. 1 (Administration) 2013* and includes all conditions of consent, permission, permit, licence, authorisation or approval.

**authorised person** means a person authorised by the local government under *Local Law No. 1 (Administration) 2013* to exercise the powers of an authorised person under this local law.

**cemetery** means a place for disposing of human remains by—

- (a) burial;
- (b) cremation; or
- (c) placement in a columbarium, mausoleum or vault.

**dangerous fencing** means any of the following —

- (a) a razor wire fence
- (b) a barbed wire fence adjoining local government controlled area
- (c) an electric fence adjoining a local government controlled area or road
- (b) a fence specified in a subordinate local law.

**damaged vehicle** means a vehicle which is in a condition which renders it unable to be used readily on a road

**declared pest** means a plant or animal declared to be a pest by a subordinate local law.

**facility** means any building, structure, car parking area, pedestrian access, vehicle access, fence, picnic shelter, toilet block, playground equipment, park bench, pond, waterfall, fountain, monument, amenities or grounds or any other fixture or fitting in or on a local government controlled area.

**fire hazard** means anything that because of its flammable or combustible nature, its position, or its quantity, exposes premises or other property (such as plant, equipment or chattels) to a significant risk of damage or destruction by fire and includes anything that is declared under a subordinate local law to be a fire hazard.



**footpath** has the meaning given in the *Transport Operations (Road Use Management) Act 1995* and includes a mall, a square, court or other public place specified as a footpath in a subordinate local law.

**hawking goods** includes selling or attempting to sell goods informally.

*Example —*

Selling flowers from a roadside stall or parking a vehicle a road with signage indicating that the vehicle is for sale.

**local government controlled area—**

(a) means land, facilities and other infrastructure owned, held in trust or otherwise controlled by the local government, other than a road; and

*Examples of local government controlled areas—*

- *parks, reserves and recreational areas*
- *conservation parks*
- *cemeteries*
- *local government operated library, including mobile libraries*
- *local government Chambers and local government offices*
- *jetties.*
- *a pedestrian mall*

(b) includes part of a local government controlled area.

**noise** includes vibration of any frequency, whether emitted through air or another medium.

**park** means a local government controlled area which the local government has resolved be set apart for as a park or for recreation or environmental purposes.

**occupation of a temporary home** means the use of a structure as a temporary place of residence which is not—

(a) a structure for erection which is constituted as development under the *Sustainable Planning Act 2009*; or

(b) the establishment or the occupation of a temporary home on or in a -

- (i) camping ground;
- (ii) caravan park; or
- (iii) part of the local government area excluded by subordinate local law.

**occupier** of premises means the person who has the control or management of the premises.

**permit regulated activity** means—

- (a) an activity which is specified as a permit regulated activity or nuisance in this local law; or
- (b) an activity which would ordinarily be prohibited by this local law or subordinate local law unless authorised by a permit; or
- (c) an activity which would ordinarily be prohibited by this local law or subordinate local law unless authorised by a permit, but for which a local law or subordinate local law specifies that a permit is not required.

**premises** means any land, building or structure, and includes any part thereof.

**prohibited activity** means the activities set out in schedule 3.

**planning scheme** means the planning scheme for Ipswich City Council made pursuant to the superseded *Integrated Planning Act 1997*, as amended pursuant to the *Planning Act* from time to time.

**public place** - see the Act, section 125(5).

**residential area** includes areas comprising predominantly residential development and land (other than *roads*), that is situated in one or more of the following zones or other similar designation under a *Structure Plan* under the Planning Scheme—

- (a) within the Urban Areas Locality—
  - (i) Large Lot Residential Zone;
  - (ii) Residential Low Density Zone;
  - (iii) Residential Medium Density Zone;
  - (iv) Character Areas - Housing Zone;
  - (v) Future Urban Zone;
  - (vi) Character Areas - Mixed Use Zone;
  - (vii) Business Incubator Zone;
  - (viii) Bundamba Racecourse Stables Area Zone;
  - (ix) Special Uses Zone;

- (x) Special Opportunity Zone;
- (b) within the Rosewood Locality—
  - (i) Character Areas - Housing Zone;
  - (ii) Residential Low Density Zone;
  - (iii) Residential Medium Density Zone;
  - (iv) Urban Investigation Zone;
- (iv) Special Uses Zone;
- (c) within the City Centre Locality—
  - (i) Residential High Density Zone;
- (d) within the Township Locality—
  - (i) Township Residential Zone;
  - (ii) Township Character Housing Zone;
  - (iii) Township Character Mixed Use Zone;
  - (iv) Stables Residential Zone;
  - (v) Special Uses Zone.
- (e) within the Springfield Structure Plan:
  - (i) Community Residential Designation.
- (f) within the Rural Locality—
  - (i) Rural Living Zone.

and includes land approved for residential development pursuant to a development approval, including a development which is recorded on the Planning Scheme pursuant to section 3.5.27 *Integrated Planning Act* 1997 or section 391 of the *Sustainable Planning Act* 2009.

**residential premises** means premises used for a residential use.

**residential use** means being used for residential purposes including as a domestic dwelling.

**road** means —

- (a) a road as defined in the Act, section 59; and
- (b) a State-controlled road in respect of which the chief executive has given written agreement under the *Transport Operations (Road Use Management) Act 1995*, section 66(5)(b) where that act requires such agreement.

**temporary home** means a structure used, or intended for use, as a place of residence on the land on which it is located but does not include a residential structure for the erection of which a development permit has been given, or is required.

*Examples -*

- a caravan;
- a car, bus, van or other used, or intended for use, as a place of residence;
- a tent;
- a prefabricated structure used, or intended for use, as a place of residence;
- a structure designed to be readily assembled and disassemble and used, or intended for use, as a place of residence.

**the Act** means the *Local Government Act 2009*.

**vegetation** includes a tree, bush, shrub, plant or grass, but does not include vegetation which is protected under a law of the State or Commonwealth or under any planning scheme.

**vehicle** see the *Transport Operations (Road Use Management) Act 1995*, schedule 4, definitions.

**waste container** means a wheelie bin or other receptacle which is used for the temporary storage of refuse such as garbage, recyclables, food scraps, vegetation matter or decomposing material pending collection or removal of the refuse.

## Schedule 2 Permit regulated activities

Section 5

<b>Column 1</b> <b>Permit regulated activities</b>	<b>Column 2</b> <b>Circumstances that do not require a permit under the Local Law</b>
Disturbance of human remains buried within or outside of a cemetery	A permit is not required for the disturbance of human remains on the order of a coroner or other lawful authority, including the local government.
Occupation of a temporary home	None prescribed

## Schedule 3 Prohibited activities

Section 5A

<b>Column 1 Prohibited Activity</b>	<b>Column 2 Circumstances in which activity not prohibited</b>
Burial or disposal of human remains outside of a cemetery.	The scattering of human cremated remains is not prohibited.
Interfering with a funeral or commemorative service being lawfully conducted in a cemetery or memorial area in the local government area	None prescribed

## Endnotes

### **1 Index to Endnotes**

- 2 Date to which amendments incorporated
- 3 Key
- 4 Table of reprints
- 5 List of legislation
- 6 List of annotations

### **2 Date to which amendments incorporated**

### **3 Key**

Key to abbreviations in list of legislation and annotations

<b>Key</b>	<b>Explanation</b>
------------	--------------------

amd	= amended
ch	= chapter
def	= definition
div	= division
hdg	= heading
ins	= inserted
om	= omitted
p	= page
pt	= part
renum	= renumbered
rep	= repealed
s	= section
sch	= schedule
sdiv	= subdivision

### **4 Table of reprints**

A reprint is issued upon the commencement of an amending instrument. A reprint is given the date of commencement of the amending instrument.

Table of reprints of this local law – no amendments

### **5 List of Legislation**

#### **Original Local Law**

*Local Law No.8 (Nuisances and Community Health and Safety) 2013*

date of gazettal 5 July 2013

## **6 List of annotations**



# Ipswich

City Council

*Subordinate Local Law No. 8.1  
(Nuisances and Community  
Health and Safety) 2013*

## Contents

---

<b>PART 1</b>	<b>PRELIMINARY</b>	<b>2</b>
1	<i>Short title</i>	2
2	<i>Authorising local law</i>	2
3	<i>Object</i>	2
4	<i>Definitions—the dictionary</i>	2
5	<i>Information and material required for permit application</i>	2
7	<i>Light emission standards</i>	3
<b>PART 2</b>	<b>SHOPPING TROLLEYS</b>	<b>3</b>
8	<i>Commencement</i>	3
9	<i>Definitions</i>	3
10	<i>Shopping trolleys to remain within retail premises</i>	3
11	<i>Identification of shopping trolley</i>	3
<b>PART 3</b>	<b>SMOKE FREE AREAS</b>	<b>3</b>
12	<i>Prescribing a smoke free area</i>	3
<b>SCHEDULE 1</b>	<b>DICTIONARY</b>	<b>4</b>
<b>SCHEDULE 2</b>	<b>INFORMATION FOR APPLICATIONS AND PERMIT CONDITIONS</b>	<b>5</b>
	Disturbance of human remains buried within or outside of a cemetery.	5
	Occupation of a temporary home	5
<b>SCHEDULE 3</b>	<b>LIGHT EMISSION STANDARDS</b>	<b>7</b>
<b>SCHEDULE 4</b>	<b>SHOPPING TROLLEYS</b>	<b>8</b>
Part 1	<i>Alternative Trolley Containment System</i>	8
Part 2	<i>Shopping trolleys to remain with premises</i>	8
Part 3	<i>Additional information to be affixed on shopping trolleys</i>	8
<b>SCHEDULE 5</b>	<b>SMOKE FREE AREAS</b>	<b>9</b>
<b>ENDNOTES</b>		<b>10</b>
1	<i>Index to Endnotes</i>	10
2	<i>Date to which amendments incorporated</i>	10
3	<i>Key</i>	10
4	<i>Table of reprints</i>	10
5	<i>List of legislation</i>	10
6	<i>List of annotations</i>	11

## **Part 1 Preliminary**

### **1 Short title**

This subordinated local law may be cited as *Local Law No. 8.1 (Nuisances and Community Health and Safety) 2013*.

### **2 Authorising local law**

The making of the provisions in this subordinate local law is authorised by *Local Law No.8 (Nuisance and Community Health and Safety) 2013* (the authorising local law).

### **3 Object**

The object of this subordinate local law is to assist in the implementation of *Local Law No.8 (Nuisances and Community Health and Safety) 2013* by specifying the nature of permit related activities, requirements and conditions in relation to permits and all other matters to effectively implement the objectives of the authorising local law.

### **4 Definitions—the dictionary**

The dictionary in the Schedule (Dictionary) defines particular words used in this subordinate local law.

### **5 Information and material required for permit application**

For the purposes of section 7(1)(c)(v) ( Application for a permit) of *Local Law No. 4 (Permits) 2013* an application for a permit to undertake a permit regulated activity specified in column 1 of schedule 2 (unless otherwise required by the local government) must be accompanied by the information, material and documents prescribed in column 2 of schedule 2.

### **6 Conditions of permit**

For the purposes of section 9(3) (Conditions of licence) of *Local Law No. 4 (Permits) 2013*, the conditions set out in column 3 of schedule 2 which relate to the activities specified in column 1 of schedule 2 will apply to any permit granted by the local government unless otherwise specified in the permit document.

## **7 Light emission standards**

For the purposes of section 7(b) (Commission of a nuisance) of the authorising law, schedule 3 specifies the light emission standard for the spillage of light from artificial illumination on residential premises.

## **Part 2 Shopping trolleys**

### **8 Commencement**

Section 10 of this subordinate local law commences on 1 July 2014.

### **9 Definitions**

For the purpose of section 10 (Definitions for part 5) of the authorising local law, schedule 4, part 1 prescribes the alternative trolley containment systems.

### **10 Shopping trolleys to remain within retail premises**

For the purposes of section 11(3) (Shopping trolleys to remain within retail premises) of the authorising local law, schedule 4, part 2 prescribes the circumstances in which a trolley containment system must be implemented by a retailer.

### **11 Identification of shopping trolley**

For the purposes of section 12(1) (Identification of shopping trolleys) of the authorising local law, schedule 4, part 3 prescribes information to be affixed and displayed on a shopping trolley.

## **Part 3 Smoke free areas**

### **12 Prescribing a smoke free area**

For the purposes of section 16 (Definitions for part 5) of the authorising local law, schedule 5, part 1 declares areas that are smoke free areas.

## Schedule 1                      Dictionary

Section 4

**bus zone** has the same meaning as bus zone in the *Transport Operations (Road Use Management) Regulation 2009*

**chief executive** means the chief executive of the department which administers Chapter 6 (Road Transport Infrastructure) of the *Transport Infrastructure Act 1994*;

**taxi zone** has the same meaning as taxi zone in the *Transport Operations (Road Use Management) Regulation 2009*

## Schedule 2 Information for applications and permit conditions

Sections 5 and 6

Column 1 Regulated Activity	Column 2 Documents, material or information required to accompany application for permit	Column 3 Standard Conditions
Disturbance of human remains buried within or outside of a cemetery.	<p>a) Details of when the disturbance is to take place.</p> <p>(b) The relationship of the applicant to the deceased.</p> <p>(c) A copy of the death certificate or medical certificate of cause of death of the deceased.</p> <p>(d) Written consent from the nearest living relative.</p> <p>(e) Written confirmation from a recognised undertaker that he/she is prepared to carry out the exhumation.</p> <p>(f) Details of the proposed method of disturbance.</p> <p>(g) If the disturbance is the opening of a grave for the purpose of burial of another in the same grave, written confirmation that was the express wish of both or all of the deceased persons who have been or are to be buried in the same grave.</p>	The disturbance of exhumation must only be carried out by a recognised undertaker.
Occupation of a temporary home	<p>a) Details of the location of the temporary home within the property on which the temporary home is located.</p> <p>(b) The address of the property on which the temporary home is or will be located.</p> <p>(c) A drawing showing the design and dimensions of the proposed temporary home.</p> <p>(d) Details of the materials out of which the temporary home is (or is to be) constructed and other structural details of the temporary home.</p>	<p>The permit holder must ensure that -</p> <p>(a) the site is kept clean and tidy and in good order and repair at all times;</p> <p>(b) the temporary home be provided with the basic amenities required for living on the site such as kitchen facilities, bathing facilities, laundry, toilet, sleeping accommodation and storage; and</p> <p>(c) construction of any permanent residence being constructed on the site must not cease for a period greater than 3 months.</p>

	<p>(e) If the applicant is not the owner of the land on which the temporary home is located the written consent of the owner to the application.</p> <p>(f) The purpose for which occupation is required.</p> <p><i>For example:</i></p> <ul style="list-style-type: none"><li>• <i>occupation of a caravan on land containing a permanent residence to be occupied by a person caring for an incapacitated person</i></li><li>• <i>occupation of the temporary home during the construction of a permanent residence living in the permanent residence</i></li></ul> <p>(g) The maximum number of occupants, adults and children, to be accommodated.</p> <p>(h) Details of toilet, bathing, laundry, water storage and refuse facilities to be provided.</p> <p>(i) Details of the current development approval for a permanent residence, if applicable.</p>	
--	---	--

## **Schedule 3                      Light emission standards**

section 7

The spillage of artificial illumination onto residential premises must not be unreasonable.

In determining what is unreasonable regard must be had to—

- (a) whether the light spillage is likely to cause irritation, annoyance or distress to others; and
- (b) whether the spillage of artificial illumination exceeds the recommended maximum values of light technical parameters for the control of obtrusive light in light from an artificial illumination specified in Table 2.1 (Recommended maximum values of light technical parameters for the control of obtrusive light) of Australian Standard 4282 (Control of the obtrusive effects of outdoor lighting).



## **Schedule 4                      Shopping Trolleys**

sections 9, 10 and 11

### **Part 1                      Alternative Trolley Containment System**

The following alternative trolley containment system is prescribed —  
None prescribed.

### **Part 2                      Shopping trolleys to remain with premises**

The following retailers must implement a trolley containment system —

- (a) Any retailer with more than 20 shopping trolleys; or
- (b) If the retailer receives two or more infringement notices for the contravention of section 11(1) (Shopping trolleys to remain within retail premises) of the authorising law for the same retail premises during any 12 month period unless the local government resolves other wise.

### **Part 3                      Additional information to be affixed on shopping trolleys**

None prescribed.

## **Schedule 5                      Smoke Free Areas**

section 12

The following areas are declared to be smoke free areas—

- (a) the pedestrian malls—
  - (i) in Nicholas Street, Ipswich between Limestone Street and Brisbane Street;
  - (ii) in Nicholas Street, Ipswich between Brisbane Street and the north end of Nicholas Street; and
  - (iii) in Union Street, Ipswich.
  
- (b) at all bus stops on local government controlled roads or State-controlled or other roads as agreed to by the chief executive:
  - (i) within 4 metres from any bus stop sign erected at the bus stop; or
  - (ii) within 4 metres of any bus zone; or
  - (iii) within 4 metres of any seat or shelter associated with a bus stop or bus zone.
  
- (c) at all taxi ranks on local government controlled roads or State-controlled or other roads as agreed to by the chief executive:
  - (i) within 4 metres of any taxi rank sign erected at a taxi rank; or
  - (ii) within 4 metres of any taxi zone; or
  - (iii) within 4 metres of any seat or shelter associated with a taxi rank or taxi zone.

## Endnotes

- 1 Index to Endnotes**
- 2 Date to which amendments incorporated
- 3 Key
- 4 Table of reprints
- 5 List of legislation
- 6 List of annotations

### **2 Date to which amendments incorporated**

This reprint includes all amendments that commenced operation on or before the

### **3 Key**

Key to abbreviations in list of legislation and annotations

#### **Key Explanation**

amd = amended  
ch = chapter  
def = definition  
div = division  
hdg = heading  
ins = inserted  
om = omitted  
p = page  
pt = part  
renum = renumbered  
rep = repealed  
s = section  
sch = schedule  
sdiv = subdivision

### **4 Table of reprints**

A reprint is issued upon the commencement of an amending instrument. A reprint is given the date of commencement of the amending instrument.

Table of reprints of this local law – no amendments

### **5 List of legislation**

#### **Original Local Law**

*Local Law No.5 (Parking) 2013*

date of gazettal 5 July 2013

## **6 List of annotations**