

**BANANA SHIRE COUNCIL  
LOCAL LAW NO. 9 (PUBLIC AERODROMES) 2011**

**TABLE OF PROVISIONS**

**PART 1 - PRELIMINARY**

1.	Citation.....	1
2.	Objects .....	1
3.	Definitions.....	1

**PART 2 - LOCAL GOVERNMENT AERODROMES**

4.	Establishment of aerodromes .....	2
5.	Use by aircraft .....	3
6.	Closure of aerodrome.....	3
7.	Leases and licenses .....	3

**PART 4 - FEES AND CHARGES**

8.	Scale of fees and charges .....	4
----	---------------------------------	---

**PART 5 - REGULATION OF USE OF AERODROME**

9.	Entry and use landside .....	4
10.	Entry and use airside .....	4
11.	Compliance with signage.....	5
12.	Prohibited conduct .....	5
13.	Damage to aerodromes.....	6

**PART 6 - AUTHORITY OF AUTHORISED PERSON**

14.	Obey directions of authorised person.....	7
15.	Provide information to authorised person.....	7
16.	Removal of persons from an aerodrome .....	8
17.	Exclusion from aerodromes .....	8
18.	Power to remove or reduce danger.....	8
19.	Seizure and detention of dangerous objects .....	8
20.	Obligations of land owners/occupiers.....	9
21.	Compliance notices on adjoining properties .....	10
22.	Local Government's power to have work carried out .....	10

**PART 9 - LOCAL LAW POLICIES**

23.	Local law policies .....	11
-----	--------------------------	----

**BANANA SHIRE COUNCIL  
LOCAL LAW NO. 9  
(PUBLIC AERODROMES) 2011**

**PART 1 - PRELIMINARY**

**Citation**

1. This local law may be cited as Banana Shire Council Local Law No. 9 (Public Aerodromes) 2011.

**Objects**

2. The objects of this local law are to -
  - (a) provide for rights of entry and use of aerodromes controlled by the Local Government; and
  - (b) provide for fees and charges for the above rights; and
  - (c) provide for regulation of use of aerodromes; and
  - (d) provide for the powers and authority of persons authorised by the Local Government for the purposes of this local law; and
  - (e) provide for penalties for breaches of the local law; and
  - (f) provide for liability arising out of use of aerodromes.

**Definitions**

3. In this local law -

"Act" means the *Local Government Act 1993*;

"aerodrome" means any aerodrome within the Area owned by or under the control of the Local Government;

"aircraft" includes any form of fixed wing aircraft or aeroplane, helicopter, ultra light, glider, hang-glider, dirigible, airship, hot air balloon, or any form of craft capable of carrying at least one person whilst sustaining itself off the ground;

"airside" means any area of an aerodrome where aircraft movements are conducted, including:-

- (a) all aprons and areas on the operational side of any security fencing;
- (b) areas designated as such by any signage;
- (c) any area provided for the storage of aviation fuels; and
- (d) any area set aside for radio navigation aids, communication, or ground equipment;

**"Area"** means the area of the Shire of Banana;

**"authorised person"** means -

- (a) the Chief Executive Officer; and
- (b) a person authorised by the Local Government to exercise the powers of an authorised person under this local law;

**"Chief Executive Officer"** means the Local Government's Chief Executive Officer;

**"compliance notice"** see section 21 of this local law;

**"landside"** means any part of an aerodrome which is not airside;

**"Local Government"** means Banana Shire Council;

**"operator"** of an aircraft includes, in respect of commercial operations, the holder of the licence under whose authority the flight is being conducted, and, in respect of private operations, includes any hirer or cross-hirer of an aircraft. The terms also includes the pilot of the aircraft, the owner of the aircraft, or any person who is or who appears to be in control of the aircraft;

**"owner"** in respect of an aircraft includes a lessee, lessor, charterer, holder of a certificate of registration of an aircraft, or any person who is or who appears to be in control of an aircraft.

## **PART 2 - LOCAL GOVERNMENT AERODROMES**

### **Establishment of aerodromes**

4. The Local Government may, subject to the *Integrated Planning Act 1997*, establish an aerodrome on land under the Local Government's control<sup>1</sup>.

---

<sup>1</sup>

This would be subject to other relevant legislation. See, for example, the *Civil Aviation Act 1998* (Commonwealth) and the *Civil Aviation Regulations*.

### **Use by aircraft**

5. (1) Any Local Government aerodrome within the Area will be used by aircraft in accordance with relevant laws relating to air navigation<sup>2</sup>.
- (2) The Local Government may, by local law policy, prescribe opening hours for the use of an aerodrome by aircraft.
- (3) The Local Government may, by local law policy, provide that an aerodrome is not to be open or used for night flying by aircraft.
- (4) The Local Government may, by local law policy, provide that an aerodrome is not to be open or used for flying by aircraft in wet weather, or immediately after wet weather where the surface of the aerodrome may be, or may reasonably be, expected to be unsafe for the landing or departure of aircraft.

### **Closure of aerodrome**

6. (1) An authorised person may close, or prohibit access to, or prohibit the use of, the whole or part of an aerodrome by any and all persons, aircraft or vehicles at any time and for such times as he or she thinks fit.
- (2) No person shall enter any area to which access is prohibited.

Maximum penalty - 200 penalty units.

### **Leases and licenses**

7. Nothing in this local law derogates from the provisions of any lease or licence granted by the Local Government.

## **PART 4 - FEES AND CHARGES**

### **Scale of fees and charges**

8. (1) The Local Government may impose fees and charges for each and every right of use of an aerodrome<sup>3</sup>.

*Examples -*

---

<sup>2</sup> See, for example, the *Civil Aviation Act 1998* (Commonwealth) and the *Civil Aviation Regulations*.

<sup>3</sup> See section 19 of the Local Government's (Administration) Local Law No. 1.

*Fees may be imposed for landing at an aerodrome, or for parking or storing aircraft on the aerodrome, or for the number of embarking passengers (ie, so-called “passenger charges”).*

- (2) All persons who use an aerodrome in a manner for which a fee or charge is imposed under section 8.(1) of this local law are jointly and severally liable for the payment of fees and charges.

## **PART 5 - REGULATION OF USE OF AERODROME**

### **Entry and use landside**

9. Subject to compliance with this local law, members of the public and their vehicles may enter upon the landside areas of an aerodrome.

### **Entry and use airside**

10. Entry to and use of airside areas of an aerodrome is confined to the following persons and vehicles -
- (a) owners and operators, in the ordinary course of their business; and
  - (b) licensed air crew, in the ordinary course of their business; and
  - (c) students learning to fly aircraft, in the ordinary course of their flying lessons, under supervision of and in accordance with any directions given by aircraft operators; and
  - (d) aircraft maintenance personnel, in the ordinary course of their business; and
  - (e) aircraft and ground installation service personnel, in the ordinary course of their business; and
  - (f) aircraft passengers, under supervision of and in accordance with any directions given by aircraft operators; and
  - (g) aircraft, in accordance with relevant laws concerning air navigation<sup>4</sup>; and
  - (h) police, ambulance, fire and emergency services personnel, and their vehicles, in the ordinary course of their duties or in circumstances of an emergency; and

---

<sup>4</sup>

See, for example, the *Civil Aviation Act 1998* (Commonwealth) and the *Civil Aviation Regulations*.

- (i) any person or vehicle specifically authorised by an authorised person and in accordance with any conditions of such authorisation; and
- (j) authorised persons and their vehicles.

### **Compliance with signage**

- 11.** (1) All persons, whilst on an aerodrome, must comply with any notice, requirement, rule or regulation displayed in any way by the Local Government, including by way of word, symbol, or colour, upon or around the aerodrome.
- (2) Failure to comply with any such notice, requirement, rule or regulation referred to in this section, whilst on an aerodrome, is an offence.

Maximum penalty - 200 penalty units.

### **Prohibited conduct**

- 12.** Persons using an aerodrome must not -
- (a) without the consent of an authorised person, bring any animal onto the aerodrome<sup>5</sup>; or
  - (b) bring any object onto the aerodrome if that object is dangerous or may be used in a dangerous way, without the permission of an authorised person; or
  - (c) engage in conduct which could cause annoyance, disturbance, or offence to other users of the aerodrome or which would obstruct or unreasonably interfere with the rights of use of others; or
  - (d) engage in conduct which is dangerous or which creates a risk to the safety of other users of the aerodrome; or
  - (e) be on an aerodrome whilst under the influence of alcohol or an illegal drug; or
  - (f) use any of the facilities other than for the purpose and in the manner for which they were constructed or provided; or
  - (g) deposit any rubbish other than in receptacles provided for that purpose; or
  - (h) be upon an aerodrome or any part of it unless permitted by this local law; or

- (i) do any act or omit to do any act contrary to the requirements of this local law or any local law policy.

Maximum penalty - 20 penalty units.

### **Damage to aerodromes**

- 13. (1)** A person must not deliberately or recklessly damage or destroy any buildings, fences, structures, ground works, improvements or other property of the Local Government at an aerodrome.

Maximum penalty - 50 penalty units.

- (2)** Whether or not any person is prosecuted under section 13.(1) of this local law, the Local Government may recover the cost of repair or replacement of a thing damaged contrary to section 13.(1) of this local law as a debt owing by the person who caused the damage or destruction.

## **PART 6 - AUTHORITY OF AUTHORISED PERSON**

### **Obey directions of authorised person**

**14.**

- (1) Any person who is on a aerodrome must obey the directions of an authorised person.
- (2) Failure to follow the directions of any authorised person whilst on a aerodrome is an offence.

Maximum penalty - 200 penalty units.

### **Provide information to authorised person**

- 15. (1)** An authorised person may require any person who is on an aerodrome, or who an authorised person believes, or has reasonable grounds to believe, has committed an offence on an aerodrome, to do any of the following -
- (a) state the person's name and address; and/or
  - (b) give evidence of the correctness of that person's name and address; and/or
  - (c) remove any aircraft, vehicle or other property which appears to be under the control of that person from an aerodrome or move it to some other part of an aerodrome; and/or
  - (d) leave an aerodrome or move to some other part of an aerodrome.

- (2) When making any requirement under section 15.(1) of this local law, the person must be warned by the authorised person that it is an offence to fail to comply with the requirement.
- (3) A person must comply with a requirement unless the person has reasonable grounds not to comply with it.

Maximum penalty - 30 penalty units.

### **Removal of persons from an aerodrome**

- 16.** (1) Any person found on an aerodrome committing an offence against this local law may be directed by an authorised person to immediately leave the aerodrome.

- (2) A person must immediately comply with a direction made under this section.

Maximum penalty - 20 penalty units.

- (3) An authorised person may remove or cause to be removed from an aerodrome any person who has failed to comply with a direction of an authorised person under section 16.(1) of this local law, and for the purposes of such removal may use reasonable force.

### **Exclusion from aerodromes**

- 17.** A person who has been directed to leave an aerodrome under section 16.(1) of this local law or who has been removed from an aerodrome under section 16.(3) of this local law must not re-enter the aerodrome on the same day.

Maximum penalty - 20 penalty units.

### **Power to remove or reduce danger**

- 18.** (1) If a person brings an object onto an aerodrome that may endanger the safety of another, an authorised person may direct that person to take specified action to remove or reduce the danger.

- (2) A person must comply with a direction under this section.

Maximum penalty - 20 penalty units.

### **Seizure and detention of dangerous objects**

- 19.** (1) If a person has a dangerous object on an aerodrome, or uses or has used an object on an aerodrome in a dangerous way, the authorised person may seize the object.



- (2) If the authorised person seizes an object under this section, the authorised person must give the person from whom the object is taken a receipt -
- (a) stating the nature of the object; and
  - (b) stating the date and time of seizure; and
  - (c) stating a period (which must be at least 1 hour and not more than 6 months) for which the object is to be detained; and
  - (d) stating a place where the object may be reclaimed.
- (3) The object must, if not reclaimed on the day on which it was seized, be delivered into the custody of the Local Government.
- (4) If the owner of the object -
- (a) reclaims the object by written application made to the Local Government after, but not more than 6 months after, the end of the period fixed for its detention; and
  - (b) provides appropriate proof of ownership,
- the object must be returned to the owner <sup>6</sup>.

### **Obligations of land owners/occupiers**

#### **20.**

- (1) A person who is the owner or occupier of land adjoining an aerodrome must ensure that trees and vegetation do not overhang from that adjoining property onto the aerodrome site.

Maximum penalty - 50 penalty units.

- (2) A person who is the owner or occupier of land falling within the radius of the aerodrome specified by the Civil Aviation Safety Authority as being the area within which the height of obstacles is controlled, must ensure that the height of obstacles on that land does not exceed the height allowed within that radius by the Civil Aviation Safety Authority.

Maximum penalty - 50 penalty units.

### **Compliance notices on adjoining properties**

---

<sup>6</sup>

Subject to any other law dealing with the seizure of goods.

- 21. (1)** An authorised person may give the owner and/or the occupier of land a written notice (a "**compliance notice**") requiring that person to take specified action within a specified period to remedy a contravention of section 20 of this local law.

*Example -*

*to cut down or otherwise reduce the height of trees or vegetation, or to remove or otherwise reduce the height of an antenna or other structure.*

- (2)** A person to whom a compliance notice is given must comply with the notice.

Maximum penalty - 50 penalty units.

### **Local Government's power to have work carried out**

- 22. (1)** If a person contravenes section 21.(2) of this local law, the Local Government may itself take the action required by the compliance notice.
- (2)** Section 22.(1) of this local law applies whether or not there has been a prosecution for an offence.
- (3)** The Local Government may enter land to take the required action under section 1066 of the Act<sup>7</sup>.
- (4)** The amount properly and reasonably incurred by the Local Government in taking the action is recoverable from the owner of the relevant land (together with interest<sup>8</sup>) under sections 1066, 1067 and 1068 of the Act.

## **PART 9 - LOCAL LAW POLICIES**

### **Local law policies**

- 23.** 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 policies.

---

<sup>7</sup>

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

<sup>8</sup>

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