

NORTHERN TERRITORY OF AUSTRALIA

**BORROLOOLA COMMUNITY GOVERNMENT COUNCIL (LITTER AND
FLAMMABLE AND NOXIOUS WEEDS &C) BY-LAWS 1993**

As in force at 13 January 1993

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 13 January 1993

BORROLOOLA COMMUNITY GOVERNMENT COUNCIL (LITTER AND FLAMMABLE AND NOXIOUS WEEDS &C) BY-LAWS 1993

By-laws under the *Local Government Act 2008*

1 Citation

These By-laws may be cited as the *Borroloola Community Government Council (Litter and Flammable and Noxious Weeds &c) By-laws 1993*.

2 Application

These By-laws apply within the community government area.

3 Definitions

In these By-laws, unless the contrary intention appears:

authorized officer means an officer authorized by the council for the purposes of these By-laws.

community government area means the area described in clause 3 of the Borroloola Community Government Scheme.

council means the Borroloola Community Government Council.

land includes buildings or temporary structures other than a building or structure used exclusively as a private dwelling.

litter means litter, garbage, rubbish, drink cans, refuse or waste matter, and includes a dead animal and, in by-laws 4 and 8, discarded vehicle bodies, machinery, implements and the like.

owner, in relation to unoccupied land, means the person immediately entitled to possession of the land.

public place means a place open to, or used by, the public.

4 Littering public place

- (1) Subject to clause (2), a person shall not sweep, throw, spill, drop or otherwise place litter in or on a public place.
- (2) Clause (1) does not prevent the lawful placing of litter in or on:
 - (a) a rubbish bin provided by the council for that purpose;
 - (b) a rubbish bin, box or other container for household litter; or
 - (c) a garbage dump owned, operated or controlled by the council.

5 Leaving rubbish bin in public place

A person shall not place or allow to be placed a rubbish bin, box or other container for household litter in or on a public place otherwise than in accordance with by-law 9(1)(g).

6 Causing &c, spread of litter

An occupier or, where there is no occupier, the owner of land shall not cause or allow litter to spread from the land onto a public place or adjoining land.

7 Littering from vehicles

A person driving a vehicle on a road shall not permit or allow litter to fall or otherwise be dropped from the vehicle onto the road or land adjoining the road.

8 Land to be clean and free from litter

- (1) The occupier or, where there is no occupier, the owner of land shall keep that land clean and free from litter.
- (2) An authorized officer, who believes on reasonable grounds that land is not clean and free from litter, may, at all reasonable hours between sunrise and sunset, enter the land for the purpose of making an inspection to decide whether the land is clean and free from litter.
- (3) Where an authorized officer has made an inspection referred to in clause (2) of the land and is, after the inspection, of the opinion that the land is not clean and free from litter, he or she may serve on the occupier or, where there is no occupier, the owner of the land, a notice in a form approved by the council directing the person on whom the notice is served, within the period specified in that notice, to cause the land to be clean and free from litter.

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- (4) Where the person on whom a notice has been served under clause (3) has not complied with the notice within the period specified in the notice, an authorized officer may, with such agents or workmen as he or she thinks fit for the purpose, enter the land to which that notice relates, and carry out, or cause to be carried out, the work necessary to render the land clean and free from litter.
 - (5) The costs and expenses reasonably incurred by the council in carrying out, or causing to be carried out, any work under clause (4) shall be a debt due and payable to the council by the occupier or the owner, as the case may be, of the land.

9 Occupier to provide rubbish bin

- (1) An occupier of land shall:
 - (a) provide on the land one or more removable rubbish bins for the purpose of holding all household litter produced on the land, each of which shall:
 - (i) have a capacity of not more than .05 m³;
 - (ii) be moisture proof and vermin proof;
 - (iii) have a close fitting lid; and
 - (iv) be fitted with handles for convenience in moving and emptying it;
 - (b) maintain each rubbish bin in good order and condition and not cause or permit it to attract or harbour flying insects or vermin, to become unsightly or cause an offensive odour or otherwise to become or cause a danger to public health or to interfere with or affect the comfort of persons occupying, using or passing through or along neighbouring land;
 - (c) ensure that the lid of each rubbish bin is at all times kept closely fitted to the bin except where the lid is removed for the purpose of placing litter in it or removing litter from it;
 - (d) subject to clause (2), ensure that litter produced on the land is placed in a rubbish bin;
 - (e) cause all wet litter to be effectively wrapped before it is placed in a rubbish bin;
 - (f) where required by an authorized officer or an order of the council, indelibly mark or paint on the lid and body of each rubbish bin the number of the lot of land occupied by the occupier, his or her name and such other information as is

required by the officer or order;

- (g) on the day or days and at the time notified by the council cause each rubbish bin to be placed on the footpath outside the land in such a position as to enable the garbage collector access to the contents of it, and replace, or cause it to be replaced, on the land after the contents have been removed; and
 - (h) cause each rubbish bin to be thoroughly cleansed with antiseptic not less than once in each 4 week period.
- (2) Clause (1)(d) does not prevent the lawful destruction by fire of litter capable of being so destroyed.

10 Interference with rubbish bins

A person shall not touch, use, remove, mark, damage or otherwise interfere with a rubbish bin provided for land or in a public place unless he or she is:

- (a) the occupier of the land or, as the case may be, the person or body by whom the bin was provided;
- (b) a person acting with the express or implied consent of the occupier, person or body referred to in paragraph (a);
- (c) an agent or servant of the council acting within the scope of his or her duties; or
- (d) a contractor or agent or servant of a contractor of the council acting in the due performance of the contract.

11 Rubbish bins to be returned after collection of litter

A person engaged in the removal or collection of litter on behalf of the council shall, after emptying the contents of a rubbish bin, replace the lid tightly on it and return it to its former location.

12 Council garbage dumps

Where the council establishes a garbage dump, it shall cause a notice to be circulated in the community government area, which shall specify:

- (a) that the dump has been established;
- (b) the location of the dump;

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- (c) the hours during which and the days on which the dump shall be open for the dumping of litter;
 - (d) the class or classes of litter which may be placed on the dump; and
 - (e) such further or other conditions with respect to the dumping of litter as the council thinks fit.

13 Offences at dumps

A person shall not, in respect of a dump referred to in by-law 12:

- (a) place litter on the dump except during the hours and on the days specified in the notice under that by-law relating to that dump;
- (b) place litter on the dump unless the litter is of the class or classes specified in that notice;
- (c) enter or remain on the dump except for the purpose of placing litter on it, unless the person is a servant or agent of the council acting within the scope of his or her duties, or a contractor or servant or agent of a contractor of the council acting in the due performance of a contract;
- (d) remove litter from the dump without the approval of the council in writing; or
- (e) fail to comply with a direction of an authorized officer with respect to the place or manner in which the person is to place litter on the dump.

14 Material likely to attract or harbour vermin

- (1) An owner or occupier of land or premises of any description shall not keep or allow to remain on the land or premises, otherwise than in a vermin-proof receptacle, any material which is likely to attract vermin or to form a harbourage for vermin.
- (2) Subject to clause (4), an authorized officer may at all reasonable hours between sunrise and sunset enter and inspect any land or premises in respect of which he or she has reasonable grounds for believing that clause (1) is being contravened.
- (3) Where after an inspection under clause (2) an authorized officer is of the opinion that clause (1) is being contravened in respect of the land or premises in question, he or she may serve on the owner of the land or premises or their occupier as appropriate a notice in a form approved by the council:

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- (a) specifying the material in question; and
 - (b) requiring the person on whom the notice is served, within a period specified in the notice:
 - (i) to place the material in a vermin-proof receptacle or receptacles of a kind described in the notice; or
 - (ii) to remove the material from the land or premises, or destroy it, or deal with it in such other manner as is specified in the notice.
- (4) In the case of premises which are occupied as a dwelling, the power of entry conferred on an authorized officer by clause (2) is not, without the consent of the occupier, exercisable unless the officer has given the occupier at least 24 hours notice in writing.

15 Flammable and noxious weeds, &c

- (1) An authorized officer who has reasonable grounds for believing with respect to any land that plants, weeds, grass or other forms of vegetation on the land:
- (a) are flammable, or may become flammable in normal seasonal conditions; or
 - (b) are or may become offensive, or a nuisance, by reason of their injurious, harmful or unwholesome nature,
- may enter on and inspect the land at all reasonable hours between sunrise and sunset.
- (2) Where after an inspection under clause (1) an authorized officer is of the opinion that there are on the land in question plants, weeds, grass or other forms of vegetation of a nature described in paragraph (a) or (b) of that clause, the officer may serve on the occupier of the land (or, if there is no occupier, on its owner) a notice in a form approved by the council requiring the person on whom the notice is served to carry out, within a period specified in the notice, such work so specified as the officer considers appropriate in the circumstances of the case.
- (3) Where the person on whom a notice has been served under clause (2) has not complied with the notice within the period specified in the notice, an authorized officer may, with such agents or workmen as the officer thinks fit, enter the land to which the notice relates and carry out, or cause to be carried out, the work required to be done.

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- (4) The costs and expenses reasonably incurred by the council in carrying out, or causing to be carried out, any work under clause (3) shall be a debt due and payable to the council by the occupier or the owner, as the case may be, of the land.

16 Hindrance of authorized officer

A person shall not obstruct, hinder or impede an authorized officer, or a person acting in good faith assisting the authorized officer, in the exercise of the powers or the performance of the functions conferred or imposed under these By-laws on that authorized officer.

17 Offences

A person who contravenes or fails to comply with any of these By-laws or any notice duly given under them is guilty of an offence.

Penalty: \$2,000.

18 Election to pay fixed penalty

- (1) Where it appears to an authorized officer that a person has contravened or failed to comply with any of these By-laws, or any notice duly given under them, the officer may serve on that person a notice of infringement in accordance with the form in the Schedule.
- (2) A person on whom a notice of infringement is served may, within a period of 14 days beginning with the date on which it is served, pay to the clerk of the council in respect of the offence alleged in the notice the penalty specified in the notice in accordance with clause (3).
- (3) The penalty to be specified in a notice of infringement pursuant to clause (2) is:
- (a) for contravening by-law 16 – \$100;
 - (b) for contravening or failing to comply with by-law 6, 7, 8, 13 or 14, or a notice under by-law 8, 14 or 15 – \$50; and
 - (c) for contravening or failing to comply with by-law 4, 5, 9, 10 or 11 – \$20.
- (4) A prosecution shall not be brought against a person for an offence against these By-laws in respect of which the person has paid a penalty in accordance with clause (2).

19 Publication of By-laws

- (1) Section 57 of the *Interpretation Act 1978* does not apply to these By-laws.
- (2) Copies of these By-laws shall be available for inspection by members of the public during office hours at the office of the council.

Schedule

NORTHERN TERRITORY OF AUSTRALIA

Borroloola Community Government Council (Litter and Flammable and Noxious Weeds &c) By-laws 1993

by-law 18(1)

NOTICE OF INFRINGEMENT

To

(name)

of

(address, if known)

You are alleged to have committed an offence against the above By-laws by contravening or failing to comply with:

- by-law 4 (littering a public place);
- by-law 5 (placing a rubbish bin in a public place or allowing it to be so placed);
- by-law 6 (causing or allowing litter to spread from land);
- by-law 7 (littering from a vehicle);
- by-law 8 (failing to keep land free from litter);
- paragraph of by-law 9(1) (provision of rubbish bins);
- by-law 10 (interfering with a rubbish bin);
- by-law 11 (failing to return a rubbish bin);
- paragraph of by-law 13 (offences at dumps);
- by-law 14(1) (material likely to attract or harbour vermin);
- by-law 16 (hindering an authorized officer);
- a notice under by-law, a copy of which is attached to this notice.

(tick box as appropriate, and insert paragraph or by-law reference where necessary)

(The following details of offence to be completed except where the offence is of failing to comply with a notice)

The offence is alleged to have taken place at
(place)

on at
(date) (time)

(Insert in paragraph (b) below the fixed penalty payable under by-law 18(3))

You may choose to have the alleged offence:

- (a) prosecuted in a court of competent jurisdiction; or
- (b) disposed of without prosecution by paying \$....., being the fixed penalty prescribed for this offence by by-law 18(3).

If you choose option (b), you must pay the penalty there specified to the clerk of the Borroloola Community Government Council, at the council office and within 14 days beginning with the date of service of this notice.

Dated/...../19....

Council Officer

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

Borroloola Community Government Council (Litter and Flammable and Noxious Weeds &c) By-laws

Notified	13 January 1993
Commenced	13 January 1993

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22 of 2018) to: bl 1 and 19 and sch.