

**NORTHERN TERRITORY OF AUSTRALIA**

**PALMERSTON (PUBLIC PLACES) BY-LAWS**

As in force at 25 November 2002

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 25 November 2002

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## PALMERSTON (PUBLIC PLACES) BY-LAWS

By-laws under the *Local Government Act*

### Part 1 Preliminary

#### Division 1 General

##### 1 Citation

These By-laws may be cited as the *Palmerston (Public Places) By-laws*.

##### 2 Crown to be bound

These By-laws bind the Crown in right of the Territory.

##### 3 Definitions

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

**access-way** means a driveway constructed between a road or road-related area and adjacent land.

**adjacent land** has the same meaning as in the *Australian Road Rules*.

**appropriate fee** means the fee determined from time to time by the council to be the fee for a permit or other authority or other matter or for a class of permits, authorities or matters.

**approved** means approved by the council by resolution.

**Australian Road Rules** means the *Australian Road Rules* contained in Schedule 3 to the *Traffic Regulations*.

**bicycle or tricycle** means a 2 or 3 wheeled vehicle designed to be propelled by human power and includes a powered bicycle or tricycle.

**boat** means a boat or floating vessel or craft of any kind other than a motor boat.

**bridge** includes a ford, causeway, culvert or crossing affording passage across water.

**child** means a person who is 10 years or less of age.

**council** means the Palmerston City Council.

**determined** means determined by the council by resolution.

**footpath** means a footpath, bicycle path or shared path within the meaning of the *Australian Road Rules*.

**handbill** includes a poster, placard, notice, ticket, pamphlet and advertisement.

**land** includes water.

**litter** includes garbage, rubbish, refuse, waste matter, cigarette butts, matches, dead animals and discarded vehicle bodies, machinery and implements.

**meeting** means a meeting of the council.

**motor boat** means a boat or floating vessel or craft of any kind that has a motor to power its principal propulsion system, and includes a hovercraft.

**motor vehicle** means any vehicle designed to be self propelled and includes a trailer when attached to a motor vehicle, but does not include a powered bicycle or tricycle or a motorised wheelchair which is not capable of travelling at a speed greater than 10 km/h.

**municipality** means the municipality of Palmerston.

**naturestrip** means the area between a road or road-related area and adjacent land that is not a footpath.

**owner** means:

- (a) in relation to an animal, a boat, motor boat or vehicle (other than a motor vehicle) – unless there is proof to the contrary, the person for the time being in control of the animal, boat, motor boat or vehicle; or
- (b) in relation to a motor vehicle – the person in whose name the vehicle is registered under the *Motor Vehicles Act* or under another law of the Territory or under a law of a State or other

Territory of the Commonwealth that provides for the registration of vehicles.

**permit** means a permit issued under these By-laws, and includes a renewed permit.

**premises** includes land, whether built on or not, and buildings.

**public place** includes:

- (a) every place to which free access is permitted to the public, with the express or tacit consent of the owner or occupier of the place;
- (b) every place to which the public are admitted on payment of money, the test of the admittance being the payment of the money only;
- (c) every road, road-related area, footpath, court, alley, lane, thoroughfare or cul-de-sac which the public are allowed to use, notwithstanding that the road, road-related area, footpath, court, alley, lane, thoroughfare or cul-de-sac may be formed on private property; and
- (d) land reserved under a law of the Territory for the use of the public or a member of the public.

**register** means a register established in pursuance of by-law 7.

**registrar** means the person appointed by the council to be a registrar under by-law 6.

**reserve** means land that is:

- (a) a public place owned by, leased to, vested in or under the care, control or management of the council; and
- (b) capable of being used as a park, garden, nature reserve, recreation ground, oval or playing field or for swimming, bathing, boating or other recreation associated with water.

**road** has the same meaning as in rule 12 of the *Australian Road Rules*.

**road-related area** has the same meaning as in rule 13 of the *Australian Road Rules*.

**vehicle** means a conveyance or other device designed to be propelled or drawn by any means and includes a bicycle or tricycle, motor vehicle and an animal being driven or ridden but does not

include a motorised wheelchair that is not capable of travelling at a speed greater than 10 km/h or a train.

#### **4 Application of By-laws**

These By-laws apply to and are in force within the whole of the municipality.

#### **5 Determinations**

- (1) The council may, by resolution, regulate or determine:
  - (a) charges and fees for:
    - (i) a permit or other authority, or a class of permits or other authorities, granted under these By-laws; or
    - (ii) a service, product, commodity or item, or a class of services, products, commodities or items, performed or supplied for the purposes of these By-laws; and
  - (b) the purpose for which and the conditions on which the council may grant permits or other authorities under these By-laws or perform or supply a service, product, commodity or item for the purposes of these By-laws.
- (2) If the council makes a determination under this by-law, the council must publish notice of the determination in a newspaper generally circulating in the municipality as soon as practicable after the determination is made.
- (3) If the council grants a permit or other authority or performs or supplies a service, product, commodity or item in respect of which it has determined a charge or fee under clause (1), the council may demand and recover the amount of the charge or fee.

#### **6 Registrar**

The council may appoint a person to be the registrar for the purposes of these By-laws or for a part of these By-laws.

#### **7 Registers**

- (1) The registrar must keep the number of registers as determined by the council.
- (2) The registrar may keep a register in the medium or combination of mediums that the registrar considers appropriate including, but not limited to, a computer, microfilm or paper.



## **8            Matters of evidence**

- (1) An extract from or copy of an entry in a register purported to be signed by the registrar is, in all courts and on all occasions, evidence of the signature of the registrar and of the particulars contained in the entry without requiring the production of the register.
- (2) A statement signed by the registrar concerning particulars of entries in a register including:
  - (a) whether the name of a person was entered in a register in relation to an animal, matter or thing; and
  - (b) whether a permit or other authority had been issued,is to be received in a court, a tribunal or by a person acting judicially as evidence of the signature of the registrar and of those particulars without requiring the production of the register.
- (3) In relation to the making of a resolution by the council for the purposes of these By-laws, the minutes of a meeting of the council or a document purporting to be a true copy of or an extract from, the minutes of a meeting of the council signed by the clerk is to be received in a court, a tribunal or by a person acting judicially as evidence of the particulars contained in the minutes, or that extract or copy, without further proof.

## **9            Liability of owner of motor vehicle**

- (1) Subject to this by-law, if an offence against these By-laws relating to a motor vehicle is allegedly committed and the name of the offender is not ascertained, the owner of the motor vehicle at the time the offence occurs is, whether or not the owner in fact committed the offence:
  - (a) to be taken to have committed the offence; and
  - (b) if an infringement notice is issued in relation to the commission of the offence – to be issued the infringement notice.
- (2) The owner of a motor vehicle is not to be taken to have committed an offence if:
  - (a) the motor vehicle was, at the time of the offence, stolen or unlawfully used without the owner's consent;

- (b) the motor vehicle is registered under the *Motor Vehicles Act* and at the time of the offence:
  - (i) the owner had sold or disposed of the motor vehicle but the registration of the motor vehicle had not been transferred to the new owner; and
  - (ii) the owner had provided the Registrar with a notice of disposal in respect of the motor vehicle as required by section 20 of that Act; or
- (c) within 14 days after the owner is, in relation to the alleged offence, served or issued with:
  - (i) an infringement notice;
  - (ii) a summons; or
  - (iii) any other document dealing with the recovery or enforcement of a penalty for an offence that may be served or issued under an Act,

the owner delivers to the council a statutory declaration made by the owner:

- (iv) stating that some other person was in control of the motor vehicle at the time the offence was allegedly committed and setting out the name and address of that other person and any other information known to the owner that may assist in identifying or locating that other person;
  - (v) stating that the motor vehicle was sold before the offence was allegedly committed and setting out the date of the sale, the name and address of the person to whom it was sold and, if the sale was made through an agent, the name and address of the agent; or
  - (vi) stating that at the time when the offence was allegedly committed the motor vehicle had been stolen or was being used unlawfully without the owner's consent.
- (3) If the owner of the motor vehicle is a body corporate, a director, secretary or manager of the body corporate may make a statutory declaration for the purposes of clause (2).
  - (4) If the owner of the motor vehicle is the Territory, the Commonwealth, a State or another Territory of the Commonwealth or a statutory corporation, a person authorised, or apparently authorised, for the purpose may make a statutory declaration for

the purposes of clause (2).

- (5) A person named in a statutory declaration as being in control of a motor vehicle at the time of an alleged offence cannot be found guilty of the offence unless a copy of the statutory declaration is affixed to the summons for the offence at the time the summons is served on the person.
- (6) If a person is specified as the new owner of a motor vehicle in a notice of disposal referred to in clause (2)(b)(ii):
  - (a) the person is to be taken to be the owner of the motor vehicle at the time of the offence for the purposes of this by-law (other than clause (2)(b)); and
  - (b) this by-law applies as if a reference to the owner of the motor vehicle (other than in clause (2)(b)) were a reference to the person.
- (7) A statutory declaration referred to in clause (2)(c):
  - (a) is admissible in evidence in a prosecution against the person in relation to the offence; and
  - (b) is evidence that the person was the driver of the motor vehicle at the time of the offence.
- (8) Subject to clause (9), nothing in this by-law affects the liability of an actual offender who is not the owner of the motor vehicle.
- (9) If a penalty has been imposed on a person in relation to an offence referred to in this by-law:
  - (a) another person cannot be charged with the same offence; and
  - (b) a further penalty cannot be imposed on or recovered from another person in relation to the same offence.

## **10 Evidence of ownership of motor vehicle**

In a prosecution for an offence, a certificate issued by a person authorised under an Act (including an Act of the Commonwealth or a State or another Territory of the Commonwealth) to issue the certificate stating:

- (a) that a specified person was the registered owner of a specified motor vehicle on a specified date;

- (b) that a specified person was recorded as the new owner of a specified motor vehicle on and from a specified date in a record of a notice of disposal in respect of the motor vehicle; or
- (c) if the specified motor vehicle is not registered at the time of issuing the certificate – that a specified person was the last registered owner of the motor vehicle to and including a specified date,

is evidence of the matters set out in the certificate and a court is to assume that the certificate was duly issued.

**11            Requirement by council for owner or occupier of land to execute work or take other action**

- (1) If, for the purposes of these By-laws, the council requires the owner or occupier of land to carry out work or to take an action, the council may, by written notice served on the owner or occupier, require the owner or occupier at his or her own expense to execute the work or take the action (or cause the work to be executed or the action to be taken) and do anything incidental to the work or action:
  - (a) in or with the materials;
  - (b) within the period;
  - (c) in the manner; and
  - (d) in the area,specified in the notice.
- (2) The council may require the work to be executed or action to be taken by qualified or licensed persons only.
- (3) The council may, when serving a notice under clause (1), indicate that the council will, if requested, carry out the work or take the action referred to in the notice at the expense of the person on whom the notice is served.
- (4) If the person on whom the notice is served requests the council to carry out the work or take the action, the council may require the person to pay to the council, or enter into a bond for payment to the council of, the amount the council considers appropriate to provide security against the costs it may incur as a result of executing the work or taking the action.

**12 Where requirements not complied with**

- (1) The council may carry out work or take an action required to be executed or taken under by-law 11 on default by the person required to execute the work or take the action.
- (2) If the council carries out work or takes an action under clause (1), the cost to the council of carrying out the work or taking the action is a debt due and payable by the person required to execute the work or take the action.

**Division 2 Plan of numbering in municipality**

**13 Plan of numbering**

- (1) The council may adopt a plan or system of numbering areas of adjacent land and may, in accordance with the plan or system:
  - (a) affix a number on a building or a gate or fence on land included in the plan or system that adjoins a road or road-related area; or
  - (b) by notice in writing, require the owner or occupier of land included in the plan or system that adjoins a road or road-related area to affix, within the time specified in and otherwise in accordance with the terms of the notice, a number on a building or a gate or fence on the land.
- (2) The council may, from time to time, alter the plan or system of numbering referred to in clause (1) and may, in accordance with the plan or system as altered:
  - (a) replace a number affixed under clause (1) with a new number; or
  - (b) by notice in writing, require the owner or occupier of land included in the plan or system as altered that adjoins a road or road-related area to:
    - (i) replace a number affixed under clause (1) with a new number; or
    - (ii) if a number was not affixed under clause (1) – affix, within the time specified in and otherwise in accordance with the terms of the notice, a number on a building, or a gate or fence on the land.

- (3) A person who has affixed a number to a building, gate or fence on land under clause (1) and who is required to replace the number under clause (2) may obtain the number free of charge from the council.
- (4) An owner or occupier of land on whom a notice is served under clause (1)(b) or (2)(b) must comply with the notice.  
  
Penalty: \$3 000.
- (5) If an owner or occupier of land fails within the time specified in a notice under clause (1)(b) or (2)(b) to affix or replace a number, the council may enter the land referred to in the notice and affix or replace the required number, and the expense of so doing may be recovered from the person on whom the notice was served as a debt due and payable to the council.

### **Division 3 Permits and other authorities**

#### **14 Definition**

In this Division:

**permit** includes any other authority required under these By-laws other than registration as a borrower at a library under Part 11.

#### **15 Application for permit**

- (1) A person may apply to the clerk for a permit required under these By-laws.
- (2) An application is to be:
  - (a) in accordance with the approved form;
  - (b) accompanied by the appropriate fee; and
  - (c) accompanied by any documents, specifications or particulars that the council may require.

#### **16 Grant of permit**

- (1) The council may grant, or refuse to grant, a permit.
- (2) A permit remains in force for:
  - (a) the period of 12 months after the date of the grant of the permit;

- (b) the period (which may be more or less than 12 months) endorsed on the permit; or
  - (c) an indefinite period terminating on the occurrence of a future event specified on the permit or in these By-laws.
- (3) A permit is not transferable.

## **17 Conditions of permit**

- (1) A permit:
- (a) is subject to the conditions imposed on the permit by these By-laws or by the council by determination; and
  - (b) may be subject to other conditions that:
    - (i) the council determines are conditions that the clerk may impose on a permit if the clerk considers they are appropriate; and
    - (ii) the clerk considers are appropriate and endorses on the permit.
- (2) The Council may determine conditions (whether under clause (1)(a) or (b)) that may lead to immediate revocation of the permit if they are breached or not complied with.
- (3) It is a condition of a permit that the person to whom the permit is granted indemnifies the council from being enjoined in a legal proceeding arising as a consequence of the carrying out of an action authorised by the permit.

## **18 Activity for which permit required prohibited without permit; compliance with conditions of permit**

- (1) A person must not, without a permit, carry out an activity for which a permit is required.
- (2) A person who is granted a permit must comply with and not contravene the permit.

## **Division 4 Regulatory**

### **19 Compliance with notice**

A person on whom the council serves a notice under these By-laws must comply with and not contravene a requirement specified in the notice.

**20 Obstruction of officers etc.**

A person commits an offence if the person obstructs or hinders any of the following persons in the proper execution of his or her work or duty under these By-laws:

- (a) an authorised person;
- (b) an officer or employee of the council;
- (c) a contractor or sub-contractor to the council;
- (d) an employee of a contractor or sub-contractor to the council.

Penalty: \$3 000 and, in addition, \$100 for each day during which the offence continues after the first day on which the offence was committed.

**21 False statement in documents**

A person who, in making a statement required or permitted to be made in a document under these By-laws, knowingly makes a false statement commits an offence.

Penalty: \$3 000.

**22 Power of arrest or removal**

A person appointed by the council for the purpose, or, without derogating from their general power, a member of the Police Force, may arrest or remove a person offending or allegedly offending against these By-laws.

**23 Infringement notice and payment of sum in lieu of penalty**

- (1) As an alternative to prosecution, a person who is alleged to have contravened or failed to comply with these By-laws may be served with an infringement notice under which the person may pay to the council a sum (***fixed penalty***) in lieu of the penalty by which the infringement of the By-laws is otherwise punishable.
- (2) For the purposes of this by-law:
  - (a) the fixed penalty payable under an infringement notice:
    - (i) in respect of a by-law specified in column 1 of Schedule 2 – is the sum specified opposite in column 2 of that Schedule; and
    - (ii) in respect of any other by-law – is \$100;



- (b) an infringement notice is to be in a form, approved by the council in accordance with clause (4), that includes:
    - (i) the information required by section 194(4) of the Act; and
    - (ii) the statements required by clause (3);
  - (c) an infringement notice may be issued and served by an authorised person;
  - (d) the fixed penalty specified in an infringement notice is to be paid to the council; and
  - (e) the fixed penalty specified in an infringement notice is to be paid not later than 14 days after the date on which the infringement notice is served on the alleged offender.
- (3) An infringement notice is to contain the following statements:
- (a) a statement to the effect that:
    - (i) the alleged offender may expiate the offence and avoid enforcement action under the *Fines and Penalties (Recovery) Act* if he or she pays the fixed penalty to the council within 14 days of service of the infringement notice; and
    - (ii) if the alleged offender pays the fixed penalty within the period specified in the infringement notice, the council will take no further action in relation to the offence;
  - (b) a statement to the effect that if the alleged offender does not pay the fixed penalty within the period specified in the infringement notice and does not serve on the council a statement of election to have the matter dealt with by a court (as contained in the infringement notice), unless the infringement notice is withdrawn:
    - (i) the *Fines and Penalties (Recovery) Act* will apply and the alleged offender may be served with a courtesy letter in accordance with that Act requiring payment of the fixed penalty together with the costs in respect of the issue of that letter; and
    - (ii) if the alleged offender does not make the payment as required by a courtesy letter, enforcement action may be taken against him or her under the *Fines and Penalties (Recovery) Act* which, after due process, may result in the suspension of the alleged offender's licence to drive,

the seizure of property, the deduction of wages or salary, the registration of a statutory charge on land, a community work order or imprisonment if a community work order is breached;

- (c) a statement to the effect that the alleged offender may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under the *Fines and Penalties (Recovery) Act* by completing a statement of election (as contained in the infringement notice) and serving it on the council;
  - (d) a statement of election, for completion by the alleged offender if he or she elects to have the matter dealt with by a court, that includes the information required by regulation 7(1) of the *Fines and Penalties (Recovery) Regulations*;
  - (e) if the alleged offence is in relation to a motor vehicle – a statement that includes information about the liability of the owner of the motor vehicle to which the infringement relates, as specified in by-law 9.
- (4) For the purposes of clause (2)(b), the form of an infringement notice is to be approved by the council at a meeting at which not less than two-thirds of the members then in office are present, by resolution carried by a majority of the members then in office.

### **23A Withdrawal of infringement notice**

- (1) An infringement notice served on an alleged offender may be withdrawn at any time before a courtesy letter is served on that person under the *Fines and Penalties (Recovery) Act*, but only if the council has not received payment of the fixed penalty specified in the infringement notice.
- (2) The withdrawal of an infringement notice is effected when an authorised officer serves on the alleged offender a notice of withdrawal stating:
  - (a) that the infringement notice is withdrawn; and
  - (b) that the fixed penalty specified in the infringement notice is no longer payable to the council.

## Part 2                      Garbage services

### 24                      Definitions

In this Division:

***dump*** means a dump on land owned by, leased to or vested in the council or a dump managed by the council.

***exempt person*** means:

- (a) an officer, employee or agent of the council acting within the scope of his or her duties; or
- (b) a contractor in the due performance of a contract for garbage collection between the contractor and the council, or an officer, employee or agent of the contractor.

***garbage*** includes garbage that is for re-cycling.

***regular garbage collection service*** includes providing an approved receptacle, a regular collection of garbage and the disposal of garbage.

### 25                      Collection of garbage by council

- (1) The council's regular garbage collection service is to be as described, and conducted as specified, in a notice published from time to time in a newspaper generally circulating in the municipality.
- (2) The occupier of premises to which the notice applies must comply with the notice.

### 26                      Alternate regular garbage collection service

If the council does not provide or cause to be provided a regular garbage collection service for particular premises, the occupier of the premises must provide or cause to be provided an approved alternative regular garbage collection service for the premises.

### 27                      Provision and maintenance of garbage receptacles

- (1) An approved garbage receptacle is to be:
  - (a) provided to the occupier of premises for use in connection with the garbage collection service for the premises;
  - (b) fitted with handles and a close fitting lid or close fitting lids; and

- (c) made of material impervious to moisture and to vermin.
- (2) An occupier of premises must, in relation to an approved garbage receptacle used in connection with the premises:
- (a) maintain the receptacle in good condition;
  - (b) not permit the receptacle to attract or to harbour or breed flies, insects or vermin, to become unsightly or to cause an offensive odour;
  - (c) not permit the receptacle to become or to cause a danger to public health or to interfere with or to affect the comfort of persons occupying or passing through or along neighbouring premises;
  - (d) ensure that the receptacle's lid is kept closed (unless opening the receptacle for the purpose of putting garbage in or removing garbage from the receptacle or for cleaning);
  - (e) ensure that household garbage produced on the premises is put into the receptacle until it is collected or otherwise lawfully disposed of;
  - (f) cause wet garbage to be effectively wrapped before being placed in the receptacle;
  - (g) cause the receptacle and other approved receptacles on the premises containing garbage to be placed for collection on the day, at the time and in the manner notified and at a collection point specified by the council to enable the person collecting the garbage to have access to the contents of the receptacles;
  - (h) cause the receptacle to be returned inside the premises or to its allocated area as soon as practicable, but not later than 24 hours, after the contents have been collected by the garbage collector;
  - (i) cause the receptacle to be cleansed thoroughly as required but not less than once in every 4 weeks;
  - (j) not remove the receptacle from the premises except to place it ready for emptying by the garbage collector;
  - (k) not use the receptacle otherwise than to contain household garbage generated through normal domestic activity;
  - (l) despite paragraph (k), not place in the receptacle excess quantities of heavy material (such as earth, concrete or brick), waste liquids, chemicals, paint or hazardous substances; and

- (m) keep the receptacle on the premises or an allocated area related to the premises.

## **28 Interference with garbage receptacles**

- (1) A person other than:

- (a) the occupier of the premises for which an approved garbage receptacle is provided; or
- (b) an exempt person,

must not, without reasonable cause, touch, use, remove, mark or otherwise interfere with an approved garbage receptacle.

Penalty: \$3 000.

- (2) A person who damages or causes an approved garbage receptacle or a garbage receptacle owned by or under the control of the council to be damaged commits an offence.

Penalty: \$3 000.

- (3) An offence against clause (2) is a regulatory offence.
- (4) A person who is found guilty of an offence against clause (2) is liable to the council for the costs of the repair to or replacement of the receptacle.

## **29 Council may establish dumps**

- (1) The council may establish dumps for the deposit of garbage on land owned by, leased to, vested in or under the care, control or management of the council.
- (2) The council may make arrangements and enter into contracts with the owner or occupier of private land to establish a dump for the deposit of garbage on that land.
- (3) If a dump is established under clause (1) or (2), the council must cause a notice to be published in a newspaper generally circulating in the municipality and the notice is, in addition to the fact of the establishment of the dump, to specify:
  - (a) its location;
  - (b) the hours during which and the days on which the dump is open for the deposit of garbage;
  - (c) the classes of garbage that may be deposited on the dump;

- (d) the conditions on which the various classes of garbage may be deposited on the dump; and
  - (e) any other conditions the council considers appropriate.
- (4) The council may:
- (a) require a person to apply for and obtain a permit to use a dump; and
  - (b) determine a fee for dumping garbage on a dump.

### **30 Offences at dumps**

- (1) A person who:
- (a) deposits garbage at a dump other than during the hours and on the days specified by the council;
  - (b) deposits garbage at a dump unless it is of a class or classes of garbage specified by the council under by-law 29(3);
  - (c) unless doing so as an exempt person – enters or remains on a dump for a purpose other than depositing garbage;
  - (d) loiters on or at a dump;
  - (e) causes, allows or permits a child who is under his or her care, custody or control to enter or remain on a dump unless the person is supervising the child;
  - (f) removes garbage from a dump without the council's written consent; or
  - (g) fails to comply with any directions given at the dump relating to the place or manner garbage is to be deposited,

commits an offence.

Penalty: \$3 000.

- (2) An offence against clause (1) is a regulatory offence.

**Part 3                    Litter etc. on land****31                    Depositing etc. litter**

- (1) A person must not deposit or keep litter on land or allow litter to remain on land.

Penalty:        \$3 000.

- (2) Clause (1) does not apply:
- (a) if the litter is the kind of litter that is likely to attract vermin to the land, or to form a harbourage for vermin, and is deposited into or kept in a receptacle that is vermin-proof; or
  - (b) in any other case – if the litter is or has been deposited into and is kept in a receptacle that is appropriate for keeping that kind of litter.

**32                    Land to be cleared**

- (1) If, in the opinion of the council, there is on land or:

- (a) plants, grass or weeds:
  - (i) that are, or are likely to become, injurious, flammable or noxious; or
  - (ii) that have become unkempt; or

- (b) litter,

the council may serve a notice under by-law 11 on:

- (c) the occupier of the land; or
  - (d) if the council is unable to ascertain the identity of the occupier – the owner of the land, requiring the land to be cleared or tidied, litter to be placed in a vermin-proof receptacle of a kind specified or any other action set out in the notice to be taken.
- (2) The period within which the work must be carried out under clause (1) is to be specified in the notice, being a period of not less than 2 days and not more than 21 days after the date of service of the notice.

- (3) An owner or occupier of land who is served with a notice referred to in clause (1) must comply with the notice.

Penalty: \$3 000.

**33 Breaking and leaving matter that is likely to cause injury on a public place**

- (1) A person who, in a public place, breaks or causes to break and leaves (other than in a litter receptacle) any glass or other material the pieces of which are likely to cause injury commits an offence.

Penalty: \$3 000.

- (2) An offence against clause (1) is a regulatory offence.

**34 Deposit of offensive matter etc. on a public place**

- (1) A person must not place or cause to be placed household or commercial or industrial waste, refuse or garbage in a litter receptacle provided by the council in a public place.

- (2) A person must not:

(a) deposit, or permit the deposit of, waste food, peelings, fruit or other vegetable matter; or

(b) deposit, or permit the deposit of, garbage or other refuse, on a public place or other land under the care, control or management of the council, except if it is placed in a litter receptacle provided by the council on the public place or other land.

- (3) A person must not throw, deposit or discharge an offensive or unwholesome matter or fluid or any matter that is likely to cause injury on a public place.

- (4) A person must not, without a permit, use, deposit or discharge, or cause to be used, deposited or discharged, water or other matter, whether liquid or solid, in a place where it is likely to flow or discharge or encroach on or into a public place or a side entry pit to a drain in a public place.

- (5) A person who contravenes or fails to comply with this by-law commits an offence.

Penalty: \$3 000.

- (6) An offence against this by-law is a regulatory offence.



## **Part 4 Works on public places**

### **35 Definitions**

In this Part, unless the contrary intention appears:

**public place** means a public place that is under the care, control or management of the council.

**works** includes:

- (a) digging or excavating on, through or under a public place or on land abutting a public place where the digging or excavating encroaches, will encroach or is likely to encroach (including if the digging or excavation or a wall of the digging or excavation were to collapse) on the public place or the excavated material encroaches, will encroach or is likely to encroach on the public place;
- (b) removing turf, sand, clay, soil or other material from or from beneath a public place;
- (c) erecting, building, planting, placing or maintaining any matter, thing, plant, pipe, cable, conduit or structure, whether of a temporary or a permanent nature and whether it causes an obstruction, on or over a public place or permitting any matter, thing, plant, pipe, cable, conduit or structure to encroach on or over a public place; and
- (d) installing, connecting, replacing or repairing underground services.

### **36 General requirement for permit to carry out works on public place**

- (1) A person must not carry out works on a public place, or engage another person to carry out works on a public place for and on behalf of the person, unless the person has been granted a permit to do so.

Penalty: \$3 000.

- (2) A person must carry out works on a public place in accordance with a permit that authorises the public works.

Penalty: \$3 000.

- (3) Subject to any determination of the council to the contrary, clause (1) and (2) do not apply to the owner or occupier of adjacent land who:
- (a) lays, places or erects an irrigation system in or on the nature strip adjoining the land, unless the irrigation system or any part of the irrigation system is laid or placed more than 1500 mm deep in the ground; or
  - (b) plants and maintains grass on the nature strip.

### **37 Information to accompany application for permit**

In addition to the general requirements specified in by-law 15, an application for a permit to carry out works on a public place is to:

- (a) specify the works;
- (b) specify the purpose of the works;
- (c) be accompanied by plans and specifications detailing the construction of the works; and
- (d) if the construction of the works will obstruct or interfere with the use of a footpath, road or road related area by a vehicle or pedestrian – a plan for the management of vehicular and pedestrian traffic.

### **38 Construction or removal of access-way, kerb or storm-water drain**

- (1) A person must not, without a permit, construct or remove an access-way or remove a kerb or storm-water drain.

Penalty: \$3 000.

- (2) An offence against clause (1) is a regulatory offence.

### **39 Inspection of works on public place**

- (1) If a permit has been granted authorising works on a public place, an authorised person or an officer or employee of the council may, in accordance with the conditions of the permit, inspect works being carried out on the public place to ascertain whether the works comply with the permit.
- (2) If an authorised person or an officer or employee of the council believes on reasonable grounds that works that are not authorised by a permit are being or have been carried out on a public place (whether because a permit was not granted authorising the works

or a permit has been granted in respect of the works but the works do not comply with the permit), the authorised person, officer or employee may at any time inspect the works.

- (3) If an authorised person or an officer or employee who makes an inspection under clause (1) or (2) is, after completing the inspection, satisfied that the works are not authorised by a permit, do not comply with a permit issued in respect of them or are for any other reason unsatisfactory, the council may, under by-law 11, serve on the person carrying out the works or, if a permit has been issued in respect of the works to another person, on that person a notice requiring the person:
- (a) if the works are authorised by a permit but do not comply with the permit – to carry out or cause to be carried out work the council considers appropriate to ensure that the works comply with the permit;
  - (b) if the works are not authorised by a permit – to satisfactorily complete the works in accordance with the notice; or
  - (c) to remove the works (whether works that are authorised by a permit but do not comply with the permit or works that are not authorised by a permit) and reinstate the area of the public place concerned.
- (4) A person who is served with a notice referred to in clause (3) must comply with the notice.

Penalty: \$3 000.

## **Part 5 Control of nuisance or damage on or to public places**

### **40 Persons causing nuisance on public places**

A person must not:

- (a) create a noise that persistently occurs or continues to a degree or extent that it is disturbing to a person on a public place;
- (b) burn or heat any material or thing or substance that gives off an odour or smoke in a quantity that is offensive to a person on a public place;
- (c) keep on land occupied by the person an animal or thing that makes a noise or gives off an odour to a degree or extent or in a quantity that is offensive to a person on a public place;

- (d) create or discharge dust, vapour, fumes, smoke, odour or other waste products in a quantity that is offensive to a person on a public place; or
- (e) cause or permit water, soil, sand or other material to escape from land and encroach on to a public place in a quantity that causes a nuisance on the public place.

Penalty: \$3 000.

#### **41 Council may require land to be enclosed**

- (1) If land adjoining a road, road-related area or other public place is not enclosed in a manner that prevents sand, soil or other material from being carried on to the road, road-related area or public place, the council may, by notice served under by-law 11, require the owner or occupier of the land to cause the land to be enclosed.
- (2) A person who is served a notice referred to in clause (1) must comply with the notice.

Penalty: \$3 000.

#### **42 Control of barbed wire fences**

The owner or occupier of land must not, without a permit, erect or maintain on the boundary of the land or within 0.66 m of a road, road-related area or land owned by, leased to, vested in or under the care, control or management of the council a fence having a component of barbed wire, or material of a similar type, at a height lower than 2.33 m from the ground on which the fence is erected.

Penalty: \$3 000.

#### **43 Work etc. on roads etc.**

- (1) A person who causes:
  - (a) any material or structure to be deposited or laid on a road or road-related area; or
  - (b) work to be carried out entailing the opening or breaking up of the surface of a road or road-related area,whether or not authorised by the council, must, at the person's expense, cause:
  - (c) lights of a type and colour and in a number that the council considers sufficient to be placed and retained near the material, structure or work;

- (d) the lights referred to in paragraph (c) to be illuminated from sunset to sunrise;
- (e) the materials, structure or work to be fenced and enclosed to prevent damage or injury or inconvenience to other persons; and
- (f) any other sign, barrier or traffic control or warning device that the council requires to be placed in the number and position as the council considers sufficient for the purpose of providing adequate warning of the materials, structure or work,

until the material or structure is removed or the road or road-related area is restored.

- (2) A person who contravenes or fails to comply with clause (1) commits an offence.

Penalty: \$3 000.

- (3) An offence against this by-law is a regulatory offence.

#### **44 Use of access-ways**

- (1) A person must not, without a permit, drive or propel a motor vehicle over or across a footpath or naturestrip other than at an access-way.

Penalty: \$3 000.

- (2) Clause (1) does not apply to a person riding a bicycle or tricycle on, along or across a footpath that the council determines to be a bicycle path.

- (3) A person must not:

- (a) park a vehicle on; or

- (b) place an obstruction on, or cause an obstruction to, an access-way, footpath or nature strip.

Penalty: \$3 000.

- (4) Clause (3) does not apply to a person requiring to gain access to land who ensures that the vehicle or obstruction remains on the access-way to the land for the least time necessary to obtain access.

- (5) An offence against clause (1) or (3) is a regulatory offence.

**45 Heavy loads prohibited on access-way, kerb etc.**

- (1) The council may determine the maximum weight of a load to be carried over an access-way, culvert, kerb, causeway or bridge and, if it does, must notify the determination by a sign conspicuously erected or posted at or near each approach to the access-way, culvert, kerb, causeway or bridge.
- (2) A person who, without a permit, stands, drives or propels a vehicle that is:
  - (a) so heavy or of such nature that it is likely to cause damage to the paving of the access-way or to a culvert, kerb, causeway, bridge, road or road-related area; or
  - (b) of a weight greater than the weight determined under clause (1),

on or across an access-way, culvert, kerb, causeway, bridge, road or road-related area commits an offence.

Penalty: \$3 000.

**Part 6 Control of vehicles and traffic****46 Driving etc. in public place on roads and road-related areas only**

- (1) Except in the course of an emergency, a person must not stop, park or drive a vehicle on a public place unless he or she does so on a road or road-related area or in a parking area.

Penalty: \$3 000.

- (2) Clause (1) does not apply to:
  - (a) a person who in a public place stops, parks or drives a vehicle other than on a road or road-related area or in a parking area with the consent of the owner or occupier or person who has control of the place;
  - (b) a person who is riding a bicycle or tricycle on a footpath that is not determined to be a bicycle restriction area under by-law 47; or
  - (c) a person driving a service vehicle.

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(3) In this by-law:

**road-related area** includes the shoulder of a road;

**service vehicle** means a vehicle that is under the control of an officer or employee of the Power and Water Authority, a corporation providing telecommunication services, the Department of Transport and Works or the council and is being used in relation to a function of those bodies.

#### **47 Bicycle restriction areas**

A person who rides a bicycle or tricycle on a footpath that the council determines to be a bicycle restriction area, and indicates is a bicycle restriction area by displaying **No Bicycles** signs in accordance with regulation 85 of the *Traffic Regulations*, commits an offence.

Penalty: \$3 000.

#### **48 Council may provide off-street parking**

The council may provide for off-street parking of vehicles within the municipality.

### **Part 7 Trees etc.**

#### **49 Damage to trees, plants etc.**

(1) A person must not, without a permit:

(a) interfere with or damage a tree, plant, garden or grassed area or cause anything to be done so that it may become damaged or destroyed;

(b) cut, break, remove or disturb a tree, shrub, stem, branch or root of a living tree, shrub or plant; or

(c) plant a tree, shrub or plant,

in a public place.

Penalty: \$3 000.

(2) Clause (1) does not prevent the owner or occupier of land that abuts a footpath or naturestrip from pruning or otherwise maintaining a tree, shrub or plant or maintaining or mowing grass planted on the footpath or naturestrip unless the council directs otherwise.

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- (3) A person must not, without a permit, pick, pluck or take a bud, flower or other part of a tree, shrub or plant in a public place.

Penalty: \$3 000.

- (4) A person must not, in a public place:

(a) drive, tow or propel a motor vehicle or other vehicle; or

(b) ride, drive or lead an animal,

in a manner that causes or permits it to cause damage to a tree, shrub, plant, garden or an area of grass in the public place, or to council property situated on or affixed to the public place.

Penalty: \$3 000.

- (5) An offence against this by-law is a regulatory offence.

#### **50 Permit to plant etc. trees etc.**

In addition to the general requirements specified in by-law 15, an application for a permit to plant, cut, break, remove or disturb a tree, shrub or plant referred to in by-law 49(1) is to indicate the position:

(a) where the applicant intends to plant the tree, shrub or plant; or

(b) where and how the applicant intends to cut, break, remove or disturb the tree, shrub or plant or part of it,

as the case may require.

#### **51 Overhanging trees and shrubs**

- (1) The council may, if it considers that a tree, shrub or plant growing on land is causing inconvenience or an obstruction to persons using a road, road-related area or footpath or is causing or likely to cause damage to an adjacent public place, serve a notice under by-law 11 on the owner or occupier of the land to trim or remove the tree, shrub, or plant.

- (2) An owner or occupier who is served with a notice referred to in clause (1) must comply with the notice.

Penalty: \$3 000.



**Part 8 Malls and other public places****52 Bicycles, skates etc. may be prohibited in malls and other public places**

- (1) The council may determine that the riding or driving of bicycles, tricycles, scooters, pedal powered vehicles, small motorised vehicles, roller skates or blades, skateboards is prohibited or restricted in a mall or other public place and, if it does, must notify the determination by signs conspicuously erected or posted in and otherwise in association with the mall or public place.
- (2) A person must not contravene the determination of the council under clause (1) as inscribed on a sign erected or posted under that clause.

Penalty: \$3 000.

**53 Control of certain activities in malls and other public places**

- (1) A person must not, without a permit, in a public place:
  - (a) perform or offer entertainment;
  - (b) make a painting or drawing or take a photograph or film of a person or thing for commercial purposes; or
  - (c) address persons assembled there.
- (2) A person must not, without a permit, erect or install in a public place a post, rail, fence, pole, tent, booth, stand, display, exhibition, decoration or structure or any furniture, whether permanent or temporary.
- (3) A person must not, without a permit, discharge, or dispose of into or in a mall or other public place moisture from an air conditioner, or fumes, smoke, vapour, dust or other waste products, in such a way as to cause damage or annoyance to another person.
- (4) A person must not, without a permit, remove or displace from or in a public place a barrier, railing, post, seat or any structure or erection.
- (5) A person must not, in a mall:
  - (a) remove or disturb a part of the soil of a flowerbed or around or under a tree or plant;
  - (b) walk, stand, sit or lie upon a part of a flowerbed; or

- (c) remove, cut or damage a flower, plant or tree.
- (6) A person conducting a business to which access is from a mall must not, for the disposal of trade or commercial waste or packaging or rubbish, use public refuse bins placed by the council in the mall.
- (7) A person must not, without a permit, enter, remain on or walk on any roof, covering or canopy erected over a mall.
- (8) A person must not, without a permit, bring an animal into a mall.
- (9) Clause (8) does not apply to a person who is accompanied by a dog trained or being trained by a guide dog training institution approved by the council and is being or will be used as a guide by a person who is wholly or partially blind or deaf.
- (10) A person who fails to comply with or contravenes this by-law commits an offence.  
  
Penalty:       \$3 000.
- (11) This by-law does not apply to an agent or officer or employee of the council acting in accordance with his or her duties.

#### **54       Control of vehicular traffic etc. in malls**

- (1) A person must not drive a vehicle or cause a vehicle to stand in a mall unless it is:
  - (a) an emergency vehicle;
  - (b) a service vehicle; or
  - (c) a vehicle in the mall in accordance with a permit.
- (2) A person must not drive a vehicle, other than an emergency vehicle, in a mall at a speed in excess of 5 km/h.
- (3) A person who fails to comply with or contravenes clause (1) or clause (2) commits an offence.  
  
Penalty:       \$3 000.
- (4) An offence against clause (1) or (2) is a regulatory offence.
- (5) If, contrary to a by-law, there is in a mall a vehicle or thing the driving, use, presence or standing of which is prohibited or regulated, a member of the Police Force, an authorised person or officer or employee of the council may remove the vehicle or thing to a place either within or outside the mall.

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- (6) A person acting under clause (5) is not liable for any damage caused to a vehicle or thing removed under that clause.
  - (7) This by-law does not apply to the bona fide use of a wheel chair or perambulator.
  - (8) In this by-law:

**emergency vehicle** means a vehicle under the control of:

- (a) a member of the Police Force;
- (b) an employee of a fire brigade;
- (c) an officer of an ambulance service; or
- (d) a person authorised by an officer of the Northern Territory Fire and Rescue Service, established by section 5 of the *Fire and Emergency Services Act*,

who is acting in accordance with his or her duties;

**service vehicle** means a vehicle that is under the control of an officer or employee of the Power and Water Authority, a corporation providing telecommunication services, the Department of Transport and Works or the council and is being used in relation to a function of those bodies.

## **Part 9                      Public swimming pools etc.**

### **55                      Application of Part and definition**

- (1) Unless the contrary intention appears, this Part applies to all:
  - (a) public swimming pools; and
  - (b) other public places in the municipality where there are waters where members of the public may frequent to swim or bathe.
- (2) By-law 56(1) does not apply to a free area within the meaning of the *Nudity Act*.
- (3) In this Part:

**bathing place** means a public place in the municipality, other than a public swimming pool, where there are waters where members of the public may frequent to swim or bathe.

**56 Dress and conduct at swimming pools and bathing places**

- (1) A person in or near a swimming pool or bathing place must be dressed in a manner that is appropriate and adequate.
- (2) A male person over the age of 5 years must not enter a dressing room, toilet or shower set aside for females, and a female over the age of 5 years must not enter a dressing room, toilet or shower set aside for males.
- (3) A person under the influence of intoxicating liquor or drugs must not enter a public swimming pool or be in or near a bathing place.
- (5) A person who is suffering, or appears to an authorised person to be suffering, from an infectious, contagious or offensive skin disease or skin complaint must not enter or use a public swimming pool or waters in a bathing place.
- (6) A person must not commit a nuisance of any kind within a public swimming pool or bathing place.
- (7) A person must not wilfully:
  - (a) foul or pollute the water of; or
  - (b) foul or pollute a dressing room, toilet or shower in, a public swimming pool or bathing place.
- (8) A person must not play a game or do any act that is dangerous, is likely to interfere with the safety or comfort of the general public or is likely to damage the property of or injure, endanger, obstruct, inconvenience or annoy a person in a public swimming pool or bathing place.
- (9) If an authorised person is of the opinion that a person in or near a public swimming pool or bathing place is contravening this by-law, the authorised person may direct the person to:
  - (a) if, in the opinion of the authorised person, the person is under the influence of intoxicating liquor or drugs – leave the public swimming pool or bathing place; or
  - (b) in any other case:
    - (i) do an act so that the person will be complying with this by-law or cease doing the act that does not comply with this by-law; or

- (ii) leave the public swimming pool or bathing place,  
as the authorised person considers appropriate.

- (10) A person who contravenes or fails to comply with a direction given to the person by an authorised person under clause (9) commits an offence.
- (11) A person who, without lawful authority, tampers with or alters any setting of or makes any adjustment to any structure, equipment or facility in a public place commits an offence.

Penalty: \$3 000.

- (12) An offence against clause (11) is a regulatory offence.

### **57 Removal of unsupervised children from swimming pools and bathing places**

An authorised person may exclude from a public swimming pool or bathing place a child who is not accompanied by and in the control of a person who is at least 16 years of age and apparently capable of caring for the child.

## **Part 10 General controls**

### **58 Handbills**

- (1) A person commits an offence if the person:
  - (a) gives out or distributes a handbill; or
  - (b) affixes or causes to be affixed a handbill to a power pole, signpost or fixture in a street or any other structure,

in or on a public place unless the person does so in accordance with a permit authorising the giving out, distributing or affixing of the handbill.

Penalty: \$3 000.

- (2) A person commits an offence if the person affixes or causes to be affixed a handbill to or against a structure on land adjoining a public place unless the person:
  - (a) does so in accordance with a permit authorising the affixing of the handbill; and

(b) has the consent of the owner or occupier of the land to do so.

Penalty: \$3 000.

(3) It is a condition of a permit to affix a handbill that the person to whom the permit is granted is to:

(a) ensure that the handbill is preserved in a clean and tidy condition;

(b) remove the handbill if it becomes worn, torn or detached; and

(c) remove from a public place any litter caused by the affixing, tearing, detachment or discarding of the handbill.

(4) If an authorised person is of the opinion that a handbill that is affixed to a structure in, on or adjoining a public place is dirty, untidy, worn, torn or detached, the authorised person may, whether or not a permit has been granted or the consent of the owner or occupier of the land obtained in relation to affixing the handbill, serve a notice under by-law 11 on:

(a) the owner or occupier of the building where the handbill is posted; or

(b) the person responsible for authorising the production of the handbill,

requiring remedial action or the removal of the handbill.

(5) A person who is served with a notice referred to in clause (4) must comply with the notice.

## **59 Lighting fires**

(1) A person must not, unless authorised to do so under a permit granted under the *Fire and Emergency Services Act*, light or maintain a fire in a public place under the care, control or management of the council other than in a designated fire place.

(2) If an authorised person is of the opinion that a person is contravening clause (1), the authorised person may direct the person to put out the fire.

## **60 Throwing stones etc.**

(1) A person who, into, from or in a public place:

(a) throws or discharges a stone or other object; or

(b) uses a catapult,

and by doing so:

- (c) causes damage to a building or property;
- (d) hits or frightens a person or animal; or
- (e) creates a reasonable apprehension in another person that he or she might hit or frighten a person,

commits an offence.

Penalty: \$3 000.

- (2) An offence against clause (1) is a regulatory offence.

#### **61 Writing, defacing etc.**

- (1) A person who, without a permit, writes on, defaces or marks a power pole, sign, post, fixture, wall or pavement in a public place with writing or pictorial representation commits an offence.

Penalty: \$3 000.

- (2) An offence against this by-law is a regulatory offence.

#### **62 Goods in public place**

- (1) A person who, without a permit, stacks or stores goods or displays or exposes them, or permits their stacking, storing or exposing (whether or not for sale) in, on or over a public place, or outside any premises adjoining a public place, commits an offence.

Penalty: \$3 000.

- (2) An offence against clause (1) is a regulatory offence.

- (3) In clause (1):

**goods** includes merchandise, building and construction materials, pallets, machinery, vehicles, boats and vessels and vehicle, boat and vessel parts.

#### **63 Washing or repairing vehicles etc. in public place**

- (1) Subject to clause (2), a person must not:

- (a) wash a vehicle, boat or motor boat; or

- (b) carry out repairs or maintenance work on any of them, on, along, in or across a public place.

Penalty: \$3 000.

- (2) Clause (1)(b) does not apply:

- (a) where the public place has been set aside by the council for the purpose of carrying out repairs or maintenance work and a notice to that effect has been conspicuously erected or posted nearby; or
- (b) to carrying out a repair for the purpose of immediately removing the motor vehicle, vehicle, boat or motor boat from a public place.

#### **64 Musical instruments etc.**

A person must not, without a permit, on a public place or other land under the care, control or management of the council:

- (a) use a musical instrument; or
- (b) for the purpose of announcing an auction, public performance, sale, meeting or similar gathering, ring a bell or use a musical instrument or any means of amplification or public address.

Penalty: \$3 000.

#### **65 Camping or sleeping in public place**

- (1) A person who:

- (a) camps;
- (b) parks a motor vehicle, erects a tent or other shelter or places gear or equipment for the purpose of camping or sleeping; or
- (c) being an adult, sleeps at anytime between sunset and sunrise, in a public place other than:
- (d) in a caravan park or camping area where the person is permitted to park or camp on the payment of money; or
- (e) in accordance with a permit,

commits an offence.

Penalty: \$3 000.

- (2) An offence against clause (1) is a regulatory offence.



- (3) An authorised person may direct a person who is contravening or has contravened clause (1) to do one or both of the following:
  - (a) leave the public place; or
  - (b) remove any motor vehicle, tent, shelter, gear or equipment under the person's control to a place specified by the authorised person.
- (4) A person who is given a direction under clause (3) must comply with the direction without delay.
- (5) A person who fails to comply with clause (4) commits an offence.

Penalty: \$3 000.

**66 Person must not obstruct etc. another person using public amenity**

A person who, whether alone or together with others, obstructs or, by his, her or their presence, intimidates another person from using a public shelter, ablution facility, water supply, barbecue or fireplace commits an offence.

Penalty: \$3 000.

**67 Shopping trolleys**

- (1) A person who leaves a shopping trolley in a public place commits an offence.

Penalty: \$3 000.
- (2) An offence against clause (1) is a regulatory offence.
- (3) An authorised person may remove and impound a shopping trolley left unattended in a public place and is, within 7 days after the removal and impoundment, to:
  - (a) serve on the owner a notice in writing of the impoundment and place of impoundment; or
  - (b) if the owner cannot be found or the owner's name cannot be ascertained – certify to the clerk the reason for failure to serve a notice referred to in paragraph (a).
- (4) A certificate under clause (3)(b) is evidence of the matters set out in it.
- (5) After the expiration of 28 days after the impoundment, the clerk is to cause notice of the impoundment to be published in a newspaper

generally circulating in the municipality and, if the owner of the trolley does not respond within 7 days after that publication of the notice, is to publish the notice a second time.

- (6) If the owner of the trolley has not, within 28 days after service of a notice under clause (3)(a) or the later of the publications under clause (4), paid to the council all expenses relating to the removal, custody and reasonable maintenance of the trolley, the council may advertise for sale and sell the trolley or, if it is not convenient to sell the trolley, dispose of it.
- (7) Any proceeds of the sale of a shopping trolley are to be applied in payment of:
  - (a) costs incurred by the council in the sale; and
  - (b) costs of removal, custody and reasonable maintenance before the sale of the shopping trolley,

and the balance, if any, is to be paid to the person who was the owner of the shopping trolley at the time of the removal and impoundment.

- (8) If, after the expiry of 6 months after the date of the sale of a shopping trolley sold under clause (6), proceeds from the sale of the shopping trolley remain unclaimed by the owner or by a person acting on behalf of the owner, the money is to be paid into the council's general fund.

## **68 Removal of persons from reserve or mall**

- (1) An authorised person may remove, or cause to be removed, a person who contravenes these By-laws in a reserve or mall from the reserve or mall.
- (2) If an authorised person has removed a person under clause (1), the council may, by notice in writing served on the person, refuse him or her entry to the reserve or mall for the period not exceeding 6 months specified in the notice.
- (3) A person on whom a notice under clause (2) has been served who enters the reserve or mall during the period specified in the notice commits an offence.

Penalty: \$3 000.

**69 General offences**

- (1) A person must not in waters in a reserve:
- (a) drive, propel, sail or tow a boat or motor boat;
  - (b) fish; or
  - (c) swim or bath,
- unless doing so:
- (d) in waters designated by signs erected or posted by the council as waters where a person may drive, propel, sail or tow a boat or motor boat, fish or swim; and
  - (e) in accordance with any directions on those signs.

Penalty: \$3 000.

- (2) A person must not, without a permit, wilfully injure or kill an animal or bird, or act in a manner intended or reasonably likely to result in injury or death to an animal or bird, in a public place.

Penalty: \$3 000.

- (3) A person must not, without a permit, graze or allow an animal that the person owns or is responsible for to graze on a public place.

Penalty: \$3 000.

- (4) A person who urinates or defecates in a public place, except in toilets provided for the purpose, commits an offence.

Penalty: \$3 000.

- (5) An offence against clause (4) is a regulatory offence.

- (6) A person who spits or emits a nasal discharge in a public place commits an offence

Penalty: \$3 000.

- (7) A person must not cause damage to council property situated on or affixed to a public place.

Penalty: \$3 000.

- (8) A person must not injure, endanger, obstruct, interfere with, inconvenience or annoy another person on a public place under the care, control or management of the council.

Penalty:        \$3 000.

## **Part 11            Public libraries**

### **Division 1        Preliminary**

#### **70                Definitions**

In this Part, unless the contrary intention appears:

***book or material*** includes a periodical, newspaper, pamphlet, music score, picture, print, photograph, microfilm, map, chart, plan, manuscript, film, slide, sound recording, video recording or any other article forming part of the library collection whether or not the property of the council or the Territory.

***borrower's card*** means a borrower's card issued under by-law 77.

***librarian***, in respect of a library, means the person appointed by the council to be in charge of the library and includes an officer or employee of the council acting for or under the direction of the librarian.

***library*** means a public library in the municipality administered by the council and includes all premises forming part of or used by the library.

***patron*** means a person, organisation or institution who uses or intends to use a service provided by a library.

***registered borrower*** means a patron who is registered under by-law 73 or 74 as a patron who may borrow a book or material under this Part.

### **Division 2        Library hours**

#### **71                Library hours determined by council**

A library is to be open on the days and during the hours that the council by resolution determines.

**72      Notification of library hours**

A notice setting out the days and times a library is open is to be clearly exhibited and kept exhibited by the librarian in a conspicuous place in or about the library.

**Division 3      Registration of borrowers**

**73      Registration of permanent residents and persons working etc. in the municipality as borrowers**

The librarian may:

- (a) on the application by a patron to the librarian; and
- (b) on the production to the librarian of evidence by the patron that the patron resides in the municipality, is attending an educational institution in the municipality or conducts business on premises in the municipality,

register the patron as a patron who may borrow a book or material under this Part.

**74      Registration of other persons as borrowers**

- (1) If a person who is a patron of a public library that is outside the municipality (but in the Territory) who is entitled to borrow books or materials from that library:

- (a) applies to the librarian for registration as a borrower; and
- (b) produces to the librarian the patron's borrower's card (however described) from the other library,

the librarian may register the person as a patron who may borrow a book or material under this Part.

- (2) If a person who is not entitled to be registered as a borrower under by-law 73 or clause (1):

- (a) applies to the librarian for registration as a borrower; and
- (b) produces to the librarian evidence that satisfies the librarian that the person is suitable for registration as a patron who may borrow a book or material under this Part,

the librarian may register the person as a patron who may borrow a book or material under this Part.

**75      Guarantors of registered borrowers who are less than 18**

- (1) If an application is made under this Division for registration as a patron who may borrow a book or material under this Part by a person who is less than 18 years of age, the librarian may require that a parent of the applicant or another person who is more than 18 years of age sign the application as guarantor of the applicant.
- (2) If the application is signed by a parent or other person as guarantor, the parent or person guarantees that he or she will, until the applicant is 18 years of age, pay:
  - (a) all fees payable under this Part by the applicant; and
  - (b) all demands made to the applicant under by-law 89 to pay the costs of replacing or repairing books or materials borrowed by the applicant that are lost, damaged or not returned.

**76      Effect of registration**

Subject to this Part and any terms and conditions determined by the librarian, a registered borrower may borrow, free of charge, a book or material designated by the librarian as a book or material that is available for lending for use away from a library.

**Division 4      Borrowers' cards**

**77      Issue of borrowers' cards**

- (1) The librarian must issue a borrower's card to each registered borrower.
- (2) A borrower's card remains in force for:
  - (a) a period of 2 years after the date of issue; or
  - (b) any other period determined by the librarian and endorsed on the card,unless sooner cancelled or suspended.
- (3) A borrower's card is not transferable.

**78      Renewal of borrowers' cards**

- (1) A registered borrower whose borrower's card expires must apply to the librarian for a new borrower's card.
- (2) Subject to clause (3), the librarian may issue a new borrower's card to the registered borrower.

- (3) The librarian must not issue a new borrower's card under this by-law to the registered borrower unless the borrower has returned all overdue books and materials loaned by the library to the borrower and has paid all outstanding fees and costs incurred by the borrower under this Part.

## **79          Loss or destruction of borrowers' cards**

- (1) A registered borrower whose borrower's card is lost or destroyed must notify a librarian of the loss or destruction as soon as reasonably possible after becoming aware of its loss or destruction.
- (2) Subject to clause (3), if a registered borrower satisfies a librarian that his or her borrower's card has been lost or destroyed, the librarian may, on payment of the relevant fee (if any), issue to the borrower a new borrower's card.
- (3) The librarian must not issue a borrower's card under this by-law to a registered borrower unless the borrower has returned all books and materials that the borrower has on loan and the borrower has paid all outstanding fees and costs he or she has incurred under this Part.
- (4) If a card is lost, the registered borrower in whose name the card is issued is, until the librarian is notified of its loss under clause (1), liable under this Part for loss of, or damage to, books or materials borrowed by another person using the card after it was lost.

## **80          Cancellation, suspension and amendment of borrowers' cards**

- (1) A librarian may:
  - (a) cancel; or
  - (b) suspend for the period the librarian considers appropriate, a borrower's card if the registered borrower in whose name the card is issued has contravened or failed to comply with this Part.
- (2) If a registered borrower changes his or her name, he or she must, as soon as reasonably possible, notify the librarian and give his or her borrower's card to the librarian to be amended.
- (3) If a registered borrower does not intend to continue borrowing books or materials from a library, he or she must, as soon as reasonably possible, notify the librarian and give his or her borrower's card to the librarian for cancellation.

## **Division 5      Borrowing**

### **81      Books etc. to be lent only to registered borrowers who present borrower's cards**

The librarian must not lend a book or material:

- (a) except to a patron who is a registered borrower; and
- (b) unless the registered borrower presents his or her borrower's card to the librarian at the area designated for the purpose of issuing books or materials at the library.

### **82      Number of books or materials that may be borrowed**

The maximum number of books and materials a person may borrow from a library at a time is the number determined by the librarian.

### **83      Period of loan of books or materials**

- (1) The period a book or material may be borrowed from a library is the period determined by the librarian.
- (2) The registered borrower must return a book or material that the borrower has borrowed to the library on or before the expiry of the period the book or material is loaned to the borrower:
  - (a) by presenting the book or material at the area in the library designated for the purpose of returning books or materials; or
  - (b) in any other manner determined by the librarian.
- (3) If, on the expiry of the period a book or material is loaned to a registered borrower, the book or material is not required by another registered borrower, the librarian may, on the application of the registered borrower to whom the book or material was loaned extend the period of its loan to the borrower for one further period of loan.
- (4) A registered borrower may apply to extend the period a book or material is loaned to the borrower:
  - (a) by presenting the book or material at the library from which it was borrowed; or
  - (b) in any other manner determined by the librarian.



**84      Books or materials may be reserved**

- (1) If a book or material is required by a registered borrower but is not presently available for loan, a librarian may reserve the book or material for the borrower.
- (2) The librarian must notify the registered borrower when the book or material becomes available for loan.

**85      Books or materials may be requested**

- (1) A registered borrower may apply to a librarian to borrow a book or material that does not form part of the library's collection.
- (2) If an application is made under clause (1), the librarian must take the action that is practicable to provide the book or material applied for and must notify the registered borrower of the outcome.
- (3) Nothing in this by-law requires the council to purchase a book or material in respect of which an application is made under clause (1).

**86      Reference books or materials not to be borrowed**

A book or material provided in a library for reference use only is not to be borrowed from the library unless the librarian considers special circumstances exist that warrant its removal from the library.

**87      Retention of books or materials beyond period of loan**

- (1) If a registered borrower fails to return a book or material to the library after the expiry of the period of loan of the book or material, the librarian may send to the borrower a letter demanding that the borrower return the book or material to the library not later than 14 days after receiving the letter.
- (2) The letter is to be headed ***Formal Demand***.
- (3) On the return of the book or material, the librarian may require the registered borrower to pay the reasonable costs incurred by the council in obtaining the return of the book or material.
- (4) If a registered borrower fails to pay an amount under clause (3), the librarian may:
  - (a) cancel or suspend the borrower's card of the registered borrower; or
  - (b) until payment is made – refuse to lend books or materials to the registered borrower.

**88      **Damage to books or materials to be reported****

If a book or material is:

- (a) damaged while on loan; or
- (b) issued in a damaged or imperfect condition,

the registered borrower who borrowed the book must report the damage to the librarian when returning the book or material to the library.

**89      **Lost or damaged books or materials****

(1) If a book or material is:

- (a) damaged while on loan;
- (b) lost while on loan; or
- (c) not returned after demand for its return has been made by the librarian under by-law 87,

the librarian may demand, in writing, the registered borrower of the book or material to pay the cost of replacing or repairing it or, if the book or material is one of a set and it is impracticable to repair or replace the book or material, to pay the cost of replacing the set.

(2) The demand is to be headed "Formal Demand".

(3) A book or material that is stolen, lost or damaged remains the property of the council despite being replaced or paid for and, if recovered, the subsequent disposal of the book or material is at the discretion of the council.

**90      **Offence to fail to comply with demand****

(1) A person who fails to:

- (a) return an overdue book or material within 14 days of receiving the librarian's letter of demand under by-law 87; or
- (b) within one month after receiving a demand under by-law 89:
  - (i) pay the amount of costs specified in the demand for replacing or repairing a lost or damaged book or material; or
  - (ii) enter into an arrangement satisfactory to the council to satisfy that demand,

commits an offence.

Penalty:      \$3 000 and, in addition, \$100 for each day during which the offence continues after the first day on which the offence is committed.

- (2) An offence against clause (1) is a regulatory offence.

## **Division 6      Controls**

### **91      Powers of librarian etc.**

- (1) The librarian may give the directions and take the action that the librarian considers necessary for securing orderly conduct at a library and compliance with this Part.
- (2) The librarian may prohibit a child entering or remaining in a library if the child is not under the supervision of an adult or another child who, in the opinion of the librarian, is capable of supervising the child.
- (3) The librarian or an authorised person may remove from the library or prohibit the entry into a library of a person who contravenes or fails to comply with this Part or with a direction or prohibition of the librarian under clause (1) or (2).
- (4) A person aggrieved by a decision of a librarian may appeal to the council.

### **92      Bags etc. to be deposited**

- (1) A person entering a library may be required by the librarian to deposit a bag, case, parcel or other similar article in the person's possession in a place set aside for that purpose.
- (2) A person who brings a bag, case, parcel or other similar article into a library must, when requested by the librarian, allow it to be inspected by the librarian before the person leaves the library.
- (3) A bag, case, parcel or article deposited in a library in accordance with clause (1) that is not claimed within 24 hours after its deposit may be forwarded by the librarian to a police station.
- (4) The council or a librarian is not liable for the loss of or damage to a bag, case, parcel or article deposited in a library in accordance with clause (1).

**93          Supervision of children**

A person must not enter or remain in a library with a child unless the person keeps the child under direct supervision at all times while the child is in the library.

**94          Animals in libraries**

- (1) A person must not, except with the permission of the librarian, bring an animal into a library.

Penalty:        \$200.

- (2) Clause (1) does not apply to a person bringing a guide dog into a library.

**95          Vehicles in libraries**

A person must not, except with the permission of the librarian, bring a vehicle or conveyance into a library.

Penalty:        \$200.

**96          Conduct of persons in libraries**

A person must not:

- (a) obstruct a librarian or an officer or employee of the council in the execution of his or her duties under this Part;
- (b) enter or use a library if unclean in dress or person or under the influence of alcohol or drugs;
- (c) soil, tear, cut, deface, damage, injure or destroy a book or material or an object forming part of the contents of a library, whether in the library or elsewhere;
- (d) except under and in accordance with this Part – take or cause to be taken from a library, or receive or be in possession of, a book or material forming part of the contents of the library;
- (e) make a copy of a borrower's card;
- (f) except with the consent of the librarian – enter or remain in any part of a library not set aside for the use of the public;
- (g) except with the consent of the librarian – affix or post a bill, placard, notice or petition in or on a part of a library; or

- (h) do any of the following in a library:
- (i) take a tracing from a book or material except through a protective screen and with the permission of the librarian;
  - (ii) wilfully misplace or conceal a book or material or a record of a book or material;
  - (iii) disturb, interrupt or annoy a person;
  - (iv) sleep, lie on a chair or table or on the floor;
  - (v) smoke, eat or drink, except in an area designated by the librarian for that purpose;
  - (vi) except with the consent of the librarian – offer anything for sale;
  - (vii) make or receive a call on a mobile telephone;
  - (viii) behave in a disorderly manner or swear or use violent, abusive or obscene language;
  - (ix) enter or remain after the hour fixed for the closing of the library.

Penalty: \$200.

### **97 Change of address of registered borrower**

A registered borrower who changes his or her address must, within 14 days after the change, notify the librarian of the new address.

Penalty: \$200.

## **Part 12 Repeal and savings**

### **98 Repeal**

The By-laws set out in Schedule 3 are repealed.

### **99 Savings**

- (1) Without limiting section 12 of the *Interpretation Act*, all services, appointments, authorisations, permissions, permits, licences, rights, privileges, obligations and liabilities established, made, given, granted, acquired, accrued or incurred under the By-laws repealed by by-law 98 that were operating or having effect immediately before the commencement of these By-laws, and all matters in

process under those repealed By-laws immediately before that commencement, are to continue, and may be dealt with, as if established, made, given, granted, acquired, accrued, incurred or in process under and in accordance with the relevant corresponding provisions of these By-laws (if any), and those provisions are, with the necessary changes, to be construed accordingly.

- (2) A register kept and maintained under the By-laws repealed by by-law 98 are, on the commencement of these By-laws, to become part of a register that is kept and maintained under these By-laws.

**Schedule 2 Fixed penalties**

by-law 23(2)(a)

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Column 1 By-law	Column 2 Amount
60	\$ 50

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### **Schedule 3 Repealed By-laws**

by-law 98

<i>Palmerston (Litter) By-laws</i>	Regulations 1984, No. 21 Regulations 1989, No. 8
<i>Palmerston (Traffic) By-laws</i>	Regulations 1986, No. 15 Regulations 1986, No. 38
<i>Palmerston (Work on Public Places) By-laws</i>	Regulations 1986, No.16



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**ENDNOTES**
**1 KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2 LIST OF LEGISLATION*****Palmerston (Public Places) By-laws (SL No. 45, 2001)***

Notified	14 November 2001
Commenced	14 November 2001

***Amendments of Palmerston (Public Places) By-laws (SL No. 52, 2002)***

Notified	25 November 2002
Commenced	25 November 2002

**3 LIST OF AMENDMENTS**

bl 9	amd No. 52, 2002, bl 1
bl 13	amd No. 52, 2002, bl 5
bl 20 – 21	amd No. 52, 2002, bl 5
bl 23	sub No. 52, 2002, bl 2
bl 23A	ins No. 52, 2002, bl 2
bl 28	amd No. 52, 2002, bl 5
bl 30	amd No. 52, 2002, bl 5
bl 31 – 34	amd No. 52, 2002, bl 5
bl 36	amd No. 52, 2002, bl 5
bl 38 – 45	amd No. 52, 2002, bl 5
bl 46	amd No. 52, 2002, bl 5
bl 47	amd No. 52, 2002, bl 5
bl 49	amd No. 52, 2002, bl 5
bl 51 – 54	amd No. 52, 2002, bl 5
bl 56	amd No. 52, 2002, bl 5
bl 58	amd No. 52, 2002, bl 5
bl 60 – 69	amd No. 52, 2002, bl 5
bl 90	amd No. 52, 2002, bl 5
bl 94 – 97	amd No. 52, 2002, bl 5
sch 1	rep No. 52, 2002, bl 3
sch 2	amd No. 52, 2002, bl 4