

NORTHERN TERRITORY OF AUSTRALIA

PALMERSTON (WORK ON PUBLIC PLACES) BY-LAWS

As in force at 18 June 1986

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PALMERSTON (WORK ON PUBLIC PLACES) BY-LAWS

By-laws under the *Local Government Act*

Part I Preliminary

1 Citation

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

2 Commencement

These By-laws shall come into operation at the expiration of 14 days from the date on which the making of the By-laws is notified in the *Gazette*.

3 Interpretation

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

approved means approved by the Council.

Council means the Palmerston Town Council constituted under the *Local Government Act*.

permit means a permit in the approved form granted under by-law 5(1)(a).

work includes:

- (a) digging in a public place to install, connect to, replace or repair underground services; and
- (b) the placing of scaffolding, hoardings, barriers, signs and warning devices in a public place.

(2) A form referred to in these By-laws shall be completed in accordance with such directions and instructions, if any, as are specified in the form.

Part II Permit for work on public place**4 Application for permit**

- (1) A person who proposes to carry out work on a public place shall make an application in the approved form to the Council for a permit to carry out the work and shall, with the application, enclose a fee of:
 - (a) where the work is not expected to exceed one day – \$30;
 - (b) where the work is expected to exceed one day but not one week – \$50; or
 - (c) where the work is expected to exceed one week – \$50 plus \$25 for each week or part of a week by which the work exceeds one week.
- (2) The Council may require a person referred to in clause (1) to, in addition to paying a fee referred to in that clause, lodge with it a bond sufficient, in the opinion of the Council, to provide a security against any expenses that may be incurred by it as a result of any damage, including uncompleted or unsatisfactory work, caused by that person, or his servants, agents or workmen, to the public place the subject of the person's application under that clause, as a consequence of the execution of the work the subject of that application.
- (3) Subject to by-law 9(7), a bond referred to in clause (2) shall be returned by the Council to the person who lodged it upon the execution in accordance with these By-laws of the work on a public place for which the bond was lodged.

5 Determination of application for permit

- (1) Subject to this by-law and by-law 6, where the Council receives an application under by-law 4(1), it shall determine the application by:
 - (a) granting a permit, upon such terms and conditions as it thinks fit; or
 - (b) rejecting the application.
- (2) The Council shall not grant under clause (1)(a) a permit unless the applicant for the permit has:
 - (a) paid the fee required under by-law 4(1) for;

(b) satisfied the Council that he has a public risk policy of not less than \$2,000,000 to cover any public risk which may arise as a consequence of the execution of; and

(c) lodged with the Council the bond, if any, required under by-law 4(2) for,

the work on the public place the subject of the permit.

6 Terms and conditions of permit

(1) Subject to clause (2), where a permit is granted under by-law-5(1)(a) to a person, and without limiting the generality of the terms and conditions upon which it may be so granted, it shall be deemed to be granted subject to:

(a) the condition that the person indemnifies the Council from being enjoined in any legal action arising as a consequence of the carrying out of the work on a public place the subject of the permit; and

(b) the conditions set out in the Schedule,

irrespective of whether or not those conditions appear in the permit.

(2) The Council may exempt, upon such terms and conditions as it thinks fit, a person to whom a permit is granted from all or any of the conditions set out in the Schedule.

7 Work on public place not to be carried out except under permit

A person shall not carry out, or permit to be carried out, work on a public place except under a permit.

Penalty: \$500 and \$50 for each day or part of a day during which the offence continues or imprisonment for 3 months.

8 Work on public place to be carried out in accordance with permit

The person to whom a permit is granted, and his servants, agents and workmen, shall:

(a) not carry out work on the public place the subject of the permit other than the work specified in the permit; and

- (b) carry out the work on a public place the subject of the permit in accordance with the terms and conditions, if any, upon which the permit is granted, including the conditions referred to in by-law 6(1).

Penalty: \$500 or imprisonment for 3 months.

Part III Officers

9 Powers of officers

- (1) Where a permit has been granted for work on a public place, an officer may inspect the work during the carrying out of the work for the purposes of ascertaining whether the work is being or has been carried out in accordance with the permit.
- (2) Where an officer has reasonable grounds for believing that work is being or has been carried out on a public place and a permit has not been granted for the work or the work is not being or has not been carried out in accordance with the permit granted in respect of the work, he or another officer may carry out an inspection of the work at any time.
- (3) Where an officer has made an inspection under clause (1) or (2) of work on a public place and, consequent upon that inspection, he is satisfied that the work:
- (a) has not been carried out in accordance with the permit, if any, granted in respect of the work; or
- (b) is otherwise unsatisfactory,

he may issue a direction to the person carrying out or who has carried out the work to carry out, within the period specified in the direction, such further work as will, in the opinion of the officer, ensure compliance with the permit, if any, granted in respect of the work or as will render the work satisfactory.

- (4) A person referred to in clause (3) the subject of a direction under that clause shall carry out the further work the subject of the direction within the period specified in that direction.

Penalty: \$500 or imprisonment for 3 months.

- (5) Where a person referred to in clause (3) the subject of a direction under that clause has not carried out the further work the subject of the direction within the period specified in that direction, the Council may, with such employees or agents as it thinks fit for the purpose, carry out, or cause to be carried out, that further work.

- (6) The expenses reasonably incurred by the Council in exercising the powers under clause (5) shall be a debt due and payable to the Council by:
- (a) where a permit has been granted in respect of the work on a public place in respect of which those powers were exercised – the person to whom the permit was so granted; and
 - (b) where no permit referred to in paragraph (a) has been granted – the person in respect of whom those powers were exercised.
- (7) The Council may, for the purposes of recovering expenses referred to in clause (6) from the person referred to in paragraph (a) of that clause, appropriate the bond, if any, lodged under by-law 4(2) by the person, the extent of such appropriation to be:
- (a) where the amount of the bond is greater than the amount of those expenses – that second-mentioned amount; and
 - (b) where the amount of those expenses is greater than the amount of the bond – the whole of that bond.
- (8) A person shall not, without reasonable excuse, obstruct an officer, a person acting under the directions of an officer, or an employee or agent of the Council, acting in pursuance of this by-law.
- Penalty: \$500 or imprisonment for 3 months.
- (9) For the purposes of an inspection under this by-law, an officer may order the opening, cutting into or pulling down of work on a public place.
- (10) For the purposes of this by-law, an officer includes an approved employee or approved agent of the Council.

Part IV Miscellaneous

10 Delegation

- (1) Where under these By-laws the Council is empowered to do or perform any act, deed or thing, that act, deed or thing may be done or performed by the mayor or the clerk or by such alderman, officer or employee of the Council as is approved.
- (2) Where under clause (1) an act, deed or thing is done or performed by the mayor or the clerk, or an alderman, officer or employee approved under that clause, the act, deed or thing shall, for the

purpose of these By-laws, be deemed to have been done or performed by the Council.

11 Regulatory offences

An offence of contravening or failing to comply with these By-laws (other than by-law 9(8)) is a regulatory offence.

Schedule

by-law 6(1)(b)

CONDITIONS UPON WHICH PERMIT GRANTED

The person to whom a permit is granted, including his servants, agents and workmen, shall, in respect of the work on a public place the subject of the permit:

- (a) observe all necessary safety precautions and requirements relating to the use of signs, barriers and warning devices specified by the Standards Association of Australia for work in progress;
- (b) provide signs, barriers and warning devices, in addition to those specified in paragraph (a), as directed by an officer;
- (c) in accordance with approved specifications, reinstate and backfill all excavations;
- (d) maintain the work in a condition suitable to the safe passage of vehicles at all times until the work is fully reinstated;
- (e) accept responsibility for the location of all services and equipment of authorities in the vicinity of the work and take steps to protect from the carrying out of the work any such equipment and services which may be located in the area, for which purpose any plans and information required to ascertain the location of those services and equipment shall be ascertained and relevant authorities advised, prior to the work being undertaken, of the work to be executed;
- (f) keep any road which may be affected by the work open to two-way traffic at all times;
- (g) construct and erect hoardings in respect of the work in accordance with the directions of an officer;
- (h) reinstate and perform all work required to reinstate all areas affected by the work to the satisfaction of an officer; and
- (j) carry out the work only during the hours specified in the permit or, if no hours are specified, between the hours of 7 o'clock in the morning and 6 o'clock in the evening, Monday to Friday inclusive.

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

Palmerston (Work on Public Places) By-laws (SL No. 16, 1986)

Notified	4 June 1986
Commenced	18 June 1986