

**NORTHERN TERRITORY OF AUSTRALIA**

**DARWIN CITY COUNCIL BY-LAWS**

As in force at 1 July 2008

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 July 2008

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## DARWIN CITY COUNCIL 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 *Darwin City Council By-laws*.

###### 2 Crown to be bound

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

###### 3 Interpretation

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

***appropriate fee*** means the fee determined from time to time by the council to be the fee for a permit, authority, licence, registration or other matter or for a class or classes of permit, authority, licence, registration or other matter.

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

***bicycle or tricycle*** means a 2 or, as the case may be, 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.

***council*** means the Darwin City Council.

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

**guide dog** means a dog trained by a guide dog training institution recognised by the council and used as a guide by a person who is wholly or partially blind or deaf.

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

**holder** means the holder of an authority, licence, permit, or certificate of registration.

**licence** means a licence issued under these By-laws, and includes a renewal of a licence.

**litter** includes garbage, rubbish, refuse or waste matter, and includes a dead animal and discarded vehicle bodies, machinery, implements, and the like.

**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 and a vehicle designed to be propelled by electric power obtained from overhead wires but not operated on rails, but does not include a motorised wheelchair which is not capable of travelling at a speed greater than 7 km/h or a powered bicycle or tricycle.

**municipality** means the municipality of Darwin.

**owner**, in relation to:

- (a) an animal (other than a dog or cat), a boat, motor boat or vehicle means, in the absence of proof to the contrary, the person for the time being in control of the animal, boat, motor boat or vehicle;
- (b) a dog or cat means:
  - (i) the person whose name appears in the appropriate register as the owner of the dog or cat; or
  - (ii) the owner of the dog or cat as defined in by-law 53(2);
- (c) a motor vehicle means 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 renewal of a permit.

**pound** means a pound established or maintained in accordance with these By-laws.

**pound manager** means a person appointed to be the manager of a pound.

**premises** includes land and/or buildings.

**public beach** means a beach or foreshore open to or used by the public.

**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, street, footway, court, alley, thoroughfare or cul-de-sac which the public are allowed to use, notwithstanding that the road, street, footway, court, alley or thoroughfare 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.

**reserve**, means land, including its waters, being a public place that is vested in, leased to, or under the care, control or management of, the council and capable of being used as a reserve, park, garden, recreation ground, oval or playing field, or for swimming, bathing, boating or other recreation associated with water.

**vehicle** means a conveyance or other device designed to be propelled or drawn by any means and includes a bicycle or tricycle, motor vehicle, or an animal being driven or ridden but does not include a train, or a motorised wheelchair which is not capable of travelling at a speed greater than 7 km/h.

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

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

#### **5            Determinations**

- (1) The council may determine the charges, dues, fares, fees and rents in relation to a property, undertaking, service, matter or thing.
- (2) A determination under clause (1) may (for example) be made for any of the following:
  - (a) supplying a service, product or commodity;
  - (b) granting a licence or permit;
  - (c) registering an animal or thing;
  - (d) giving information;
  - (e) admitting a person to a building or enclosure;
  - (f) receiving an application for approval;
  - (g) permitting inspection of a register;
  - (h) allowing the use of real or personal property of or under its care.
- (3) If the council makes a determination under this by-law, it must publish a notice of its making in a newspaper circulating in the municipality as soon as practicable after the determination is made.
- (4) The council may demand and recover the relevant amount determined under clause (1) if the council has:
  - (a) published a notice of the making of the determination under clause (3); and
  - (b) taken the action for which the amount is determined.

#### **6            Registrar**

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

#### **7            Registers**

- (1) The registrar shall keep such number of appropriate registers as may be determined by the council.

- (2) The registrar may keep a register in such medium or combination of mediums as the registrar thinks fit including, but not limited to, a computer, microfilm or paper.

## **8            Proof of ownership of motor vehicle**

- (1) In proceedings under these By-laws for an infringement involving a motor vehicle, the owner of the motor vehicle, at the time of the infringement, shall be deemed to have committed the infringement.
- (2) Clause (1) does not affect the liability of the person who actually committed the infringement, other than the owner, but:
- (a) the owner and the offender shall not both be liable to be convicted for the same infringement; and
  - (b) where a fine has been imposed on a person by a court in relation to an infringement, another person shall not be charged, and a further penalty shall not be imposed on or recovered from another person, in respect of the same infringement.
- (3) Clause (1) does not apply to the owner if within 14 days after the date of service of a notice or summons in relation to an infringement the owner or, if the owner is a body corporate, the director, manager or secretary, delivers in accordance with the notice or summons a statutory declaration made by the owner or person setting out, where applicable:
- (a) that at the time the alleged infringement occurred, another person was in control of the motor vehicle and gives the name and address of that person and any other relevant information;
  - (b) particulars of the sale or disposal of the motor vehicle before the date of the alleged infringement and gives the name and address of the purchaser and, if the sale was made through an agent, the name and address of the agent; or
  - (c) particulars concerning the theft or unlawful use of the motor vehicle thereby removing it from the control of the owner.

## **9            Matters of evidence**

- (1) An extract from or copy of an entry in a register purported to be signed by the registrar shall, in all courts and on all occasions, be prima facie 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, in relation to an animal, matter or thing:
- (a) whether the name of person was entered in a register in relation to an animal, matter or thing; or
  - (b) whether a licence, permit, authority or registration had been issued,

shall, in all courts and on all occasions, be prima facie evidence of the signature of the registrar and of those particulars without requiring the production of the register.

## **10            Requirements for execution of works**

- (1) Where the council requires work to be carried out by the owner or occupier of land, the council, an authorised person, or an officer or employee authorised in that behalf 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 to cause it to be executed, and to do anything incidental to the work:
- (a) in or of the materials;
  - (b) within the period;
  - (c) in the manner; and
  - (d) in the area,
- specified in the notice.
- (2) The council may require that work done in pursuance of a notice served under clause (1) is executed 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 works referred to in the notice at the expense of the person on whom the notice is served.
- (4) Without limiting the generality of the powers conferred on the council or other person under clause (1), the power to direct the manner of execution of work shall include the power to require the person carrying out the work to pay to the council, or enter into a bond for payment to the council of, such amount as the council thinks fit to provide security against costs that it may incur as a result of the execution of the work.

**11 Where requirements not complied with**

- (1) The council may carry out work required by or under the Act or these By-laws to be executed on default by the person required to execute the work.
- (2) Where the council carries out work under clause (1), the cost to the council of carrying out the work is a debt due and payable by the person required to execute the work.

**Division 2 Plan of numbering in municipality**

**12 Plan of numbering**

- (1) The council may adopt a plan or system of numbering areas of land adjacent to a road and may, in accordance with the plan or system:
  - (a) affix a number on a building or a front gate or fence on land adjoining a road; or
  - (b) by notice in writing, require the owner or occupier of land adjoining a road included in the plan or system to affix, in accordance with the terms of the notice, a number on a building or a front 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:
  - (a) replace the number affixed under that clause with a new number; or
  - (b) by notice in writing, require the owner or occupier of land adjoining a road to affix, in accordance with the terms of the notice, a new number on a building, or a front gate or fence on the land.
- (3) A person who has affixed a number to a building, front gate or fence on land under clause (1) and who is required to replace or affix a number in accordance with clause (2) may obtain the number free of charge from the council.
- (4) An owner or occupier of land shall, within 7 days after the date specified in a notice referred to in clause (1)(b) or (2)(b), affix the number specified in the notice.
- (5) Where an owner or occupier of land fails within the time specified in a notice under clause (1)(b) or (2)(b) to affix a number, the council may enter the land referred to in the notice and affix 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 Licences, permits, authorities and registrations**

#### **13 Definition**

In this Division, **licence** includes permit, authority and registration.

#### **14 Applications for licences, &c.**

- (1) A person may apply to the clerk for the issue of a licence required under these By-laws.
- (2) An application shall 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.

#### **15 Grant of licence, &c.**

- (1) The council may grant, or refuse to grant, a licence.
- (2) A licence remains in force for a period of 12 months after the date of the grant of the licence or for such lesser period or greater period as is endorsed on the licence or for an indefinite period terminating with the occurrence of such future event as may be specified on the licence, in these By-laws or in any determination made under by-law 5.
- (3) Registration of a dog expires on 30 June each year or, if the council determines, on the anniversary of the first registration of the dog.
- (4) A licence may be subject to such conditions as the council thinks fit and endorses on the licence including such conditions as may lead to immediate revocation of the licence if they are breached or not complied with.
- (5) A licence is not transferable.

#### **16 Activity for which licence required prohibited without licence**

A person shall not, without a licence, carry out an activity for which a licence is required.



**17 Compliance with conditions, notices, &c.**

- (1) A person shall comply with and not contravene the conditions of a licence.
- (2) A person shall comply with and not contravene a requirement of a notice served under these By-laws on the person by the council.

**Division 4 Regulatory**

**18 Obstruction of officers, &c.**

- (1) It is an offence for a person to obstruct, hinder, disturb or interrupt an authorized person or officer or employee of the council or a contractor or sub-contractor to the council or employee of the contractor or sub-contractor in the proper execution of his or her work or duty.
- (2) An offence under clause (1) is a regulatory offence.

**19 Power of arrest or removal**

An officer or employee, authorized person or person appointed by the council for the purpose or, without derogating from their general power, members of the Police Force, are hereby authorised to arrest or remove persons offending against these By-laws.

**20 General penalty**

A person who contravenes or fails to comply with these By-laws is guilty of an offence and is liable on conviction to a penalty not exceeding 100 penalty units and, in addition, to a penalty not exceeding 1 penalty units for each day during which the offence continues.

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

- (1) Despite by-law 20, 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) for a by-law specified in the Schedule, column 1 – is the amount specified opposite in column 3; and

- (ii) for any other by-law – 1 penalty unit.
  - (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 245(2) 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 an infringement of by-law 120 – a statement that includes information about the liability of the owner of the vehicle to which the infringement relates, as specified in regulation 53(1), (2), (3), (4) and (5) of the *Traffic Regulations*.
- (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.

#### **21A 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 Health and safety**

### **Division 1 Garbage services**

#### **22 Definitions**

In this Division:

**council dump** means a place used for the deposit of litter on land owned by or vested in, and operated or controlled by, the council.

**exempt person** means:

- (a) an officer or 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 or employee or agent of the contractor.

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

#### **23 Collection of garbage by council**

- (1) The council's regular garbage collection service shall 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 shall comply with the notice.

#### **24 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 shall provide or cause to be provided an approved alternative regular garbage collection service for the premises.

#### **25 Provision and maintenance of garbage receptacles**

- (1) An approved garbage receptacle shall be:
  - (a) of an approved type and capacity;
  - (b) fitted with handles and a close fitting lid;
  - (c) made of material impervious to moisture and to vermin; and

- (d) if required by the council, marked with the name of the occupier and the lot number or address of the premises where the receptacle is kept.
- (2) An occupier of premises shall, in relation to an approved garbage receptacle used in connection with the premises:
- (a) maintain it in good condition;
  - (b) not permit it to attract or to harbour or breed flies, insects or vermin, to become unsightly or to cause an offensive odour;
  - (c) not permit it 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 its lid is kept closed except when it is removed for the purpose of putting garbage in or removing it 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 it;
  - (g) cause it 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 it to be returned inside the premises or to its allocated area as soon as practicable and not later than 24 hours after the contents have been collected by the garbage collector;
  - (j) cause it to be cleansed thoroughly as required and not less than once in every 4 weeks;
  - (k) not remove it from the premises except to place it ready for emptying by the garbage collector;
  - (m) not use it otherwise than to contain household garbage generated through normal domestic activity;
  - (n) notwithstanding paragraph (m), not place in it excess quantities of heavy material such as earth, concrete or brick, or waste liquids, chemicals, paint or hazardous substances; and

- (p) keep it on the premises or an allocated area related to the premises.

## **26 Interference with garbage receptacles**

- (1) A person other than:
  - (a) the occupier of the premises for which a garbage receptacle is provided; or
  - (b) an exempt person,shall not, without reasonable cause, touch, use, remove, mark or otherwise interfere with a garbage receptacle.
- (2) A person who damages or causes a garbage receptacle to be damaged commits an offence and is liable to the council for the costs of the repair to or replacement of the receptacle.
- (3) An offence under clause (2) is a regulatory offence.

## **27 Garbage receptacles to be returned to location**

A person engaged in the collection of garbage on behalf of the council shall, after collecting the contents of a garbage receptacle, replace the receptacle and its lid.

## **28 Council may establish dumps**

- (1) The council may establish dumps for the deposit of garbage on land owned by or vested in or under the control 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.
- (3) Where a dump has been established under clause (1) or (2), the council shall cause a notice to be published in a newspaper generally circulating in the municipality and the notice shall, in addition to the fact of the establishment of the dump, specify:
  - (a) its location;
  - (b) the hours during which and the days on which the dump shall be open for the deposit of garbage;
  - (c) the conditions on which various classes of garbage may be deposited on the dump; and
  - (d) such other conditions as the council thinks fit.

- (4) The council may:
  - (a) require a person to apply for and obtain a licence for the use of a council dump; and
  - (b) charge a fee for dumping garbage on a council dump.

## **29            Offences at dumps**

- (1) A person shall not:
  - (a) deposit garbage at a council dump other than during the hours and on the days specified by the council;
  - (b) deposit garbage on a dump unless it is of a class or classes specified by the council;
  - (c) other than as an exempt person, enter or remain on a dump except for the purpose of depositing garbage;
  - (d) loiter on or at a dump;
  - (e) cause, allow or permit a child, who has not attained 12 years of age and is not under his or her care, custody or control, to enter or remain on a dump;
  - (f) remove garbage from a dump without the council's written consent; or
  - (h) fail to comply with any directions given at the dump relating to the place or manner garbage is to be deposited.
- (2) A person who contravenes or fails to comply with a provision of clause (1) commits an offence.
- (3) An offence under this by-law is a regulatory offence.

## **Division 2            Litter, &c., on land**

### **30            Depositing, &c., litter**

- (1) A person shall not deposit litter on land or allow litter to remain on land.
- (2) The owner or occupier of land shall not deposit, or keep or allow to remain on the land, litter that is likely to attract vermin to the land or to form a harbourage for vermin unless the material is kept in a receptacle that is vermin-proof.

**31 Land to be cleared**

- (1) Where, in the opinion of the council, there is on land:
- (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 (including unsightly car bodies, machinery or other chattels),

the council may cause a notice under by-law 10 to be served on:

- (c) the occupier of the land; or
- (d) where the council is unable to ascertain the identity of the occupier, the owner of the land,

requiring the land to be cleared or tidied or litter to be placed in a vermin-proof receptacle of a kind specified or such other action taken as is set out in the notice.

- (2) The period within which the work shall be carried out under clause (1) shall be as 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.

**Division 4 Fires, &c.**

**43 Burning offensive materials**

A person shall not burn or heat any material, thing or substance that gives off an odour that is offensive to a person on adjacent land or a public place.

**44 Lighting fires**

- (1) A person who lights or causes to be lit or keeps burning a fire in the open air, other than in an approved incinerator or fireplace, or in a barbecue, commits an offence.
- (2) A person who, without a permit, lights or maintains a fire in a public place other than in a designated fire place commits an offence.
- (3) An offence under this by-law is a regulatory offence.



**45 Igniting fireworks, &c.**

- (1) A person shall not, without a permit issued by the Chief Inspector within the meaning of the *Dangerous Goods Regulations*, light or assist to make a bonfire in a public place, or ignite or throw a firework or similar article in a public place.
- (2) A person who contravenes or fails to comply with clause (1) commits an offence.
- (3) An offence under this by-law is a regulatory offence.
- (4) Nothing in this by-law applies to the ignition of fireworks on the day on which self-government of the Territory is celebrated.

**46 Breaking or leaving glass, &c.**

- (1) A person who breaks or causes to break in a public place used for recreational purposes any glass or other material the pieces of which are likely to cause injury commits an offence.
- (2) An offence under clause (1) is a regulatory offence.
- (3) It is a defence to a prosecution for an offence under clause (1) if the defendant proves on the balance of probabilities that the breakage was accidental and that the broken pieces were collected and disposed of safely.
- (4) A person who leaves or deposits on a public place used for recreational purposes, other than in a container for collection by the council, any glass or other material likely to cause injury commits an offence.
- (5) An offence under clause (4) is a regulatory offence.

**47 Deposit of offensive matter, &c.**

- (1) A person shall not place or cause to be placed household, commercial or industrial waste, refuse or garbage in a litter bin provided by the council in a public place.
- (2) A person shall not:
  - (a) deposit, or permit the deposit of, waste food, peelings, fruit or other vegetable matter;
  - (b) throw, deposit or discharge an offensive or unwholesome matter or fluid; or
  - (c) deposit, or permit the deposit of, garbage or other refuse,

on a public place or other land under the control of the council, except where it is placed in a container for collection by the council.

- (3) A person shall 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.
- (4) A person shall not spit in a public place.
- (5) A person who contravenes or fails to comply with the provisions of this by-law commits an offence.
- (6) An offence under this by-law is a regulatory offence.

#### **48            Throwing stones**

- (1) A person who, into, from or in a public place:
  - (a) throws or discharges a stone or other object; or
  - (c) uses a catapult,thereby causing damage to a building or property, or where there is a possibility of hitting or frightening a person, commits an offence.
- (2) An offence under clause (1) is a regulatory offence.

### **Part 3            Animal management**

#### **Division 1        Animals generally**

#### **49            Purpose of Part**

The purpose of this Part is to provide for the keeping of animals within the municipality in a manner compatible with the enjoyment by residents of a congenial living environment.

#### **50            Diseased and injured animals and animals at large**

The council may, by notice in writing, require the owner of:

- (a) a diseased, injured, savage or destructive animal whether it is on private land or in a public place; or
- (b) an animal at large in a public place that, if left at large, is likely to be a danger to the safety of the public,

immediately to remove or otherwise dispose of the animal, and where it is reasonable to do so, require the destruction of the animal.

#### **51            Removal, &c., of dead or diseased, &c., animals**

- (1) The council may cause a dead animal that is found in a public place to be removed or destroyed and disposed of.
- (2) The council may, without notice to the owner of a dead, diseased or injured animal, or of an animal at large in a public place that is likely to be a danger to the safety of the public, cause the carcass or the animal to be removed or destroyed and disposed of.
- (3) Where the council incurs expense in removing, destroying or disposing of an animal or a dead animal, the council may recover the expense from the owner of the animal as a debt due and payable to the council.

#### **52            Occupier is deemed owner**

For the purposes of this Division, and in the absence of evidence to the contrary, the occupier of land where an animal or a dead animal is found shall be deemed to be the owner of the animal.

### **Division 2            Control of dogs and cats**

#### **Subdivision 1    Preliminary matters**

#### **53            Interpretation**

- (1) In this Division:

***animal*** means all animals kept on private premises in the municipality, and includes dogs, cats, birds and reptiles.

***attack*** means either or both of the following:

- (a) a Level 1 attack;
- (b) a Level 2 attack.

***cat*** means an animal of the genus *Felis*.

***class***, of cats or dogs, means cats or dogs of a specified breed, kind or description.

***declared dog*** means:

- (a) a Declared Dog (Category 1); or

(b) a Declared Dog (Category 2); or

(c) a Declared Dog (Category 3).

**Declared Dog (Category 1)** means:

(a) a dog declared as such under by-law 55B(1); or

(b) a member of a class of dogs declared to be a prescribed breed under by-law 55B(3).

**Declared Dog (Category 2)** means a dog declared as such under by-law 55C(1).

**Declared Dog (Category 3)** means a dog declared as such under by-law 55D(1).

**dog** means an animal of the genus *Canis*.

**dog exercise area** means a dog exercise area declared under by-law 62(1).

**dog restriction area** means a dog restriction area declared under by-law 62(2).

**dog-tag** means a dog-tag issued or permitted under by-law 57.

**identification device** means a device or mark used for identifying an animal registered under this Part and includes a dog-tag, permanent electronic subcutaneous implant, tattoo or other approved device or mark.

**Level 1 attack**, see by-law 55A(1).

**Level 2 attack**, see by-law 55A(2).

**permanent electronic subcutaneous implant** means an electronic device that can be implanted into the tissue of an animal for the purposes of identification.

**prescribed breed**, of dog, means a class of dogs declared to be a prescribed breed under by-law 55B(3).

**registered owner**, of a dog or cat, means the person named in the register as the owner of the dog or cat.

**repealed by-laws** means:

(a) the *Darwin (Control of Dogs) By-laws* as repealed by these By-laws; or

- (b) Part 3, Division 2 of these By-laws as in force immediately before the commencement of this by-law.

***suitable leash*** means a leash, cord, chain or similar device not longer than 2 metres or another length approved by the council.

***veterinarian*** means a registered veterinarian as defined in the *Veterinarians Act*.

- (2) Unless the contrary intention appears, a reference in this Division to the owner of a dog or cat (other than to the registered owner) includes the following persons:
- (a) the person for the time being controlling the dog or cat;
  - (b) the occupier of premises or a part of premises where the dog or cat is usually kept; and
  - (c) if the owner has not attained the age of 17 years – a parent or guardian of the owner.
- (3) However, a reference to the owner of a dog or cat does not include a person controlling or keeping a dog or cat under Subdivision 6 or 7.
- (4) A reference in this Division to a dog or cat at large is a reference to a dog or cat:
- (a) in a place other than premises owned or occupied by the owner of the dog or cat; and
  - (b) not in the custody of an authorised person or in a pound.

#### **54 Exemptions**

By-laws 63, 64, 65 and 70A do not apply in relation to a guide dog.

#### **55 Register**

- (1) Particulars in the register kept for the purposes of this Division must include a reference to the by-law under this Division or the repealed by-laws:
- (a) for which a registered owner has been convicted; or
  - (b) in relation to which a registered owner has paid a sum specified by these By-laws or the repealed by-laws for an infringement notice issued under these By-laws or the repealed by-laws.

- (2) The registrar must keep, as part of the register, the registers required to be kept under the repealed by-laws.

## **Subdivision 1A Declared Dogs**

### **55A Attack by dog**

- (1) A dog commits a Level 1 attack if the dog bites or holds a person or animal in its mouth whether or not:
  - (a) the holding is accompanied by biting, shaking, pulling or pushing; or
  - (b) the person or animal suffers any injury (physical or otherwise).
- (2) A dog commits a Level 2 attack if the dog approaches, chases, menaces, harasses or rushes at a person or animal in a manner endangering or causing fear, alarm or distress to the person or animal.
- (3) Clause (2) applies whether or not there is any contact or injury to the person or animal.

### **55B Declared Dog (Category 1)**

- (1) An authorised officer may declare a dog that has committed a Level 1 attack to be a Declared Dog (Category 1).
- (2) If an authorised officer declares a dog to be a Declared Dog (Category 1), the council must serve notice of the declaration on the owner of the dog.
- (3) The council may, by resolution, declare a class of dogs to be a prescribed breed.
- (4) If the council declares a class of dogs to be a prescribed breed:
  - (a) each dog of that class is a Declared Dog (Category 1); and
  - (b) the council must publish a notice of the declaration in a newspaper circulating in the municipality.
- (5) Not later than 14 days after a notice is served under clause (2) or published under clause (4), the owner of a dog to which the notice applies must:
  - (a) register the dog as a Declared Dog (Category 1); and

- (b) pay the council the difference between the registration fee payable for a Declared Dog (Category 1) and the fee paid for the dog's current registration.
- (6) If the dog is otherwise registered and the owner of the dog fails to re-register the dog in accordance with clause (5), the dog is taken to be unregistered.
- (7) The council must refuse to register a dog as a Declared Dog (Category 1) unless the owner of the dog has:
  - (a) arranged for the dog to be fitted with an approved permanent electronic subcutaneous device; and
  - (b) erected signage on each of the premises where the dog is usually or regularly kept with the words "Warning Dangerous Dog" clearly visible and legible from the boundaries of the premises; and
  - (c) notified the council of the address of the premises where the dog is usually kept (unless the address is the same as the address under which the dog is currently registered).
- (8) As a condition of registration of a Declared Dog (Category 1), the owner of the dog must:
  - (a) ensure the dog is not at any time under the sole charge of a person under the age of 17; and
  - (b) ensure the dog is controlled by a suitable leash at all times when:
    - (i) outside the premises where the dog is usually kept; or
    - (ii) kept on premises that are not fenced in the manner approved by the council; and
  - (c) place a muzzle on the dog at all times when it is outside the premises where it is usually kept; and
  - (d) inform a prospective purchaser or owner of the dog that it is a Declared Dog (Category 1); and
  - (e) not sell or give the dog to a person under the age of 17; and
  - (f) if ownership of the dog is transferred – notify the council of the name and address of the new owner within 24 hours after the transfer; and

- (g) if the premises where the dog is usually kept changes – notify the council of the new address within 7 days after the change; and
  - (h) if the owner intends to keep the dog at a different location to the premises where the dog is usually kept for a period exceeding 14 days – notify the council of the new address within 24 hours after the relocation; and
  - (i) if the dog attacks, or is alleged to have attacked, a person or animal – notify the council of the attack, or alleged attack, within 24 hours after the attack or the owner is made aware of the alleged attack; and
  - (j) if the dog is missing – notify the council within 24 hours after the owner becomes aware of the dog's absence; and
  - (k) if the dog has died – notify the council within 14 days after its death; and
  - (l) comply with any other conditions imposed by the council.
- (9) Clause (8)(a) to (c) does not apply to Declared Dog (Category 1) that is less than an age determined by the council.
- (10) In addition, an authorised officer may recommend, as a condition of the dog's registration, that the owner of a Declared Dog (Category 1) house the dog in a child-proof enclosure.

### **55C        Declared Dog (Category 2)**

- (1) An authorised officer may declare a dog that has committed a Level 2 attack to be a Declared Dog (Category 2).
- (2) If an authorised officer declares a dog to be a Declared Dog (Category 2), the council must serve notice of the declaration on the owner of the dog.
- (3) Not later than 14 days after the notice is served, the owner must:
  - (a) register the dog as a Declared Dog (Category 2); and
  - (b) pay the council the difference between the registration fee payable for a Declared Dog (Category 2) and the fee paid for the dog's current registration.
- (4) If the dog is otherwise registered and the owner of the dog fails to re-register the dog in accordance with clause (3), the dog is taken to be unregistered.



- (5) The council must refuse to register a dog as a Declared Dog (Category 2) unless the owner of the dog has:
- (a) arranged for the dog to be fitted with an approved permanent electronic subcutaneous device; and
  - (b) erected signage on each of the premises at which the dog is usually or regularly kept, with the words "Warning Dangerous Dog" clearly visible and legible from the boundaries of the property; and
  - (c) notified the council of the address of the premises where the dog is usually kept (unless the address is the same as the address under which the dog is currently registered).
- (6) As a condition of registration of a Declared Dog (Category 2), the owner of the dog must:
- (a) ensure the dog is not at any time under the sole charge of a person under the age of 17; and
  - (b) ensure the dog is controlled by a suitable leash at all times when:
    - (i) outside the premises where the dog is usually kept; or
    - (ii) kept on premises that are not fenced in the manner approved by the council; and
  - (c) inform a prospective purchaser or owner of the dog that it is a Declared Dog (Category 2); and
  - (d) not sell or give the dog to a person under the age of 17; and
  - (e) if ownership of the dog is transferred – notify the council of the name and address of the new owner within 24 hours after the transfer; and
  - (f) if the premises where the dog is usually kept changes – notify the council of the new address within 7 days after the change; and
  - (g) if the owner intends to keep the dog at a different location to the premises where the dog is usually kept for a period exceeding 14 days – notify the council of the new address within 24 hours after the relocation; and
  - (h) if the dog is missing – notify the council within 24 hours after the owner becomes aware of the dog's absence; and

- (i) if the dog has died – notify the council within 14 days after its death; and
  - (j) comply with any other conditions imposed by the council.
- (7) In addition, an authorised officer may recommend, as a condition of the dog's registration, that the owner of a Declared Dog (Category 2) do one or both of the following:
- (a) house the dog in a child-proof enclosure;
  - (b) place a muzzle on the dog at all times when the dog is outside the premises where it is usually kept.

#### **55D Declared Dog (Category 3)**

- (1) An authorised officer may declare a dog to be a Declared Dog (Category 3) if the owner of the dog has, in relation to the dog, been found guilty of an offence against any of the following:
- (a) by-law 65;
  - (b) by-law 66;
  - (c) by-law 66A;
  - (d) by-law 67;
  - (e) by-law 68;
  - (f) by-law 69;
  - (g) by-law 70;
  - (h) by-law 70A;
  - (i) by-law 71.
- (2) If an authorised officer declares a dog to be a Declared Dog (Category 3), the council must serve notice of the declaration on the owner of the dog.
- (3) Not later than 14 days after the notice is served, the owner must:
- (a) register the dog as a Declared Dog (Category 3); and
  - (b) pay the council the difference between the registration fee payable for a Declared Dog (Category 3) and the fee paid for the dog's current registration.

- (4) If the dog is otherwise registered and the owner of the dog fails to re-register the dog in accordance with clause (3), the dog is taken to be unregistered.
- (5) The council must refuse to register a dog as a Declared Dog (Category 3) unless the owner of the dog has arranged for the dog to be fitted with an approved permanent electronic subcutaneous device.
- (6) As a condition of registration of a Declared Dog (Category 3), the owner of the dog must:
  - (a) ensure the dog is controlled by a suitable leash at all times when kept on property that is not fenced in the manner approved by the council; and
  - (b) notify a prospective purchaser or owner of the dog that it is a Declared Dog (Category 3); and
  - (c) if the premises where the dog is usually kept changes – notify the council of the new address within 7 days after the change; and
  - (d) if the owner intends to keep the dog at a different location to the premises where the dog is usually kept for a period exceeding 14 days – notify the council of the new address within 24 hours after the relocation; and
  - (e) if the dog has died – notify the council within 14 days after its death; and
  - (f) comply with any other conditions imposed by the council.

#### **55E        Revocation of declared dog status**

- (1) The owner of a declared dog may apply to the council to revoke the declaration for the dog.
- (2) If an owner makes an application under clause (1), the council may:
  - (a) revoke the declaration; or
  - (b) refuse the application.
- (3) The council must notify the owner of its decision under clause (2).
- (4) If the council revokes the declaration, the revocation takes effect from the date notice is given to the owner under clause (3).

- (5) If the council refuses the application, the council is not obliged to consider a further application in relation to the dog made within 6 months of the refusal.

**55F New dog in municipality**

- (1) This by-law applies to a dog that has relocated to the municipality.
- (2) If an authorised officer is satisfied that prior to its relocation the dog has committed :
- (a) a Level 1 attack – the authorised officer may declare the dog to be a Declared Dog (Category 1) under by-law 55B(1); or
  - (b) a Level 2 attack – the authorised officer may declare the dog to be a Declared Dog (Category 2) under by-law 55C(1).
- (3) If an authorised officer is satisfied the owner of the dog has, in relation to the dog, been found guilty of an offence which, if committed in the municipality, would be an offence under a by-law mentioned in by-law 55D(1), the authorised office may declare under by-law 55D(1) the dog to be a Declared Dog (Category 3).

**Subdivision 2 Registration of dogs and cats and licensing of premises**

**55G Registration fee**

- (1) The council may determine the fee for the registration of a dog or cat.
- (2) The council may determine different fees are payable for the registration depending on whether or not:
- (a) the applicant is a pensioner; or
  - (b) if the application is to register a dog – the dog is a declared dog.
- (3) The council may apply a reduced registration fee for a dog if the owner of the dog gives the council a certificate in the approved form certifying the dog:
- (a) has been sterilised by a veterinarian; or
  - (b) has been trained by an approved trainer.
- (4) The council may apply a reduced registration fee for a cat if the owner of the cat gives the council a certificate in the approved form certifying the cat has been sterilised by a veterinarian.

- (5) The council may approve:
  - (a) a certificate of sterilisation to be issued to the owner of the dog or cat; and
  - (b) a mark to be used to identify the dog or cat as having been sterilised.
- (6) If the council has approved a certificate of sterilisation under clause (5)(a), a veterinarian must, on sterilising a dog or cat, issue the certificate to its owner.

## **56 Application for registration**

- (1) The council must, not later than 28 days after receiving an application for the registration of a dog or cat:
  - (a) register or renew the registration of the dog or cat, either conditionally or unconditionally; or
  - (b) refuse to register or renew the registration of the dog or cat.
- (2) However, the period specified in clause (1) may be extended by a further 14 days to enable the owner to satisfy any conditions imposed, or proposed to be imposed, on the registration.
- (3) If the council refuses to register or renew the registration, the council must refund to the applicant the fee accompanying the application.
- (4) The council may refuse to register or renew the registration of a dog or cat if:
  - (a) the dog or cat is not fitted with an approved permanent electronic subcutaneous implant; or
  - (b) within the period of 12 months immediately before the application:
    - (i) the owner of the dog or cat has been found guilty of more than 2 offences against this Division; or
    - (ii) the dog or cat has been impounded under this Division on more than 2 occasions; or

- (c) within the period of 12 months immediately before the application 2 or more complaints have been received relating to:
    - (i) the state of (including odour emanating from) the premises where the dog or cat is usually kept, caused by or as a result of keeping the dog or cat; or
    - (ii) the unauthorised presence of the dog or cat on premises other than the premises where the dog or cat is usually kept; or
  - (d) the owner of the dog or cat refuses to allow an authorised officer to inspect the premises on which the dog or cat is usually kept to ascertain the state and condition of the premises or its fencing, or both.
- (5) The council may refuse to register or renew the registration of a dog if:
- (a) the dog is a declared dog and in the period of 12 months immediately before the application it is the subject of 2 or more complaints; or
  - (b) the dog is a declared dog and the owner of the dog has not complied with the registration requirements in Subdivision 1A; or
  - (c) the premises on which the dog is usually kept are not fenced in the manner determined by the council.
- (6) The council must refuse to register or renew the registration of a dog or cat if, in keeping the dog or cat on the premises on which the dog or cat is usually kept, the applicant would be in breach of by-law 64.
- (7) The council must refuse to register or renew the registration of a dog if the dog, other than a dog referred to in by-law 65(4), is usually kept on premises within a dog restriction area.
- (8) If the council refuses to register or renew the registration of a dog or cat, or imposes conditions on the registration or renewal of the registration, the council must notify the applicant of the reasons for its decision.
- (9) For clause (4)(a), a certificate from a veterinarian in the approved form stating the dog or cat is fitted with an approved permanent electronic subcutaneous implant is proof that the dog or cat is so fitted.

- (10) For clause (4)(b)(i), a finding of guilt for an offence includes the payment of a sum specified in the Schedule for an infringement notice issued under these By-laws.

#### **57 Dog tag**

- (1) If the council registers or renews the registration of a dog under by-law 56, it must issue a dog-tag to the applicant for fitting to the dog.
- (2) However, an authorised officer may permit a dog tag not issued by the council to be fitted to the dog if the dog tag clearly sets out contact details of the dog's owner.

#### **58 Licensing premises**

- (1) The council may determine the number of:
- (a) dogs; or
  - (b) declared dogs; or
  - (c) dogs of a specified class; or
  - (d) cats; or
  - (e) cats of a specified class;
- that may be kept at premises within the municipality without a licence granted for the premises under this by-law.
- (2) A person may apply to the council for a licence to keep at premises more than the number of dogs or cats determined under clause (1).
- (3) The council must, not later than 28 days after receiving the application:
- (a) license or renew the licence of the premises, either conditionally or unconditionally; or
  - (b) refuse to license or renew the licence of the premises.
- (4) If the council refuses to license or renew the licence of the premises, the council must refund to the applicant the fee accompanying the application.

- (5) In considering an application under clause (1), the council may take into account a matter that is, in its opinion, relevant and in particular may take into account the following:
- (a) the facilities for controlling dogs or cats at the premises specified in the application;
  - (b) the number of dogs or cats kept or to be kept at the premises;
  - (c) the likely impact, if the licence is granted or renewed, on the residents in the locality where the premises are situated.
- (6) If the application is for a licence for the keeping of dogs, the council must not grant or renew the licence for premises if:
- (a) the council has determined the manner in which premises must be fenced; and
  - (b) the premises are not fenced in accordance with the determination.
- (7) The council may renew a licence without considering the application in the manner specified in clause (5) or (6) if:
- (a) to the council's knowledge no matters have arisen that, if taken into account at the time the licence was granted, would have caused the council to refuse to grant the licence or to grant the licence subject to conditions other than those specified in the licence; and
  - (b) the council has not, since the grant of the licence, made a determination under clause (1) that affects the premises.
- (8) If the council refuses to grant or renew a licence or grants a licence subject to conditions or renews a licence subject to conditions not imposed on the original licence, the council must notify the applicant of the reasons for its decision.

### **Subdivision 3    Cancellation, variation or suspension of registration or licence**

#### **59            Cancellation, variation or suspension of registration or licence by request**

- (1) The council may, on the written application of the registered owner of a dog or cat or the holder of a licence issued under Subdivision 2:
- (a) cancel the registration of the dog or cat or the licence; or



- (b) vary the conditions to which the registration of the dog or cat or the licence is subject; or
  - (c) in the case of a licence – suspend the licence for the period requested by the applicant.
- (2) However, the council must not vary any of the conditions imposed on the registration of:
- (a) a Declared Dog (Category 1) under by-law 55B(8)(a) to (k); or
  - (b) a Declared Dog (Category 2) under by-law 55C(6)(a) to (i); or
  - (c) a Declared Dog (Category 3) under by-law 55D(6)(a) to (e).
- (3) The council must notify the owner of its decision under clause (1).
- (4) If the council varies a condition, the variation takes effect from the date the owner is notified under clause (3).
- (5) If the council refuses the application, the council is not obliged to consider a further application in relation to the dog made within 6 months of the refusal.

**60            Cancellation, variation or suspension of registration or licence otherwise than by request**

- (1) The council may, by notice served on the registered owner of a dog or cat or the holder of a licence issued under Subdivision 2, require the registered owner or holder to show cause why the council should not:
- (a) cancel the registration of the dog or cat or the licence; or
  - (b) vary, in the manner specified in the notice, the conditions to which the registration or the licence is subject; or
  - (c) suspend the licence for the period specified in the notice.
- (2) The council may, not less than 7 days after the date of service of a notice under clause (1), by another notice in writing served on the person on whom the first-mentioned notice was served:
- (a) cancel the registration of the dog or cat or cancel the licence; or
  - (b) vary, in the manner specified in the notice, the conditions to which the registration of the dog or cat or the licence is subject; or

- (c) suspend the licence for the period specified in the notice, being a period not longer than the period specified in the first-mentioned notice.

#### **61            Operation of notice**

A notice served by the council under by-law 60(2) takes effect at the expiration of 7 days after the service of the notice.

### **Subdivision 4    Dog exercise areas and dog restriction area**

#### **62            Dog exercise area and dog restriction areas**

- (1) The council may, by resolution:
  - (a) declare an area within the municipality to be a dog exercise area; and
  - (b) specify, for the area:
    - (i) the times when a dog may be exercised; and
    - (ii) conditions to apply to the exercising of the dog.
- (2) The council may, by resolution:
  - (a) declare an area within the municipality to be a dog restriction area; and
  - (b) prohibit the keeping at premises within the area all, or more than a specified number of:
    - (i) dogs; or
    - (ii) declared dogs; or
    - (iii) dogs of a specified class.
- (3) The council must, not less than 21 days before declaring an area to be a dog exercise area or dog restriction area, publish a notice of the proposed area in a newspaper circulating in the municipality.

### **Subdivision 5    Offences**

#### **63            Unregistered dog or cat**

- (1) A person must not keep an unregistered dog or cat within the municipality.
- (2) An offence against clause (1) is a regulatory offence.

- (3) It is a defence to a prosecution for an offence against clause (1) if the person charged with the offence proves that the dog or cat had not been kept in the municipality for a period of one month or more immediately before the date of the alleged offence or for periods totalling one month during the 3 month period immediately before that date.
- (4) Clause (1) does not apply to:
  - (a) a pound manager keeping a dog or cat in a pound; or
  - (b) the Royal Society for the Prevention of Cruelty to Animals keeping a dog or cat in a refuge maintained by it; or
  - (c) a veterinarian keeping a dog or cat for the purposes of treatment; or
  - (d) a dog or cat under the age of 3 months, of which the burden of proof lies on the person asserting the age.

**63A        Failure to comply with condition of registration**

- (1) The registered owner of a dog or cat must not contravene a condition of registration for the dog or cat.
- (2) An offence against clause (1) is a regulatory offence.

**64            Requirement for licence**

- (1) The occupier of premises within an area of the municipality must not keep more than the number of dogs, declared dogs, class of dogs, cats or class of cats determined by the council:
  - (a) for the municipality under by-law 58(1); or
  - (b) for the area under by-law 62(2).
- (2) An offence against clause (1) is a regulatory offence.
- (3) It is a defence to a prosecution for an offence against clause (1) if the occupier of the premises proves the dogs or cats had not been kept at the premises:
  - (a) for a period of one month or more immediately before the date of the alleged offence; or
  - (b) for periods totalling one month during the 3 month period immediately before that date.
- (4) Clause (1) does not apply if the premises are licensed under by-law 58.

**65            Keeping dog in dog restriction area**

- (1) A person must not keep a dog in a dog restriction area where keeping the dog is prohibited.
- (2) If a dog is present in a dog restriction area and the presence of the dog is prohibited, the owner of the dog commits an offence.
- (3) An offence against clause (1) or (2) is a regulatory offence.
- (4) It is a defence to a prosecution for an offence under this by-law if the person charged with the offence proves that the dog, at the date of the declaration of the dog restriction area:
  - (a) was owned by the person; and
  - (b) was usually kept at premises in the dog restriction area; and
  - (c) if required by this Division to be registered – was registered.

**65A          Dog not fitted with dog tag**

- (1) The owner of a dog registered under by-law 56 must ensure that the dog is, at all times, wearing a dog tag:
  - (a) issued by the council under by-law 57(1); or
  - (b) permitted by an authorised officer under by-law 57(2).
- (2) An offence against clause (1) is a regulatory offence.
- (3) It is a defence to a prosecution for an offence under this by-law if:
  - (a) the dog is wearing a dog tag issued for another dog registered at the same address; and
  - (b) it is wearing the tag by mistake; and
  - (c) neither dog is a declared dog.

**66            Removal of identification device**

- (1) A person, other than the owner of the dog, must not remove a dog's identification device.
- (2) The owner of a registered dog must not permit the dog to be at large without its identification device.
- (3) An offence against clause (1) or (2) is a regulatory offence.

- (4) It is a defence to a prosecution for an offence against clause (1) if the person proves that the removal of the identification device was reasonable in the circumstances.
- (5) It is a defence to a prosecution for an offence against clause (2) if the owner of the dog proves:
  - (a) the device was removed without the owner's permission and the owner did not have sufficient opportunity to replace it; or
  - (b) the removal of the device and the failure to re-fit the device was reasonable in the circumstances.

#### **66A        Containment of dog**

- (1) A person must not keep a dog that is not properly contained.
- (2) Clause (1) applies irrespective of:
  - (a) the duration the dog is not properly contained; or
  - (b) the ability of the person to contain the dog.
- (3) An offence against clause (1) is a regulatory offence.
- (4) In this by-law:

***properly contained*** means:

- (a) kept within a fenced area from which the dog is unable to escape; or
- (b) kept inside a building or other enclosure from which the dog is unable to escape; or
- (c) enclosed in, or restrained by a suitable leash in or upon, a vehicle in a manner in which no part of the dog protrudes from the vehicle.

#### **67         Dog or cat at large**

- (1) If a dog or cat at large is not under effective control, the owner of the dog or cat commits an offence.
- (2) An offence against clause (1) is a regulatory offence.
- (3) For this by-law, a dog or cat is under effective control if the dog or cat is restrained by a suitable leash that, in the case of a dog:
  - (a) is held by a person who is competent to restrain the dog; or

- (b) otherwise prevents the dog from breaking free or committing an attack.
- (4) In addition, a dog is under effective control if the dog is in a dog exercise area in accordance with the conditions specified under by-law 62(1)(b) for the area and all of the following apply:
- (a) the dog is immediately responsive to a voice command of its owner;
  - (b) the dog is not a female dog in oestrus;
  - (c) the owner is carrying a suitable leash.

#### **68            Enticement**

- (1) A person (including the owner of the dog) must not entice or induce a dog to act in a manner that would render the owner of the dog liable to prosecution for an offence against this Division.
- (2) An offence against clause (1) is a regulatory offence.

#### **69            Dog attack**

- (1) If a dog commits an attack, the owner of the dog commits an offence.
- (2) An offence against clause (1) is a regulatory offence.
- (3) It is a defence to a prosecution for an offence against clause (1) if the owner of the dog proves:
  - (a) a person had, without the owner's permission, enticed or induced the dog to commit the attack; or
  - (b) in the case of an attack on an animal – the animal was attacked on premises owned or occupied by the owner; or
  - (c) in the case of an attack on a person:
    - (i) the person was attacked on premises owned or occupied by the owner; and
    - (ii) at the time of the attack, the person was on the premises without reasonable excuse.

#### **70            Dog chasing motor vehicles**

- (1) If a dog chases a motor vehicle, the owner of the dog commits an offence.

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

**70A        Dog defecating**

- (1) Clause (2) applies if a dog defecates in a public place or on private property that is not owned or occupied by the owner of the dog.
- (2) The owner or the person in control of the dog at the time the dog defecates must immediately remove and dispose of the faeces in a manner that is not offensive to another person.
- (3) A person accompanying a dog in a public place must carry a receptacle to collect the dog's faeces.
- (4) An offence against clause (2) or (3) is a regulatory offence.

**71         Dog causing nuisance**

- (1) A dog is a nuisance if the dog:
- (a) is habitually at large; or
  - (b) makes a noise, by barking or otherwise, that:
    - (i) persistently occurs; or
    - (ii) continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of a person in another premises; or
  - (c) chases or runs at:
    - (i) a person (whether or not the person is on foot or otherwise and whether or not there is a fence or other barrier between the person and the dog); or
    - (ii) an animal (other than in the course of droving, tending, working or protecting stock); or
  - (d) is offensive or endangers the health of a person or animal (other than in the course of droving, tending, working or protecting stock); or
  - (e) causes damage to anything outside the premises where the dog is usually kept.
- (2) If a dog is a nuisance, the owner of the dog commits an offence.

- (3) If an authorised officer is satisfied that a dog is a nuisance, the officer may serve on the owner of the dog:
  - (a) a notice requiring the owner to have the dog complete the training specified in the notice within the timeframe specified in the notice; or
  - (b) an order requiring the owner to prevent the behaviour specified in the notice.
- (4) An order under clause (3)(b) remains in force for no more than 6 months after it is served.
- (5) The owner of a dog must comply with a notice or order served on the owner under clause (3).
- (6) An offence against clause (2) or (5) is a regulatory offence.

## **72            Abandoning dog**

- (1) A person must not abandon a dog in the municipality.
- (2) An offence against clause (1) is a regulatory offence.
- (3) In this by-law:

***abandon*** includes deliberately leaving a dog at any premises or public place without the consent of the owner or occupier of the premises or the person in control of the public place.

## **73            Obstruction of council official and removal of dog or cat from pound**

- (1) A person must not obstruct a council official in the execution of the official's duties under this Division.
- (2) A person must not:
  - (a) remove or attempt to remove a dog or cat from the custody of a council official; or
  - (b) unless permitted under this Division – remove or attempt to remove a dog or cat from a pound.
- (3) An offence against clause (1) or (2) is a regulatory offence.
- (4) In this by-law:

***council official*** includes the following:

- (a) an authorised officer;



- (b) a pound manager;
- (c) an employee of a pound manager.

### **73A        Failure to respond to notice of impoundment**

- (1) The registered owner of a dog or cat who is served with a notice of impoundment under by-law 77(3)(a) must collect the dog or cat from the pound and pay the appropriate maintenance and release fees within the time specified in the notice.
- (2) An owner who fails to comply with a notice of impoundment commits an offence.
- (3) An offence against clause (2) is a regulatory offence.

### **74            Sterilisation marks and certificates**

- (1) A person must not mark a dog or cat with a mark approved by the council under by-law 55G(5)(b) unless the dog or cat has been sterilised.
- (2) A person who sells or gives a dog or cat to another person, must not:
  - (a) if the dog or cat has been sterilised – fail to supply to the other person proof in the form of a certificate approved by the council under by-law 55G(5)(a) that the dog or cat has been sterilised; or
  - (b) if the dog or cat has not been sterilised – state or represent that the dog or cat is sterilised.
- (3) An offence against clause (1) or (2) is a regulatory offence.

## **Subdivision 6    Enforcement**

### **75            Seizure of dog or cat**

- (1) An authorised person may seize:
  - (a) an apparently diseased, injured, savage, destructive, stray or unregistered dog or cat; or
  - (b) a dog or cat that is at large; or
  - (c) a declared dog, if the owner of the dog has not complied with the conditions of the dog's registration.

- (2) The authorised person may destroy the dog or cat if:
  - (a) the dog or cat is diseased, injured, savage or destructive; and
  - (b) in the opinion of the authorised person, it is necessary to do so.
- (3) Otherwise, the authorised person must as soon as practicable:
  - (a) deliver the dog or cat to a pound; or
  - (b) return the dog or cat to its owner.

### **Subdivision 7    Pounds**

#### **76            Establishment of pound and determination of fees**

- (1) The council may:
  - (a) establish a pound; or
  - (b) make such arrangements as it thinks fit for the use of premises for impounding dogs or cats under this Division.
- (2) The council may appoint a person to be the pound manager of a pound.
- (3) The council may determine:
  - (a) the daily fee payable for the maintenance of a dog or cat at a pound; and
  - (b) the fee payable for the release of a dog or cat from a pound.

#### **77            Notice of impoundment**

- (1) If a registered dog or cat with an identification device is delivered to a pound, the pound manager must:
  - (a) release the dog or cat in accordance with by-law 78; or
  - (b) notify the registrar.
- (2) If a dog or cat with a collar on which the address of its owner is displayed is delivered to a pound, the pound manager must notify the registrar.
- (3) If the registrar is notified:
  - (a) under clause (1) – the registrar must serve on the registered owner a notice of the impoundment of the dog or cat; or

- (b) under clause (2) – the registrar may serve at the address displayed on the collar a notice of the impoundment of the dog or cat.
- (4) Except in accordance with clause (3), the registrar is not obliged to notify the owner of a dog or cat of the impoundment of the dog or cat.

## **78 Release of dog or cat from pound**

- (1) An impounded dog or cat must not be released from the pound:
  - (a) unless it is registered; and
  - (b) other than to the owner of the dog or cat or to a person authorised to act as the owner's agent; and
  - (c) unless the council is paid the maintenance and release fees determined by the council under by-law 76(3).
- (2) Clause (1)(a) does not apply if the dog or cat:
  - (a) has not been usually kept in the municipality for a period of one month immediately preceding the date of its release from the pound; or
  - (b) is under 3 months of age.
- (3) The burden of proof lies on a person who asserts that he or she:
  - (a) is the owner of a dog or cat or a person authorised to act as the owner's agent; or
  - (b) has not kept the dog or cat in the municipality for the period specified or the dog or cat is under 3 months of age.

## **79 Diseased dog or cat**

- (1) This by-law applies if a pound manager who takes custody of a dog or cat seized under this Division:
  - (a) receives advice from a veterinarian that the dog or cat is, or is suspected of being, diseased; or
  - (b) notices or suspects that the dog or cat is diseased.
- (2) The pound manager must:
  - (a) isolate the dog or cat from other animals in the pound; and
  - (b) notify the council of the condition of the dog or cat.

- (3) The council must serve on the owner, if known, of the dog or cat notice that the dog or cat is, or is suspected of being, diseased and that the council:
  - (a) requires the dog or cat to be destroyed; or
  - (b) requires the dog or cat to undergo a course of treatment specified in the notice.
- (4) In the notice, the council may require the owner to produce to the council, within the time specified in the notice, a report, prepared by a veterinarian, or a person specified in the notice, relating to:
  - (a) the diseased dog or cat, unless the dog or cat is required to be destroyed; or
  - (b) all other animals usually kept at the premises where the diseased dog or cat was kept.
- (5) The dog or cat may be released from the pound in accordance with by-law 78 subject to any conditions imposed by the council.
- (6) A pound manager may destroy a dog or cat in a pound if the dog or cat is so diseased or injured that it is humane to destroy it.
- (7) The cost of treatment reasonably provided by a pound manager to a diseased dog or cat, and to any other animal in the pound that was infected or was at risk of being infected by the dog or cat before the manager could reasonably isolate it, is a debt payable by the owner of the dog or cat to the council.

## **80            Sale or disposal of impounded dog or cat**

- (1) The council may determine the number of days or hours after which a pound manager may arrange for the destruction of a dog or cat delivered to the pound.
- (2) A dog or cat in a pound must not be destroyed other than:
  - (a) by a veterinarian or a person who is, in the opinion of a pound manager, qualified to destroy the dog or cat; and
  - (b) in a manner that is approved by the Australian Veterinary Association.
- (3) Subject to this Part, a pound manager may, instead of destroying a dog or cat under this by-law:
  - (a) sell or dispose of the dog or cat; or

- (b) transfer ownership of the dog or cat to the Royal Society for the Prevention of Cruelty to Animals and sell or dispose of the dog or cat as agent for the Society.

## **Subdivision 8    Miscellaneous matters**

### **81            Change of ownership or address**

- (1) A person must, not later than 14 days after acquiring ownership of a registered dog or cat, notify the registrar of:
  - (a) the person's name and address; and
  - (b) the name of the current registered owner; and
  - (c) the registration number of the dog or cat.
- (2) The registered owner of a dog or cat must, not later than 14 days after a change in his or her address, notify the registrar of the new address.
- (3) On being notified of a change of ownership under clause (1) or of an address under clause (2), the registrar must amend the register accordingly.

### **82            Dog races and other events**

- (1) The council may, by written notice, exempt a person or body from by-law 66 or 67, or both, for the following purposes or events:
  - (a) a dog race, dog trial or dog show;
  - (b) taking part in the activities of a dog obedience club;
  - (c) using a dog to drive cattle or stock on a road;
  - (d) any other purpose or event as the council may, from time to time, determine.
- (2) An exemption under clause (1) may relate to a particular event or to a class of events and is subject to any conditions imposed by the council.

## **Part 4            Public places**

### **Division 1        Roads, crossings, &c.**

#### **83            Definition**

In this Division, unless the contrary intention appears:

***approved crossing*** means a crossing constructed:

- (a) before the commencement of these By-laws, by or with the approval of the council; or
- (b) after the commencement of these By-laws, in accordance with a permit.

#### **84            Application or requirement to construct crossing**

- (1) The owner or occupier of land that abuts on a public place shall, before constructing a crossing from the land to the place, apply for a permit.
- (2) A person shall not carry out any work relating to the construction of a crossing until a permit for it has been granted.
- (3) The council may serve on the owner or occupier of land that abuts on a public place a notice, under by-law 10, requiring a crossing to be constructed.
- (4) Where, in the opinion of the council, a crossing, whether made before or after the commencement of these By-laws:
  - (a) is no longer adequate for the volume or nature of the traffic passing over it; or
  - (b) is in a state of disrepair or is damaged,

the council may serve a notice under by-law 10 on the owner or occupier of the land to which the crossing leads from the public place.

#### **85            Vehicles to use approved crossings only**

- (1) It is an offence for a person, without a permit, to drive or propel a motor vehicle over or across a footpath otherwise than at an approved crossing.

- (2) Clause (1) does not include the riding of a bicycle or tricycle on, along or across a footpath designated by the council as a bicycle path.
- (3) It is an offence for a person to:
  - (a) park a vehicle on; or
  - (b) place an obstruction on, or cause an obstruction to, an approved crossing.
- (4) Where a person requires to gain access to land, it is not an offence under clause (3) if the person ensures that the vehicle or obstruction remains on the approved crossing for the least time necessary to obtain access.
- (5) An offence under clause (1) or clause (3) is a regulatory offence.

#### **86            Bicycle restriction areas**

It is an offence for a person to ride a bicycle or tricycle along or across a footpath designated by the council as a bicycle restriction area, and indicated as such by signs.

#### **87            Heavy loads prohibited**

- (1) It is an offence for a person, without a permit, to drive or propel a vehicle or cause or permit a vehicle to be driven or propelled across or to stand on or over a crossing, culvert, road kerb or bridge if the vehicle is:
  - (a) so heavy or of such nature that it is likely to cause damage to the paving of the crossing, culvert, kerb or bridge; or
  - (b) of a weight greater than that notified under clause (2).
- (2) The council may, from time to time, determine the maximum weight of a load to be carried over a crossing, culvert, road kerb or bridge and may notify the determination by a sign conspicuously posted at or near each approach to the crossing, culvert, road kerb or bridge.
- (3) An offence under clause (1)(b) is a regulatory offence.

#### **88            Removal of kerbing**

- (1) It is an offence for a person, without a permit, to remove a road kerb.
- (2) An offence under clause (1) is a regulatory offence.

- (3) Where a person, in an application for building or other works, applies for a permit to cross a road kerb, the council may cause the kerb to be removed at the place indicated in the application or at another place approved by the council.
- (4) At the conclusion of the building or other works for which the road kerb was removed, the council may cause the road kerb to be replaced.

**89            Laying pipes, &c., on public place**

- (1) It is an offence for a person, without a permit, to:
  - (a) lay pipes, cables or conduits; or
  - (b) erect, place or maintain a post, pillar, bridge, footway, fixture or structure,  
  
in, on, over, under or abutting a public place or:
  - (c) dig or remove, or cause to be dug or removed, turf, sand, clay, soil or other material from, or from beneath, a public place; or
  - (d) place a matter or thing, whether or not it causes an obstruction, on a public place.
- (2) An offence under clause (1) is a regulatory offence.

**90            Excavations**

- (1) It is an offence for a person, without a permit, to excavate a trench through or under a road or footpath or other public place.
- (2) It is an offence for a person, without a permit, to carry out excavation on land abutting a public place where the excavation:
  - (a) encroaches or may encroach on the public place; or
  - (b) is such that if it were to subside or the wall of the excavation were to collapse the excavation or the excavated material would encroach on the public place.
- (3) An offence under this by-law is a regulatory offence.

**91            Damage to roads, &c.**

- (1) It is an offence for a person to propel, drag or trail in contact with the surface of a road any sledge, timber, metal, tool, implement, furniture or other heavy material or a conveyance or thing capable of damaging the road.



- (2) It is an offence for a person to carry timber, metal, tools, implements, furniture or material along a road in a manner that endangers or causes disturbance to another person.
- (3) It is an offence for a person to spill or cause to be spilt wet concrete, motor oil, hydraulic fluid or any similar substance on a road or within a public place.
- (4) An offence under this by-law is a regulatory offence.

**92            Council may require land to be enclosed**

- (1) Where land adjoining a road is not enclosed in such a manner as to prevent sand, soil or other material from being carried on to the road, the council may, by notice under by-law 10, require the owner or occupier of the land to cause the land to be enclosed.
- (2) The owner or occupier of land shall not, without a permit, cause to be erected or maintained on the boundary of the land or within 0.66 m of a road or land under the control 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.

**93            Safety lights**

- (1) A person who causes:
  - (a) any material or structure to be deposited or laid on a road; or
  - (b) work to be carried out entailing the opening or breaking up of the surface of a road,  
  
whether or not authorised by the council, shall, at the person's expense, cause:
    - (c) lights of a type and colour and in a number that the council considers sufficient for the purpose 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; and
    - (e) the materials, structure or work to be fenced and enclosed to prevent damage or inconvenience to other persons,  
  
until the material or structure is removed or the road is restored.
- (2) A person who contravenes or fails to comply with clause (1) commits an offence.

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

## **Division 2            Trees, &c.**

### **94            Damage to trees, plants, &c.**

- (1) It is an offence for a person, without a permit, in a public place:
- (a) to interfere with or damage a tree, plant, garden or grass strip or cause anything to be done so that it may become damaged or destroyed;
  - (b) to cut, break, remove or disturb a tree, shrub, stem, branch or root of a living tree, shrub or plant; or
  - (c) to plant a tree, shrub or plant.
- (2) An application for a permit under clause (1), to plant a tree, shrub or plant, shall indicate the position where the applicant intends to:
- (a) plant the tree, shrub or plant; or
  - (b) cut, break, remove or disturb the tree, shrub or plant or part of it.
- (3) Clause (1) does not prevent the owner or occupier of land that abuts a footpath from pruning or otherwise maintaining a tree, shrub or plant or maintaining or mowing a lawn on the footpath unless the council directs otherwise.
- (4) It is an offence for a person, without a permit, to pick, pluck or take a bud, flower or other part of a tree shrub or plant in a public place.
- (5) It is an offence for a person, in a public place:
- (a) to drive, tow or propel a motor vehicle or other vehicle; or
  - (b) to ride, drive or lead an animal,
- in such a manner as to cause or permit it to cause damage to a tree, shrub, plant, garden or grass strip in the public place, or to council property situated on or affixed to the public place.
- (6) An offence under this by-law is a regulatory offence.

### **95            Overhanging trees and shrubs**

The council may, where it considers that a tree, shrub or plant growing on land is causing inconvenience or an obstruction to persons using a public street or footpath or is causing or likely to

cause damage to an adjacent public place, serve a notice under by-law 10 on the owner or occupier of the land to trim or remove the tree, shrub, or plant.

## **Division 4            Handbills**

### **97            Handbills**

- (1) It is an offence committed by a person for that person, without a permit, in or on a public place:
  - (a) to give out or distribute a handbill; or
  - (b) to affix or cause to be affixed a handbill to a power pole, signpost or fixture in a street.
- (2) It is a condition of a permit to affix a handbill that the holder shall:
  - (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 any waste or litter from the area.
- (3) It is an offence committed by a person for that person, without a permit and the consent of the owner or occupier of land adjoining a public place, to affix or cause to be affixed a handbill to or against a structure on the land.
- (4) Where an authorised person is of the opinion that a handbill 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, give notice in accordance with by-law 10 to:
  - (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.

## **Division 5            General**

### **98            Writing, defacing, &c.**

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 a regulatory offence.

### **99            Erecting structures &c., or encroaching on public place**

- (1) A person shall not, without a permit, erect or place a structure, whether of a temporary or a permanent nature, on a public place, or permit a structure to encroach on a public place.
- (2) In addition to the general requirements for an application, an application for a permit to erect or place a structure under clause (1) shall:
  - (a) specify the purpose for which the structure will be used; and
  - (b) be accompanied by plans and specifications of the structure.

### **100          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.
- (2) An offence under clause (1) is a regulatory offence.

### **101          Vehicles, &c., for sale in public place**

- (1) A person who, without a permit, displays or exposes for sale any vehicle, boat or motor boat in, on or over a public place or outside any premises adjoining a public place commits an offence.
- (2) An offence under clause (1) is a regulatory offence.

### **102          Musical instruments, &c.**

A person shall not, without a permit, on a public place or other land under the control 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.

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

- (1) A person who:
- (a) camps;
  - (b) parks a motor vehicle or 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 otherwise than:
    - (d) in a caravan park or camping area; or
    - (e) in accordance with a permit,
- commits an offence.
- (1A) For the purposes of this by-law, land is taken to be a caravan park or camping area (as the case may be) if:
- (a) the land is used for parking of caravans or the erection of tents for the purpose of providing accommodation to members of the public; and
  - (b) the owner or occupier of the land receives payment from another person as consideration for permitting the person to park or live in a caravan or to erect or live in a tent on the land.
- (2) An offence under clause (1) is a regulatory offence.
- (3) An authorized person may direct a person who is 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 to a place specified by the authorised person,
- and the person shall comply with the direction forthwith.
- (4) A person who fails to comply with the directions of an authorised person under clause (3) commits an offence.
- (5) A person who, whether alone or together with others, obstructs or by his, her or their presence intimidates another member of the public from using a public shelter, ablution facility, water supply, barbecue or fireplace commits an offence.

## **104        Shopping trolleys**

- (1) A person who leaves a shopping trolley in a public place commits an offence.
- (2) An offence under clause (1) is a regulatory offence.
- (3) An authorised person may remove and impound a shopping trolley left unattended in a public place and shall, within 7 days after the removal and impoundment:
  - (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), which shall be prima facie evidence of the matters contained in it.
- (4) After the expiration of 28 days after the impoundment, the clerk shall cause notice of the impoundment to be published in a newspaper circulating in the municipality and, if the owner of the trolley does not respond within 7 days after publication, shall publish the notice a second time.
- (5) If the owner of the trolley has not, within 28 days after service of a notice under clause (2)(a) or the later of the publications under clause (3), 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.
- (6) Any proceeds of sale of a shopping trolley shall be applied in payment of:
  - (a) costs incurred by the council in the sale; and
  - (b) costs of removal, custody and reasonable maintenance before its sale or disposal,and the balance, if any, shall be paid to the owner at the time of the removal and impoundment.
- (7) If any money remains unclaimed by the owner or by a person acting on behalf of the owner of a shopping trolley sold under clause (3) after the expiration of a period of 6 months commencing with the date of the sale, the money shall be paid into the council's general fund.

**105            Washing or repairing vehicles, &c., in public place**

- (1) Subject to clause (2), a person shall not:
  - (a) wash a motor vehicle, 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.
- (2) Clause (1)(b) does not apply:
  - (a) where the public place has been set aside by the council for the purpose and a notice to that effect has been conspicuously 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.

**106            Removal of persons from reserve**

- (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) Where 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 specified in the notice, for the period, not exceeding 6 months, so specified.
- (3) A person on whom a notice under clause (2) has been served who enters the specified reserve or mall during the specified period commits an offence.

**107            General offences**

- (1) A person shall not, without a permit, drive, propel, sail or tow a boat or motor boat, at a speed of more than 5 knots, in waters within a public place.
- (2) A person shall 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.
- (3) A person shall not, without a permit, graze or allow an animal that the person owns or is responsible for to graze on a public place.

- (4) A person shall not, without a permit, swim or bathe in waters within a public place except within signs erected or posted in a conspicuous place by the council advising that the waters are a designated swimming area.
- (5) A person who urinates or defecates in a public place, except in toilets provided for the purpose, commits an offence.
- (6) An offence under clause (5) is a regulatory offence.

## **Division 7            Malls and other public places**

### **108            Bicycles, skates, &c. may be prohibited in malls and other public places**

- (1) The council may determine that the riding or driving of bicycles or tricycles, pedal powered vehicles, small motorised vehicles, roller skates or blades, skateboards or any of them is prohibited or restricted in a mall or other public place in accordance with an inscription on signs erected in and associated with the mall or public place.
- (2) A person shall not contravene the determination of a council under clause (1) as inscribed on signs erected under that clause.

### **109            Control of certain activities in malls and other public places**

- (1) A person shall not, without a permit, in a public place, perform or offer entertainment, make a painting or drawing or take a photograph or film of a person or thing for commercial purposes or address persons assembled there.
- (2) A person shall not, without a permit, erect or install in a public place a post, rail, fence, pole, tent, booth, furniture, stand, display, exhibition, decoration or structure, whether permanent or temporary.
- (3) A person shall 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 shall 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 shall not in a mall:
  - (a) remove or disturb any part of the soil of any flowerbed or around about or under any tree or plant;



- (b) walk, stand, sit or lie upon any part of a flowerbed; or
  - (c) remove, cut or damage any flower, plant or tree.
- (6) A person conducting a business to which access is from a mall shall not, for the disposal of trade or commercial waste, packaging or rubbish, use public refuse bins placed by the council in the mall.
- (7) A person shall not, without a permit, enter or remain on or walk on any roof, covering or canopy erected over a mall.
- (8) A person shall not, without a permit, bring an animal into a mall.
- (9) This by-law does not apply to an agent or officer or employee of the council acting in accordance with their duties.

**110            Control of vehicular traffic, &c., in malls**

- (1) A person shall not drive a vehicle or cause a vehicle to stand in a mall unless:
- (a) it is an emergency vehicle; or
  - (b) it is:
    - (i) a service vehicle; or
    - (ii) a vehicle in the mall in accordance with a permit.
- (2) A person shall not drive a vehicle, other than an emergency vehicle, in a mall at a speed in excess of 5 km/h.
- (3) A person acting in contravention of clause (1) or clause (2) commits an offence.
- (4) An offence under clause (3) is a regulatory offence.
- (5) Where, 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.
- (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 Emergency Service and is used during the course of that person's duties.

**service vehicle** means a vehicle under the control of an officer of, and being used in relation to a function of:

- (a) the council; or
- (b) an Agency whose responsibilities include highways, the construction and maintenance of government works, or planning and urban development; or
- (c) the Power and Water Corporation; or
- (d) a body providing telecommunications services within Australia.

## **Division 8            Public swimming pools, &c.**

### **111            Application**

Unless the contrary intention appears, this Part applies to all public swimming pools and enclosed waters in a public place in the municipality, but by-law 112 does not apply to a free area within the meaning of the *Nudity Act*.

### **112            Dress and conduct at public swimming pools, beaches, &c.**

- (1) An authorised person, who is of the opinion that the dress of a person, in or near a public swimming pool or waters to which this Part applies is not appropriate or is inadequate, may direct the person to:
  - (a) remedy the defect reasonably required; or
  - (b) leave the public swimming pool or public place.

- (2) A male person over the age of 5 years shall not enter a dressing room, toilet or shower set aside for females; and a female over the age of 5 years shall not enter a dressing room, toilet or shower set aside for males.
- (3) A person under the influence of intoxicating liquor or drug shall not be permitted entrance to a public swimming pool.
- (4) An authorised person, who is of the opinion that a person who is in a public swimming pool or waters to which this Part applies is under the influence of intoxicating liquor or drug, may direct the person to leave the public swimming pool or public 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 shall not enter or use a public swimming pool or other waters to which this Part applies.
- (6) A person shall not commit a nuisance of any kind within a public swimming pool or public place in which waters to which this Part applies are enclosed.
- (7) A person shall 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 public place.
- (8) A person shall not play a game or do any act that is dangerous or is likely to interfere with the safety or comfort of the general public or is likely to injure the property of or injure, endanger, obstruct, inconvenience or annoy a person in a public swimming pool or public place in which waters to which this Part applies are enclosed.
- (9) A person who, in a public swimming pool or public place in which waters to which this Part applies are enclosed:
  - (a) without lawful authority, tampers with or alters any setting or makes any adjustment to any structure, equipment or facility;  
or
  - (b) contravenes or fails to comply with a direction of an authorised person,  
  
commits an offence.
- (10) An offence under clause (9) is a regulatory offence.

**113            Removal of persons from public swimming pools**

An authorised person may exclude from a public swimming pool or other waters to which this Part applies a child who is not accompanied by and in the control of an older person who is apparently capable of caring for him or her.

**114            General offences on beaches, &c.**

- (1) A person shall not, without a permit,:
  - (a) drive or propel a motor boat or other boat in or on a bathing place other than a beach or foreshore; or
  - (b) cause a motor boat or other boat to travel at a speed greater than 5 knots on any waters to which this Part applies.
- (2) A person shall not obstruct or restrict public access to or the use of a facility on a public place, reserve, or public swimming pool.
- (3) A person shall not interfere with, damage, deface or destroy a building, structure, fixture, piece of equipment, plant or facility situated in or on a public place, reserve or public swimming pool.

**Division 9            Stallholders**

**115            Definitions**

In this Division, unless the contrary intention appears:

**goods** includes food, beverages, wares, merchandise, raffle tickets, tokens, badges and motor vehicles.

**market** means an area in which 2 or more stalls are located or intended to be located.

**packages** includes boxes, baskets and packaging.

**sell**, in relation to goods, means offering or exposing goods for sale or hire or displaying or publishing an advertisement describing or promoting the sale of goods, from a stall.

**stall** means a structure in or from which goods are offered for sale and includes a tent, motor vehicle, caravan, trailer or table.

**stallholder** means a person who sells or offers for sale goods from a stall.

**stallholders association** means an association incorporated under the *Associations Act* and formed for the purpose of establishing and managing a market.

**stallholders permit** means a permit granted by the council or by a stallholders association to conduct business from a stall.

#### **116 Stallholders association may issue stallholders permits**

In addition to the general conditions of a licence, it is a condition of a market licence held by a stallholders association that the holder may issue stallholders permits for stallholders to conduct business within the market.

#### **117 Obligations of stallholders associations**

- (1) A stallholders association shall:
  - (a) comply with the conditions of the market licence;
  - (b) comply with the reasonable directions of the council or an authorized person concerning the location of stalls in the market; and
  - (c) keep the site of the market clean and free from garbage, waste or litter resulting from its operation.
- (2) A stallholders association, in the conduct and operation of a market, shall not:
  - (a) permit or allow goods to be sold on such day or days as may be determined by the council;
  - (b) obstruct the passage of pedestrians or vehicles; or
  - (c) allow the market or stalls within the market to be conducted in a manner that is or may be offensive to persons in or in the vicinity of the market.
- (2) A stallholders association shall not, without a market licence, establish or manage a market.

#### **118 Special requirements for application for stallholders permit**

- (1) In addition to the requirements of by-law 117, a stallholders permit shall include particulars of:
  - (a) the type of goods that the applicant intends to sell;
  - (b) the proposed location of the stall from which the applicant proposes to sell the goods;

- (c) the period for which the permit is required; and
  - (d) such other particulars as the council or the stallholders association, whichever is to issue the licence, may require.
- (2) A person shall not, without a stallholders permit, sell goods or otherwise conduct business from a stall.

### **119        Obligations of stallholders**

- (1) A stallholder shall:
- (a) comply with the conditions of the permit;
  - (b) comply with the reasonable directions of the council or an authorized person concerning the location and siting of his or her stall;
  - (c) maintain his or her stall in good order and condition to the satisfaction of the council or an authorized person including keeping the site of the stall clean and free from garbage, waste, or litter resulting from its operation; and
  - (d) display his or her name legibly and conspicuously on the stall.
- (2) It is an offence for a stallholder, in the conduct of business from a stall:
- (a) to sell goods on such a day or as the days may be determined by the council;
  - (b) to call his or her goods or make a noise, or cause to be made a noise or disturbance likely to be a nuisance or annoyance to a person in the vicinity of the stall;
  - (c) to deposit or store packages or goods except within his or her stall;
  - (d) to obstruct the passage of pedestrians or vehicles; or
  - (e) in the opinion of an authorised person, to act in an offensive manner.
- (3) This by-law applies whether or not:
- (a) the stall is located within a market; and
  - (b) a permit is granted by the council or by a stallholders association.
- (4) An offence under clause 2(a), (b), (c) or (d) is a regulatory offence.

## **Part 5                    On-street and off-street car parking**

### **120                    Council-controlled off-street parking areas**

- (1) The council may set aside an area to be a council-controlled off-street parking area.
- (2) It is an offence committed by a person, for the person, in a council-controlled off-street parking area:
  - (a) to stand or park a vehicle other than in a manner indicated by an inscription on a sign erected or placed in the parking area; or
  - (b) to stand or park a vehicle in the parking area in contravention of a limitation relating to a day or period of a day, or a class of persons or vehicles indicated by an inscription on a sign erected or placed in and associated with the parking area;
  - (c) to stand or park a vehicle with a space of less than 1m between it and another vehicle;
  - (d) where parking bays are marked, to stand or park vehicle otherwise than entirely within the parking bay; or
  - (e) to stand or park a vehicle unless the whole of the vehicle is within the parking area.
- (3) An offence under clause (2) is a regulatory offence.

### **121                    Application of Part 3, Division 3 of *Traffic Regulations* to off-street parking areas**

- (1) Part 3, Division 3 of the *Traffic Regulations*, as in force from time to time, applies to and in relation to a contravention of by-law 120 as if the contravention were a parking infringement within the meaning of that Division.
- (2) For the purposes of clause (1):
  - (a) Part 3, Division 3 of the *Traffic Regulations*, as in force from time to time, is incorporated in these By-laws;
  - (b) a reference in that Division to a parking infringement is taken to be a reference to a contravention of by-law 120;
  - (c) a reference in that Division to a sign or other manner of prescription under the *Traffic Regulations* is taken to be a reference to a sign referred to in by-law 120(2)(a) or (b); and

- (d) a reference in that Division to a municipality within the meaning of the *Local Government Act* is taken to be a reference to the municipality of Darwin only.

### **121A      On-street parking**

For the purpose of regulating on-street parking, the council may:

- (a) install meters or ticket vending machines;
- (b) determine the conditions (which may apply generally or in relation to a particular area or a class of areas) subject to which a person may park on a street; and
- (c) determine under by-law 5 fees for parking on a street.

## **Part 6            Public libraries**

### **Division 1        Public libraries**

#### **122            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 129.

***librarian***, in respect of a library, means the person appointed by the council to be in charge of the library, and includes an officer 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 or in conjunction with the library.

***permanent resident*** means a person who, in the opinion of a librarian, resides permanently in the municipality.

***registered borrower*** means a person, organisation or institution registered as a borrower under this Part.



**123        Library hours**

- (1) A library shall be open on the days and during the hours that the council, from time to time, determines.
- (2) A notice setting out the days and times a library is open shall be clearly exhibited and kept exhibited by the librarian in a conspicuous place in or about the library.

**124        Registration of borrowers**

- (1) A librarian may:
  - (a) on the application of a person who is a permanent resident;  
and
  - (b) on the production of evidence of the person's place of residence,register the person as a borrower.
- (2) A librarian may, on the application of a person who is not a permanent resident but who is:
  - (a) employed in the municipality; or
  - (b) attending an educational institution in the municipality,register the person as a borrower.
- (3) A librarian may require a person referred to in:
  - (a) clause (2)(a), to provide a recommendation from the person's employer, in a form approved by the librarian, that the person be registered as a borrower; or
  - (b) clause (2)(b), to provide:
    - (i) a recommendation, authorised by the principal of the educational institution, that the person be registered as a borrower; or
    - (ii) a current identity card that is acceptable to the librarian,before registering the person as a borrower.
- (4) A librarian may require an application under this by-law by a person who has not attained the age of 18 years to be signed by a parent or another person as guarantor of the applicant.

- (5) Where, under clause (4), an application under this by-law is signed by a parent or a person as guarantor, the parent or person guarantees that the parent or person will pay any fees and charges incurred under this Part by the applicant, and to pay, in accordance with this Part, for a book or material lost or damaged whilst on loan to the applicant before the applicant attains the age of 18 years.

**125            Registration of temporary borrower**

- (1) A librarian may register a person who is not qualified to be registered under by-law 124 as a temporary borrower.
- (2) A person registered as a temporary borrower may borrow books or materials from a library on such terms and conditions as the librarian from time to time determines.

**126            Registration of organisations and institutions**

- (1) A librarian may register an organisation or institution as a borrower.
- (2) An organisation or institution registered as a borrower under clause (1) may borrow books or materials from a library on such terms and conditions as the librarian may from time to time determine.

**127            Borrowers from other libraries**

- (1) Where a person registered as a borrower with another public library that is outside the municipality but that is in the Territory applies for registration as a borrower the person shall produce to the librarian the person's borrower's card from the other library and the librarian may register the person as a borrower.
- (2) Where the librarian registers a person as a borrower under clause (1), the person may borrow books or materials from a library on such terms and conditions as the librarian from time to time determines.

**128            Effect of registration**

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

**129            Borrowers' cards**

- (1) Each registered borrower shall be issued with a borrower's card.

- (2) A borrower's card shall remain in force, unless sooner cancelled or suspended, for a period of 2 years after the date of issue or for such other period as a librarian may from time to time determine and endorse on the card.
- (3) A borrower's card is not transferable.

**130            Loss or destruction of borrowers' cards**

- (1) A registered borrower whose borrower's card is lost or destroyed shall notify a librarian of the loss or destruction as soon as possible after becoming aware of the loss or destruction.
- (2) Where a registered borrower satisfies a librarian that his or her borrower's card has been lost or destroyed, the librarian may, subject to clause (3), on payment of the appropriate fee, if any, issue to the borrower a new borrower's card.
- (3) A librarian shall 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 any outstanding fees and charges incurred under this Part.
- (4) A registered borrower in whose name the card is issued is liable under this Part for a loss of, or damage to, books or materials borrowed by using the card (whether or not the books or materials were borrowed by the registered borrower using the card or the card was lost) until such time as a librarian is notified under clause (1).

**131            Cancellation of borrowers' cards**

- (1) A registered borrower who:
  - (a) changes his or her name; or
  - (b) does not intend to continue borrowing books or materials from a library,shall notify a librarian accordingly and forward to the librarian the borrower's card for cancellation.
- (2) A librarian may cancel, or suspend for such period as the librarian thinks fit, a borrower's card where the registered borrower in whose name the card is issued has contravened or failed to comply with this Part.

**132 Use of borrowers' card**

A person shall not be permitted to borrow a book or material from a library unless the person presents a borrower's card to the librarian or an employee of the council at the area designated for the purpose of issuing books or materials at the library.

**133 Borrowers to attend in person**

A librarian may refuse to lend a book or material except to a registered borrower in person.

**134 Period of loan of books or materials**

- (1) A book or material may be borrowed from a library for such period as the librarian from time to time determines.
- (2) The number of books and materials a registered borrower may borrow from a library shall be as the librarian from time to time determines.
- (3) Where a registered borrower has borrowed a book or material from a library, the librarian may decline to change the book or material on the same day on which it was borrowed.
- (4) Where a book or material is not required by another registered borrower, the librarian may extend, for one further period only, the period of the loan.
- (5) An application for the extension of a period of a loan of a book or material may be made:
  - (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.

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

- (1) A registered borrower who retains a book or material beyond the period of loan shall, if required by a librarian, pay the reasonable costs incurred by the council in obtaining the return of the book or material.
- (2) A librarian may refuse to lend books or materials to a registered borrower who fails to pay an amount required to be paid under clause (1).

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

Where a book or material is:

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

a registered borrower shall, on returning the book or material to the library, report the damage to the librarian.

**137 Lost or damaged books or materials**

(1) Where a book or material is:

- (a) damaged whilst on loan;
- (b) not returned after due notice requesting its return has been given by a librarian; or
- (c) lost whilst on loan,

a librarian may require the registered borrower of the book or material to pay the cost of replacing it or of repairing the damage caused and 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) A book or material that is stolen, lost or damaged remains the property of the council or the Territory, although replaced or paid for, and, if recovered, the subsequent disposal of the book or material shall be at the discretion of the council or the Territory.

**138 Offence not to return books, &c.**

(1) Every person commits an offence who fails, within 14 days after the receipt of a letter from the council demanding the return of overdue books or materials or the payment of a specified amount for replacing or repairing any lost or damaged book or material (being a letter headed "Formal Demand"), to make the return or payment or enter into an arrangement satisfactory to the council to satisfy the demand.

(2) An offence under clause (1) is a regulatory offence.

**139 Books or materials may be reserved**

(1) Where 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 shall notify the registered borrower when the book or material reserved under clause (1) becomes available for loan.

**140        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) Where an application is made under clause (1), the librarian shall take such steps as are practicable to supply the book or material required and shall notify the registered borrower of the outcome.
- (3) Nothing in this by-law shall require the council to purchase a book or material in respect of which an application is made under clause (1).

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

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

**Division 2        Miscellaneous**

**142        Powers of librarians, &c.**

- (1) A librarian may give such directions and take such action as the librarian considers necessary for securing orderly conduct at a library and compliance with this Part.
- (2) A 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) A person who contravenes or fails to comply with this Part or with a direction of a librarian under clause (1) or (2) may be removed or excluded from the library by the librarian, an authorized person or an officer or employee of the council.
- (4) A person aggrieved by a decision of a librarian may appeal to the council.

**143        Bags, &c., 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 shall, 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).

**144        Animals in libraries**

- (1) A person shall not bring an animal into a library.
- (2) Clause (1) does not apply to a person bringing a guide dog into a library.

**145        Vehicles in libraries**

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

**146        Conduct of persons in libraries**

- (1) A person shall 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) in a library do any of the following:
  - (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) behave in a disorderly manner or swear or use violent, abusive or obscene language; or
  - (viii) enter or remain after the hour fixed for the closing of the library.
- (2) A person shall not enter or remain in a library with a child who has not attained the age of 5 years unless the person keeps the child under direct supervision at all times while the child is in the library.

## **Part 7 Council meetings and procedures**

### **Division 1 Business**

#### **147 Procedures for meetings of council**

- (2) A motion to suspend the operation of the procedures set out in this Part may be moved without notice.
- (3) A suspension under clause (2) is limited in its operation to the particular purpose for which the suspension has been sought.

#### **148 Ordinary meetings**

An ordinary meeting shall be held on such day and at such time in each month as the council from time to time determines.



**149 Order of business**

- (1) The order of business at an ordinary meeting shall be as the council from time to time determines.
- (2) Notwithstanding a determination under clause (1), the order of business at an ordinary meeting may be altered for a particular meeting where the members at the meeting pass a motion to that effect.
- (3) A motion under clause (2) may be moved without notice.

**150 Business paper**

- (1) The clerk shall, as soon as practicable before each meeting, or within such time as the council determines, prepare or have prepared a business paper.
- (2) Copies of a business paper prepared under clause (1) shall be made available to the public at the council office and at such other places as the council determines as soon as practicable before each meeting.
- (3) A business paper prepared under clause (1) shall contain:
  - (a) business arising out of previous meetings;
  - (b) business which the Lord Mayor wishes to have considered at the meeting without notice;
  - (c) matters of which notice, in accordance with by-law 151, has been given;
  - (d) matters referred to the council by a committee;
  - (e) officers' reports to the council referred to the meeting by the Lord Mayor or the clerk; and
  - (f) such other business as the council from time to time determines be contained in the business paper.

**151 Notice of business to be given by member**

- (1) A matter shall not be considered at a meeting unless notice in accordance with this by-law is given to the members within the time before the meeting as the council from time to time determines.
- (2) A notice under this by-law shall be in writing and signed by the member who wishes the matter to be considered.

- (3) A notice under this by-law may be given to a member by serving it on the member personally (including by electronic means) or by posting it to the member at the member's address for service as provided to the clerk under the Act.
- (4) A matter for which notice under clause (1) been given may be considered at an ordinary meeting during the part of the meeting set aside for general business.
- (5) A member at a meeting shall not speak to a matter raised for consideration in general business under this by-law for longer than 5 minutes.

**152 Lord mayoral minute**

The Lord Mayor may, by a signed minute, introduce a matter for consideration at an ordinary meeting and the matter takes precedence over all other matters for consideration at the meeting and may be adopted by a motion moved by the Lord Mayor without the need for the motion to be seconded.

**153 Petitions**

- (1) A petition may be presented to a meeting by a member who, before presenting the petition, shall, as far as practicable, become acquainted with the subject matter of the petition.
- (2) A member, on presenting a petition to a meeting, shall:
  - (a) state the nature and prayer of the petition; and
  - (b) read the petition.
- (3) A petition shall not be presented unless it is worded in respectful language.
- (4) Each page of a petition presented to the council shall restate the whole of the petition.
- (5) Where a page of a petition does not comply with clause (4) the signatures on that page shall not be taken into account by the council when considering the petition.
- (6) A person shall not append to a petition:
  - (a) a signature purporting to be that of another person; or
  - (b) the name of another person.

- (7) Where a member presents a petition to a meeting no debate on or in relation to it shall be allowed and the only motion that may be moved is:
- (a) that the petition be received and consideration stand as an order of the day for the meeting or for a future meeting; or
  - (b) that the petition be received and referred to a committee or officer for consideration and a report to the council.

#### **154 Deputations**

- (1) A deputation means a group of persons consisting of more than 2 persons.
- (2) A deputation wishing to attend and be heard at a meeting may, not less than 7 clear days before the meeting, apply in writing to the clerk.
- (3) The clerk, on receiving an application under clause (2), shall notify the Lord Mayor of the application and the Lord Mayor shall determine whether the deputation may be heard and shall notify the clerk accordingly.
- (4) Where the clerk is notified by the Lord Mayor under clause (3) the clerk shall:
- (a) inform the deputation of the determination of the Lord Mayor; and
  - (b) where the Lord Mayor has determined to hear the deputation, arrange a convenient time for the deputation to be heard at a meeting.
- (5) Only 2 persons in a deputation may be heard at a meeting unless the members at the meeting at which the deputation is to be heard determine otherwise.
- (6) A person in a deputation at a meeting shall be temperate in speech and manner, and shall not use insulting or offensive language.
- (7) Subject to clause (8), a deputation at a meeting in accordance with this by-law shall be given adequate opportunity and facility to explain the purpose of the deputation.

- (8) The Lord Mayor may terminate an address by a person in a deputation at any time where:
- (a) the Lord Mayor is satisfied that the purpose of the deputation has been sufficiently explained to the members at the meeting; or
  - (b) the person uses insulting or offensive language.

## **Division 2 Motions**

### **155 Motions**

- (1) A motion brought before a meeting in accordance with the Act or this Part shall be received and put to the meeting by the Lord Mayor.
- (2) The Lord Mayor may require a motion or amendment to a motion to be stated in full or be in writing before permitting it to be received.

### **156 Unopposed notices of motion**

At a meeting the Lord Mayor may call over the notices of motion in the order in which they appear on the business paper, and, where no objection is taken to a motion being taken as a formal motion, the Lord Mayor may, without discussion, put the motion to the vote.

### **157 Motions not to be withdrawn**

A motion on the business paper for a meeting shall not be removed from the paper where a member at the meeting objects to it being removed.

### **158 Absence of mover of motion**

Where a member who has given notice of a motion under by-law 151 is absent from the meeting at which the motion is to be considered, the motion may be:

- (a) moved by another member at the meeting; or
- (b) deferred to the next ordinary meeting.

### **159 Motion to be seconded**

- (1) A motion or an amendment to a motion shall not be debated at a meeting unless or until the motion or the amendment is seconded.

- (2) Notwithstanding clause (1), a member who moves a motion or an amendment to a motion may speak in support of the motion or amendment before it is seconded.

**160 Amendment to motion**

- (1) Where an amendment to a motion is before a meeting no other amendment to the motion shall be considered until after the first amendment has been put.
- (2) Not more than one motion or one proposed amendment to a motion may be put before a meeting at any one time.
- (3) An amendment to a motion shall be in terms that retain the identity of the original motion and do not negative the motion.
- (4) A member who proposes or seconds a motion shall not propose or second an amendment to the motion.
- (5) Where a motion is amended by another motion, the original motion shall not be put as a subsequent motion to amend the other motion.

**161 Motion of dissent**

- (1) A member at a meeting may, without notice, move a motion of dissent in relation to a ruling of the Lord Mayor on a point of order.
- (2) Where, under clause (1), a motion is moved, further consideration of the matter in relation to which the ruling of the Lord Mayor was made shall be suspended until after the motion is put.
- (3) Where a motion moved under clause (1) is carried, the matter in relation to which a ruling of the Lord Mayor was made shall:
  - (a) proceed as though the ruling had not been made; or
  - (b) where as a result of the ruling the matter was discharged as out of order, be restored to the business paper and be dealt with in the normal course of business.
- (4) Notwithstanding that the Lord Mayor is chairing the meeting, the Lord Mayor may, where a motion is moved under clause (1), speak to the motion and cast a deliberative vote in respect of it.

**162 Rescinding or altering resolutions**

- (1) A resolution of the council may not be altered or rescinded:
  - (a) unless a notice of a motion to alter or rescind the resolution is given at the meeting at which the resolution is passed; or

- (b) within 3 months after the date of the passing of the resolution, unless notice of motion is given in accordance with this Part to alter or rescind the resolution.
- (2) Where, in accordance with clause (1)(a), a notice of a motion to rescind a resolution is given, the resolution shall not be carried into effect, except as provided in clause (3), unless the motion is put and lost.
- (3) A resolution of the council referred to in clause (2) may be carried into effect where the members present at the meeting, by resolution, defer consideration of the motion to rescind the resolution.
- (4) A resolution under clause (3) shall not defer consideration of the motion for longer than 3 months.
- (5) Where a motion, of which notice in accordance with clause (1) is given, is lost, a motion to the same or similar effect may not be moved until after the expiration of 3 months after the date on which the first-mentioned motion was lost.
- (6) This by-law does not apply to a motion referred to in by-law 163.
- (7) Where a resolution of the council relates to a matter the subject of a previous resolution passed by the council more than 3 months before the later resolution, the previous resolution is, to the extent that it is inconsistent with the later resolution, altered or rescinded.

### **163 Procedural motions**

- (1) A member at a meeting may, during the debate of at a matter, move, as a procedural motion, that:
  - (a) the question be put;
  - (b) the debate be adjourned;
  - (c) the meeting proceed to the next item of business;
  - (d) the meeting stand adjourned;
  - (e) the question lie on the table; or
  - (f) the council be resolved into committee of the whole.
- (2) A procedural motion, that the question be put, may be moved under clause (1), where at the meeting not less than 2 members have spoken for and not less than 2 members have spoken against the motion before the meeting or an amendment to the motion and the

procedural motion is moved by a member who has not spoken in the debate of the motion or an amendment to the motion.

- (3) Where a motion put under clause (2) is:
  - (a) carried, the Lord Mayor shall immediately put the question to the motion or the amendment to the motion; or
  - (b) lost, debate on the motion or the amendment to the motion shall continue.
- (4) A procedural motion, that the debate be adjourned, may specify a time or date, within the limits specified in clause (6), to which the debate shall be adjourned, or where no date is so specified a further motion may be moved, as a procedural motion, to specify such a time or date.
- (5) Where, under clause (4), no date or time is specified to which a debate shall be adjourned, the matter to which the procedural motion relates shall be included in the business paper for the next ordinary meeting.
- (6) A procedural motion under clause (4) shall not adjourn debate on the matter the subject of the motion to a date that is more than 2 months after the date of the procedural motion.
- (7) Where a procedural motion, that the meeting proceed to the next item of business, is carried, debate on the matter the subject of the motion shall cease and the matter shall be removed from the business paper and may only be considered again by the council on the giving of notice in accordance with this Part.
- (8) A procedural motion, that the meeting stands adjourned, may be moved by a member at the conclusion of debate on a matter on the business paper or at the conclusion of a member's time for speaking to a matter, and shall, on being seconded, be put without debate.
- (9) Where a procedural motion under clause (8) is lost the Lord Mayor is not bound to accept a similar motion until the expiration of 30 minutes after the time the motion was lost.
- (10) A procedural motion, that the meeting stands adjourned, shall specify a time for the resumption of the meeting unless a time has previously been resolved, and on resumption of the meeting the council shall continue with the business before the meeting at the point where it was discontinued on the adjournment of the meeting.

- (11) A procedural motion, that the question lie on the table, shall only be moved where:
  - (a) the Lord Mayor or a member requires additional information on the matter before the meeting; or
  - (b) the result of some other action of the council or person is required before the matter may be concluded at the meeting.
- (12) Where a procedural motion under clause (11) is passed the council shall proceed with the next matter on the business paper.
- (13) A motion that a question be taken from the table may be moved in respect of a matter the subject of a procedural motion under clause (11) at the meeting at which the procedural motion was carried or at a later meeting.
- (14) Where a procedural motion, that the council be resolved into committee of the whole, is passed, the council shall immediately go into committee and consideration of the matter that was before the council at the time of the procedural motion shall continue in committee and shall not be considered further by the council except on the report of the committee of the whole.
- (15) A procedural motion referred to in clause (1) may be moved at the conclusion of a speaker's time and the Lord Mayor shall, on the motion being moved and seconded, immediately put the motion without permitting debate on the motion.
- (16) Where a procedural motion referred to in clause (1)(a), (b) or (c) is lost, the member who moved the motion may not, until after the expiration of 10 minutes after the motion was put, move a similar motion.

### **Division 3 Questions and discussions**

#### **164 Questions**

- (1) A member may at a meeting ask a question for reply by another member or an officer or employee.
- (2) Such notice as the Lord Mayor determines of a question under clause (1) shall be given to the member or officer or employee to whom it is directed to permit consideration of a reply and, if necessary, reference to other persons or documents.
- (3) A question under clause (1) shall be asked categorically and without argument and no discussion shall be permitted at the meeting in relation to a reply or a refusal to reply to the question.



- (4) Notwithstanding clause (2), a member or officer or employee of whom a question is asked may, at the meeting at which the question is asked, request that the question be taken on notice for the next ordinary meeting.
- (5) A member who asks a question at a meeting shall be deemed not to have spoken to the debate of the motion to which the question relates.

**165 Lord Mayor to take precedence**

The Lord Mayor may, at any time during the debate of a matter at a meeting, indicate an intention to speak and, on so doing, a member speaking or proposing to speak to the debate shall cease speaking and remain silent, or refrain from speaking until the Lord Mayor has been heard.

**166 Mode of addressing members and officers or employees**

A member shall, at all times during a meeting, address and refer to another member or an officer or employee by the member's or officer or employees' official title or designation.

**167 Limitation of number of speeches**

- (1) A member who moves a motion has a right to speak to the motion and to an amendment proposed to it and has a right of reply.
- (2) A member at a meeting, not being a member who moves a motion, has a right to speak once to the motion and to an amendment proposed to it.
- (3) Subject to clauses (4) and (5), a member at a meeting may not speak for more than 5 minutes on a question before the meeting.
- (4) A member who moves a motion may not speak:
  - (a) to the motion for longer than 10 minutes; and
  - (b) in the member's right of reply for longer than 5 minutes.
- (5) Notwithstanding clause (3), where:
  - (a) the members present at a meeting consent, a member's time to speak on a question before the meeting may be extended for a further period not longer than 5 minutes, as determined by the members; or

- (b) a member considers that he or she has been misrepresented or misunderstood, the member may be permitted by the Lord Mayor to answer, without further observation than is necessary, the misrepresentation or misunderstanding.
- (6) A ruling of the Lord Mayor under clause (5) shall be final and conclusive and shall not be discussed or be the subject of a motion of dissent.

**168 Priority of speaking**

Where 2 or more members at a meeting rise to speak at the same time the Lord Mayor shall decide which member shall be heard first.

**169 Members to stand when speaking**

A member at a meeting shall stand when speaking to a matter being considered at the meeting unless:

- (a) prevented from doing so by a physical disability; or
- (b) the council has determined otherwise.

**170 Imputation**

A member speaking at a meeting shall not make a personal reflection on, or impute an improper motive to, another member.

**Division 4 Order and disorder**

**171 Question of order**

- (1) A member is guilty of an act of disorder if, at a meeting, the member:
- (a) is in breach of the Act or these By-laws;
  - (b) uses language that, according to common usage, would be considered disorderly;
  - (c) uses an expression inconsistent with good order or decorum;  
or
  - (d) says or does anything calculated to bring the council into contempt.
- (2) At a meeting the Lord Mayor may, with or without the intervention of another member, call a member to order where the Lord Mayor considers the member is out of order.

- (3) At a meeting a member may raise a question of order with the Lord Mayor where the member considers another member is:
  - (a) guilty of an act of disorder; or
  - (b) out of order.
- (4) Where, under clause (3), a question of order is raised, the Lord Mayor shall rule on the question but may, before ruling, seek the opinions on the question of the other members at the meeting.
- (5) A ruling of the Lord Mayor made under clause (4) shall be obeyed except where a motion of dissent is subsequently passed in respect of the ruling.
- (6) A member who, under clause (4), is ruled to be out of order more than once at a meeting is guilty of an offence.
- (7) Where the Lord Mayor, under clause (4), rules a member is guilty of an act of disorder, the Lord Mayor may request the member to leave, for the remainder of the meeting, the place where the meeting is taking place and to apologize, without reservation, to the other members present.
- (8) A member shall not refuse to leave the place where a meeting is taking place on being requested to do so under clause (7).

## **172 Disorder**

- (1) The Lord Mayor may, where disorder arises at a meeting, adjourn the meeting for 15 minutes and quit the chair.
- (2) Where, under clause (1), a meeting is adjourned, the Lord Mayor shall, on resumption of the meeting, move a motion, which shall be put without debate, to determine whether the meeting shall proceed.
- (3) Where a motion under clause (2) is lost, the Lord Mayor shall declare the meeting closed.

## **173 Business of objectionable nature**

If at a meeting the Lord Mayor or a member considers that a matter before the meeting is objectionable, the Lord Mayor may, on the Lord Mayor's own motion or on that of another member, declare, on a point of order, that the matter not be considered further.

## **Division 5 Attendance and non-attendance**

### **174 Quorum not present**

- (1) Where a meeting is postponed, that fact, together with the names of the members present at the time, shall be recorded in the minutes kept by the council.
- (2) Where at a meeting a quorum of members is not present the Lord Mayor shall suspend the meeting for a period of 3 minutes and, if at the expiration of the period, a quorum is not present, the names of the members present at the time shall be recorded in the minutes kept by the council, and the Lord Mayor shall adjourn the meeting to a later time or to another date, as the Lord Mayor thinks fit.
- (3) A member is taken to be present at a meeting if the member is in the room in which the meeting is taking, or is to take, place and seated at the place allocated to the member for the meeting.

## **Division 6 Media and public**

### **175 Attendance of public and media at meetings**

At a meeting:

- (a) an area at the place where the meeting is held shall be made available for members of the public to attend the meeting, and as many of them as reasonably can be accommodated in the area shall be permitted to attend the meeting; and
- (b) journalists may be present for the purpose of reporting on the meeting.

### **176 Removal of persons from meetings**

- (1) A person, other than a member, who interrupts the orderly conduct of a meeting shall, on being requested to do so by the Lord Mayor, immediately leave the place where the meeting is being held.
- (2) A person who fails to comply with a request of the Lord Mayor under clause (1) may, on the order of the Lord Mayor, be removed, with such force as is necessary, from the place where the meeting is taking place.

### **177 Public participation at meeting**

Except when invited to do so by the members at a meeting, or in accordance with by-law 154, a member of the public shall not take, or attempt to take part, in the meeting.

## **Division 7 Committees of council**

### **178 Procedures for meetings of committees**

Subject to the Act, the procedures for the conduct of a meeting of a committee shall, except as otherwise provided by this Part be as determined, from time to time, by the members of the committee.

### **179 Meetings of committees**

A meeting of a committee shall be held at such dates and times as the council or the committee from time to time determines.

### **180 Disorder in committee**

By-laws 172 and 173 apply to and in relation to a meeting of a committee as if the meeting was a meeting of the council and the chairman of the committee was the Lord Mayor.

### **181 Reports by committees**

- (1) A report to the council by a committee shall be presented by the chairman of the committee or, in the chairman's absence, by such other member of the committee as determined by the Lord Mayor.
- (2) Where more than one recommendation is made by a committee in a report to the council the decision of the council in relation to each recommendation may be taken separately.

## **Division 8 Miscellaneous**

### **182 Mode of proceeding in cases not provided for**

- (1) Where, at a meeting of the council or a committee, a matter arises that is not provided for, in part or in whole, by this Part, the matter shall be dealt with in accordance with a resolution of the council or the committee carried by not less than two thirds of the members present at the meeting.
- (2) Where, at a meeting of the council or a committee, a question arises relating to the interpretation of these By-laws the question shall be determined by reference to The Law and Procedures at Meetings in Australia and New Zealand by P.E. Joske.

### **183 Penalty**

The penalty for an offence against this Part is \$50.

## **Part 8 Signs, hoardings and advertising**

### **Division 1 Preliminary matters**

#### **184 Interpretation**

(1) In this Part:

**advertiser** means:

- (a) if a permit is in force under this Part for an advertising sign – the permit holder; or
- (b) in any other case – the person who authorises or causes an advertising sign to be exhibited.

**authorised person** has the same meaning as in Part 9.6 of the *Local Government Act*.

**Code** has the meaning in by-law 185..

**permit holder** means the holder of a permit in force under this Part.

**public area** means a road, a reserve or land within the municipality that is owned, controlled or maintained by the council or the Territory.

(2) An expression used but not defined in this Part has the same meaning as in the Code.

#### **185 Outdoor Advertising Signs Code**

- (1) The Code is the Darwin City Council Outdoor Advertising Signs Code approved by resolution of the council on 30 March 2004 as amended from time to time and, if that code is replaced under clause (2), the replacement code as amended from time to time.
- (2) The council may, by resolution, amend the Code or replace it with another code that prohibits, regulates or exempts matters relating or incidental to the placing, size, shape, content and colour of signs, hoardings and advertising in a public area or on premises adjoining or in view of a public area.
- (3) The council must make the Code available for inspection by the public at the council offices.
- (4) If the council amends or replaces the Code, the council must publish in a newspaper circulating in the municipality a notice stating that the amendment or replacement has been made and including a description of the effect of the amendment.

### **186 Classification of advertising signs**

- (1) The following classifications apply to advertising signs:
  - (a) exempt;
  - (b) complying;
  - (c) discretionary;
  - (d) prohibited.
- (2) The council must classify an advertising sign by reference to criteria stated in the Code and may specify conditions that must be met for a particular sign to be given a classification.

### **187 General standards for advertising signs**

- (1) This by-law applies without limiting the requirements set out under the Code.
- (2) An advertising sign must:
  - (a) be constructed or installed and maintained in a condition of security, good repair and structural soundness to the satisfaction of the council; and
  - (b) accord with the dimensions specified in the Code and, in particular, must have dimensions that bear a reasonable relationship to the dimensions of surrounding buildings and allotments so that:
    - (i) its presence is not unduly dominating or oppressive; and
    - (ii) it does not unreasonably obstruct views.
- (3) An advertising sign must not:
  - (a) cause significant obstruction of, or distraction to, vehicular and pedestrian traffic; or
  - (b) detract from the quality and architectural character of the building on which the sign is exhibited, or the environmental character and values of the surrounding area, by its colour or appearance; or
  - (c) have a negative impact on, or detract from, the character and values of the environment in which it is to be exhibited; or
  - (d) conflict with the requirements of any applicable legislation.

**188 Unlawful exhibition of advertising sign**

- (1) An advertising sign must not be exhibited in a public area or on premises adjoining or in view of a public area unless:
  - (a) a permit is in force for the advertising sign; or
  - (b) the advertising sign is classified as an exempt or complying advertising sign.
- (2) An advertiser who exhibits an advertising sign in contravention of this by-law commits an offence.
- (3) An offence under clause (2) is a regulatory offence.

**Division 2 Permits**

**189 Application for permit**

- (1) A person may apply to the council for a permit to exhibit an advertising sign.
- (2) The application must be in an approved form and include:
  - (a) full details of the proposed advertising sign, including its contents, design, dimensions and construction; and
  - (b) full details of when, where and how the advertising sign is to be exhibited; and
  - (c) if planning or building approval is required under other legislation – evidence of the relevant approval; and
  - (d) if the advertising sign is to be exhibited in a place not owned by the applicant – the written consent of the owner of the place.

**190 Issue of permit**

- (1) On receipt of an application made in accordance with by-law 189, the council may decide to:
  - (a) issue a permit on any conditions the council considers appropriate; or
  - (b) refuse to issue a permit.



- (2) In deciding whether or not to issue a permit, the council must have regard to the following:
  - (a) the application and any information provided with the application;
  - (b) submissions from interested persons;
  - (c) the public interest;
  - (d) Commonwealth, Territory or local government plans, proposals, or agreements that could affect the area in which the advertising sign is to be exhibited;
  - (e) relevant legislation including the Code.
- (3) If the council decides to issue a permit, the appropriate fee must be paid to the council before the permit is issued.

#### **191 Conditions of permit**

- (1) A permit may be issued on the conditions the council considers appropriate.
- (2) The conditions of a permit may stipulate any of the following:
  - (a) the materials out of which the advertising sign is to be constructed;
  - (b) the dimensions of the advertising sign;
  - (c) the periodic painting or external treatment of the advertising sign;
  - (d) the securing of the advertising sign in a specified way;
  - (e) the positioning of the advertising sign in relation to the following:
    - (i) the boundaries of land, or a building or structure, on which it is situated;
    - (ii) a road;
    - (iii) any other public area within the municipality;
  - (f) how and when the advertising sign may be illuminated and the intensity of the illumination.

- (3) The conditions of a permit may also require the advertiser to:
- (a) maintain a public liability insurance policy in the joint names of the advertiser and the council covering public liability arising out of the positioning, structure or exhibition of the advertising sign for an amount required from time to time by the council on terms and conditions satisfactory to the council; and
  - (b) on demand, produce to the council the policy of insurance, receipts for each payment of the premium and the certificate of currency in respect of the policy.

**192 Advertiser to comply with permit conditions**

- (1) A permit holder who fails to comply with any of the conditions of the permit commits an offence.
- (2) An offence under clause (1) is a regulatory offence.

**193 Alterations to advertising signs**

- (1) A permit holder must not alter an advertising sign for which a permit has been issued unless:
  - (a) the alterations are allowed under the conditions of the permit; or
  - (b) the council has approved the alterations; or
  - (c) a new permit has been issued for the advertising sign under clause (4).
- (2) A permit holder may apply to the council for a new permit for an advertising sign on which it is proposed to carry out alterations.
- (3) The application must be in an approved form and include:
  - (a) full details of the proposed alterations; and
  - (b) if planning approval or building approval is required under other legislation – evidence of the relevant approval.
- (4) On receipt of the application and payment of the appropriate fee, the council may issue to the advertiser a new permit for the advertising sign on any conditions it considers appropriate.
- (5) In this by-law:

**alteration** includes a change to any of the following:

  - (a) the dimensions, material, colour or appearance of the sign;

- (b) the content of the sign;
- (c) the means by which the sign is secured;
- (d) the location of the sign;
- (e) the direction the sign is facing.

#### **194 Currency of permit**

- (1) Unless revoked sooner, a permit issued under by-law 190 continues in force until:
  - (a) the expiry of the period endorsed on the permit; or
  - (b) if an application is made within the period specified in clause (2) – the council has notified the permit holder of its decision regarding the application.

*Note for subsection (1):*

*A permit may be revoked under by-law 195(1), 200(1)(a), 201(7) or 202(3).*

- (2) No later than 14 days before the expiry of the period endorsed on a permit, the permit holder may apply to the council for the re-issue of the permit.
- (3) If the council decides to re-issue a permit, the appropriate fee must be paid to the council before the permit is re-issued.

#### **195 Re-issue of permit to new advertiser**

- (1) A permit is revoked if:
  - (a) the advertising sign for which the permit is issued is part of premises or a business owned or controlled by the permit holder; and
  - (b) the premises or business is sold or transferred to another person.
- (2) However, if the new proprietor of the premises or business wishes to continue exhibiting the advertising sign, the new proprietor may apply to the council for the re-issue of the permit for the sign.

- (3) The application must be in an approved form and be accompanied by:
  - (a) a statutory declaration given by the former advertiser stating that:
    - (i) the advertising sign is exhibited in compliance with a permit that continued in force until at least the date on which the ownership of the premises or business was transferred to the new proprietor; and
    - (ii) the advertising sign has not been altered by the former advertiser since the issue of the permit, except in accordance with by-law 193(1); and
  - (b) a statutory declaration by the new advertiser stating that the advertising sign has not been altered in any way by the new advertiser.
- (4) If the council decides to re-issue a permit under this by-law, the appropriate fee must be paid to the council before the permit is re-issued.

### **Division 3 Enforcement**

#### **196 Notice to repair**

- (1) This by-law applies in relation to an advertising sign whether or not a permit has been issued for the advertising sign.
- (2) If the council or an authorised person is of the opinion that an advertising sign is not secure, not in good repair, not rigid or unsightly, the council or the authorised person may give a notice to repair to:
  - (a) the advertiser; or
  - (b) the owner or occupier of the property on which the advertising sign is erected or being used.
- (3) The notice must be in writing unless the council or authorised person is of the opinion that the repairs must be carried out as a matter of urgency.

#### **197 Notice of non-compliance**

If an advertising sign is exhibited in contravention of this Part or a condition of a permit granted in respect of the advertising sign, an authorised person may give written notice of non-compliance to the advertiser.

**198 Form of notice under by-laws 196 and 197**

A notice given under by-law 196 or 197 must:

- (a) specify the work to be carried out:
  - (i) in the case of a notice under by-law 196 – to put the advertising sign in good order or repair or to remedy the unsightly condition; or
  - (ii) in the case of a notice under by-law 197 – to ensure the advertising sign is lawfully exhibited; and
- (b) specify the time in which the works are to be completed or the advertising sign removed; and
- (c) include advice that a failure to comply with the notice may result in the impoundment of the advertising sign.

**199 Offence for failure to comply with notice under by-law 196 or 197**

- (1) A person to whom a notice under by-law 196 or 197 is given must, within the time specified in the notice:
  - (a) carry out the works specified in the notice; or
  - (b) remove the advertising sign.
- (2) An offence under clause (1) is a regulatory offence.

**200 Revocation of permit**

- (1) An authorised person may, by written notice:
  - (a) revoke a permit for an advertising sign if:
    - (i) the permit holder fails to comply with a condition of the permit or this Part; or
    - (ii) the character of the public area in which, or in view of which, the sign is exhibited changes and the advertising sign is no longer consistent with that character; or
    - (iii) the advertising sign, in conjunction with other advertising signs exhibited by the same or other advertisers, seriously detracts from the character of the public area in which, or in view of which, the sign is exhibited; and

- (b) direct that the advertising sign be removed within the time specified in the notice.

*Example for clause (1)(a)(ii):*

*The character of a public area may change as a result of commercial or residential development.*

- (2) A permit holder who fails to comply with a notice issued under clause (1) within the time specified commits an offence.
- (3) An offence under clause (2) is a regulatory offence.

## **201 Removal and impoundment of signs**

- (1) If a person fails to comply with a notice issued under by-law 196, 197 or 200(1) within the time specified in the notice, an authorised person may remove and impound the advertising sign to which the notice relates.
- (2) Within 7 days after the removal and impoundment of the advertising sign, the authorised person must serve on the advertiser a written notice of impoundment that includes the place of impoundment.
- (3) If the advertiser cannot be found or the name of the advertiser cannot be ascertained, the CEO must, within a reasonable time after the impoundment, publish a notice of impoundment in a newspaper circulating in the municipality.
- (4) The council must release an advertising sign impounded under clause (1) to the advertiser if, within 28 days after a notice under clause (2) has been served or a notice under clause (3) published, the advertiser pays to the council a fee for the removal, custody and reasonable maintenance of the advertising sign.
- (5) An advertising sign impounded because of a failure to comply with a notice under by-law 196 or 197 and released under clause (4) must not be exhibited again until the remedial work for which the original notice was issued has been carried out.
- (6) The council may dispose of an advertising sign impounded under clause (1) in any manner if, after 28 days after a notice under clause (2) has been served or a notice under clause (3) published, the advertiser has not paid to the council a fee for the removal, custody and reasonable maintenance of the advertising sign.
- (7) If the council disposes of an advertising sign pursuant to clause (6), a permit issued for that advertising sign is revoked.

## **202 Removal and impoundment without notice**

- (1) An authorised person may remove and impound an advertising sign without notice to the advertiser if the advertising sign:
  - (a) is exhibited without a permit in contravention of by-law 188; or
  - (b) creates, in the opinion of an authorised person, a hazard or a risk to life or property; or
  - (c) fails to comply with a condition imposed by the Code or a permit issued in respect of the advertising sign and, as a consequence of that failure, in the council's opinion, it is necessary to remove the advertising sign immediately.
- (2) If an advertising sign is impounded pursuant to clause (1), by-law 201(2), (3), (4) and (6) applies (with the necessary changes).
- (3) A permit for an advertising sign impounded under this by-law may be revoked.

## **203 Powers of entry**

For the purpose of removing and impounding an advertising sign under by-law 201 or 202, an authorised person may:

- (a) enter land or buildings in accordance with section 116 of the Act; and
- (b) carry out demolition or other work that may be necessary to remove and impound an advertising sign.

## **204 Cost recovery**

The costs properly and reasonably incurred by the council under this Division are recoverable as a debt due and payable by the advertiser and include the costs of the following:

- (a) the removal and impoundment of a sign under by-law 201 or 202;
- (b) the custody and maintenance of a sign removed and impounded under by-law 201 or 202;
- (c) the service of a notice under by-law 201(2) or the publication of a notice under by-law 201(3);
- (d) the disposal of a sign under by-law 201(6).

## **Division 4 Council advertising signs**

### **205 Exhibition of signs**

- (1) The council may exhibit an advertising sign without a permit.
- (2) A person who removes, alters, defaces or otherwise interferes with an advertising sign exhibited by the council commits an offence.
- (3) An offence under clause (2) is a regulatory offence.

## **Part 9 Transitional matters for the Darwin City Council Amendment (Animal Management) By-laws 2007**

### **206 Definitions**

In this Part:

**commencement** means the commencement of the *Darwin City Council Amendment (Animal Management) By-laws 2007*.

**former by-laws** means the *Darwin City Council By-laws* as in force immediately before the commencement.

### **207 Determinations**

A determination by the council of a charge, due, fare, fee or rent made under by-law 5 of the former by-laws in force immediately before the commencement continues in force and the amount determined may be recovered under by-law 5(4).

### **208 Dog registration**

A dog registered under by-law 56(1)(a) of the former by-laws is taken to be registered under by-law 56(1)(a) and the registration remains in force until the date of expiration specified in by-law 15(3).

### **209 Licensed premises**

Premises licensed under by-law 58(1)(a) of the former by-laws are taken to be licensed under by-law 58(3)(a) and the licence remains in force until the date of expiration specified in by-law 15(2).



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**Schedule Fixed Penalties**

by-law 21(2)(a)

Column 1 By-law	Column 2 Description of offence	Column 3 Amount (penalty units)
63(1)	Keeping unregistered dog or cat	1
63A(1)	Failing to comply with condition of registration	2
64(1)	Keeping more dogs or cats than as declared under by-law 58 or 62	1
65(1) or (2)	Offence in relation to dog restriction area	1
65A(1)	Failing to ensure dog is wearing dog tag	1
66(1) or (2)	Offence in relation to dog identification device	1
66A(1)	Keeping dog not properly contained	2
67(1)	Dog or cat at large	1
68(1)	Enticing dog	2
69(1)	Dog attack	
	Level 1 attack	6
	Level 2 attack	5
	Subsequent attack within 12 months	7
70(1)	Dog chasing motor vehicle	2
70A(1), (2) or (3)	Offence in relation to dog faeces	1
71(2) or (5)	Offence in relation to dog causing nuisance	2
72(1)	Abandoning dog	2
73A(2)	Failure to comply with to notice of impoundment	2
74(1) or (2)	Offence in relation to sterilisation mark	1

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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*****Darwin City Council By-laws (SL No. 14, 1994)***

Notified	1 July 1994
Commenced	1 July 1994

***Statute Law Revision Act 1995 (Act No. 14, 1995)***

Assent date	26 June 1995
Commenced	26 June 1995

***Amendments of Darwin City Council By-laws (SL No. 51, 1996)***

Notified	16 October 1996
Commenced	16 October 1996

***Amendments of Darwin City Council By-laws (SL No. 1, 2000)***

Notified	1 February 2000
Commenced	1 February 2000

***Amendments of Darwin City Council By-laws (SL No. 2, 2000)***

Notified	2 February 2000
Commenced	2 February 2000

***Amendment of Darwin City Council By-laws (SL No. 42, 2000)***

Notified	23 August 2000
Commenced	23 August 2000

***Amendments of Darwin City Council By-laws (SL No. 28, 2002)***

Notified	16 August 2002
Commenced	16 August 2002

***Amendments of Darwin City Council By-laws (SL No. 54, 2002)***

Notified	25 November 2002
Commenced	25 November 2002

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**Swimming Pool Fencing Act 2002 (Act No. 66, 2002)**

Assent date 9 December 2002  
Commenced 1 January 2003 (s 2)

**Statute Law Revision 2003 (Act No. 12, 2003)**

Assent date 18 March 2003  
Commenced 18 March 2003 (s 2)

**Statute Law Revision (No. 2) 2003 (Act No. 44, 2003)**

Assent date 7 July 2003  
Commenced 7 July 2003

**Statute Law Revision 2004 (Act No. 18, 2004)**

Assent date 15 March 2004  
Commenced 5 May 2004 (s 2(1), s 2 *Associations Act 2003* (Act No. 56, 2003) and *Gaz G18*, 5 May 2004, p 2)

**Statute Law Revision 2005 (Act No. 44, 2005)**

Assent date 14 December 2005  
Commenced 14 December 2005

**Darwin City Council Amendment (Signs, Hoardings and Advertising) By-laws 2005 (SL No. 53, 2005)**

Notified 25 January 2006  
Commenced 25 January 2006

**Statute Law Revision 2008 (Act No. 6, 2008)**

Assent date 11 March 2008  
Commenced 11 March 2008

**Darwin City Council Amendment (Animal Management) By-laws 2005 (SL No. 44, 2007)**

Notified 30 June 2008  
Commenced 30 June 2008

**Local Government (Consequential Amendments) Act 2008 (Act No. 28, 2008)**

Assent date 14 November 2008  
Commenced 1 July 2008 (s 2)

**3 LIST OF AMENDMENTS**

bl 3 amd No. 44, 2007, bl 3  
bl 5 sub No. 44, 2007, bl 4  
bl 15 amd No. 51, 1996, bl 1  
bl 20 amd No. 44, 2007, bl 5  
bl 21 amd No. 1, 2000, bl 1; No. 2, 2000, bl 1  
sub No. 54, 2002, bl 1  
amd No. 44, 2007, bl 6; Act No. 28, 2008, s 4  
bl 21A ins No. 54, 2002, bl 1  
pt 2  
div 3 hdg rep Act No. 66, 2002, s 61  
bl 32 amd No. 51, 1996, bl 2  
rep Act No. 66, 2002, s 61  
bl 33 – 42 rep Act No. 66, 2002, s 61  
pt 3  
div 2 hdg sub No. 44, 2007, bl 7

## ENDNOTES

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pt 3	
div 2	
sdiv 1 hdg	sub No. 44, 2007, bl 7
bl 53	amd Act No. 44, 2005, s 23
	sub No. 44, 2007, bl 7
bl 54	sub No. 44, 2007, bl 7
bl 55	amd No. 54, 2002, bl 3
	sub No. 44, 2007, bl 7
pt 3	
div 2	
sdiv 1A hdg	ins No. 44, 2007, bl 7
bl 55A – 55F	ins No. 44, 2007, bl 7
pt 3	
div 2	
sdiv 2 hdg	sub No. 44, 2007, bl 7
bl 55G	ins No. 44, 2007, bl 7
bl 56	amd No. 54, 2002, bl 3
	sub No. 44, 2007, bl 7
bl 57 – 58	sub No. 44, 2007, bl 7
pt 3	
div 2	
sdiv 3 hdg	sub No. 44, 2007, bl 7
bl 59 – 61	sub No. 44, 2007, bl 7
pt 3	
div 2	
sdiv 4 hdg	sub No. 44, 2007, bl 7
bl 62	sub No. 44, 2007, bl 7
pt 3	
div 2	
sdiv 5 hdg	sub No. 44, 2007, bl 7
bl 63	amd Act No. 44, 2005, s 23
	sub No. 44, 2007, bl 7
bl 63A	ins No. 44, 2007, bl 7
bl 64 – 65	sub No. 44, 2007, bl 7
bl65A	ins No. 44, 2007, bl 7
bl66	sub No. 44, 2007, bl 7
bl 66A	ins No. 44, 2007, bl 7
bl 67 –70	sub No. 44, 2007, bl 7
bl 70A	ins No. 44, 2007, bl 7
bl 71 – 73	sub No. 44, 2007, bl 7
bl 73A	ins No. 44, 2007, bl 7
bl 74	amd Act No. 44, 2005, s 23
	sub No. 44, 2007, bl 7
pt 3	
div 2	
sdiv 6 hdg	sub No. 44, 2007, bl 7
bl 75	amd No. 54, 2002, bl 3
	sub No. 44, 2007, bl 7
pt 3	
div 2	
sdiv 7 hdg	sub No. 44, 2007, bl 7
bl 76 – 77	sub No. 44, 2007, bl 7
bl 79 – 80	amd Act No. 44, 2005, s 23
	sub No. 44, 2007, bl 7
pt 3	
div 2	
sdiv 8 hdg	sub No. 44, 2007, bl 7
bl 81 – 82	sub No. 44, 2007, bl 7

## ENDNOTES

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pt 4	
div 3 hdg	rep No. 53, 2005, bl 3
bl 96	amd No. 51, 1996, bl 3 rep No. 53, 2005, bl 3
bl 103	amd Act No. 12, 2003, s 15
bl 104	amd Act No. 44, 2005, s 23
bl 110	amd Act No. 6, 2008, s 4
bl 115	amd Act No. 18, 2004, s 3
bl 118	amd Act No. 44, 2003, s 6
pt 5 hdg	sub No. 28, 2006, bl 2
bl 121	sub No. 28, 2006, bl 3
bl 121A	ins No. 28, 2006, bl 3
bl 147	amd Act No. 28, 2008, s 4
bl 174	amd Act No. 28, 2008, s 4
bl 178	amd Act No. 28, 2008, s 4
pt 8 hdg	sub No. 53, 2005, bl 4
pt 8	
div 1 hdg	ins No. 53, 2005, bl 4
bl 184	sub No. 53, 2005, bl 4 amd Act No. 28, 2008, s 4
bl 185 – 188	ins No. 53, 2005, bl 4
pt 8	
div 2 hdg	ins No. 53, 2005, bl 4
bl 189 – 195	ins No. 53, 2005, bl 4
pt 8	
div 3 hdg	ins No. 53, 2005, bl 4
bl 196 – 204	ins No. 53, 2005, bl 4
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div 4 hdg	ins No. 53, 2005, bl 4
bl 205	ins No. 53, 2005, bl 4
pt 9 hdg	ins No. 44, 2007, bl 8
bl 206 – 209	ins No. 44, 2007, bl 8
sch	ins No. 44, 2007, bl 9 amd No. 14, 2009, bl 4
sch 1	rep No. 1, 2000, bl 2; ins No. 2, 2000, bl 2 sub No. 42, 2000 rep No. 54, 2002, bl 2
sch 2	amd No. 54, 2002, bl 3 rep No. 44, 2007, bl 9
sch 3	rep No. 44, 2007, bl 9
sch 4	amd Act No. 14, 1995, s 11 rep No. 53, 2005, bl 5