

# **NORTHERN TERRITORY OF AUSTRALIA**

## **ALICE SPRINGS (TODD MALL) BY-LAWS**

As in force at 26 March 2003

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# NORTHERN TERRITORY OF AUSTRALIA

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## ALICE SPRINGS (TODD MALL) BY-LAWS

### By-laws under the *Local Government Act*

#### 1 Citation

These By-laws may be cited as the *Alice Springs (Todd Mall) By-laws*.

#### 2 Crown to be bound

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

#### 3 Definitions

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

***Council*** means the Alice Springs Town Council constituted under the *Local Government Act*.

***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 brigade; or
- (d) a person whose use of the vehicle is authorised by an officer of the Northern Territory Emergency Service, and who is using it in the course of his or her duty.

***Mall*** means the Todd Mall declared to be a pedestrian mall under section 25A of the *Control of Roads Act*.

***service vehicle*** means a vehicle which is:

- (a) under the control of an officer of, and used for the purposes of:
  - (i) the Council;

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- (ii) a department whose responsibilities for the time being include highways, the construction and maintenance of government works, or planning and urban development;
  - (iii) a body established by a law of the Territory whose responsibilities include the supply of electricity or the making available of sewerage services or water supply services within the Territory; or
  - (iv) a body established by a law of the Commonwealth having responsibility to plan, establish, maintain or operate telecommunications services within Australia; or
- (b) used under arrangements for the regular removal of garbage from the Mall.

**vehicle** means a conveyance or carriage, whether or not capable of self-propulsion, or capable of registration under the *Motor Vehicles Act*, but does not include a perambulator or a device designed principally for the carriage of an infirm person.

#### **4 Control of vehicles, &c.**

- (1) A person shall not, except during hours and for purposes approved by the Council, drive a vehicle in the Mall, or cause a vehicle to stand in the Mall, unless it is:
  - (a) an emergency vehicle;
  - (b) a service vehicle;
  - (c) a vehicle engaged in the delivery of goods and used in the Mall for that purpose with the permission in writing of an authorized person; or
  - (d) a vehicle the presence of which in the Mall has been permitted by an authorized person as appearing to that person to be warranted by special circumstances.
- (2) A person shall not in the Mall drive a vehicle, other than an emergency vehicle, at a speed in excess of 5 kilometres per hour.
- (3) A person shall not in the Mall ride or use a bicycle, tricycle or other pedal-powered vehicle, or a roller skate or skateboard.
- (4) A person shall not in the Mall use a cart or barrow except in the course of his or her employment by the Council or with the permission in writing of the Council.

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## **5 Control of certain activities**

- (1) A person shall not in the Mall, except with the permission in writing of the Council, sell, or offer, display or advertise for sale, any goods or services.
- (2) A person shall not in the Mall, except with the permission in writing of the Council:
  - (a) perform or offer any entertainment;
  - (b) make a painting or drawing, or take a photograph or film, of a person or thing for commercial purposes; or
  - (c) address any persons assembled there.
- (3) A person shall not, without the permission in writing of the Council, erect or install in the Mall a post, rail, fence, pole, tent, booth, furniture, stand, display, exhibition, decoration, sign or other structure, whether of a permanent or temporary nature.
- (4) A person shall not, without the permission in writing of the Council, discharge or dispose of into or in the Mall, in such a way as to cause damage or annoyance to another person, any moisture from an air conditioner, or any fumes, smoke, vapour, dust or other waste products.
- (5) A person, other than an agent or employee of the Council acting in the course of his or her duties, shall not in the Mall:
  - (a) remove or disturb a part of the soil of a flower-bed, or around or under a tree or plant;
  - (b) walk, stand, sit or lie on a part of a flower-bed; or
  - (c) remove, cut or damage a flower, plant or tree.
- (6) A person shall not, without the permission in writing of the Council, remove or displace from or in the Mall a barrier, railing, post, seat or other structure or erection.
- (7) Subject to clause (8), a person shall not bring an animal into the Mall without the permission in writing of the Council.
- (8) A person may, without the permission of the Council, bring into the Mall a dog which is securely under his or her control by means of a chain or leash, but shall:
  - (a) keep the dog securely on a chain or leash at all times that it remains in the Mall; and

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- (b) remove any excrement deposited by the dog in the Mall.
  - (9) A person shall not, without the permission in writing of the Council, distribute or hand out in the Mall a handbill or other printed matter.
  - (10) A person conducting a business that is accessible from the Mall shall not use for the disposal of trade or commercial waste, packaging or rubbish a public refuse bin placed by the Council in the Mall.
  - (11) A person shall not, without the permission in writing of the Council, enter or remain on or walk on a part of a roof, covering or canopy erected over the Mall.

## **6 Vehicles or other objects contravening by-laws**

- (1) Where a vehicle is in, or is being used in the Mall in contravention of a by-law, a member of the Police Force or an authorized person may remove or cause to be removed the vehicle to a vehicle pound declared by the Council, by resolution, for the purposes of the *Alice Springs (Control of Public Places) By-laws* and by-laws 32 to 35 inclusive of the *Alice Springs (Control of Public Places) By-laws* shall apply to the vehicle as if it had been a motor vehicle removed or caused to be removed to a vehicle pound in pursuance of by-law 31 of those By-laws.
- (2) Where any other thing (not being a vehicle referred to in clause (1)) is in the Mall or is being used in the Mall in contravention of a by-law, a member of the Police Force or an authorized person may remove it to a place within or outside the Mall.

## **7 Conditional permissions**

The Council may attach to a permission given for the purposes of these By-laws such conditions as it thinks fit, and in particular may require a person to produce evidence that he or she has taken out a public liability insurance policy.

## **8 Breaches of By-laws**

- (1) An offence against these By-laws is a regulatory offence.
- (2) A person who contravenes or fails to comply with these By-laws is guilty of an offence.

Penalty:       \$200.

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## 9            **Infringement notice and payment of sum in lieu of penalty**

- (1) Despite by-law 8, 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 is:
    - (i) for an infringement of by-law 4(1) – \$30; and
    - (ii) for an infringement of any other by-law – \$20;
  - (b) an infringement notice is to be in a form, approved by the Council in accordance with clause (4), that includes:
    - (i) the information required by section 194(4) of the Act; and
    - (ii) the statements required by clause (3);
  - (c) an infringement notice may be issued and served by an authorised person;
  - (d) the fixed penalty specified in an infringement notice is to be paid to the Council; and
  - (e) the fixed penalty specified in an infringement notice is to be paid within 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

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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):

- (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 that Act by completing a statement of election (as contained in the infringement notice) and serving it on the Council:
    - (i) at any time before a courtesy letter is served on the alleged offender; or
    - (ii) if a courtesy letter is served on the alleged offender – before the due date specified in that letter;
  - (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*.
- (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.

## **10 Fees**

The Council may, by resolution, determine fees to be paid for a permission required for the purposes of these By-laws.

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**11            Repeal and savings**

- (1) The *Alice Springs (Todd Mall) By-laws* (Regulations 1987, No. 28) are repealed.
- (2) A permission given for the purposes of the repealed By-laws and having effect immediately before the commencement of these By-laws shall be treated as and from that commencement as a permission validly given under and for the purposes of these By-laws.

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## ENDNOTES

### 1 KEY

Key to abbreviations

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

### 2 LIST OF LEGISLATION

#### **Alice Springs (Todd Mall By-laws) (SL No. 1, 1992)**

Notified	5 February 1992
Commenced	5 February 1992

#### **Amendments of Alice Spring (Todd Mall) By-laws (SL No. 65, 2002)**

Notified	26 March 2003
Commenced	26 March 2003

### 3 LIST OF AMENDMENTS

bl 9	sub No. 65, 2002
sch	rep No. 65, 2002