

NORTHERN TERRITORY OF AUSTRALIA

PALMERSTON (SIGNS, HOARDINGS AND ADVERTISING) BY-LAWS

As in force at 4 August 2004

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PALMERSTON (SIGNS, HOARDINGS AND ADVERTISING) BY-LAWS

By-laws under the *Local Government Act*

Part 1 Preliminary

Division 1 General

1 Citation

These By-laws may be cited as the *Palmerston (Signs, Hoardings and Advertising) By-laws*.

2 Crown to be bound

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

3 Application

- (1) These By-laws apply to and are in force within the whole of the municipality.
- (2) Nothing in these By-laws or the signs code derogates from the requirements of any other law of the Territory relating to the construction or installation of buildings or structures.

4 Definitions

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

approved means approved by the council by resolution.

council means the Palmerston City Council.

determined means determined by the council by resolution.

municipality means the municipality of Palmerston.

permit means a permit issued under the signs code.

premises includes a building and land (whether built on or not).

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;
- (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, thoroughfare or cul-de-sac may be formed on private property; and
- (d) land reserved under a law of the Territory for the use of the public or a member of the public.

signs code means the document by the name "Palmerston City Advertising Signs Code" approved by council on 16 March 2004, as in force from time to time, to prohibit, regulate or exempt matters relating or incidental to the construction, placement, size, shape, content and colour of signs, hoardings and advertising in, on or over a public place or on premises adjoining or in view of a public place.

5 Publication of signs code

- (1) The council must give notice in a newspaper circulating in the municipality of:
 - (a) as soon as reasonably possible after approving the signs code – the approval of the signs code; and
 - (b) whether in the same edition of the newspaper or another edition published on a later day – the date the signs code takes effect.
- (2) The clerk must cause a copy of the signs code to be available for inspection or purchase by the public at the council offices during the business hours of the council.

6 Determination of charges and fees

- (1) The council may determine the charges and fees in relation to an undertaking, service, matter or thing referred to in these By-laws or in the signs code.

- (2) Where the council determines a charge or fee under clause (1), it must publish a notice of its making in a newspaper circulating in the municipality as soon as reasonably possible after the approval is given.
- (3) Where the council:
 - (a) determines a charge or fee under clause (1);
 - (b) publishes a notice of the making of the determination under clause (2); and
 - (c) takes an action in respect of which the charge or fee is determined,it may demand and recover the relevant charge or fee.

Division 2 Regulatory

7 Compliance with notices

A requirement of a notice served by the council or an authorised person under these By-laws is to be complied with by the person on whom it is served.

8 Obstruction of officers, &c.

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

9 False statements in documents

A person who, in making a statement required or permitted to be made in a document for the purposes of the signs code knowingly makes a false statement, commits an offence.

10 General penalty

A person who commits an offence against these By-laws is, on being found guilty, liable to a penalty not exceeding \$3,000 and, in addition, to a penalty not exceeding \$100 for each day after the day on which the offence was committed during which the offence continues.

11 Infringement notice and payment of sum in lieu of penalty

- (1) Despite by-law 10, 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 \$100;
 - (b) an infringement notice is to be in a form, approved by the council in accordance with clause (4), that includes:
 - (i) the information required by section 194(4) of the Act; and
 - (ii) the statements required by clause (3);
 - (c) an infringement notice may be issued and served by an authorised person;
 - (d) the fixed penalty specified in an infringement notice is to be paid to the council; and
 - (e) the fixed penalty specified in an infringement notice is to be paid not later than 14 days after the date on which the infringement notice is served on the alleged offender.
- (3) An infringement notice is to contain the following statements:
 - (a) a statement to the effect that:
 - (i) the alleged offender may expiate the offence and avoid enforcement action under the *Fines and Penalties (Recovery) Act* if he or she pays the fixed penalty to the council within 14 days of service of the infringement notice; and
 - (ii) if the alleged offender pays the fixed penalty within the period specified in the infringement notice, the council will take no further action in relation to the offence;
 - (b) a statement to the effect that if the alleged offender does not pay the fixed penalty within the period specified in the infringement notice and does not serve on the council a statement of election to have the matter dealt with by a court (as contained in the infringement notice), unless the

infringement notice is withdrawn:

- (i) the *Fines and Penalties (Recovery) Act* will apply and the alleged offender may be served with a courtesy letter in accordance with that Act requiring payment of the fixed penalty together with the costs in respect of the issue of that letter; and
 - (ii) if the alleged offender does not make the payment as required by a courtesy letter, enforcement action may be taken against him or her under the *Fines and Penalties (Recovery) Act* which, after due process, may result in the suspension of the alleged offender's licence to drive, the seizure of property, the deduction of wages or salary, the registration of a statutory charge on land, a community work order or imprisonment if a community work order is breached;
- (c) a statement to the effect that the alleged offender may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under the *Fines and Penalties (Recovery) Act* by completing a statement of election (as contained in the infringement notice) and serving it on the council;
- (d) a statement of election, for completion by the alleged offender if he or she elects to have the matter dealt with by a court, that includes the information required by regulation 7(1) of the *Fines and Penalties (Recovery) Regulations*.
- (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.

11A 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 Compliance with signs code

12 Sign, hoarding or advertisement to comply with signs code

- (1) The occupier or, where there is no occupier, the owner of the premises adjoining or in view of a public place commits an offence if there is on those premises a sign, hoarding or advertisement that does not comply with the signs code.
- (2) A person who erects or installs a sign, hoarding or advertisement in, on or over a public place that does not comply with the signs code commits an offence.
- (3) An offence against clause (1) or (2) is a regulatory offence.

Part 3 Erection, maintenance, &c., of signs, hoardings and advertisements

13 Sign, hoarding, advertisement to be secure and in good repair

A sign, hoarding or advertisement is to be erected or installed and maintained in a condition of security, good repair and rigidity to the satisfaction of the council.

Part 4 Remedial action or removal of signs, &c.

14 Notice may be given requiring remedial action or removal of sign, &c.

If an authorised person believes on reasonable grounds that a sign, hoarding or advertisement:

- (a) does not comply with the signs code; or
- (b) is not secure, in good repair or rigid,

the authorised person may, whether or not a permit has been issued in respect of the sign, hoarding or advertisement, give notice to:

- (c) the owner or occupier of the land where the sign, hoarding or advertisement is erected or being used; or

- (d) the person responsible for erecting or installing the sign, hoarding or advertisement,

requiring remedial action or the removal of the sign, hoarding or advertisement.

15 Requirement for execution of works

- (1) Where an owner or occupier of land is required to take remedial action or remove a sign, hoarding or advertisement under by-law 14, the council or the authorised person may, by the notice under that by-law or another 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) using the materials;
- (b) within the period;
- (c) in the manner; or
- (d) in the area,

specified in the notice.

- (2) The council or authorised officer 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 or authorised person may, when serving a notice under clause (1), indicate that the council will, if requested, carry out the work referred to in the notice at the expense of the person on whom the notice is served.
- (4) If the council is requested to carry out work referred to in a notice, the council may require the person on whom the notice was served to pay to the council, or enter into a bond for payment to the council of, the amount the council thinks fit to provide security against costs that it may incur as a result of the execution of work.
- (5) Despite clause (4), if the council carries out work at the request of a person on whom a notice was served, the cost to the council of carrying out the work is a debt due and payable by the person.

16 Where requirements not complied with

- (1) The council may carry out work required to be executed by a notice under this Part if the person required to execute the work fails to comply with the notice.

- (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.

ENDNOTES
1 KEY

Key to abbreviations

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

2 LIST OF LEGISLATION***Palmerston (Signs, Hoardings and Advertising) By-laws (SL No. 1, 1999)***

Notified	13 January 1999
Commenced	13 January 1999

Amendment of Palmerston (Signs, Hoardings and Advertising) By-laws (SL No. 20, 2000)

Notified	12 April 2000
Commenced	12 April 2000

Amendments of Palmerston (Signs, Hoardings and Advertising) By-laws (SL No. 53, 2002)

Notified	25 November 2002
Commenced	25 November 2002

Amendment of Palmerston (Signs, Hoardings and Advertising) By-laws (SL No. 29, 2004)

Notified	4 August 2004
Commenced	4 August 2004

3 LIST OF AMENDMENTS

bl 4	amd No. 53, 2002, bl 1; No. 29, 2004
bl 11	sub No. 53, 2002, bl 2
bl 11A	ins No. 53, 2002, bl 2
sch	sub No. 20, 2000
	rep No. 53, 2002, bl 3