

# **NORTHERN TERRITORY OF AUSTRALIA**

## **TENNANT CREEK (CONTROL OF PUBLIC PLACES) BY-LAWS**

As in force at 1 July 2008

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# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the By-laws as in force at 1 July 2008. Any amendments that commence after that date are not included.

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## TENNANT CREEK (CONTROL OF PUBLIC PLACES) BY-LAWS

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

#### Part I Preliminary

##### 1 Citation

These By-laws may be cited as the *Tennant Creek (Control of Public Places) By-laws*.

##### 2 Definitions

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

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

- (a) prior to 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 these By-laws.

***carriageway*** means a carriageway as defined in the *Traffic Act*.

***motor vehicle*** includes a motor car, motor carriage, motor cycle, motor lorry, motor omnibus, motor tractor or other vehicle propelled wholly or partly by a volatile spirit or by steam, gas, oil or electricity, a bicycle within the meaning of the *Traffic Act*, an animal drawn vehicle and a caravan or trailer whether or not attached to any of them, but does not include a vehicle used on a railway.

***municipality*** means the municipality of Tennant Creek.

***park, garden or reserve*** means land, being a public place, which is vested in, leased to or under the care, control or management of the council and capable of being used as a park, garden recreation ground, oval, playing field or reserve.

***permit*** means a permit granted under by-law 7 and includes a renewal and extension of a permit.

**public place** means any place within the municipality which is open to or used by the public.

**road** means a road as defined in the Act.

### **3 Application**

These By-laws apply to all public places within the municipality.

### **4 Delegation**

- (1) An officer or employee of the council may, if so determined by the council, exercise all or any of the following powers:
  - (a) sign, seal, or sign and seal, notices, orders and agreements which the council is entitled to issue, sign, seal, revoke or cancel;
  - (b) sign letters, receipts and other documents; and
  - (c) do or perform an act, deed or thing necessary, ancillary or incidental to the exercise of the functions of the council.
- (2) The council shall make a determination pursuant to clause (1) by resolution, and any such determination may be of a general nature or for a class or classes of cases or be with respect to a particular case.
- (3) A power or function delegated under this by-law when exercised or performed by the delegate, shall, for the purposes of these By-laws, be deemed to have been exercised or performed by the council.
- (4) A determination under this by-law does not prevent the exercise of a power or the performance of a function by the council.

### **5 Dispensations**

The council may, at a meeting at which not less than two-thirds of the members are present, by resolution carried by a majority of members then in office, dispense with compliance by a person with any requirements under these By-laws or any part of them.

### **6 Clerk to keep register**

The clerk shall cause to be kept a register of:

- (a) determinations made under by-law 4;
- (b) dispensations granted under by-law 5 or under the Act; and

- (c) permits, consents and authorities granted by the council under these By-laws.

## **Part II                      Permits**

### **7                      Grant of permit**

- (1) A person shall not, except in accordance with a permit granted by the council pursuant to this by-law:
  - (a) cause damage to a public place or any article or thing within a public place;
  - (b) conduct a public meeting, entertainment activity, game or organized recreation in a public place which, in the opinion of the council or an authorized person, is reasonably likely to interfere with, or prevent, the reasonable requirements of other members of the public for use of that place;
  - (c) obstruct a public place;
  - (d) graze animals in a public place; or
  - (e) carry out any activity for which a permit may be granted pursuant to these By-laws.
- (2) An application for the grant of a permit in accordance with these By-laws shall:
  - (a) be in such form as the council may require;
  - (b) describe the public place in respect of which the applicant seeks the permit;
  - (c) contain full details of the applicant and the use to which the applicant proposes to put the public place, the activity the applicant proposes to carry out and such other details as the council may require;
  - (d) be delivered to the council not less than 7 days prior to the date on which the applicant proposes to commence the activity for which the permit is sought; and
  - (e) be accompanied by the fee specified in the Schedule for the type of permit for which application is made.
- (3) On receipt of an application for a permit the council may grant or refuse to grant the permit.

- (4) A permit shall be in such form as the council may determine and shall be:
  - (a) valid for the period; and
  - (b) subject to such conditions,as the council thinks fit and endorses on the permit.
- (5) It shall be a condition of a permit that the person to whom it is granted shall reinstate, to the satisfaction of the council, the public place in respect of damage caused in the carrying out of the work the subject of the permit.
- (6) A permit may be revoked by the council.
- (7) A person who:
  - (a) contravenes or fails to comply with this by-law or with a condition of a permit; or
  - (b) interferes with or in any way obstructs the use of a public place by a person holding a permit or using the public place in accordance with a permit,is guilty of an offence.

## **8 Action by council where work required to be done**

- (1) Where the council requires work to be carried out by the owner or occupier of land which abuts on a public place, the council or an officer or employee of the council may, by notice in writing served on that owner or occupier, require that owner or occupier, at the expense of the owner or occupier, to execute such works and do such things:
  - (a) in or of such materials;
  - (b) within such periods; and
  - (c) in such manner,as may be specified in the notice.
- (2) Any work to be executed in pursuance of a notice given pursuant to clause (1) shall, if the council so requires, be executed only by persons qualified or licensed in respect of the work to be executed.
- (3) The council may carry out work required to be executed by or under the Act or these By-laws under any notice given in accordance with clause (1) on default by the person required to execute the work.

- (4) Without limiting the generality of the powers conferred upon the council, its officers and employees by clauses (1) and (2), the council may require the owner or occupier to pay, or enter into a bond for payment, to the council of such amount by way of deposit as the council thinks fit to provide security against costs which it may incur as a result of the execution of the work.
- (5) A person who fails to comply with a notice under clause (1) is guilty of an offence.
- (6) The council may, when serving a notice in accordance with clause (1), indicate that it will, if requested, carry out the works referred to in the notice at the expense of the person on whom the notice is served.

## **9 Non-compliance by owner or occupier**

- (1) Without prejudice to any proceedings which a council may institute against the owner or occupier of land in respect of an offence, contravention or failing to comply with these By-laws, a condition of a permit, or a notice served under by-law 8, a council may, by notice in writing, require a person to comply with these By-laws.
- (2) Where the owner or occupier fails to comply with a notice referred to in clause (1), the council may carry out such work or take such action, and may recover the expense of so doing from the owner or occupier as a debt due and payable to the council.
- (3) Where it is a condition of a permit or notice that the applicant lodges with the council a deposit or bond and:
  - (a) the holder of the permit or notice contravenes or fails to comply with these By-laws or a condition of the permit or notice; and
  - (b) the council incurs expense in carrying out work or taking the action referred to in clause (2),the council may apply the amount of the deposit or bond to defray those expenses and the balance, if any, shall be paid by the council to the holder of the permit or notice.
- (4) Where the amount of the deposit or bond is insufficient to defray the expenses referred to in clause (3) of this by-law, the council may recover the difference from the owner or occupier as a debt due and payable to the council.

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**10 Maintenance of objects, &c.**

- (1) The holder of a permit who fails to maintain to the council's satisfaction each object, structure, sign or fence in respect of which a permit has been granted, is guilty of an offence.
- (2) The council may, if it is satisfied that a holder is not adequately maintaining an object, structure, sign or fence in respect of which a permit was granted, revoke the permit and by-law 9 shall apply accordingly.

**11 Roads, &c., not to be obstructed**

Nothing in these By-laws shall be construed so as to allow a person carrying out works in pursuance of a permit to cause unreasonable obstruction of a road, channel or drain, or any part of a public place, by the deposit of materials or construction of a building or structure or by any other means.

**Part III Crossings, &c.****12 Vehicles to use constructed crossings only**

A person shall not, otherwise than in accordance with a permit, drive or propel a motor vehicle over or across a footpath otherwise than at an approved crossing.

**13 Application to construct crossing**

- (1) The owner or occupier of land which abuts on a footpath may apply for a permit to construct a crossing from the land to a carriageway.
- (2) An application under clause (1) shall describe the situation of the land and the proposed position of the crossing, and shall be accompanied by such fee or charge as the council may by resolution determine and shall include:
  - (a) the specifications of the crossing; or
  - (b) a request that the council prepare specifications for the crossing and carry out the work.
- (3) The council may require the person carrying out the work of constructing a crossing to pay, or enter into a bond to pay, to the council such amount as it thinks fit to provide security against costs which it may incur as a result of the execution of the work.
- (4) A person shall not carry out any work of constructing a crossing before obtaining a permit for the proposed work.



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- (5) For the purposes of by-law 12, no crossing hereafter constructed or commenced before a permit has been issued under this By-law shall be considered to have been constructed in accordance with these By-laws, notwithstanding that the work may be in conformity with the requirements of the council in relation to the construction of crossings.
  - (6) If requested to do so under clause (2)(b), the council may carry out or cause to be carried out the work of constructing a crossing, and may make such charges, if any, as it thinks fit in relation to that work, and may recover those charges from the applicant as a debt due and payable to the council.

#### **14 Council may require crossing to be made**

The council may serve on the owner or occupier of land which abuts on a footpath a notice under by-law 8 requiring a crossing to be constructed or completed.

#### **15 Alterations to crossing**

Where, in the opinion of the council, a crossing, whether made before or after the commencement of these By-laws, is no longer adequate for the volume or nature of the traffic passing over it, the council may serve a notice under by-law 8 on the owner or occupier of the land to which the crossing leads from the carriageway.

#### **16 Repair of crossing**

Where, in the opinion of the council, a crossing, whether made before or after the commencement of these By-laws, is in a state of disrepair or appears to have been damaged as a result of a contravention of by-law 17 or 20, the council may serve a notice under by-law 8 on the owner or occupier of the land to which the crossing leads.

#### **17 Heavy loads prohibited**

- (1) A person shall not, otherwise than in accordance with a permit, drive a vehicle or cause or permit a vehicle to be driven across or to stand on or over a crossing, culvert, road kerb or bridge if the vehicle is so heavy or of such nature that it causes or is likely to cause damage to the paving of the crossing, culvert, road kerb or bridge.
- (2) The council may from time to time determine the maximum weight of a load to be carried over any bridge or culvert and may cause the maximum weight of a load so determined to be notified by notice conspicuously posted at or near each approach to such bridge or culvert.

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- (3) A person shall not, unless by written permit of the council, drive, draw or carry, or cause to be driven, drawn or carried, over a bridge or culvert a weight greater than that stated in a notice under clause (2).

## **18 Removal of kerbing**

- (1) Where an application is made for a permit to cross a road kerb, the council may cause the road kerb to be removed at the place indicated in the application or, if it does not approve the place indicated in the application, at a place approved by it.
- (2) At the conclusion of the building or other works referred to in the permit the council may cause the road kerb to be replaced.
- (3) A person who crosses a road kerb or who removes a road kerb otherwise than in accordance with a permit is guilty of an offence.

## **19 Certain works prohibited**

Subject to any other law in force in the Territory, a person shall not, without a permit:

- (a) lay pipes, cables or conduits; or
- (b) erect, place or maintain a post, pillar, bridge, footway, fixture or structure,

in, over, abutting on or under 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 any matter or thing, whether or not it causes an obstruction, on a public place.

## **20 Excavations**

- (1) A person shall not, without a permit, excavate a trench through or under a road or footpath.
- (2) A person shall not, without a permit, carry out excavation on land abutting a public place where that excavation:
  - (a) encroaches or may encroach on the public place;
  - (b) is:
    - (i) more than 300 mm deep; and

- (ii) closer to the boundary of a public place than one metre;  
or
- (c) is such that if the wall of the excavation were to collapse the excavation or the excavated material would encroach on the public place.

## **21 Damage to road surface**

- (1) A person shall not, without a permit, use on a road having a metalled, gravelled, tarred or other prepared surface, a vehicle which has attached to its wheels chains, metal studs or other metal projection.
- (2) A person shall not use on a road a traction engine, tractor or steam wagon having wheels or tracks which have unprotected grooved ridges, indents, spikes or cross bars of a type likely to cause damage to the surface of the road.
- (3) A person shall not propel, drag or trail in contact with the surface of a road a sledge, timber or other heavy material or a conveyance or thing capable of damaging the road.
- (4) A person shall not spill or cause to be spilt within a public place motor oil or any like substance.

## **22 Closure of roads**

- (1) The council may, by notice in a newspaper circulating in the municipality, temporarily close a road or a part of a road vested in it for the purposes of holding a procession, parade, display or public entertainment.
- (2) A closure under clause (1) shall not exceed 48 hours.
- (3) A person shall not without the permission of the clerk use a road whilst it is closed under clause (1).

# **Part IV Stallholders**

## **23 Definitions**

In this Part, unless the contrary intention appears:

**goods** includes food, displays, exhibitions, beverages, wares, merchandise, raffle tickets, tokens, badges, services and shares.

***itinerant vendor*** means a person who travels either personally or by his servants or agents by any means of locomotion (whether by air, land or water, and whether with or without a vehicle) from place to place or from house to house carrying or exposing goods for sale by retail but does not include a person who sells goods or exposes goods for sale only from a house, shop, room, store, tent or marquee or other premises.

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

***permit*** means a permit granted under by-law 25(1).

***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 to whom a permit under by-law 25 has been granted.

## **24 Application for permit**

- (1) A person shall not, except in accordance with a permit granted by the council under this Part, conduct business from a stall.
- (2) A person may make an application in writing to the council for a permit to conduct business from a stall.
- (3) An application under clause (2) shall include:
  - (a) the name and address of the applicant;
  - (b) the type of goods which the applicant intends to sell;
  - (c) the proposed location of the stall from which the applicant proposes to sell the goods;
  - (d) the period for which the permit is required; and
  - (e) such other particulars as the council may require.
- (4) An application under clause (1) shall be accompanied by such fee for:
  - (a) the application; and
  - (b) the period referred to in clause (3)(d),as specified in the Schedule.

**25 Permits**

- (1) The council may, on receipt of an application under by-law 24, grant or refuse to grant a permit.
- (2) A permit shall be in such form as the council, by resolution, determines and:
  - (a) shall be valid for a period not exceeding 12 months; and
  - (b) may be subject to such conditions,as the council thinks fit and endorses on the permit.
- (3) A permit shall be displayed by a stallholder in or on the stall whilst the person is selling goods from the stall.
- (4) A permit is not transferable.

**26 Revocation of permit**

- (1) Where:
  - (a) a stallholder:
    - (i) has been convicted of a crime;
    - (ii) has contravened or failed to comply with these By-laws or a condition of the stallholder's permit;
    - (iii) is conducting business from a stall in such a manner as to cause a nuisance or annoyance to a person in the vicinity of the stall; or
    - (iv) purports to assign or transfer the stallholder's permit; or
  - (b) the business from the stall is being conducted by a person other than the stallholder,the council may revoke the stallholder's permit.
- (2) Where the council revokes a permit under clause (1), it shall serve a notice of the revocation on the stallholder or on the person apparently in charge of the stall, and the revocation of the permit takes effect immediately on service of the notice.
- (3) A stallholder shall return the stallholder's permit to the clerk within 3 days after the service of the notice referred to in clause (2).

**27            Obligations of stallholder**

- (1) A stallholder shall:
  - (a) comply with and not contravene these By-laws or the conditions of the stallholder's permit;
  - (b) comply with the reasonable directions of the council or an authorized person concerning the location and siting of the stallholder's stall;
  - (c) maintain the stallholder's stall in good order and condition to the satisfaction of the council or an authorized person;
  - (d) display the stallholder's name legibly and conspicuously on the stall; and
  - (e) keep the site of the stallholder's stall clean and free from garbage resulting from its operation.
- (2) A stallholder, in conducting business from a stall, shall not:
  - (a) sell goods on a day resolved by the council to be a prescribed day;
  - (b) call the stallholder's goods or cause to make a noise or disturbance likely to be a nuisance or cause annoyance to a person in the vicinity of the stall;
  - (c) deposit or store packages or goods except within the stallholder's stall;
  - (d) obstruct the passage of pedestrians or vehicles; or
  - (e) act in an offensive manner in the opinion of a person or an authorized person.

**Part V                    Miscellaneous****28            Damage to trees, plants, &c.**

- (1) A person shall not, without a permit, interfere with or damage a tree, plant, garden or grass strip in a public place or cause to be done anything whereby it may become damaged.

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- (2) A person shall not ride, drive a motor vehicle or lead an animal in a public place in such a manner as to cause or permit it to cause damage to a public place, or any property of the council affixed to a public place or a tree, plant, garden or grass strip planted in a public place.

**29 Planting, &c., of trees, &c.**

- (1) Subject to clause (2)(a), a person shall not, without a permit:
- (a) plant a tree, shrub or plant; or
  - (b) cut, break, remove or disturb a tree, shrub, stem, branch or root of a living tree, shrub or plant,
- in a public place.
- (2) An application for a permit under clause (1) 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.

**30 Overhanging trees and shrubs**

- (1) The council may, where it considers that a tree or shrub 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 on the owner or occupier of the land to trim or remove the tree or shrub.
- (2) An owner or occupier of land who contravenes or fails to comply with a notice under clause (1) is guilty of an offence.

**31 Encroachment on public place, &c.**

A person shall not, without a permit, erect or place, or cause or permit to be erected or placed, a fence, rail, building, stair, steps, projection or other structure that encroaches on a public place.

**32 Erecting or placing buildings and structures**

- (1) A person shall not, without a permit, erect or place a building or structure, whether of a temporary or a permanent nature, on a public place.

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- (2) An application for a permit in relation to the erecting or placing of a building or structure under clause (1) shall:
- (a) specify the purpose for which the building or structure will be used; and
  - (b) be accompanied by:
    - (i) plans and specifications of the building or structure; and
    - (ii) such other details as the council may require.

### **33 Washing, &c., of vehicles in public place**

- (1) Subject to clause (2), a person shall not:
- (a) wash a motor vehicle; or
  - (b) carry out repairs or maintenance work on a motor vehicle,
- on, along, in or across a public place, except where the public place has been set aside by the council for the purpose and notified as such by a sign erected or posted to that effect.

Penalty: \$100.

- (2) Clause (1)(b) does not apply to carrying out a repair for the purpose of immediately removing a motor vehicle from a public place.

### **34 Deposit of offensive matter**

- (1) 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.
- (2) A person shall not spit in a public place.
- (3) A person shall not deposit or discharge, or cause to be deposited or discharged, water or waste matter in a place where it is likely to flow or discharge on or into a public place.



**35        Stacking, &c., of goods on public place**

Subject to Part IV, a person shall not stack, store, or expose, or permit the stacking, storing or exposing, whether or not for sale, of goods or merchandise in, on or over a public place or outside a building adjoining a public place.

**36        Safety lights**

A person who causes:

- (a) a material or a 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 authorized by the council, shall, at the person's expense, cause:

- (c) lights of a type and colour and in such number as 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.

**37        Musical instruments**

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

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

Penalty:        \$100.

**38        Undue noise**

A person who, by any means, causes undue noise which causes distress or annoyance to a person by reason of its level or character, or the time at which it is made, is guilty of an offence.

**39 Handbills**

A person shall not, without a permit:

- (a) give out, put or distribute to a person or throw, place, drop or otherwise deposit a handbill;
- (b) affix or cause to be affixed a poster, placard or similar thing; or
- (c) write on, deface or mark a pavement with writing or pictorial representation;

in or on a public place.

Penalty: \$100.

**40 Bill sticking**

- (1) A person shall not, without a permit and the consent of the owner or occupier of land adjoining a road or public place, affix or cause to be affixed a poster, bill or other paper to or against a building on that land.
- (2) A person shall not, without a permit, affix or cause to be affixed a poster, bill or other paper to or against a power pole or sign post.
- (3) Where a person has in accordance with a permit affixed a poster, bill or paper, the person shall:
  - (a) ensure that it is preserved in a clean and tidy state;
  - (b) remove it if it becomes worn, torn or detached; and
  - (c) where the poster, bill or paper relates to a specific event or events, remove the poster, bill or paper and clean the area of waste paper and refuse within 7 days of the event, or the last event, as the case may be.
- (4) Where an authorized person is of the opinion that a poster, bill or other paper which has been affixed to or against a building is dirty, untidy, worn, torn or detached, the authorized person may give notice to the owner or occupier of the building, requiring that such remedial action as is set out in the notice be taken within the time specified in the notice.
- (5) A person shall not fail to comply with a notice issued under clause (4).

**41 Advertising hoardings**

A person who is the owner or occupier of land adjoining or in view of a public place shall not, without a permit:

- (a) erect or permit to be erected; or
- (b) permit the use of,

a building or structure on that land for placing thereon a placard, sign or advertisement.

**42 Advertisements on buildings**

A person shall not, without a permit, affix, paint, carve or engrave, or permit to remain affixed, painted, carved or engraved, on a building or structure or their appurtenances on, over or in view of a public place or land under the care or control of the council a placard, sign, advertisement or fixture unless it relates to the trade, business or profession of a person then being carried on, conducted or practised within the building or structure.

**43 Signboards, &c.**

- (1) Subject to clause (2), a person shall not, without a permit, affix, place, hang or suspend in or over a public place or land under the care or control of the council a signboard, signpost, placard, showbill, showboard, flag, notice or writing.
- (2) A signboard, signpost, placard, showbill, showboard, flag, notice or writing referred to in clause (1) shall be constructed and maintained in a condition of security, rigidity and in good repair to the satisfaction of the council.
- (3) Where an authorized person is of the opinion that a signboard, signpost, placard, showbill, showboard, flag, notice or writing is not maintained in a condition of security, rigidity or good repair, the authorized person may give notice to the owner or occupier of the land or building on which the signboard, signpost, placard, showbill, showboard, flag, notice or writing is situated, requiring that such remedial action as is specified in the notice be taken within the time specified in the notice.

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**44 Plan of numbering**

- (1) The council may adopt a plan or system of numbering areas of land on a road and may, in accordance with that plan or system of numbering:
  - (a) affix a number on a house or building or a front gate or fence on land adjoining a road or such designated part of the road as is adopted in its plan or system; or
  - (b) by notice in writing, require the owner or occupier of land adjoining a road included in the plan or system of numbering to affix, in accordance with the terms of the notice, a number on a house or building or a front gate or fence on the land or such designated part of the road as is adopted in its plan or system.
- (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 house or building, or a front gate or fence on the land or such designated part of the road as is adopted in its plan or system.
- (3) A person who has affixed a number 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 served on that person by the council under 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 clause (4) to affix a number, the council may, in accordance with section 116 of the Act, enter the land in respect of which a notice has been served under this by-law 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.

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**45        Fireworks, &c.**

- (1) A person shall not throw, cast, let off, ignite, explode or fire a firework of any type in, on or over a public place or make or assist in making a bonfire on a public place, or set off a fire, balloon or rocket otherwise than in accordance with a permit issued by the Chief Inspector pursuant to the *Dangerous Goods Regulations*.
- (2) A person who fails to comply with or contravenes this by-law is guilty of an offence.

**46        General offences**

- (1) A person shall not drive or propel a motor vehicle onto or over a park, garden or reserve.
- (2) A person shall not light or maintain a fire in a public place otherwise than in a designated fireplace or in accordance with a permit.
- (3) A person shall not interfere with, damage, deface or destroy any building, structure, fixture, equipment, plant or facility situated in or on a public place.
- (4) A person shall not, without a permit, pick, pluck or take a bud, flower or other part of a tree or shrub in a public place.
- (5) A person shall not 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.
- (6) A person shall not, without a permit, graze or allow to graze in a public place an animal of which the person is the owner or lessee.
- (7) A person shall not swim or bathe in waters within a public place or reserve otherwise than in accordance with a permit or with signs erected or posted by the council advising that the waters are a designated swimming area.
- (8) A person shall not urinate or defecate in a public place except in toilets provided for that purpose.

**47        Camping and sleeping in public places**

- (1) A person shall not:
  - (a) camp;
  - (b) sleep, including in a motor vehicle or tent; or

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- (c) park a motor vehicle or erect a tent for the purpose of camping or sleeping,  
in a public place otherwise than:
    - (d) in a caravan park or camping area; or
    - (e) in accordance with a permit
  - (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 authorized person may require a person who:
    - (a) is camping or sleeping; or
    - (b) has parked a motor vehicle or erected a tent,in contravention of clause (1) to do one or both of the following:
    - (i) leave the public place; or
    - (ii) remove the motor vehicle or tent to a place specified by the authorised person.
  - (3) A person shall forthwith comply with any requirement of an authorized person under clause (2).
  - (4) An authorised person may, where a person cannot be found within a reasonable time or where a person does not comply with a requirement under clause (2), obtain the assistance of a member of the Police Force to remove the motor vehicle or tent.

#### **48 Removal of persons from park, garden or reserve**

- (1) The council may remove or cause to be removed by an authorized person from a park, garden or reserve a person who commits a breach of these By-laws and may, by notice in writing served on that person, refuse that person entry to a park, garden or reserve for a period, not exceeding 6 months, specified in the notice.
- (2) A person on whom a notice under clause (1) has been served shall not enter a park, garden or reserve in contravention of the notice.

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**49 General penalty**

- (1) A person who contravenes or fails to comply with a condition of a permit is guilty of an offence.
- (2) A person who contravenes or fails to comply with these By-laws, a permit granted pursuant to these By-laws or a direction lawfully given pursuant to these By-laws by the council or an authorized person, is guilty of an offence and where no penalty is provided, is liable on conviction to a fine not exceeding \$200 and \$20 for each day during which the offence continues.
- (3) A person who is alleged to have infringed these By-laws and on whom a notice of infringement referred to in clause (5) is served may pay to the council in accordance with this by-law, the fixed penalty specified in clause (4) in lieu of the penalty by which the infringement of these By-laws is otherwise punishable.
- (4) For the purpose of this by-law:
  - (a) the fixed penalty is \$50;
  - (b) the form of the notice of infringement shall be as specified in clause (5);
  - (c) a notice of infringement may be issued by an authorised officer or the clerk in accordance with clause (6);
  - (d) payment of a fixed penalty may be made to the clerk or a person authorised in writing by the clerk; and
  - (e) payment of a fixed penalty shall be made not later than 14 days after the date on which the notice is given in order to avoid prosecution.
- (5) A notice of infringement referred to in clause (3) shall:
  - (a) be identified by a serial number;
  - (b) be addressed to the person who is alleged to have infringed these By-laws;
  - (c) state in general terms the nature of the offence alleged to have been committed;
  - (d) state the date, time and place of the alleged offence;

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- (e) state in general terms that the person to whom it is addressed may elect not to be dealt with in the manner prescribed in subclause (f) but may have the alleged offence prosecuted in the court of summary jurisdiction where the person:
    - (i) desires to contest the question whether the offence alleged was in fact committed;
    - (ii) desires to submit to the court any matter in mitigation of penalty; or
    - (iii) elects for any other reason to have the offence prosecuted in the court; and
  - (f) state in general terms that the person to whom it is addressed may, if the person does not elect to have the offence prosecuted in the court of summary jurisdiction:
    - (i) complete the form attached to or written on the notice; and
    - (ii) on or before such date, being a date not less than 14 days after the date on which the notice is given and within such hours as are specified in the notice, deliver or cause it to be delivered to the clerk or an officer specified in the notice as a person authorized by the clerk to receive the form and sums by way of penalty together with the sum of \$50.

(6) Where an authorized person informs the clerk that:

- (a) an offence has been committed against these By-laws; and
- (b) no notice has been served on the person who, it is alleged, has infringed these By-laws,

the clerk may serve on that person a notice of infringement in accordance with clause (5).

(7) Where:

- (a) in relation to an offence, a notice of infringement has been served under clause (5) or (6); and
- (b) payment of the sum of money by way of penalty and additional sum under subclause 5(f)(ii) specified in that notice has not been made in accordance with that notice,

the prosecution for the offence may be commenced against the person alleged to have committed the offence.



- (8) The signature of the clerk shall be judicially noticed for the purpose of a prosecution for an offence.

**50 By-laws, resolutions, &c., to be construed subject to power**

- (1) These By-laws shall be read and construed subject to the *Local Government Act* and so as not to exceed the powers of the council, to the intent that where a by-law would, but for this by-law, have been construed as being in excess of that power it shall nevertheless be a valid by-law to the extent to which it is not in excess of that power.
- (2) Where a resolution or motion is passed or determined purportedly in pursuance of these By-laws, the resolution, motion or determination shall be read and construed subject to the *Local Government Act* to the intent that where it would, but for this by-law, have been construed as being in excess of authority, it shall nevertheless be a valid resolution, motion or determination to the extent to which it is not in excess of authority.

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<b>Schedule</b>	<b>Fees</b>
Permit	Fee
An application for a permit referred to in by-law 24	\$5
Granting a permit under by-law 25	As resolved by council
A permit referred to in by-law 41 or 42	\$35
A permit referred to in by-law 43	\$40, or \$30 per square metre or part of a square metre of the signboard, signpost, placard, flag, notice or writing, whichever is the greater amount
A permit referred to in by-law 7(1), 20, 32 or 46(6)	\$25
Any other permit referred to in these By-laws	\$5

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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

***Tennant Creek (Control of Public Places) By-laws* (SL No. 18, 1989)**

Notified	9 August 1989
Commenced	9 August 1989

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

Assent date	18 March 2003
Commenced	18 March 2003

***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 44	amd Act No. 28, 2008, s 4
bl 47	amd Act No. 12, 2003, s 17