NORTHERN TERRITORY OF AUSTRALIA

ALICE SPRINGS (TODD MALL) BY-LAWS

As in force at 1 July 2008

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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;

(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.

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

(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.

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 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 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 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.

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.

ENDNOTES

1 KEY

Key to abbreviations

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rep = repealed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

2 LIST OF LEGISLATION

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

Notified	5 February 1992
Commenced	5 February 1992

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

Notified	26 March 2003
Commenced	26 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 9	sub No. 65, 2002, bl 1
	amd Act No. 28, 2008, s 4
sch	rep No. 65, 2002, bl 2