

NORTHERN TERRITORY OF AUSTRALIA

PALMERSTON (TRAFFIC) BY-LAWS

As in force at 10 October 1986

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 10 October 1986

PALMERSTON (TRAFFIC) BY-LAWS

By-laws under the *Local Government Act*

Part I Preliminary

1 Citation

These By-laws may be cited as the *Palmerston (Traffic) By-laws*.

2 Interpretation

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

articulated vehicle means an articulated vehicle within the meaning of the *Motor Vehicles Act*.

authorized officer means an officer authorized by the Council for the purposes of these By-laws and includes a member of the Police Force of the Territory.

Council means the Palmerston Town Council constituted under the *Local Government Act*.

impounded vehicle means a vehicle which has been removed under by-law 8 to a vehicle pound.

licensed auctioneer means an auctioneer within the meaning of the *Auctioneers Act* who holds an auctioneer's licence within the meaning of that Act.

motor lorry means a motor lorry within the meaning of the *Motor Vehicles Act*.

motor vehicle means a motor vehicle within the meaning of the *Traffic Act* and includes a bicycle within the meaning of that Act, an animal drawn vehicle, and a trailer at any time attached to any of them.

overlength vehicle means:

- (a) a motor vehicle; or
- (b) a trailer,

the length of which is greater than 6 m.

overweight vehicle means a motor vehicle the total weight of which (including any load being carried on the vehicle) is greater than 26.5 tonnes.

overwidth vehicle means a motor vehicle the total width of which (including any load being carried on the vehicle) is greater than 2.5 metres.

owner means an owner within the meaning of the *Motor Vehicles Act*.

Palmerston means the area of the Municipality of Palmerston as determined under the *Local Government Act*.

parking area means an area of land declared under by-law 5 to be a parking area for vehicles.

permit means a permit granted under by-law 17(2).

public street means a road and includes a parking area.

traffic sign includes:

- (a) a parking sign within the meaning of section 36D of the *Traffic Act*;
- (b) a traffic sign within the meaning of that Act; and
- (c) any other notice, sign or device marked, placed or erected on or at the side of a road or in a public place in the municipality, by authority of the Council, for the purpose of regulating traffic or guiding, directing or warning persons in charge of motor vehicles.

trailer means a trailer within the meaning of the *Traffic Act*.

vehicle means a vehicle within the meaning of the *Traffic Act*.

vehicle permit means a vehicle permit granted under by-law 19(3).

vehicle pound means a yard or other place declared under by-law 7 to be a vehicle pound.

- (2) For the purposes of section 36D of the *Traffic Act* as adopted by by-law 3:
- (a) unless the contrary intention appears, words used in that section shall have the meaning they have in clause (1); and
 - (b) where on a traffic sign erected, placed or displayed by the Council under or for the purposes of Part II there is a reference to a motor vehicle of a particular kind and the words used to describe the motor vehicle do not have a defined meaning in or for the purposes of section 36D of the *Traffic Act* but are defined in the *Motor Vehicles Act* those words shall have the same meaning as they have in the *Motor Vehicles Act*.

Part II Parking

3 Stopping and parking

Section 36D (other than subsection (12A)(b)) of the *Traffic Act* and regulation 33B of the *Traffic Regulations* made under that Act, with the necessary changes and as varied by by-law 2(2), are adopted and shall apply in Palmerston as if they were contained in these By-laws.

4 Erection, &c., of traffic signs

For the purposes of this Part the Council may erect, place or display such traffic signs as it thinks fit.

5 Council may declare parking areas, &c.

The Council may, by notice in writing, declare:

- (a) subject to such conditions as it thinks fit, an area of land that is under its care, control and management, whether temporarily or permanently; or
- (b) with the consent of the owner or occupier of land and subject to such conditions as are agreed to by the owner or occupier and the Council, the land or a part of it,

to be a parking area for vehicles.

6 Parking fees, &c.

Where the Council has under by-law 5 declared an area of land to be a parking area, it may declare:

- (a) that the fees set out in the Schedule or as the Council, from time, by resolution determines shall be paid to the Council for parking a vehicle in the parking area; and
- (b) the time that a vehicle may be permitted to park or remain parked in the parking area.

Part III Impounding of vehicles**7 Establishment of vehicle pound**

The Council may declare a yard or other place under its control to be a vehicle pound for the purposes of this Part.

8 Impounding of vehicle

An authorized officer may remove or cause to be removed to a vehicle pound a vehicle which is:

- (a) causing an obstruction; or
- (b) left, without the consent of the Council, for a period of not less than 7 days,

on a road or in a public place or on any land owned by, or under the care, control and management of, the Council.

9 Notice of impounding

- (1) As soon as practicable after the removal under by-law 8 of a vehicle to a vehicle pound, an authorized officer shall give to the owner of the vehicle notice in writing of the removal stating the vehicle pound to which the vehicle was removed.
- (2) A notice under clause (1) shall, where practicable, be served on the owner personally, but if the notice cannot be served within 7 days after the removal of the vehicle by reason of the fact that
 - (a) the name of the owner cannot be ascertained; or
 - (b) the owner, if known, cannot be found,

then, upon the expiration of 7 days after the removal of the vehicle, the Council shall cause notice of the removal of the vehicle to be published in:

- (c) 2 advertisements appearing in successive weeks in a newspaper circulating in Palmerston; or
 - (d) such other manner as it determines,
- having regard to the likely or presumed whereabouts of the owner.

10 Vehicle may be sold or disposed of

- (1) Where the owner of a vehicle does not, within 28 days after:
 - (a) the service on him of a notice under by-law 9(1); or
 - (b) of the date of publication of the second of the notices referred to in by-law 9(2),

whichever is the later, pay to the Council all expenses incurred by it in connection with the removal, custody and maintenance of the vehicle, and of service or advertisement of the notice, and take possession of the vehicle, the Council may, subject to clause (2) and by-law 11(1), sell the vehicle by auction.

- (2) Where a vehicle:
 - (a) is immobile and cannot be repaired at a cost which does not exceed its value;
 - (b) has no identification marks; and
 - (c) in the opinion of the Council, has a value of less than \$200,

the Council may dispose of the vehicle in such manner as it thinks fit.

11 Sale to be by auction

- (1) The sale of an impounded vehicle shall, unless in the opinion of the Council it is not practicable or convenient to do so, take place by auction.
- (2) The auction of an impounded vehicle may be conducted by a licensed auctioneer or, if the Council so determines, by an authorized officer.
- (3) Not less than 7 days notice of an auction of an impounded vehicle shall be given by advertisement in a newspaper circulating in Palmerston.

- (4) The Council may, before the sale by auction of an impounded vehicle, by resolution fix a reserve price in respect of that vehicle.
- (5) Each vehicle sold under these By-laws shall be sold as a single lot.

12 Auction sales to be for cash

Unless the Council determines otherwise and gives notice of its determination in the advertisement given under by-law 11(3), the sale of an impounded vehicle shall be cash at the fall of the hammer, and the moneys received by the person conducting the sale shall be paid to the Council within 24 hours after the commencement of the auction.

13 Removal of vehicle after auction

Unless the Council determines otherwise and gives notice of its determination in the advertisement given under by-law 11(3), it shall be a condition of the sale of an impounded vehicle at an auction that the vehicle shall be removed by the purchaser immediately after the close of the auction.

14 Procedure where no bid received

Where an impounded vehicle has been offered for sale by auction in accordance with this Part and no bid for the vehicle has been made at the auction, the Council may:

- (a) fix some other time for the sale of the vehicle, and advertise it in accordance with by-law 11(3); or
- (b) take possession of the vehicle as its property and either retain it or dispose of it as it thinks fit.

15 Disposal of proceeds of auction

- (1) All moneys received in relation to the sale of an impounded vehicle shall be applied in payment of:
 - (a) costs incurred by the Council in the sale of the vehicle;
 - (b) the cost of removal, custody and maintenance of the vehicle and of the notice served under by-law 10 and the notice advertised under by-law 11(3); and
 - (c) the residue, if any, on demand, to the person who owned the vehicle immediately before its removal and impounding,

in that order.

- (2) Where, after the expiration of 6 months after the sale of an impounded vehicle, any moneys remain in the possession of the Council in respect of the sale and are unclaimed by the owner of the vehicle or any person claiming through him, such moneys shall become the property of the Council.

16 Claim against owner

The owner of a vehicle shall be liable to the Council for any expenses incurred by the Council in the removal, custody, maintenance, sale or attempted sale or otherwise in the disposal of the vehicle under this Part and the Council may recover as a debt due and payable to it so much of those expenses as have not been satisfied by any proceeds from the sale of the vehicle.

Part IV Restriction on certain activities on roads or in public places

17 No processions, parades, etc., without permit

- (1) A person may apply to the Council for a permit to:
- (a) deliver a public address or hold a public meeting; or
 - (b) hold a procession (other than a funeral procession), parade, display or public entertainment,
- on a road or in a public place.
- (2) On receipt of an application for a permit the Council may grant or refuse to grant the permit.
- (3) A permit shall be in such form as the Council determines.
- (4) A permit shall be:
- (a) valid for the period; and
 - (b) subject to such conditions as the Council thinks fit,
- endorsed on the permit.
- (5) A person who fails to comply with or contravenes a condition of a permit is guilty of an offence.

18 Public addresses, &c.

- (1) A person shall not, without a permit:
- (a) deliver a public address or hold a public meeting; or

- (b) hold a procession (other than a funeral procession), parade, display or public entertainment,
on a road or in a public place.
- (2) The holder of a permit shall, on demand by an authorized officer, produce the permit.
- (3) A person who takes part in a procession (other than a funeral procession), parade, display or public entertainment on a road or in a public place for which a permit has not been granted is guilty of an offence.
- (4) Where the Council or an authorized officer believes on reasonable grounds that a breach of the peace may occur or an obstruction to traffic on a road or in a public place may result from a procession, parade, display or public entertainment, it or he may, notwithstanding the grant of a permit, prohibit the holding or the continuation of the holding of the procession, parade, display or public entertainment.

19 Restriction on overweight, overlength and overwidth vehicles

- (1) The Council may, by notice published in a newspaper circulated in Palmerston, prohibit the driving or parking of an overweight, overlength or overwidth vehicle or a motor lorry or class of motor lorries on a road or a part of a road as specified in the notice.
- (2) Where a notice under clause (1) is in force in respect of a road or a part of a road, a person may apply to the Council for a vehicle permit to drive or park a vehicle specified in the notice on that road or part of that road.
- (3) On receipt of an application under clause (2), the Council shall grant or refuse to grant the vehicle permit.
- (4) A vehicle permit shall be in such form as the Council determines.
- (5) A vehicle permit shall be:
 - (a) valid for the period; and
 - (b) subject to such conditions as the Council thinks fit,
endorsed on the permit.
- (6) A person who drives or parks a vehicle in contravention of a condition of a vehicle permit is guilty of an offence.

- (7) A person who without a vehicle permit drives or parks a vehicle specified in a notice under clause (1) on a road or part of a road in respect of which the notice is in force is guilty of an offence.
- (8) The holder of a vehicle permit shall, on demand by an authorized officer, produce the permit.

Part V Miscellaneous

20 Temporary closure of roads

- (1) The Council may, by notice published in a newspaper circulating in Palmerston, temporarily close a road or a part of a road for the purposes of holding a procession, parade, display or public entertainment.
- (2) A closure under clause (1) shall not exceed 24 hours.
- (3) A person who, without the permission of the clerk, uses a road while it is closed under clause (1) is guilty of an offence.

21 Driving off roads

- (1) Subject to clause (2), a person shall not drive a vehicle or permit a vehicle to be driven in Palmerston other than on a road or in a parking area.
- (2) Nothing in clause (1) shall prevent a person driving a vehicle on land owned or occupied by another person provided the consent of that person is obtained.

22 Deposit of oil, &c., prohibited

- (1) A person who deposits or permits the deposit of oil or chemical compounds from a vehicle onto the surface of a road or public place is guilty of an offence.
- (2) Where a person contravenes or fails to comply with clause (1), the Council may serve on the owner of the vehicle a notice in writing:
 - (a) requiring him to remove the oil or chemical compounds and reinstate at his expense the surface of the road or public place in accordance with the specifications or requirements and within the period; or
 - (b) stating that the Council will carry out the work of reinstatement and will make such charge, if any,

specified in the notice.

- (3) Subject to clause (4), a person who fails to comply with a notice under clause (2)(a) is guilty of an offence.
- (4) The Council may, when serving a notice in accordance with clause (2)(a), indicate that it will, if requested, carry out the works referred to at the expense of the person on whom the notice is served.

23 Hindrance, &c., of authorized officer

A person shall not obstruct, hinder or impede an authorized officer, or a person acting in good faith assisting the authorized officer, in the exercise of the powers or the performance of the functions conferred or imposed under these By-laws upon that authorized officer.

24 Delegation

- (1) Where under these By-laws the Council is empowered to do or perform any act, deed or thing, that act, deed or thing may be done or performed by the mayor or such alderman, officer or employee of the Council as the Council approves.
- (2) Where under clause (1) an act, deed or thing is done or performed by the mayor or an alderman, officer or employee of the Council who is approved under that clause, the act, deed or thing shall, for the purposes of these By-laws, be deemed to have been done by the Council.

25 Exemptions

The Council may by notice in writing exempt a motor vehicle, or a motor vehicle included in a class of motor vehicles, from the application, in whole or in part, of these By-laws, and a motor vehicle so exempted shall not accordingly be required to comply with these By-laws.

26 Regulatory offence

A person who contravenes or fails to comply with these By-laws is guilty of a regulatory offence and where, under these By-laws, it is an offence to park or stop a motor vehicle for a period longer than the period indicated on a traffic sign or as otherwise prescribed under these By-laws, a person who contravenes or fails to comply with these By-laws shall be guilty of a separate regulatory offence for each period indicated or prescribed during which he contravenes or fails to comply with these By-laws.

27 Offences concerning motor vehicles

- (1) Subject to this by-law, where an offence concerning a motor vehicle is committed, the owner of the motor vehicle shall be deemed to have committed the offence.
- (2) For the purpose of proving an offence concerning a motor vehicle, evidence that the name and address of a person:
 - (a) was shown painted on or affixed to the outside of a motor vehicle; or
 - (b) purporting to be the name and address of the registered owner of a motor vehicle was shown in any manner in or on that vehicle,is evidence that the person whose name and address were so shown was at the time they were shown the owner of that motor vehicle.
- (3) The owner of a motor vehicle shall not be deemed to have committed an offence if he was not in control of the motor vehicle at the time the offence was committed and:
 - (a) not later than 14 days after the day on which he is served with a notice of infringement under by-law 27A in relation to the offence he furnishes to the clerk a statutory declaration in which he states facts which prove to the satisfaction of the clerk that:
 - (i) some other person was in control of the motor vehicle at the time when the offence was committed and that the name and address of residence of that other person are as set out in the statutory declaration;
 - (ii) he sold the motor vehicle before the offence was committed and the sale was made on the date specified in the statutory declaration to a person whose name and address are as set out in the statutory declaration and, if the sale was made through an agent, that the name and address of the agent are as set out in the statutory declaration; or
 - (iii) at the time when the offence was committed he was unable to exercise any control over the motor vehicle because it had been stolen from him or was being used unlawfully without his consent; or

- (b) he satisfies the court hearing a charge for the offence of the truth of the matters of which he has made a statutory declaration under subclause (a).

27A Infringement notice

- (1) Where these By-laws create an offence concerning a motor vehicle and an authorized officer believes that such an offence has been committed, he may:
 - (a) hand to the owner of the motor vehicle or the person in apparent charge thereof a notice in writing in accordance with clause (2); or
 - (b) fix such a notice in a conspicuous position on the motor vehicle.
- (2) A notice referred to in clause (1) shall:
 - (a) be identified by a serial number;
 - (b) be addressed to the person who is the owner of the motor vehicle or the person apparently in charge of it, by his name or, if the authorized officer does not know his name, by his designation as the owner of the motor vehicle or person apparently in charge of it identifying the motor vehicle by the number plate affixed to it or, where there is no number plate, by other sufficient description;
 - (c) identify the motor vehicle concerned by the number plate affixed to it or, where there is no number plate, by other sufficient description;
 - (d) allege that the owner of the motor vehicle or the person apparently in charge of it committed an offence at a time, date and place specified in the notice;
 - (e) state in general terms the nature of the offence alleged to have been committed;
 - (f) 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 (g) but to have the alleged offence prosecuted in the court of summary jurisdiction where he:
 - (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

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- (iii) elects for any other reason to have the offence prosecuted in the court;
 - (g) state in general terms that the person to whom it is addressed may, if he 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 a 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:
 - (A) \$20 for any offence involving parking or standing a vehicle for longer than the prescribed time; or
 - (B) \$50 for any other offence under these By-laws; and
 - (h) set out in general terms by-law 27(3).
- (3) Where an authorized officer informs the clerk that:
- (a) an offence against these By-laws concerning a motor vehicle has been committed; and
 - (b) no notice has been handed to the owner of the motor vehicle or the person in apparent charge thereof or affixed to the motor vehicle in accordance with clause (1),
- the clerk may give to the owner of the motor vehicle notice in writing in accordance with clause (2).
- (4) Subject to by-law 27(3), where:
- (a) in relation to an offence, notice has been given under clause (1) or (3); and
 - (b) payment of the sum of money by way of penalty that is specified in the notice has not been made in accordance with the notice,

a prosecution for the offence may be commenced on the complaint of the clerk or a person authorized by him to make such a complaint against the owner of the motor vehicle or any other person alleged to have committed the offence.

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

28 Penalties

A person who:

- (a) fails to comply with the requirements of; or
- (b) contravenes,

these By-laws is liable on conviction to a fine not exceeding \$500 or imprisonment for 3 months and, in addition, to a fine not exceeding \$50 for each day during which the offence or contravention continues.

29 Recovery of expenses

Where the Council incurs expense in consequence of a breach by a person of these By-laws, the Council may, in addition to any penalty imposed in respect of that breach, recover from that person the expense incurred, which expense shall be a debt due and payable by him to the Council.

Schedule Fees for parking

by-law 6(a)

The fees payable in respect of a motor vehicle parked in a parking area are:

		\$
(a)	for the first hour or part of the first hour	0.06
(b)	for each hour or part of an hour after the first hour	0.20
(c)	maximum fee per day	1.50

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 (Traffic) By-laws (SL No. 15, 1986)

Notified	4 June 1986
Commenced	4 June 1986

Palmerston (Traffic) Amendment By-laws (SL No. 38, 1986)

Notified	10 October 1986
Commenced	10 October 1986

3 LIST OF AMENDMENTS

bl 2	amd No. 38, 1986, bl 1
bl 6	amd No. 38, 1986, bl 2
bl 19	amd No. 38, 1986, bl 3
bl 26 – 27	sub No. 38, 1986, bl 4
bl 27A	ins No. 38, 1986, bl 4