

NORTHERN TERRITORY OF AUSTRALIA

LOCAL GOVERNMENT (DARWIN PARKING LOCAL RATES) REGULATIONS

As in force at 1 July 2008

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Regulations under the *Local Government Act*

1 Citation

These Regulations may be cited as the *Local Government (Darwin Parking Local Rates) Regulations*.

2 Definitions

In these Regulations, unless the contrary intention appears:

central business district means the area of the municipality of Darwin shown within the dotted black line delineated on the plan appearing at Schedule 1.

fund means the trading fund referred to in regulation 3(2).

inspector means an inspector of local government accounts.

land includes buildings, but does not include land owned by the Commonwealth.

local rate or **local rates** means special rates under section 156 of the Act.

parcel of land means a parcel of land comprised in a single lot registered under the *Land Title Act* or, where the owner has developed 2 or more adjacent lots as a single entity, the land comprised in those adjacent lots.

parking usage schedule means the parking usage schedule prepared under regulation 4 and includes a parking usage schedule in relation to a particular parcel of land prepared under regulation 9(2).

shortfall, in relation to a parcel of land, means the number by which the number of parking spaces referred to in regulation 4(g) in respect of the parcel of land falls short of the number referred to in regulation 4(f) in respect of that parcel.

use, in relation to land, means the purpose for which the land is used, classified in accordance with Column 1 of Schedule 3.

vehicle means a motor vehicle as defined in the *Motor Vehicles Act*.

3 Application

- (1) These Regulations apply to, and in relation to, all land in the central business district.
- (2) The proceeds of a local rate levied under these Regulations shall be applied by the council to the trading fund established by the council for the provision, operation and maintenance of land, facilities, services and improvements for and in connection with the parking of vehicles in the central business district.

4 Parking usage schedule

For the purpose of calculating the local rate payable by the owner or occupier of land, the CEO shall, not later than 31 May 1982 and thereafter in the month of June in each year (including June 1982), prepare a parking usage schedule in which shall be entered, in respect of each parcel of land within the central business district as at the commencement of these Regulations and thereafter as at 1 June in each year:

- (a) particulars of the land;
- (b) where the land is ratable land, the name of the person entered in the assessment record as owner or occupier of the land;
- (c) where the land is not ratable land, the name of the person who, in the opinion of the CEO, would be liable to pay rates if the land were ratable;
- (d) where the land is in use, the use or uses to which it is put, and the area allocated to that use or each of those uses, as the case may be;
- (e) where the land is not in use, the authorized use established by reference to:
 - (i) a certificate issued under section 139 of the *Planning Act* or saved under section 177 of that Act or the most recent development permit under that Act in relation to the land; or

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- (ii) if no certificate or development permit is issued or saved under the *Planning Act* in relation to the land – by reference to the development provisions under that Act in relation to the land;
 - (f) the number of parking spaces which should, in accordance with Schedule 3, be provided on the land having regard to the use or uses to which it is put;
 - (g) the number of parking spaces calculated in accordance with the requirements of Schedule 4 which are on the land, and which are available for use for the parking of vehicles; and
 - (h) where a parking usage schedule has been prepared under regulation 9(2), in relation to a change or event referred to in regulation 9(1)(a), (b) or (c), the date on which the change or event occurred.

5 Rectification of errors

- (1) The provisions of the Act for correction of entries in the assessment record apply to the parking usage schedule (with necessary modifications).
- (2) An inspector shall bring to the notice of the council an error in the parking usage schedule which comes to his notice.

6 Notification of parking usage schedule

- (1) The CEO shall, not later than 1 June 1982, and thereafter not later than 1 July in each year, publish a notice in the *Gazette* and in at least one newspaper circulating in Darwin, stating:
 - (a) that a parking usage schedule has been prepared;
 - (b) the place and times at which the parking usage schedule may be inspected; and
 - (c) the date, being not less than 28 days after the date of publication of the notice, by which an appeal may be lodged against the parking usage schedule.
- (2) No charge shall be made for inspection of the parking usage schedule.

7 Appeals

- (1) A person named in the parking usage schedule as the owner or occupier of a parcel of land or a person who is liable for the payment of local rates in respect of a parcel of land may, before the

date specified in the notice published under regulation 6(1), by notice in writing served on an inspector, appeal against an entry in the parking usage schedule on the grounds:

- (a) that he is not the person liable to pay local rates in respect of the parcel of land;
 - (b) that, in relation to land in respect of which he is liable to pay local rates, the parking usage schedule contains an error or omission which affects the calculation of the parking spaces which should be provided on the land;
 - (c) that the number of parking spaces on the land is greater than that stated in the parking usage schedule; or
 - (d) that the parking usage schedule otherwise contains an error which affects the calculation of the local rate payable.
- (2) On completion of his investigation relating to an appeal under subsection (1), the inspector shall report his findings in writing to the CEO and forward a copy to the appellant and the CEO shall forthwith cause to be made in the parking usage schedule such alteration as may be necessary.
- (3) An inspector may require the CEO to refrain from levying or recovering local rates affected by the appeal until such time as he disposes of the appeal, and the CEO shall accordingly refrain from levying or recovering the local rates affected by the appeal.
- (4) Subject to any requirement made under subregulation (3), the obligation to pay and the right to recover local rates is not suspended by an appeal under this regulation, but where an amount has been paid to the council by an appellant, which an inspector determines not to have been properly payable by him, the council shall refund that amount to him.

8 Calculation of local rates

- (1) The figures set out in the parking usage schedule shall be used as the basis for the calculations made under this regulation.
- (2) Subject to regulation 9, the payment to be made by persons liable to pay local rates in respect of a parcel of land shall be calculated to the nearest whole number in accordance with the formula:

$$A = B \times (C1 - C2)$$

where:

A represents the amount payable;

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- B** represents the local rate declared under the Act, expressed as an amount in respect of a parking space;
- C1** represents the number listed in respect of that parcel under regulation 4(f); and
- C2** represents the number listed in respect of that parcel under regulation 4(g).
- (3) Subject to regulation 9, the fact that part of any land is not occupied for all or any part of a year shall not affect the liability of the owner of that land to pay local rates.
- (4) Where a calculation of the local rates payable by a person in respect of a parcel of land shows that the total of the numbers listed in respect of that parcel under regulation 4(g) equals or exceeds the number listed under regulation 4(f) in respect of that parcel:
- (a) no amount shall be payable in accordance with subregulation (2);
 - (b) the council shall not be liable to make any payment to that person; and
 - (c) the operation of regulation 10 shall not be affected in relation to the local rates payable by that person in respect of any other parcel of land.

8A Levy of local rate

A local rate shall be levied by the CEO serving a rate notice on the persons liable to pay the local rate.

8B Payment of amounts in advance

- (1) The council may, in its discretion, enter into an agreement with a person liable to pay local rates in respect of a parcel of land to the intent that the person, instead of paying the local rate annually, pays to the council in advance an amount arrived at by multiplying the amount determined by the council as appropriate to the term of the agreement by the shortfall.
- (2) The council shall not determine for the purposes of subregulation (1) an amount that discriminates between persons liable to pay local rates.

9 Payment of local rates where use of land changed during year

(1) The person liable to pay local rates in respect of a parcel of land in the central business district shall forthwith notify the CEO in writing of:

- (a) a change in the use of;
- (b) the demolition of a building on; or
- (c) the occupation, whether in part or in full, of, or the issue of a certificate of occupancy under the *Building Act*, whichever first occurs, in respect of a building constructed on,

the land, which:

- (d) has occurred since the last notice under regulation 6 was published; and
- (e) affects or is likely to affect the parking usage schedule as it relates to that parcel of land.

Penalty: If the offender is a natural person – 20 penalty units.

If the offender is a body corporate – 100 penalty units.

(2) Where the CEO considers that a change or event referred to in subregulation (1) necessitates the preparation of a parking usage schedule for the parcel of land, he shall, within 28 days after the time that he first became aware of that change or event, whether as a result of the notification under that subregulation or otherwise, prepare a parking usage schedule for that parcel of land in which shall be entered the information required by regulation 4(a) to (h) inclusive and, as soon as practicable, serve on the persons liable to pay local rates in respect of the parcel of land by posting to them by prepaid letter addressed to the address shown in the assessment record a copy of the amended parking usage schedule containing the information required by regulation 6(1)(c).

(3) Regulations 5, 6(2), 7 and 8 shall apply to and in relation to a parking usage schedule prepared under subregulation (2) as if it were a parking usage schedule prepared under regulation 4.

(4) Where, in relation to a parcel of land:

- (a) a parking usage schedule has been prepared under subregulation (2) in respect of the change in the use of a parcel of land;

(b) an agreement has not been entered into in accordance with regulation 8B; and

(c) the year in respect of which a local rate applies has not expired,

the council shall adjust, from the date on which the change or event under regulation 9(1) occurred, the amount of the local rates payable by a person in respect of that land and require the person to pay an additional amount or, as the case requires, refund to that person a proportion of the local rates paid by him or reduce the amount of the local rates payable by him.

(5) Where, in relation to a parcel of land in respect of which an agreement has been entered into in accordance with regulation 8B, a parking usage schedule has been prepared under subregulation (2) which increases the shortfall in respect of that parcel, the person liable to pay the local rates may:

(a) enter into an agreement under regulation 8B in relation to his additional liability; or

(b) pay the local rates in respect of the increased shortfall annually.

(6) Where, in relation to a parcel of land in respect of which an agreement has been entered into in accordance with regulation 8B, a parking usage schedule has been prepared under subregulation (2) which decreases the shortfall in respect of that parcel, the council shall, in relation to the unexpired portion of the term of the agreement, refund to the person who entered into the agreement the amount paid by him in respect of the decrease in the shortfall. The method of calculating the amount of the refund shall be as set out in the agreement.

10 Rebates and exemptions

(1) The council may, with the approval of the Minister, exempt a person or class of persons from the payment of local rates in respect of specified land or a specified class of land.

(2) The council may by resolution reduce the local rates payable by a person in respect of a parcel of land where that person has provided on another parcel of land in the immediate vicinity of the first-mentioned parcel of land a number of parking spaces that equals or exceeds the aggregate number listed in accordance with regulation 4(f) in the parking usage schedule for the first-mentioned parcel of land and that other parcel of land or, where that other parcel of land is not within the central business district, equals or exceeds the number listed for the first-mentioned parcel of land.

11 Car-parking spaces to be used as such

- (1) Subject to subregulation (3), the owner of a parcel of land in the central business district shall not, without the prior written consent of the council, use or cause or permit to be used a parking space included in the parking usage schedule for the parcel of land (or provided by him in the immediate vicinity of the parcel of land and in respect of which the local rate in relation to the parcel of land has been reduced under regulation 10(2)) for a purpose other than the parking of a vehicle so that the number of parking spaces available for the parking of vehicles is less than the number listed in accordance with regulation 4(f) in that parking usage schedule or the aggregate number for the purposes of regulation 10(2), as the case may be.

Penalty: If the offender is a natural person – 20 penalty units.

If the offender is a body corporate – 100 penalty units.

- (2) It shall be a defence to a prosecution for an offence against subsection (1) for a person to show that the unauthorized use of a parking space:
- (a) was for a period of less than 48 hours and that no similar use of that space had taken place during the previous 6 months; or
 - (b) resulted from the carrying out of emergency repairs to a service to the land or adjacent land.
- (3) Nothing in this regulation shall prevent the parking of a bicycle or a moped in a parking space.

Schedule 1

regulation 2

(see hard copy)

Schedule 3

regulation 4(f)

PARKING REQUIREMENTS

1. In this Schedule:

dwelling unit means a building or part of a building designed, constructed or adapted for human habitation as a self-contained unit.

net floor area, in relation to a building, includes all that area between the internal surfaces of external walls other than:

- (a) stairs, lift shafts, escalators, cleaners cupboards and tea rooms (where provided as standard facilities in a building);
 - (b) all areas which are available for unrestricted use by members of the public who are neither occupants or owners of the parcel of land or part of it;
 - (c) toilets and washrooms;
 - (d) areas set aside as plant lift motor rooms;
 - (e) areas set aside for the use of service or delivery vehicles;
 - (f) areas set aside for parking or access thereto; and
 - (g) such other areas declared by the council by resolution to be excluded areas for the purposes of this definition.
2. Where a calculation made in accordance with the figures set out in the Table in paragraph 3 results in a number which is not a whole number, the number of parking spaces required shall be the next higher whole number.

3. The number of parking spaces referred to in regulation 4(f) shall be calculated by reference to the following Table:

TABLE

Column 1	Column 2
Use	Minimum No. of parking spaces required
1. Commercial (including catering businesses, drive-in take-away food outlets, general stores, indoor recreation establishments (including cinemas and theatres), licensed clubs, licensed restaurants, medical clinics, medical consulting rooms, motels and hotels (excluding guest suites and bedrooms), motor repair establishments, nurseries, offices (except where elsewhere referred to in this Table), passenger terminals, service industry establishments, service stations, shops, showrooms, taverns, transport terminals, vehicle sales yards, veterinary clinics and warehouses)	3 per 100 m ² Net Floor Area
2. Institutional (including ambulance stations, courts of justice, fire stations, child care centres, community centres, education establishments, funeral parlours, group housing (transitional), institutional establishments, institutional residences, places of public worship and radio or TV installations)	2 per 100 m ² Net Floor Area
3. Residential (including detached dwellings, dwelling units, guest houses and hostels, units for aged persons and guest suites and bedrooms in motels and hotels)	0.6 per Dwelling Unit

Schedule 4

regulation 4(g)

PROVISION OF PARKING SPACES

1 General requirements

Subject to clause 4, parking spaces required to be provided in respect of a parcel of land shall:

- (a) be provided in a parking area set aside for the purpose and clearly identified as such;
- (b) be reasonably accessible for use for parking; and
- (c) have a surface reasonably suitable for the parking of vehicles during all weather conditions.

2 Access to parking area

Subject to clause 4, a parking area shall be so laid out or designed that vehicles can enter and leave it in a forward gear.

3 Driveways

Subject to clause 4, where a vehicle driveway provides access to or egress from a parking area, it shall measure 6 metres wide for two-way traffic flows and 3.5 metres wide for one-way traffic flows and a corner or junction shall have a minimum radius of 5 metres.

4 Exemptions

- (1) Where, in the opinion of the council, a parking area is adequate for the parking of vehicles and can safely and conveniently be used notwithstanding that it does not comply fully or at all with the requirements laid down by this Schedule, it may, by resolution, exempt the owner of the parcel of land on which it is situated from the need for the parking area to so comply and in the resolution specify the manner in which the parking area may be laid out or designed and used for the purposes of these Regulations.
- (2) The parking spaces provided in a parking area laid out or designed in accordance with a resolution referred to in subclause (1) shall be taken into account in the calculation of local rates.

5 Calculation of parking spaces

Subject to clause 4, in determining the number of parking spaces that are available for use for the parking of vehicles in a parking area the CEO shall determine them as nearly as practicable in accordance with the relevant diagram in the diagrams set out below, notwithstanding the configuration actually nominated by markings or otherwise on, in or in relation to the parking area.

PARKING SPACE SIZES

(See hard copy)

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 = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION

Local Government (Darwin Car Parking Local Rates) Regulations (SL No. 26, 1982)

Notified	30 April 1982
Commenced	30 April 1982

Amendments of the Local Government (Darwin Parking Local Rates) Regulations (SL No. 36, 1984)

Notified	27 June 1984
Commenced	27 June 1984

Planning (Consequential Amendments) Act 1999 (Act No. 56, 1999)

Assent date	14 December 1999
Commenced	12 April 2000 (s 2, s 2 <i>Planning Act 1999</i> (Act No. 55, 1999) and Gaz S15, 12 April 1999)

Land Title (Consequential Amendments) Act 2000 (Act No. 45, 2000)

Assent date	12 September 2000
Commenced	1 December 2000 (s 2, s 2 <i>Land Title Act 2000</i> (Act No. 2, 2000) and Gaz G38, 27 September 2000, p 2)

Statute Law Revision Act (No. 2) 2001 (Act No. 62, 2001)

Assent date	11 December 2001
Commenced	11 December 2001

Local Government Amendment Act 2004 (Act No. 15, 2004)

Assent date	15 March 2004
Commenced	1 June 2004 (Gaz S14, 28 May 2004)

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

r 1	amd No. 36, 1984, r 2
r 1A	ins No. 36, 1984, r 3 rep Act No. 28, 2008, s 4
r 2	amd No. 36, 1984, r 4; Act No. 45, 2000, s 12; Act No. 62, 2001, s 17; Act No. 15, 2004, s 71; Act No. 28, 2008, s 4
r 4	amd Act No. 15, 2004, s 71; Act No. 28, 2008, s 4
r 5	amd No. 36, 1984, r 5; Act No. 15, 2004, s 71; Act No. 28, 2008, s 4
r 6	amd Act No. 15, 2004, s 71
r 7	amd No. 36, 1984, r 6; Act No. 15, 2004, s 71
r 8	amd No. 36, 1984, r 7; Act No. 28, 2008, s 4
r 8A	ins No. 36, 1984, r 8 amd Act No. 15, 2004, s 71
r 8B	ins No. 36, 1984, r 8
r 9	amd No. 36, 1984, r 9; Act No. 15, 2004, s 71; Act No. 28, 2008, s 4
r 10	amd No. 36, 1984, r 10
r 11	amd No. 36, 1984, r 11; Act No. 15, 2004, s 71
r 13	amd Act No. 56, 1999, s 3(2)
sch 2	rep No. 36, 1984, r 12
sch 3	amd No. 36, 1984, r 12
sch 4	sub No. 36, 1984, r 12; Act No. 15, 2004, s 71