

NORTHERN TERRITORY OF AUSTRALIA
DARWIN CITY COUNCIL AMENDMENT (SIGNS, HOARDINGS AND
ADVERTISING) BY-LAWS 2005

Regulations No. 53 of 2005

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NORTHERN TERRITORY OF AUSTRALIA

Regulations No. 53 of 2005*

Darwin City Council Amendment (Signs, Hoardings and Advertising) By-laws 2005

The Darwin City Council, pursuant to the powers conferred on it by the *Local Government Act* and in accordance with section 184(3) and (4) of the Act, at a meeting held on 16 November 2005, made the following by-laws and, for section 63(2)(a) of the *Interpretation Act*, authorised the Lord Mayor and the Chief Executive Officer, to sign them.

Dated 17 November 2005.

A. R. MCGILL
Chief Executive Officer

The common seal of the Darwin City Council is affixed pursuant to a resolution of the council authorising the seal to be affixed passed on 16 November 2005.

HELEN GALTON
Acting Lord Mayor

A. R. MCGILL
Chief Executive Officer

* Notified in the *Northern Territory Government Gazette* on 25 January 2006.

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By-laws 2005*

1. Citation

These By-laws may be cited as the *Darwin City Council Amendment (Signs, Hoardings and Advertising) By-laws 2005*.

2. Principal By-laws amended

These By-laws amend the *Darwin City Council By-laws*.

3. Repeal of Part 4, Division 3

Part 4, Division 3 –

repeal

4. Repeal and substitution of Part 8

Part 8 –

repeal, substitute

PART 8 – SIGNS, HOARDINGS AND ADVERTISING

Division 1 – Preliminary matters

184. Interpretation

(1) In this Part –

"advertiser" means –

- (a) if a permit is in force under this Part for an advertising sign – the permit holder; or
- (b) in any other case – the person who authorises or causes an advertising sign to be exhibited;

"authorised person" has the same meaning as in section 204 of the *Local Government Act*;

"Code" has the meaning in by-law 185;

"permit holder" means the holder of a permit in force under this Part;

"public area" means a road, a reserve or land within the municipality that is owned, controlled or maintained by the council or the Territory.

(2) An expression used but not defined in this Part has the same meaning as in the Code.

185. Outdoor Advertising Signs Code

(1) The Code is the Darwin City Council Outdoor Advertising Signs Code approved by resolution of the council on 30 March 2004 as amended from time to time and, if that code is replaced under clause (2), the replacement code as amended from time to time.

(2) The council may, by resolution, amend the Code or replace it with another code that prohibits, regulates or exempts matters relating or incidental to the placing, size, shape, content and colour of signs, hoardings and advertising in a public area or on premises adjoining or in view of a public area.

(3) The council must make the Code available for inspection by the public at the council offices.

(4) If the council amends or replaces the Code, the council must publish in a newspaper circulating in the municipality a notice stating that the amendment or replacement has been made and including a description of the effect of the amendment.

186. Classification of advertising signs

(1) The following classifications apply to advertising signs:

- (a) exempt;
- (b) complying;
- (c) discretionary;
- (d) prohibited.

(2) The council must classify an advertising sign by reference to criteria stated in the Code and may specify conditions that must be met for a particular sign to be given a classification.

187. General standards for advertising signs

(1) This by-law applies without limiting the requirements set out under the Code.

(2) An advertising sign must –

- (a) be constructed or installed and maintained in a condition of security, good repair and structural soundness to the satisfaction of the council; and

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- (b) accord with the dimensions specified in the Code and, in particular, must have dimensions that bear a reasonable relationship to the dimensions of surrounding buildings and allotments so that –
 - (i) its presence is not unduly dominating or oppressive; and
 - (ii) it does not unreasonably obstruct views.
- (3) An advertising sign must not –
 - (a) cause significant obstruction of, or distraction to, vehicular and pedestrian traffic; or
 - (b) detract from the quality and architectural character of the building on which the sign is exhibited, or the environmental character and values of the surrounding area, by its colour or appearance; or
 - (c) have a negative impact on, or detract from, the character and values of the environment in which it is to be exhibited; or
 - (d) conflict with the requirements of any applicable legislation.

188. Unlawful exhibition of advertising sign

- (1) An advertising sign must not be exhibited in a public area or on premises adjoining or in view of a public area unless –
 - (a) a permit is in force for the advertising sign; or
 - (b) the advertising sign is classified as an exempt or complying advertising sign.
- (2) An advertiser who exhibits an advertising sign in contravention of this by-law commits an offence.
- (3) An offence under clause (2) is a regulatory offence.

Division 2 – Permits

189. Application for permit

- (1) A person may apply to the council for a permit to exhibit an advertising sign.
- (2) The application must be in an approved form and include –
 - (a) full details of the proposed advertising sign, including its contents, design, dimensions and construction; and

- (b) full details of when, where and how the advertising sign is to be exhibited; and
- (c) if planning or building approval is required under other legislation – evidence of the relevant approval; and
- (d) if the advertising sign is to be exhibited in a place not owned by the applicant – the written consent of the owner of the place.

190. Issue of permit

(1) On receipt of an application made in accordance with by-law 189, the council may decide to –

- (a) issue a permit on any conditions the council considers appropriate; or
- (b) refuse to issue a permit.

(2) In deciding whether or not to issue a permit, the council must have regard to the following:

- (a) the application and any information provided with the application;
- (b) submissions from interested persons;
- (c) the public interest;
- (d) Commonwealth, Territory or local government plans, proposals, or agreements that could affect the area in which the advertising sign is to be exhibited;
- (e) relevant legislation including the Code.

(3) If the council decides to issue a permit, the appropriate fee must be paid to the council before the permit is issued.

191. Conditions of permit

(1) A permit may be issued on the conditions the council considers appropriate.

(2) The conditions of a permit may stipulate any of the following:

- (a) the materials out of which the advertising sign is to be constructed;
- (b) the dimensions of the advertising sign;
- (c) the periodic painting or external treatment of the advertising sign;

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- (d) the securing of the advertising sign in a specified way;
 - (e) the positioning of the advertising sign in relation to the following:
 - (i) the boundaries of land, or a building or structure, on which it is situated;
 - (ii) a road;
 - (iii) any other public area within the municipality;
 - (f) how and when the advertising sign may be illuminated and the intensity of the illumination.
- (3) The conditions of a permit may also require the advertiser to –
- (a) maintain a public liability insurance policy in the joint names of the advertiser and the council covering public liability arising out of the positioning, structure or exhibition of the advertising sign for an amount required from time to time by the council on terms and conditions satisfactory to the council; and
 - (b) on demand, produce to the council the policy of insurance, receipts for each payment of the premium and the certificate of currency in respect of the policy.

192. Advertiser to comply with permit conditions

- (1) A permit holder who fails to comply with any of the conditions of the permit commits an offence.
- (2) An offence under clause (1) is a regulatory offence.

193. Alterations to advertising signs

- (1) A permit holder must not alter an advertising sign for which a permit has been issued unless –
 - (a) the alterations are allowed under the conditions of the permit; or
 - (b) the council has approved the alterations; or
 - (c) a new permit has been issued for the advertising sign under clause (4).
- (2) A permit holder may apply to the council for a new permit for an advertising sign on which it is proposed to carry out alterations.

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- (3) The application must be in an approved form and include –
 - (a) full details of the proposed alterations; and
 - (b) if planning approval or building approval is required under other legislation – evidence of the relevant approval.

(4) On receipt of the application and payment of the appropriate fee, the council may issue to the advertiser a new permit for the advertising sign on any conditions it considers appropriate.

- (5) In this by-law –

"alteration" includes a change to any of the following:

- (a) the dimensions, material, colour or appearance of the sign;
- (b) the content of the sign;
- (c) the means by which the sign is secured;
- (d) the location of the sign;
- (e) the direction the sign is facing.

194. Currency of permit

(1) Unless revoked sooner, a permit issued under by-law 190 continues in force until –

- (a) the expiry of the period endorsed on the permit; or
- (b) if an application is made within the period specified in clause (2) – the council has notified the permit holder of its decision regarding the application.

Note for subsection (1) –

A permit may be revoked under by-law 195(1), 200(1)(a), 201(7) or 202(3).

(2) No later than 14 days before the expiry of the period endorsed on a permit, the permit holder may apply to the council for the re-issue of the permit.

(3) If the council decides to re-issue a permit, the appropriate fee must be paid to the council before the permit is re-issued.

195. Re-issue of permit to new advertiser

- (1) A permit is revoked if –
 - (a) the advertising sign for which the permit is issued is part of premises or a business owned or controlled by the permit holder; and
 - (b) the premises or business is sold or transferred to another person.
- (2) However, if the new proprietor of the premises or business wishes to continue exhibiting the advertising sign, the new proprietor may apply to the council for the re-issue of the permit for the sign.
- (3) The application must be in an approved form and be accompanied by –
 - (a) a statutory declaration given by the former advertiser stating that –
 - (i) the advertising sign is exhibited in compliance with a permit that continued in force until at least the date on which the ownership of the premises or business was transferred to the new proprietor; and
 - (ii) the advertising sign has not been altered by the former advertiser since the issue of the permit, except in accordance with by-law 193(1); and
 - (b) a statutory declaration by the new advertiser stating that the advertising sign has not been altered in any way by the new advertiser.
- (4) If the council decides to re-issue a permit under this by-law, the appropriate fee must be paid to the council before the permit is re-issued.

Division 3 – Enforcement

196. Notice to repair

- (1) This by-law applies in relation to an advertising sign whether or not a permit has been issued for the advertising sign.
- (2) If the council or an authorised person is of the opinion that an advertising sign is not secure, not in good repair, not rigid or unsightly, the council or the authorised person may give a notice to repair to –
 - (a) the advertiser; or

- (b) the owner or occupier of the property on which the advertising sign is erected or being used.

(3) The notice must be in writing unless the council or authorised person is of the opinion that the repairs must be carried out as a matter of urgency.

197. Notice of non-compliance

If an advertising sign is exhibited in contravention of this Part or a condition of a permit granted in respect of the advertising sign, an authorised person may give written notice of non-compliance to the advertiser.

198. Form of notice under by-laws 196 and 197

A notice given under by-law 196 or 197 must –

- (a) specify the work to be carried out –
 - (i) in the case of a notice under by-law 196 – to put the advertising sign in good order or repair or to remedy the unsightly condition; or
 - (ii) in the case of a notice under by-law 197 – to ensure the advertising sign is lawfully exhibited; and
- (b) specify the time in which the works are to be completed or the advertising sign removed; and
- (c) include advice that a failure to comply with the notice may result in the impoundment of the advertising sign.

199. Offence for failure to comply with notice under by-law 196 or 197

(1) A person to whom a notice under by-law 196 or 197 is given must, within the time specified in the notice –

- (a) carry out the works specified in the notice; or
 - (b) remove the advertising sign.
- (2) An offence under clause (1) is a regulatory offence.

200. Revocation of permit

- (1) An authorised person may, by written notice –
 - (a) revoke a permit for an advertising sign if –
 - (i) the permit holder fails to comply with a condition of the permit or this Part; or
 - (ii) the character of the public area in which, or in view of which, the sign is exhibited changes and the advertising sign is no longer consistent with that character; or
 - (iii) the advertising sign, in conjunction with other advertising signs exhibited by the same or other advertisers, seriously detracts from the character of the public area in which, or in view of which, the sign is exhibited; and
 - (b) direct that the advertising sign be removed within the time specified in the notice.

Example for clause (1)(a)(ii) –

The character of a public area may change as a result of commercial or residential development.

(2) A permit holder who fails to comply with a notice issued under clause (1) within the time specified commits an offence.

(3) An offence under clause (2) is a regulatory offence.

201. Removal and impoundment of signs

(1) If a person fails to comply with a notice issued under by-law 196, 197 or 200(1) within the time specified in the notice, an authorised person may remove and impound the advertising sign to which the notice relates.

(2) Within 7 days after the removal and impoundment of the advertising sign, the authorised person must serve on the advertiser a written notice of impoundment that includes the place of impoundment.

(3) If the advertiser cannot be found or the name of the advertiser cannot be ascertained, the CEO must, within a reasonable time after the impoundment, publish a notice of impoundment in a newspaper circulating in the municipality.

(4) The council must release an advertising sign impounded under clause (1) to the advertiser if, within 28 days after a notice under clause (2) has been served or a notice under clause (3) published, the advertiser pays to the

council a fee for the removal, custody and reasonable maintenance of the advertising sign.

(5) An advertising sign impounded because of a failure to comply with a notice under by-law 196 or 197 and released under clause (4) must not be exhibited again until the remedial work for which the original notice was issued has been carried out.

(6) The council may dispose of an advertising sign impounded under clause (1) in any manner if, after 28 days after a notice under clause (2) has been served or a notice under clause (3) published, the advertiser has not paid to the council a fee for the removal, custody and reasonable maintenance of the advertising sign.

(7) If the council disposes of an advertising sign pursuant to clause (6), a permit issued for that advertising sign is revoked.

202. Removal and impoundment without notice

(1) An authorised person may remove and impound an advertising sign without notice to the advertiser if the advertising sign –

- (a) is exhibited without a permit in contravention of by-law 188; or
- (b) creates, in the opinion of an authorised person, a hazard or a risk to life or property; or
- (c) fails to comply with a condition imposed by the Code or a permit issued in respect of the advertising sign and, as a consequence of that failure, in the council's opinion, it is necessary to remove the advertising sign immediately.

(2) If an advertising sign is impounded pursuant to clause (1), by-law 201(2), (3), (4) and (6) applies (with the necessary changes).

(3) A permit for an advertising sign impounded under this by-law may be revoked.

203. Powers of entry

For the purpose of removing and impounding an advertising sign under by-law 201 or 202, an authorised person may –

- (a) enter land or buildings in accordance with section 119 of the Act; and
- (b) carry out demolition or other work that may be necessary to remove and impound an advertising sign.

204. Cost recovery

The costs properly and reasonably incurred by the council under this Division are recoverable as a debt due and payable by the advertiser and include the costs of the following:

- (a) the removal and impoundment of a sign under by-law 201 or 202;
- (b) the custody and maintenance of a sign removed and impounded under by-law 201 or 202;
- (c) the service of a notice under by-law 201(2) or the publication of a notice under by-law 201(3);
- (d) the disposal of a sign under by-law 201(6).

Division 4 – Council advertising signs

205. Exhibition of signs

- (1) The council may exhibit an advertising sign without a permit.
- (2) A person who removes, alters, defaces or otherwise interferes with an advertising sign exhibited by the council commits an offence.
- (3) An offence under clause (2) is a regulatory offence.

5. Repeal of Schedule 4

Schedule 4 –

repeal
