

NORTHERN TERRITORY OF AUSTRALIA  
AMENDMENTS OF DARWIN CITY COUNCIL BY-LAWS

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Regulations 2002, No. 54

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# NORTHERN TERRITORY OF AUSTRALIA

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Regulations 2002, No. 54\*

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

The Darwin City Council, in pursuance of 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 29 October 2002, made the following by-laws and, for the purposes of section 63(2)(a) of the *Interpretation Act*, authorised Allan Raymond McGill, the clerk, to sign them.

Dated 30 October 2002.

A. R. MCGILL  
Clerk

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The common seal of the Darwin City Council is affixed in pursuance of a resolution of the council authorising the seal to be affixed passed on 29 October 2002.

PETER ADAMSON  
Mayor

A. R. MCGILL  
Clerk

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\* Notified in the *Northern Territory Government Gazette* on 25 November 2002.

**AMENDMENTS OF DARWIN CITY COUNCIL BY-LAWS**

**1. Repeal and substitution**

By-law 21 of the Darwin City Council By-laws is repealed and the following substituted:

**"21. Infringement notice and payment of sum in lieu of penalty**

"(1) Despite by-law 20, 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 –
  - (i) in respect of a by-law specified in column 1 of Schedule 2 – is the sum specified opposite the by-law in column 2 of that Schedule; and
  - (ii) in respect of any other by-law – is \$50;
- (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 194(4) 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 not later than 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

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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), unless the infringement notice is withdrawn –
- (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 the *Fines and Penalties (Recovery) Act* by completing a statement of election (as contained in the infringement notice) and serving it on the council;
- (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*;
- (e) if the alleged offence is in relation to an infringement of by-law 120 – a statement that includes information about the liability of the owner of the vehicle to which the infringement relates, as specified in regulation 53(1), (2), (3), (4) and (5) of the *Traffic 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-

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thirds of the members then in office are present, by resolution carried by a majority of the members then in office.

**"21A. Withdrawal of infringement notice**

"(1) An infringement notice served on an alleged offender may be withdrawn at any time before a courtesy letter is served on that person under the *Fines and Penalties (Recovery) Act*, but only if the council has not received payment of the fixed penalty specified in the infringement notice.

"(2) The withdrawal of an infringement notice is effected when an authorised officer serves on the alleged offender a notice of withdrawal stating –

- (a) that the infringement notice is withdrawn; and
- (b) that the fixed penalty specified in the infringement notice is no longer payable to the council."

**2. Repeal**

Schedule 1 to the Darwin City Council By-laws is repealed.

**3. Further amendments**

The Darwin City Council By-laws are amended as set out in the Schedule.

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**SCHEDULE**

By-law 3

Provision	Amendment	
	omit	substitute
By-laws 55(1)(b), 56(5) and 75(2)(b)(i) and (ii)	a notice of infringement	an infringement notice
By-law 121	Part XI	Part 3
Schedule 2	By-law 21(2)(c)	By-law 21(2)(a)