

NORTHERN TERRITORY OF AUSTRALIA
PALMERSTON (PRIVATE SWIMMING POOL) BY-LAWS

TABLE OF PROVISIONS

By-law

1. Citation
2. Crown to be bound
3. Definitions
4. Application
5. Fencing of private swimming pool
6. Permit required to install pool
7. Council to be advised when pool complete
8. Permit valid for 12 months only
9. Inspection on sale of property
10. Notice to fence
11. Pool to be maintained
12. Repeal

NORTHERN TERRITORY OF AUSTRALIA

Regulations 1996, No. 21*

By-laws under the *Local Government Act*

The Palmerston Town 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 28 March 1996, made the following By-laws and, for the purpose of section 63(2) (a) of the *Interpretation Act*, authorised Michael William Butcher, the acting clerk, to sign them.

Dated 28 March 1996.

M.W. BUTCHER
Acting Clerk

PALMERSTON (PRIVATE SWIMMING POOL) BY-LAWS

1. CITATION

These By-laws may be cited as the Palmerston (Private Swimming Pool) 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 -

"barrier" does not include a hedge or growing vegetation;

"council" means the Palmerston Town Council;

"private swimming pool" means a place, structure, building or excavation (including a spa pool) installed, constructed or maintained for the purpose of swimming, wading or similar activities, but does not include such a place, structure, building or excavation installed, constructed or maintained by the council for use by the public or the pools located in the Palmerston Leisure Centre;

"small child" means an infant who has not attained the age of 5 years.

* Notified in the *Northern Territory Government Gazette* on 31 May 1996.

Palmerston (Private Swimming Pool) By-laws

4. APPLICATION

(1) These By-laws apply to and in relation to every private swimming pool in the municipality of Palmerston which, as at the commencement of these By-laws, has not been inspected and approved by the council or an authorised person.

(2) These By-laws do not apply to a private swimming pool -

- (a) the surface of the water in which, when filled, is less than 5m² in area;
- (b) that cannot be filled with water to a depth greater than 300 mm; and
- (c) that is of a portable nature.

5. FENCING OF PRIVATE SWIMMING POOLS

(1) Subject to this by-law, the owner of a private swimming pool shall cause that pool to be enclosed by a fence, wall or building, or combination of them, of such a construction or nature as to provide a reasonably effective barrier against a small child gaining access to the pool.

Penalty: \$1,000.

(2) For the purpose of clause (1), a reasonably effective barrier is one that, in the particular circumstances of the case, complies with Australian Standard 2818-1986 "Guide to Swimming Pool Safety" and to Australian Standard 1926-1986 (including Amendment No. 1 published 2 March 1987) "Fences and Gates For Private Swimming Pools".

(3) Copies of the Australian Standards referred to in clause (2) are available for inspection free of charge at the Palmerston Town Council offices.

(4) For the purpose of clause (1), a perimeter fence enclosing the whole of the parcel of land on which a private swimming pool is situated is not, of itself, necessarily a sufficient compliance with the Australian Standards referred to in clause (2).

(5) Where the council or an authorised person is satisfied that, for reason of general safety (for example, where it is not generally desirable to have permanently barred windows), the Australian Standards referred to in clause (2) should be amended to suit the circumstances of the case, those standards may be amended accordingly.

Palmerston (Private Swimming Pool) By-laws

6. PERMIT REQUIRED TO INSTALL POOL

(1) Where a person proposes to install or construct a private swimming pool on land owned or occupied by him or her, the person shall apply to the council for a permit, and shall not commence the installation or construction unless a permit to carry out the work has been issued under clause (2).

Penalty: \$1,000.

(2) Where an application is made under clause (1), the council may issue a permit authorising the installation or construction of a private swimming pool, subject to such conditions as the council thinks fit.

(3) Where the owner or occupier of land is required to obtain a permit under this clause a person shall not install or construct a private swimming pool before the person has sighted the permit or, after being authorised in writing, has obtained the permit on the owner's or occupier's behalf.

Penalty: \$1,000.

7. COUNCIL TO BE ADVISED WHEN POOL COMPLETE

Where a permit has been issued under by-law 6, the person to whom it has been issued shall give notice, in the approved form, to the council within 14 days after the construction or installation of the pool is complete in accordance with the conditions of the permit.

Penalty: \$1,000.

8. PERMIT VALID FOR 12 MONTHS ONLY

A permit issued under by-law 6 has no validity in authorising the commencement of any work to which the permit relates later than 12 months after the date of issue.

9. INSPECTION ON SALE OF PROPERTY

Where the council receives a notice under section 222 of the *Local Government Act* (which relates to the disposition or acquisition of estates or interests in land) and there is a private swimming pool on the land to which the notice relates, then, whether or not an inspection has previously been made or a permit issued, the council shall inspect the pool to ensure that the requirements of these by-laws are met, notwithstanding that the requirements may be more onerous than when the pool was first inspected (if at all).

Palmerston (Private Swimming Pool) By-laws

10. NOTICE TO FENCE

(1) Without prejudice to any proceedings which the council may initiate in respect of a contravention of, or failure to comply with, these by-laws, the council or an authorised person may -

- (a) where, in their opinion, a private swimming pool is not enclosed in accordance with by-law 5, serve on the owner of the private swimming pool or, where the owner of the pool is not after reasonable enquiry known to the council, the owner of the land on which it is situated a notice in writing requiring the person to erect, within 30 days after service of the notice, such fencing as is necessary to ensure compliance with by-law 5; and
- (b) where a person on whom a notice under subclause (a) has been served fails to comply with the notice within the 30 days or such further time as the council, in writing, allows, the council may carry out or cause to be carried out the necessary work.

(2) Where the council carries out or causes to be carried out work under clause (1)(b), the cost of the work is a debt due and payable to the council by the person required under clause (1)(a) to carry out the work.

11. POOL TO BE MAINTAINED

The owner of a private swimming pool shall ensure that -

- (a) the pool is maintained in a clean and sanitary condition; and
- (b) the barrier, and any gate incorporated in the barrier, is maintained in good working order and in compliance with these By-laws and any condition specified in the permit.

Penalty: \$1,000.

Palmerston (Private Swimming Pool) By-laws

12. REPEAL

The Palmerston (Private Swimming Pool) By-laws, being regulations 1986, No. 46, are repealed.

The common seal of the Palmerston Town Council was affixed hereto in pursuance of the resolution of the Council passed on 28 March 1996 authorising the seal to be so affixed.

K. DIFLO
Mayor

M.W. BUTCHER
Acting Clerk
