

NORTHERN TERRITORY OF AUSTRALIA

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Regulations 1986, No. 23\*

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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 203 of the Act, at a meeting held on the first day of July 1986, hereby makes the following By-laws.

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DARWIN (PARKING) BY-LAWS

1. CITATION

These By-laws may be cited as the Darwin (Parking) By-laws.

2. INTERPRETATION

(1) For the purposes of these By-laws and section 36D of the *Traffic Act*, as adopted by By-law 3 -

"authorized parking officer" means a member of the Police Force of the Northern Territory or a person employed or appointed by the Council for the purpose of enforcing these By-laws;

"car park" means an area of land under the control (whether permanently or temporarily) of the Council being an area on which there is a parking sign containing the words "CITY OF DARWIN PARKING AREA" whether with or without other words;

"footpath" means that part of a road vested in the Council which has been made or set apart to be used otherwise than for the passage or accommodation of motor vehicles;

"metered space" means a parking space in relation to which a device is installed by authority of the Council, being a device that -

(a) indicates whether a fee has been paid and the period for which the fee was paid;

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\* Notified in the *Northern Territory Government Gazette* on 8 July, 1986.

Darwin (Parking)

- (b) upon the insertion of the coin, issues a parking voucher; or
- (c) issues a parking voucher stating the time and date of issue and the general conditions of parking;

"motor vehicle" includes a motor car, motor carriage, motor cycle, motor lorry, motor omnibus, motor tractor or other vehicle propelled wholly or partly by a volatile spirit or by steam, gas, oil or electricity, a bicycle within the meaning of the *Traffic Act*, an animal drawn vehicle and a caravan or trailer whether or not attached to any of them, but does not include a vehicle used on a railway;

"municipality" means the municipality of Darwin;

"owner" in relation to a motor vehicle, means the person in whose name the motor vehicle is registered under the *Motor Vehicles Act*, or under a law of a State or Territory which provides for the registration of motor vehicles, at the time when an offence is committed by reason of the standing of the motor vehicle at that time in a road or in a specified part of a road or in a public place, and, subject to these By-laws, that person shall be presumed to be the owner of the motor vehicle;

"park" means stand a motor vehicle in a road or part of a road or in a public place;

"parking meter" means a device referred to in the definition of "metered space";

"parking sign" includes -

- (a) a parking sign or traffic sign within the meaning of the *Traffic Act*; or
- (b) a parking meter; or
- (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;

"parking space" means a portion of a road or public place that has been marked by authority of the Council for the purpose of indicating where a motor vehicle may stand or park;

## Darwin (Parking)

"parking voucher" means a document issued by a parking meter bearing an imprint indicating the date and time of issue;

"public hire car" means a public motor vehicle, not being a motor omnibus;

"public street" means a road and where the context permits shall include a public place;

"public place" means any place within the municipality that is open to or used by the public.

(2) Where on a parking sign erected, placed or displayed by the Council under and for the purposes of these By-laws, 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*.

### 3. STOPPING AND PARKING

(1) 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, are adopted and shall apply in the municipality as if they were contained in this by-law.

(2) A person driving a motor vehicle shall not park or stand the motor vehicle -

- (a) within 4.5 metres of the property lines at an intersection;
- (b) within 4.5 metres of the vehicular entrance to any fire station;
- (c) within one metre of a fire hydrant other than a fire hydrant on an omnibus stop, taxi rank, or parking area;
- (d) within 3 metres of a postal pillar receiver; or
- (e) alongside or opposite any street excavation or obstruction when such parking or standing would obstruct traffic.

(3) The driver of any public hire car shall not permit the vehicle to stand at any place upon a public street other than at a taxi rank except -

- (a) whilst picking up and setting down passengers; or

*Darwin (Parking)*

- (b) whilst engaged and waiting under instructions of his passengers provided that such instructions do not involve the contravention of any regulation prohibiting parking in any specified area or for any specified period; or
  - (c) by the direction or with the consent of an authorized parking officer.
- (4)
- (a) The Council may place on or in a car park a parking sign on which is inscribed an indication that on certain days and hours, within those days, a charge is payable;
  - (b) where there is a parking sign placed on or in a car park in accordance with subclause (a), the hours inscribed on that sign, being those referring to the time during which a charge is payable, are the fixed hours in relation to that car park;
  - (c) where there is a sign placed on or in a car park in accordance with subclause (a) then a person may not park a motor vehicle in that car park during the fixed hours except in accordance with these By-laws.
- (5)
- (a) The Council may place on or in a car park a parking sign or parking signs on which are inscribed the words "PARKING LIMIT" followed by a number followed by the word, or an abbreviation of the word "MINUTES", "HOUR" or "HOURS", whether with or without other words;
  - (b) the Council may, in pursuance of subclause (a), place different parking signs on or in a car park, displaying different periods of time for different parking spaces in that car park;
  - (c) the period of time displayed on a parking sign placed on or in a car park in accordance with this by-law is the maximum period in relation to a parking space to which that parking sign relates;
  - (d) a parking space is one to which a parking sign placed in accordance with this by-law, relates if -
    - (i) that parking space is located between that sign and another parking sign bearing a similar inscription to the first mentioned sign;

*Darwin (Parking)*

- (ii) the inscription borne on that parking sign is the same as the inscription borne on each other parking sign placed in accordance with this by-law on or in that car park; or
- (iii) that parking sign is placed in a discrete area of the car park and the inscription borne on that parking sign is the same as the inscription borne on each other parking sign placed in accordance with this by-law on or in that discrete part of the car park.

(6) Subject to this by-law, where a person parking a motor vehicle in a car park obtains from a parking meter in that car park a parking voucher or parking vouchers, the voucher or vouchers authorize the parking of the motor vehicle upon a parking space in that car park on the date shown on the voucher or vouchers -

- (a) where one voucher is obtained, for a period of one hour after the time shown on the voucher as the time of issue of the voucher; or
- (b) where 2 or more vouchers are obtained, for a period of one hour after the time shown on the first voucher obtained as the time of the issue of that voucher together with a further period of one hour in respect of each voucher so obtained in addition to the first.

(7) (a) A person driving a motor vehicle shall not, on any occasion on which he enters a car park, park the motor vehicle in the car park during the fixed hours in relation to the car park unless -

- (i) he obtains, from a parking meter in that car park, in accordance with instructions inscribed on the parking meter, a parking voucher or parking vouchers; and
  - (ii) he displays and keeps displayed that parking voucher in or on that motor vehicle;
- (b) for the purposes of subclause (a), a parking voucher shall be deemed not to be displayed in or on a motor vehicle (not being a motor cycle or trailer) unless the voucher is so placed against the interior of a windscreen or window of the vehicle

*Darwin (Parking)*

that all writing and imprinted words, figures and symbols appearing on the side of the voucher bearing the date and time of issue of the voucher are capable of being clearly read by a person standing beside the vehicle;

- (c) for the purposes of subclause (a), a parking voucher shall be deemed not to be displayed on a motor cycle or trailer unless the voucher is so attached to the motor cycle or trailer that all writing and imprinted words, figures and symbols appearing on the side of the voucher bearing the date and time of issue of the voucher are capable of being clearly read by a person standing beside the motor cycle or the trailer, as the case may be;
- (d) in proceedings for an offence against subclause (a), it is a defence for the defendant to establish that he displayed in or on the motor vehicle concerned a parking voucher or parking vouchers in accordance with this clause and took reasonable steps to ensure that the voucher or vouchers remained so displayed.

(8) A person who parks a motor vehicle in a parking space in a car park shall not, during the fixed hours in relation to that parking space, permit that motor vehicle to remain in the parking space -

- (a) after the expiration of the period of time during which the parking of that vehicle upon that parking space is authorized by a parking voucher or parking vouchers; or
- (b) for a period longer than the maximum period.

(9) A person shall not park a motor vehicle -

- (a) in a car park unless the vehicle is wholly within a parking space; or
- (b) in any access or exit to a car park.

(10) Where a car park is not equipped with a parking meter, a person who parks a motor vehicle in that car park shall not permit that motor vehicle to remain in that car park during the fixed hours in relation to that car park for a longer period than the maximum period.

(11) A person shall not -

- (a) insert or cause to be inserted or attempt to insert into the slot of a parking meter anything other than a coin or coins indicated by notice on the meter;

Darwin (Parking)

- (b) deface a parking meter or parking sign or, without the authority of the clerk, affix any placard, advertisement, notice, list, document or any other thing to, or paint or write upon, any parking meter or parking sign;
  - (c) tether any animal to a parking meter or parking sign; or
  - (d) otherwise, without the authority of the clerk, remove, obscure or interfere with a parking meter or parking sign.
- (12) A person driving a motor vehicle shall not -
- (a) enter a car park through a driveway at or near which is a parking sign displaying the word "EXIT" or the words "NO ENTRY" or "EXIT ONLY"; or
  - (b) leave a car park through a driveway at or near which is a parking sign displaying the word "ENTRY", "IN" or the words "ENTRY ONLY" or "NO EXIT"; or
  - (c) obstruct or impede the movement of other motor vehicles in a car park.
- (13) A person, other than a person authorized by the clerk, shall not paint or otherwise mark the surface of a car park.
- (14) (a) The clerk may -
- (i) erect a barrier in a car park or in a part of a car park; or
  - (ii) display a notice in a car park or in a part of a car park indicating that the use of the car park or part is temporarily discontinued;
- (b) where a barrier is erected or a notice is displayed in pursuance of subclause (a), a person shall not cause a motor vehicle to stand or wait in the car park or part while that barrier is erected or that notice is displayed;
  - (c) a person shall not remove or cause to be removed any barrier erected or notice displayed in accordance with subclause (b).

4. ERECTION, &c., OF PARKING SIGNS

For the purposes of these by-laws, the Council may erect, place or display such parking signs as it thinks fit.

Darwin (Parking)

5. OFFENCE

(1) 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 parking sign or 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.

Penalty: \$500.

(2) Subject to this by-law, where an offence is committed by reason of the parking of a motor vehicle, the owner of the motor vehicle shall be deemed to have committed the offence.

(3) For the purpose of proving an offence, evidence that the name of a person -

(a) was shown painted on or affixed to the outside of a motor vehicle; or

(b) purporting to be the name of the owner of a motor vehicle was shown in any manner in or upon the motor vehicle,

is evidence that the person whose name was so shown was at the time it was shown the owner of that motor vehicle.

(4) 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 in relation to the offence he furnished to the clerk a statutory declaration in which he states facts which prove to the satisfaction of the clerk -

(i) that 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;



*Darwin (Parking)*

- (ii) that he sold the motor vehicle before the offence was committed and that 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) that 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 as to the truth of the matters as to which he has made a statutory declaration under subclause (a).
- (5) Where an authorized parking officer finds a motor vehicle so parked that an offence has been committed, the authorized parking officer 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 (6); or
  - (b) affix such a notice in a conspicuous position to the motor vehicle.
- (6) A notice referred to in clause (5) 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 authorised parking officer does not know his name, by his designation as the owner of the motor vehicle or person apparently in charge of it as the case may be, identifying the motor vehicle by the number plate affixed to it or, where there is no number plate, by other sufficient description;
  - (c) describe the motor vehicle that was so parked that an offence was committed and identify it 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;

*Darwin (Parking)*

- (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 may have the alleged offence prosecuted in a court of summary jurisdiction where -
  - (i) he desires to contest the question whether the offence alleged was in fact committed;
  - (ii) he desires to submit to such a court any matter in mitigation of penalty; or
  - (iii) he elects for any other reason to have the offence prosecuted in such a 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 a court of summary jurisdiction -
  - (i) complete the form attached to or written on the notice; and
  - (ii) on or before such 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 -
    - (1) the sum of \$10 for any offence involving parking or standing a motor vehicle for longer than a prescribed time; or
    - (2) the sum of \$30 for any other offence under these By-laws; and
- (h) set out in general terms clause (4).
- (7) Where an authorized parking officer informs the clerk that -
  - (a) a motor vehicle has been so parked that an offence has been committed; and
  - (b) no notice has been handed to the owner of the motor vehicle or the person apparently in charge of it or affixed to the motor vehicle in accordance with clause (5).

the clerk may give to the owner of the motor vehicle notice in writing in accordance with clause (6).

*Darwin (Parking)*

- (8) Subject to clause (4), where -
  - (a) in relation to an offence, notice has been given under clause (5) or (7); and
  - (b) payment of the sum of money by way of penalty specified in that notice has not been made in accordance with that 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.

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

6. AVERMENTS AS TO PARKING SIGNS, &c.

(1) In any prosecution for a contravention of, or failure to comply with, these By-laws, an averment of the prosecutor contained in the complaint that -

- (a) a notice, sign or other device is, or on a specified date was, a parking sign;
- (b) a space is, or on a specified date was, a parking space;
- (c) a device is, or on a specified date was, a parking meter installed in relation to a parking space by authority of the Council; or
- (d) a parking voucher was not displayed on or in a motor vehicle in such a manner as to comply with the requirements of these By-laws,

is evidence of the matter averred.

(2) Clause (1) applies to a matter averred although evidence in support or rebuttal of the matter averred or of any other matter is given.

(3) Evidence given in support or rebuttal of a matter averred under clause (1) shall be considered on its merits and the credibility and probative value of the evidence shall be neither increased nor diminished by reason of this by-law.

(4) An averment under clause (1) shall not be evidence for the purposes of this by-law unless a statement of the matter contained in the averment has been either served on the defendant in the same manner as, or is contained or set out in the process requiring his attendance before the court.

Darwin (Parking)

(5) Service of a statement of the matter contained in the averment under clause (1) may be proved in the same manner as service of the process requiring the defendant's attendance before the court may be proved.

(6) Upon the hearing of proceedings in respect of a contravention or failure to comply with these By-laws, the court may, if the amendments can be made without hardship or injustice to the defendant, allow such amendments to be made to the complaint or averment therein contained as appear to it to be desirable or to be necessary to enable the real question in dispute to be determined.

(7) Where a court considers the defendant has been misled by the form of an averment, it may refuse to allow any or all of the amendments, adjourn the hearing of the case for such period as it thinks fit and make such order as to the costs of the adjournment as it thinks proper.

(8) In a prosecution for an offence under these By-laws in which it is alleged that a parking voucher was not at the relevant time displayed on or in a motor vehicle in such a manner as to comply with the requirements of these By-laws, it is a defence for the defendant to establish that he had displayed a parking voucher on or in the motor vehicle in accordance with these By-laws.

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The common seal of the Darwin City/Town Council was affixed hereto on the first day of July, 1986, in pursuance of a resolution of the council authorizing the seal to be so affixed, passed on the first day of July, 1986, in the presence of -

C.H. GURD  
ACTING LORD MAYOR

GARRY STORCH  
TOWN CLERK