

# NORTHERN TERRITORY OF AUSTRALIA

## KATHERINE TOWN COUNCIL AMENDMENT BY-LAWS 2023

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### Subordinate Legislation No. 7 of 2023

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**Schedule Katherine Town Council By-laws 1998  
further amended**

# NORTHERN TERRITORY OF AUSTRALIA

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## Subordinate Legislation No. 7 of 2023\*

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### ***Katherine Town Council Amendment By-laws 2023***

Katherine Town Council, at a meeting held on 28 March 2023, made the following by-laws under the *Local Government Act 2019* and, for section 63A(1)(a)(ii) of the *Interpretation Act 1978*, authorised Ingrid Margaret Stonhill, the Chief Executive Officer, to sign them.

Dated 28 March 2023

I. M. STONHILL  
Chief Executive Officer

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\* Notified in the *Northern Territory Government Gazette* on 28 April 2023.

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1	Title
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These By-laws may be cited as the *Katherine Town Council Amendment By-laws 2023*.

2	Commencement
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These By-laws commence on 1 July 2023.

3	By-laws amended
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These By-laws amend the *Katherine Town Council By-laws 1998*.

4	By-law 3 amended (Interpretation)
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(1) By-law 3, heading

*omit*

**Interpretation**

*insert*

**Definitions**

(2) By-law 3

*omit*

, unless the contrary intention appears

(3) By-law 3, definitions **owner**, **pound**, **pound supervisor** and **registrar**

*omit*

(4) By-law 3

*insert*

**abandon**, for Part 3, see by-law 37A.

**animal** means all animals kept on private premises in the municipality, and includes dogs, cats, birds and reptiles.

**assistance dog** means a dog:

- (a) trained or assessed by a training institution recognised by the CEO in writing for the purposes of these By-laws; and

- 
- (b) used by a person to alleviate the effects of a diagnosed disability, whether physical, sensory or psychological.

**at large**, for Part 3, see by-law 37A.

**attack**, for Part 3, see by-law 37A.

**commercial waste**, for Part 2, Division 1A, see by-law 27A.

**dangerous dog**, for Part 3, see by-law 37A.

**dog** means an animal of the genus *Canis*.

**dog exercise area**, for Part 3, see by-law 37A.

**dog restricted area**, for Part 3, see by-law 37A.

**dog-tag**, for Part 3, see by-law 37A.

**drug** means:

- (a) a dangerous drug as defined in section 3(1) of the *Misuse of Drugs Act 1990*; or
- (b) a prohibited substance as defined in section 12 of the *Medicines, Poisons and Therapeutic Goods Act 2012*; or
- (c) kava as defined in section 3(1) of the *Kava Management Act 1998*.

**effective control**, for Part 3, see by-law 37A.

**identification device**, for Part 3, see by-law 37A.

**infringement notice**, for Part 7A, see by-law 173B.

**infringement notice offence**, for Part 7A, see by-law 173A(1).

**library**, for Part 6, see by-law 112.

**library manager**, for Part 6, see by-law 112.

**library material**, for Part 6, see by-law 112.

**liquor**, see section 4(1) of the *Liquor Act 2019*.

**menace**, for Part 3, see by-law 37A.

**officer**, for Part 6, see by-law 112.

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**owner:**

- (a) for Part 3 – see by-law 37C; or
- (b) in relation to a boat, motor boat or vehicle (other than a motor vehicle) – means, in the absence of proof to the contrary, the person for the time being in control of the boat, motor boat or vehicle; or
- (c) in relation to a motor vehicle – means the person in whose name the vehicle is registered under the *Motor Vehicles Act 1949* or under another law of the Territory or under a law of a State or other Territory of the Commonwealth that provides for the registration of vehicles.

**pound** means a place established under by-law 64 to impound animals.

**prescribed amount**, for Part 7A, see by-law 173A(2).

**properly contained**, for Part 3, see by-law 37B.

**registered borrower**, for Part 6, see by-law 112.

**repealed by-laws**, for Part 3, see by-law 37A.

**veterinarian**, for Part 3, see by-law 37A.

**waste management facility**, for Part 2, Division 1A, see by-law 27A.

(5) By-law 3, definition **reserve**

*omit*

recreation ground

*insert*

cenotaph, monument, recreation ground, walkway



---

**5 By-laws 5, 6 and 7 replaced**

By-laws 5, 6 and 7

*repeal, insert*

**4A Application of Criminal Code**

Part IIAA of the Criminal Code applies to an offence against these By-laws.

*Note for by-law 4A*

*Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.*

**5 Determinations**

- (1) The council may determine the charges, dues, fares, appropriate fees and rents in relation to a property, undertaking, service, matter or thing.
- (2) A determination under clause (1) may be made for any of the following:
  - (a) supplying a service, product or commodity;
  - (b) granting a licence or permit;
  - (c) registering an animal or thing;
  - (d) giving information;
  - (e) admitting a person to a building or enclosure;
  - (f) receiving an application for approval;
  - (g) permitting inspection of a register;
  - (h) allowing the use of real or personal property of or under its care.
- (3) If the council makes a determination under this by-law, it must publish a notice of its making in a newspaper circulating in the municipality as soon as practicable after the determination is made.

- 
- (4) The council may demand and recover the amount determined under clause (1) if the council has:
- (a) published a notice of the making of the determination under clause (3); and
  - (b) taken the action for which the amount is determined.

## **6 Registers**

- (1) The CEO must keep the registers determined by the council.
- (2) A register may be kept in any form, including electronic form.
- (3) The following information must be recorded in an appropriate register:
  - (a) all dogs registered by the council;
  - (b) all licences granted by the council;
  - (c) all registered borrowers;
  - (d) all offences against these By-laws:
    - (i) of which an owner of a registered dog has been found guilty by a court; or
    - (ii) in respect of which a owner of a registered dog has paid the prescribed amount under an infringement notice.

## **6 Part 1, Division 2 repealed (Plan of numbering in municipality)**

Part 1, Division 2

*repealed*

## **7 By-laws 20 and 21 replaced**

By-laws 20 and 21

*repeal, insert*

## **20 General penalty**

A person who contravenes, or fails to comply with, a provision of these By-laws for which no penalty is provided other than by this by-law commits an offence and is liable to a maximum penalty of 50 penalty units.

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**21 Continuing offence**

A court that finds a person guilty of an offence against these By-laws may, in addition to any penalty imposed for the offence, impose a penalty not exceeding 1 penalty unit for each day during which the offence continues after the day the offence is first committed.

**8 By-law 22 amended (Definitions)**

- (1) By-law 22, heading

*omit*

**Definitions**

*insert*

**Definition**

- (2) By-law 22, definitions ***dump*** and ***exempt person***

*omit*

**9 By-law 26 amended (Interference with garbage receptacles)**

- (1) By-law 26(1)

*omit, insert*

- (1) A person commits an offence if the person interferes with a garbage receptacle.
- (1A) Clause (1) does not apply if the person is an occupier of a premises for which a garbage receptacle is provided or an exempt person.
- (1B) An offence against clause (1) is an offence of strict liability.
- (1C) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.

*Note for clause (1C)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

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(2) By-law 26(3)

*omit, insert*

(3) In this by-law:

**exempt person** means:

- (a) an officer, employee or agent of the council acting within the scope of the officer's, employee's or agent's duties; or
- (b) a contractor in the due performance of a contract for garbage collection between the contractor and the council, or an officer, employee or agent of the contractor.

## **10 Part 2, Division 1A heading and by-law 27A inserted**

After by-law 27

*insert*

### **Division 1A Commercial waste and waste management facilities**

#### **27A Definitions**

In this Division:

**commercial waste** means waste produced in the course of trade or commerce.

**waste management facility** means a waste management facility on land owned by or vested in the council or operated or controlled by the council.

## **11 By-law 29 replaced**

By-law 29

*repeal, insert*

#### **29 Commercial waste**

- (1) A person commits an offence if the person leaves, throws, deposits or abandons commercial waste other than at a waste management facility.
- (2) An offence against clause (1) is an offence of strict liability.

- 
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.

*Note for clause (3)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

## **29A Waste management facility offences**

- (1) A person commits an offence if the person leaves, throws, deposits or abandons litter at a waste management facility other than on the days and during the hours specified by the council.

Maximum penalty: 15 penalty units.

- (2) A person commits an offence if the person deposits commercial waste at a waste management facility other than on the days and during the hours specified by the council.

- (3) A person commits an offence if the person enters a waste management facility other than in accordance with the facility's rules approved by the council.

Maximum penalty: 15 penalty units.

- (4) A person commits an offence if the person fails to comply with any direction given by an officer, employee or agent of the council at a waste management facility relating to the place at which or manner in which commercial waste is to be deposited.

- (5) A person commits an offence if the person fails to permit an authorised person at a waste management facility to inspect a load of waste that the person is proposing to deposit at the facility.

Maximum penalty: 25 penalty units.

- (6) An offence against clauses (1) to (5) is an offence of strict liability.
- (7) It is a defence to a prosecution for an offence against clauses (1) to (5) if the defendant has a reasonable excuse.

*Note for clause (7)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

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**29B      Removal of litter or commercial waste**

- (1) An authorised person may, by written notice, direct a person responsible for litter or commercial waste in a public place or on vacant land to remove the litter or commercial waste within the period stated in the notice.
- (2) The authorised person must determine the period under clause (1) by taking into account the nature, quantity and location of the litter or commercial waste.
- (3) If the litter or commercial waste to be removed under clause (1) constitutes a threat or risk to public safety, the authorised person may specify in the notice that the litter or commercial waste must be removed immediately.
- (4) If a person does not comply with a direction under clause (1) by the end of the stated period, an authorised person, with any assistance required, may carry out, or cause to be carried out, the work required to render the place clean and free from litter or commercial waste.
- (5) The costs and expenses reasonably incurred by the council in carrying out, or causing to be carried out, any work under clause (4) are a debt due and payable to the council by the person to whom the notice was issued.
- (6) A person commits an offence if the person fails to comply with a notice under clause (1).
- (7) An offence under clause (6) is an offence of strict liability.
- (8) It is a defence to a prosecution for an offence against clause (6) if the defendant has a reasonable excuse.

*Note for clause (8)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

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**12 By-law 30 replaced**

By-law 30

*repeal, insert*

**30 Littering on private land**

- (1) A owner or occupier of land commits an offence if the owner or occupier leaves, throws, deposits or abandons litter in, onto or from the land.

Maximum penalty: 15 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.

*Note for clause (3)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

**13 Part 2, Division 2A inserted**

After by-law 31

*insert*

**Division 2A Litter in relation to public or vacant land****31A Littering on public or vacant land**

- (1) A person commits an offence if the person leaves, throws, deposits or abandons litter in, onto or from a public place or vacant land other than into a garbage receptacle provided for that purpose or a waste management facility.

Maximum penalty: 15 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.

*Note for clause (3)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

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**31B      Littering causing injury or endangering health**

- (1) A person commits an offence if the person leaves, throws, deposits or abandons litter in, onto or from a public place or vacant land and the litter is likely to cause injury to, or endanger the health of, a person using the public place or vacant land.

Maximum penalty:      25 penalty units.

- (2) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.

*Note for clause (2)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

- (3) A person who is prosecuted, or served an infringement notice, for an offence against clause (1) is not liable to be prosecuted, or served an infringement notice, for an offence against by-law 31A in respect of the same litter.

**14      By-laws 34 to 36 repealed (Offences in relation to fireworks and littering)**

By-laws 34 to 36

*repeal*

**15      Part 3, Division 1 heading amended (Animals generally)**

Part 3, Division 1, heading

*omit*

**Animals generally**

*insert*

**Preliminary matters**



---

**16 By-laws 37A to 37C inserted**

Before by-law 38

*insert*

**37A Definitions**

In this Part:

***abandon***, in relation to a dog, includes:

- (a) deliberately leaving the dog at premises or in a public place without an intention to return to collect the dog or provide care for it; or
- (b) failing to obtain the release of the dog from a pound.

***at large***, in relation to an animal, means the animal is:

- (a) outside the premises where it is kept; and
- (b) not under effective control.

***attack***, in relation to a dog, means any of the behaviour of the dog specified in by-law 52(1) or 53(1).

***dangerous dog*** means a dog declared to be dangerous under by-law 56.

***dog exercise area*** means an area declared by the council under by-law 46H to be a dog exercise area.

***dog restricted area*** means an area declared by the council under by-law 46J to be a dog restricted area.

***dog-tag*** means a tag issued for a dog under by-law 46A.

***effective control***, in relation to a dog, see by-law 46G(2) and (3).

***identification device*** means a tag or microchip that complies with by-law 46A.

***menace***, see by-law 51(2).

***owner***, see by-law 37C.

***properly contained***, see by-law 37B.

***repealed by-laws*** means the *Katherine (Control of Dogs) By-laws 1992* as repealed by these By-laws.

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**veterinarian** means a registered veterinarian as defined in section 3(1) of the *Veterinarians Act 1994*.

**37B Meaning of *properly contained***

For this Part, a dog is taken to be ***properly contained*** on premises if the dog is, under humane conditions appropriate for the dog:

- (a) kept inside a building, a fenced yard, an enclosed run or another structure on the premises from which the animal is unable to escape; or
- (b) leashed or restrained and unable to escape the premises.

*Note for by-law 37B*

*Humane conditions means having sufficient space, access to water and food and access to enrichment items to allow the animal to exhibit behaviours normal for the dog.*

**37C Meaning of *owner***

- (1) In relation to a dog, ***owner*** means any of the following:
  - (a) for a registered dog – the person who is registered as the owner of the dog;
  - (b) the person for the time being in control or possession of the dog;
  - (c) the occupier of the premises, or a part of the premises, where the dog is kept.

*Examples for definition **owner***

*A person walking a dog or looking after a dog for a friend who is on holidays.*

- (2) If an owner under clause (1) is a person under 18 years of age, the owner is taken to be any parent or guardian of that person.
- (3) For Division 2, and in the absence of evidence to the contrary, the occupier of land where an animal or a dead animal is found is taken to be the owner of the animal.

**17 By-law 41 repealed (Occupier is deemed owner)**

By-law 41

*repeal*

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**18 Part 3, Division 2, Subdivision 1 repealed (Preliminary)**

Part 3, Division 2, Subdivision 1

*repeal*

**19 Part 3, Division 2, Subdivision 2 heading amended**

Part 3, Division 2, Subdivision 2, heading

*omit*

**Registration of dogs**

*insert*

**Responsible ownership of dogs**

**20 By-law 45 amended (Special considerations in determination of application for registration)**

(1) Before by-law 45(1)

*insert*

(1AA) The owner of a dog that is kept in the municipality must register the dog with the council, unless the dog is an assistance dog.

(2) By-law 45(2)(e)

*omit, insert*

(e) the dog is a dangerous dog and, within the period of 12 months before the date of the application, the owner of the dog has contravened by-law 57 more than once.

(3) By-law 45(3)(a)

*omit*

by-law 53

*insert*

by-law 46L

(4) By-law 45(3)(b)

*omit*

, other than a dog referred to in by-law 54(4),

---

(5) By-law 45(5)

*omit*

all words from "a sum" to "infringement"

*insert*

an amount under an infringement notice

## **21 By-law 46 replaced**

By-law 46

*repeal, insert*

### **46 Offence of unregistered dog**

- (1) A person commits an offence if the person keeps an unregistered dog that is at least 3 months old in the municipality for a period of 3 months or longer.

Maximum penalty: 20 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.
- (3) The following persons are exempt from clause (1):
- (a) a council employee or contractor keeping a dog in a pound;
  - (b) an approved incorporated body that provides services relating to animal welfare keeping a dog in a refuge maintained by it;
  - (c) a veterinarian who keeps a dog for treatment;
  - (d) a person that keeps a dog in an area or areas which the council may, by resolution, determine to be exempt from the requirements of clause (1);
  - (e) a person who keeps an assistance dog.
- (4) The council must, not less than 21 days before making a determination under clause (3)(d), publish a notice of the proposed exempt area in a newspaper circulating in the municipality.

### **46A Identification device**

- (1) A registered dog must wear a dog-tag issued by the council, or approved by an authorised person, when outside the premises where the dog is kept.

- 
- (2) If required by the council, a dog must be implanted with a microchip in addition to wearing a tag.
  - (3) An implanted microchip must:
    - (a) meet the specifications determined by the council; and
    - (b) be designed to store information in a way that can be retrieved electronically without physical contact.
  - (4) The owner of a registered dog must ensure that the dog:
    - (a) wears the tag issued for the dog when outside the premises where the dog is kept; and
    - (b) is implanted with a microchip if required under clause (2).

**46B Offences related to identification device**

- (1) The owner of a registered dog must not:
  - (a) allow the dog to be outside the premises where the dog is kept without wearing the tag issued for the dog; or
  - (b) remove from the dog any microchip implanted under by-law 46A.

Maximum penalty: 20 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.

**46C Identification device fitted to incorrect dog**

- (1) A person must not fit an identification device on a dog that is not the dog for which the device was issued.
- (2) A person commits an offence if the person contravenes clause (1).

Maximum penalty: 20 penalty units.

- (3) An offence against clause (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against clause (2) if the defendant has a reasonable excuse.

*Note for clause (4)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

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**46D      Offence for contravention of condition of registration**

- (1) The owner of a registered dog must comply with any conditions on the registration determined by the council.
- (2) A person commits an offence if:
  - (a) the person is the owner of a registered dog; and
  - (b) the registration of the dog is subject to a condition; and
  - (c) the owner fails to comply with the condition.
- (3) An offence against clause (2) is an offence of strict liability.

**46E      Notice of change in address or owner**

- (1) The owner of a registered dog must notify the council of the following events:
  - (a) a change in the owner's address;
  - (b) a transfer of the dog to a new owner.
- (2) The notice must be given in the approved form within 14 days after the day the event occurred and include the following:
  - (a) the particulars of the dog;
  - (b) the contact details of the owner;
  - (c) in the case of a transfer of the dog to a new owner – the contact details of both the new and former owners.
- (3) A person commits an offence if the person:
  - (a) is the owner of a registered dog; and
  - (b) fails to comply with clause (1) or (2).

Maximum penalty:      10 penalty units.
- (4) An offence against clause (3) is an offence of strict liability.

**46F      Proper containment of dogs**

- (1) The owner of a dog must properly contain the dog when the dog is on the premises where the dog is kept.

- 
- (2) A person commits an offence if:
    - (a) the person is the owner of a dog; and
    - (b) the dog is not properly contained when the dog is on the premises where the dog is kept.
  - (3) An offence against clause (2) is an offence of strict liability.
  - (4) To avoid doubt, the following matters are not relevant to an offence against clause (2):
    - (a) the time during which the dog was not properly contained;
    - (b) the ability of the owner to properly contain the dog.

#### **46G Keeping dogs under effective control**

- (1) The owner of a dog must ensure that the dog is under effective control when outside the premises where the dog is kept.
- (2) For this Part, a dog is taken to be under **effective control** if the dog is:
  - (a) restrained by a leash or similar device that:
    - (i) is no longer than 2 m; and
    - (ii) is held by a person who is over the age of 12 years and competent to restrain the dog; or
  - (b) safely enclosed in a vehicle, or in or on the back of a flat-topped, tray-backed or well-bodied vehicle, in such a manner that no part of the dog is projecting from the vehicle; or
  - (c) otherwise leashed or restrained and unable to run free.
- (3) For this Part, a dog in a dog exercise area is taken to be under **effective control** if:
  - (a) the dog is complying with the conditions specified for the area; and
  - (b) the dog is immediately responsive to a voice command of its owner; and
  - (c) the dog is not a female dog in oestrus; and
  - (d) the owner is carrying a leash or similar device in accordance with clause (2)(a).

- 
- (4) A person commits an offence if:
- (a) the person is the owner of a dog; and
  - (b) the dog is not under effective control when outside the premises where the dog is kept.

Maximum penalty: 20 penalty units.

- (5) An offence against clause (4) is an offence of strict liability.

#### **46H Dog exercise areas**

- (1) The council may declare an area to be a dog exercise area.
- (2) If the council intends to declare an area to be a dog exercise area, the council must:
  - (a) publish notice of the proposed area at least 28 days in advance; and
  - (b) consider any responses to the notice from residents of the municipality.
- (3) The council must publish the location and conditions for using any dog exercise area or class of dog exercise area it declares.

*Examples for clause (3)*

1 *The times to exercise dogs in the area.*

2 *When female dogs in oestrus are allowed in the area.*

- (4) The owner of a dog using a dog exercise area must comply with the conditions for the area.
- (5) The owner of a dangerous dog must ensure the dog does not enter a dog exercise area.

#### **46J Dog restricted areas**

- (1) The council may declare an area to be a dog restricted area.
- (2) If the council intends to declare an area to be a dog restricted area, the council must:
  - (a) publish notice of the proposed area at least 28 days in advance; and
  - (b) consider any responses to the notice from residents of the municipality.



- 
- (3) The council must publish the location and restrictions on dogs in any dog restricted area it declares.

*Examples for clause (3)*

- 1 *Prohibiting taking a dog into a market or festival.*
- 2 *Restricting classes or numbers of dogs in an area.*

- (4) An assistance dog is exempt from this by-law.
- (5) The owner of a dog must comply with the conditions for the dog restricted area.
- (6) The owner of a dangerous dog must ensure the dog does not enter a dog restricted area.

#### **46K      Offences related to dog exercise areas or dog restricted areas**

- (1) A person commits an offence if the person:
- (a) owns a dog; and
  - (b) fails to comply with the conditions for a dog exercise area.

Maximum penalty:      20 penalty units.

- (2) A person commits an offence if the person:
- (a) owns a dog; and
  - (b) fails to comply with the conditions for a dog restricted area.

- (3) A person commits an offence if the person:
- (a) owns a dangerous dog; and
  - (b) fails to ensure the dog does not enter a dog exercise area.

Maximum penalty:      20 penalty units.

- (4) A person commits an offence if the person:
- (a) owns a dangerous dog; and
  - (b) fails to ensure the dog does not enter a dog restricted area.

- (5) An offence against clauses (1) to (4) is an offence of strict liability.

#### **46L      Requirement for licence**

- (1) The council may determine a maximum number of dogs, or dogs of a class of dog, that may be kept on premises without a licence.

- 
- (2) An occupier of premises commits an offence if the occupier keeps dogs on the premises in contravention of a determination under clause (1).

Maximum penalty: 20 penalty units.

- (3) An offence against clause (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against clause (2) if:
- (a) the defendant has a reasonable excuse; or
  - (b) the defendant establishes that the dogs, or the dogs of the class of dog, had not been usually kept on the premises:
    - (i) for a period of 3 months or more immediately before the date of the alleged offence; or
    - (ii) for periods totalling 3 months or more during the 6 month period immediately before the date of the alleged offence.

*Note for clause (4)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

- (5) An assistance dog is exempt from this by-law.

## **22 Part 3, Division 2, Subdivisions 4 to 7, Subdivision 8 heading and by-law 70 replaced**

Part 3, Division 2, Subdivisions 4 to 7, Subdivision 8 heading and by-law 70

*repeal, insert*

### **Subdivision 4 Menacing, attacking and dangerous dogs**

#### **51 Dog menaces**

- (1) An owner of a dog must ensure that it does not menace a person or another animal.
- (2) For this Part, a dog is taken to **menace** a person or animal if it chases, harasses, rushes at or threatens to bite the person or animal in a manner that causes a reasonable apprehension of fear in the person or animal.

- 
- (3) The owner of a dog commits an offence if the owner fails to comply with clause (1).

- (4) An offence against clause (3) is an offence of strict liability.

## **52 Dog attacks**

- (1) The owner of a dog must ensure that it does not behave aggressively resulting in:

- (a) physical contact with a person or another animal; or
- (b) damage to anything worn by the person or the animal.

- (2) The owner of a dog commits an offence if the owner fails to comply with clause (1).

Maximum penalty: 60 penalty units.

- (3) An offence against clause (2) is an offence of strict liability.

## **53 Serious dog attack**

- (1) The owner of a dog must ensure that it does not:

- (a) bite a person or another animal causing a puncture or break to the skin; or
- (b) assault a person or another animal resulting in bleeding, bone breakage, sprains, scratches or bruising.

- (2) The owner of a dog commits an offence if the owner fails to comply with clause (1).

Maximum penalty: 80 penalty units or, for an aggravated offence, 100 penalty units.

- (3) An offence against clause (2) is an offence of strict liability.

- (4) The maximum penalty specified in clause (2) for an aggravated offence applies to the offence if the bite or assault causes or results in substantial injury to, or death of, the person or the other animal.

### *Examples of substantial injury*

- 1 Multiple and deep punctures from a single bite.
- 2 An injury requiring hospital or veterinary treatment.
- 3 Infection or deep bruising around the wound or wounds from the dog shaking its head from side to side.

---

## **54 Defences**

- (1) It is a defence to a prosecution for an offence against by-law 51 or 52 if:
- (a) another person had, without the defendant's permission, caused the dog to menace or attack the person or another animal; or
  - (b) in the case of another animal being menaced or attacked – the other animal was on premises owned or occupied by the defendant without consent; or
  - (c) in the case of a person being menaced or attacked – the person was on premises owned or occupied by the defendant without consent.

*Note for clause (1)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

- (2) If a court finds a person guilty of an offence against by-law 51 or 52, the court may make one or both of the following orders in addition to, or instead of, the penalty for the offence:
- (a) if the dog is impounded as a result of the offence – an order that the person pay the costs and expenses of, and incidental to, the impounding;
  - (b) an order that the dog be destroyed.

## **55 Enticement or incitement**

- (1) A person must not entice or incite a dog to:
- (a) menace a person or animal; or
  - (b) engage in behaviour that is prohibited by by-law 71C; or
  - (c) attack a person or animal.

*Example for clause (1)*

*A person must not cause a neighbour's dog to start barking excessively in order to make a complaint about the neighbour's dog.*

- (2) A person commits an offence if:
- (a) the person intentionally engages in conduct; and

- 
- (b) the conduct causes a dog to:
    - (i) menace a person or animal; or
    - (ii) engage in behaviour that is prohibited by by-law 71C; or
    - (iii) attack a person or animal; and
  - (c) the person is reckless in relation to that result.

## **56 Dangerous dog**

- (1) An authorised person may, by written notice, declare a dog to be a dangerous dog if:
  - (a) the dog menaces or attacks a person or an animal; or
  - (b) the authorised person believes on reasonable grounds that the dog is destructive, dangerous, savage or a threat to the safety of the community.
- (2) The authorised person must give written notice of the declaration to the owner of the dog.
- (3) The written notice of the declaration must be in the approved form and include the following information:
  - (a) the day the declaration takes effect;
  - (b) the reasons for the declaration;
  - (c) the identity of the dog and the owner of the dog.
- (4) The council must keep a record of the information in clause (3).

## **57 Duties of owner of dangerous dog**

- (1) This by-law applies to the owner of a dog that is declared to be a dangerous dog.
- (2) The owner must, within 14 days after the day the declaration takes effect:
  - (a) desex the dangerous dog, unless it is already desexed, at the owner's expense; and
  - (b) provide, to an authorised person, evidence from a veterinarian that the dog is desexed; and
  - (c) undergo behavioural or other training with the dog, as specified by the CEO, at the owner's expense.

- 
- (3) The owner must ensure that the containment required under by-law 46F(1) is appropriate to the danger posed by the dangerous dog.

*Example for clause (3)*

*Installing higher and stronger fencing for a large dangerous dog.*

- (4) The owner must post signage on the premises where the dangerous dog is kept, with the words "Warning Dangerous Dog" clearly visible and legible from the front boundary of the premises.
- (5) When the dangerous dog is outside the premises where it is kept, the owner must ensure that:
- (a) the dog is kept under the effective control of a person who is at least 18 years of age and competent to restrain the dog; and
  - (b) the dog is muzzled and controlled by a suitable leash; and
  - (c) the dog does not enter a dog exercise area.
- (6) If the owner intends to keep the dangerous dog for more than 14 days at a place other than the premises where it is usually kept, the owner must notify the council of the address of the place within 24 hours after the dog is relocated.
- (7) The owner must notify the council of any attack, or alleged attack, by the dangerous dog of a person or animal within 24 hours of the earlier of the following:
- (a) the time of the attack or alleged attack;
  - (b) the time the owner becomes aware of the attack or alleged attack.

## **58 Notice about loss or transfer of dangerous dog**

- (1) The owner of a dangerous dog must notify the council if the dog is missing or dies.
- (2) The notice must be given:
- (a) within 24 hours after the owner becomes aware the dog is missing; or
  - (b) within 14 days after the day of its death.

- 
- (3) If the owner of a dangerous dog intends to transfer ownership of the dangerous dog, the owner must inform the prospective owner that the dog is dangerous.
  - (4) In the case of the transfer of a dangerous dog, the notice to the council under by-law 46E must be given within 24 hours after the transfer.

**59 Offences related to dangerous dog**

- (1) A person commits an offence if the person:
  - (a) is the owner of a dog that is declared to be a dangerous dog; and
  - (b) fails to comply with by-law 57 or 58.

Maximum penalty: 100 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.

**60 Remedial action for dangerous dog**

- (1) If the owner of a dangerous dog fails to comply with the duties of an owner under by-law 57 more than once in a 12-month period, the CEO may require the owner to take either or both of the following actions:
  - (a) undergo further specified behavioural or other training with the dog at the owner's expense;
  - (b) surrender the dog to the pound.
- (2) If the CEO intends to take action under clause (1), the CEO must give the owner of the dangerous dog a notice that:
  - (a) states what action the CEO is proposing under that clause; and
  - (b) states the grounds for taking that action; and
  - (c) invites the owner to show cause, within 14 days, why the action should not be taken.
- (3) After considering any response received within 14 days after the day of the notice, the CEO must decide whether to take action under clause (1).
- (4) As soon as practicable after making a decision under clause (3), the CEO must give a decision notice to the owner of the dangerous dog.

---

## **Division 3            Controls relating to other animals**

### **61            Application of Division**

This Division applies to animals other than dogs.

### **62            Licence required to keep specified animals**

- (1) An occupier of premises within the municipality must not, unless the premises is licensed, keep at the premises:
  - (a) more than the number of a specified animal as determined by the council; or
  - (b) more than the number of animals of a specified class or classes as determined by the council.
- (2) By-law 47 applies to an application for the licensing of premises to keep a specified animal as if a reference in that by-law to:
  - (a) a dog were a reference to the specified animal; and
  - (b) by-law 46L were a reference to clause (1).
- (3) Division 2, Subdivision 3 applies in relation to a licence of premises to keep a specified animal.

### **63            Animals at large**

- (1) An occupier of premises within the municipality commits an offence if an animal the occupier keeps at the premises is at large.

Maximum penalty:        20 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant establishes another person had, without the defendant's permission, enticed the animal to become at large.

*Note for clause (3)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

## **Division 4            Seizure and impounding**

### **64            Establishment of pounds**

- (1) The council may:
  - (a) establish a pound; or



- 
- (b) make such arrangements as it thinks fit for the use of premises for impounding animals under this Part.

- (2) The CEO is the supervisor of a pound.

## **65 Seizure and impounding**

- (1) An authorised person may seize:

- (a) a dog that appears to be diseased, injured, savage, destructive, stray or unregistered; or
- (b) a dog that is at large; or
- (c) a dangerous dog whose owner is not complying with Division 2, Subdivision 4; or
- (d) an animal that an authorised person believes on reasonable grounds has attacked a person.

- (2) As soon as practicable after seizing a dog, the authorised person must:

- (a) impound the dog in a pound; or
- (b) take reasonable steps to return the dog to its owner if satisfied that:
  - (i) it is not diseased, injured, savage or destructive; or
  - (ii) in the case of a dangerous dog whose owner is not complying with Division 2, Subdivision 4 – the owner is willing and able to comply with Division 2, Subdivision 4.

- (3) As soon as practicable after seizing an animal other than a dog, the authorised person must:

- (a) impound the animal in a pound; or
- (b) take reasonable steps to return the animal to its owner if satisfied that it is not diseased, injured, savage or destructive.

## **66 Notice of impounding**

- (1) The CEO must ensure that reasonable steps are taken to notify the owner of an impounded animal and whether:

- (a) the owner must collect the animal; or
- (b) the owner must await a decision regarding the destruction or disposal of the animal under by-laws 69 to 70A; or

- 
- (c) the animal is subject to destruction or disposal under by-laws 69 to 70A.
  - (2) The owner of an impounded animal who receives notice under clause (1)(a) must collect the animal within the time specified in the notice.
  - (3) A person commits an offence if the person:
    - (a) owns an animal; and
    - (b) receives a notice under clause (1)(a) that the owner must collect the animal; and
    - (c) fails to collect the animal within the time specified in the notice.

## **67 Release of dogs from pound**

- (1) When collecting a dog from a pound, a person must provide evidence that the person is the owner of the dog or is authorised to act on behalf of the owner.
- (2) The council may charge the owner a fee for:
  - (a) the costs incurred by the council in relation to the impounded dog; and
  - (b) delivering the dog from the pound.
- (3) Subject to by-laws 69 to 70A, an impounded dog must not be released from a pound unless:
  - (a) it is registered and implanted with a microchip in accordance with by-law 46A; and
  - (b) it is released to its owner or to a person authorised to act on behalf of the owner; and
  - (c) the council receives any fees payable in relation to it.
- (4) Clause (3)(a) does not apply to a dog that is usually kept outside the municipality.

## **68 Release of other animals from pounds**

- (1) Subject to by-law 70, an impounded animal, other than a dog, is not to be released from a pound:
  - (a) other than to the owner of the animal or a person authorised to act as the owner's agent; and

- 
- (b) unless there is paid to the council the appropriate maintenance and release fees.
  - (2) A person who is collecting the animal must satisfy the council employee at the pound, or other person in charge of the pound that the person is the owner of the animal, or is authorised to act as the owner's agent.

## **69       Diseased animals**

- (1) The CEO must make arrangements for any impounded animal that is suspected of being infected with a contagious disease to be isolated from other animals in the pound.
- (2) The CEO must take reasonable steps to give the owner of a dog isolated under clause (1) written notice:
  - (a) stating the reasons for isolating it; and
  - (b) warning that it must either undergo a course of treatment specified in the notice or be destroyed.
- (3) The CEO may, in the notice given under clause (2), require the owner of the dog to have a report prepared and given to the CEO on the condition of the dog and any other animals kept at the same premises.
- (4) If required under clause (3), the owner must:
  - (a) have the report prepared by a veterinarian or other person specified in the notice; and
  - (b) give the report to the CEO within the time specified in the notice.
- (5) A dog that is isolated under this by-law may be released from the pound in accordance with by-law 67, subject to any conditions the CEO considers appropriate.
- (6) The cost of treatment reasonably provided by the council to a diseased dog, and to any other animal in the pound infected or at risk of being infected by the diseased dog before it could reasonably be isolated, is a debt payable by the owner of the diseased dog to the council.
- (7) An owner of a dog commits an offence if the owner:
  - (a) fails to comply with clause (4); or
  - (b) fails to comply with a condition imposed under clause (5).

- 
- (8) An offence against clause (7) is an offence of strict liability.

**70 Destruction of impounded animal**

- (1) The CEO may arrange for an animal to be destroyed if:
- (a) the animal is in the pound or is abandoned or is found on public land; and
  - (b) the animal is diseased, injured, savage, destructive, unclaimed, unregistered or unwanted; and
  - (c) it is humane to destroy the animal in the circumstances.
- (2) For this Part, behaviour of a dog specified in by-law 53(4) is taken to be savage or destructive.

**70A Destruction or disposal of impounded animal**

- (1) Subject to this by-law, the CEO may, after an animal is impounded for 4 business days:
- (a) arrange for its destruction; or
  - (b) if the animal is a dog – transfer the dog to an entity that provides animal welfare services.
- (2) The CEO may make arrangements for the transfer of dogs from a pound to a person or entity that provides animal welfare services.

*Example for clause (2)*

*Arrangements could be made with the RSPCA and other organisations that provide care for unwanted and stray animals.*

- (3) The CEO must not destroy or dispose of an impounded dog because it is savage, destructive, unclaimed, unregistered or unwanted until after the later of the following:
- (a) if circumstances related to the destruction are being investigated – the end of that investigation;
  - (b) if the destruction is subject to legal proceedings – 14 days after the end of those legal proceedings.
- (4) If an offence is being investigated in relation to an impounded dog, it must not be destroyed or disposed of until the investigation is complete.

*Example for clause (4)*

*If a dog is alleged to have attacked a person, the dog would not be destroyed unless the investigation is complete.*

---

**70B Humane method**

Any destruction of an animal under this Part must be done:

- (a) in a manner approved by the Australian Veterinary Association; and
- (b) by a veterinarian or another person who is, in the opinion of the CEO, qualified to destroy it.

**Division 5 Dog races**

**23 Part 3, Division 6 inserted**

After by-law 71

*insert*

**Division 6 Animals**

**71A Injuring or killing animals on public land**

- (1) A person must not, without an authorisation given by the CEO, engage in conduct that causes, or is likely to cause, injury or death to an animal on public land.
- (2) A person commits an offence if:
  - (a) the person intentionally engages in conduct; and
  - (b) the conduct results, or is likely to result, in injury or death to an animal on public land; and
  - (c) the person is reckless in relation to that result.

**71B Abandoning animal**

A person commits an offence if the person intentionally abandons an animal in the municipality.

**71C Animal causing nuisance**

- (1) The owner of an animal must ensure that the animal is not a nuisance to people or other animals.
- (2) For this Part, an animal is taken to be a **nuisance** if it:
  - (a) is injurious or dangerous to the health of the community or another person; or

- 
- (b) behaves repeatedly in a manner contrary to the general interest of the community or specific interests of another person; or
  - (c) creates a noise or an odour to a degree or extent that disturbs the reasonable mental, physical or social well-being of a person other than its owner; or
  - (d) defecates to a degree or extent that causes annoyance to a person other than its owner.

*Examples for clause (2)(c)*

- 1 Constant or loud barking, caterwauling, crowing or squawking, especially when pedestrians walk past the premises.*
- 2 Noxious smelling coops or cages used for keeping poultry.*

- (3) The owner of an animal that defecates in public must immediately remove the faeces and dispose of them in a sanitary manner.
- (4) The owner of an animal must ensure it does not aggressively chase a person or vehicle or another animal.
- (5) The owner of an animal must not allow the animal to come within 10 m of the following:
  - (a) a public play structure;
  - (b) a public exercise structure;
  - (c) a public BBQ.
- (6) A person must not bring an animal into a pedestrian mall unless:
  - (a) the animal is an assistance dog; or
  - (b) the person holds an authorisation given by the CEO to do so; or
  - (c) the animal is allowed under an exemption determined by the council, by resolution.
- (7) A person must not feed a wild or feral animal.
- (8) A person commits an offence if the person fails to comply with clause (1), (3), (4), (5), (6) or (7).
- (9) An offence against clause (8) is an offence of strict liability.

---

**24 By-law 80 amended (Damage to roads, &c.)**

- (1) By-law 80, heading

*omit*

**, &c.**

- (2) After by-law 80(2)

*insert*

- (2A) Clause (1) does not apply to a person acting in accordance with a permit.

*Note for clause (2A)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

- (3) By-law 80(4)

*omit*

this by-law is a regulatory offence

*insert*

clause (1), (2) or (3) is an offence of strict liability

- (4) After by-law 80(4)

*insert*

- (5) It is a defence to a prosecution for an offence against clause (1), (2) or (3) if the defendant has a reasonable excuse.

*Note for clause (5)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

**25 By-law 82 amended (Safety lights)**

- (1) By-law 82(3)

*omit*

this by-law is a regulatory offence

*insert*

clause (2) is an offence of strict liability

- 
- (2) After by-law 82(3)

*insert*

- (4) It is a defence to a prosecution for an offence against clause (2) if the defendant has a reasonable excuse.

*Note for clause (4)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

## **26 By-law 93 amended (Camping or sleeping in public place)**

- (1) By-law 93(1), at the end

*insert*

Maximum penalty: 20 penalty units.

- (2) By-law 93(2)

*omit*

- (3) By-law 93(4) and (5), at the end

*insert*

Maximum penalty: 20 penalty units.

- (4) By-law 93(5)

*omit*

his, her or their

*insert*

the person's presence or the group's

- (5) After by-law 93(5)

*insert*

- (6) An offence against clause (1), (4) or (5) is an offence of strict liability.



---

**27 By-law 98 amended (Bicycles, skates, &c., may be prohibited in malls and other public places)**

- (1) By-law 98, heading

*omit*

**, &c., may be prohibited in malls**

*insert*

**may be prohibited in malls, reserves**

- (2) By-law 98(1), after "mall"

*insert*

**, reserve**

- (3) By-law 98(2), at the end

*insert*

Maximum penalty: 20 penalty units.

- (4) After by-law 98(2)

*insert*

- (3) An offence against clause (2) is an offence of strict liability.

**28 By-law 100 amended (Control of vehicular traffic, &c. in malls)**

- (1) By-law 100, heading

*omit*

**, &c.,**

- (2) By-law 100(4)

*omit*

a regulatory offence

*insert*

an offence of strict liability

---

(3) By-law 100(8), definition **service vehicle**

*omit, insert*

**service vehicle** means a vehicle under the control of any of the following bodies in relation to its functions:

- (a) the council;
- (b) an Agency whose responsibilities include the care, control and management of roads, the construction and maintenance of government works or planning and urban development;
- (c) an organisation responsible for any of the following within the Territory:
  - (i) electricity generation or supply;
  - (ii) public sewerage and drainage services operations;
  - (iii) public water supplies;
- (d) an organisation providing telecommunications services within the Territory.

**29 By-law 111 replaced**

By-law 111

*repeal, insert*

**111 Application of *Traffic Regulations 1999* to off-street parking areas**

- (1) Part 3, Division 3 of the *Traffic Regulations 1999*, as in force from time to time, applies to and in relation to a contravention of by-law 110 as if the contravention were a parking infringement as defined in regulation 39 of the *Traffic Regulations 1999*.
- (2) For clause (1):
  - (a) Part 3, Division 3 of the *Traffic Regulations 1999*, as in force from time to time, is incorporated in these By-laws; and
  - (b) a reference in that Division to a parking infringement is taken to be a reference to a contravention of by-law 110; and
  - (c) a reference in that Division to a sign or other manner of prescription under the *Traffic Regulations 1999* is taken to be a reference to a sign mentioned in by-law 110(2)(a) or (b); and

- 
- (d) a reference in that Division to a municipality within the meaning of the *Local Government Act 2019* is taken to be a reference to the municipality of Katherine only.

**111A On-street parking**

For the purpose of regulating on-street parking the council must:

- (a) determine the fees for parking on any street; and
- (b) determine the conditions for parking on any street; and
- (c) install equipment for the payment of the parking fees; and
- (d) establish online systems for the payment and collection of parking fees to supplement equipment on the street.

**30 Part 6 heading replaced**

Part 6, heading

*repeal, insert*

**Part 6 Public library and other council facilities**

**Division 1 Library**

**31 By-law 112 amended (Definitions)**

- (1) By-law 112

*omit*

these By-Laws, unless the contrary intention appears

*insert*

this Part

- (2) By-law 112, definitions ***borrower's card, librarian, library, non resident borrower, permanent resident, registered borrower*** and ***resident borrower***

*omit*

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(3) By-law 112

*insert*

**library** means the public library established by by-law 114 and includes any branches of that library.

**library manager** means the person responsible to the council for the management of the library.

**registered borrower** means a person who is registered as a borrower to borrow library items from the library under by-law 115.

*Note for definition **registered borrower***

*A person does not have to be registered to use the services of the library, but does have to be registered to borrow from the library.*

(4) By-law 112, definition **library item**

*omit*

**item**

*insert*

**material**

**32 By-laws 114 to 119 and Part 6, Division 2 replaced**

By-laws 114 to 119 and Part 6, Division 2

*repeal, insert*

**114 Public library and services**

- (1) The council must establish a public library, and any branches of that library, and determine the services provided by the library and the conditions for using those services.
- (2) The conditions for using public library services must be published.
- (3) A notice setting out the important conditions for using public library services must be clearly exhibited in a conspicuous place in or about the library.

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## **115 Registration of borrowers**

- (1) The library manager may register persons as borrowers of library material according to the classes of borrowers and borrowing privileges determined by the council.

*Note for clause (1)*

*There may be different classes of borrowers with different borrowing privileges, for example, temporary or non-resident borrowers.*

- (2) A person wishing to be registered as a borrower of library material may be required to provide the library manager with:
  - (a) photo identification of the person; and
  - (b) evidence of the person's place of residence.
- (3) The parent or guardian of a child under 16 years of age may register the child if the parent or guardian accepts responsibility for fees or charges for lost or damaged library materials.
- (4) A person's registration as a borrower of library materials is not transferrable.

## **116 Borrowing privileges**

- (1) Subject to this by-law, a registered borrower may borrow, free of charge for use away from the library, any library material designated by the library manager as available for lending.
- (2) A registered borrower of a class with restricted borrowing privileges may only access library materials allowed under the class.

*Example for clause (2)*

*An online borrower may only access online library materials.*

- (3) Any borrowing of library material is subject to this Part and any terms and conditions determined by the council.
- (4) Library material may be borrowed from the library for such period of time as the library manager determines.

## **117 Identification of registered borrowers**

The library manager or an officer may issue library identification, including cards, registration numbers or other means to identify registered borrowers, in accordance with the conditions determined by the council.

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**118      Liability of borrower**

- (1) A registered borrower is liable for any loss of, or damage to, library materials borrowed with the borrower's library identification.
- (2) If library identification is lost, the registered borrower remains liable under clause (1) until the library manager is notified of the loss of the identification.

**119      Notifications by borrower**

A registered borrower must notify the library manager if the borrower:

- (a) changes the borrower's name or address; or
- (b) loses, damages or destroys library materials; or
- (c) loses the borrower's library identification.

**120      Revocation or suspension of registration**

- (1) A registered borrower may revoke the borrower's registration by notifying the library manager.
- (2) The library manager may revoke or suspend a borrower's registration and library identification, if the borrower fails to comply with this Part or gives notice under clause (1).

**121      Late library materials**

- (1) The library manager may, by written notice, require a person who borrows library material to return library materials that were not returned on time.
- (2) A person who receives a written notice under clause (1) must return the library materials without delay.
- (3) The library manager may refuse to lend library materials to a person who fails to return library materials on time.

**122      Lost or damaged library materials**

- (1) The library manager may, by written notice, require a person who borrows library material to pay:
  - (a) a fee for failing to return the material; and
  - (b) the cost of replacing or repairing the material if lost or damaged while on loan to the person.

- 
- (2) Library material that is stolen, lost or damaged remains the property of the council, even if replaced or paid for.
  - (3) A person who receives a written notice under clause (1) must pay the fee or cost within 15 days of receipt of the notice.
  - (4) A person commits an offence if the person fails to comply with clause (3).

Maximum penalty: 10 penalty units.

- (5) An offence against clause (4) is an offence of strict liability.

## **Division 2 Conduct in library**

### **123 Code of conduct**

- (1) The council may establish a code of conduct for persons using or present in the library.
- (2) Any code of conduct established by the council must be published and clearly exhibited in a conspicuous place in the library.
- (3) A person who is using the library or present in the library must comply with the code of conduct.
- (4) A person commits an offence if the person fails to comply with clause (3).

Maximum penalty: 10 penalty units.

- (5) An offence against clause (4) is an offence of strict liability.

### **124 Bringing things into library**

- (1) A person must not bring an animal into the library other than:
  - (a) an assistance dog; or
  - (b) an animal permitted in the library for the purposes of an event organised for the animal.

*Example for clause (1)(b)*

*Pet time in the library.*

- (2) A person must not bring a vehicle into the library, unless:
  - (a) it is a wheelchair or other mobility device needed by the person; or

- 
- (b) it is a skateboard, bicycle or similar thing allowed in by the library manager.

## **125 Prohibited conduct in libraries**

- (1) A person must not engage in any of the following conduct:
  - (a) taking library materials or other things without authority from the library manager;
  - (b) disturbing, interrupting or annoying another person in the library;
  - (c) behaving in a disorderly manner or using violent, abusive or offensive language in the library;
  - (d) entering or remaining in the library if the person is under the influence of liquor or an intoxicating drug.
- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 10 penalty units.

- (3) An offence against clause (2) is an offence of strict liability.

## **126 Children**

A child under 10 years of age may enter the library if the child is kept under direct supervision at all times by an adult or another person who, in the opinion of the library manager, is capable of supervising the child while the child is in the library.

## **127 Banning persons**

- (1) The library manager may, by written notice, ban a person from entering the library if the person fails to comply with this Part.
- (2) A person who receives a notice under clause (1) must not enter the library for the period of time specified in the notice.
- (3) A person commits an offence if the person fails to comply with clause (2).

Maximum penalty: 10 penalty units.

- (4) An offence against clause (3) is an offence of strict liability.



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**128 Powers of library manager**

- (1) The library manager may give the directions and take reasonable action to ensure order in the library and compliance with this Part.
- (2) The library manager, an authorised person, an officer or an employee of the council may remove or exclude a person from the library to ensure order in the library and compliance with this Part.

**129 Reviewable decisions**

A decision of the library manager under by-law 120(2) or 128 is a reviewable decision for section 322(1) of the Act.

**Division 3 Other council facilities**

**130 Authorised person may direct person not to enter or to leave facility**

- (1) An authorised person may direct a person not to enter, or to leave, a facility owned by the council if:
  - (a) the authorised person believes on reasonable grounds that the person is under the influence of liquor or an intoxicating drug; or
  - (b) the person threatens or harasses a council employee or any other person in the facility.
- (2) A person must leave a facility owned by the council if directed to do so by an authorised person.

**33 Part 7A inserted**

After by-law 173

*insert*

**Part 7A Infringement notice offences**

**173A Infringement notice offence and prescribed amount payable**

- (1) An ***infringement notice offence*** is an offence against a provision specified in Schedule 1.
- (2) The ***prescribed amount*** for an infringement notice offence is the amount equal to the monetary value of the number of penalty units specified for the offence in Schedule 1.

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**173B      When infringement notice may be given**

If an authorised person believes on reasonable grounds that a person has committed an infringement notice offence, the authorised person may give a notice (an ***infringement notice***) to the person.

**173C      Contents of infringement notice**

- (1) The infringement notice must specify the following:
  - (a) the name and address of the person to whom it was issued, if known;
  - (b) the date the infringement notice is given to the person;
  - (c) the date and time of the infringement notice offence and the place at which the infringement notice offence occurred;
  - (d) a description of the offence;
  - (e) the prescribed amount payable for the offence;
  - (f) the enforcement agency to which the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
  - (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
  - (b) the person may elect to have the offence dealt with by a court by:
    - (i) completing a statement of election and giving it to the specified enforcement agency; and
    - (ii) not paying the prescribed amount;
  - (c) if the *Fines and Penalties (Recovery) Act 2001* applies to the infringement notice offence – enforcement action may be taken under that Act if the person does nothing in response to the notice.
- (3) The infringement notice must include an appropriate form for making the statement of election mentioned in clause (2)(b)(i).

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**173D      Electronic payment and payment by cheque**

- (1) If the person uses electronic means to pay the prescribed amount, payment is not effected until the amount is credited to the payee's bank account.
- (2) If the person tenders a cheque in payment of the prescribed amount, payment is not effected unless the cheque is cleared on first presentation.

**173E      Expiation of offence**

If the prescribed amount for the infringement notice offence is paid in accordance with the infringement notice, the alleged offence is expiated and no further proceedings can be taken in relation to the offence.

**173F      Withdrawal of infringement notice**

- (1) The council may withdraw the infringement notice by written notice given to the person.
- (2) The notice must be given:
  - (a) within 28 days after the infringement notice is given to the person; and
  - (b) before payment of the prescribed amount.

**173G      Application of Part**

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.
- (2) This Part does not:
  - (a) require an infringement notice to be given; or
  - (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
  - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

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**34 Part 8 heading replaced**

Part 8, heading

*repeal, insert*

**Part 8 Repeals, transitional matters and savings provisions**

**Division 1 Repeals and savings**

**35 Part 8, Division 2 inserted**

After by-law 175

*insert*

**Division 2 Transitional matters for Katherine Town Council Amendment By-laws 2023**

**176 Definitions**

In this Division:

***commencement*** means the commencement of by-law 3 of the *Katherine Town Council Amendment By-laws 2023*.

***repealed***, in relation to a by-law, means the by-law as in force immediately before the commencement.

**177 Determinations**

A determination made under repealed by-law 5 and in force immediately before the commencement continues in effect as if it were determined under by-law 5, as in force after the commencement, until amended or revoked by the council.

**178 Dog exercise areas and dog restriction areas**

- (1) A dog exercise area declared under repealed by-law 51(1) is taken to be a dog exercise area declared under by-law 46H(1) as in force after the commencement.
- (2) A dog restriction area declared under repealed by-law 51(2) is taken to be a dog restriction area declared under by-law 46J(1) as in force after the commencement.

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**179        Pounds**

A pound established under repealed by-law 65 is taken to be a pound established under by-law 64 as in force after the commencement.

**180        Continuation of library**

- (1) The Katherine Public Library, and any branches of that library, as in existence immediately before the commencement, are continued after the commencement as the public library, as if they were established under by-law 114(1) as in force on the commencement.
- (2) The services provided by the Katherine Public Library, as in existence immediately before the commencement, are continued as the services provided by the public library as if they had been determined under by-law 114(2) as in force on the commencement.

**181        Registration of borrowers**

- (1) A person registered as a resident borrower or a non-resident borrower under repealed by-law 114 immediately before the commencement is taken to be registered as a borrower of library material under by-law 115(1) as in force on the commencement.

*Note for clause (1)*

*The person may be registered according to a class of borrower and borrowing privileges under by-law 115(1) as in force on the commencement.*

- (2) A borrower's card issued under repealed by-law 116(1) and existing immediately before the commencement is taken to be library identification under by-law 117 as in force on the commencement.

**182        Offence provisions – before and after commencement**

- (1) The offence provisions, as amended or inserted on the commencement, apply only in relation to offences committed after the commencement.
- (2) The offence provisions, as in force immediately before the commencement, continue to apply in relation to offences committed before the commencement.
- (3) For this by-law, if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.

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(4) In this by-law:

**offence provisions** means the provisions of these By-laws that create or relate to offences (including in relation to criminal responsibility, defences and penalties).

### **36 Schedules 1 to 3 replaced**

Schedules 1 to 3

*repeal, insert*

## **Schedule 1      Infringement notice offences and prescribed amounts**

by-law 173A

<b>Provision</b>	<b>Prescribed amount in penalty units</b>
by-laws 26(2), 30(1), 32, 33(1) and (2), 46(1), 46B(1), 46C(2), 46D(2), 46E(3), 46G(4), 46K(1) and (3), 55(2), 63(1), 75, 83(1), (3) and (4), 86(3) and (3A), 87(1) and (3), 91(1), 94(1), 95(1), 96(3), 97(1), (2), (3) and (4), 98(2), 99(1), (2), (3), (4), (5), (6), (7) and (8), 100(1) and (2), 102(9), 109(2) and 110(2)	1
by-laws 28B(1), (3) (4) and (5), 31A(1), 37(1), 46F(2), 46K(2) and (4), 46L(2), 66(3), 71A(2), 71B, 74(1) and (3), 88(1), 90(1) and 93(1)	2
by-laws 51(3), 69(7), 71C(8) and 97(5)	3
by-law 31B(1)	4
by-law 52(2)	5
by-laws 29(1), 29A(2) and (4) and 29B(6)	6
by-law 53(2)	7
by-laws 53(2) (for aggravated offence) and 59(1)	9

### **37 By-laws further amended**

The Schedule has effect.

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**38      Repeal of By-laws**

These By-laws are repealed on the day after they commence.

## Schedule Katherine Town Council By-laws 1998 further amended

by-law 37

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
by-law 9(1) and (2)	registrar (all references)	CEO
by-law 14, heading	, &c.	
by-law 14(1)	clerk	CEO
by-law 18, heading	, &c.	
by-law 18(1), at the end		Maximum penalty: 20 penalty units.
by-law 18(2)	a regulatory offence	an offence of strict liability
by-law 28, heading	<b>dumps</b>	<b>waste management facilities</b>
by-law 28(1)	dumps	waste management facilities
by-law 28(2), (3) and (4)(a) and (b)	dump (all references)	waste management facility
Part 2, Division 2, heading	, &c., on land	<b>in relation to private land</b>
Part 2, Division 3, heading	, &c.	<b>and throwing stones</b>
by-law 33(3)	this by-law is a regulatory offence	clause (1) or (2) is an offence of strict liability
by-law 37, heading	, &c.	
by-law 37(2)	a regulatory offence	an offence of strict liability



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by-law 40, heading	<b>, &amp;c.,</b> (all references)	
by-law 71, heading	<b>, &amp;c.</b>	
by-law 71(1)	by-law 55 or 56, or both,	by-law 46A(1) and (4)(a), 46B(1)(a) or 63
by-law 74(1) and (3), at the end		Maximum penalty: 20 penalty units.
by-laws 74(5), 76(3) and 77(2)	a regulatory offence	an offence of strict liability
by-law 78, heading	<b>, &amp;c.,</b>	
by-law 78(2)	a regulatory offence	an offence of strict liability
by-law 79(3)	this by-law is a regulatory offence	clause (1) or (2) is an offence of strict liability
Part 4, Division 2 heading	<b>, &amp;c.</b>	
by-law 83, heading	<b>, plants, &amp;c.</b>	<b>and plants</b>
by-law 83(5)	this by-law is a regulatory offence	clause (1), (3) or (4) is an offence of strict liability
by-law 86(2)	clerk	CEO
by-law 86(4)	a regulatory offence	an offence of strict liability
by-law 88, heading	<b>, defacing, &amp;c.</b>	<b>and defacing</b>
by-law 88(2)	this by-law is a regulatory offence	clause (1) is an offence of strict liability
by-law 90(2)	a regulatory offence	an offence of strict liability
by-law 91, heading	<b>, &amp;c.,</b>	
by-laws 91(2) and 94(2)	a regulatory offence	an offence of strict liability
by-law 94(3)(b) and (4)	clerk	CEO

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by-law 97(6)	a regulatory offence	an offence of strict liability
Part 4, Division 6 heading, after " <b>Malls</b> "		, <b>reserves</b>
by-law 99, heading, after " <b>malls</b> "		, <b>reserves</b>
by-law 99(3), after "mall"		, reserve
by-law 99(5), after "mall"		or reserve
by-law 99(5)(a)	a part of the soil of a flowerbed or around about	any part of the soil of a flowerbed
by-law 99(7)	mall	mall or on a reserve
by-law 99(8), after "animal"		, other than an assistance dog,
by-laws 102(10) and 109(4)	a regulatory offence	an offence of strict liability
Part 5, heading	<b>Off-street car parks</b>	<b>On-street and off-street parking</b>
by-law 110(2)(b) and (c), at the end		or
by-law 110(3)	a regulatory offence	an offence of strict liability
by-law 113(2)	librarian shall cause a notice stating hours of opening to be	library manager must ensure notice of the opening hours of the library is
by-laws 140(1) and (3)(e), 141(3) and 144(2) and (3)	clerk ( <i>all references</i> )	CEO
by-law 144(4)	Where the clerk clerk	If the CEO CEO
by-law 172(1) and (2)	Where	If

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by-law 172(2)	eighth	11th
by-law 173	\$50	15 penalty units

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