

NORTHERN TERRITORY OF AUSTRALIA

CITY OF DARWIN BY-LAWS 2023

Subordinate Legislation No. 17 of 2023

Table of provisions

Part 1 Preliminary matters

1	Title.....	2
2	Commencement	2
3	Definitions.....	2
4	Meaning of <i>owner</i>	5
5	Meaning of <i>properly contained</i>	6
6	Acknowledgement of Larrakia	6
7	Application within Darwin.....	7
8	Application of Criminal Code	7

Part 2 Meeting of members

Division 1 Purpose of Part

9	Purpose.....	7
---	--------------	---

Division 2 Procedural matters

10	Procedures for meetings of members.....	8
11	Attendance of public and reporters at meetings	8
12	Petitions.....	8

Division 3 Public participation

13	Public participation at meeting of members.....	8
14	Person interrupting orderly meeting.....	8

Part 3 Administrative matters

Division 1 Purpose of Part

15	Purpose.....	9
----	--------------	---

Division 2 Information

16	Records.....	9
17	Written notices.....	9

18	Publishing information	10
----	------------------------------	----

Division 3 Fees

19	Determining fees	10
20	Other matters related to fees	10
21	Access to payment methods.....	11

Division 4 Authorisations

22	Issuing authorisations.....	11
23	Application for authorisation	11
24	Revoking or varying on request.....	12
25	Revoking, suspending or varying for cause.....	12

Part 4 Waste, recycling and safety

Division 1 Purpose of Part

26	Purpose	13
----	---------------	----

Division 2 Waste and recycling

27	Collection service	13
28	Alternative collection of waste and recycling materials.....	14
29	Damaging, removing or interfering with approved bins.....	14
30	Offences related to waste or recycling materials	15
31	Places and facilities	16
32	Offence of depositing waste	16
33	Offence of discharging liquid waste	17

Division 3 Fires

34	Offensive burning	17
35	Lighting fires	18

Division 4 Unsafe behaviour

36	Breaking glass or other material	19
37	Unsafe or cluttered premises.....	19
38	Unsanitary behaviour.....	20
39	Throwing stone or object	20

Part 5 Animal management

Division 1 Purpose of Part

40	Purpose	21
----	---------------	----

Division 2 Responsible ownership of dogs and cats

41	Registration required	21
42	Offence of unregistered dog or cat	21
43	Identification device	22
44	Offences related to identification device	22
45	Offence for contravention of condition of registration	23
46	Notice of change in address or owner	23
47	Proper containment of dogs and cats	24
48	Keeping dogs and cats under effective control	24
49	Maximum number of dogs and cats	25
50	Dog exercise areas	26
51	Dog and cat restricted areas	26
52	Special cat control area	27
53	Remedial action for contravention of areas related to cats	27
54	Offences related to areas	28

Division 3 Menacing, attacking and dangerous dogs

55	Dog menaces	29
56	Dog attacks	30
57	Serious dog attack	30
58	Defences	31
59	Enticement or incitement	31
60	Dangerous dog	32
61	Duties of owner of dangerous dog	32
62	Notice about loss or transfer of dangerous dog	33
63	Offences related to dangerous dog	34
64	Remedial action for dangerous dog	34
65	Court order	35

Division 4 Seizure and impounding of animals

66	Seizure and impounding	35
67	Notice of impounding	35
68	Release from pound	36
69	Diseased dog or cat	37
70	Destruction of animal	38
71	Destruction or disposal of impounded dogs and cats	38
72	Humane method	39

Division 5 Livestock and other animals

73	Prohibited animals other than livestock	39
74	Livestock	39
75	Offence related to livestock and prohibited animals	40
76	Injuring or killing animals on public land	40
77	Abandoning animal	41
78	Animal causing nuisance	41

Part 6	Public facilities and places	
Division 1	Purpose of Part	
79	Purpose	42
Division 2	Control of vehicles and boats	
80	Control of vehicles	43
81	Control of motor vehicles in pedestrian mall	43
82	Speed limit for boats on Lake Alexander	44
83	Vehicle or boat maintenance on public land	44
84	Off-street parking areas	45
85	On-street parking	45
86	Parking and driving on public park, public lawn or verge	45
Division 3	Protecting public land	
87	Constructing cross-overs	46
88	Road work	47
89	Prohibited excavations on adjoining land	48
90	Enclosing land to prevent risk of escaping soil	48
91	Limits on barbed wire fence	49
92	Damage to footpath, road or public land	49
93	Structures on footpath, road or public land	50
94	Street numbering	50
Division 4	Activities on public land	
95	Busking and other activities on public land	50
96	Goods or equipment on public land	51
97	Abandoned goods	52
98	Defacing property	52
99	Other prohibited activities on public land	53
100	Camping or setting up camp on public land	53
101	Obstruct or hinder use of public facilities	54
Division 5	Control of vegetation	
102	Prohibitions relating to vegetation	55
103	Trimming vegetation	55
Division 6	Public swimming	
104	City's public swimming facilities	56
105	Swimming in Lake Alexander	57

Division 7	Selling goods and services	
106	Selling food and beverages on public land	57
107	City markets.....	57
108	Market licence	57
109	CEO directions	58
110	Stallholder permits.....	59
111	Obligations of stallholders.....	60
112	Selling vehicles and boats on public land	61
Part 7	Public libraries	
Division 1	Purpose of Part	
113	Purpose	61
Division 2	Operation of public libraries	
114	Public library system.....	61
115	Registration of borrowers.....	62
116	Borrowing privileges	62
117	Identification of registered borrowers.....	63
118	Liability of borrower	63
119	Notifications by borrower	63
120	Revocation or suspension of registration.....	63
121	Late library materials	63
122	Lost or damaged library materials	64
Division 3	Conduct in public library	
123	Code of conduct	64
124	Bringing things into public library	65
125	Prohibited conduct in libraries.....	65
126	Children	66
127	Banning persons.....	66
128	Powers of library officers	66
Part 8	Outdoor advertising	
Division 1	Purpose and application of Part	
129	Purpose	66
130	Application to outdoor advertising.....	67
Division 2	General matters	
131	Outdoor advertising code.....	67
132	General standards for advertising signs	68

Division 3	Outdoor advertising permits	
133	Unauthorised outdoor advertising.....	68
134	Offence for unauthorised outdoor advertising.....	69
135	Interfering with City advertising.....	70
136	Transfer of outdoor advertising permit.....	70
137	Revoking outdoor advertising permit.....	70
Part 9	Compliance and enforcement	
Division 1	Purpose of Part	
138	Purpose.....	71
Division 2	General offences	
139	Offence for conduct without authorisation.....	71
140	Failure to comply with condition of authorisation.....	71
141	Continuing offence.....	72
Division 3	Enforcement notice	
142	Issuing enforcement notice.....	72
143	Show cause process.....	72
144	Exception to show cause process.....	73
145	Contents of enforcement notice.....	73
146	Failure to comply with enforcement notice.....	74
147	Variation or revocation of enforcement notice.....	75
148	Cost recovery.....	75
Division 4	Infringement notice offences	
149	Infringement notice offence and infringement amount payable.....	75
150	When infringement notice may be given.....	75
151	Contents of infringement notice.....	75
152	Effective date of payment methods.....	76
153	Expiation of offence.....	76
154	Withdrawal of infringement notice.....	76
155	Effect of this Division.....	77
Division 5	Other powers	
156	Powers of authorised persons and employees.....	77
157	Sale and disposal of seized goods.....	78

Part 10	Repeal and transitional matters for City of Darwin By-laws 2023	
Division 1	Repeals	
158	By-laws repealed	79
Division 2	Transitional matters for City of Darwin By-laws 2023	
159	Definitions	79
160	Former determinations	79
161	Former authorisations	79
162	Provisions related to dogs	80
163	Former licensed premises	80
164	Pounds	80
165	Other facilities	80
166	Continuation of public library	80
167	Registration of borrowers	81
168	Offence provisions	81
169	Outdoor advertising code	81
Schedule 1	Repealed By-laws	
Schedule 2	Infringement notice offences and infringement amounts	

NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 17 of 2023*

City of Darwin By-laws 2023

The City of Darwin, at a meeting held on 27 June 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 Simone Saunders, the Chief Executive Officer, to sign them.

Dated 30 June 2023

S. SAUNDERS
Chief Executive Officer

* Notified in the *Northern Territory Government Gazette* on 27 July 2023.

Part 1 Preliminary matters

1 Title

These By-laws may be cited as the *City of Darwin By-laws 2023*.

2 Commencement

These By-laws commence on 2 October 2023.

3 Definitions

In these By-laws:

advertising includes advertising by writing, images, pictures, symbols, objects or illumination.

Examples for definition advertising

Billboard, fence sign, portable sign, posters, distinctive lighting and bunting.

approved means approved by the City by resolution.

assistance animal, see section 4A of the *Anti-Discrimination Act 1992*.

at large, in relation to a dog or cat, means the dog or cat is:

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

attack, in relation to a dog, means any behaviour of the dog specified in by-law 56(1) or 57(1).

authorisation means a form of written or electronic authority issued by the CEO that is required under these By-laws to do something, to have something or to engage in other conduct.

Examples for definition authorisation

- 1 *An outdoor advertising permit or the transfer of an outdoor advertising permit.*
- 2 *A dog or cat registration.*
- 3 *A market licence.*
- 4 *A works permit to construct a cross-over.*

boat means a floating vessel of any kind.

City means the local government council constituted for the municipality of Darwin.

Note for definition City

The Minister for Local Government changed the name of the council for the City of Darwin local government area to the "City of Darwin" by notice in Gazette S48 of 9 August 2012.

cross-over, means the connection between a driveway or accessway to a road that crosses public land or City property.

dangerous dog means a dog declared to be dangerous under by-law 60.

Darwin means the municipality of Darwin named as the City of Darwin under the *Status of Darwin Act 1959*.

dog exercise area means an area declared by the City under by-law 50 to be a dog exercise area.

effective control, in relation to a dog or cat, see by-law 48(2) and (3).

emergency vehicle, see regulation 3 of the *Traffic Regulations 1999*.

enforcement notice means a notice issued under by-law 142.

fee includes a charge, fare and rent payable to the City.

goods includes food, beverages, wares, merchandise, raffle tickets, tokens, badges and vehicles.

handbill means a printed announcement or advertisement, including a poster, placard, notice, ticket, pamphlet and card.

identification device means a tag or microchip that complies with by-law 43.

infringement amount, see by-law 149(1).

infringement notice, see by-law 150(1).

infringement notice offence, see by-law 149(2).

library material means anything that is part of a public library's collection, whether or not it is the property of the City or the Territory.

library officer means a person appointed by the CEO to be an officer for a public library.

livestock, see section 5 of the *Livestock Act 2008*.

market means an area in which 2 or more stalls are located or intended to be located.

market licence means a licence issued by the CEO under by-law 108.

meeting of members means any meeting of members, including a meeting of an audit committee or a council committee.

menace, see by-law 55(2).

motor vehicle, see section 5 of the *Motor Vehicles Act 1949*.

nuisance, see by-law 78(2).

owner, see by-law 4.

pound means a place established by the City to impound dogs and cats.

premises include the following:

- (a) a building or other structure;
- (b) a part of a building or other structure;
- (c) land where a building or other structure is situated.

properly contained, see by-law 5.

public land means a road, a reserve or land within Darwin that is owned, controlled or maintained by the City.

public library means any premises of, or used in conjunction with, a public library administered by the City.

sell, in relation to goods, includes:

- (a) offering or exposing goods for sale or hire; or
- (b) displaying or publishing an advertisement describing or promoting the sale of goods from a stall.

service vehicle means a motor vehicle under the control of and used by any of the following:

- (a) an employee of the City;

- (b) an employee of an Agency responsible for highways, the construction and maintenance of government works or planning and urban development;
- (c) an employee of the Power and Water Corporation;
- (d) an employee of a body providing telecommunications services in Australia.

stall means a place or structure in or from which goods or services are offered for sale and includes a space on the ground, a tent, a motor vehicle, a caravan, a trailer and a table.

Examples for definition stall

A stall at an outdoor market selling beverages, food, massages or handicrafts.

stallholder means a person who sells goods or services from a stall.

stallholder association means a body corporate that holds a market licence under by-law 108.

stallholder permit means a permit issued by the holder of a market licence to a stallholder to conduct business within the market.

tag means a tag issued for a dog or cat under by-law 43(1).

vehicle means any conveyance that runs on one or more wheels.

Examples for definition vehicle

Cars, trucks, trailers, motorcycles, bicycles, scooters, skateboards and inline skates.

waste means garbage, litter, rubbish, refuse and other organic or inorganic waste matter.

Note for by-law 3

The Act also defines terms that are used in these By-laws.

4 Meaning of owner

- (1) In relation to an animal, **owner** means any of the following:
 - (a) for a registered dog or cat – the person who is registered as the owner of the dog or cat;
 - (b) the person for the time being in control or possession of the animal;

- (c) the occupier of the premises, or a part of the premises, where the animal 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) In relation to a motor vehicle, **owner** means the person in whose name the motor vehicle is registered under the following:
- (a) the *Motor Vehicles Act 1949*;
- (b) a law of a State or other Territory that provides for the registration of vehicles.
- (4) In relation to anything other than an animal or a motor vehicle, **owner** includes the person for the time being in control or possession of the thing.

5 Meaning of *properly contained*

For these By-laws, an animal is taken to be properly contained on premises if the animal is, under humane conditions appropriate for the animal:

- (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 5

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 species of animal.

6 Acknowledgement of Larrakia

- (1) Darwin is on Larrakia country and the City acknowledges the Larrakia people as the Traditional Owners of the Darwin region and pays its respects to Larrakia Elders past and present and emerging leaders.

- (2) The City is committed to a positive and cooperative relationship with the Larrakia People based on respect for the history and values of the Larrakia People and their important role in the community.

Note for by-law 6

Under section 5 of the Act, the rights and interests of Aboriginal traditional owners are to be recognised.

7 Application within Darwin

These By-laws apply to and have effect within Darwin.

Note for by-law 7

Under section 275(4) of the Act, a by-law binds the Territory and all its instrumentalities.

8 Application of Criminal Code

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

Note for by-law 8

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.

Part 2 Meeting of members

Division 1 Purpose of Part

9 Purpose

The purpose of this Part is to:

- (a) allow the City the flexibility to determine procedures for meetings of members by resolution; and
- (b) complement the provisions of the Act regarding meetings of members.

Notes for by-law 9

- 1 *Part 6.1 of the Act provides many of the important rules for meetings of the members.*
- 2 *Part 7.4 of the Act provides for a code of conduct for the members of the council and its committees.*

Division 2 Procedural matters

10 Procedures for meetings of members

- (1) Subject to the Act, the procedures for the conduct of the business of the City and its members may be determined by the City, by resolution.
- (2) Meetings of members must be conducted in accordance with any procedures determined by the City.

11 Attendance of public and reporters at meetings

- (1) The City must make available an area for the public, including reporters, to attend the meetings of members.
- (2) The area must accommodate as many persons as can reasonably attend a meeting of members.

12 Petitions

A petition may not be presented to the City unless the petition clearly shows that each person signing the petition agreed with the petition.

Note for by-law 12

In the case of an electronic petition, there must be evidence that each electronic signature could not be affixed unless the person signing it agreed with the petition.

Division 3 Public participation

13 Public participation at meeting of members

- (1) A person who is not a member must not take part in a meeting of members unless allowed by the Lord Mayor or other person presiding at the meeting.
- (2) A body or group of persons may apply in writing, to the Lord Mayor or other person presiding, to speak at a meeting of members.

14 Person interrupting orderly meeting

- (1) If a person, other than a member, causes disorder during a meeting of members, the person must leave the place where the meeting is taking place if requested to leave by the Lord Mayor or the person presiding at the meeting.
- (2) An authorised person may remove the person if the person does not leave in accordance with clause (1).

Part 3 Administrative matters

Division 1 Purpose of Part

15 Purpose

The purpose of this Part is to provide standard rules for the following:

- (a) keeping records of the City;
- (b) publishing information by the City;
- (c) charging fees by the City;
- (d) issuing, varying and revoking authorisations.

Division 2 Information

16 Records

- (1) The CEO must keep records of the following:
 - (a) all dogs and cats registered under these By-laws;
 - (b) all authorisations issued under these By-laws;
 - (c) any other matter required by these By-laws or by the City.
- (2) The records may be kept in any form, including electronic form.

Note for by-law 16

The City has obligations as a public sector organisation under the Information Act 2002.

17 Written notices

A written notice required under these By-laws may be in electronic form.

Example for by-law 17

An email sent to a permit holder.

18 Publishing information

Any notice, document or other information that must be published under these By-laws must be published in a timely manner on the City's website.

Notes for by-law 18

- 1 *The Act provides for the publication of determinations, notices and minutes of the City and the protection of confidential information.*
- 2 *Publishing includes publishing or broadcasting by radio, television, internet, telephone or other means.*

Division 3 Fees

19 Determining fees

- (1) The City must, by resolution, determine matters related to fees for the following:
 - (a) licences, permits, registrations and other authorisations;
 - (b) property, things or services provided by the City or an entity owned or controlled by the City.

Examples for clause (1)

- 1 *Supplying a service, product or commodity.*
- 2 *Receiving applications and issuing a licence or permit.*
- 3 *Registering an animal or thing.*
- 4 *Waiving fees during a time of crisis.*
- 5 *Admitting a person to a building and allowing the use of real or personal property.*

- (2) To avoid doubt, the amount of a fee may vary according to circumstances and conditions relevant to the fee.

Examples for clause (2)

- 1 *Lower registration fee for a sterilised dog or cat.*
- 2 *Lower fee for a pensioner.*

20 Other matters related to fees

- (1) Notice of the determination of a fee must be published as soon as practicable.
- (2) The City must not demand or receive any fee determined under by-law 19 unless notice of the fee was published.

- (3) Any fee that is not paid when it is due may be recovered as a debt due to the City.

21 Access to payment methods

The methods provided by the City for the payment of fees to the City must include methods accessible to:

- (a) people with a wide range of literacy, language and skills; and
- (b) people lacking the means or ability to use automated or purely electronic payment systems.

Division 4 Authorisations

22 Issuing authorisations

- (1) The CEO may issue, or refuse to issue, an authorisation.
- (2) An authorisation remains in force for:
 - (a) the period of time, if any, specified in the authorisation; or
 - (b) if no period is specified in the authorisation – the period of 12 months on and after the day of its issue.
- (3) An authorisation is subject to the conditions specified by the CEO.

Example for clause (3)

No single use plastic at outdoor food stalls.

- (4) An authorisation is not transferable, unless these By-laws expressly provide otherwise.

Examples for by-law 22

Authorisations include event permits, dog and cat registrations and outdoor advertising permits.

23 Application for authorisation

- (1) Applications for the issue of authorisations must be made to the CEO.
- (2) The application must be in the approved form and accompanied by:
 - (a) the applicable fee, if any; and
 - (b) any documents, specifications or particulars that the CEO may require.

24 Revoking or varying on request

- (1) The CEO may, on the written request of the holder of an authorisation:
 - (a) revoke the authorisation; or
 - (b) vary the conditions of the authorisation.
- (2) The CEO must give the holder written notice of the revocation or variation.

25 Revoking, suspending or varying for cause

- (1) The CEO may, in accordance with this by-law, revoke, suspend or vary the conditions of an authorisation if the holder of the authorisation:
 - (a) obtained the authorisation improperly; or
 - (b) failed to comply with these By-laws or a condition of the authorisation; or
 - (c) is not eligible or a fit and proper person to hold the authorisation.
- (2) Before making a decision under clause (1), the CEO must give the holder written notice:
 - (a) stating that the CEO proposes to revoke, suspend or vary the authorisation; and
 - (b) stating the grounds for the intended revocation, suspension or variation; and
 - (c) inviting the holder to show cause, in accordance with clause (3), why the revocation, suspension or variation should not be made.
- (3) Within 7 days of receiving the notice, the holder of the authorisation may make written representations to the CEO on why the revocation, suspension or variation should not be made.
- (4) After considering any representations made by the holder in accordance with clause (3), the CEO may:
 - (a) take no further action in relation to the authorisation; or
 - (b) revoke, suspend or vary the authorisation.

- (5) As soon as practicable after making a decision under clause (4), the CEO must give written notice of the decision to the holder of the authorisation.
- (6) If the CEO decides to revoke, suspend or vary the conditions of an authorisation, the notice to the holder must include the following information:
 - (a) the date that the revocation, suspension or variation takes effect;
 - (b) in the case of a suspension:
 - (i) the steps that the holder must take before the suspension will be lifted and the consequences for not completing those steps; and
 - (ii) the period of time that the suspension will remain in force;
 - (c) in the case of a variation – how the conditions are being varied.

Part 4 Waste, recycling and safety

Division 1 Purpose of Part

26 Purpose

The purpose of this Part is to:

- (a) reduce waste and to reuse and recycle materials in Darwin; and
- (b) sustainably manage waste and minimise the environmental impact of waste in Darwin; and
- (c) minimise the risks to the community of fire and unsafe behaviour.

Division 2 Waste and recycling

27 Collection service

- (1) The City must provide a regular service to collect waste and materials and other substances for recycling from residents and others in Darwin whose rates include a charge for this service.

- (2) Subject to direction from the City, the CEO must determine the conditions and other particulars of the service under this Division.

Examples for clause (2)

Collection times, the types of waste and recyclable materials allowed in bins and keeping the bins free of vermin.

- (3) The service may be provided by employees or by contractors engaged by the City.
- (4) The service consists of the following:
- (a) providing persons receiving the service with approved bins;
 - (b) providing public land with approved bins;
 - (c) collecting regularly from the approved bins;
 - (d) managing and disposing of whatever is collected.
- (5) The conditions and other particulars of the service must be published.
- (6) The persons who receive the service must comply with the conditions of the service.

28 Alternative collection of waste and recycling materials

If premises do not receive from the City a regular service to collect waste, the occupier of the premises must ensure that waste and materials for recycling from the premises are collected regularly in another approved manner.

29 Damaging, removing or interfering with approved bins

- (1) A person who damages an approved bin provided by the City is liable to the City for the costs of replacing the bin.
- (2) A person commits an offence if the person:
- (a) removes anything from an approved bin provided by the City;
or
 - (b) takes or interferes with an approved bin provided by the City;
or

- (c) causes an approved bin provided by the City to become a danger to public health or cause harm or annoyance to persons occupying or passing through or along neighbouring premises.

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

- (3) An employee or contractor engaged by the City to collect waste and recycling is exempt from clause (2)(a) and (b).
- (4) An offence against clause (2) is an offence of strict liability.

30 Offences related to waste or recycling materials

- (1) A person must not deposit waste or recycling materials in a place unless:
- (a) the person is acting under the authority of the City; or
 - (b) the place is an approved bin provided by the City; or
 - (c) the place is provided by an alternative service referred to in by-law 28; or
 - (d) the place is a place or facility for the management and disposal of waste or recycling referred to in by-law 31.
- (2) A person must not deposit, in an approved bin provided by the City, any substance or thing prohibited under the conditions and other particulars of the service determined by the City.
- (3) A person must not deposit or allow to remain on land a substance or thing that is likely to attract vermin, unless it is enclosed in a bin or container that is vermin-proof.
- (4) A person who conducts a business must not dispose of waste from the business in an approved bin provided by the City.
- (5) A person commits an offence if the person fails to comply with clause (1), (2), (3) or (4).

Maximum penalty: 50 penalty units.

Note for clause (5)

The infringement amount is 1 penalty unit.

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

31 Places and facilities

- (1) The location and the conditions of operation and use of the following places and facilities must be published:
- (a) places and facilities established by the City for the management and disposal of waste;
 - (b) places and facilities established by the City for the management of materials and substances for reuse and recycling.

Note for clause (1)

The requirements of environmental legislation may also apply to the operation of the place or facility.

Examples for clause (1)

The hours of operation, the classes of materials allowed, removing materials and supervision of children.

- (2) A person using a place or facility referred to in clause (1) must comply with the conditions of operation and use of the place or facility.
- (3) A person commits an offence if the person fails to comply with clause (2).

Maximum penalty: 20 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

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

32 Offence of depositing waste

- (1) A person commits an offence if the person deposits waste on land or allows waste to remain on land.

Maximum penalty: 20 penalty units.

Note for clause (1)

The infringement amount is 1 penalty unit.

- (2) An owner or occupier of land commits an offence if:
- (a) the owner or occupier deposits waste, or keeps or allows waste to remain, on the land; and
 - (b) the waste is likely to attract vermin to the land or to form a home for vermin; and

(c) the waste is not kept in a bin that is vermin-proof.

Maximum penalty: 20 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

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

33 Offence of discharging liquid waste

(1) A person commits an offence if:

(a) the person deposits or causes waste water, liquid waste or hazardous liquid to be deposited onto public land or into a drain on public land; and

(b) the person has no authorisation for that conduct.

Maximum penalty: 100 penalty units.

Note for clause (1)

The infringement amount is 4 penalty units.

Examples for clause (1)

Water leaking from faulty air conditioners or used cooking oil dumped in a drain.

(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 took all reasonable steps and exercised due diligence to avoid committing the offence.

Note for clause (3)

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

Division 3 Fires

34 Offensive burning

A person commits an offence if:

(a) the person intentionally burns or heats any substance or thing; and

(b) that conduct results in an odour that is offensive to another person on adjacent land or public land; and

(c) the person is reckless in relation to that result.

Maximum penalty: 50 penalty units.

Note for by-law 34

The infringement amount is 1 penalty unit.

35 Lighting fires

(1) A person must not light a fire or keep a fire burning unless:

(a) the person has an authorisation for the fire; or

(b) the fire is on the person's premises and is:

(i) for meal preparation or personal comfort; and

(ii) supervised by an adult; and

(iii) safely contained in a barbecue, fireplace or fire pit constructed of fireproof materials that is:

(A) not larger than 1 m²; and

(B) at least 4 m away from any flammable vegetation or other flammable material.

(2) A person commits an offence if the person lights a fire or keeps a fire burning contrary to clause (1).

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 4 penalty units.

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

(4) A person operating a crematorium or incinerator licensed under a law of the Territory or approved by the City is exempt from clause (2).

Note for by-law 35

The Bushfires Management Act 2016 also provides for the control of fires.

Division 4 Unsafe behaviour

36 Breaking glass or other material

- (1) A person commits an offence if:
- (a) the person breaks glass or other material; and
 - (b) the pieces of the glass or other material are on public land; and
 - (c) the pieces of the glass or other material result in a foreseeable risk of injury to a person or animal.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 1 penalty unit.

- (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:
- (a) the breakage was accidental; and
 - (b) the broken pieces were collected and disposed of safely and without delay.

Note for clause (3)

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

37 Unsafe or cluttered premises

- (1) The owner or occupier of premises must not:
- (a) keep rubbish or discarded goods in open areas on the premises; or
 - (b) allow the premises to:
 - (i) become overgrown with vegetation; or
 - (ii) attract reptiles or vermin; or
 - (iii) be a fire hazard.

Examples for clause (1)

1 Rubbish includes yard waste, empty bottles, empty cans and used packaging materials.

- 2 *Discarded goods include damaged furniture, old appliances, cast-off vehicle parts and broken equipment.*
- 3 *Premises with overgrown grass and algae in unmaintained pools attract snakes and are breeding grounds for mosquitos.*

- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

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

Note for by-law 37

Non-compliance with this by-law can result in an enforcement notice, or a regulatory order under the Act, to remove the rubbish or discarded goods and entry by the City to clean up the land at the owner's expense.

38 Unsanitary behaviour

- (1) A person commits an offence if the person spits, urinates or defecates on public land, other than in a toilet.

Maximum penalty: 20 penalty units.

Note for clause (1)

The infringement amount is 1 penalty unit.

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

39 Throwing stone or object

A person commits an offence if the person:

- (a) intentionally throws, or uses a device to throw, a stone or other object onto, into or from public land; and
- (b) the conduct results in:
- (i) damage to property; or
 - (ii) hitting or frightening a person or animal; and
- (c) the person is reckless in relation to that result.

Maximum penalty: 20 penalty units.

Note for by-law 39

The infringement amount is 1 penalty unit.

Part 5 Animal management

Division 1 Purpose of Part

40 Purpose

The purpose of this Part is to ensure:

- (a) the socially responsible ownership of animals; and
- (b) the protection of the environment and the community.

Note for by-law 40

Owners of animals also owe a duty of care under legislation protecting animal welfare.

Division 2 Responsible ownership of dogs and cats

41 Registration required

- (1) The owner of a dog or cat that is kept in Darwin must register it with the City.
- (2) The City must, by resolution, determine the following:
 - (a) the process for registering dogs and cats;
 - (b) any grounds for refusing to register a dog or cat;
 - (c) any conditions of registration;
 - (d) date of expiry of a registration.

Examples for clause (2)(b)

Unsuitable premises or excessive number of dogs or cats.

42 Offence of unregistered dog or cat

- (1) A person commits an offence if the person keeps an unregistered dog or cat in Darwin for a period of 3 months or longer.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 2 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 City employee or contractor who keeps a dog or cat in a pound;
 - (b) a person or entity that provides animal protection or welfare services;
 - (c) a veterinarian who keeps a dog or cat for treatment.

43 Identification device

- (1) A registered dog and cat must wear a tag issued by the City, or approved by an authorised person, when outside the premises where the dog or cat is kept.
- (2) If required by the City, a dog or cat must be implanted with a microchip in addition to wearing a tag.
- (3) An implanted microchip must:
- (a) meet the specifications determined by the City; 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 or cat must ensure that it:
- (a) wears the tag issued for it when outside the premises where it is kept; and
 - (b) is implanted with a microchip if required under clause (2).

44 Offences related to identification device

- (1) The owner of a registered dog or cat must not:
- (a) allow it to be outside the premises where it is kept without wearing the tag issued for it; or
 - (b) remove from it any microchip implanted under by-law 43.

Maximum penalty: 20 penalty units.

Note for clause (1)

The infringement amount is 1 penalty unit.

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

45 Offence for contravention of condition of registration

- (1) The owner of a registered dog or cat must comply with any conditions on the registration determined by the City.
- (2) A person commits an offence if:
 - (a) the person is the owner of a registered dog or cat; and
 - (b) the registration of the dog or cat is subject to a condition; and
 - (c) the owner fails to comply with the condition.

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

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

46 Notice of change in address or owner

- (1) The owner of a registered dog or cat must notify the City of the following events:
 - (a) a change in the owner's address;
 - (b) a transfer of the dog or cat 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 animal;
 - (b) the contact details of the owner;
 - (c) in the case of a transfer of the dog or cat to a new owner – the contact details of both the new and former owners.
- (3) A person commits an offence if:
 - (a) the person is the owner of a registered dog or cat; and
 - (b) the person fails to comply with clause (1) or (2).

Maximum penalty: 10 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

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

47 Proper containment of dogs and cats

- (1) The owner of a dog or cat must properly contain the dog or cat when it is on the premises where it is kept.
- (2) A person commits an offence if:
 - (a) the person is the owner of a dog or cat; and
 - (b) the dog or cat is not properly contained when it is on the premises where it is kept.

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

- (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 or cat was not properly contained;
 - (b) the ability of the owner to properly contain the dog or cat.

48 Keeping dogs and cats under effective control

- (1) The owner of a dog or cat must ensure that the dog or cat is under effective control when outside the premises where the animal is kept.
- (2) For these By-laws, a dog or cat is taken to be under **effective control** if the dog or cat 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 cat; 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 or cat is projecting from the vehicle; or
 - (c) otherwise leashed or restrained and unable to run free.

- (3) For these By-laws, 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 or cat; and
 - (b) the dog or cat is not under effective control when outside the premises where the animal is kept.

Maximum penalty: 20 penalty units.

Note for clause (4)

The infringement amount is 1 penalty unit.

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

49 Maximum number of dogs and cats

- (1) The City may, by resolution, establish a limit or condition on the maximum number of dogs or cats that may be kept on premises in Darwin.

Examples for clause (1)

The maximum number of dogs and cats allowed on premises or limits or conditions on the breeding of dogs and cats and the suitability of those premises and the impact on neighbours.

- (2) The City must publish the limit or condition.
- (3) A person must not, without an authorisation, keep dogs or cats on premises contrary to any limit or condition established by the City on the maximum number of dogs or cats that may be kept on premises in Darwin.
- (4) An occupier of premises commits an offence if:
- (a) the City, by resolution, establishes a limit or condition on the maximum number of dogs or cats that may be kept on the premises; and

- (b) the occupier keeps dogs or cats on the premises contrary to the limit or condition; and
- (c) the occupier does not have an authorisation allowing that conduct.

Maximum penalty: 20 penalty units.

Note for clause (4)

The infringement amount is 1 penalty unit.

- (5) An offence against clause (4) is an offence of strict liability.
- (6) A person who contravenes clause (3) is not entitled to apply for, or to be granted, an authorisation referred to in that clause for a period of 12 months from the day of the last contravention.

50 Dog exercise areas

- (1) The City may declare an area to be a dog exercise area.
- (2) If the City intends to declare an area to be a dog exercise area, the City 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 Darwin.
- (3) The City 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.

51 Dog and cat restricted areas

- (1) The City may declare an area to be a dog or cat restricted area.

- (2) If the City intends to declare an area to be a dog or cat restricted area, the City 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 Darwin.
- (3) The City must publish the location and restrictions on dogs and cats in any dog or cat restricted area it declares.

Examples for clause (3)

1 Prohibiting taking a dog or cat into a market or festival.

2 Restricting classes or numbers of dogs or cats in an area.

- (4) An assistance animal is exempt from this by-law.
- (5) The owner of a dog or cat must comply with the conditions for the dog or cat restricted area.

52 Special cat control area

- (1) The City may declare an area to be a special cat control area to protect biodiversity or wildlife vulnerable to predation by cats.

Note for clause (1)

A special cat control area may include or be adjacent to an area of biodiversity or vulnerable wildlife.

- (2) The City must publish the location and restrictions on cats in any special cat control area it declares.
- (3) Despite by-law 47(2)(b), the owner of a cat in a special cat control area must keep the cat inside a building, enclosed cat run or other structure on the premises from which the animal is unable to escape.

53 Remedial action for contravention of areas related to cats

- (1) If the owner of a cat fails to comply with the duties of an owner under by-law 51 or 52 more than once in a 12-month period, the CEO may require the owner to take one or more of the following actions:
 - (a) desex the cat at the owner's expense;
 - (b) make specified changes to the cat's enclosure or containment area at the owner's expense;
 - (c) surrender the cat to the pound.

- (2) If the CEO intends to take action under clause (1), the CEO must give the owner of the cat 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 cat.

54 Offences related to 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 or a dog restricted area under by-law 51.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 2 penalty units.

- (2) A person commits an offence if the person:
 - (a) owns a dangerous dog; and
 - (b) the dog enters a dog exercise area.

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

- (3) A person commits an offence if the person:
 - (a) owns a cat; and

- (b) fails to comply with the conditions for a cat restricted area under by-law 51.

Maximum penalty: 50 penalty units.

Note for clause (3)

The infringement amount is 2 penalty units.

- (4) A person commits an offence if:
- (a) the person owns a cat; and
 - (b) the cat is in a special cat control area under by-law 52; and
 - (c) the person fails to keep the cat inside a building, enclosed cat run or other structure on the premises from which the cat is unable to escape.

Maximum penalty: 50 penalty units.

Note for clause (4)

The infringement amount is 2 penalty units.

- (5) An offence against clause (1), (2), (3) or (4) is an offence of strict liability.

Division 3 Menacing, attacking and dangerous dogs

55 Dog menaces

- (1) An owner of a dog must ensure that it does not menace a person or another animal.
- (2) For these By-laws, 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).

Maximum penalty: 50 penalty units.

Note for clause (3)

The infringement amount is 3 penalty units.

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

56 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.

Note for clause (2)

The infringement amount is 5 penalty units.

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

57 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.

Note for clause (2)

The infringement amount is 7 penalty units or, for an aggravated offence, 9 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.

58 Defences

It is a defence to a prosecution for an offence against by-law 55 or 56 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 by-law 58

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

59 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 78; 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 78; or
 - (iii) attack a person or animal; and

(c) the person is reckless in relation to that result.

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

60 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 City must keep a record of the information in clause (3).

61 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 47(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 City of the address of the place within 24 hours after the dog is relocated.
- (7) The owner must notify the City of any attack, or alleged attack, by the dangerous dog of a person or animal within 24 hours of the time the owner becomes aware of the attack or alleged attack.

62 Notice about loss or transfer of dangerous dog

- (1) The owner of a dangerous dog must notify the City 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 City under by-law 46 must be given within 24 hours after the transfer.

63 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 61 or 62.

Maximum penalty: 100 penalty units.

Note for clause (1)

The infringement amount is 9 penalty units.

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

64 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 61 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.

65 Court order

If a court finds a person guilty of an offence against by-law 55, 56, or 57 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.

Division 4 Seizure and impounding of animals

66 Seizure and impounding

- (1) An authorised person may seize:
 - (a) a dog or cat that appears to be diseased, injured, savage, destructive, stray or unregistered; or
 - (b) a dog or cat that is at large; or
 - (c) a dangerous dog whose owner is not complying with Division 3; or
 - (d) any animal that an authorised person believes on reasonable grounds has attacked a person.
- (2) As soon as practicable after seizing a dog or cat, the authorised person must:
 - (a) impound the dog or cat in a pound; or
 - (b) take reasonable steps to return the dog or cat 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 3 – the owner is willing and able to comply with Division 3.

67 Notice of impounding

- (1) The CEO must ensure that reasonable steps are taken to notify the owner of an impounded dog or cat that it is impounded and whether:
 - (a) the owner must collect it; or

- (b) the owner must await a decision regarding the destruction or disposal under by-laws 69 to 71; or
 - (c) the dog or cat is subject to destruction or disposal under by-laws 69 to 71.
- (2) The owner of an impounded dog or cat who receives a notice under clause (1)(a) must collect the dog or cat within the time specified in the notice.
- (3) A person commits an offence if the person:
- (a) owns a dog or cat; and
 - (b) receives a notice under clause (1)(a) that the owner must collect it; and
 - (c) fails to collect the dog or cat within the time specified in the notice.

Maximum penalty: 50 penalty units.

Note for clause (3)

The infringement amount is 2 penalty units.

68 Release from pound

- (1) When collecting a dog or cat from a pound, a person must provide evidence that the person is the owner of the dog or cat or is authorised to act on behalf of the owner.
- (2) The City may charge the owner a fee for:
- (a) the costs incurred by the City in relation to the impounded dog or cat; and
 - (b) delivering the dog or cat from the pound.
- (3) Subject to by-laws 69 to 71, an impounded dog or cat must not be released from a pound unless:
- (a) it is registered and implanted with a microchip in accordance with by-law 43; and
 - (b) it is released to its owner or to a person authorised to act on behalf of the owner; and
 - (c) the City receives any fees payable in relation to it.
- (4) Clause (3)(a) does not apply to a dog or cat that is usually kept outside the City.

69 Diseased dog or cat

- (1) The CEO must make arrangements for any impounded dog or cat that is suspected of being infected with a contagious disease to be isolated from any other dog or cat in the pound.
- (2) The CEO must take reasonable steps to give the owner of a dog or cat 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 or cat to have a report prepared and given to the CEO on the condition of the dog or cat 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 or cat that is isolated under this by-law may be released from the pound in accordance with by-law 68, subject to any conditions the CEO considers appropriate.
- (6) The cost of treatment reasonably provided by the City to a diseased dog or cat in the pound infected or at risk of being infected by the diseased dog or cat before it could reasonably be isolated, is a debt payable by the owner of the diseased dog or cat to the City.
- (7) An owner of a dog or cat 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).

Maximum penalty: 50 penalty units.

Note for clause (7)

The infringement amount is 3 penalty units.

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

70 Destruction of animal

- (1) The CEO may arrange for an animal to be destroyed if:
 - (a) the animal is in the pound, is seized or 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 these By-laws, a dog that bites or assaults as specified in by-law 57(4) is taken to be savage or destructive.

71 Destruction or disposal of impounded dogs and cats

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

72 Humane method

Any destruction of a dog or cat under these By-laws 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 Livestock and other animals

73 Prohibited animals other than livestock

Unless authorised under a law of the Territory, the following animals are prohibited from being kept in Darwin:

- (a) any wildlife as defined in the *Territory Parks and Wildlife Conservation Act 1976*;
- (b) any animal declared to be a feral animal under the *Territory Parks and Wildlife Conservation Act 1976*;
- (c) any animal declared to be a prohibited entrant under the *Territory Parks and Wildlife Conservation Act 1976*.

74 Livestock

- (1) Livestock are prohibited from being kept in Darwin except where allowed under this by-law.

Examples for clause (1)

Livestock includes honey bees, horses, poultry, crocodiles, cattle, buffalo, camels, sheep, goats, pigs, deer, llamas and alpacas.

- (2) Honey bees may be kept anywhere in Darwin.
- (3) Horses may be kept in Darwin only on the following land:
 - (a) land zoned as RL – Rural Living;
 - (b) land zoned as OR – Organised Recreation.
- (4) Chickens and roosters may be kept in Darwin only if:
 - (a) they are kept only on:
 - (i) land zoned as RL – Rural Living; or
 - (ii) land used or developed for a single dwelling on a lot greater than 600 m²; or

- (iii) land used or developed for a community garden or a school; and
 - (b) they are properly contained on the premises; and
 - (c) commencing on 2 October 2024 – they are limited to no more than 20 chickens and 2 roosters on the same premises.
- (5) Any livestock, other than honey bees, horses and chickens, may be kept in Darwin only on land zoned as RL – Rural Living.

- (6) In this by-law:

zoned means zoned by the Planning Scheme under the *Planning Act 1999*.

Notes for by-law 74

- 1 *The Livestock Act 2008 provides for other measures for livestock in Darwin.*
- 2 *Premises with livestock must be registered with the Northern Territory Government and obtain a property identification code (PIC), which identifies the property where livestock are kept.*
- 3 *The Planning Scheme also provides rules on animal boarding, intensive animal husbandry and commercial stables.*

75 Offence related to livestock and prohibited animals

- (1) A person commits an offence if the person keeps an animal in contravention of by-law 73 or 74.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 2 penalty units.

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

76 Injuring or killing animals on public land

- (1) A person must not, without an authorisation, 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.

Maximum penalty: 50 penalty units.

Note for by-law 76

The infringement amount is 2 penalty units.

77 Abandoning animal

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

Maximum penalty: 50 penalty units.

Note for by-law 77

The infringement amount is 2 penalty units.

78 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 these By-laws, 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 animal; 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 dog barking, cat caterwauling, rooster crowing or bird 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 (other than an assistance 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 animal; or
 - (b) the person holds an authorisation to do so; or
 - (c) the animal is allowed under an exemption determined by the City, 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).

Maximum penalty: 50 penalty units.

Note for clause (8)

The infringement amount is 3 penalty units.

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

Part 6 Public facilities and places

Division 1 Purpose of Part

79 Purpose

The purpose of this Part is to:

- (a) regulate traffic and vehicles where they are not regulated under other legislation; and
- (b) protect the environment and enhance the enjoyment by residents of Darwin's outdoor lifestyle; and
- (c) protect public land and City property from damage; and
- (d) protect the public from unnecessary inconveniences and nuisances.

Division 2 Control of vehicles and boats

80 Control of vehicles

- (1) The City must take reasonable steps to post signs warning the public of any restriction or prohibition established by the City in relation to vehicles on a footpath, a road or public land.

Examples for clause (1)

- 1 No bicycles on a footpath.
- 2 No skateboards in a pedestrian mall.
- 3 No heavy vehicles on a road or bridge.

- (2) A person must not ride, drive or propel a vehicle contrary to any restriction or prohibition established by the City.

- (3) A person commits an offence if the person fails to comply with clause (2).

Maximum penalty: 50 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

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

Note for by-law 80

The parking infringement scheme in Part 3, Division 3 of the Traffic Regulations 1999 also applies to contraventions under this Division.

81 Control of motor vehicles in pedestrian mall

- (1) A person must not park or drive a motor vehicle in a pedestrian mall unless:

- (a) it is an emergency vehicle or service vehicle; or
- (b) it is in the mall in accordance with an authorisation.

- (2) A person must not drive a motor vehicle, other than an emergency vehicle, in a pedestrian mall at a speed in excess of 5 km/h.

- (3) An authorised person or a police officer may remove any motor vehicle that is in a pedestrian mall contrary to this by-law to a place either within or outside the mall.

- (4) A person commits an offence if the person drives or parks a motor vehicle contrary to clause (1) or (2).

Maximum penalty: 100 penalty units.

Note for clause (4)

The infringement amount is 4 penalty units.

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

82 Speed limit for boats on Lake Alexander

- (1) A person must not, without an authorisation, drive, propel, sail or tow a boat at a speed of more than 5 knots on Lake Alexander.

- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 20 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

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

83 Vehicle or boat maintenance on public land

- (1) A person must not wash or repair a vehicle or boat on public land, other than at a place set aside by the City for this purpose.

- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 20 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

- (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 (1) for a repair, if the repair was necessary to remove the vehicle or boat from public land.

Note for clause (4)

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

84 Off-street parking areas

- (1) This by-law applies to any area owned, managed or controlled by the City that is declared by the City to be an off-street parking area.
- (2) A person must not park a vehicle in an off-street parking area contrary to the following:
 - (a) a limit or prohibition on time or day indicated by a sign erected or placed in the parking area;
 - (b) any markings for parking spaces in the parking area;
 - (c) any other sign erected or placed in the parking area.
- (3) A person commits an offence if the person parks a vehicle in an off-street parking area contrary to clause (2).

Maximum penalty: 20 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

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

85 On-street parking

For the purpose of regulating on-street parking the City 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.

Note for paragraph (d)

By-law 20 provides that payment systems must not discriminate against people without smart devices or the skills needed to use them.

86 Parking and driving on public park, public lawn or verge

- (1) A person must not park or drive a motor vehicle on a public park, a public lawn or the verge of a road unless:
 - (a) the motor vehicle is an emergency vehicle or service vehicle;
or
 - (b) it is parked or driven in accordance with an authorisation; or

- (c) it is parked or driven on a cross-over constructed in accordance with by-law 87; or
 - (d) the motor vehicle is in an allocated parking area.
- (2) A person must not park a motor vehicle on a cross-over or in a manner that blocks a driveway unless:
- (a) the motor vehicle is an emergency vehicle or service vehicle; or
 - (b) the motor vehicle is parked in accordance with an authorisation; or
 - (c) the motor vehicle is parked for the least time necessary to gain access to premises served by the cross-over or driveway.
- (3) A person commits an offence if the person parks or drives a motor vehicle contrary to clause (1) or (2).

Maximum penalty: 50 penalty units.

Note for clause (3)

The infringement amount is 2 penalty units.

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

Division 3 Protecting public land

87 Constructing cross-overs

- (1) An owner or occupier of premises adjoining public land may apply for an authorisation to construct the following:
- (a) a cross-over across a footpath, a verge or other public land to connect a driveway on the premises to a road or other public land;
 - (b) a cross-over for pedestrians or vehicles to travel between the premises and the public land.

Note for clause (1)

The requirements in this Division are in addition to any other legal requirements that apply to construction in Darwin, for example development permits and planning standards.

- (2) After the owner or occupier obtains the authorisation referred to in clause (1), the person intending to construct a cross-over must obtain a separate authorisation (**works permit**) to carry out the construction of the cross-over.

- (3) A person commits an offence if the person constructs a cross-over referred to in clause (1) without:
- (a) the owner or occupier of premises holding an authorisation to construct the cross-over; and
 - (b) the person holding, or being employed by a person holding, the works permit to carry out the construction of the cross-over.

Maximum penalty: 50 penalty units.

Note for clause (3)

The infringement amount is 3 penalty units.

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

88 Road work

- (1) A person must not perform any of the following work without an authorisation:
- (a) depositing any material, or erecting any structure, on a road;
 - (b) opening or breaking up the surface of a road.
- (2) A person who performs work specified in clause (1)(a) or (b) must prevent harm or inconvenience to the public from the work and materials used for the work by:
- (a) managing any affected traffic appropriately; and
 - (b) operating safety lights around the work and materials between sunset and sunrise or when visibility is otherwise reduced; and
 - (c) installing appropriate fencing and enclosures around the work and materials.

Note for clause (2)

The safety measures required by this by-law must be taken whether or not the work is authorised by the City.

- (3) The CEO may give the person performing the work directions regarding compliance with the safety measures required by this by-law.
- (4) The cost of the safety measures must be paid by the person who performs the work.

- (5) A person commits an offence if the person fails to comply with clause (2).

Maximum penalty: 100 penalty units.

Note for clause (5)

The infringement amount is 4 penalty units.

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

89 Prohibited excavations on adjoining land

- (1) A person must not, without an authorisation, excavate land adjoining public land.

- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

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

90 Enclosing land to prevent risk of escaping soil

- (1) The CEO may, by written notice, require the owner or occupier of land to cause the land to be enclosed if:

- (a) the land adjoins a road, footpath or other public land; and
- (b) the land is not enclosed in a manner that prevents soil, sand or other material from being carried on to the road, footpath or other public land.

- (2) The owner or occupier of land who receives a notice under clause (1) must cause the land to be enclosed in accordance with the notice at the owner or occupier's own cost.

- (3) A person commits an offence if the person fails to comply with clause (2).

Maximum penalty: 50 penalty units.

Note for clause (3)

The infringement amount is 2 penalty units.

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

91 Limits on barbed wire fence

- (1) The owner or occupier of land must not, without an authorisation, erect or maintain a fence of barbed wire or similar material if:
- (a) the fence is on the boundary of the land or within 0.66 m of a road or public land; or
 - (b) the barbed wire or similar material is at a height lower than 1.8 m above the ground.
- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

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

92 Damage to footpath, road or public land

- (1) A person must not, without an authorisation, cause damage to a footpath, road or other public land.

Examples for clause (1)

1 *Removing a road kerb.*

2 *Digging up public land.*

3 *Spilling wet concrete, motor oil or hydraulic fluid on a road.*

4 *Driving heavy vehicles over public land.*

- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

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

93 Structures on footpath, road or public land

- (1) A person must not, without an authorisation, erect or install a structure or other thing, whether permanent or temporary, on a footpath, road or other public land.

Examples for clause (1)

- 1 *Laying a pipe, cable or conduit on public land.*
- 2 *Erecting a post, a barrier, furniture or a stall on public land.*

- (2) A person must not, without an authorisation, remove or displace a barrier, railing, post, seat or other structure on public land.
- (3) A person commits an offence if the person fails to comply with clause (1) or (2).

Maximum penalty: 50 penalty units.

Note for clause (3)

The infringement amount is 2 penalty units.

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

94 Street numbering

- (1) The City may provide, affix or replace a number on premises adjoining a road in accordance with any plan or system established by the City for the numbering of premises or land adjacent to a road.
- (2) The CEO may, by written notice, require the owner or occupier of premises to affix or replace the number on premises within the time specified in the notice.

Division 4 Activities on public land

95 Busking and other activities on public land

- (1) A person may apply for an authorisation to engage in the following activities on public land:
- (a) busking, performing or offering entertainment to the public;
 - (b) painting or drawing portraits for a fee or donation;
 - (c) taking photographs, making a film or recording audio or video for commercial or corporate purposes;
 - (d) fundraising;

- (e) preaching or proselytising for religious, political or ideological purposes;
- (f) activities related to community or pastoral care.

Examples for clause (1)

- 1 *Singing or playing guitar for donations in the Smith Street Mall.*
- 2 *Setting up an easel to paint or draw the faces of tourists.*
- 3 *Filming a movie or video on location in Darwin.*
- 4 *Street fundraising also known as "charity mugging".*
- 5 *Soup kitchens or portable laundry services.*

- (2) A person must not, without an authorisation, engage in the activities referred to in clause (1)(a) to (f).
- (3) A person commits an offence if the person fails to comply with clause (2).

Maximum penalty: 20 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

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

Note for by-law 95

The Trespass Act 2023 provides a legal process to remove people from land and to ban them from returning.

96 Goods or equipment on public land

- (1) A person must not, without an authorisation, place goods or equipment in, on or over public land, or outside premises adjoining public land.

Examples for clause (1)

A works permit is needed to place construction equipment, building materials or a skip for construction waste on public land.

- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 20 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

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

(4) The following circumstances are not relevant to an offence against clause (2):

- (a) whether the goods or equipment cause an obstruction;
- (b) whether the goods or equipment are for sale.

97 Abandoned goods

(1) An authorised person may seize any goods abandoned on public land.

(2) The goods of people experiencing homelessness or people sleeping rough must be respected as not abandoned, but may be considered abandoned if left unattended for more than 24 hours.

Note for by-law 97

Seized goods may be sold or otherwise disposed of under by-law 157.

98 Defacing property

(1) A person must not, without an authorisation, affix a handbill to:

- (a) a power pole, signpost or fixture in a street; or
- (b) a structure on land adjoining public land; or
- (c) a vehicle on public land.

(2) A person who affixes a handbill under an authorisation must:

- (a) ensure that the handbill is preserved in a clean and tidy condition; and
- (b) remove the handbill after the information it contains expires or is no longer relevant; and
- (c) properly dispose of any waste arising from the handbill.

Example for clause (2)(b)

Take down a concert handbill after the concert is over.

(3) An authorised person may, by written notice, require the following persons to remove or remediate any handbill that is dirty, untidy, worn, torn or detached:

- (a) any person who was issued the authorisation to post the handbill;
- (b) the owner or occupier of the land where the handbill is posted;

- (c) the person who sponsored or is responsible for the handbill.
- (4) A person who receives a notice under clause (3) must comply with the notice.
- (5) A person commits an offence if the person fails to comply with clause (1), (2) or (4).

Maximum penalty: 20 penalty units.

Note for clause (5)

The infringement amount is 1 penalty unit.

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

99 Other prohibited activities on public land

- (1) A person must not, without an authorisation, discharge a substance into the air over public land that may cause harm or annoyance to another person.

Examples for clause (1)

Moisture from an air conditioner, kitchen fumes, smoke, vapour, dust or other waste products.

- (2) A person must not, without an authorisation, climb, walk or remain on a roof, covering or canopy erected over a road or pedestrian mall.
- (3) A person commits an offence if the person fails to comply with clause (1) or (2).

Maximum penalty: 20 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

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

100 Camping or setting up camp on public land

- (1) A person must not camp or set up camp on public land, without an authorisation or the consent of the owner or occupier of the public land.
- (2) For this by-law, the following activities are taken to be camping or setting up camp:
 - (a) occupying, between sunset and sunrise, a vehicle used for sleeping;

- (b) erecting a tent or other shelter used for camping;
 - (c) setting up bedding, camping gear or other equipment used for camping.
- (3) A person commits an offence if:
- (a) the person camps or sets up camp on public land; and
 - (b) the person does not have an authorisation or the consent of the owner or occupier of the public land.

Maximum penalty: 20 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

- (4) An offence against clause (3) is an offence of strict liability.
- (5) An authorised person may direct a person who fails to comply with clause (1) to do any of the following:
- (a) leave the public land;
 - (b) remove any vehicle, tent, shelter, gear or equipment to a place specified by the authorised person.
- (6) A person commits an offence if the person fails to comply with a direction given under clause (5).

Maximum penalty: 20 penalty units.

Note for clause (6)

The infringement amount is 1 penalty unit.

- (7) An offence against clause (6) is an offence of strict liability.

101 Obstruct or hinder use of public facilities

- (1) A person must not obstruct or hinder another person from using a public facility.

Examples of public facilities for clause (1)

A footpath, walkway, public shelter, play or exercise structure, public toilet, drinking fountain, water supply, barbecue or fireplace on public land.

- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 50 penalty units.

Note for clause (2)

The infringement amount is 2 penalty units.

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

Division 5 Control of vegetation

102 Prohibitions relating to vegetation

- (1) A person must not remove or damage vegetation on City property or public land unless:
- (a) the vegetation is being trimmed in accordance with by-law 103; or
 - (b) the person has an authorisation for the conduct.

Examples for clause (1)

- 1 *Driving a vehicle on park land.*
- 2 *Cutting a tree on City property.*
- 3 *Digging up a flowerbed on City property.*
- 4 *Plucking, cutting or taking from a public flowerbed.*

- (2) A person must not, without an authorisation, plant vegetation on City property or public land.
- (3) A person commits an offence if the person fails to comply with clause (1) or (2).

Maximum penalty: 50 penalty units.

Note for clause (3)

The infringement amount is 2 penalty units.

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

103 Trimming vegetation

- (1) The owner or occupier of land adjoining a footpath, verge or road must trim or otherwise maintain vegetation on the land to prevent the vegetation:
- (a) obstructing or damaging the footpath, verge or road; or

(b) becoming a hazard to persons or property.

Examples for clause (1)

- 1 *Trimming a tree or shrub that blocks a footpath.*
- 2 *Mowing grass to prevent infestation by snakes or vermin.*

(2) The CEO may, by written notice, require an owner or occupier of land to trim or otherwise maintain vegetation on the land if the CEO considers that it is:

- (a) obstructing or damaging a footpath, verge or road; or
- (b) becoming a hazard to persons or property.

(3) The owner or occupier of land who receives a notice under clause (2) must trim or otherwise maintain the vegetation in accordance with the notice.

(4) A person commits an offence if the person fails to comply with clause (1) or (3).

Maximum penalty: 50 penalty units.

Note for clause (4)

The infringement amount is 2 penalty units.

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

Division 6 Public swimming

104 City's public swimming facilities

- (1) The conditions of use for a public swimming facility provided by the City must be published.
- (2) A notice setting out the main conditions for using a public swimming facility must be clearly exhibited in a conspicuous place at the facility.
- (3) A person using a public swimming facility provided by the City must comply with the conditions for using the facility.
- (4) The operator of the public swimming facility or an authorised person may require a person who fails to comply with the conditions for using the facility to leave the facility.
- (5) A person required to leave a public swimming facility under clause (4) must leave the facility immediately.

105 Swimming in Lake Alexander

- (1) A person must not foul or pollute:
 - (a) the waters of Lake Alexander; or
 - (b) a public dressing room, toilet or shower provided for people swimming in Lake Alexander.
- (2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 20 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

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

Division 7 Selling goods and services

106 Selling food and beverages on public land

- (1) A person may apply for an authorisation to sell food and beverages to the public on public land.
- (2) A person must not, without an authorisation, sell food or beverages to the public on public land.
- (3) A person commits an offence if the person fails to comply with clause (2).

Maximum penalty: 20 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

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

107 City markets

Nothing in these By-laws prevents the City from establishing and managing its own markets and issuing stallholder permits for that purpose.

108 Market licence

- (1) A body corporate may apply for a market licence if it:
 - (a) is in good standing; and

- (b) is incorporated under a law of the Territory or operates from premises in the Territory; and
 - (c) is established for the purpose of managing a market.
- (2) Subject to by-law 107, a person must not, without a market licence, establish or manage a market in Darwin.
- (3) A market must be operated only during the days and times determined by the City, by resolution.
- (4) The holder of a market licence may issue stallholder permits for stallholders to conduct business within the market.
- (5) A person commits an offence if the person:
- (a) establishes or manages a market in Darwin; and
 - (b) does not hold a market licence for that purpose.

Maximum penalty: 50 penalty units.

Note for clause (5)

The infringement amount is 2 penalty units.

- (6) A person commits an offence if the person:
- (a) holds a market licence; and
 - (b) fails to comply with the days and times determined by the City for the market.

Maximum penalty: 25 penalty units.

Note for clause (6)

The infringement amount is 1 penalty unit.

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

109 CEO directions

- (1) To protect the unique character and role of markets in Darwin, the CEO may give reasonable written directions regarding the following to a stallholder association and stallholders:
- (a) the character of the market and the nature of the goods and services offered at the market;
 - (b) the location of stalls in the market and the flow of pedestrian and vehicular traffic at the market;

- (c) the environmental impact of the market;
 - (d) the health and safety of persons at, or in the vicinity of, the market.
- (2) A stallholder association and each stallholder in a market must comply with the directions given under clause (1).
- (3) A person commits an offence if the person:
- (a) holds a market licence or a stallholder permit; and
 - (b) fails to comply with the reasonable written directions referred to in clause (1).

Maximum penalty: 25 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

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

110 Stallholder permits

- (1) A stallholder permit must specify the following:
- (a) the type of goods or services that the stallholder is allowed to sell at the market;
 - (b) the location of the stall from which the goods or services may be sold at the market;
 - (c) the term of the permit;
 - (d) any other conditions the City determines or the stallholder association requires.
- (2) A person must not, without a stallholder permit, sell goods or services or otherwise conduct business within a market.
- (3) A person commits an offence if the person sells goods or services or otherwise conducts business without a stallholder permit within a market.

Maximum penalty: 20 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

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

111 Obligations of stallholders

- (1) A stallholder must:
 - (a) comply with the conditions of the stallholder permit; and
 - (b) comply with the reasonable directions of an authorised person concerning the location and siting of the stall; and
 - (c) maintain the stall in good order and condition to the satisfaction of an authorised person; and
 - (d) keep the site of the stall clean and free from waste and recycling materials; and
 - (e) not use or keep on the site of the stall:
 - (i) any helium balloons; or
 - (ii) any single use plastic bags, straws, utensils or containers; and
 - (f) display the stallholder's name legibly and conspicuously on the stall.
- (2) A stallholder must not do any of the following:
 - (a) sell goods or services or otherwise conduct business at the market contrary to the days and times determined by the City for the market;
 - (b) call out their goods or services, make a noise or cause a disturbance that is likely to be a nuisance or to annoy persons in the vicinity of their stall;
 - (c) deposit or store packaging materials or goods at the market outside the stall;
 - (d) obstruct the passage of pedestrians, disabled persons or vehicles at the market;
 - (e) act in a manner offensive to a person in the vicinity of the stall.
- (3) A person commits an offence if the person:
 - (a) is a stallholder; and

(b) fails to comply with clause (1) or (2).

Maximum penalty: 20 penalty units.

Note for clause (3)

The infringement amount is 1 penalty unit.

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

112 Selling vehicles and boats on public land

(1) A person must not, without an authorisation, display or expose for sale any vehicle or boat in, on or over public land or outside any premises adjoining public land.

(2) A person commits an offence if the person fails to comply with clause (1).

Maximum penalty: 20 penalty units.

Note for clause (2)

The infringement amount is 1 penalty unit.

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

Part 7 Public libraries

Division 1 Purpose of Part

113 Purpose

The purpose of this Part is to provide for a public library system that provides:

- (a) free public access to books, reading, visual materials, internet resources and other information; and
- (b) places and activities for community learning; and
- (c) other services related to public libraries.

Division 2 Operation of public libraries

114 Public library system

(1) The City must establish a public library system and determine the services provided by the system 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 each public library.

115 Registration of borrowers

- (1) A library officer may register persons as borrowers of library material according to the classes of borrowers and borrowing privileges determined by the City.

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 a library officer 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 a library, any library material designated by a library officer 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 City.
- (4) Library material may be borrowed from a public library for such period of time as a library officer determines.

117 Identification of registered borrowers

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

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 a library officer is notified of the loss of the identification.

119 Notifications by borrower

A registered borrower must notify a library officer 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 a library officer.
- (2) A library officer 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) A library officer 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) A library officer may refuse to lend library materials to a person who fails to return library materials on time.

122 Lost or damaged library materials

- (1) A library officer 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 City, 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.

Note for clause (4)

The infringement amount is 1 penalty unit.

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

Division 3 Conduct in public library

123 Code of conduct

- (1) The City may establish a code of conduct for persons using or present in public libraries.
- (2) Any code of conduct established by the City must be published and clearly exhibited in a conspicuous place in each public library.
- (3) A person who is using a public library or present in a public 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.

Note for clause (4)

The infringement amount is 1 penalty unit.

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

124 Bringing things into public library

- (1) A person must not bring an animal into a public library other than:
- (a) an assistance animal; 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 a public 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 a library officer.
- (3) Property left or abandoned in a public library may be disposed of in the same manner as seized goods under by-law 157.

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 a public library;
 - (b) disturbing, interrupting or annoying another person in a public library;
 - (c) behaving in a disorderly manner or using violent, abusive or offensive language in a public library;
 - (d) entering or remaining in a public 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.

Note for clause (2)

The infringement amount is 1 penalty unit.

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

126 Children

A child under 10 years of age may enter a public 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 officer, is capable of supervising the child while the child is in the library.

127 Banning persons

- (1) A library officer may, by written notice, ban a person from entering a public library if the person fails to comply with this Part.
- (2) A person who receives a notice under clause (1) must not enter a public 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.

Note for clause (3)

The infringement amount is 1 penalty unit.

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

128 Powers of library officers

- (1) A library officer may give the directions and take reasonable action to ensure order in a public library and compliance with this Part.
- (2) An authorised person may remove or exclude a person from a public library to ensure order in a public library and compliance with this Part.

Part 8 Outdoor advertising

Division 1 Purpose and application of Part

129 Purpose

The purpose of this Part is to:

- (a) protect Darwin from outdoor advertising that detracts from it being an attractive place for both residents and visitors; and

- (b) ensure that outdoor advertising:
 - (i) is compatible with the design and character of the premises, streetscape and locality in which it is located; and
 - (ii) does not cause a loss of amenity or adversely affect the natural or built environment; and
 - (iii) does not adversely affect the safety of the public, including the safety or efficiency of a road or footpath; and
 - (iv) does not cause visual clutter and disorder by the proliferation of signs in any one location and by one sign obscuring another; and
 - (v) does not offend the public because of its design, location or content.

130 Application to outdoor advertising

This Part applies in relation to outdoor advertising only on public land or on premises adjoining or in view of public land.

Division 2 General matters

131 Outdoor advertising code

- (1) The City must establish an outdoor advertising code prohibiting and regulating outdoor advertising on the following:
 - (a) land owned, occupied or under the control of the City;
 - (b) premises adjoining, or visible from, land owned, occupied or under the control of the City.
- (2) The outdoor advertising code may:
 - (a) define expressions used in this Part and not defined in these By-laws; and
 - (b) classify advertising and the criteria or conditions applicable to each class; and
 - (c) create exemptions from the requirement for an outdoor advertising permit; and
 - (d) provide for matters necessary or convenient for the purposes of this Part.

- (3) An outdoor advertising code must be published.

132 General standards for advertising signs

A person installing or exhibiting outdoor advertising must ensure that it:

- (a) complies with the outdoor advertising code; and
- (b) does not detract from the quality and architectural character of the premises on which the advertising is installed or exhibited; and
- (c) has no negative effect on the environmental character and amenity of the surrounding area; and
- (d) is in good repair and poses no risk to the health and safety of the public.

Examples for by-law 132

- 1 *Advertising must not obstruct, or cause distraction to, vehicular and pedestrian traffic.*
- 2 *A sign must be built to withstand high winds.*

Division 3 Outdoor advertising permits

133 Unauthorised outdoor advertising

- (1) A person must not install or exhibit outdoor advertising unless:
- (a) the person holds an outdoor advertising permit for that purpose; or
 - (b) the outdoor advertising code exempts the advertising from the requirement to hold an outdoor advertising permit; or
 - (c) the outdoor advertising is election signage placed on private property or on the verge of a road in accordance with conditions determined by the City, by resolution.
- (2) A person must not change outdoor advertising unless:
- (a) the change is allowed under the outdoor advertising code without an outdoor advertising permit; or
 - (b) the change is authorised by an outdoor advertising permit.

- (3) For these By-laws, the following are taken to be changes in advertising:
- (a) changing the dimensions, material, colour or appearance of the advertising;
 - (b) changing the content of the advertising;
 - (c) altering the construction of, or method of exhibiting, the advertising;
 - (d) changing the location of the advertising;
 - (e) altering the direction from which the advertising is visible.
- (4) Nothing in this Part prevents the City from exhibiting outdoor advertising without an outdoor advertising permit.

134 Offence for unauthorised outdoor advertising

- (1) A person commits an offence if:
- (a) the person installs, exhibits or changes outdoor advertising; and
 - (b) the advertising is on public land or on premises adjoining or visible from public land; and
 - (c) an outdoor advertising permit is required for the advertising or the change in advertising under the outdoor advertising code; and
 - (d) the person does not have an outdoor advertising permit authorising the advertising or the change in advertising.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 2 penalty units.

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

135 Interfering with City advertising

- (1) A person commits an offence if the person removes, changes, defaces or otherwise interferes with any outdoor advertising installed or exhibited by the City.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 2 penalty units.

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

136 Transfer of outdoor advertising permit

- (1) A person may apply for the transfer of an outdoor advertising permit.

Example for clause (1)

The outdoor advertising is on premises that are being sold or transferred.

- (2) An outdoor advertising permit must not be transferred if the outdoor advertising authorised under the permit:

- (a) was exhibited contrary to the outdoor advertising permit before the transfer; or
- (b) was changed contrary to these By-laws before the transfer.

137 Revoking outdoor advertising permit

- (1) The grounds for revoking an outdoor advertising permit under by-law 25 are as follows:

- (a) the holder of the outdoor advertising permit fails to comply with this Part, the outdoor advertising code or a condition of the permit;
- (b) the character of the area in which, or in view of which, the outdoor advertising is exhibited changes and the outdoor advertising is no longer consistent with that character;
- (c) the outdoor advertising, either alone or in conjunction with other outdoor advertising, adversely affects the character of the public land on which, or in view of which, the outdoor advertising is exhibited.

Example for clause (1)(b)

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

- (2) The CEO may revoke the outdoor advertising permit in conjunction with the making of a regulatory order under section 283 of the Act.

Note for clause (2)

A regulatory order may be made under section 283 of the Act for visual pollution.

Part 9 Compliance and enforcement

Division 1 Purpose of Part

138 Purpose

The purpose of this Part is to provide the City with the means to ensure compliance with, and enforcement of, these By-laws.

Division 2 General offences

139 Offence for conduct without authorisation

- (1) A person commits an offence if:
- (a) the person engages in conduct in circumstances that require an authorisation; and
 - (b) the conduct does not otherwise constitute an offence against these By-laws; and
 - (c) the person has no authorisation for that conduct in those circumstances.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 2 penalty units.

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

140 Failure to comply with condition of authorisation

- (1) A person commits an offence if:
- (a) the person holds an authorisation that is subject to a condition; and
 - (b) the person fails to comply with the condition; and

- (c) the non-compliance does not otherwise constitute an offence against these By-laws.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 2 penalty units.

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

141 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.

Division 3 Enforcement notice

142 Issuing enforcement notice

The CEO may issue an enforcement notice to any person the CEO believes on reasonable grounds has contravened, is contravening or is likely to contravene a provision of these By-laws.

143 Show cause process

- (1) Before issuing an enforcement notice, the CEO must give a written show cause notice to the proposed recipient of the enforcement notice:
- (a) stating the CEO's intention to issue an enforcement notice; and
 - (b) giving the recipient an opportunity to show cause why the enforcement notice should not be issued.
- (2) The show cause notice must specify the date by which the recipient must show cause.
- (3) The date specified in the show cause notice must be not less than 14 days after the date of the notice.
- (4) The CEO must consider any response given by the recipient to the show cause notice, within the time specified in the notice, before issuing an enforcement notice under by-law 142.

144 Exception to show cause process

- (1) Despite by-law 143, the CEO may issue an enforcement notice without first giving a show cause notice under that by-law if the CEO believes on reasonable grounds that it is necessary to prevent an immediate risk of harm to a person or property.
- (2) Without limiting clause (1), the grounds for not first giving a show cause notice include preventing the following:
 - (a) the demolition of a building;
 - (b) an irreversible change to a cultural or heritage site or the landscape;
 - (c) the risk of material environmental harm;
 - (d) the risk of significant adverse effect on amenity, public safety or public health.

145 Contents of enforcement notice

- (1) An enforcement notice must be in writing and specify the following:
 - (a) the name and address of the person to whom it is issued, if known;
 - (b) the provision that the CEO believes was, is being or is likely to be contravened by the person and the grounds for that belief;
 - (c) the action or activity that the person is required to take, or refrain from taking, to remedy the contravention and to comply with the provision;
 - (d) the dates or times associated with any requirement in the notice including:
 - (i) any dates or times for inspection to confirm compliance with the enforcement notice; and
 - (ii) any grace period that may be allowed after the inspection to fully comply with the enforcement notice;
 - (e) the person's right to apply for review of the notice under Part 18.1 of the Act.

- (2) An enforcement notice may impose any requirement reasonably required to remedy or prevent the contravention, including one or more of the following:
 - (a) a requirement that the person cease, or not commence, a specified activity;
 - (b) a requirement that the person not undertake or continue a specified activity except at specified times or subject to specified conditions;
 - (c) a requirement that the person undertake a specified activity within a specified period or at specified times or in specified circumstances;
 - (d) any other requirement determined by the City, by resolution.
- (3) An enforcement notice is binding on each person to whom it is issued.
- (4) An application for review of the enforcement notice under Part 18.1 of the Act does not stay the operation of the notice.

146 Failure to comply with enforcement notice

- (1) A person commits an offence if:
 - (a) the person is issued with an enforcement notice; and
 - (b) the person does not comply with the enforcement notice.

Maximum penalty: 50 penalty units.

Note for clause (1)

The infringement amount is 2 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 took all reasonable steps and exercised due diligence to comply with the enforcement notice.

Note for clause (3)

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

- (4) If a person fails to comply with an enforcement notice, a person authorised by the City may, after reasonable notice to the owner or occupier of any land that is subject to the notice, enter the land and carry out all or part of the work, or take other action, required under the notice.

147 Variation or revocation of enforcement notice

The CEO may vary or revoke an enforcement notice by written notice served on each person bound by the enforcement notice.

148 Cost recovery

Any costs properly and reasonably incurred by the City under these By-laws are recoverable as unpaid rates or as a debt due and payable to the City.

Example for by-law 148

The cost of removing rubbish or discarded goods.

Division 4 Infringement notice offences

149 Infringement notice offence and infringement amount payable

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

150 When infringement notice may be given

An authorised person may give an ***infringement notice*** to a person if the authorised person believes on reasonable grounds that the person committed an infringement offence.

151 Contents of infringement notice

- (1) The infringement notice must specify the following:
- (a) the name and address of the person to whom it is 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 infringement amount payable for the offence;
 - (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act 2001*, to which the infringement 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 infringement amount to the specified enforcement agency within 14 days after the notice is given;
 - (b) the person may elect to have the matter 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 infringement amount;
 - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act 2001*.
- (3) The infringement notice must include an appropriate form for making the statement of election referred to in clause (2)(b)(i).

152 Effective date of payment methods

- (1) Payment of the infringement amount by electronic means takes effect when the amount is credited to the payee's bank account.
- (2) Payment of the infringement amount by cheque takes effect when the cheque is cleared on first presentation.

153 Expiation of offence

If the infringement 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.

154 Withdrawal of infringement notice

- (1) An authorised person may withdraw an infringement notice by written notice given to the person.

- (2) The notice must be given:
 - (a) within 14 days after the day the infringement notice is given to the person; and
 - (b) before payment of the infringement amount.

155 Effect of this Division

- (1) This Division does not:
 - (a) prejudice or affect the start or continuation of a proceeding for an infringement offence unless the offence is expiated; or
 - (b) limit the penalty that may be imposed by a court for the offence; or
 - (c) prevent more than one infringement notice for the same infringement offence being given to a person; or
 - (d) require an infringement notice to be given for an infringement offence; or
 - (e) affect the liability of a person to be prosecuted in a court for an infringement notice offence for which an infringement notice was not given.
- (2) If more than one infringement notice for the same offence is given to a person, the person may expiate the offence by paying the infringement amount in accordance with any of the notices.

Division 5 Other powers

156 Powers of authorised persons and employees

- (1) Subject to clause (2), an authorised person may exercise any reasonable power necessary or required to give effect to these By-laws.
- (2) An authorised person must act in accordance with any conditions imposed on the person by the City, by resolution.
- (3) An authorised person or employee of the City acting in accordance with their duties is exempt from the requirement of an authorisation for that activity.

Example for clause (3)

An employee does not need an authorisation to set-up structures on public land.

157 Sale and disposal of seized goods

- (1) Within 14 days after the day the goods are seized under these By-laws, an authorised person must take reasonable steps to give a written notice of the seizure to the owner of the goods.
- (2) The notice must include the following information:
 - (a) a description of the goods;
 - (b) the reason for seizing the goods;
 - (c) details of how the goods may be recovered, including any fee for recovery;
 - (d) a warning that the goods may be disposed of if the person fails to recover the goods within 14 days of receiving the notice.
- (3) If the owner cannot be found or the owner's name cannot be ascertained, an authorised person must certify to the CEO the reason for failure to serve the notice.
- (4) The CEO may publish notice of the seizure if the goods are of sufficient value to justify the publication.
- (5) The City may sell or dispose of the goods if the owner does not claim the goods and pay the expenses relating to their seizure and custody within 28 days of the later of the following:
 - (a) the day of service of a notice under clause (1);
 - (b) the first day of publication under clause (4).
- (6) Any proceeds from the sale of the goods must be applied in the following priority:
 - (a) the City's costs incurred by the City in the sale;
 - (b) the City's reasonable costs of seizure and custody before sale or disposal;
 - (c) any balance owing to the owner.
- (7) Any balance owing to the owner must be:
 - (a) paid to the owner as soon as practicable; or
 - (b) if unclaimed by the owner within 6 months after the day the goods were seized – paid into the City's general fund.

- (8) Despite clauses (1) to (5), seized goods may be destroyed or disposed of immediately if perishable, soiled, infested or otherwise hazardous or unusable.

Part 10 Repeal and transitional matters for City of Darwin By-laws 2023

Division 1 Repeals

158 By-laws repealed

The By-laws specified in Schedule 1 are repealed.

Division 2 Transitional matters for City of Darwin By-laws 2023

159 Definitions

In this Division:

commencement means the commencement of by-law 158.

former By-laws means the *Darwin City Council By-laws 1994* as in force immediately before the commencement.

160 Former determinations

A charge, due, fare, fee or rent determined under the former By-laws and in force immediately before the commencement continues on the commencement as if it were determined under these By-laws.

161 Former authorisations

- (1) A licence, permit, registration or other authorisation issued, granted or renewed under the former By-laws and in force immediately before the commencement continues on the commencement as if it were issued, granted or renewed under these By-laws.
- (2) Any direction given by the CEO to a stallholder association or stallholder, regarding the sale of food and beverages to the public on public land, in force immediately before the commencement continues on the commencement as if it were a direction under by-law 109.

162 Provisions related to dogs

- (1) A dog exercise area declared under the former By-laws and in force immediately before the commencement continues on the commencement as if it were declared under by-law 50.
- (2) A dog restriction area declared under the former By-laws and in force immediately before the commencement continues on the commencement as if were declared under by-law 51.
- (3) A declaration made under the former By-laws of a dog as a Declared Dog (either Category 1 or Category 2) and in force immediately before the commencement continues on the commencement as if were the declaration of a dangerous dog under by-law 60.

163 Former licensed premises

Premises licensed for multiple dogs under the former By-laws and in effect immediately before the commencement continue on the commencement as if authorised under by-law 49.

164 Pounds

A pound established under the former By-laws and existing immediately before the commencement continues on the commencement as if established under these By-laws.

165 Other facilities

Any facilities established under the former By-laws and existing immediately before the commencement continue on the commencement as if established under these By-laws.

Examples for by-law 165

A footpath, walkway, public shelter, play or exercise structure, public toilet, drinking fountain, water supply, barbecue or fireplace on public land.

166 Continuation of public library

- (1) A public library, and any branches of that library, administered by the City immediately before the commencement, continue as a part of the public library system on the commencement as if established under these By-laws.
- (2) The services provided by a public library, and any branches of that library, administered by the City immediately before the commencement, continue on the commencement as services provided by a public library system under these By-laws.

167 Registration of borrowers

- (1) A person registered as a resident borrower or a non-resident borrower under the former By-laws immediately before the commencement continues on the commencement to be registered as a borrower of library material under these By-laws.
- (2) A borrower's card issued under the former By-laws and existing immediately before the commencement continues on the commencement as library identification under these By-laws.

168 Offence provisions

- (1) The offence provisions, as in force immediately before the commencement, continue to apply in relation to offences committed before the commencement.
- (2) For this by-law, if any element of an offence occurred before the commencement, the offence is taken to have been committed before the commencement.
- (3) In this by-law:

offence provision means any provision that creates or relates to offences, including in relation to criminal responsibility, defences and penalties.

169 Outdoor advertising code

The *Darwin City Council Outdoor Advertising Signs Code*, approved by resolution of the City on 30 March 2004 and amended from time to time, continues on the commencement as if it were an outdoor advertising code established under by-law 131.

Schedule 1 Repealed By-laws

by-law 158

<i>Darwin City Council By-laws 1994</i>	<i>Subordinate Legislation No. 14 of 1994</i>
<i>Amendments of Darwin City Council By-laws</i>	<i>Subordinate Legislation No. 51 of 1996</i>
<i>Amendments of Darwin City Council By-laws</i>	<i>Subordinate Legislation No. 1 of 2000</i>
<i>Amendments of Darwin City Council By-laws</i>	<i>Subordinate Legislation No. 2 of 2000</i>
<i>Amendment of Darwin City Council By-laws</i>	<i>Subordinate Legislation No. 42 of 2000</i>
<i>Amendments of Darwin City Council By-laws</i>	<i>Subordinate Legislation No. 28 of 2002</i>
<i>Amendments of Darwin City Council By-laws</i>	<i>Subordinate Legislation No. 54 of 2002</i>
<i>Darwin City Council Amendment (Signs, Hoardings and Advertising) By-laws 2005</i>	<i>Subordinate Legislation No. 53 of 2005</i>
<i>Darwin City Council Amendment (Animal Management) By-laws 2007</i>	<i>Subordinate Legislation No. 44 of 2007</i>
<i>Darwin City Council (Fireworks) Amendment By-laws 2009</i>	<i>Subordinate Legislation No. 14 of 2009</i>
<i>Darwin Council Amendment By-laws 2020</i>	<i>Subordinate Legislation No. 21 of 2020</i>

Schedule 2 Infringement notice offences and infringement amounts

by-law 149

Provision	Infringement amount
by-law 29(2)	1 penalty unit
by-law 30(5)	1 penalty unit
by-law 31(3)	1 penalty unit
by-law 32(1) and (2)	1 penalty unit
by-law 33(1)	4 penalty units
by-law 34	1 penalty unit
by-law 35(2)	4 penalty units
by-law 36(1)	1 penalty unit
by-law 37(2)	2 penalty units
by-law 38(1)	1 penalty unit
by-law 39	1 penalty unit
by-law 42(1)	2 penalty units
by-law 44(1)	1 penalty unit
by-law 45(2)	1 penalty unit
by-law 46(3)	1 penalty unit
by-law 47(3)	2 penalty units
by-law 48(4)	1 penalty unit
by-law 49(4)	1 penalty unit
by-law 50(6)	1 penalty unit
by-law 54(1), (2), (3) and (4)	2 penalty units
by-law 55(3)	3 penalty units

by-law 56(2)	5 penalty units
by-law 57(2)	7 penalty units
	for aggravated offence 9 penalty units
by-law 59(2)	1 penalty unit
by-law 63(1)	9 penalty units
by-law 67(3)	2 penalty units
by-law 69(7)	3 penalty units
by-law 75(1)	2 penalty units
by-law 76	2 penalty units
by-law 77	2 penalty units
by-law 78(8)	3 penalty units
by-law 80(3)	1 penalty unit
by-law 81(4)	4 penalty units
by-law 82(2)	2 penalty units
by-law 83(2)	1 penalty unit
by-law 84(3)	1 penalty unit
by-law 86(3)	2 penalty units
by-law 87(3)	3 penalty units
by-law 88(5)	4 penalty units
by-law 89(2)	2 penalty units
by-law 90(3)	2 penalty units
by-law 91(2)	2 penalty units
by-law 92(2)	2 penalty units
by-law 93(3)	2 penalty units
by-law 95(3)	1 penalty unit
by-law 96(2)	1 penalty unit

by-law 98(5)	1 penalty unit
by-law 99(4)	1 penalty unit
by-law 100(3) and (5)	1 penalty unit
by-law 101(2)	2 penalty units
by-law 102(3)	2 penalty units
by-law 103(4)	2 penalty units
by-law 105(2)	1 penalty unit
by-law 106(3)	1 penalty unit
by-law 108(5)	2 penalty units
by-law 108(6)	1 penalty unit
by-law 109(3)	1 penalty unit
by-law 110(3)	1 penalty unit
by-law 111(3)	1 penalty unit
by-law 112(2)	1 penalty unit
by-law 122(4)	1 penalty unit
by-law 123(4)	1 penalty unit
by-law 125(2)	1 penalty unit
by-law 127(3)	1 penalty unit
by-law 134(1)	2 penalty units
by-law 135(1)	2 penalty units
by-law 139(1)	2 penalty units
by-law 140(1)	2 penalty units
by-law 146(1)	2 penalty units
