
***ALICE SPRINGS (MANAGEMENT OF PUBLIC
PLACES) BY-LAWS 2009***

Subordinate Legislation No. 18, 2010

MUNICIPALITY OF ALICE SPRINGS
ALICE SPRINGS (MANAGEMENT OF PUBLIC PLACES)
BY-LAWS

As in force at 1 February 2010

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ALICE SPRINGS (MANAGEMENT OF PUBLIC PLACES) BY-LAWS

By-laws under the *Local Government Act*

Part 1 Executive and administrative

1 Citation

These By-laws may be cited as the *Alice Springs (Management of Public Places) By-laws*.

2 Objectives

The objectives of these By-laws are to provide for:

- (a) the peace, order and good government of the municipality;
- (b) a safe and healthy environment so that the community within the municipality can enjoy a quality of life that meets its expectations;
- (c) the safe and fair use and enjoyment of public places;
- (d) the protection and enhancement of the amenity and environment of the municipality;
- (e) the fair and reasonable use and enjoyment of private land; and
- (f) the uniform and fair administration of these By-laws.

3 Enactment and commencement

- (1) These by-laws were made by special resolution of the Alice Springs Town Council on the 30th day of November 2009 pursuant to Part 13.1 of the *Local Government Act*.

- (2) These by-laws have force and effect from the 1st day of February 2010 or the date that they are notified in the Gazette whichever is later.
- (3) The *Alice Springs (Control of Public Places) By-laws* (Subordinate Legislation No. 41 of 1987) and the *Alice Springs (Todd Mall) By-laws* (Subordinate Legislation No. 1 of 1992) are repealed.

4 Application

These By-laws apply to all public places within the municipality.

5 Definitions

In these By-laws:

authorised person means either a person appointed by Council under Division 1 of Part 9.6 of the *Local Government Act* or a member of the Police Force;

bicycle includes a tricycle and any pedal-powered vehicle;

body means an association of members whether or not that association is incorporated;

driveway means a vehicle driveway connecting private premises to a road whether or not it passes over a footpath;

footpath means that part of a road in the municipality which has been made or set apart to be used otherwise than for the passage or accommodation of vehicles and includes walkways and bicycle paths;

goods includes food, beverages, wares, merchandise, paintings, artwork, raffle tickets, tokens, badges and shares;

graffiti means any drawing, figure, inscription, mark, message, slogan, symbol or object written, painted, drawn, etched, placed or otherwise made on the exterior of premises or urban infrastructure;

liquor has the same meaning as in the *Liquor Act*;

municipality means the municipality of Alice Springs;

park, garden or reserve means land, being a public place, which is vested in, leased or licensed to or under the care, control or management of Council and capable of being used as a park, garden recreation ground, oval, playing field or reserve;

premises includes land, buildings and fences;

permit means a permit granted under By-law 8(1);

private premises means any premises on land which is privately owned regardless of the purpose for which it is used;

public place includes Todd Mall, the Todd River and any place or road which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include the interior of buildings on private land from which trading is lawfully conducted;

Registrar means the person appointed under By-law 6(1);

Repealed By-laws mean the *Alice Springs (Control of Public Places) By-laws* (Subordinate Legislation No. 41 of 1987) and the *Alice Springs (Todd Mall) By-laws* (Subordinate Legislation No. 1 of 1992); and

sell, in relation to goods, means offering or exposing goods for sale, hire or barter;

Territory means the Northern Territory of Australia;

Todd Mall means the Todd Mall declared to be a pedestrian mall under section 25A of the *Control of Roads Act*; and

vehicle means a conveyance or carriage, whether or not capable of self-propulsion or registration under the *Motor Vehicles Act*, but does not include:

- (a) a bicycle; or
- (b) perambulator or a device designed principally for the carriage of a disabled person.

6 Registrar

- (1) Council must appoint an authorised person to be the Registrar for the purposes of these By-laws.
- (2) The Registrar may exercise and perform the powers and functions of Council under these By-laws other than the power to make a determination.
- (3) A power or function exercised or performed by the Registrar under clause (1) is deemed to have been exercised or performed by Council.
- (4) The exercise or performance of a power or function by the Registrar under clause (1) does not prevent the exercise or performance of a power or function by Council.

7 Determinations by Council

- (1) To facilitate the administration of these By-laws, Council may make determinations from time to time.
- (2) A determination may only be made by resolution of Council.

- (3) A determination has force and effect after notice of the passing of the resolution has been published in a newspaper circulating in the municipality.
- (4) A determination continues to have force and effect until the determination is varied or revoked by a subsequent determination.
- (5) Council may make a determination in respect of the following matters:
 - (a) the type and class of permits that may be issued under these By-laws;
 - (b) the fee for issue of a type or class of permit under these By-laws;
 - (c) the dispensation of a person or class of persons with compliance with any requirements under these By-laws or any part of them;
 - (d) goods or things determined under By-law 20(i);
 - (e) the maximum weight of a loaded vehicle or the type of vehicle under By-law 30(1);
 - (f) a day on which members of the public may discharge fireworks within the municipality under By-law 34(2);
 - (g) a vehicle pound under By-law 57; and
 - (h) a release fee under By-law 61.

8 Permits

- (1) A permit may be granted by Council to a person on the

application of that person for an activity in a public place that would otherwise be unlawful under these By-laws.

- (2) An application under clause (1) must be in the approved form accompanied by the determined fee and such other information as Council considers relevant and requires to be produced.
- (3) On receipt of an application Council may grant or refuse to grant the permit.
- (4) A permit shall be in such form as the council may approve from time to time and valid for the period and subject to such conditions as the Council deems fit and endorses on the permit.
- (5) A permit may at any time be revoked by Council as it deems fit.
- (6) A permit may not be transferred by the permit holder to another.
- (7) A permit granted under either of the Repealed By-laws and being in force immediately before the commencement of these By-laws continues in force according to its conditions.

9 Register

The Registrar must cause to be kept a register of determinations, dispensations and permits made or granted under these By-laws current at any time for the immediately preceding two years.

Part 2 Activities requiring permit

Part 2.1 Vehicles

10 Definitions

In this Part 2.1:

, **emergency vehicle** means a vehicle under the control of:

- (a) a member of the Police Force;
- (b) an employee or volunteer of a fire brigade;
- (c) an officer of an ambulance brigade; or
- (d) a person whose use of the vehicle is authorised by an officer of the Northern Territory Emergency Service, and who is using it in the course of his or her duty; and

service vehicle means:

- (a) a vehicle under the control of an officer of, and used for the purposes of:
 - (i) Council;
 - (ii) a department whose responsibilities for the time being include highways, the construction and maintenance of government works, or planning and urban development;
 - (iii) a body established by a law of the Northern Territory of Australia whose responsibilities include the supply of electricity or the making available of sewerage services or water supply services within the Territory; or

- (iv) a body established by a law of the Commonwealth of Australia having responsibility to plan, establish, maintain or operate telecommunications services within Australia; or
- (b) used under arrangements for the regular removal of garbage.

11 Requirement for permit

- (1) A person must not, without a permit, ride, drive or propel a vehicle onto or within or cause it to stand within:
 - (a) Todd Mall; or
 - (b) any park, garden or reserve.
- (2) Clause (1) does not apply where the vehicle is an emergency or service vehicle.
- (3) Clause (1)(a) does not apply where the vehicle is a:
 - (i) vehicle engaged in the delivery of goods and used in Todd Mall for that purpose with the permission of an authorised person; or
 - (ii) vehicle the presence of which in Todd Mall has been allowed by an authorised person as appearing to that person to be warranted by special circumstances.
- (4) A person who contravenes clause (1) is guilty of an offence.

12 Speed limit

- (1) A person must not ride, drive or propel a vehicle within Todd Mall or any park, garden or reserve at a speed exceeding 5 kilometres per hour.

- (2) A person who contravenes clause (1) is guilty of an offence.

Part 2.2 Trade and entertainment

13 Sale of goods

- (1) A person must not, without a permit, sell goods in a public place.
- (2) Clause (1) does not apply where:
- (a) a person sells at any one time no more than one vehicle in a public place adjacent to or in the immediate vicinity of the person's place of residence; or
 - (b) Part 2.3 applies.
- (3) A person who contravenes clause (1) is guilty of an offence.
- (4) For clause 2(a):
- (a) **vehicle** includes a boat; and
 - (b) the person must not act as agent of the owner of the vehicle.

14 Stacking goods

- (1) Subject to Part 2.3, a person must not, without a permit, stack, store, or expose, or permit the stacking, storing or exposing of goods, whether or not for sale, in, on or over a public place or outside a building adjoining a public place.
- (2) A person who contravenes clause (1) is guilty of an offence.

15 Outdoor dining

- (1) A person must not as part of a business involving the service of food or drink, without a permit:
 - (a) provide tables or chairs in a public place for the use by the customers of that business; or
 - (b) serve those customers with food or drink in a public place.
- (2) A person who contravenes clause (1) is guilty of an offence.
- (3) For clause (1), **drink** includes liquor.

16 Public entertainment

- (1) A person must not in a public place, without a permit, perform or offer entertainment for or in expectation of reward.
- (2) A person who contravenes clause (1) is guilty of an offence.

Part 2.3 Stalls

17 Application

In this Part 2.3, **stall** means a structure in or from which goods are offered for sale and includes a tent, motor vehicle, caravan, trailer or table.

18 Markets

- (1) A person or body must not, without a permit, organise or attempt to organise a market in a public place.
- (2) A person or body who contravenes clause (1) is guilty of an offence.

19 Conducting business from a stall

- (1) A person must not, without a permit, conduct business from a stall in a public place.
- (2) The permit referred to in clause (1):
 - (a) must not be granted unless and until the person enters into a licence agreement in an approved form with Council in respect of the area that the stall occupies; and
 - (b) may be granted:
 - (i) direct to the person; or
 - (ii) to another person or body responsible for organising a permitted market in which the person conducts the business.
- (3) A person who contravenes clause (1) is guilty of an offence.

20 Prohibited goods

- (1) A person must not, in the conduct of business from a stall in a public place, hold or trade at the stall:
 - (a) obscene or offensive goods or material deemed obscene or offensive by an authorised person;
 - (b) counterfeit or other goods or materials where the sale of such items would breach the intellectual property of a third party;
 - (c) toy or cap guns;
 - (d) real or replica weapons;
 - (e) dangerous or illegal substances;

- (f) fireworks;
 - (g) goods or materials not complying with relevant or applicable Australian Standards;
 - (h) animals of any kind; or
 - (i) goods or things so determined from time to time.
- (2) A person who contravenes clause (1) is guilty of an offence.

21 Prohibited conduct

- (1) A person must not, in the conduct of business from a stall in a public place:
- (a) call his goods or cause to make a noise or disturbance likely to be a nuisance or cause annoyance to a person in the vicinity of the stall;
 - (b) deposit or store packages or goods except within the stall;
 - (c) obstruct the passage of pedestrians or vehicles; or
 - (d) act in a manner deemed offensive by an authorised person.
- (2) A person who contravenes clause (1) is guilty of an offence.

Part 2.4 Advertising and hoardings

22 Distributing commercial material

- (1) A person must not, without a permit, distribute in a public place any handbill, poster, placard, sign, advertising or other printed

material, goods or gift that advertises or promotes a commercial product or service.

- (2) Clause (1) includes causing the material to be distributed.
- (3) A person who contravenes clause (1) is guilty of an offence.

23 Placing or affixing promotional material

- (1) A person must not place or affix to or within a public place without a permit any handbill, poster, placard, sign, advertising or other printed material.
- (2) Clause (1) includes:
 - (a) placing or affixing the material to a power pole or sign post within a public place; and
 - (b) causing the material to be so placed and affixed.
- (3) A person who contravenes clause (1) is guilty of an offence.

24 Promotional material on private premises

- (1) The owner or occupier of private premises must not, without a permit, erect or permit the use of a building, surface or structure over or in view of a public place on those premises for placing or affixing thereon a handbill, poster, placard, sign, advertising or other printed material having an area greater than 0.5m².
- (2) A person who contravenes clause (1) is guilty of an offence.

25 Advertising on or adjacent to buildings

- (1) A person must not, without a permit, affix, paint, carve, engrave or project, or permit to remain affixed, painted,

carved, engraved or projected, on a building, surface or structure on, over or in view of a public place any sign or advertisement.

- (2) A person who contravenes clause (1) is guilty of an offence.
- (3) A person must not, without a permit, place or caused to be placed in or on a public place any A-frame, flag or other portable sign advertising a business conducted adjacent the public place.
- (4) A person who contravenes clause (3) is guilty of an offence.

Part 2.5 Camping

No camping

- 26** (1) A person must not in or on a public place between 9 pm on the one day and 9 am on the following day, without a permit:
- (a) camp;
 - (b) occupy; or
 - (c) otherwise reside in any:
 - (i) tent;
 - (ii) vehicle;
 - (iii) caravan; or
 - (iii) temporary dwelling.
- (2) A person who contravenes clause (1) is guilty of an offence.

Part 2.6 Council infrastructure

27 Certain works prohibited without permit

- (1) Subject to any other law in force in the Territory, a person must not, without a permit:
 - (a) in, over, abutting on or under a public place:
 - (i) lay pipes, cables or conduits; or
 - (ii) erect, place or maintain a post, pillar, bridge, crossing, footway, fixture or structure;
 - (b) from or from under a public place, dig or remove, or cause to be dug or removed, turf, sand, clay, soil or other material; or
 - (c) on a public place, place or erect any matter or thing, whether or not it causes an obstruction.
- (2) A person who contravenes clause (1) is guilty of an offence.

28 Excavating private premises

- (1) A person must not, without a permit, carry out excavation on private premises abutting a public place where that excavation:
 - (a) encroaches or may encroach on the public place;
 - (b) is:
 - (i) more than 300 mm deep; and
 - (ii) closer to the boundary of a public place than one metre; or

- (c) is such that if the wall of the excavation were to collapse the excavation or the excavated material would encroach on the public place.
- (2) A person who contravenes clause (1) is guilty of an offence.

29 Driveways

- (1) This By-law 29 applies where the owner or occupier of private premises abutting on a footpath or road applies for a permit to construct a driveway from those premises to a road.
- (2) Council may, as a condition of granting the permit, require the person applying for the permit to pay to Council, or enter into a bond for payment to Council of, such amount as it thinks fit to provide security against costs which it may incur as a result of the execution of the work.

30 Prescribed loads and vehicles

- (1) Council may from time to time determine the:
 - (a) maximum weight of a loaded vehicle to be carried over;
or
 - (b) the type of vehicle to be driven alongany road, bridge or culvert and cause the maximum weight of a loaded vehicle or type of vehicle so determined to be notified by notice conspicuously posted at or near each approach to such road, bridge or culvert.
- (2) Where Council determines a maximum weight or type of vehicle and causes it to be posted under clause (1), a person must not, without a permit, drive, draw or carry over the road, bridge or culvert a weight greater than that weight or drive a type of vehicle different to that type of vehicle along the road, bridge or culvert.

- (3) Clause (1) includes permitting the weight to be so driven, drawn or carried or the vehicle to be so driven.
- (4) A person who contravenes clause (1) is guilty of an offence.

Part 2.7 Other activities

31 Dangerous waters

- (1) An authorised person may direct a person to remove themselves from waters within a public place where the authorised person reasonably believes that it would be dangerous for that person to remain in those waters.
- (2) A person who fails to comply with a direction given under clause (1) is guilty of an offence.

32 Applying graffiti

- (1) A person must not, without a permit, write, paint, draw, etch, or otherwise apply graffiti.
- (2) A person who contravenes clause (1) is guilty of an offence.

33 Demonstrations and protests

- (1) A person must not organise or lead a demonstration or protest in a public place without a permit.
- (2) A person who contravenes clause (1) is guilty of an offence.

34 Projectiles

- (1) A person must not, without a permit, launch or fire a rocket or other projectile from a public place.
- (2) Clause (1) does not apply where the rocket or projectile is a firework and launched or fired on a day determined allowing

members of the public to discharge fireworks within the municipality.

- (3) A person who contravenes clause (1) is guilty of an offence.

35 Aircraft and parachutes

- (1) A person must not, without a permit, cause:
- (a) an aircraft to take off from a public place; or
 - (b) an aircraft or parachute to land in a public place.
- (2) Clause (1)(b) does not apply where the aircraft or parachute is forced to land because of an emergency.
- (3) A person who contravenes clause (1) is guilty of an offence.
- (4) For clause (1), **aircraft** includes a glider, ultra-light aircraft, powered parachute and balloon.

36 Fire

- (1) Except in a fireplace designated by Council for that purpose, a person must not, without a permit, make or assist in making a fire on a public place.
- (2) Clause (1) does not apply where the person has been granted a permit under By-law 26(1) and makes the fire for the purpose of cooking or keeping warm.
- (3) A person who contravenes clause (1) is guilty of an offence.

37 Fireworks

- (1) A person must not, without a permit, throw, cast, let off, ignite or fire a firework of any type in, on or over a public place.

(2) A person who contravenes clause (1) is guilty of an offence.

38 Grazing

(1) A person must not, without a permit, graze or permit to graze an animal on a public place.

(2) A person who contravenes clause (1) is guilty of an offence.

39 Planting vegetation

(1) A person must not, without a permit, plant a tree, shrub or plant in a public place.

(2) A person who contravenes clause (1) is guilty of an offence.

40 Disturbing vegetation

(1) A person must not in a public place, without a permit, cut, break, remove or disturb a tree, shrub, stem, branch or root of a living tree, shrub or plant.

(2) A person who contravenes clause (1) is guilty of an offence.

Part 3 Prohibited activities and conduct

Part 3.1 Offences relating to the environment

41 Littering

(1) In this By-law 41:

litter includes:

- (a) any solid or liquid domestic or commercial refuse, debris or rubbish and, without limiting the generality of the above, includes any glass, metal, cigarette butts, paper, fabric, wood and food; and
- (b) any other material, substance or thing deposited in a place if its size, shape, nature or volume makes the place where it is deposited disorderly or detrimentally affects the proper use of that place

deposited, in or on a place, whether or not it has any value when or after being deposited in or on the place; and

rubbish receptacle means a rubbish receptacle that Council or the custodian of the place causes to be provided for the disposal of rubbish or a bin or container provided by a person for the purpose of a rubbish collection authorized by Council.

- (2) A person must not deposit litter in or on a public place.
- (3) A person who contravenes clause (2) is guilty of an offence.
- (4) For clause (2), ***depositing litter in or on a public place*** includes:
 - (a) dropping or throwing litter in, on, into or onto the place;
 - (b) leaving litter in or on the place;

- (c) putting litter in such a location that it falls, descends, blows, is washed, percolates or otherwise escapes or is likely to fall, descend, blow, be washed, percolate or otherwise escape into or onto the place; or
- (d) causing, permitting or allowing litter to fall, descend, blow, be washed, percolate or otherwise escape into or onto the place

but does not include depositing litter in a rubbish receptacle on the place.

- (5) For clause (4)(b), ***leaving litter in or on the place*** includes:
 - (a) being observed by an authorised person moving away from litter in a public place where the authorised person reasonably believes that the person has deposited the litter and does not intend to return to the litter to remove it; and
 - (b) where an authorised person reasonably believes that a person has deposited litter in a public place, refusing a direction from the authorised person to remove the litter and deposit it in a rubbish receptacle.

42 Removal of graffiti

- (1) Where graffiti has been written, painted, drawn, etched, or otherwise applied to the exterior of private premises open to view from a public place, Council may serve on the owner or occupier of those premises a notice in writing requiring the owner or occupier to remove the graffiti from public view by:
 - (a) repainting, restoring, or recovering the surface on which the graffiti has been applied using the same colours and textures as existed previously on the surface; or

- (b) moving the premises so that the surface on which the graffiti has been applied is removed from public view

within 14 days of service of the notice.

- (2) A person who fails to comply with a notice served under clause (4) is guilty of an offence.

43 Dumping of goods and materials

- (1) A person must not move, unload or deposit any refuse, waste, food, peelings, fruit or other vegetable matter, goods, materials, abandoned vehicle parts, construction or demolition material, garden remnants and clippings, soil sand stone gravel or rock or any other substance into or onto or in or on a public place.
- (2) A person who contravenes clause (1) is guilty of an offence.
- (3) Where commercial waste forms the whole or part of that which has been moved, unloaded or deposited, a person who contravenes clause (1) is guilty of a further and separate offence.
- (4) Where that which has been moved, unloaded or deposited remains in or on the place for longer than 24 hours, a person who contravenes clause (1) is guilty of a further and separate offence for each day or part thereof that it remains in or on the place.
- (5) Where commercial waste forms the whole or part of that which remains in or on the place, a person who contravenes clause (4) is guilty of a further and separate offence for each day or part thereof that the whole of that moved, unloaded or deposited remains in or on the place.
- (6) For clauses (3) and (5), **commercial waste** means any waste,

goods or materials used in connection with the person's employment, trade or profession.

44 Discharge of fluids

- (1) The owner or occupier of premises must not discharge or permit the discharge or escape of any waste water or other fluid on to any adjoining land or road so as to cause a nuisance.
- (2) A person who contravenes clause (1) is guilty of an offence.
- (3) The driver of a motor vehicle must not discharge or permit the discharge or escape of radiator coolant, coolant flush wastewater, grease oil and waste water generated from engine degreasing in or on a public place.
- (4) A person who contravenes clause (3) is guilty of an offence.
- (5) Clause (3) does not apply where the discharge or escape is for the purpose of immediately removing a motor vehicle from a public place.

45 Washing and repairing of vehicles

- (1) A person must not wash or carry out repairs or maintenance work on a motor vehicle in or on a public place except where the public place has been set aside by Council for those purposes or one or the other and it is notified as such by a sign erected or posted to that effect.
- (2) A person who contravenes clause (1) is guilty of an offence.
- (3) Clause (1) does not apply where the repairs or maintenance work are for the purpose of immediately removing the motor vehicle from a public place.

Part 3.2 Offences relating to liquor

46 Definitions

In this Part 3.2:

container includes any cask, flask, bottle or can;

licensed premises means premises licensed under Part III of the *Liquor Act*; and

restricted area permit means a permit for a public restricted area granted under section 89A of the *Liquor Act*.

47 Drinking liquor in a public place

- (1) A person must not drink liquor in a public place.
- (2) A person who contravenes clause (1) is guilty of an offence.
- (3) Clause (1) does not apply where the person drinks liquor within licensed premises or in accordance with the conditions of a restricted area permit.

48 Opened liquor container in a public place

- (1) A person must not:
 - (a) bring onto a public place; or
 - (b) have in the person's possession or control in a public placeany opened container of liquor.
- (2) A person who contravenes clause (1) is guilty of an offence.

49 Power of authorised person

- (1) An authorised person having reason to believe that an offence has been committed against By-laws 47 or 48 may seize any opened container in the possession of a person whom the authorised person believes to be contravening those By-laws or one or the other.
- (2) Where an authorised person has seized a container under clause (1), that person may immediately empty it.
- (3) For this By-law 49, an opened container which:
 - (a) is in the immediate vicinity, or in the possession of any other person in the immediate vicinity, of the person the member believes to have committed an offence against By-laws 47 or 48; and
 - (b) the authorised person has reason to believe is a source of liquor from which the person is likely to continue to drink on that or another public place

shall, whether or not owned by or in the possession or control of the person the authorised person believes to have committed the offence, be taken to be in the possession of the person.

Part 3.3 Offensive behaviour

50 Causing nuisance

- (1) A person must not cause a nuisance to another person by:
 - (a) urinating or defecating;
 - (b) spitting;
 - (c) swearing; or

(d) asking for alcohol, cigarettes or money
in a public place.

(2) A person who contravenes clause (1) is guilty of an offence.

51 Indecent behaviour

(1) A person must not engage in indecent behaviour in a public place.

(2) A person who contravenes clause (1) is guilty of an offence.

(3) For clause (1), *indecent behaviour* includes sexual intercourse and exposing genitalia.

52 Obscene or offensive material

(1) An authorised person may direct a person to remove from view of a public place any obscene or offensive book or magazine cover, handbill, poster, placard, sign, advertising or other printed material which the person owns or over which the person exercises control.

(2) For clause (1), material is obscene or offensive where the material is obscene or offensive in the opinion of the authorised person.

(3) A person who does not comply with a direction under clause (1) is guilty of an offence.

Part 3.4 Offences relating to Council infrastructure

53 Bicycles and skateboards

(1) A person must not ride or use a:

- (a) bicycle in Todd Mall; or
 - (b) skateboard in Todd Mall or on any footpath in the Central Business District.
- (2) A person who contravenes clause (1) is guilty of an offence.
- (3) For clause (1):

Central Business District means that part of the municipality bounded by Wills Terrace, Leichhardt Terrace, Stott Terrace and the Stuart Highway; and

skateboard includes roller skates and roller blades.

54 Obstructing use

- (1) A person must not obstruct or impede the use of a public place or any part thereof.
- (2) Clause (1) does not apply where a person participates in a demonstration or protest for which a permit has been granted under By-law 33.
- (3) A person who contravenes clause (1) is guilty of an offence.

55 Causing damage to road surface

- (1) A person must not:
 - (a) propel, drag or trail in contact with the surface of a road a vehicle, sledge, timber or other heavy material or a conveyance or thing capable of damaging the road;
 - (b) use on a road a traction engine, tractor or steam wagon having wheels or tracks which have unprotected grooved

ridges, indents, spikes or cross bars of a type likely to cause damage to the surface of the road; or

Part 3 Prohibited activities and conduct
Part 4.1 Offences relating to Council infrastructure

(c) carry timber, metal, tools, implements, furniture or material along a road in such a manner as to cause damage to the road.

(2) A person who contravenes clause (1) is guilty of an offence.

56 Causing damage to property

(1) A person must not interfere with, damage, deface or destroy any building, structure, fixture, equipment, surface, plant or facility situated in or on or facing a public place.

(2) A person who contravenes clause (1) is guilty of an offence.

(3) For clause (1), **damage** includes damage resulting from a person riding or driving a motor vehicle or riding or leading an animal in a public place.

Part 4 Impounding

Part 4.1 Right to impound vehicle

57 Vehicle pound

In this Part 4, **vehicle pound** means a yard or other place under the control of Council which Council determines to be a vehicle pound for the purposes of these By-laws.

58 Abandoned vehicles and vehicles at risk

- (1) Subject to clause (2), an authorised person who reasonably believes that a vehicle:
- (a) has been abandoned: or
 - (b) is at substantial risk of damage or theft if not immediately moved
- may impound the vehicle and remove it or cause it to be removed to a vehicle pound.
- (2) Clause (1)(a) only applies only to a vehicle which is left without the authority of Council for a period of not less than 24 hours on a road or public place or on land owned by, or under the care, control and management of, Council.

59 Persistent parking breach

- (1) Where a person commits a third or subsequent parking offence within 7 days, an authorised person may impound and remove or cause to be removed the person's vehicle from the location where the third or subsequent offence was committed to a vehicle pound.
- (2) Clause (2) applies irrespective of:

- (a) the location where each of the previous offences was committed; and
 - (b) the type of parking offence previously committed.
- (3) For clause (1):

parking offence means any offence against Division 7 of Part 12 of the *Australian Road Rules*; and

person's vehicle includes a vehicle under the care and control of the person.

60 Notice of impounding

- (1) Where the name of the owner of the vehicle is known or can be ascertained, an authorised person must as soon as practicable but in any event within the prescribed period personally serve on the owner written notice of the impounding stating the location of the vehicle pound to which the vehicle has been removed.
- (2) Where:
- (a) the name of the owner is not known or cannot be ascertained; or
 - (b) the owner, if known, cannot be found within the prescribed period

the authorised person must:

- (c) furnish to the Registrar a certificate of the reason the notice was not served; and
- (d) not less than 7 days after the impounding, cause notice of the impounding to be published in a newspaper circulating in the municipality.

Part 4	Impounding
Part 4.2	Release and disposal of vehicle

- (3) A certificate under clause (2)(c) is prima facie evidence of the facts contained therein.
- (4) For clause (1), **prescribed period** means:
 - (a) where By-law 58 applies, 7 days from the impounding of the vehicle; and
 - (b) where By-law 59 applies, 2 business days from the impounding of the vehicle.

Part 4.2 Release and disposal of vehicle

61 Release fee

- (1) Council may determine a fee for the release of any vehicle impounded under Part 4.1.
- (2) The release fee referred to in clause (1) must not exceed an amount that reasonably represents the cost to Council of impounding, moving, keeping and releasing the vehicle including any relevant overheads and indirect costs.

62 Release to owner

Council must release a vehicle impounded under Part 4.1 to its owner on payment of:

- (a) any release fee determined under By-law 61(1); and
- (b) any outstanding penalties for which the owner of the vehicle is liable under any By-laws applying to the municipality.

63 Sale or disposal of vehicle

(1) Where the owner of a vehicle does not, within 14 days after the later of:

- (a) the service on that person of a notice under By-law 60(1); or
- (b) the date of publication of the notices referred to in By-law 60(2)(c)

take possession of the vehicle by satisfying By-law 62 advertise for sale and sell the vehicle.

(2) Where, in the opinion of Council, it is not practical or convenient to sell a vehicle impounded by it, it may dispose of the vehicle in any manner it deems fit.

64 No claim by owner

Where a vehicle is sold or disposed of under By-law 63:

- (a) all previous rights of ownership in and to the vehicle are deemed to have been extinguished; and
- (b) no claim or action may lie against Council or an employee or contractor of Council in respect of or arising out of the sale of the vehicle.

Part 4.3 Abandoned items

65 Impounding and disposal

- (1) An authorised person may impound and dispose of items found in a public place which that person reasonably believes to have been abandoned.
- (2) In exercising the powers conferred by clause (1), the authorised person must, where Council has issued guidelines in relation thereto, act in accordance with those guidelines.

Part 5 Enforcement

Part 5.1 Requisitions

66 Works to be carried out

- (1) Where:
- (a) in order to prevent or rectify a breach of these By-laws;
or
 - (b) Council deems it fit that a driveway be:
 - (i) completed;
 - (ii) repaired; or
 - (iii) closed

Council may serve a notice in writing on the owner or occupier of private premises abutting on a public place or to which a driveway leads requiring that person to carry out such works and do such things:

- (c) in or of such materials;
 - (d) within such periods; and
 - (e) in such manner
- as may be specified in the notice.
- (2) A person who fails to comply with a notice under clause (1) is guilty of an offence.
- (3) Any work to be carried out in pursuance of a notice under clause (1) must be executed at the expense of the owner or

occupier and, if Council so requires, only by persons qualified or licensed to carry out the work.

- (4) For clause (1), Council may require the person to pay to Council, or enter into a bond for payment to Council of, such amount as the council deems fit to provide security against costs which it may incur as a result of the execution of the work.

67 Council may carry out works

- (1) In:
 - (a) the event that a person does not comply with a notice given under By-law 66(1); or
 - (b) where By-law 66(1)(a) applies, an emergency

Council may carry out works to the premises as it deems fit to prevent or rectify a breach of these By-laws or complete, repair or close a driveway.

- (2) Where Council carries out works under clause (1), Council may claim from the owner or occupier of the premises the cost of executing the works as a debt due and owing.
- (3) The power conferred by clause (1):
 - (a) includes the power to enter onto the premises to execute the works; and
 - (b) is exercisable by Council and its employees, contractors and agents.

68 Overhanging vegetation

- (1) Where it deems that a tree, plant or shrub growing on private premises is causing inconvenience or obstruction to persons

using a public place or is causing or likely to cause damage to a public place, Council may serve a notice in writing on the owner or occupier of those premises requiring that person to trim or remove the tree, plant or shrub.

- (2) A person who fails to comply with a notice under clause (1) is guilty of an offence.
- (3) In:
 - (a) the event that a person does not comply with a notice given under clause (1); or
 - (b) an emergency

Council may trim or remove the tree, plant or shrub.

- (4) Where clause (3) applies, clauses (2) and (3) of By-law 73 apply with necessary modifications.

Part 5.2 Acting contrary to permit

69 Conditions of permit

- (1) A person who:
 - (a) fails to comply with; or
 - (b) contravenesa condition of a permit granted to that person is guilty of an offence.
- (2) For clause (1), **person** includes a body.
- (3) To avoid doubt:

- (a) a separate offence is committed under clause (1) for each condition not complied with or contravened; and
- (b) where an offence would have been committed under these By-laws had a permit not been granted to the person, that offence is committed upon an offence being committed under clause (1).

70 Unreasonable obstruction

Nothing in these By-laws shall be construed so as to allow a person carrying out works in pursuance of a permit to cause unreasonable obstruction of a road, channel or drain, or any part of a public place, by the deposit of materials or construction of a building or structure.

71 Safety lights

- (1) A person who causes:
 - (a) a material or a structure to be deposited or laid on a road; or
 - (b) work to be carried out entailing the opening or breaking up of the surface of a road,

whether or not permitted by Council, must, at that person's expense, cause:

- (c) lights of a type and colour and in such number as the council considers sufficient for the purpose to be placed and retained near the material, structure or work;
- (d) the lights referred to in paragraph (c) to be illuminated from sunset to sunrise; and

- (e) the materials, structure or work to be fenced and enclosed to prevent damage or inconvenience to other persons until the material or structure is removed or the work is completed.
- (2) A person who contravenes clause (1) is guilty of an offence.

72 Maintenance of signs

- (1) Where a person is granted a permit under By-law 25, that person must maintain to Council's satisfaction each sign, advertisement, A-frame or flag.
- (2) A person who contravenes clause (1) is guilty of an offence.

Part 5.3 General powers of authorised person

73 Hindering or obstructing

A person who hinders or obstructs:

- (a) an authorised person; or
- (b) an employee or contractor of Council

in the exercise of powers under these By-laws is guilty of an offence.

74 Authorised person requiring information

- (1) Where an authorised person:
 - (a) reasonably suspects a person of having committed an offence against these By-laws; and
 - (b) informs that person that it is the intention of the authorised person to caution or prosecute the person in respect of that offence

the authorised person may require the person to state the person's name, address and date of birth.

- (2) A person who, without reasonable excuse, fails to provide the information required under clause (1) is guilty of an offence.
- (3) A person who provides false information when required to provide information under clause (1) is guilty of an offence.

75 Proof of identity

- (1) Where an authorised person:
 - (a) reasonably suspects a person of having committed an offence against these By-laws; and
 - (b) informs the person that it is the intention of the authorised person to caution or prosecute the person in respect of that offence

the authorised person may require the person to provide further evidence of identity of a specified kind.

- (2) A person who, without reasonable excuse, fails to provide the further proof of identity required under clause (1) is guilty of an offence.
- (3) Where a person has reasonable excuse for failing to provide the further proof of identity required under clause (1) must, within 2 business days, provide the further proof of identity at the office of Council.
- (4) A person to whom clause (3) applies who fails to provide the further proof of identity within the specified period is guilty of an offence.

76 False statement in document

A person who makes a false statement in a document:

- (a) required or permitted under these By-laws; or
 - (b) required to claim a financial or other benefit from Council
- is guilty of an offence.

77 Moving on persons

- (1) This By-law 77 applies if there are reasonable grounds for an authorised person to believe that a person in a public place
 - (a) is asleep; or
 - (b) has engaged, or is likely to engage, in conduct involving a breach of these By-laws.
- (2) The authorised person may direct the person to leave the vicinity of the public place.
- (3) The direction may be made subject to the condition that the person does not return to the vicinity for a stated period not exceeding 6 hours.
- (4) A person who, without reasonable excuse, contravenes a direction under clause (1) (including a condition that the person does not return to the vicinity for a stated period) is guilty of an offence.

78 Removal of persons

- (1) An authorised person may remove or cause to be removed from a park, garden or reserve a person who commits a breach of these By-laws and may, by notice in writing served on the person, refuse the person entry to a park, garden or reserve for a period, not exceeding 6 months, specified in the

notice.

- (2) A person who contravenes a notice under clause (1) is guilty of an offence.

Part 5.4 Contravention and penalties

79 Regulatory offence

Any offence against these By-laws is a regulatory offence.

80 Service of notices

- (1) A notice Council is required or permitted to serve under these By-laws may be served:
- (a) personally on the person to whom it is addressed;
 - (b) by leaving it for the person at the person's place of residence, employment or business; or
 - (c) by posting it, addressed to the person, at the person's last known place of residence, employment or business.
- (2) Where Council serves a notice on a person in the person's capacity as owner or occupier of premises, it binds successors in title or successive occupiers (as the case may be).

81 Penalties

A person who is guilty of an offence against these By-laws is liable to a penalty not exceeding 100 penalty units for an individual or 500 penalty units for a body corporate and, in addition, to a penalty not exceeding 5 penalty units for an individual or 25 penalty units for a body corporate for each day during which the offence continues.

82 Infringement notices

- (1) Despite by-law 81, as an alternative to prosecution, a person who is alleged to have contravened or failed to comply with a by-law specified in column 1 of the Schedule may be served with an infringement notice under which the person may pay to the Council a sum (in this By-law 82, a **fixed penalty**) in lieu of the penalty by which the infringement of that By-law is otherwise punishable.
- (2) For the purposes of this By-law 82:
 - (a) the sum specified in column 3 of the Schedule is the fixed penalty payable under an infringement notice for an infringement of the By-law specified opposite in column 1, and generally described opposite in column 2, of the Schedule;
 - (b) an infringement notice is to be in a determined form and include:
 - (i) the name of the alleged offender;
 - (ii) in general terms, the nature of the offence alleged to have been committed;
 - (iii) the date, time and place of the alleged offence;
 - (iv) the amount of the fixed penalty; and
 - (c) the period within which, and the place where, the fixed penalty may be paid.
 - (d) an infringement notice may be issued and served by an authorised person; and
 - (e) the fixed penalty specified in an infringement notice is to be paid to Council within 14 days of the date on which the infringement notice is served on the alleged offender.

- (3) An infringement notice is to also contain the statements to the effect:
- (a) that the alleged offender may expiate the offence and avoid enforcement action under the *Fines and Penalties (Recovery) Act* (in this By-law 82, **the Act**) if that person pays the fixed penalty to Council within 14 days of service of the infringement notice;
 - (b) that if the alleged offender pays the fixed penalty within the period specified in the infringement notice, Council will take no further action in relation to the offence;
 - (c) that the alleged offender may, if he or she so wishes, be dealt with a court of competent jurisdiction by electing under section 21 of the Act to have the matter dealt with by a court instead of under that Act by completing a statement of election and serving it on Council:
 - (i) at any time before a courtesy letter under the Act is served on the alleged offender; or
 - (ii) if a courtesy letter is served on the alleged offender, before the due date specified in that letter;
 - (d) that if the alleged offender does not pay the fixed penalty within the period specified in the infringement notice and does not within that period serve on Council a statement of election under the Act:
 - (i) the Act will apply and the alleged offender may be served with a courtesy letter in accordance with that Act requiring payment of the fixed penalty together with the costs in respect of the issue of that letter; and

- (ii) if the alleged offender does not make the payment as required by a courtesy letter, enforcement action may be taken against him or her under the Act which, after due process, may result in the suspension of the alleged offender's licence to drive, the seizure of property, the deduction of wages or salary, the registration of a statutory charge on land, a community work order or imprisonment if a community work order is breached;
 - (4) An infringement notice is to also contain a statement of election under the Act that includes the information required by regulation 7(1) of the *Fines and Penalties (Recovery) Regulations*.
 - (5) A fixed penalty may be expressed by way of penalty units including fractions of a penalty unit.
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SCHEDULE

By-law 82(1)
and (2)(a)

FIXED PENALTIES

Column 1 By-law	Column 2 General Description of Offence	Column 3 Penalty units
11(4)	Riding or driving vehicle without permit	1
12(2)	Exceeding speed limit	4
13(3)	Selling goods without permit	2
14(2)	Stacking goods without permit	1
15(3)	Providing food or drinks without permit	2
16(2)	Performing entertainment without permit	1
18(2)	Organising market without permit	5
19(3)	Conducting business from stall without permit	2
20(3)	Trading prohibited goods	3
21(2)	Engaging in prohibited conduct	2
22(3)	Distributing commercial material without permit	2
23(3)	Placing or affixing promotional material without permit	2
24(3)	Placing or affixing promotional material above certain size on private premises without permit	2
25(2)	Advertising on buildings without permit	2
25(4)	Placing portable sign on public place without permit	2
26(2)	Camping without permit	2
27(2)	Carrying out prohibited works without permit	5

28(2)	Excavating private premises without permit	3
30(4)	Exceeding prescribed maximum weight or driving vehicle other than prescribed without permit	5
31(2)	Refusing a direction to leave dangerous waters	1
32(2)	Applying graffiti without permit	10
33(2)	Organising or leading a demonstration or protest without permit	1
34(3)	Firing projectile without permit	10
35(3)	Taking off or landing aircraft or parachutes	5
36(3)	Making fire without permit	2
37(2)	Letting off fireworks without permit	10
38(2)	Grazing without permit	1
39(2)	Planting vegetation without permit	1
40(2)	Disturbing vegetation without permit	5
41(3)	Depositing litter	3
42(2)	Failing to comply with notice to remove graffiti	1
43(2)	Dumping goods and materials	5
43(3)	Dumping goods and materials containing commercial waste	500
43(4)	Failing to remove dumped goods and materials	5 per day
43(5)	Failing to remove dumped goods and materials containing commercial waste	100 per day
44(2)	Discharging fluids	2
44(4)	Discharging vehicle fluids	2
45(2)	Washing and repairing vehicles	1
47(2)	Drinking liquor	3
48(2)	Possessing opened liquor container	3
50(2)	Causing nuisance	2

51(2)	Behaving indecently	3
52(1)	Failing to comply with direction to remove obscene or offensive material from public view	3
53(2)	Riding or using bicycle or skateboard	1
54(2)	Obstructing or impeding public use	2
56(2)	Causing damage to road surface	3
56(2)	Causing damage to property	5
66(2)	Failing to comply with notice to carry out work	3
68 (2)	Failing to comply with notice to trim or remove tree, shrub or plant	1
69(1)	Failing to comply with or contravene condition of permit	2
71(2)	Failing to provide safety lights	5
72(2)	Failing to maintain sign	1
73(1)	Hindering or obstructing authorised person	4
74(2)	Failing to provide required information	4
74(3)	Providing false information	5
75(2)	Failing to provide evidence of identity without reasonable excuse	4
75(4)	Failing to provided evidence of identity within prescribed time	4
76	Providing false statement in document	5
77(4)	Failing to comply with direction to leave public place	5
78(2)	Contravening notice not to enter park, garden or reserve	5
