

**By-laws under the *Local Government Ordinance*
1954-1968 ***

THE Corporation of the City of Darwin, in pursuance of the powers conferred on it by the *Local Government Ordinance* 1954-1968, hereby makes the following by-laws.

Dated this second day of July, 1968.

H. BAUER, Acting Mayor.
W. J. SULLIVAN, Town Clerk.

**AMENDMENT OF THE BY-LAWS OF THE MUNICIPALITY
OF DARWIN †**

Chapter 5 of the By-laws of the Municipality of Darwin is repealed and the following Chapter is inserted in its stead:—

“CHAPTER 5

Parts

1. This Chapter is divided into Parts, as follows:—

- PART I — Interpretation
- PART II — Litter
- PART III — Garbage Services
- PART IV — Garbage Dumps
- PART V — Removal and Destruction of Animals
- PART VI — Removal of Motor Vehicles

PART I — INTERPRETATION

Definitions

2. In this Chapter, unless the contrary intention appears—

- ‘animals’ includes cattle, buffaloes, horses, asses, mules, sheep, goats, swine, camels, dogs, cats, birds and poultry;
- ‘disease’ includes actinomycosis, anthrax, malignant growth, cancer, foot and mouth disease, glanders and farcy, pleuro-pneumonia, contagiosa, rinderpest, tuberculosis, variola, scab, malignant catarrh, rabies, contagious pneumonia in swine, swine fever, swine plague, epizootic, lymphangitis, dourine or equine, syphilis, strangles, surra, sheep-fly, contagious mammitis, tick fever and any other infectious or contagious disease;
- ‘diseased’ means infected or affected with disease;
- ‘footway’ means every footpath, lane or other place, not private property, habitually used by pedestrians and not by vehicular traffic;

* Confirmed by the Administrator in Council by notice in the *Northern Territory Government Gazette* on 17 July, 1968.

† By-laws confirmation of which was notified in the *Northern Territory Government Gazette* on 14 January, 1959, as amended by By-laws confirmation of which was notified in the *Northern Territory Government Gazette* on 30 September, 1964, and by Regulations 1965, No. 28.

'garbage' includes all kinds of rubbish, waste, refuse, debris and trade refuse;

'handbill' includes any poster, placard, notice, sign, book, ticket, pamphlet, advertisement or other printed matter;

'land' means land within the City, without regard to the title or authority by virtue of which it is held;

'litter' means—

- (a) material likely to cause a public nuisance;
- (b) material likely to give rise to a condition dangerous to public health or to the health or well-being of a person;
- (c) material likely to attract vermin or to form a harbourage for vermin;
- (d) material likely to cause an impediment to the use of, or to restrict or inhibit the use of, any public place; or
- (e) material the deposition of which causes the removal thereof in the interest of the proper and tidy management of public places in the City;

and without limiting the generality of the foregoing, includes discarded material being waste-paper, cardboard, scrap timber, sawdust, wood-shavings, glass, cans, rags, dust, ashes, soot, discarded vegetables or fruit, offal, dung, manure, the dead remains of any animal, fish or crustacea, dirt and garbage;

'material likely to cause a public nuisance' includes any material or accumulation of materials which is likely to or does affect the value of any land in the neighbourhood or interfere with or affect the comfort of persons occupying or using such land or interfere with or affect the enjoyment of such land by persons in occupation thereof;

'occupier' means any person who, either jointly or alone, has the actual physical possession of any land or premises to the substantial exclusion of other persons from participating in the enjoyment of the land or premises;

'person' includes a firm, a company and a corporation (but not the Corporation);

'premises' includes every dwelling house, flat, flatette, home unit, duplex, caravan, caravanette, camp, tent, hostel, boarding house, office, shop, factory, depot, workshop, mill, slaughter house, warehouse, hotel, restaurant, eating-house, and every other building or establishment within the City, whether the same is used for business, trade or residential purposes; and where any building is let or occupied in more than one separate unit, each separate unit, where it is let to or occupied by a separate person, shall be separate premises;

'public place' includes—

- (a) every place within the City to which free access is permitted to the public, with the express or tacit consent of the owner or occupier thereof;
- (b) every place within the City to which the public are admitted on payment of money, the test of the admittance being the payment of money only;

(c) every road, street, footway, court, alley, thoroughfare or beach within the City which the public are allowed to use or be upon, notwithstanding that the road, street, footway, court, alley, thoroughfare or beach may be formed on private property; and

(d) any land within the City reserved under any law of the Northern Territory for the use of the public or members of the public;

but nothing herein contained shall be held to divest the owners of the property of any of their rights or property therein, or of their power to resume the same for use, occupation or sale;

'road' means land within the City which—

(a) at the date when these by-laws came into operation is a road within the meaning of the *Control of Roads Ordinance 1953-1968*;

(b) is proclaimed, dedicated, resumed or otherwise established as a public street, road or thoroughfare;

(c) comprises a street, road, court, alley, thoroughfare or cul-de-sac of which the public has had uninterrupted use, whether before or after the date when these by-laws came into operation, or partly before and partly after that date, for at least five years and which the Corporation, by notice in the *Gazette*, declares to be a public road;

(d) is reserved or left as a road in a sub-division of Crown lands; or

(e) is vested in or is conveyed or transferred to the Corporation in fee simple and is accepted by the Corporation as a road;

'the City' means the City of Darwin;

'the Corporation' means The Corporation of the City of Darwin; and

'the Town Clerk' means the person who is appointed and for the time being holds office as the Town Clerk of the Corporation.

Interpretation

3.—(1.) Where any matter or thing is by any of these by-laws directed or forbidden to be done, or where any authority is given by these by-laws, or any of them, to the Corporation or to any person or persons to direct any matter or thing to be done, and such matter or thing so directed to be done remains undone or such matter or thing forbidden to be done is done, a person offending against such direction or prohibition shall be guilty of an offence.

(2.) A person guilty of an offence shall for every offence be liable to a penalty not exceeding Twenty dollars, and, in addition, to a penalty not exceeding Ten dollars for each day during which the offence continues.

(3.) Where in these by-laws or any of them the Corporation or any officer of the Corporation has power to require any person to do any work and such work is not done in accordance with that requirement, the Corporation may cause the same to be done and may recover the expenses thereby incurred from the person who was required to do the same.

PART II — LITTER

4. A person shall not sweep, throw, place, spill, drop or otherwise deposit litter in or upon any public place;

Litter on
public place

But nothing in this by-law shall be deemed to prohibit the lawful depositing of litter in a receptacle provided by the Corporation for that purpose or in or upon any garbage dump owned, operated or controlled by the Corporation.

5. The Corporation shall provide or cause to be provided, in public places, receptacles for the reception of litter as it sees fit.

Receptacles to
be provided

6. A person shall not expectorate or emit any nasal discharge on to a footway in any public place.

Expectorating &c.
in public places

7. A person shall not urinate or defecate in any public place except in places provided for that purpose.

Urinating &c.,
in public places

8. A person shall not place or permit or suffer to be placed any dustbin, box or other receptacle for household refuse or other litter in or upon any public place other than at the times and in the manner specified in the by-laws in Part III of this Chapter relating to the collection of garbage by the Corporation.

Dustbin in
public places

9. An occupier of land or premises shall not cause, permit or suffer any matter to pass or flow from such premises on to any footway or road where the deposition of that matter would be an offence against these by-laws.

Material passing
on to road

10. A person driving a vehicle in any road shall not permit or suffer any litter to fall or otherwise be deposited from that vehicle on to the road or any adjoining land.

Litter from
vehicles

11. A person shall not deposit on any land any material likely to cause a public nuisance, to give rise to a condition dangerous to public health, to attract vermin to that land or to form a harbourage for vermin.

Depositing litter
on land

12. An occupier of premises shall not deposit, keep or allow to remain on his premises any material likely to attract vermin or to form a harbourage for vermin unless such material is kept in a receptacle which is vermin-proof.

Material likely
to attract vermin

13.—(1.) Where there is upon any land or premises any material or accumulation of materials which is likely to cause a public nuisance, to give rise to a condition dangerous to public health or to attract vermin to that land or premises or to form a harbourage for vermin the Corporation may cause a notice in writing to be given to the occupier of the land or premises requiring him—

Corporation may
require litter to
be removed

(a) to place such material in a vermin-proof receptacle or receptacles of a kind specified in the notice within the time specified therein; or

(b) to remove, dispose of, destroy or otherwise deal with such material within the time specified in the notice.

(2.) If there is reason to believe that such material or any part of it is rotting or putrid, the time specified in the notice for the destruction or

disposal of the material may be limited to such time as is reasonable in the circumstances.

Distribution of handbills

14. A person shall not without the written approval of the Corporation give out or distribute to any person or throw, place, drop or otherwise deposit any handbill in, upon or onto any public place.

Offensive or indecent handbills

15. A person shall not expose to view, distribute or throw, place, drop or otherwise deposit in any public place any handbill of an offensive or indecent nature.

Drainage and cleaning of lanes and alleys

16. The owner or owners of land adjoining any private lane or alley in the City shall provide adequate drainage for that lane or alley and shall keep the same clean and free from litter.

Verandahs and balconies to be clean and watertight

17. The occupier of any building in the City against or in front of which there is any verandah or balcony which is over a footway, shall keep that verandah or balcony watertight, clean and free from litter.

PART III — GARBAGE SERVICES

Collection and removal of garbage by the Corporation

18. The Corporation's service for the collection and removal of garbage, in accordance with the provisions of Division 3 of Part XV of the *Local Government Ordinance 1954-1968*, shall be conducted in accordance with such regulations and provisions as may be specified in a notice published in a newspaper generally circulating in the City.

Basic charge for garbage services

19. Where the Corporation declares basic charge for garbage services, the service in respect of which such basic charge is payable shall, in respect of each premises, be the collection and removal of the contents of two receptacles twice in each week.

Removal of garbage in bulk

20.—(1.) The Corporation may provide a service for the removal in bulk of litter and garbage from any land or premises and where a person avails himself of such service or of the service provided under the next succeeding paragraph he shall pay therefor the charge declared by the Corporation for such service.

(2.) A person may apply to the Town Clerk for the service of bulk removal of litter or garbage from any land or premises owned or occupied by him.

Occupier to provide garbage receptacles

21. An occupier of premises in the City—

(a) shall provide upon such premises one or more removable receptacles of a capacity of not more than three cubic feet for holding all garbage produced upon those premises, and each receptacle shall be impervious to moisture and vermin, shall have a close fitting lid and shall be fitted with handles for convenience in moving and emptying the same;

(b) shall maintain such receptacles in good order and condition and shall not cause or permit such receptacles to attract or harbour flies or vermin, to become unsightly or cause any offensive odour, or otherwise to become or cause a danger to public health or to interfere with or affect the comfort of persons occupying, using or passing through or along neighbouring premises;

- (c) shall ensure that the lids of such receptacles shall at all times (except when the same are removed for the purpose of placing garbage therein or removing garbage therefrom) be kept closely fitted to such receptacles;
- (d) shall ensure that all garbage produced on the premises is deposited in such receptacles but this paragraph shall not be deemed to prohibit the lawful destruction by fire of any such garbage capable of being so destroyed;
- (e) shall cause all wet garbage to be effectively wrapped before it is placed in any such receptacle;
- (f) shall when required by an officer or order of the Corporation forthwith indelibly mark or paint on the lid and body of every such receptacle the number of the lot of land occupied by him, his name and such other information as may be required;
- (g) shall on the day or days and at the time notified by the Corporation, in accordance with by-law 18 of this Chapter, cause every such receptacle on his premises to be placed on the footway outside his premises in such a position as to enable the garbage collector access to the contents thereof, and shall cause each receptacle to be replaced on his premises after the contents have been removed;
But if any receptacle can be so placed immediately inside the boundary of the premises as to be clearly visible and conveniently reached from the road it may be placed there, and in any special case receptacles may be placed in such other positions as may be approved by the Town Clerk; and
- (h) shall cause every such receptacle to be thoroughly cleansed with antiseptic at least once in every four weeks.

22. A person shall not touch, use, remove, mark, damage or otherwise interfere with any garbage receptacle upon any premises or footway unless he is—

Interference
with garbage
receptacles

- (a) the occupier of the premises for which the receptacle is provided or his servant or agent;
- (b) a servant or agent of the Corporation acting within the scope of his duties as such; or
- (c) a contractor in the due performance of his contract with the Corporation, or any servant or agent of such contractor.

23. A person engaged in the removal or collection of garbage on behalf of the Corporation shall, after emptying the contents of each garbage receptacle, replace the lid tightly on the same and return it to its former location.

Garbage recep-
tacles to be
returned

PART IV — GARBAGE DUMPS

24.—(1.) The Corporation may establish dumps for the deposit of litter upon any land owned by or vested in or under the control of the Corporation.

Corporation may
establish dumps

(2.) The Corporation may make arrangements and may if it thinks fit enter into contracts with any owners or occupiers of private land for establishing dumps for the deposit of litter upon such land.

(3.) Where a dump has been established under the provisions of paragraph (1.) or (2.) of this by-law, the Corporation shall cause a notice to

be published in a newspaper generally circulating in the City and such notice shall, in addition to the fact of the establishment of the dump, specify—

- (a) the location of the dump;
- (b) the hours during which and the days on which the dump shall be open for the deposit of litter;
- (c) the class or classes of litter which may be deposited upon the dump;
- (d) whether the general public may deposit litter upon the dump or whether a person must first obtain a written licence from the Corporation before he may deposit litter thereon; and
- (e) such further or other conditions as the Corporation thinks fit.

(4.) The Corporation may charge fees for the dumping of litter on any dump owned, operated or controlled by the Corporation.

(5.) The Corporation may issue a licence authorising a person to use a dump owned, operated or controlled by the Corporation and may make a licence subject to such conditions including the payment of fees as the Corporation sees fit.

Litter not to be deposited on certain dumps without licence

25.—(1.) In the case of a dump in respect of which the Corporation has notified that a written licence must be obtained for the depositing of litter thereon, a person (not being a servant or agent of the Corporation acting within the scope of his duties or a contractor or servant or agent of a contractor of the Corporation in the due performance of the contract) shall not deposit litter thereon without the written licence of the Corporation.

(2.) A person may apply to the Town Clerk for a licence to deposit litter on a dump, and a licence may be granted or refused and may be subject to such conditions as the Town Clerk or the Corporation sees fit.

Offences at dumps

26. A person shall not—

- (a) deposit litter upon a dump other than during the hours and on the days specified by the Corporation;
- (b) deposit litter upon a dump unless such litter is of the class or classes specified by the Corporation;
- (c) enter or remain upon a dump except for the purpose of depositing litter thereon, unless he is a servant or agent of the Corporation acting within the scope of his duties or a contractor or servant or agent of a contractor of the Corporation in the due performance of the contract;
- (d) loiter upon any dump;
- (e) cause, allow or suffer any child under his care, custody or control, being a child under the age of 12 years, to enter or remain upon a dump;
- (f) remove litter from a dump without the consent in writing of the Corporation;
- (g) fail to comply with the terms of any licence granted by the Corporation with respect to the depositing of litter; or
- (h) fail to comply with the directions of an authorised officer of the Corporation with respect to the place or manner in which he is to deposit litter on a dump.

PART V — REMOVAL AND DESTRUCTION OF ANIMALS

27.—(1.) The Corporation may by notice in writing require the owner of—

Diseased and injured animals and animals at large

- (a) a diseased or injured animal whether it is upon private land or premises or in a public place; or
- (b) an animal which is at large in a public place so that, if left at large, it is likely to be a danger to the safety of members of the public

immediately to destroy, remove or otherwise dispose of such animal.

(2.) A notice under this by-law shall not require unreasonably the destruction of an animal.

28. If an animal dies or is found dead in a public place the Corporation may cause it to be removed or destroyed.

Dead animals in public places

29.—(1.) If an animal dies or is found dead on private land or premises the occupier thereof shall immediately notify the Town Clerk.

Dead animals on private premises

(2.) Upon receipt of such notice, the Corporation may cause the carcass of the animal to be removed or destroyed and for this purpose a person authorised by the Corporation may enter private land or premises.

(3.) Nothing in this by-law affects the duty of an occupier of private land or premises to dispose of the carcass of an animal which dies or is found dead on his land or premises.

30. Notwithstanding anything contained in this Part, the Corporation may, without notice to the owner of a dead, diseased or injured animal, or of an animal which is at large in a public place so that it is likely to be a danger to the safety of members of the public, cause such carcass or animal to be removed or destroyed and for this purpose a person authorised by the Corporation may enter private land or premises.

Corporation may remove or destroy animals without notice

31. Where, in pursuance of this Part, the Corporation causes the removal or destruction of an animal or a dead animal it may dispose of the animal or its carcass.

Corporation may dispose of an animal or carcass

32. Where, in pursuance of this Part, the Corporation incurs any expense in removing, destroying or disposing of an animal or a dead animal, the Corporation may recover such expense from the owner of the animal.

Corporation may recover expense from owner

33. For the purposes of this Part, and in the absence of any denial, the occupier of land or premises on which an animal or a dead animal is found shall be deemed to be the owner thereof.

Occupier is deemed owner

PART VI — REMOVAL OF MOTOR VEHICLES

34. In this Part, unless the contrary intention appears—

Interpretation

'motor vehicle' has the meaning set out in sub-section (1.) of section five of the *Motor Vehicles Ordinance 1949-1968*; and
'registered owner' in relation to a motor vehicle means a person in whose name a motor vehicle is registered under the *Motor Vehicles Ordinance 1949-1968* at the time when the motor vehicle is found in a public place in the circumstances specified in paragraph (1.) of by-law thirty five thereof.

Corporation may charge fee

35. The Corporation may charge fees for or in connection with the removal of motor vehicles in accordance with this Part.

Corporation may require registered owner to remove vehicles or may remove vehicle and sell same

36.—(1.) If a motor vehicle is—

(a) found abandoned in a public place;

(b) left in a public place and there appears to be no intention on the part of the registered owner thereof to remove the same;

or

(c) not moved from a public place for a period of fourteen days, the Corporation may by notice in writing require the registered owner to remove the same within fourteen days of the date of the notice.

(2.) If, after the expiry of fourteen days from the date of the notice, the motor vehicle has not been removed in accordance with the notice the Corporation may cause the same to be removed to a place within the City and shall forthwith give to the registered owner a notice of removal.

(3.) A notice of removal shall specify—

(a) the make and registration number of the motor vehicle;

(b) the place from which it was removed;

(c) the date of removal;

(d) the date, time and place of intended sale if the motor vehicle is not released; and

(e) the fees then lawfully payable.

(4.) A notice under this by-law may be served by posting the same by prepaid letter post addressed to the registered owner at the address shown on the certificate of registration.

(5.) If within twenty-eight days of the date of a notice of removal a person satisfies the Town Clerk that he was the registered owner of the motor vehicle in respect of which the notice was given and pays all fees lawfully payable under these by-laws the motor vehicle shall be released to that person.

(6.) If after the expiry of twenty-eight days from the date of a notice of removal a motor vehicle has not been released in accordance with paragraph (5.) of this by-law the Corporation may sell the motor vehicle.

(7.) The Corporation may retain from the proceeds of sale all fees payable under these by-laws in respect of the removal of the motor vehicle and all expenses incurred by the Corporation in respect of the holding and the sale thereof and shall hold the balance, if any, on trust to pay to the registered owner of the motor vehicle.

(8.) Within twenty-eight days after the sale of a motor vehicle the Corporation shall give to the registered owner thereof notice of the sale, and a notice of sale shall specify—

(a) the make and registration number of the motor vehicle;

(b) the date of the sale;

(c) the sale price;

(d) the fees and expenses payable in respect of the motor vehicle under these by-laws; and

(e) the name and address of the person to whom the motor vehicle was sold.

(9.) If within three years of the date of the sale of a motor vehicle a person satisfies the Town Clerk that he was the registered owner of the motor vehicle the balance of the proceeds of sale shall be paid to that person.

(10.) After the expiry of three years from the date of sale of a motor vehicle the unclaimed balance of the proceeds of sale thereof shall become the absolute property of the Corporation.

37. Where in pursuance of this Part the Corporation removes and sells a motor vehicle and the proceeds of sale are insufficient to cover the fees and expenses payable and incurred in respect of such removal and sale the Corporation may recover the balance of the fees and expenses from the registered owner of the motor vehicle.

Proceeds of sale insufficient to cover fees &c.

38. Where in pursuance of this Part the Corporation sells a motor vehicle the Town Clerk shall comply in all respects with the *Motor Vehicles Ordinance* 1949-1968 as if he were the registered owner of the motor vehicle.

Town Clerk to comply with Motor Vehicles Ordinance

39. The Corporation may from time to time for the purpose of these by-laws determine:—

Corporation may determine fees

- (a) the fee payable in respect of the removal of a motor vehicle from a public place; and
- (b) the weekly fee payable in respect of the holding of the motor vehicle prior to the sale thereof or the release thereof to the owner.

40. A motor vehicle sold in accordance with these by-laws shall be sold by public auction or public tender.

Motor vehicles to be sold by auction or tender

41. Where no bid is received at auction or no tender received for a motor vehicle offered up for sale under these by-laws, the Corporation may dispose of the motor vehicle in such manner as it sees fit."

Corporation may dispose of motor vehicle

WE CERTIFY that the above written by-laws were passed at a meeting of The Corporation of the City of Darwin held on the seventeenth day of June, 1968, at which the Acting Mayor and six Aldermen were present, this being at least two-thirds of the members as provided in Section 350 of the *Local Government Ordinance* 1954-1968.

H. BAUER, Acting Mayor

W. J. SULLIVAN, Town Clerk