

TOWNSVILLE CITY COUNCIL

LOCAL LAW NO 12

SAFETY AND CONVENIENCE

(Local Authorities Acts, 1902 to 1926 – Schedule IV.,
Subdivision 52.)

Subsection (i.) Public safety and convenience generally.

400. (1) No person shall cause or suffer any grass, weeds, plants, or other vegetable growth upon land in his occupation or under his control to be in such quantity and in such condition as to cause reasonable apprehension of danger by fire to human life or to any building, structure or chattels, or to be likely to constitute a breeding place or harbourage for verminous creatures (which term includes reptiles).
- (2) When there is upon any land, any grass, weeds, plant or other vegetable growth which in the opinion of an inspector appointed under “*The Health Acts, 1937 to 1958,*” is in such quantity and in such condition as in the last preceding clause of this By-law mentioned, the Council may serve upon the occupier or person in charge of such land, or if there is no occupier or person in charge, then upon the owner, or in any case at the option of the Council upon both the owner and the occupier or person in charge, a notice requiring him, within a time to be specified in such notice, not being less than ten days from the service of the notice (unless he shall in the meantime have shown to the satisfaction of the Council sufficient reason why the requirement should not be enforced), to extirpate and destroy all such grass, weeds, plants, or other vegetable growth, or to deal with it in such manner as may be directed in the notice, so as no longer to be cause for apprehension of danger as aforesaid; and to keep the said land free therefrom during a period of one year thereafter.
- (3) Any person who fails to comply with the requirements of a notice given under the last preceding clause, shall be guilty of an offence.

Inflammable substances not to be stacked in the open air

431. No occupier of vacant land shall place, or cause or permit to be placed, or suffer to remain in the open air on such land any cases or crates packed with straw or other inflammable material.

Or near roads or buildings

431. No person shall make or keep on any land any stack of hay, straw, or other inflammable material within a distance from any building of less than sixty feet, or within a distance from any road or right-of-way or any adjoining land of less than twenty feet, unless such stack is kept within a building completely covered in by a roof and enclosed as to all the sides thereof by walls of stone, iron, brick, or concrete.

Inflammable fences, &c.

431. No person shall erect any fence of brushwood, bushes, or other inflammable material so as to endanger any adjacent building or premises, or any tree or shrub on such premises, or any chattels in or upon such building or premises.

Fire or combustible materials, &c.

431. No person shall light, place, or knowingly permit to be lit or placed, in any house, yard, workshop, or other premises, fire, gunpowder or combustible or inflammable materials of any kind in such a manner as to endanger any adjacent building or premises.

Live cinders and ashes

431. No occupier of any premises shall deposit or keep, or suffer to be deposited or kept, any live cinders or ashes, or any oily cotton waste, whether within or without any building, save in a receptacle constructed of iron or other fire-resisting material.

Chimney catching fire

431. No person shall allow the chimney of any building occupied by him to become foul so as to be likely to catch fire.

Setting fire to a chimney

431. No person shall wilfully or negligently set or cause to be set on fire any chimney or any building.

431. Burning of Refuse, etc

Definitions

- (1) (i) In this by-law, unless the context otherwise indicates, the following terms shall have the meanings respectively assigned to them, that is to say:-

“Approved incinerator” – A receptacle used for the burning therein of any substance or thing and which meets the requirements and specifications set out in clause (5) of this bylaw.

“Authorised Officer” – A Health Surveyor of the Council or a person appointed by the Council to enforce the provisions of this by-law.

“Chief Health Surveyor” = The Chief Health Surveyor for the time being of the Council.

“Downdraft Incinerator” -= A type of incinerator in which air is drawn through an aperture above the material to be burned.

“External aperture” – An aperture through which flame or burning material in the incinerator is visible from the outside at any time when the fire is burning in the incinerator.

“Refuse” – Includes rubber, rubber compounds, plastic and liquid and semi-liquid substances whether or not the same has been discarded or is valueless and the term also includes commercial refuse, domestic refuse, domestic clean up refuse, garden refuse and industrial refuse as defined in the Refuse Management Regulations 1983.

“Reserve” – Any reserve, park, garden, foreshore, beach, road or other land owned by or under the control of the Council.

“Smoke” – Includes soot, ashes, dust, offensive or injurious vapours, gases, exhalations or effluvia being the product or result of combustion whether complete or partial.

“Updraft Incinerator” – A type of incinerator in which air is drawn through a firedoor or draught opening and then through a grate supporting the material to be burned.

- (ii) For the purposes of this by-law, any person who sets fire to any refuse, substance or thing, or where any refuse, substance or thing has been set on fire, then any person who, being in a position to extinguish the fire so caused, causes suffers or permits the fire to continue, is said to burn such refuse, substance or thing.

Burning of Refuse

- (2) Except as hereinafter provided, a person shall not burn any refuse.
- (3) Notwithstanding Clause (2) of this by-law, a person may burn only dry waste paper, dry waste cardboard and dry garden refuse upon any premises other than –
 - (a) a multiple dwelling in relation to which written approval for such burning has not previously been issued by the Council; or
 - (b) any commercial or industrial premises to which clause (9) of this by-law does not apply

PROVIDED THAT such burning –

- (A) takes place in an approved incinerator; and
- (B) does not take place before the hour of 10.00 a.m. or after the hour of 4.00 p.m. on any day;
- (C) otherwise meets the requirements of this by-law other than clause (2) hereof.

- (4) (i) A person shall not cause, suffer or permit any smoke to be emitted from any building, premises or land of which he is the occupier or which is under his control so as to be a nuisance.
- (ii) For the purposes of this clause and without limiting the operation of the Common Law as to nuisances caused by smoke, smoke shall be and be deemed to be a nuisance if it occasions any injury or damage to any person or if it occasions any undue stress, annoyance or irritation to any person, or in any case if it is emitted from the building, premises or land in question before the hour of 10.00 a.m. or after the hour of 4.00 p.m. on any day.

Approved Incinerator

- (5) An incinerator shall be and be deemed to be an approved incinerator for the purposes of this by-law if it complies with the following:-
- (a) the incinerator, the incinerator top, flue and baffle plate shall be constructed of non-combustible materials such as masonry, brick, metal or asbestos cement;
- (b) the top of the incinerator may be detachable from the body thereof;
- (c) the incinerator shall be fitted with a flue pipe or chimney, not less than 1 metre in height, which shall be fixed to the body of the incinerator in such a manner as to prevent movement of the flue; provided that the top of the flue pipe or chimney shall be at least 2 metres from the ground's surface;
- (d) the top of the flue shall be fitted with a spark arrester to prevent the escape of sparks or burning material. The spark arrester shall be fixed in such a manner as to prevent its movement;
- (e) where the incinerator is provided with openings for the insertion of rubbish or removal of ash, covers for such opening shall be provided which shall be securely fitted or fastened with a catch or be so constructed as to be capable of being kept securely closed while the fire in the incinerator is burning;
- (f) the air intake, fire door or draught openings shall be fitted with a screen or guard so constructed as to remain in place while the fire is burning and to prevent the escape of sparks or burning material;
- (g) every screen or guard over an external aperture, and the flue, shall be constructed of durable and non-combustible materials;
- (h) the spark arrester screen and the air intake screen in a down draught type incinerator shall be made of fabricated or woven wire or perforated plate of non-combustible material in which no aperture has a dimension greater than 5 mm;
- (i) the fire door or draught opening guard in an up draught type incinerator may be made of wire mesh or slotted plate, and the apertures shall have not more

than one dimension greater than 5 mm. If wire mesh is used for this purpose, the diameter of the wire shall be not less than 1.6 mm;

- (j) any external aperture shall have not more than one dimension greater than 5 mm; and
- (k) the incinerator is located at least 6 metres from any building, 2 metres from any boundary or dividing fence and, in any case, clear of dense foliage or overhanging branches.

Maintenance and Operation of Approved Incinerator

- (6) (a) An approved incinerator shall be kept in a state of efficient action and good repair;
- (b) the incineration of dry waste paper and dry waste cardboard and dry garden refuse in an approved incinerator shall be conducted in such a manner as to promote efficient combustion and avoid the emission of smoke so as to be a nuisance;
- (c) ash and unburnt material shall be removed from the approved incinerator as often as is necessary to prevent the occurrence of a nuisance or the impediment of airflow through the combustion chamber and, in any case the combustion chamber shall be free of ash and partly burnt material prior to the commencement of incineration;
- (d) any material still burning or smouldering after use of an approved incinerator shall be extinguished by 4.00 p.m. on the day in question and the approved incinerator cleansed of all unburnt material;
- (e) all covers for openings in the approved incinerator, where screens or guards are not fitted, shall be kept securely in place for the whole of the time during which incineration is taking place.

Notice to Abate

- (7) (i) Where the Chief Health Surveyor is satisfied upon evidence in writing submitted to him that smoke emitted from any building, premises or land is a nuisance within the meaning of this by-law he may by notice in writing to the occupier, or if there is no occupier to the owner, of such building, premises or land require the said occupier or as the case may be the said owner to abate the nuisance forthwith or within such time as is specified in the notice.
- (ii) Where the Chief Health Surveyor is satisfied upon evidence in writing and report submitted to him that an incinerator other than an approved incinerator has been used or that an approved incinerator has been used otherwise than in accordance with clause (6) of this by-law, the Chief Health Surveyor may by notice in writing to the occupier, or if there is no occupier to the owner of the building, premises or land wherein or whereon the said incinerator was used, require such occupier or as the case may be, owner to remove the said

incinerator from the building, premises or land in question within the time specified in the said notice.

- (iii) Any person who fails to comply with the requirements of a notice given to him under sub-clause (i) and sub-clause (ii) of this clause shall be guilty of an offence.

Open Fires

- (8) Save as authorised by a permit issued by the Council, a person shall not burn any substance or thing in an open fire on any land or premises in any residential or business area or in any reserve.

Exemptions

- (9) This by-law shall not apply to the burning of any substance or thing excluding refuse:-
 - (a) in an apparatus especially designed for and used for or in connection with any trade, industry, business or hobby provided that:-
 - (A) the burning does not offend against the provisions of sub-clause (i) of clause (4) of this bylaw; and
 - (B) in the case of an operation being part of any trade, industry or business approved under the terms of the Town Planning Scheme for the City of Townsville, such burning shall, in addition, comply with the provisions of the *Clean Air Act 1963-1987*, the Clean Air Regulations 1982 and the Refuse Management Regulations 1983; and
 - (b) in a barbeque or similar cooking device where such is to be or is being used for the purposes of cooking food.

Institution of Proceedings

- (10) any person aggrieved may institute proceedings for a breach of this by-law whether such breach constitutes a public or a private nuisance.

Interim Remedy

- (11) (i) Where an authorised officer finds smoke being emitted from any building, premises or land which, in his opinion, if allowed to continue to be emitted would be likely to be a nuisance within the meaning of this bylaw or an annoyance to neighbouring occupiers, such authorised officer may by notice in writing require the occupier or other person for the time being in charge of the building premises or land to forthwith extinguish the fire generating the smoke as aforesaid.
- (ii) Any person who fails to comply with the requirements of a notice given to him under sub-clause (i) of this clause shall be guilty of an offence.

Proceedings

- (12) (i) For the purposes under the *Justices Act 1886-1988* as for an offence against the provisions of this by-law, it shall be unnecessary to aver in the Complaint that the alleged offender was neither exempt nor excused from the operation of this bylaw **Provided That** this sub-clause shall not operate so as to preclude the alleged offender from raising exemption or excusal as a defence.
- (ii) In any proceedings as for an offence against the provisions of this by-law every allegation or averment contained in the Complaint shall be prima facie evidence of the matter or matters so alleged or averred and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters notwithstanding –
- (a) that evidence in support of such matter or any other matter is given; or
- (b) that any matter so alleged or averred is a mixed question of law and fact but in that case the allegation or averment shall be evidence of the fact only **Provided That** the provisions of this sub-clause (ii) shall not in any way affect any onus of proof otherwise falling on any party to proceedings to which this sub-clause (ii) applies.

Preventing the escape of gas

431. No occupier of any building or land shall permit or suffer the escape of gas from any gaspipe, gas meter, or gas burner in or upon such building or land.

No person shall wilfully, or negligently cause or permit the escape of gas from any gaspipe, gas meter, or gas burner within the City.

In this By-law “gas” includes coal gas, carbide of calcium gas, and carbon monoxide.

Escape of Sprays, &c.

414A. The occupier of any land or premises shall prevent the emission or escape from such land or premises on to premises in other occupation or on to a road, otherwise than by means approved by the Council’s Chief Health Inspector, of any spray from painting, lacquering, or other similar process, or any steam, or any gas, dust filings or particles produced or used in any process on the land or premises.

Explosives not to be sold by gaslight

415. No person shall sell explosive or other combustible matter by gas, candle, or other artificial light within the City unless such explosive or other combustible matter is in hermetically sealed canisters.

Discharging firearms

416. No person shall fire off or discharge, or suffer any other person to fire off or discharge, any gun, pistol, fowling-piece, or other firearm in, upon, or over any road;

or from any land or building abutting on or near to any road, to the damage or danger of any person or property, or the alarm, annoyance, or disturbance of any person, unless in pursuance of some lawful authority, or on an occasion or under circumstances reasonably justifying such action.

Throwing stones, &c.

417. No person shall, to the damage or danger of any person or property, or to the annoyance or disturbance of any person, throw or discharge any stone or other missile into, upon, or against any building, or throw or discharge any stone or other missile, or use any catapult.

No person shall trundle any hoop or fly any kite in or upon, across, or over any road to the inconvenience or annoyance of any person.

Ringing bells, blowing trumpets, &c., prohibited

418. No person shall ring any bell, or blow any trumpet or horn, or beat any drum, tambourine, or gong in any road for the purpose of announcing any auction, public performance, sale, meeting, matter, or thing whatsoever.

Engine exhausts

419. Where an internal combustion engine is situated upon any premises in or near to any road or public place, under the control of the Council, it shall be fitted with an effective device to minimise the noise of the exhaust gas from such engine, and the Council may in any case require the owner not to operate the engine so as to cause a noise between the hours of nine p.m. and six a.m.

Motor horns, &c.

420. The driver or person in charge of any vehicle or cycle in the City shall not sound any gong, bell, horn, whistle, or other warning device appertaining thereto more frequently or more continuously or so as to cause a greater volume of noise than is reasonably necessary or proper for the safety of traffic and compliance with the Traffic Regulations whilst such vehicle is being used upon any road.

Motor vehicles exhausts

421. The owner of every motor vehicle or motor cycle shall have the same fitted with a proper and efficient exhaust silencer or muffler, to effectually deaden the sound of the exhaust from the engine; and the driver of every motor vehicle or motor cycle shall keep the exhaust silencer or muffler in operation at all times when such vehicle or cycle is being driven in the City, so as to minimise noise: Provided that where, by reason of the steepness of any incline, it is necessary for the more efficient working of the engine to enable the incline to be negotiated that the silencer or muffler should be cut out, it may be cut out temporarily during the climbing of the incline.

Carpets not to be beaten in street

422. No person shall beat or shake any carpet, rug, mat, or other fabric in any road.

Ferocious dogs

423. No person shall set on or allow any dog or other animal to attack, worry, or put in fear any person, horse, or other animal in any road.

Wells to be covered

424. Every occupier or owner who has a well, underground tank or cistern on his premises shall securely cover the same, in such a manner and within such time as the Council by notice requires, and in default shall be guilty of an offence; and, in addition, the Council may cause the necessary work to be done.

Flower-pots

425. No person shall fix or place any flower-pot or other article in any window in any wall abutting on or within six feet from any road, or upon the railing or ledge of any veranda or awning over any road unless the same is sufficiently guarded from falling or being thrown away.

Insecure slates, tiles, &c., may be ordered to be removed

426. The Council may order the owner or occupier of any building to remove or repair any chimney, cowl, pot, iron, tiles, slates, shutter, or other article or thing on the roof, or any other part of such building which may be dangerous to traffic; and on failure so to do, such owner or occupier shall be guilty of an offence, and, in addition, the Council may cause the necessary work to be done.

Throwing down slates, &c.

427. No person shall throw or cast upon any road from the roof or any part of any building any slate, brick, stone, or shingles, or any wood, rubbish, or other material or thing whatsoever.

Dangerous hatpins

428. No person shall, whilst on any road, or public place within the city, wear a hatpin which protrudes in such a way as to be a source of danger to any person.

Any person offending against this By-law shall be liable to a penalty not exceeding ten pounds.

Defacing property, &c.

431. No person shall in any road wilfully injure, deface, or remove any door-plate, bell knocker, lamp, signboard, or fire alarm; nor shall wilfully disturb or annoy any inhabitant by ringing any door-bell, or knocking at any door, or wilfully give or ring a false alarm.

Subsection (ii.) The prevention of danger from whirligigs and swings when such whirligigs and swings are driven by steam power, and from the use of firearms in shooting ranges and galleries.

Interpretation

294. In these By-laws –

“Whirligig” and “Swing,” respectively, mean a whirligig and a swing which is driven by steam or other mechanical power, and is erected, fixed, or set up within the City, and used or let, or intended to be used or let, for hire, and include every device by which a rotary, swinging, or oscillating movement or combination of such movements is given to any part thereof wherein or whereon passengers are carried, driven, and used or let, or intended so to be, as aforesaid.

“Shooting range or gallery” means a shooting range or gallery within the City to which the public are admitted, with or without payment, and in which firearms are used or let out for hire.

“Proprietor,” when used in relation to a whirligig or swing or a shooting range or gallery, includes any person who, either on his own behalf or on behalf of any other person, lets for hire, or causes or suffers to be used or let for hire, such whirligig or swing, or such shooting range or gallery, or any set or place in or upon such whirligig or swing, or any firearms in such shooting range or gallery.

Duties of proprietor or whirligig or swing

294. Every proprietor of a whirligig or swing shall –

- (i) Cause such whirligig or swing to be so placed as to have about it a clear space, the distance across which, measured upon the ground from the outermost point covered by such whirligig or swing, or which such whirligig or swing may overhang, shall in every part be equal at least to the greatest height of such whirligig or swing;
- (ii) Cause such whirligig or swing to be erected in a proper manner, and every part thereof to be carefully and securely fixed;
- (iii) Cause every part of such whirligig or swing and of the apparatus for driving the same to be maintained at all times in good repair and condition, and to be under proper management and control;
- (iv) Cause such whirligig or swing, if in motion, and, if any person riding in or upon such whirligig or swing is ill or desirous of alighting therefrom, to be stopped as quickly as may be practicable, for the purpose of allowing such person to alight or to be removed from such whirligig or swing.

Duties of person in charge

294. The proprietor of any other person for the time being having the management or control of a whirligig or swing, or of the apparatus for driving the same, or of any part of such whirligig or swing or of such apparatus, shall, in the exercise of such management or control, take all reasonable and proper care so as to prevent danger from such whirligig or swing.

He shall not cause or suffer such whirligig or swing to be driven at any greater speed than is consistent with safety, having regard to the age and sex of any persons riding in or upon such whirligig or swing, and to all other circumstances attending or affecting the use of such whirligig or swing.

He shall not cause or suffer any person to enter or mount upon such whirligig or swing at any time when such whirligig or swing is already occupied by the full number of persons for whose accommodation such whirligig or swing is constructed or intended or adapted to be used.

Duties of other persons

437. No person shall –

- (i) Knowingly enter or mount upon, or seek to enter or mount upon, any whirligig or swing, or any part thereof, at any time when such whirligig or swing, or such part thereof, is in motion, or is already occupied by the full number of persons for whose accommodation such whirligig or swing or part thereof is constructed or intended or adapted to be used;
- (ii) Be guilty of any disorderly or improper conduct so that the use of such whirligig or swing may be attended with danger to any person;
- (iii) Wilfully and improperly, or carelessly or negligently interfere with the due management and control of such whirligig or swing, or with the apparatus for driving the same, or with any fastening, fitting, or appliance connected with such whirligig or swing, or with such apparatus; or
- (iv) Otherwise do any act which may cause danger from such whirligig or swing.

Duties of proprietor of shooting range or gallery

436. The proprietor of a shooting range or gallery shall –

- (i) Cause the several parts of such shooting range or gallery to be properly put together and securely fixed;
- (ii) Cause every part of such shooting range or gallery within, along, or towards which it may be intended that any firearms shall be discharged to be constructed of iron of such strength and thickness as is sufficient to resist any missile or projectile that may be discharged from such firearm, to the satisfaction of the Council.

- (iii) Cause the mode of construction of such shooting range or gallery to be such that no missile or projectile that may be discharged from any firearm used therein can escape from such shooting range or gallery, if such firearm, at the moment of discharge, is pointed, as required by the By-laws, towards any target or mark that may be within such shooting range or gallery, to the satisfaction of the Council.
- (iv) Cause every part of such shooting range or gallery within, along, or towards which it may be intended that any firearm shall be discharged to be maintained at all times in good repair and condition, to the satisfaction of the Council.
- (v) Cause such shooting range or gallery, at all times when the public are admitted thereto, to be under the management and control of a sufficient number of competent persons;
- (vi) Cause the letting to hire and use by any person of any firearm in such shooting range or gallery to be under the management and control of a competent person directly responsible therefor.

Duties of person in charge

437. (1) The proprietor or any other person for the time being having the management or control of a shooting range or gallery, or any part thereof, shall, in the exercise of such management or control, take all reasonable and proper care so as to prevent danger from the use of firearms in such shooting range or gallery.
- (2) Every person having, in pursuance of the By-laws, the management and control of the letting to hire and use by any person or any firearm in a shooting range or gallery shall not at any time cause or suffer to be used in such firearm any greater charge than is consistent with safety, and shall cause every such firearm, when loaded or being loaded, to be pointed towards any target or mark that may be within such shooting range or gallery, and shall not suffer any loaded firearm to be taken out of such shooting range or gallery.
- (3) Every such person shall obey the commands or any member of the Police Force or of the City Inspector or any other officer authorised by the Council in that behalf, in regard to the management and control of such shooting range or gallery.

Duties of other persons

438. (1) Notwithstanding anything in the foregoing By-law, a person hiring or using any firearm in a shooting range or gallery shall not, while such firearm is loaded or being loaded, cause such firearm to be pointed otherwise than towards any target or mark that may be within such shooting range or gallery, and shall not take any loaded firearm out of such shooting range or gallery.
- (2) A person shall not in a shooting range or gallery be guilty of any disorderly or improper conduct so as to cause danger in connection with the use of any firearm in such shooting range or gallery.

- (3) A person shall not wilfully and improperly, or carelessly, or negligently, interfere with the due management and control of the letting to hire and use by any person or any firearm in a shooting range or gallery, or with any shield, fastening, or fitting to secure or contribute to the safe use of firearms therein.

Subsection (iii.) Prohibiting or regulating the use of steam whistles.

Steam whistles at factories, &c.

439. (1) No person shall use, cause to be used, or assist in using any steam whistle in any factory or other establishment so as to be a nuisance to any person.
- (2) No person who occupies or who has the management or control of any factory or other establishment shall suffer or permit any steam whistle to be used thereat unnecessarily or unreasonably frequently or unreasonably continuously or in blasts or unreasonable duration or otherwise so as to be a nuisance to any person.

(Local Authorities Act, 1902 to 1936 – Schedule IV.,
Subdivision 20)

The enclosure of land where necessary for the public safety.

Fencing open spaces in front of buildings

440. Every owner or occupier of any building or premises having an entrance, area, garden, or other open space adjoining the footway or any road or adjoining any road where there is no footway beneath the level of the kerbstone or exterior edge of such footway or road, and every owner or occupier of any land which is beneath or above the level of the kerbstone or exterior edge of the footway or road, shall protect and guard the same by good and sufficient rails and fences or other enclosures so as to prevent damage or accidents, but shall not erect the same on the footway or road.

Every such owner or occupier of any such building or premises having any steps adjoining the footway of any road shall in like manner protect and guard the same by rails or other enclosures so as to prevent danger to traffic.

(Local Authorities Act, 1902 to 1936 – Schedule IV.,
Subdivision 49)

Regulating and controlling quarrying and blasting operations.

Blasting

441. (1) No person shall blast any rock or earth within the City, or cause or permit the same to be done without giving notice to and obtaining a permit from the Council at least twelve hours previously; the Council shall, when granting such permit, appoint times when such blasting may take place, and give such directions as it considers necessary for the public safety.

- (2) Any person who blasts or causes or permits to be blasted any rock or earth without giving such notice and receiving such permit, or who does not conform to the directions given by the Council; shall be guilty of an offence. There shall be paid for every such permit the sum of 2s. 6d.