

TOWNSVILLE CITY COUNCIL

LOCAL LAW NO. 37

MOTOR VEHICLES CONTROL

Interpretation

- (1) In this Chapter, unless the context otherwise indicates or requires the terms undermentioned shall have the meaning set against each of them respectively; otherwise the terms used herein in this Chapter shall have the same meaning as is assigned to each of them respectively in the Act or Regulations; where not defined herein or in the Act or Regulations the terms shall have the meaning assigned to each of them respectively in the Local Government Act 1936 to 1979:

"the Act" - The Motor Vehicles Control Act 1975, as amended from time to time;

"the Regulations"-The Motor Vehicle Control Regulations 1976 as amended from time to time, and any Regulations made in addition or substitution therefor;

"the Area"-The Local Authority Area of the Council of the City of Townsville;

"Official Traffic Sign"-Any sign, signal, marking, light or device, not inconsistent with the Act and these By-laws, placed or erected on or near to a public place for the purpose of regulating prohibiting warning or guiding motor vehicles using the public place.

- (2) The Council may by resolution declare upon such terms and conditions as it thinks fit that the use of motor vehicles for the purposes of a particular public demonstration or a particular public exhibition or other special public event shall be exempt from the provisions of this Chapter.

Authorised Officers

- (1) The Council may, in writing, appoint any person who is a permanent officer of the Council to be an authorized officer for the purposes of the Act either in respect of the whole of the Area or any part thereof defined in the appointment.
 - (2) The Council may, in writing, at any time revoke an appointment made under the last preceding clause.
 - (3) A person appointed under clause (1) of this By-law as an authorized officer may resign by giving the Council one month's notice in writing in that behalf.
 - (4) An authorized officer appointed under this Chapter shall exercise all the powers and functions and shall perform the duties of an authorized officer conferred upon him or as may be prescribed by the Act, the Regulations or this Chapter.
- (1) Every authorized officer appointed under this Chapter shall be issued with pan identity card by the Council wherein shall be specified the name of the authorized officer to whom it is issued and the fact that he is an authorized officer for the purposes of the Act and, where he is appointed in relation to part of the Area, a description of that part of the Area to which the appointment relates.

- (2) When exercising his powers and functions under the Act, the Regulations and this Chapter an authorized officer shall carry his identity card and, should the circumstances require it, exhibit such card for the purpose of his identification.
- (3) An authorized officer shall upon his ceasing to hold that appointment surrender his identity card to the Council.

Prohibition of Use of Motor Vehicles in Public Places

4. (1) With the exception of those public places which have been declared by the Council under By-law 5 on this Chapter to be public places wherein the use of Motor Vehicles shall be regulated, the use of motor vehicles within public places within the Area is prohibited.
- (2) A person shall not have, drive or use a motor vehicle within a public place wherein the use of a motor vehicle is prohibited.

Regulation of Use of Motor Vehicles in Public Places

5. (1) Subject to the provisions of this By-law the Council may from time to time by resolution declare that a public place described in such resolution shall be a public place wherein the use of motor vehicles shall be regulated.
- (2) The Council shall not make a declaration for the purposes of clause (1) of this By-law unless it has previously complied with the next following clauses of this By-law.
- (3) (i) Where the Council intends to make a declaration for the purposes of clause (1) of this By-law, it shall cause public notice to be given of such intention -
 - (a) by advertisement published prominently at least once in a newspaper; and
 - (b) by posting a copy of the advertisement upon the land in question in the vicinity of each road onto which the land in question abuts; and
 - (c) by forwarding by prepaid post to the occupier or if there is no occupier then to the owner of each and every parcel of land that adjoins the land in question a copy of the advertisement provided that it shall not be necessary for the Council to forward itself a copy of the advertisement nor shall it be necessary to forward one and the same occupier or owner as the case may be more than one copy of the advertisement.
- (ii) The copy or copies of the advertisement posted upon the land in question shall be not less than 600 mm in height, not less than 0.56 square metre in area, and all lettering thereon shall be not less than 25 mm in height and each such copy shall be posted not more than 1.5 m from the road alignment in question of the land and so as to be clearly visible from the road in question and shall be kept so posted at all times during the period of 21 days next preceding the date stated in the advertisement as the date on or before which objections may be lodged with the town clerk.
- (iii) The advertisement shall be in the form prescribed in the first part of the schedule to this Chapter and shall contain the information and particulars required by that form.
- (iv) Objections to the declaration intended to be made by the Council may be lodged with the town clerk on or before the date specified in the advertisement which date shall be not earlier

than twenty-one days after the publication of the advertisement in a newspaper or if published more than once, the date of its first publication.

- (v) Any objection shall be do writing, and shall be addressed to the town clerk and shall set nut the full name and residential address of the objector, the grounds of objection and the facts and circumstances relied upon by the objector in support o€ those grounds and shall be lodged with the town clerk an or before the date specified in the advertisement in accordance with this By-law.
- (vi) The Council shall consider each and every objection received by it pursuant to this By-law.
- (vii) Where no person has duly objected the Council shall be at liberty to make a declaration for the purposes of clause (1) of this By-law in relation to the land described in the advertisement forthwith after the passing of the date specified in the advertisement.
- (viii) Where a person has duly objected and after consideration of the objection the Council proposes to make the declaration far the purpose of clause (1) of this By-law the town clerk shall notify accordingly every person who has duly lodged with him an abjection to the proposed declaration. Such notification shall be accompanied by a copy of this By-law 5.
- (ix)
 - (a) Subject to this subclause a person who has duly objected to the proposed declaration whereof public notice has been given may appeal to the Local Government Court of Queensland against the intention of the Council to make the declaration.
 - (b) Such appeal shall be initiated within twenty-eight days after the giving of the notification to such person by the town clerk but not later.
 - (c) The Council shall be the respondent to the Appeal.
- (x) Where a person has duly objected the Council shall not make the declaration for the purposes of clause (1) of this By-law -
 - (a) until the time for institution of an appeal has expired; or
 - (b) if an appeal is duly instituted, until the appeal has been determined.
- (xi) Where an appeal has been duly instituted, the Council shall in proceeding with the matter of the declaration for the purposes of clause (1) of this By-law be bound by the determination of the Local Government Court.
- (xii) Where an appeal has been duly instituted the Local Government Court shall have jurisdiction
 - (a) to allow the appeal;
 - (b) to refuse the appeal;
 - (c) to refuse the appeal and order the Council to regulate the use of motor vehicles in the public place in question in such manner as to the Court shall seem meet; and
 - (d) to make such order as to the costs of the appeal as to the Court shall seem just.

- (xiii) Where the Council makes a declaration for the purposes of clause (1) of this By-law in relation to a public place that has been the subject of an appeal under this By-law the town clerk shall within fourteen days of the making of such declaration forward a copy of the declaration to each person who duly objected under this By-law.
6. The Council may at any time revoke a declaration made for the purposes of clause (1) of this By-law. It shall not be necessary for the Council to give public notice of any such revocation.
7. A person shall not have, drive or use a motor vehicle within a public place wherein the use of motor vehicles is regulated except in conformity in all respects with the provisions of the Act, of the Regulations and this Chapter that relate to the presence, driving and use of motor vehicles within that public place:

Permits

8. (1) (i) A person shall not have, drive or use a motor vehicle in a public place wherein the use of motor vehicles is regulated unless that person is the holder of a permit from the Council.
- (ii) The Council may either generally for the Area or in respect of a particular public place within the Area and either indefinitely or in respect of a specified period of time dispense with the requirements of the last preceding subclause,
 - (iii) In any proceedings as for an offence against the provisions of subclause (i) of this clause the onus of proving that the requirements of the said subclause (i) had been dispensed with shall rest upon the defendant.
- (2) (i) A person who desires to obtain a permit for the purposes of this chapter shall make application in writing therefor in the form set out in the second part of the schedule to this chapter. The application shall be lodged with the Council and shall be accompanied by the prescribed fee and such other information as the Council may require.
- (ii) Notwithstanding the generality of the last preceding subclause, the Council may require an applicant to submit with his application evidence of the applicant's age and evidence of the applicant's ability to drive or use a motor vehicle of a particular description or class.
 - (iii) In the case of an applicant who has not attained the age of seventeen years, the form of application shall be signed by a parent or guardian of the applicant.
- (3) Upon application made to it under this By-law the Council may -
- (a) grant a permit;
 - (b) refuse a permit;
 - (c) grant a permit subject to such conditions as to the Council shall seem meet including conditions relating to
 - (i) the description and class of motor vehicle that may be used by the permit holder;
 - (ii) the public place wherein the permit holder may have drive or use a motor vehicle;
 - (iii) the hours of the day when the permit holder may have, drive or use a motor vehicle in a public place.

- (4) It shall be a condition of every permit issued under this By-law on breach whereof the permit may be revoked by the Council that the holder of the permit will not have, drive or use a motor vehicle in a public place otherwise than in strict conformity with the provisions of the Act, the Regulations and this Chapter.
- (5) Unless sooner revoked a permit issued under this By-law shall remain in force from the date of issue until the thirtieth day of June next following.
- (6) Any notice required to be given to a permit holder shall be sufficiently given if it is posted by prepaid post to the permit holder at his address shown on his application form.

The Rules Regulating the use of Motor Vehicles in Public Places

9. (1) The Council may from time to time, by resolution adopt, amend alter or rescind "Rules Regulating the use of Motor Vehicles in Public Places" herein in this Chapter referred to as "the Rules". The term "this Chapter" includes the Rules.
- (2) The Rules may make provision not inconsistent with the Act, Regulations and this Chapter with respect to -
 - (a) the regulation of access to and within public places;
 - (b) the regulation of the use of motor vehicles in public places;
 - (c) the regulation of the type of motor vehicles that and the speed and the hours of day at which such motor vehicles may be used within public places; the standards for such motor vehicles and for fittings and accessories used in connection with such motor vehicles; the dress and equipment of persons using such motor vehicles;
 - (d) matters necessary or desirable to be prescribed for the proper administration of the Act, the Regulations and this Chapter or to achieve the objects and purposes of the Act, the Regulations and this Chapter.
- (3) A copy of the Rules shall be open for inspection by the public without fee at the office of the Council during the Council's normal business hours and a copy of the Rules shall be supplied to any person requiring the same upon payment of the prescribed fee.
- (4) A copy of the Rules certified under the hand of the town clerk to be a true copy of the Rules of which it purports to be a copy shall be admissible in evidence in any proceedings wherein proof of such Rules is relevant and in the absence of proof to the contrary shall be conclusive proof of the Rules.
- (5) In any proceedings a signature purporting to be that of the town clerk shall be taken to be the signature it purports to be until the contrary is proved.
- (6) It shall be a condition of every permit granted under the provisions of this Chapter on breach of which condition Council may revoke the permit that the holder of the permit shall not have, drive or use a motor vehicle in a public place otherwise than in strict conformity with the Rules.

Official Traffic Signs

10. (1) (a) The Council may construct, make, mark, place, erect, affix or paint in, into, or on or near any public place such official traffic signs as it considers necessary or desirable for the purpose of

guiding or directing or regulating motor vehicles being driven or used in the public place in question.

- (b) When appearing on any official traffic sign
 - (a) Words, figures or symbols indicating two specified hours, times or days (e.g. 9 a.m. to 6 p.m.) shall mean that the direction or indication given by such sign applies at any time during the period between the hours, times or days indicated by such words, figures or symbols;
 - (b) Words, figures, symbols indicating a specified day or part thereof shall mean that the direction given by such sign applies during the whole of such day or part thereof as the case may be;
 - (c) Any matter forming part of an indication or direction given by an official traffic sign may be stated thereon in an abbreviated form.
- (2) Subject to section 24 of the Act, a person shall not drive or use a motor vehicle in a public place wherein the use of motor vehicles is regulated at a rate of speed greater than the speed limit indicated by an official traffic sign upon that public place.
- (3) A person shall not drive or use a motor vehicle in a public place wherein the use of motor vehicles is regulated contrary to the direction or indication given by an official traffic sign upon that public place.

Evidence

11. (1) In any proceedings as for an offence against or for a breach of the provisions of this Chapter every allegation or averment contained in the complaint shall be prima facie evidence of the matter so alleged or averred and without limiting the generality of the foregoing the allegation or averment in any complaint that at the time and date mentioned in the complaint
- (a) a place was or was not a public place wherein the use of a motor vehicle was or was not prohibited;
 - (b) a place was or was not a public place wherein the use of a motor vehicle was or was not regulated;
 - (c) a person failed to comply in all respects with the requirements of the Act, the Regulations and this Chapter relating to the presence, driving and use of a motor vehicle within a public place;
 - (d) a person failed to comply in all respects with the provisions of the Rules; or
 - (e) a person was or was not the holder of a permit under this Chapter;
 - (f) that any sign, signal, light, marking or other device
 - (i) is or is not or was or was not an official traffic sign; or
 - (ii) is or is not or was or was not lawfully constructed, made, marked, placed, erected, affixed or painted in, into, or on or near any public place or that such sign, signal, light, marking or other device is or is not or was or was not for any purpose specified in the complaint; or

- (iii) does or does not contain or has or has not contained any specified word, figure, warning, direction, indication or symbol,

shall be 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 although

- (i) Evidence in support of such matter or any other matter is given; or
- (ii) 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.

(2) Any evidence given in support or rebuttal of the matter so alleged or averred shall be considered on its merits and the credibility and probative value of such evidence shall be neither increased or diminished by reason of this Bylaw.

(3) This By-law shall not lessen or affect any onus of proof otherwise falling on the defendant.

Fees

12. The prescribed fee in respect of a permit under the provisions of By-law 8 of this Chapter shall, according to whether the permit is issued in respect of a period of a day, a period of a week, a period of a month or a period of a year, be as follows:

For a permit for a day	\$ 0.50
For a permit for a week	\$ 2.00
For a permit for a month	\$ 4.00
For a permit for a year	\$30.00

THE SCHEDULE

First Part

FORM OF ADVERTISEMENT

TAKE NOTICE that the Council of the City of Townsville intends to declare for the purposes of the Motor Vehicles Control Act 1975 and Chapter XXXVII of its By-laws that the undermentioned public place shall be a public place wherein the use of motor vehicles shall be regulated. Any person desirous of objecting to the proposed declaration may submit an objection in writing to the town clerk on or before the _____ day of _____, 19__ .

The Public Place referred to comprises the (or part of the) land described as follows:

County of Elphinstone:

Parish of:

Real Property Description:

Area:

The said Public Place abuts onto the following roads:

(Here name all the roads onto which the land abuts)

Town Clerk.

Second Part

Motor Vehicles Control Act 1975

Townsville City Council By-laws-Chapter XXXVII

MOTOR VEHICLES CONTROL

APPLICATION FOR PERMIT

(By-law 8)

To: Town Clerk, Townsville City Council

I, *(here insert full name)*, of *(here insert residential address-Post Office and P.O. Box address are not acceptable)*, hereby apply for a permit to have, drive and use a motor vehicle in a public place wherein the use of motor vehicles is regulated. In support of the application I submit the following information:

- 1. Date of Birth
- 2. Particulars of Motor Vehicle (s) proposed to be used
 - (a) Make:
 - (b) Type:
 - (c) Reg. No:
 - (d) Engine Capacity:

(particulars of each and every motor vehicle that it is proposed will be used must be supplied-use separate sheet if necessary)

- 3. Experience in relation to use of motor vehicle described above

Dated at Townsville the day of 19

Signature of Applicant.

If Applicant has not attained the age of 17 years this application must be signed by a parent or guardian of the Applicant as well.

I, *(here insert full name of parent or guardian)* of *(here insert residential address)*, hereby declare that I am a parent (guardian) of the within mentioned Applicant and that this application is made with my full knowledge and consent.

Dated at Townsville the day of , 19 .

Signature of Parent (Guardian).