

# TOWNSVILLE CITY COUNCIL

## LOCAL LAW NO. 39

### PEDESTRIAN MALLS

#### *Interpretation*

1. (1) In this Chapter unless the context otherwise indicates or requires, the terms undermentioned shall have the meaning set against each of them respectively, that is to say:

"Approved Vehicle. Label" - means a label issued by the Council in accordance with By-law 4 of this Chapter and which is capable of being affixed to the windscreen or some other conspicuous part of a vehicle;

"Authorised Person (Pedestrian Mall)" means any person appointed by the Council as an Authorised Person (Pedestrian Mall) for the purposes of this Chapter and includes an authorised person for the purposes of paragraph (ix) of subsection (24B) of section 35 of the *Local Government Act 1936-1982*;

"Clerk" means the Clerk of the Council of the City of Townsville;

"Delivery Vehicle" means a motor vehicle approved by the Council in accordance with this Chapter for entry into or upon a pedestrian mall during the prescribed hours for the purposes of delivering goods or picking up goods from premises adjacent to or adjoining a pedestrian mall;

"Essential Services Vehicle" - means a motor vehicle that is in the care or control of any Officer of the Ambulance Brigade, the Fire Brigade, the North Queensland Electricity Board, the Police Force, the State Emergency Service, Telecom Australia or the Council whilst such Officer is *bona fide* carrying out the duties assigned to him;

"Official Sign" - means any sign, signal, marking light or device placed, erected or put up in a pedestrian mall or by the authority of the Council or the Clerk for the purpose of regulating, prohibiting, warning or guiding persons using the pedestrian mall whether with or without vehicles;

"Order in Council" means an Order in Council duly made under the provisions of the Local Government Act 1936-1982 and published in the Gazette whereby a road or part of a road within the Area of the Council is proclaimed as a pedestrian mall. The term includes an Order in Council whereby any of the provisions subject to or in accordance with which a pedestrian mall operates are altered. When used in respect of a particular pedestrian mall the term shall mean and refer to the Order in Council made in respect of the pedestrian mall in question;

"Owner" when the same is used in respect of a vehicle, means as well a person who is the owner within the meaning assigned to that term by the *Traffic Act 1949-1982* a person in whose name a vehicle is registered under the Regulations made under the *Main Roads Act 1920-1979* or under any corresponding Regulation, Ordinance, Law or By-law of any State or Territory of the Commonwealth of Australia;

"Pedestrian Mall" means a pedestrian mall proclaimed by Order in Council made under the provisions of the *Local Government Act 1936-1982* and published in the Gazette and which is specified in the Schedule to this definition, that is to say:

#### SCHEDULE

1. The Flinders Pedestrian Mall.

“Prescribed Hours” means the hours prescribed by By-laws 20 and 21 of this Chapter in respect of the pedestrian mall in question when delivery vehicles and service vehicles shall subject to the provisions of this Chapter be permitted in or upon the pedestrian mall in question;

"Service Vehicle" means a motor vehicle approved by the Council in accordance with this Chapter for entry onto or upon a pedestrian mall during the prescribed hours for the purposes of providing services to premises adjacent to or adjoining a pedestrian mall;

"Special Vehicle" means a vehicle approved by the Council in accordance with the by-laws for entry into or upon a pedestrian mall for a special purpose during the hours permitted by the Council;

"The Flinders Pedestrian Mall" means the pedestrian mall proclaimed as a pedestrian mall pursuant to subsection (24B) of section 35 of the *Local Government Act 1936-1982* by Order in Council made on the sixteenth day of August, 1979, and published in the Gazette on the eighteenth day of August, 1979, for a trial period of 12 months from the eighteenth day of August, 1979, part of which being that between the north-eastern alignment of Stokes Street and the south-western alignment of Denham Street, Townsville, having been proclaimed by Order in Council made on the seventh day of August, 1980, and published in the Gazette on the ninth day of August, 1980, as a permanent pedestrian mall, the other part of which, being that part between the north-eastern alignment of Stanley Street and the north-eastern alignment of Stokes Street, Townsville (the trial period in respect of the same having been extended by Order in Council made on the seventh day of August, 1980, and published in the Gazette on the ninth day of August, 1980; up to and including the eighteenth, day of August, 1981) having been proclaimed by Order in Council made on the thirtieth day of July, 1981 and published in the Gazette on the first day of August, 1981, as a permanent pedestrian mall;

“The Picnic Bay Pedestrian Mall” means the pedestrian mall comprising those parts of the Esplanade and Yule Street, Picnic Bay, Magnetic Island, Townsville proclaimed as a permanent pedestrian mall pursuant to sub-section (24B) of Section 35 of the *Local Government Act 1936-1985*.

“Vehicle” means any description of vehicle drawn or propelled by animal or other motive power other than a velocipede as herein defined.

“Velocipede” means a bicycle, tricycle or other vehicle of similar description. The term does not include a wheelchair when such is being used by a person *bona fide* in need of the same by reason of the condition of his limbs or of his state of health.

- (2) A pedestrian mall shall be known by and may be described for all purposes whatsoever by the name assigned to the pedestrian mall by the Order in Council or by this Chapter.

***Authorised Person (Pedestrian Mall)***

2. (1) The Council may in writing appoint any person who is a permanent officer of the Council to be an Authorised Person (Pedestrian Mall) for the purposes of this Chapter either in respect of all pedestrian malls generally within the Area or in respect of the pedestrian mall or pedestrian malls
- (2) The Council may in writing at any time revoke an appointment made under clause (1) of this by-law.
- (3) A person appointed under clause (1) of this by-law as an Authorised Person (Pedestrian Mall) may resign by giving the Council one month's notice in writing in that behalf.

- (4) An Authorised Person (Pedestrian Mall) appointed under this Chapter shall exercise all the powers and functions and shall perform the duties of an Authorised Person (Pedestrian Mall) conferred upon him by the Council and as may be prescribed by the Local Government Act 1936-1982 and by an Order in Council.
3. (1) Every Authorised Person (Pedestrian Mall) appointed under this Chapter shall be issued with an identity card by the Council wherein shall be specified the name of the Authorised Person (Pedestrian Mall) for the purposes of this Chapter and where the Authorised Person (Pedestrian Mall) is appointed otherwise than in respect of all pedestrian malls generally a description of the pedestrian mall or pedestrian malls to which the appointment relates.
- (2) When exercising his powers and functions under this Chapter an Authorised Person (Pedestrian Mall) shall carry his identity card for the purposes of his identification.
- (3) An Authorised Person (Pedestrian Mall) shall upon ceasing to hold that appointment surrender his identity card to the Council.

### *Approval of Vehicles*

4. (1) A person who desires to obtain approval of a vehicle as a delivery vehicle or as the case may be as a service vehicle or approval of a vehicle as a special vehicle for entry upon a pedestrian mall shall make application in writing to the Council in the prescribed form.

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.

- (2) Without limiting the generality of clause (1) of this by-law, the Council may require an applicant to submit with his application evidence of the fact that he regularly delivers goods or picks up goods from premises adjacent to or adjoining a pedestrian mall or as the case may be that he regularly provides services to premises adjacent to or adjoining a pedestrian mall.
- (3) Upon application made to it under this by-law the Council may-
- (a) grant its approval;
  - (b) refuse to grant its approval;
  - (c) grant its approval subject to such conditions as the Council shall think fit including a limitation as to the pedestrian mall or as the case may be the pedestrian malls to which the approval shall apply.
- (4) An approval issued under this by-law shall be in writing and shall be accompanied by an approved vehicle label.
- (5) It shall be a condition of every approval issued under this by-law on breach whereof the approval may be revoked by the Council-
- (a) that the vehicle the subject of the approval shall whilst in or upon a pedestrian mall be used strictly and only in accordance with the provisions of this Chapter and the Order in Council and the conditions, if any, subject to which the approval was granted; and
  - (b) that at all times whilst in or upon a pedestrian mall the vehicle the subject of the approval shall have affixed to the left hand extremity of its windscreen or if the vehicle is not fitted with a windscreen shall have affixed to the vehicle in a conspicuous position the authorised vehicle label issued by the Council in respect of such vehicle.

(6) Unless sooner revoked any approval issued under this by-law shall remain in force from the date of issuing up to and including the expiry date written on the face of the approval or if no expiry date is so written up to and including the thirtieth day of June next following the date of the issuing of the approval.

### *Use of Vehicles in a Pedestrian Mall*

5. (1) Save as is otherwise provided by clause (2) of this by-law a person shall not take, propel, drive, wheel have in control or otherwise use a vehicle, velocipede or a roller skate or roller skates or a skateboard in or upon a pedestrian mall.
- (2) Clause (1) of this by-law shall not apply to the following vehicles:-
- (a) Any delivery vehicle or service vehicle during the prescribed hours when such a vehicle shall subject to the provisions of this Chapter be permitted in or upon a pedestrian mall;
  - (b) Any essential services vehicle at such time or times when a need for the same to be in or upon the pedestrian mall has arisen when such a vehicle shall subject to the provisions of this Chapter be permitted in or upon the pedestrian mall in question;
  - (c) A special vehicle during the hours specified by the Council when granting its approval under this Chapter in respect of the special vehicle when such vehicle shall subject to the provisions of this Chapter be permitted in or upon the pedestrian mall specified in the approval.
6. No person shall-
- (a) drive a vehicle in or upon a pedestrian mall at a speed in excess of that indicated by an official sign or if there is no such official sign at a speed in excess of ten kilometres per hour;
  - (b) drive a vehicle into or out of a pedestrian mall at any point other than a designated entry or exit point;
  - (c) stop, stand or park a vehicle in or upon a pedestrian mall so as to hinder the free passage of other vehicles lawfully using the pedestrian mall;
  - (d) on any day Monday to Friday (both days inclusive) cause, suffer or permit a vehicle to be or to remain in or upon a pedestrian mall for a continuous period exceeding one hour without the written approval of the Council having first been obtained.
7. When a vehicle is found in or upon a pedestrian mall in contravention of the provisions of this Chapter for a continuous period in excess of two hours then a separate offence shall be deemed to have been committed at the conclusion of each hour, calculated from the time when the vehicle was first so found during which the vehicle continuously remains in contravention as aforesaid and a penalty may be exacted by way of notice to the offender in respect of each such separate offence or as the case may be proceedings in respect of each such separate offence may be taken accordingly.
8. (1) This by-law does not apply to the setting up and use of a booth for religious, charitable, educational or political purposes or of a booth to be used at or near a polling place for, or for a meeting in connection with, an election in respect of either House of the Commonwealth Parliament, the Legislative Assembly or a Local Authority.
- (2) No person shall-

- (a) sell or offer for sale any goods;
  - (b) display any goods for sale;
  - (c) carry on any business;
  - (d) perform any form of entertainment;
  - (e) take part in any public demonstration or any public address;
  - (f) use or permit or suffer to be used any megaphone, sound amplifier, radio, loud speaker, gramophone or the like or any other means of mechanically, electrically or artificially increasing or reproducing sound; or
  - (g) take or have or to be in control of anything whatsoever whether animate or inanimate used or which is apparently designed or capable of being used for or in connection with any of the purposes enumerated in paragraphs (a) to (f) (both inclusive) of this clause of this by-law, in or upon a pedestrian mall without a permit in writing from the Council.
- (3) A person who desires to obtain a permit for the purposes of this by-law shall make application in writing therefor in the prescribed form.
- 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.
- (4) Upon application made to it under this by-law the Council may-
- (a) grant a permit; or
  - (b) refuse a permit; or
  - (c) grant a permit subject to such conditions as the Council shall think fit.
- (5) A permit issued under this by-law shall be in writing.
- (6) It shall be a condition of every permit issued under this by-law on breach whereof the permit may be revoked by the Council-
- (a) that the holder of the permit will at all times obey the provisions of this Chapter, the Order in Council and the conditions, if any, subject to which the permit was granted; and
  - (b) that the permit in writing shall be produced to an Authorised Person (Pedestrian Mall) forthwith upon request made by the Authorised Person (Pedestrian Mall) in that behalf.
- (7) Unless sooner revoked a permit issued under this by-law shall remain in force from the date of issue up to and including the expiry date written on the face of the permit or if no expiry date is so written up to and including the thirtieth day of June next following the date of the issuing of the permit.

***Prohibition as to Dogs in a Mall***

9. (1) The provisions of this Chapter and in particular this by-law shall not derogate from or otherwise prejudice or limit the operation of Chapter X-Animals Birds and Reptiles-of the by-laws of the Council and shall be read in addition to the provisions of the said Chapter X.
- (2) No person shall-
- (a) take a dog into a pedestrian mall; or
  - (b) have a dog in his custody or control in a pedestrian Mall,
- except in pursuance of a permit issued by the Council under By-law 8 of this Chapter.
- (3) An authorised Person (Pedestrian Mall) may seize and detain any dog found in a pedestrian mall in contravention of clause (2) of this by-law whereupon the Authorised person (Pedestrian Mall) shall deliver the dog so seized to an Impounding Officer under the said Chapter X.
- (4) A dog delivered to an Impounding Officer pursuant to clause (3) of this by-law shall for the purposes of Division 5 of the said Chapter X be deemed to have been seized by such Impounding Officer under By-law 1 of the said Division 5 and shall be dealt with accordingly.

#### ***Damage to Property in Mall***

10. (1) If the driver of a vehicle by driving, standing or parking such vehicle in or upon a pedestrian mall howsoever causes any damage to be done to any property of the Council the owner of the vehicle and such driver shall jointly and severally be liable for the amount of such damage and such amount may be recovered as a debt in any Court of competent jurisdiction at the suit of the Council.
- (2) Without in any way limiting the operation of clause (1) of this by-law, if oil or any other form of petroleum product shall fall from a vehicle in or upon a pedestrian mall onto the paving of a pedestrian mall then for the purposes of clause (1) of this by-law the driver of the vehicle shall be taken to have caused damage to property of the Council.
- (3) For the purposes of this by-law in relation to a vehicle the term "owner" shall have the meaning assigned to it in By-law 1 of this Chapter.

#### ***Official Signs***

11. (1) The Council may construct, make, mark, place, erect, affix or paint in, into or on or near a pedestrian mall such official signs as it considers necessary or desirable for the purpose of regulating, prohibiting warning, or guiding persons using a pedestrian mall either with or without vehicles.
- (2) When appearing in any official sign-
- (a) words, figures or symbols indicating two specified hours, times or days such 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 or 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.
- (3) Any matter forming part of any indication or direction given by an official sign may be stated thereon in an abbreviated form.

- (4) A person shall not be in or upon a pedestrian mall or whilst in or upon a pedestrian mall shall not act in a manner contrary to the direction or indication given by an official sign in the pedestrian mall in question.

***Obedience to Directions, etc., by Authorised Persons***

12. A person when in or upon a pedestrian mall shall obey every direction or instruction given to him by an Authorised Person (Pedestrian Mall) or by a member of the Police Force.

***Seizure, Detention and Removal of Property Unlawfully in a Pedestrian Mall***

13. (1) For the purposes of this by-law the following terms shall have the meaning set against each of them respectively, that is to say:-

"Owner" includes the person entitled to possession of the property and as well the person responsible for the property being in the pedestrian mall in which such was found;

"Property" means any velocipede and as well any goods or any thing whatsoever whether animate or inanimate. The term does not include a dog.

- (2) Any property found in or upon a pedestrian mall in circumstances that make it appear to an Authorised Person (Pedestrian Mall) that such property is in or upon the pedestrian mall in contravention of the provisions of this Chapter or of the Order in Council may be seized and detained by that Authorised Person (Pedestrian Mall) and thereafter may be removed from the pedestrian mall by or at the direction of the Authorised Person (Pedestrian Mall) and held in custody until dealt with in accordance with the provisions of the succeeding clauses of this by-law.
- (3) The costs and expense of the seizure, detention, removal and holding in custody of any property seized and detained under clause (2) of this by-law shall be paid by the owner thereof to the Council and until so paid shall constitute a debt owing by such owner to the Council and may be recovered in any Court of competent jurisdiction at the suit of the Council.
- (4) Where an Authorised Person (Pedestrian Mall) is satisfied that a person is the owner of property seized and detained under clause (2) of this by-law and that such owner has paid to the Council the costs and expenses referred to in clause (3) of this by-law, the Authorised Person (Pedestrian Mall) shall release and deliver up the property to such owner.
- (5) (i) If within three days from the seizure and detention of any property under clause (2) of this by-law such property has not been released and delivered up to the owner thereof pursuant to clause (4) of this by-law the Council shall –
- (a) if the name and address of the owner of the property is known to the Council, serve upon such owner a notice in Form 1 in the Schedule to this Chapter; or
  - (b) if the name and address of the owner of the property is not known to the Council, publish a notice in Form 2 in the Schedule to this Chapter in a newspaper.
- (ii) If within seven days of the service of a notice upon the owner or as the case may be the publication of a notice in a newspaper the property in question is not released and delivered up to the owner thereof pursuant to clause (4) of this by-law the Council shall be at liberty to sell or otherwise dispose of or destroy the property in accordance with this by-law.

- (iii) For the purposes of this clause (5) and without prejudice to any other lawful means of effecting service, a notice for the purposes of paragraph (a) of subclause (i) of this clause (5) may be served upon an owner by posting the same to the owner at his address known to the Council by prepaid ordinary mail and such notice shall be deemed to have been served upon the owner on the fourth working day next following the date of the posting of the same.
  - (iv) When the property seized and detained under clause (2) of this by-law is of a perishable nature the foregoing provisions of this clause (5) shall not apply and the Council having made reasonable efforts to notify the owner of such property of the seizure and detention thereof shall be at liberty to sell or according to the condition thereof destroy or dispose of such property in such manner and at such time as the Clerk shall think fit.
- (6) (i) Property that may be sold pursuant to the provisions of subclause (ii) of clause (5) of this by-law and which is not property to which the provisions of paragraph (b) of subclause (ii) of this clause (6) apply shall be sold by public auction subject, if the Council thinks fit, to a reserve price: Provided however that where the property is in the opinion of the Clerk less than Five hundred dollars (\$500.00) the property may be sold in such manner as the Council shall think fit.
- (ii) Where
- (a) property that has been offered for sale in accordance with subclause (i) of this clause (6) has not been sold within one month from the date on which it was first offered for sale; or
  - (b) the property seized and detained under this by-law is in the opinion of the Clerk worthless or of so little value as to be unlikely to meet the costs and expenses of sale and the costs and expenses referred to in clause (3) of this by-law, such property may be disposed of or destroyed as directed by the Clerk.
- (7) (i) The proceeds of any property sold under this by-law shall be applied
- (a) firstly, as far as the same shall extend in payment of the costs and expenses of such sale;
  - (b) secondly, so far as the same shall extend in payment of the costs and expenses referred to in clause (3) of this by-law; and
  - (c) thirdly, any surplus, in payment to the person who establishes to the satisfaction of the Clerk that he was the owner of the property.
- (ii) In the event that within one year of the seizure and detention of property under this by-law no person has established to the satisfaction of the Clerk that he is entitled to the payment of any surplus referred to in paragraph (c) of subclause (i) of this clause (7) such surplus shall become the property of the Council and shall be paid into the General Fund.
- (iii) Any deficiency in the payment of the costs and expenses referred to in paragraph (a) of subclause (i) of this clause (7) shall constitute a debt owing by the owner of the property to the Council and may be recovered in the manner described in clause (3) of this by-law.
- (8) The right, title, interest or claim of any person who may have had any right, title, interest or claim in any property, seized and detained and sold, disposed of or destroyed under or in purported pursuance of this Chapter shall be absolutely extinguished from the date of any such sale, disposal or destroying and the person acquiring such property sold or disposed of shall acquire the full ownership thereof free of all encumbrances liens or interests.

(9) The provisions of this by-law shall not operate to the prejudice of or so as to bar any proceedings as for an offence against the provisions of this Chapter or of the Order in Council.

(10) Neither the Council nor any Authorised Person (Pedestrian Mall) nor any Officer, servant, agent, or contractor of the Council shall be liable to any person for any damage howsoever done or caused to or for any loss sustained in respect of any property seized and detained, removed, held in custody, sold, disposed of or destroyed pursuant to the provisions of this by-law.

### ***Noise, Signs and Advertisements***

14. (1) No person shall use or permit or suffer to be used any megaphone, sound amplifier, radio, loud speaker, gramophone or the like or any other means of mechanically, electrically or artificially increasing or reproducing sound in any place or premises adjacent to a Pedestrian Mall for the purposes of advertising any goods, wares, merchandise, entertainment, service or other matter or thing whatsoever so as to produce such a volume of sound that the same may be heard by persons in or upon or using the pedestrian mall.

(2) No person shall use or permit or suffer to be used in a pedestrian mall any device capable of making a noise for the purposes of announcing or drawing attention to any auction, public performance, sale, meeting, matter or thing whatsoever.

(3) No person shall put up any advertising device in a pedestrian mall save under and in accordance with the provisions of Chapter XIV-Signs and Advertisements-of the By-laws of the Council.

### ***Offences***

15. Any person who contravenes the provisions of this Chapter shall be guilty of an offence.

16. Any member of the Police Force who

a) finds a person in a pedestrian mall committing an offence against the provisions of this Chapter or of the Order in Council; or

(b) finds in a pedestrian mall a person whom he suspects on reasonable grounds to have committed an offence against the provisions of this Chapter or of the Order in Council,

may arrest that person or may remove (using such force as is necessary for such purpose) such person from the pedestrian mall.

### ***Mall Manager***

17. (1) The Council may appoint a Mall Manager to carry out such duties relating to the use and operation of a pedestrian mall or any number of pedestrian malls as may-be assigned to him.

(2) The Council hereby delegates to a Mall Manager the powers and functions of the Council under By-law 4 and By-law 8 of this Chapter in so far as they refer to the pedestrian mall or pedestrian malls assigned, to the Mall Manager.

(3) A Mall Manager shall by virtue of his appointment as such be an Authorised Person (Pedestrian Mall) in respect of the pedestrian mall or pedestrian malls assigned to him.

### ***Evidentiary***

18. (1) In proceedings as for an offence against the provisions of this Chapter or for the recovery of any expenses payable to the Council under the provisions of this Chapter any certificate or document -
- (a) purporting to be issued pursuant to the Regulations under the *Main Roads Act 1920-1979* or to any corresponding Legislation, Ordinance or Law of any State or Territory of the Commonwealth; or
  - (b) purporting to be under the hand of the Secretary of the Commissioner of Main Roads or any person thereunto authorised by the Commissioner of Main Roads or to be under the hand of the person or authority charged with the registration of motor vehicles under any Legislation, Ordinance or Law of any State or Territory of the Commonwealth corresponding to the Regulations under the *Main Roads Act 1920-1979* or any person thereunto authorised by such person or authority, which states that on any date or during any period the vehicle specified in the certificate or document was registered in the name of the person specified therein shall be received in evidence and shall be evidence that the person specified in the certificate or document was the owner of the vehicle specified therein at the time or during the period specified therein and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such ownership.
- (2) Any certificate or document referred to in clause (1) of this by-law shall be presumed to have been duly issued or given until the contrary is proved.
19. (1) In any proceedings as for an offence against or for a breach of the provisions of this Chapter or in any proceedings for the recovery of any expenses payable to the Council every allegation or averment contained in the complaint shall be *prima facie* evidence of the matter so alleged or averred.
- (2) Without limiting the generality of the provisions of clause (1) of this by-law the allegation or averment in any complaint or in any proceedings that at the time and date mentioned in the complaint or in the proceedings -
- (a) a vehicle was or was not a delivery vehicle or as the case may be a service vehicle or a special vehicle or an essential services vehicle;
  - (b) a person was or was not the -holder of a permit granted by the Council;
  - (c) a person complied with or failed to comply with a condition to which any approval or permit granted by the Council had been subjected;
  - (d) a person was or was not an Authorised Person (Pedestrian Mall);
  - (e) a person was or was not the owner or driver or person apparently in charge of a vehicle or other thing found in a pedestrian mall; or
  - (f) that any sign, signal, light, marking or other device
    - (i) was or was not an official sign; or
    - (ii) contained or gave or did not contain or give any direction or indication,

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 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.

(3) Any evidence given in support or rebuttal of allegations or averments to which this by-law applies shall be considered on its merits and the credibility and probative value of such evidence shall be neither increased nor diminished by reason of this by-law.

(4) This by-law shall not in any way affect any onus of proof otherwise falling on any party to proceedings to which this by-law applies.

### ***Prescribed Hours***

20. The prescribed hours in respect of the Flinders Pedestrian Mall shall be as follows:

(a) The hours between 6.30 a.m. and 10.45 a.m. each Monday to Friday (both days inclusive); and

(b) The hours between 6.30 a.m. and 8.30 a.m. Saturday

(c) The hours between 6.00 a.m. and 8.30 a.m. and between 12.30 p.m. and 2.30 p.m. each day Sunday.

21. The prescribed hours in respect of The Picnic Bay Pedestrian Mall shall be the hours between 10.00 a.m. and 11.00 a.m. each day of the week.

## THE SCHEDULE

Form 1

### TOWNSVILLE CITY COUNCIL

To: *(here insert name of owner as known to Council)*

of *(here insert address of owner as known to Council)*

On the date specified in Item 1 of the Schedule hereto the property described in Item 2 of the said Schedule was seized and detained by an Authorised Person (Pedestrian Mall) pursuant to the provisions of clause (3) of By-law 13 of Chapter XXXIX of the by-laws of the Council in the Pedestrian Mall named in Item 3 of the said Schedule. It appears that you are the owner of the said property within the meaning of the by-laws.

If you wish the said property to be released and delivered up to you, you must satisfy an Authorised Person (Pedestrian Mall) that you are the owner of the said property and you must pay to the Council the costs and expenses of the said seizure and detention together with the assets and expenses of any removal and holding in custody subsequently incurred by it. At the date of this notice the costs and expenses aforesaid amount to the sum shown in Item 4 of the said Schedule but such will continue to accrue until payment has been made.

In the event that the property has not been released and delivered up within seven days from the service of this notice on you, the Council shall be at liberty to sell, dispose of or destroy the property in accordance with the by-laws.

## THE SCHEDULE

Item 1. *(here insert date of seizure)*

Item 2. *(here insert description of property)*

Item 3. *(here insert name of pedestrian mall)*

Item 4. *(here insert amount of costs and expenses to date of notice)*

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19

COUNCIL OF THE CITY OF TOWNSVILLE

per \_\_\_\_\_ Authorised Person (Pedestrian Mall).

Form 2

TOWNSVILLE CITY COUNCIL

***Notice preparatory to Sale, Etc., of Property Seized and Detained in a Pedestrian Mall***

On the date specified in Item 1 of the Schedule hereto the property described in Item 2 of the said Schedule was seized and detained by an Authorised Person (Pedestrian Mall) pursuant to By-law 13 of Chapter XXXIX of the By-laws of the Council in the Pedestrian Mall named in Item 3 of the said Schedule.

The owner within the meaning of the by-laws is not known to the Council.

Unless within Seven days from the date of the publication of this notice a person satisfies an Authorised Person (Pedestrian Mall) that he is the owner within the meaning of the by-laws of the said property and pays to the Council the costs and expenses of such seizure and detention together with any subsequent removal and holding in custody of the said property calculated up to the date of such payment the Council shall be at liberty to sell dispose of, or destroy the said property in accordance with the by-laws.

THE SCHEDULE

Item 1. *(here insert date of seizure)*

Item 2. *(here insert description of property)*

Item 3. *(here insert name of Pedestrian Mall)*

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19

COUNCIL OF THE CITY OF TOWNSVILLE

Per \_\_\_\_\_, Town Clerk."