

TOWNSVILLE CITY COUNCIL

LOCAL LAW NO 1

PRELIMINARY

Short title, commencement and application

1. These by-laws may be cited as “The City of Townsville By-laws”, and shall come into operation on the date of publication thereof in the Gazette, and be in force except where otherwise expressly stated, throughout the whole of the City.
2. Division of By-laws –

CHAPTER I – PRELIMINARY;

CHAPTER II – PROCEEDINGS, BUSINESS, AND OFFICERS OF THE COUNCIL;

CHAPTER III – STREETS AND ROADS;

CHAPTER IV – BUILDINGS;

CHAPTER V – SUBDIVISION OF LAND;

CHAPTER VI – NUISANCES, FILTH, RUBBISH, WEEDS, ETC.;

CHAPTER VII – WATER;

CHAPTER VIII – REGISTRATION AND CONDUCT OF FLATS, TENEMENTS AND HOSTELS;

CHAPTER IX – THEATRES AND PLACES OF AMUSEMENT;

CHAPTER X – ANIMALS;

CHAPTER XI – IMPOUNDINGS;

CHAPTER XII – SAFETY AND CONVENIENCE;

CHAPTER XIII – PUBLIC DECENCY AND ORDER;

CHAPTER XIV – ADVERTISING SIGNS;

CHAPTER XV – PARKS AND RESERVES;

CHAPTER XVI – HELIPORTS

CHAPTER XVII – SWIMMING POOLS;

CHAPTER XVIII – DANGEROUS GOODS AND EXPLOSIVES;

CHAPTER XIX – MISCELLANEOUS PROVISIONS;

CHAPTER XX – CARAVANS, CARAVAN PARKS AND CABINS, TENTS AND CAMPING;

CHAPTER XXI – COUNCIL CARAVAN PARKS

CHAPTER XXII – PETROL SERVICE STATIONS;

CHAPTER XXIII – SEWERAGE;

CHAPTER XXIV – BATHING RESERVES;

CHAPTER XXV – MOTELS;

CHAPTER XXVI – COUNCIL PARKING STATIONS;

CHAPTER XXVII – RADIO AND TELEVISION AERIALS;

CHAPTER XXVIII – CHILD MINDING CENTRES;

CHAPTER XXIX – PICNIC BAY JETTY;

CHAPTER XXX – REGULATED PARKING PATROL OFFICERS;

CHAPTER XXXI – ABANDONED GOODS ON ROADS;

CHAPTER XXII – TOWN PLANNING;

CHAPTER XXXIII – REGULATED PARKING AND CONTROL OF TRAFFIC
AND OBSTRUCTIONS ON ROADS;
CHAPTER XXXIV – TOWNSVILLE MUNICIPAL LIBRARY;
CHAPTER XXXIX – PEDESTRIAN MALLS

Interpretation

3. In the interpretation of the By-laws, unless the context otherwise requires, the following terms have the meanings set against them respectively, that is to say:-

“Alderman” – Any alderman of the City, the term, whenever necessary, includes the Mayor or other chairman;

“Authorised Officer” – An officer of the Council from time to time authorised, directed or empowered by the Council or by the Town Clerk to do the relevant act matter or thing under the By-laws;

“Chairman” – The Mayor or the alderman acting as chairman of any meeting of the Council or of any Committee thereof;

“City” – The City of Townsville as constituted by Order in Council of the seventh day of March 1918, or by any Order in Council to be hereafter made;

“City Treasurer” – “City Engineer” – “Chief Health Surveyor” – “City Architect” – “Medical Officer of Health” – The person appointed by the Council to act as city treasurer, city engineer, chief health surveyor, city architect and building surveyor or medical officer of health, as the case may be; the term includes the person for the time being performing the duties of the city treasurer, city engineer, chief health surveyor, city architect and building surveyor or medical officer of health, as the case may be;

“Council” – The Council of the City;

“Footway” – That part of any street or road which has been appropriated to the use of foot traffic, and marked off or separated from the remainder of the street or road by any mark, water table, gutter, fence or the like, or formed, built up, or levelled;

“The Local Government Act” – The *Local Government Act* 1936-1973 and any Act for the time being in force amending or in substitution therefore;

“Mayor” – The Mayor of the City; the term when necessary includes the Deputy Mayor;

“Member” – A member of the Council or of a Committee, as the case may require;

“Road” or “Street” includes the carriage-way and every footway or other part of the road or street;

“Town Clerk” or “Clerk” – The Town Clerk of the City; the term includes the officer for the time being performing the duties of the Town Clerk;

“Prescribed” – Prescribed by Act of Parliament or Regulation made thereunder or by these By-laws;

“The By-laws” – The by-laws of the Council in force for the time being.

General penalty

4. (1) Every person who does or causes or procures to be done, or is knowingly concerned in doing, anything contrary to or otherwise than as provided by the By-laws, or who omits to do anything by the by-laws required to be done by him, shall be guilty of an offence.
- (2) Every person who maintains, executes, provides, or does, or causes or procures to be maintained, executed, provided, or done, or is knowingly concerned in maintaining, executing, providing, or doing, any work, material or thing contrary to or otherwise than as required by the by-laws, and every person who omits to maintain, execute, provide or do any work, material, or thing by the By-laws required to be maintained, executed, provided, or done by him, and who does not within reasonable stated time after being served with a notice in writing by the Council (which notice it is hereby authorised to send, and which notice may be renewed) pull down and remove such work, material, or thing, or alter and amend the same so as to comply with the by-laws or (as the case may be) maintain, execute, provide, or do such works, material or thing as required by the By-laws, shall be guilty of an offence.
- (3) If a person fails to comply with the requirements of a notice in writing duly served on him pursuant to the immediately preceding subclause the Council or an authorised officer may carry out the work necessary to comply with the requirements of the notice or cause such work to be carried out and may recover the expenses or so doing from the person upon whom the notice was served; but the exercise of powers contained in this clause shall not relieve any person from liability to be prosecuted for a breach of the By-laws.
- (4) (a) Except where in any case it is otherwise expressly provided any person who is guilty of an offence against or of a breach of any of the provisions of these By-laws shall be liable to a penalty not exceeding Five hundred dollars (\$500.00) and if the offence or breach is of a continuing nature the offender shall be liable to a further penalty not exceeding Fifty dollars (\$50.00) per day for each and every day on which the offence continues after the date in relation to which the offender is convicted of having first committed the offence or breach.
- (b) For the purposes of proceedings for the recovery of a further penalty in respect of an offence or breach that is of a continuing nature the allegation or averment in any complaint that an offence or breach has continued between the dates mentioned in the complaint shall be *prima facie* evidence that the offence or breach has continued on each and every day between the dates mentioned in the complaint and in the absence of proof to the contrary shall be conclusive evidence of such fact.

- (c) Upon the hearing of a complaint in respect of an offence or breach that is of a continuing nature where it is alleged or averred in such complaint –

- (a) that the offence or breach is or was of a continuing nature; and
- (b) that the offence continued up to a date mentioned in the complaint,

the Justices shall upon conviction and in addition to any penalty that they may impose in respect of the offender having first committed the offence or breach impose a further penalty in respect of each and every day on which the offence or breach continued after the date on which it was first committed up to and including the date mentioned in the complaint as aforesaid.

- (d) Proceedings for the recovery of a further penalty in respect of an offence that is of a continuing nature may be taken from time to time: Provided that an offender shall not be punished more than once in respect of the same period.
- (e) In any proceedings for the recovery of a further penalty in respect of an offence that is of a continuing nature the form prescribed by this subclause for the statement of offence in the complaint may be used before Justices and in all other proceedings founded upon such complaint in which it is necessary to set forth a statement of the offence and so used shall be sufficient, that is to say:-

“WHEREAS on the day of , 19 , one was, in the Magistrates Court at Townsville in the Magistrates Court District of Townsville, convicted of an offence against the provisions of the By-law () of the By-laws of the Council of the City of Townsville, that is to say, that on the day of 19 , the said (here set out statement of offence as contained in original complaint).

*AND WHEREAS on the day of , 19 , in the Magistrates Court at Townsville in the Magistrates Court District of Townsville the said was ordered to pay a further penalty in the sum of in relation to his having continued the said offence between the day of , 19 (both days inclusive).

THAT the said has continued to commit the said offence between the day of , 19 , and the day of , 19 , (both days inclusive).”

5. Whenever any expense is incurred by the Council in consequence of a breach of any of the provision of the By-laws, or in the execution of work directed by the By-laws to be executed by any person and not executed by him, then, in addition to any penalty to which the person committing such beach or failing to execute such work may be

liable, all such expenses as aforesaid shall be paid to the Council by the person so committing such breach or failing to execute such work.

6. If any fee, expense or charge imposed upon or payable by any person under or in pursuance of these By-laws is not duly paid, then (in addition to and notwithstanding any other remedy the Council may have) the amount remaining unpaid shall constitute a debt due by such person to the Council, and the Council may recover the same either in a summary way or by way of complaint under *'The Justices Acts, 1886 to 1968'* or by action in any Court of competent jurisdiction.

Arrest of offenders, etc.

7.
 - (1) Any officer or servant of or person appointed by the Council, or any member of the Police Force, may arrest any person found committing or apparently committing any offence against any of the provisions of the Local Government Act or of any By-laws made thereunder.
 - (2) A person who being thereunto required by an officer or servant of or any person appointed by the Council, refuses or neglects to give his name and such reasonable particulars as may be required concerning himself, or gives any name or particulars which in the opinion of such officer, servant or person is or are false, shall be guilty of an offence.

Delegation of Powers

8.
 - (1) Wherever by the by-laws power is granted to the Mayor or other chairman or to any alderman or to any officer of the Council to sign, seal, or sign and seal, any notice, order, or agreement, or to issue, sign, seal, renew, revoke, or cancel any licence, permit, registration, authority, approval or consent which the Council is entitled to issue, sign, seal, renew, revoke, or cancel or so sign any letter, receipt, or other document, or to do or perform any act, deed or thing necessary, ancillary, or incidental to the carrying out of the powers or duties of the Council, such power shall be deemed to have been granted and delegated under and in pursuance of the provisions of subsection 18 of section 31 of the Local Government Act.
 - (2) Whenever by the Local Government Act or by the by-laws the Council is required or empowered to grant, permit, approve, disapprove, order, direct, require, waive, or exercise any discretion in relation to any act, matter or thing, and the context does not indicate that such requirement or power is to be fulfilled or exercised by the Council by resolution or in any other specified manner, then such requirement or power may be fulfilled or exercised on behalf of the Council by the officer of the Council authorised for the purpose, or exercising functions generally, in relation to such act, matter, or thing, and if there be no such officer, then by the Clerk; but this clause shall not be construed to abridge or affect the Council's right to fulfil or exercise such requirements or power by resolution where it has not been fulfilled or exercised by any officer.

- (3) Whenever, in these by-laws, any officer of the Council is designated as having any power, discretion, or authority, such power, discretion, or authority may be exercised by that officer or any officer for the time being discharging the duties or functions of the officer so designated, or by any other officer authorised in that behalf.

Forms

9. All forms prescribed by the By-laws to be used shall be deemed to have been prescribed in pursuance of the provisions of subsection 17 of section 31 of the Local Government Act.

Application for licences, etc.

10. Every person who desires to obtain a licence, permit, registration, authority, approval or consent for any purpose under the By-laws, or the renewal of same, shall make application in writing in that behalf to the Clerk, and if a form of application is prescribed therefore, shall make such application in the prescribed form. Where no form is prescribed by the by-laws the Clerk may from time to time prescribe a form.

Such applications shall be signed by or on behalf of the applicant, and shall be accompanied by the fee, if any, prescribed as payable in that behalf, and by the documents, if any, required to be submitted therewith.

Every statement in an application shall be true and correct in all particulars.

An application relating to land shall be made either by the owner of the land to which it relates or shall be accompanied by his written consent.

The Council or the clerk may require that an application be lodged in duplicate or in triplicate.

The Clerk may, or the mayor may authorise the Clerk to forthwith grant such licence, permit, registration, authority, approval or consent, or renewal thereof; or, if he sees fit, may reserve the application for the consideration of the Council.

Maps, plans, drawings and specifications

11. A person making an application in pursuance of By-law 10 of this Chapter shall ensure that the following requirements are complied with in the submission of maps, plans, drawings and specifications to the Council:-
- (i) Maps, plans, drawings and specifications shall be lodged in duplicate (except as otherwise provided).
 - (ii) Maps, plans and drawings shall be accurately drawn with the scale endorsed thereon, the minimum scale where not otherwise provided being one (1) in ninety-six (96) (one (1) inch to eight (8) feet). The north point shall be at the top of every map or plan.

- (iii) A map, plan, drawing or specification shall bear the signature of the person who prepared it.

False or inaccurate documents

- 12. (1) A person shall not lodge an application, map, plan drawing or specification that contains any false or inaccurate statement of information.
- (2) A person shall not lodge an application, map, plan drawing or specification on behalf of another person without such person's written authority.

Retention of application and documents

- 13. The Council shall retain the original of an application and the drawing, map, plan or specification lodged with it.

Procedure for transfers

- 14. The procedure for a transfer of a licence, permit, registration, authority, approval or consent shall be the same as in the case of a new application, except that the application must be signed by both transferor and transferee and the original licence, permit, certificate of registration, authority, approval or consent produced for endorsement of the fact of transfer, and such transfer fee as the council may from time to time fix by resolution shall be payable.

Penalty for misrepresentation

- 15. Any person who, in or in support of an application for any licence, permit, registration, authority, approval or consent, or for a renewal or transfer thereof, makes any material misrepresentation or mis-statement, shall be guilty of an offence.

Conditional licences, etc.

- 16. (1) Any licence, permit, registration, authority, approval or consent may be granted upon such conditions and subject to such restrictions and limitations as the Clerk, or the Mayor or the Council, as the case may be, deem proper; and such conditions, restrictions and limitations shall be stated in the license, permit, registration, authority, approval or consent, or endorsed thereon.
- (2) Any person to whom a permit, licence, registration, authority, approval or consent has been issued under the provisions of the By-laws, who does or suffers to be done or omits to do any act, in breach of the conditions of such permit, licence, registration, authority, approval or consent, shall be guilty of an offence.

Duration of licences, etc.

- 17. (1) Every licence, permit, registration, authority, approval or consent issued under the By-laws, shall except where otherwise expressly stated or where the context otherwise requires, be in force until the thirtieth day of June of the year

in or for which the same is granted, obtained or made; but where the duration of such license, permit, registration, authority, approval or consent will be less than nine months, and the fee (if any) prescribed in respect thereof is an annual one, only a proportionate part of such fee, calculated from the commencement of the quarter wherein such licence, permit, registration, authority, approval or consent is granted, obtained, or made, shall be payable.

- (2) A licence, permit, registration, authority, approval or consent may be for a specific act or matter or for a definite period, or of indefinite duration; and if of indefinite duration, shall be revocable by the Council at any time, upon reasonable notice.

Renewal of licenses, etc.

18. An application for the renewal of a licence, permit, registration, authority or consent unless otherwise prescribed shall be lodged at least six (6) weeks before the same is to expire, and be accompanied by the prescribed application fee for renewal.

Suspension and revocation of licences, etc.

19. (1) A licence, permit, registration, authority, approval or consent current under the By-laws may be suspended by the Mayor, in his discretion, for any period not exceeding three months for any reason which appears to him to justify such suspension. The Mayor shall report any such suspension and the reason therefore to the Council at its first ordinary meeting thereafter, and the Council may, if it sees fit, cancel, modify or confirm such suspension.
- (2) The Council may at any time suspend or absolutely revoke or cancel or refuse to renew any license, permit, registration, authority, approval or consent, upon being satisfied that such licence, permit, registration, authority approval or consent or any renewal or transfer thereof was obtained by any misrepresentation or otherwise improperly obtained, or that because of changed circumstances or for any other reason its continuance is against the interest or general good rule and government of the area or its inhabitants or that the person entitled to the benefit thereof has been guilty of improper conduct or of any breach of the by-laws in relation thereto, or any breach of the conditions thereof: Provided that such person shall first have been given an opportunity of showing cause why such suspension, cancellation revocation or refusal to renew should not take place. For that purpose the Council shall notify such person of a place and day and time (not earlier than twenty-one (21) days after the service of the notice) where and when he may appear before it and show cause as aforesaid and such person may in lieu of appearing before the Council elect to show cause in writing and may do so by serving the writing upon the Council at any time before the day and time notified to him as aforesaid.

Deposits as security against damage

20. Wherever under the By-laws any licence, permit, registration, authority, approval or consent is prescribed to be obtained for the performance of any work, and it appears to

the Council or officer authorised to grant the licence, permit, registration, authority, approval or consent that the performance of any such work may involve any alteration or damage to any of the property of or under the control of the council, the Council or such officer may, before granting such licence, permit, registration, authority, approval or consent require the applicant to deposit with the Town Clerk such sum or to find satisfactory security in such amount as will in the opinion of the Council or such officer be sufficient to cover any expenditure by the Council that may be occasioned. Such deposit, if made, shall be returned on completion of the work, or at the expiration of such time thereafter as may be fixed for the purpose, if any such expenditure is not required. Any such alteration may be made, and any such damage may be made good by the Council, and such deposit may be applied towards defraying the expenses incurred, and the balance only, if any, shall be repaid to the person making the deposit; and if such deposit is found to be insufficient to cover the amount of expenditure incurred, the balance owing shall be paid by the person making the deposit.

General fee

21. Where no fee is expressly payable for any licence, permit, registration, authority, approval or consent or for any renewal thereof a fee of two dollars (\$2) shall be payable for the issue or renewal thereof unless it is expressly stated that no fee shall be payable for the issue or renewal thereof.

Forms of licences, etc.

22. Licences, permit, registrations, authorities, approvals and consents shall be issue don such forms (if any) as are prescribed by the By-laws or from time to time by the Council or the clerk as the case may be.
 - (B) By renumbering Chapter XXXIV – Subdivision of Land as Chapter V.
 - (C) By renumbering Chapter XXXV – Council Parking Stations as Chapter XXVI.
 - (D) By renumbering Chapter XXXVI – Swimming Pools as Chapter XVII.