

NORTHERN TERRITORY OF AUSTRALIA

WEST ARNHEM REGIONAL COUNCIL (JABIRU TOWN) BY-LAWS 2024

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Subordinate Legislation No. [ ] of 2024

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# NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. [ ] of 2024\*

## ***West Arnhem Regional Council (Jabiru Town) By-laws 2024***

West Arnhem Regional Council, at a meeting held on [ ] 2024, made the following by-laws under the *Local Government Act 2019* and, for section 63A(1)(a)(ii) of the *Interpretation Act 1978*, authorised Andrew Walsh, the Chief Executive Officer, to sign them.

Dated 2024

Chief Executive Officer

**CONSULTATION DRAFT ONLY**

**PREPARED FOR THE WEST ARNHEM REGIONAL COUNCIL**

\* Notified in the *Northern Territory Government Gazette* on [ ] 2024.

## Part 1 Preliminary matters

### 1 Title

These By-laws may be cited as the *West Arnhem Regional Council (Jabiru Town) By-laws 2024*.

### 2 Commencement

These By-laws commence on 1 January 2025.

### 3 Purpose

The purpose of these by-laws is to provide for the good governance of Jabiru by establishing a legal and procedural framework for promoting public health and wellbeing and safety and the protection of public amenities in the town.

### 4 Acknowledgement of Mirarr people

- (1) Jabiru is located on Mirarr country and the Council pays its respects to the Mirarr Traditional Owners and pays its respects to Mirarr elders past, present and emerging.
- (2) The Council is committed to continuously nurturing a respectful and collaborative working relationship with the Mirarr people.

### 5 Definitions

In these By-laws:

**advertising** means any form of advertising for the attention of the public, including advertising by writing, images, pictures, symbols, objects or illumination.

*Examples for definition advertising*

*Billboard, fence sign, portable sign, poster, distinctive lighting and bunting.*

**approved** means approved by the Council by resolution.

**assistance dog** means a dog that is an assistance animal as defined in section 4A of the *Anti-Discrimination Act 1992*.

**attack**, see by-law 55(2).

**commercial waste** means waste produced in the course of trade or commerce.

**Council** means the West Arnhem Regional Council.

**dangerous dog** means a dog declared to be dangerous under by-law 58.

**dog** means an animal of the genus *Canis*.

**fee** includes a charge, a due, a fare and rent payable to the Council.

**goods** includes food, beverages, wares, merchandise, raffle tickets, tokens, badges and vehicles.

**handbill** means a printed announcement or advertisement, including a poster, placard, notice, ticket, pamphlet and card.

**infringement notice**, see by-law 7877.

**infringement notice offence**, see by-law 77(1).

**Jabiru** means the land specified as Jabiru town land under the *Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)*.

**litter**, see section 3 of the *Litter Act 1972*.

**market** means an area in which 2 or more stalls are located or intended to be located.

**menace**, see by-law 54(2).

**motor vehicle**, see section 5 of the *Motor Vehicles Act 1949*.

**nuisance**, see by-law 64(2).

**owner**, in relation to a dog, means:

- (a) the person whose name is registered with the Council as the owner of the dog; or
- (b) if the dog is not registered – the person who has care or control of the dog.

**permit** means a permit issued under by-law 8.

**pound** means a place established by the Council as a pound.

**premises** include the following:

- (a) a building or other structure;
- (b) a part of a building or other structure;
- (c) land where a building or other structure is situated.

**prescribed infringement amount**, see by-law 77(2).

**public land** means a road, a reserve or land within Jabiru that is owned, controlled or maintained by the Council.

**sell**, in relation to goods, includes:

- (a) offering or exposing goods for sale or hire; and
- (b) displaying or publishing an advertisement describing or promoting the sale of goods.

**stall** means an outdoor place or structure in or from which goods or services are offered for sale, including a tent, a motor vehicle, a caravan, a trailer and a table.

*Examples for definition stall*

*A stall at an outdoor market selling beverages or food, offering massages or selling crafts.*

**stallholder** means a person who sells or offers for sale goods from a stall.

**stallholder permit**, see by-law 26.

**vehicle** means any conveyance that runs on wheels.

*Examples for definition vehicle*

*Cars, trucks, trailers, golf carts, motorcycles, bicycles, scooters, skateboards and inline skates.*

**waste** means garbage, litter, rubbish, refuse and other organic or inorganic waste matter.

**waste management facility** means a facility for waste management operated or controlled by the Council.

*Note for by-law 5*

*The Act also defines terms that are used in these By-laws.*

## 6 Application of by-laws

These By laws apply to and have effect within Jabiru.



## **7 Application of Criminal Code**

Part IIAA of the Criminal Code applies to an offence against these By-laws.

*Note for by-law 7*

*Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.*

## **8 Permits**

- (1) A person may apply to the CEO for a permit to carry out an activity mentioned in these By-laws.
- (2) An application for a permit must be:
  - (a) in writing; and
  - (b) accompanied by any fee determined by the Council for the permit.
- (3) The CEO may grant or refuse to grant a permit.
- (4) A permit granted by the CEO:
  - (a) must be in writing; and
  - (b) is valid for the period specified in the permit; and
  - (c) is subject to the conditions specified in the permit (if any).
- (5) Without limiting clause (4)(c), it is a condition of a permit that authorises work to be carried out that the person to whom it is granted must reinstate, to the satisfaction of the CEO, a public road or crossing in respect of any damage caused in carrying out the work.
- (6) A person to whom a permit is issued must comply with:
  - (a) any conditions specified under clause (4)(c); and
  - (b) if clause (5) applies to the permit – that clause.
- (7) A person commits an offence of strict liability if the person fails to comply with clause (6).

Maximum penalty: 50 penalty units.

**9 Variation, revocation or transfer of permits**

- (1) The CEO may vary a permit on application of the person to whom it was granted.
- (2) The CEO may revoke a permit if the person who holds the permit failed to comply with these By-laws or a condition of the permit.
- (3) If the CEO varies or revokes a permit, it must give notice to the holder of the permit as soon as practicable.
- (4) A permit is not transferable.

**10 Powers of authorised persons and employees**

- (1) Subject to clause (2), an authorised person may exercise any reasonable power necessary or required to give effect to these By-laws.
- (2) An authorised person must act in accordance with any conditions imposed on the person by the Council, by resolution.
- (3) An authorised person or employee of the Council acting in accordance with their duties is exempt from the requirement of a permit for that activity.

*Example for clause (3)*

*An employee does not need a permit to set up structures on public land.*

- (4) An authorised person may request the holder of a permit to produce the permit for inspection by the authorised person.
- (5) A person commits an offence if the person fails to comply with a request under clause (4).

Maximum penalty: 20 penalty units.

**11 Maintenance of objects**

- (1) A person commits an offence if:
  - (a) the person holds a permit in relation to an object, a structure, a sign or a fence; and
  - (b) the person fails to maintain the object, structure, sign or fence to a sufficient standard to reasonably ensure public safety of the object, structure, sign or fence.

Maximum penalty: 50 penalty units.

- (2) An authorised person may revoke a permit if satisfied that the holder of the permit is not adequately maintaining an object, structure, sign or fence in respect of which the permit was granted.

## **Part 2            Public facilities and places**

### **Division 1        Liability of owner or occupier of land**

#### **12                Non-compliance by owner or occupier**

- (1) The CEO may, by written notice, require the owner or occupier of land to comply, within the period specified in the notice, with any of the following:
- (a) these By-laws;
  - (b) a condition of a permit granted to the owner or occupier under these By-laws.
- (2) A person commits an offence of strict liability if:
- (a) the person is issued a notice under clause (1); and
  - (b) the person does not comply with the notice.

Maximum penalty:     50 penalty units.

- (3) If the owner or occupier fails to comply with a notice issued under clause (1), the CEO may arrange to carry out the work or take the action required by the notice.
- (4) Any costs properly and reasonably incurred by the Council under clause (3) are recoverable as unpaid rates or as a debt due and payable to the Council.
- (5) The CEO may apply the amount of a deposit made as a condition of the grant of a permit granted under these By-laws to cover any costs properly and reasonably incurred by the Council under clause (3).

### **Division 2        Protecting public land**

#### **13                Construction of crossover**

- (1) An owner or occupier of premises adjoining public land may construct the following with a permit:
- (a) a cross-over across the footpath and verge to connect a driveway on the premises to a road or other public land;

- (b) a cross-over for pedestrians or vehicles to travel between the premises and the public land.

*Note for clause (1)*

*The requirements in this Division are in addition to any other legislative requirements that apply to construction, such as development permits and planning standards.*

- (2) A person commits an offence of strict liability if the person constructs a cross-over referred to in clause (1) without a permit.

Maximum penalty:        50 penalty units.

#### **14        Road works**

- (1) This by-law does not apply to a person performing work for or on behalf of the Territory.
- (2) A person must not perform any of the following work without a permit:
  - (a) deposit any material, or erect any structure, on a road;
  - (b) open or break up the surface of a road.
- (3) A person who performs work specified in clause (2) must prevent harm or inconvenience to the public from the work and materials used for the work by:
  - (a) managing any affected traffic appropriately; and
  - (b) operating safety lights around the work and materials between sunset and sunrise and when visibility is otherwise reduced; and
  - (c) installing appropriate fencing and enclosures around the work and materials.

*Note for clause (3)*

*The safety measures required by this by-law must be taken whether or not the work is authorised by the Council.*

- (4) The CEO may give the person directions regarding compliance with the safety measures required by this by-law.
- (5) The cost of the safety measures must be paid by the person who engages in the work.

- (6) A person commits an offence of strict liability if the person fails to comply with clause (2).

Maximum penalty: 100 penalty units.

**15 Prohibited excavation on adjoining land**

- (1) A person must not, without a permit, excavate any part of land abutting public land.

- (2) A person commits an offence of strict liability if the person fails to comply with clause (1).

Maximum penalty: 50 penalty units.

**16 Enclosing land to prevent risk of escaping soil**

- (1) The CEO may, by written notice, require the owner or occupier of land to cause the land to be enclosed if:

- (a) the land adjoins a road, footpath or other public land; and
- (b) the land is not enclosed in a manner that prevents soil, sand or other material from being carried on to the road, footpath or other public land.

- (2) An owner or occupier of land who receives a notice under clause (1) must cause the land to be enclosed in accordance with the notice at the owner or occupier's own cost.

- (3) A person commits an offence of strict liability if the person fails to comply with clause (2).

Maximum penalty: 50 penalty units.

**17 Damage to public land**

- (1) A person must not, without a permit, cause damage to a footpath, road or other public land.

*Examples for clause (1)*

- 1 Removing a road kerb.
- 2 Digging up a road.
- 3 Spilling wet concrete, motor oil or hydraulic fluid on a road.

- (2) A person commits an offence of strict liability if the person fails to comply with clause (1).

Maximum penalty: 50 penalty units.

## **18            Structures on public land**

- (1) A person must not, without a permit, erect or install on public land a post, rail, fence, pole, tent, booth, furniture, stand, display, exhibition, decoration or structure, whether permanent or temporary.
- (2) A person must not, without a permit, remove or displace a barrier, railing, post, seat or other structure on public land.
- (3) A person commits an offence of strict liability if the person fails to comply with clause (1) or (2).

Maximum penalty:      50 penalty units.

## **19            Obstruction of public facilities**

- (1) A person must not obstruct or hinder another person from using public land or a facility located on public land.

*Examples for clause (1)*

*A footpath, walkway, public shelter, play or exercise structure, public toilet, drinking fountain, water supply, barbecue or fireplace on public land.*

- (2) A person commits an offence of strict liability if the person fails to comply with clause (1).

Maximum penalty:      50 penalty units.

## **Division 3            Control of vegetation**

### **20            Damage to public vegetation**

- (1) A person must not, without a permit, remove or damage vegetation on Council property or public land.

*Examples for clause (1)*

- 1    *Driving a vehicle on public land.*
- 2    *Cutting a tree.*
- 3    *Digging up a flowerbed on Council property.*
- 4    *Plucking, cutting or taking from a public flowerbed.*

- (2) A person commits an offence of strict liability if the person fails to comply with clause (1).

Maximum penalty:      50 penalty units.

## **21      Trimming vegetation**

- (1) The owner or occupier of land adjoining a footpath, verge or road must trim or otherwise maintain vegetation on the land to prevent the vegetation:
- obstructing or damaging the footpath, verge or road; or
  - becoming a hazard to persons or property.

*Examples for clause (1)*

- Trimming a tree or shrub that blocks a footpath.*
- Mowing grass to prevent infestation by snakes or vermin.*

- (2) The CEO may, by written notice, require an owner or occupier of land to trim or otherwise maintain vegetation on the land if the CEO considers that it is:
- obstructing or damaging the footpath, verge or road; or
  - becoming a hazard to persons or property.
- (3) The owner or occupier of land who receives a notice under clause (2) must trim or otherwise maintain the vegetation in accordance with the notice.
- (4) A person commits an offence of strict liability if the person fails to comply with clause (1) or (3).

Maximum penalty:      50 penalty units.

## **Division 4      Activities on public land**

### **22      Busking and other activities**

- (1) A person must not engage in any of the following activities on public land without a permit:
- busking, performing or offering entertainment to the public;
  - painting or drawing portraits for a fee or donation;
  - taking photographs, making a film or recording audio or video for commercial or corporate purposes;
  - fundraising;
  - preaching or proselytising for religious, political or ideological purposes;





- (3) A person commits an offence of strict liability if:
- (a) the person camps or sets up camp on public land; and
  - (b) the person does not have a permit to do so.

Maximum penalty: 20 penalty units.

**25 Direction to vacate public land**

- (1) An authorised person may direct a person who fails to comply with by-law 24 to do any of the following:
- (a) leave the public land;
  - (b) remove any vehicle, tent, shelter, gear or equipment to a place specified by the authorised person.

- (2) A person commits an offence of strict liability if the person fails to comply with a direction given under clause (1).

Maximum penalty: 20 penalty units.

**Division 6 Selling goods and services**

**26 Stallholder permit**

A person must not sell goods from a stall on public land except in accordance with a stallholder permit.

*Note*

*A stallholder permit may be subject to conditions under by-law 8(4)(c). Examples of conditions that may be applied to a stallholder permit are:*

- (a) the types of goods that may be sold from the stall;*
- (b) days and hours of operation;*
- (c) location of the stall and distance from other businesses;*
- (d) standards in relation to the order and condition of the stall health or hygiene procedures to be observed by the stallholder;*
- (e) conducting the stall in a non-obstructive manner.*

**27 Offence to conduct stall without stallholder permit**

A person commits an offence of strict liability if the person sells goods from a stall without a stallholder permit.

Maximum penalty: 20 penalty units.

## **Part 3 Waste and recycling**

### **Division 1 Waste management**

#### **28 Collection of household waste and recyclables**

- (1) Subject to this by-law, the Council must regularly carry out the collection of household waste and recycling from domestic premises in the town area of Jabiru.
- (2) The Council may refuse to collect any of the following:
  - (a) more than one bin at a time from a domestic premises;
  - (b) waste or recycling that is not contained in the correct bin as approved by the Council for that purpose;
  - (c) waste or recycling that is contained in a bin with a capacity of more than 240 litres;
  - (d) waste containing oil, paint, biological waste, batteries, chemicals or toxic substances.

#### **29 Notice to remove waste or other discarded material**

- (1) The Council may serve on the occupier of land or premises a written notice to remove from the land or premises any waste or discarded material (including material prohibited by by-law 30) that is likely to adversely affect:
  - (a) the health, convenience or comfort of the occupiers of adjoining or neighbouring land or premises; or
  - (b) the value of adjoining land or premises.
- (2) On receiving a notice under clause (1), the person must remove from the land or premises waste or discarded material specified in the notice.
- (3) A person commits an offence of strict liability if the person fails to comply with a notice given under clause (1).

Maximum penalty: 50 penalty units.

- (4) If the Council cannot ascertain the identity of an occupier of land, the Council may serve a notice under clause (1) on the owner of the land or premises.

### **30 Machines not to be stored or broken up**

- (1) A person must not on land or premises:
- (a) store a machine, disused motor vehicle or the body or chassis of a motor vehicle, which is not in working order; or
  - (b) dismantle or break up a machine, disused motor vehicle or the body or chassis of a motor vehicle, which is not in working order.
- (2) Despite clause (1) a person may keep a machine or motor vehicle which is stored, dismantled or broken up if the machine or motor vehicle is:
- (a) inside a building; or
  - (b) within an area enclosed by a fence or wall that is:
    - (i) not less than 2 metres in height; or
    - (ii) of such a nature as to screen the machine or disused motor vehicle and its parts from the adjoining street and properties.
- (3) A person commits an offence if the person fails to comply with clause (1), except in circumstances permitted by clause (2).

Maximum penalty: 50 penalty units.

### **31 Commercial waste and toxic materials**

- (1) A person commits an offence of strict liability if the person leaves, throws, deposits or abandons commercial waste other than at a waste management facility, unless the person has a permit to do so.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence of strict liability if the person disposes of oil or toxic materials other than at a waste management facility.

Maximum penalty: 50 penalty units.

### **32 Disposal of waste at waste management facility**

- (1) A person commits an offence of strict liability if the person leaves, throws, deposits or abandons waste at a waste management facility, other than on the days and during the hours specified by the Council.

Maximum penalty: 15 penalty units.

- (2) A person commits an offence of strict liability if the person deposits commercial waste at a waste management facility other than on the days and during the hours specified by the Council.

Maximum penalty: 50 penalty units.

- (3) A person commits an offence of strict liability if the person enters a waste management facility other than in accordance with the approved facility rules.

Maximum penalty: 15 penalty units.

- (4) A person commits an offence of strict liability if the person fails to comply with any direction given by an authorised person or clearly displayed on signage at a waste management facility relating to the place at which or manner in which either of the following are to be deposited at the facility:

- (a) commercial waste; or
- (b) oil or toxic materials.

Maximum penalty 50 penalty units.

- (5) A person commits an offence of strict liability if the person does not allow an authorised person at a waste management facility to inspect waste that the person is proposing to deposit at the facility.

Maximum penalty: 25 penalty units.

## **Division 2 Offences related to waste**

### **33 Offence to deposit waste**

- (1) A person must not deposit waste or recyclable materials in a place unless:
- (a) the person is acting under the authority of the Council; or
  - (b) the place is an approved bin provided by the Council; or

- (c) the place is a waste management facility.
- (2) A person must not deposit, in an approved bin provided by the Council, any substance or thing prohibited under the conditions and other particulars of the service determined by the Council by resolution.
- (3) A person must not deposit or allow to remain on land a substance or thing that is likely to attract vermin, unless it is enclosed in a bin or container that is vermin-proof.
- (4) A person who conducts a business must not dispose of waste from the business in a residential bin provided by the Council.
- (5) A person commits an offence of strict liability if the person fails to comply with clause (1), (2), (3) or (4).

Maximum penalty: 50 penalty units.

#### **34 Offence to discharge liquid waste**

- (1) A person commits an offence of strict liability if:
  - (a) the person deposits or causes waste water, liquid waste or hazardous liquid to be deposited onto public land or into a drain on public land; and
  - (b) the person has no permit for that conduct.

Maximum penalty: 100 penalty units.

- (2) It is a defence to a prosecution for an offence against clause (1) if the defendant took all reasonable steps and exercised due diligence to avoid committing the offence.

*Examples for by-law 34*

*Water leaking from a faulty air conditioner or used cooking oil dumped in a drain.*

#### **35 Offence to interfere with approved bins**

- (1) A person who damages an approved bin provided by the Council is liable to the Council for the costs of replacing the bin.
- (2) A person commits an offence of strict liability if the person:
  - (a) removes anything from an approved bin provided by the Council; or
  - (b) takes or interferes with an approved bin provided by the Council; or

- (c) causes an approved bin provided by the Council to become a danger to public health or to affect the comfort of persons occupying or passing through or along neighbouring premises.

Maximum penalty: 50 penalty units.

- (3) An employee or contractor engaged by the Council to collect waste and recycling is exempt from clause (2)(a) and (b).

### **Division 3 Removal of waste deposits**

#### **36 Removal of waste**

- (1) An authorised person may, by written notice, direct a person responsible for waste in a public place or on vacant land to remove the waste within a stated period.
- (2) The authorised person must determine the period under clause (1) by taking into account the nature, quantity and location of the waste.
- (3) If the waste to be removed under clause (1) constitutes a threat or risk to public safety, the authorised person may specify in the notice that the waste must be removed immediately.
- (4) If a person does not comply with a notice under clause (1), an authorised person may carry out the work required to remove the waste.
- (5) Any costs properly and reasonably incurred by the Council under clause (4) are recoverable as unpaid rates or as a debt due and payable to the Council.

#### **37 Offence not to comply with a direction**

A person commits an offence of strict liability if the person:

- (a) receives a direction under by-law 36; and
- (b) fails to comply with the direction.

Maximum penalty 50 penalty units.

## **Part 4 Safety**

### **Division 1 Fires**

#### **38 Lighting fires**

- (1) A person must not light a fire or keep a fire burning unless:
- (a) the person has permission to light or keep the fire under a law of the Territory or law of the Commonwealth; or
  - (b) a person is operating a crematorium or incinerator licensed under a law of the Territory or otherwise approved by the Council; or
  - (c) the fire is:
    - (i) for meal preparation or personal comfort; and
    - (ii) safely contained and supervised in a barbecue, fireplace or fire pit constructed of fireproof materials; and
    - (iii) not larger than 1 m<sup>2</sup>; and
    - (iv) at least 4 m away from any flammable vegetation or other material.
- (2) A person commits an offence of strict liability if the person lights a fire or keeps a fire burning contrary to clause (1).

Maximum penalty: 50 penalty units.

*Note for by-law 38*

*The Bushfires Management Act 2016 also provides for the control of fires.*

#### **39 Burning offensive substance or thing**

A person commits an offence if:

- (a) the person intentionally burns or heats any substance or thing; and
- (b) that conduct results in an odour that is offensive to another person on adjacent land or public land and the person is reckless in relation to that result.

Maximum penalty: 50 penalty units.

## **Division 2 Unsafe and unsanitary behaviour**

### **40 Breaking glass or other material**

- (1) A person commits an offence of strict liability if:
- (a) the person intentionally breaks glass or other material; and
  - (b) the pieces of the glass or other material are on public land; and
  - (c) the pieces of the glass or other material are likely to cause injury to a person or animal.

Maximum penalty: 50 penalty units.

- (2) A person does not commit an offence against clause (1) if the broken pieces were collected and disposed of safely and without delay.

### **41 Throwing object causing damage**

A person commits an offence if:

- (a) the person intentionally throws, or uses a device to throw, a stone or other object onto, into or from public land; and
- (b) the conduct results in:
  - (i) damage to property; or
  - (ii) hitting or frightening a person or animal; and
- (c) the person is reckless in relation to that result.

Maximum penalty: 20 penalty units.

### **42 Unsanitary behaviour**

A person commits an offence of strict liability if the person urinates or defecates on public land, other than in a toilet.

Maximum penalty: 20 penalty units.



## **Part 5 Animal management**

### **Division 1 General keeping of animals**

#### **43 Prohibition on keeping animals**

- (1) For this Part, a person keeps an animal if:
- (a) the person has custody or possession of the animal; or
  - (b) the animal, as a result of action taken by the person, is ordinarily kept on the person's land.
- (2) A person must not keep an animal other than:
- (a) a fish indigenous to the Magela Creek system; or
  - (b) a dog that is kept in accordance with this Part.
- (3) A person commits an offence of strict liability if the person keeps an animal other than as permitted under clause (2).

Maximum penalty: 50 penalty units

*Note for by-law 43*

*See also regulation 12.19 of the Environment Protection and Biodiversity Conservation Regulations 2000 (Cth).*

#### **44 Entry and removal**

- (1) An authorised person may enter land on which it has reason to believe there is or may be an animal prohibited under by-law 43 and take all necessary steps to remove the animal from the land.
- (2) The authorised person must give at least 24 hours notice to the owner or occupier of the land before entering land under clause (1).

#### **45 Destruction of animals**

An animal that is removed from land under by-law 44 may be:

- (a) removed from Jabiru in accordance with the directions of the Council; or
- (b) destroyed:
  - (i) by a veterinarian or an officer of the Council authorised in writing by the Council; and

- (ii) in a manner approved by the Australian Veterinary Association.

#### **46 Abandonment of animals**

A person commits an offence of strict liability if the person abandons or sets at large an animal.

Maximum penalty: 50 penalty units.

#### **47 Removal or disposal of animal remains**

- (1) The Council may arrange for the removal and disposal of the remains of a dead animal found in a public place.
- (2) The Council may recover expenses incurred in removing and disposing of a dead animal from the owner of the animal as a debt due and payable to the Council.

### **Division 2 Responsible ownership of dogs**

#### **48 Registration required**

- (1) A person who keeps a dog in Jabiru for more than 3 months must apply to the Council to register the dog to an address at which the dog is usually kept.
- (2) The Council must, by resolution, determine the following:
  - (a) the process for registering dogs;
  - (b) any grounds for refusing to register a dog;
  - (c) any conditions of registration;
  - (d) date of expiry of a registration.

*Examples for clause (2)(b)*

*Unsuitable premises or excessive number of dogs*

#### **49 Offence of unregistered dog**

- (1) A person commits an offence of strict liability if the person keeps an unregistered dog in Jabiru for a period of 3 months or longer.

Maximum penalty: 50 penalty units.

- (2) The following persons are exempt from clause (1):
  - (a) a Council employee or contractor who keeps a dog in a pound;

- (b) a person who or entity that provides animal welfare services;
- (c) a veterinarian who keeps a dog for treatment.

**50            Offence for contravention of condition of registration**

- (1) The owner of a registered dog must comply with any conditions on the registration determined by the Council.
- (2) A person commits an offence of strict liability if:
  - (a) the person is the owner of a registered dog; and
  - (b) the registration of the dog is subject to a condition; and
  - (c) the owner fails to comply with the condition.

Maximum penalty:        50 penalty units.

**51            Notice of change in address or owner**

- (1) The owner of a registered dog must notify the Council of the following events:
  - (a) a change in the owner's address;
  - (b) a transfer of the dog to a new owner.
- (2) The notice must be given in the approved form within 14 days after the event.
- (3) A person commits an offence of strict liability if the person:
  - (a) is the owner of a registered dog; and
  - (b) fails to comply with clause (1) or (2).

Maximum penalty:        10 penalty units.

**52            Maximum number of dogs**

- (1) Subject to clause (2), a person commits an offence of strict liability if the person keeps a dog on premises where there are already 2 dogs.

Maximum penalty:        20 penalty units.

- (2) The Council may, on application, grant a permit to a person to keep more than 2 dogs on a premises.

### 53 Dog restricted areas

- (1) The Council may declare an area to be a dog restricted area.
- (2) If the Council intends to declare an area to be a dog restricted area, the Council must:
  - (a) publish notice of the proposed area at least 28 days in advance; and
  - (b) consider any responses to the notice from residents of Jabiru.
- (3) The Council must publish the location and restrictions on dogs in any dog restricted area it declares.

*Examples for clause (3)*

- 1 *Prohibiting taking a dog into a market or festival.*
- 2 *Restricting classes or numbers of dogs in an area.*

- (4) A person commits an offence of strict liability if the person:
  - (a) owns a dog; and
  - (b) subject to clause (5), fails to comply with the conditions of a dog restricted area.

Maximum penalty: 50 penalty units.

- (5) The owner of a dog may not comply with the conditions for the dog restricted area if any of the following apply:
  - (a) the dog is an assistance dog;
  - (b) the person is authorised not to comply with one or more specified conditions by an authorised person;
  - (c) the Council has granted an exemption by resolution.

## Division 3 Dangerous dogs

### 54 Dog menaces

- (1) An owner of a dog must ensure it does not menace a person or another animal.
- (2) For this Division, a dog is taken to **menace** a person or animal if it chases, harasses, rushes at or threatens to bite the person or animal in a manner that causes a reasonable apprehension of fear in the person or the owner of the animal.

- (3) The owner of a dog commits an offence of strict liability if the owner fails to comply with clause (1).

Maximum penalty: 50 penalty units.

## 55 Dog attacks

- (1) The owner of a dog must ensure it does not attack a person or another animal.
- (2) For this Division, a dog is taken to **attack** a person or another animal if it:
- (a) bites the person or animal causing a puncture or break to the skin; or
  - (b) assaults the person or animal resulting in bleeding, bone breakage, sprains, scratches or bruising; or
  - (c) behaves aggressively resulting in physical contact with the person or animal and damage to anything worn by the person or animal.
- (3) The owner of a dog commits an offence of strict liability if the owner fails to comply with clause (1).

Maximum penalty: 100 penalty units.

## 56 Defences

It is a defence to a prosecution for an offence against by-law 54 or 55 if:

- (a) another person had, without the defendant's permission, caused the dog to menace or attack the person or animal; or
- (b) in the case of a person being menaced or attacked – the person was on premises owned or occupied by the defendant without consent (whether express or implied); or
- (c) in the case of another animal being menaced or attacked – the other animal was on premises owned or occupied by the defendant without consent (whether express or implied).

**57            Orders to impound or destroy**

If a court finds a person guilty of an offence against by-law 54 or 55, the court may order either or both of the following in addition to, or instead of, the penalty for the offence:

- (a) if the dog is impounded as a result of the offence – an order that the person pay the costs and expenses of, and incidental to, the impounding;
- (b) an order that the dog be destroyed.

**58            Declaration of dangerous dog**

- (1) An authorised person may, by written notice, declare a dog to be a dangerous dog if:
  - (a) the dog menaces or attacks a person or another animal; or
  - (b) the authorised person believes on reasonable grounds that the dog is destructive, dangerous, savage or a threat to the safety of the community.
- (2) The authorised person must give written notice of the declaration to the owner of the dog.
- (3) The written notice of the declaration must be in the approved form and include the following information:
  - (a) the day the declaration takes effect;
  - (b) the reasons for the declaration;
  - (c) the identity of the dog and the owner of the dog.
- (4) The Council must keep a record of the information in clause (3).

**59            Duties of owner of dangerous dog**

- (1) This by-law applies to the owner of a dangerous dog.
- (2) The owner must, within 14 days after the day the declaration takes effect:
  - (a) provide to an authorised person evidence from a veterinarian that the dog is desexed; and
  - (b) if the dangerous dog is not desexed, arrange for it to be desexed at the owner's expense; and

- (c) undergo behavioural or other training with the dog, as specified by the CEO, at the owner's expense.
- (3) The owner must ensure the dangerous dog is kept contained in a secure enclosure that is appropriate to contain the dangerous dog.

*Example for clause (3)*

*High and strong fencing would be required for a large dangerous dog.*

- (4) The owner must post signage on the premises where the dangerous dog is usually kept with the words "Warning Dangerous Dog" clearly visible and legible from the front boundary of the premises.
- (5) When the dangerous dog is outside the premises where it is usually kept, the owner must ensure that:
  - (a) the dog is under the control of a person who is at least 18 years of age and competent to restrain the dog; and
  - (b) the dog is muzzled and controlled by a suitable leash.
- (6) If the owner intends to keep the dangerous dog for more than 14 days at a place other than the premises where it is usually kept, the owner must notify the Council of the address of the place within 24 hours after the dog is relocated.
- (7) The owner must notify the Council of any attack, or alleged attack, by the dangerous dog of a person or another animal within 24 hours of the earlier of the following:
  - (a) the time of the attack or alleged attack;
  - (b) the time the owner becomes aware of the attack or alleged attack.

## **60            Notice to Council**

- (1) The owner of a dangerous dog must notify the Council if the dog is missing within 24 hours after the owner becomes aware the dog is missing.
- (2) The owner of a dangerous dog must notify the Council if the dog dies within 14 days after its death.
- (3) If the owner of a dangerous dog intends to transfer ownership of the dangerous dog, the owner must:
  - (a) inform the prospective owner that the dog is dangerous; and

- (b) notify the Council of the name and address of the new owner at least 72 hours before the transfer.

**61 Remedial action for dangerous dog**

- (1) If the owner of a dangerous dog fails to comply with the duties of an owner under by-law 59 more than once in a 12-month period, an authorised person may require the owner to take either or both of the following actions:
  - (a) undergo further specified behavioural or other training with the dog at the owner's expense;
  - (b) surrender the dog to the pound.
- (2) If an authorised person intends to take action under clause (1), the authorised person must give the owner of the dangerous dog a notice that:
  - (a) states what action the authorised person is proposing under that clause; and
  - (b) states the grounds for taking that action; and
  - (c) invites the owner to show cause, within 14 days, why the action should not be taken.
- (3) After considering any response received within 14 days of the day of the notice, an authorised person must decide whether to take action under clause (1).
- (4) As soon as practicable after making a decision under clause (3), an authorised person must give a notice of the decision to the owner of the dangerous dog.

**62 Offence in relation to dangerous dogs**

A person commits an offence of strict liability if the person:

- (a) is the owner of a dangerous dog; and
- (b) fails to comply with by-law 59 or 60.

Maximum penalty:        100 penalty units.

**63 Offence to entice or incite**

- (1) A person commits an offence if the person entices or incites a dog to:
  - (a) menace a person or another animal; or



- (b) engage in behaviour that is prohibited by by-law 64; or
- (c) attack a person or another animal.

*Example for clause (1)*

*A person must not cause a neighbour's dog to start barking excessively in order to make a complaint about the neighbour's dog.*

- (2) A person commits an offence if:
  - (a) the person intentionally engages in conduct; and
  - (b) the conduct causes a dog to:
    - (i) menace a person or another animal; or
    - (ii) attack a person or another animal; or
    - (iii) engage in behaviour that is prohibited by by-law 64; and
  - (c) the person is reckless in relation to that result.

Maximum penalty:      50 penalty units.

#### **64      Dog causing nuisance**

- (1) The owner of a dog must ensure the dog is not a nuisance to people or animals.
- (2) For this by-law, a dog is taken to be a **nuisance** if it:
  - (a) causes, or is likely to cause, injury or is dangerous to the health of the community or a person other than its owner; or
  - (b) behaves repeatedly in a manner contrary to:
    - (i) the general interests of the community; or
    - (i) specific and reasonable interests of a person other than its owner; or
  - (c) creates a noise or an odour of a degree or to an extent that disturbs the reasonable mental, physical or social wellbeing of a person other than its owner; or
  - (d) defecates to a degree or extent that causes annoyance to a person other than its owner.

*Examples for clause (2)(c)*

*Constant or loud barking, especially when pedestrians walk past the premises.*

- (3) The owner of a dog that defecates in public must immediately remove the faeces and dispose of them in a sanitary manner.
- (4) The owner of a dog must ensure it does not aggressively chase a person or vehicle or another animal.
- (5) The owner of a dog must not allow the animal to come within 10 m of a public play structure or public exercise structure, unless the dog is under direct control of its owner.
- (6) A person must not bring a dog into the town centre unless:
  - (a) the dog is an assistance dog; or
  - (b) the person holds a permit to do so; or
  - (c) the dog is allowed under an exemption determined by the Council, by resolution.
- (7) A person must not feed a wild or feral dog.
- (8) A person commits an offence of strict liability if the person fails to comply with clause (1), (3), (4), (5), (6) or (7).

Maximum penalty: 50 penalty units.

## **Division 4 Seizure, impounding and destruction of dogs**

### **65 Seizure and impounding**

- (1) An authorised person may seize:
  - (a) a dog that appears to be diseased, injured, savage, destructive, stray or unregistered; or
  - (b) a dog or any other animal that an authorised person believes on reasonable grounds has attacked a person; or
  - (c) a dog or any other animal that is at large; or
  - (d) a dangerous dog whose owner is not complying with Division 3.
- (2) As soon as practicable after seizing an animal, the authorised person must:
  - (a) impound the animal in a pound; or
  - (b) in the case of a dog – return the dog to its owner.

## **66 Notice of impounding**

- (1) The CEO must ensure that reasonable steps are taken to notify the owner of an impounded dog that:
  - (a) the dog is impounded; and
  - (b) subject to by-laws 68 and 70, the owner must collect it.
- (2) The owner of an impounded dog who receives a notice under clause (1) must collect the dog within the time specified in the notice.
- (3) A person commits an offence of strict liability if the person:
  - (a) owns a dog; and
  - (b) receives a notice under clause (1) that the owner must collect the dog; and
  - (c) fails to collect the dog within the time specified in the notice.

Maximum penalty: 50 penalty units.

## **67 Release from pound**

- (1) When collecting a dog from a pound, a person must provide evidence that the person is the owner of the dog or is authorised to act on behalf of the owner.
- (2) Subject to by-law 68, an impounded dog must not be released from a pound unless:
  - (a) it is registered (either with the Council or another council); and
  - (b) it is released to its owner or to a person authorised to act on behalf of the owner; and
  - (c) the Council receives any fees payable in relation to it.

*Note for by-law 67*

*Section 289 of the Act allows the Council to charge fees for services, including charging the owner of a dog for:*

- (a) *the costs incurred by the Council in relation to an impounded dog; and*
- (b) *delivering the dog from the pound.*

**68            Diseased dog**

- (1) An authorised person must make arrangements for any impounded dog that is suspected of being infected with a contagious disease to be isolated from other animals in the pound.
- (2) An authorised person must take reasonable steps to give the owner of a dog isolated under clause (1) written notice:
  - (a) stating the reasons for isolating it; and
  - (b) warning that it must either undergo a course of treatment specified in the notice or be destroyed.
- (3) The authorised person may, in the notice given under clause (2), require the owner of the dog to give the Council a report on its condition and the condition of any other dogs usually kept at the same premises at which the diseased dog is usually kept.
- (4) If required under clause (3), the owner must:
  - (a) have the report prepared by a veterinarian or other person specified in the notice; and
  - (b) give the report to the Council within the time specified in the notice.
- (5) A dog that is isolated under this by-law may be released from the pound in accordance with by-law 67, subject to any conditions an authorised person considers appropriate.
- (6) The cost of treatment reasonably provided by the Council to a diseased dog, and to any other animal in the pound infected or at risk of being infected by the diseased dog before it could reasonably be isolated, is a debt payable by the owner of the diseased dog to the Council.
- (7) An owner of a dog commits an offence of strict liability if the owner:
  - (a) fails to comply with clause (4); or
  - (b) fails to comply with a condition imposed under clause (5).

Maximum penalty:        50 penalty units.

**69 Transfer of dog**

The CEO may make arrangements for the transfer of dogs from a pound to a person or entity that provides animal welfare services.

*Example for by-law 69*

*Arrangements could be made with the RSPCA or other organisations that provide care for unwanted and stray animals.*

**70 Destruction of dog**

- (1) The CEO may arrange for a dog to be destroyed if:
  - (a) the dog is diseased, savage or destructive and in the opinion of the CEO is an immediate and actual threat to public safety; or
  - (c) the dog is diseased or injured and in the opinion of the CEO it would be cruel to keep it alive.
- (2) As soon as practical after arranging the destruction of a dog under this by-law the CEO must make a reasonable attempt to find the dog's owner and inform, in writing, the dog's owner of the destruction.

**71 Destruction of other animal**

The CEO may arrange for an animal other than a dog to be destroyed if:

- (a) the animal is in the pound, is seized or abandoned or is found on public land; and
- (b) the animal is diseased, injured, savage, destructive, unclaimed, unregistered or unwanted; and
- (c) it is humane to destroy the animal in the circumstances.

**72 Manner of destroying animal**

Any destruction of an animal under these By-laws must be done:

- (a) in a manner approved by the Australian Veterinary Association; and
- (b) by a veterinarian or another person who is, in the opinion of the CEO, qualified to destroy it.

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## **Part 6 Advertising and handbills**

### **73 Permit for handbills**

- (1) A person must not, without a permit, affix a handbill:
  - (a) to a power pole, signpost or fixture in a street; or
  - (b) to or against a structure adjoining public land; or
  - (c) to a vehicle on public land.
- (2) A person who affixes a handbill under a permit must:
  - (a) ensure the handbill is preserved in a clean and tidy condition; and
  - (b) remove the handbill after the information it contains expires or is no longer relevant; and
  - (c) properly dispose of any waste arising from the handbill.

*Example for clause (2)(b)*

*Take down a concert handbill after the concert is over.*

- (3) An authorised person may, by written notice, require the following persons to remove or remediate any handbill that is dirty, untidy, worn, torn or detached:
  - (a) any person who was issued the permit to post the handbill;
  - (b) the owner or occupier of the land where the handbill is posted;
  - (c) the person who sponsored or is responsible for the handbill.
- (4) A person who receives a notice under clause (3) must comply with the notice.
- (5) A person commits an offence of strict liability if the person fails to comply with clause (1), (2) or (4).

Maximum penalty: 20 penalty units.

### **74 Establishing advertising code**

- (1) The Council must establish an outdoor advertising code to prohibit and regulate outdoor advertising on:
  - (a) land owned, occupied or under the control of the Council; or

- (b) premises adjoining, or visible from, land owned, occupied or under the control of the Council.
- (2) The outdoor advertising code may:
- (a) define expressions used in this Part and not defined in these By-laws; and
  - (b) classify advertising and the criteria or conditions applicable to each class; and
  - (c) create exemptions from the requirement for an outdoor advertising permit; and
  - (d) provide for matters necessary or convenient for this Part.
- (3) An outdoor advertising code must be published.

## **75 General standards for advertising signs**

A person installing or exhibiting outdoor advertising must ensure the advertising:

- (a) complies with the outdoor advertising code; and
- (b) does not detract from the quality and architectural character of the premises on which the advertising is installed or exhibited; and
- (c) has no negative effect on the environmental character and amenity of the surrounding area; and
- (d) is in good repair and poses no risk to the health and safety of the public.

*Examples for by-law 75*

1 *Advertising must not obstruct, or cause distraction to, vehicular and pedestrian traffic.*

2 *A sign must be built to withstand high winds.*

## **76 Interference with Council advertising**

A person commits an offence of strict liability if the person removes, changes, defaces or otherwise interferes with any outdoor advertising installed or exhibited by the Council.

Maximum penalty: 50 penalty units.

## **Part 7                    Infringement notice offences**

### **77                    Infringement notice offence and prescribed amount payable**

- (1) An ***infringement notice offence*** is an offence against a provision specified in Schedule 1.
- (2) The ***prescribed amount*** for an infringement notice offence is the amount equal to the monetary value of the number of penalty units specified for the offence in Schedule 1.

### **78                    When infringement notice may be given**

If an authorised person believes on reasonable grounds that a person has committed an infringement notice offence, the authorised person may give a notice (an ***infringement notice***) to the person.

### **79                    Contents of infringement notice**

- (1) The infringement notice must specify the following:
  - (a) the name and address of the person to whom it is issued, if known;
  - (b) the date the infringement notice is given to the person;
  - (c) the date and time of the infringement notice offence and the place at which the infringement notice offence occurred;
  - (d) a description of the offence;
  - (e) the prescribed amount payable for the offence;
  - (f) the enforcement agency to which the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
  - (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
  - (b) the person may elect to have the offence dealt with by a court by:
    - (i) completing a statement of election and giving it to the specified enforcement agency; and



- (ii) not paying the prescribed amount;
  - (c) if the *Fines and Penalties (Recovery) Act 2001* applies to the infringement notice offence – enforcement action may be taken under that Act if the person does nothing in response to the notice.
- (3) The infringement notice must include an appropriate form for making the statement of election mentioned in clause (2)(b)(i).

## **80 Electronic payment and payment by cheque**

- (1) If the person uses electronic means to pay the prescribed amount, payment is not effected until the amount is credited to the payee's bank account.
- (2) If the person tenders a cheque in payment of the prescribed amount, payment is not effected unless the cheque is cleared on first presentation.

## **81 Expiation of offence**

If the prescribed amount for the infringement notice offence is paid in accordance with the infringement notice, the alleged offence is expiated and no further proceedings can be taken in relation to the offence.

## **82 Withdrawal of infringement notice**

- (1) An authorised person may withdraw the infringement notice by written notice given to the person.
- (2) The notice must be given:
  - (a) within 28 days after the infringement notice is given to the person; and
  - (b) before payment of the prescribed amount.

## **83 Application of Part**

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.
- (2) This Part does not:
  - (a) require an infringement notice to be given; or

- (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
  - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

## **Part 8 Repeal and transitional matters**

### **Division 1 Repeal**

#### **84 Definitions**

In these By-laws:

**commencement** means the commencement of these By-laws.

**former By-laws** means the By-laws repealed by by-law 85.

#### **85 Repeals**

The By-laws mentioned in Schedule 2 are repealed.

### **Division 2 Transitional matters**

#### **86 Former determinations**

A charge, due, fare, fee or rent determined by the Council under the former By-laws and in force immediately before the commencement continues in effect as if it were determined by the Council under the Act until amended or revoked by the Council.

#### **87 Former authorisations, permits and registrations**

- (1) A licence, permit or other authorisation issued, granted or renewed under the former By-laws that is in effect immediately before the commencement continues in effect as if it were a permit granted under these By-laws or by the Council until revoked or expired.
- (2) A registration issued, granted or renewed under the former By-laws that is in effect immediately before the commencement continues in effect as if it were a registration granted under these By-laws or by the Council until revoked or expired.

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**Schedule 1     Infringement notice offences**

by-law 77

Provision	Prescribed amount in penalty units	
	for individual	for body corporate
by-laws 10(5), 22(2), 23(2), 24(3), 25(2), 27, 32(1), (3) and (5), 33(5), 35(2), 41, 42, 50(2), 51(3), 52(1) and 73(5)	1	5
by-laws 8(7), 12(2), 13(2), 15(2), 16(3), 17(2), 18(3), 19(2), 20(2), 21(4), 29(3), 30(3), 31(1) and (2), 37, 38(2), 40(1), 43(3), 46, 49(1), 53(4), 63(2), 64(8) and 66(3)	2	10
by-law 68(7)	3	15
by-laws 32(2) and 32(4), 39 and 43(3)	4	20
by-laws 14(6), 55(3) and 62	9	45

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## Schedule 2 Repeals

by-law 85

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<i>West Arnhem Regional Council (Jabiru Town) (Control of Animals) By-laws 1984</i>	Subordinate Legislation No. 40 of 1984
<i>West Arnhem Regional Council (Jabiru Town) (Control of Dogs) By-laws 1992</i>	Subordinate Legislation No. 27 of 1992
<i>West Arnhem Regional Council (Jabiru Town) (Refuse) By-laws 1983</i>	Subordinate Legislation No. 7 of 1983
<i>West Arnhem Regional Council (Jabiru Town) (Roads and Public Places) By-laws 1983</i>	Subordinate Legislation No. 42 of 1983
<i>West Arnhem Regional Council (Jabiru Town) (Stallholders) By-laws 1983</i>	Subordinate Legislation No. 8 of 1993
<i>West Arnhem Regional Council (Jabiru Town) (Swimming Pool Complex) By-laws 1982</i>	Subordinate Legislation No. 82 of 1982

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