

Western Australia

Warmun Community (Turkey Creek) Inc. By-laws

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Warmun Community (Turkey Creek) Inc. By-laws

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Western Australia

ABORIGINAL COMMUNITIES ACT 1979

**Warmun Community (Turkey Creek) Inc.
By-laws**

Made by the Council of the Warmun Community (Turkey Creek) Inc.
under the *Aboriginal Communities Act 1979*.

Part 1 — Preliminary

1. Citation

These by-laws may be cited as the *Warmun Community (Turkey Creek) Inc. By-laws*.

2. Commencement

These by-laws shall come into effect when approved by the Governor and published in the *Government Gazette*.

3. Definitions

In these by-laws unless the context requires otherwise —

“**the Act**” means the *Aboriginal Communities Act 1979*.

“**Community**” means the Warmun Community (Turkey Creek) Inc.

“**Community Land**” means that land declared by the Governor under S6 of the Act to be the community lands of the community.

“**The Council**” means the council of the Warmun Community (Turkey Creek) Inc.

“**Member of the Community**” means any person who is accepted as a member of the Community for the time being.

“**The roadhouse**” means Kuwaleney known as the Turkey Creek Roadhouse.

“**Vehicle**” has the same meaning as it has under the *Road Traffic Act 1974* (as amended).

Part 2 — Community land

4. **Permission required to enter and remain on community land**

- (1) Except as provided to the contrary in any Act or regulation a person who is not a member of the community shall not enter or remain on community land without the prior permission of the Council.
- (2) The Council may in its absolute discretion —
 - (a) grant or refuse permission for a person to enter community land orally or in writing;
 - (b) impose such conditions as it thinks fit in granting permission to enter community land and;
 - (c) revoke such permission at any time.
- (3) The Council may delegate its powers under this by-law to any community adviser or other officer in the employ of the Community as the Committee thinks fit and without prejudice to its own exercise of its powers under this by-law.
- (4) Except as provided to the contrary in any Act or regulation any person who —
 - (a) enters community land without the prior permission of the Council;
 - (b) having been granted permission to enter community land on certain conditions breaches any such condition; or
 - (c) having entered community land with permission of the Council refuses to leave when requested to do so by the Council or its duly authorised delegate;commits an offence.

5. **Restriction of entry into areas**

Subject to the provisions of any Act or regulation to the contrary —

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- (1) The Council may place signs on community land for the purpose of prohibiting entry to the part of the land on which the sign is placed or to such part of the community land indicated by the inscription on the sign.
- (2) An inscription on such a sign operates and has effect according to its tenor.
- (3) Any person who fails to obey the directions in the inscription on such a sign commits an offence.

6. Homes

- (1) A person shall not enter the home of another person without obtaining prior permission of that person.
- (2) A person who is in a home other than his own shall leave that home if and when he is directed to do so by an occupier of that home.

Part 3 — Traffic

7. Traffic signs

- (1) The Council may cause signs called “traffic signs” to be erected on community land for the purpose of prohibiting, regulating or guiding vehicle traffic and the passage of pedestrians.
- (2) The inscription on a traffic sign operates and has effect according to its tenor.
- (3) Any person who fails to comply with the directions in an inscription on a traffic sign commits an offence.

8. Careless and dangerous driving

- (1) A person shall not drive a vehicle on community land without due care and attention.
- (2) A person shall not drive a vehicle on community land at a speed or in any other manner that is, having regard to all the circumstances of the case, dangerous to the public or to any person.

9. Areas prohibited to vehicles

- (1) The Committee may declare any area of community land as an area to which access by vehicles or certain types of vehicles shall be prohibited.
- (2) Any person who drives a vehicle in an area declared to be a prohibited area by the Committee under this by-law commits an offence.

Part 4 — Offences relating to alcohol and petrol

10. Prohibition of alcohol on community land

Any person who —

- (1) brings alcohol onto community land;
- (2) possesses alcohol on community land;
- (3) supplies alcohol to another on community land;
- (4) enters community land in a drunken condition;
- (5) is drunk on community land;
- (6) consumes alcohol on community land;

commits an offence.

11. Petrol sniffing

Any person who wilfully inhales petrol fumes commits an offence.

Part 5 — Regulation of other matters

12. Wilful damage

A person shall not wilfully damage any tree, bush, flower, lawn, building, structure, vehicle or other thing.

13. Litter

A person shall not leave any rubbish or litter —

- (1) In any home or in an enclosure around a home without the permission of the occupier of that home; or
- (2) In any other area of the community land except in a rubbish bin or in an area set aside by the Council for leaving rubbish and litter.

14. Offensive behaviour

A person shall not cause a disturbance or annoyance to other persons by using abusive language or fighting or otherwise act in an offensive or disorderly manner.

15. Disruption of meetings

A person shall not interrupt any meeting of the Council or the community or any customary meeting by noise or any other offensive or disorderly behaviour.

16. Fires

- (1) A person shall not kindle, light, make or use a fire other than in a place set aside by the Council for that purpose without the permission of the Council.
- (2) This by-law does not apply to a fire for cooking or heating purposes in a fireplace in a home or used in conjunction with a home.
- (3) This by-law does not authorise a person to light a fire in an open fireplace in contravention to the *Bush Fires Act 1954*.

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17. Gambling prohibited in certain areas

Any person who conducts, plays or bets in any game of chance or pretended game of chance on community land other than in a private home commits an offence.

Part 6 — Turkey Creek Roadhouse

18. Application of by-laws to Roadhouse

The provisions of Parts 2, 3 and 4 of these by-laws do not apply to the Roadhouse.

19. Employees not to consume liquor at Roadhouse

Any employee of the community or the Roadhouse who consumes alcohol at the Roadhouse commits an offence.

20. Community members and employees not to supply or receive liquor

Any member of the community or employee of the community or Roadhouse who supplies alcohol to another person or receives alcohol from another at the Roadhouse commits an offence.

Part 7 — Enforcement and proceedings

21. Powers of police

- (1) Where any person has committed or is committing an offence against a by-law and it appears likely that injury to persons or damage to property will be caused by that person, a member of the Police Force may apprehend and remove that person from community land for a period not exceeding twentyfour hours and in any event that person shall be returned to community land if a Court is convened to deal with him according to law.
- (2) A member of the Police Force may request the name and address of any person who he believes on reasonable grounds to have committed a breach of any of these by-laws.
- (3) Any person who when called upon to give their name and address under this by-law fails to give their name and address commits an offence.
- (4) A member of the Police Force may commence proceedings for any breach of a by-law.

22. Wardens

- (1) The Council may appoint such members of the community as it thinks fit to be wardens.
- (2) It is the duty of the wardens to inquire into alleged breaches of these by-laws, co-operate with members of the community, the Council and members of the Police Force in the enforcement of the by-laws and to enforce the provisions of the by-laws generally.
- (3) Any person who obstructs a warden in the lawful execution of his duty under these by-laws commits an offence.

23. Offences

A person who breaches or fails to comply with any of the provisions of By-laws 6, 8, 11, 12, 13, 14, 15, 16 and 17 commits an offence.

24. Fine

A person who is convicted of an offence against a by-law is liable to a fine of \$100.

[By-law 24 inserted in Gazette 14 May 2004 p. 1458.]

25. Restitution

In addition to any fine imposed for breach of the by-laws the Court may order a person convicted of an offence against these by-laws to pay compensation of not more than \$250 to the community or another person where, in the course of committing the offence the person convicted has caused damage to the property of the community or of that other person.

[By-law 25 amended in Gazette 14 May 2004 p. 1458.]

26. Defence of acting under custom

It is a defence to a complaint of an offence against a by-law to show that the defendant was acting under and excused by any custom of the community.

Notes

- ¹ This is a compilation of the *Warmun Community (Turkey Creek) Inc. By-laws* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Citation	Gazettal	Commencement
<i>Warmun Community (Turkey Creek) Inc. By-laws</i>	26 Apr 1991 p. 1855-8	26 Apr 1991
<i>Sentencing Legislation (Short Sentences - Aboriginal Community By-Laws) Amendment Regulations 2004</i> r. 19	14 May 2004 p. 1451-8	15 May 2004 (see r. 2 and <i>Gazette</i> 14 May 2004 p. 1445)