



Western Australia

Aboriginal Communities Act 1979

Cosmo Newberry Aboriginal Corporation By-laws

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Cosmo Newberry Aboriginal Corporation By-laws

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Cosmo Newberry Aboriginal Corporation By-laws

Part 1 — Preliminary

1. Citation

These by-laws may be cited as the *Cosmo Newberry Aboriginal Corporation By-laws*¹.

2. Commencement

These by-laws shall come into effect when approved by the Governor and published in the *Government Gazette*¹.

3. Definitions

In these by-laws, unless the contrary intention appears —

Community Land means that land declared by the Governor under section 6 of the Act to be the Community lands of the Community;

Community means the Cosmo Newberry Aboriginal Corporation;

member of the Community means a member for the time being of the Community;

committee means the Governing Committee of the Community;

liquor means liquor as defined in the *Liquor Licensing Act 1988*;

bl. 4

deleterious substance means glue or any volatile liquid containing hydrocarbons and including marijuana, cocaine, speed, methylated spirits, crack, petrol and boot polish;

Road means a road within the Community Land.

4. Application

These by-laws shall apply —

- (a) on all Community Land; and
- (b) to all persons on Community Land, whether members of the Community or not.

Part 2 — Community Land

5. Permission required to enter and remain on Community Land

- (1) No person other than a member of the Community shall come onto or remain on Community Land without the prior permission of the committee which may, in its discretion, grant permission subject to such terms and conditions and restrictions as it sees fit, or refuse permission.
- (2) The permission referred to in paragraph (1) shall be given in writing and may be revoked by the Community at any time.

6. Offence provision

Except as provided in any Act or regulation to the contrary, any person who comes onto Community Land without permission of the committee or who, having been given permission on terms and conditions to come onto Community Land, breaches or fails to comply with a term or condition of that permission commits an offence.

7. Erection of signs

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

- (a) the committee 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; and
- (b) an inscription on such a sign operates and has effect according to its tenor and any person who fails to obey the directions of the inscription on such a sign commits an offence.

Part 3 — Liquor

8. Bringing liquor on Community Land

- (1) Subject to this Part, no person shall bring liquor onto Community Land without permission of the committee.
- (2) The committee may, in its discretion and subject to such terms, conditions and restrictions as it sees fit, permit any person to bring, possess, use or supply liquor on Community Land.
- (3) In exercising its discretion under paragraph (2), the committee shall have regard to the welfare of the Community as the paramount consideration.
- (4) The permission referred to in paragraph (2) shall be given in writing and may be revoked by the committee at any time.

9. Possession, use of liquor

Any person who brings, possesses or uses liquor on Community Land without the permission of the committee, or who supplies it to others on Community Land without the permission of the committee, or who, having been given permission in relation thereto subject to terms and conditions, breaches or fails to comply with such terms or conditions, commits an offence.

10. Exception to by-law 9

- (1) It shall not be an offence under by-law 9 where a person brings, possesses, uses or supplies liquor on Community Land —
 - (a) for the purpose of a sacramental or other like observance in the course of constituting part of any religious service; or
 - (b) as a medicine or for specific medical purposes and that liquor has been duly prescribed or administered by or pursuant to a direction of a legally qualified medical practitioner, registered nurse or a registered pharmaceutical chemist.

- (2) It shall not be an offence under by-law 9 where a person who is travelling through the Community Land on the Road has liquor in his or her possession or under his or her control for the purpose only of transporting the liquor to a destination outside the Community Land.
- (3) In any proceedings for an offence under by-law 9 the onus of establishing a purpose of a nature referred to in this by-law shall be on the accused.

Part 4 — Deleterious substances

11. Possession of deleterious substances

A person shall not be in possession of a deleterious substance on Community Land for the purpose of inhalation.

12. Sale or supply of deleterious substances

A person shall not sell or supply a deleterious substance to another person on Community Land if there are reasonable grounds for suspecting that the other person —

- (a) intends to use the deleterious substance for the purpose of inhalation; or
- (b) intends to sell or supply the deleterious substance for the purpose of inhalation.

Part 5 — Confiscation and Proceedings

13. Confiscation

- (1) Any liquor brought onto any part of the Community Land by any person contrary to by-law 7 is liable to confiscation.
- (2) A member of the Police Force may —
 - (a) seize any liquor and any receptacle containing such liquor that he or she reasonably suspects to be liable to confiscation under these by-laws;
 - (b) if he or she has a reasonable suspicion that liquor is kept on any premises or vehicle in contravention of these by-laws, enter and search those premises or that vehicle using such force as is reasonably necessary for the purpose;
 - (c) stop any vehicle for the purpose of carrying out a search in pursuance of sub-paragraph (b);
 - (d) upon confiscating any liquor, decant or dispose of the contents of any receptacle containing such liquor if he or she is of the opinion that such action is necessary or conducive to the preservation of good order on the Community Land or the prevention of any offence under these by-laws or under any law of the State of Western Australia;
 - (e) subject to sub-paragraph (d), keep any confiscated liquor in his or her custody or control for such period of time as may be necessary in the interests of the administration of justice;
 - (f) confiscate and dispose of any deleterious substance that he or she reasonably suspects is to be used or has been used for the purpose of inhalation and any container that contains or has contained such deleterious substance.

14. Police may take proceedings, etc.

A member of the Police Force may —

- (a) take proceedings against any person for a breach of these by-laws;
- (b) where any person has committed or is committing an offence against these by-laws and it appears likely that injury to persons (including injury to the person committing the offence) or damage to property will be caused by that person, apprehend that person and remove that person from Community Land.

15. Proceedings in offences

Subject to *Child Welfare Act 1947*, proceedings for an offence against a by-law shall be commenced by way of complaint and summons under and in accordance with the *Justices Act 1902*, and shall be commenced within 6 months after the offence was committed.

16. Penalty and compensation

- (1) Any person who breaches or fails to comply with any of these by-laws is guilty of an offence and is liable to a fine of not more than \$100.
- (2) In addition to any fine imposed under paragraph (1), the Court may order any person convicted of an offence under these by-laws to pay compensation of not more than \$250.00 to the Community or another person where, in the course of committing the offence, the person convicted has caused damage to property of the Community or of that other body corporate or person.

[By-law 16 amended: Gazette 14 May 2004 p. 1453.]

Notes

- ¹ This reprint is a compilation as at 24 September 2004 of the *Cosmo Newberry Aboriginal Corporation By-laws* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Cosmo Newberry Aboriginal Corporation By-laws</i>	23 Jul 1993 p. 3977-9	23 Jul 1993 (see bl. 2)
<i>Sentencing Legislation (Short Sentences - Aboriginal Community By-Laws) Amendment Regulations 2004 r. 7</i>	14 May 2004 p. 1451-8	15 May 2004 (see r. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
Reprint 1: The <i>Cosmo Newberry Aboriginal Corporation By-laws</i> as at 24 Sep 2004 (includes amendments listed above)		

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
committee	3
Community	3
Community Land	3
deleterious substance	3
liquor.....	3
member of the Community	3
Road.....	3