

Western Australia

Hospitals and Health Services Act 1927

## **Osborne Park Hospital By-laws 2007**

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## Osborne Park Hospital By-laws 2007

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**Defined Terms**

## Osborne Park Hospital By-laws 2007

### Part 1 — Preliminary

#### 1. Citation

These by-laws are the *Osborne Park Hospital By-laws 2007*<sup>1</sup>.

#### 2. Interpretation

- (1) In these by-laws, unless the contrary intention appears —
- authorised person*** means an officer or servant of the board authorised in writing by the chief executive officer for the purpose of these by-laws;
- chief executive officer*** means the person in charge of the day-to-day management of the affairs of the Osborne Park Hospital;
- driver***, in relation to a vehicle, includes a rider;
- parking facility*** means land or a structure on the site that contains a parking space;
- parking space*** means a section whether in a parking facility or not that is marked by means of painted lines or metallic studs or similar devices for the purpose of indicating where a vehicle may be parked, whether or not a permit is required in relation to the parking of the vehicle;
- permit*** means a permit issued under by-law 16;

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**registered owner**, in relation to a vehicle, means the person who is the holder of the vehicle licence issued under the *Road Traffic Act 1974* in respect of the vehicle;

**roadway** means a part of the site set aside for use by vehicular traffic, notwithstanding that it may not be a road within the definition of the *Road Traffic Act 1974*, but excludes a parking facility;

**sign** means a marking, notice or sign that is marked, erected or displayed by or with the authority of the chief executive officer;

**site** means all of the land from time to time within Crown Reserve 29439 being Swan Location 8281, Diagrams 2988 and 22517 and Plan 13428;

**speed restriction sign** means a sign, in or adjacent to a roadway or a parking facility, that displays a number;

**vehicle** has the same definition as in the *Road Traffic Act 1974*.

- (2) A reference in these by-laws to **permission** is a reference to permission that is —
- (a) given by the chief executive officer or an authorised person; and
  - (b) in writing; and
  - (c) obtained and not revoked prior to the performing of the act that is the subject of the permission.
- (3) An officer or servant of the board is to be treated as having the permission referred to in sub-bylaw (2).

## Part 2 — Trespass and order

### 3. No entry without cause

A person must not enter or remain on the site without a reasonable excuse.

Penalty: a fine of \$50.

### 4. Directions as to use of certain areas

- (1) In this by-law —

*specified* means specified in the sign containing the direction.

- (2) An authorised person may, by means of a sign, direct that a specified part of the site is open to members of the public or a specified section of the public.

- (3) A direction under this by-law may be made subject to specified conditions.

- (4) The chief executive officer may cancel or vary a direction or condition under this by-law.

- (5) A person must not contravene a direction under this by-law.

Penalty: a fine of \$50.

### 5. Liquor

A person must not bring any alcoholic beverage onto the site, unless the person has permission to do so.

Penalty: a fine of \$50.

### 6. Smoking

A person must not smoke on the site.

Penalty: a fine of \$50.

**7.            Disorderly persons may be removed from site**

A person who —

- (a)    uses abusive language; or
- (b)    behaves in a manner that is indecent, disorderly or inappropriate,

on the site, whether in a building on the site or otherwise, may be discharged or expelled from the site.



## **Part 3 — Traffic control**

### **Division 1 — Driving and use of vehicles**

#### **8. Driving of vehicles**

- (1) A person must not drive or bring a vehicle onto a part of the site that is not a roadway or a parking facility, unless the person has permission to do so.
- (2) A person must not drive or bring a vehicle that has an unladen weight of more than 4 tonnes onto the site, unless the person has permission to do so.
- (3) A person must not drive, use or stand a vehicle in a part of the site contrary to a direction in a sign that relates to that part of the site.
- (4) This by-law does not apply to a vehicle that is an emergency vehicle.

Penalty applicable to sub-bylaw (1), (2) or (3): a fine of \$50.

#### **9. Driver to obey reasonable direction**

The driver of a vehicle is to obey an authorised person's reasonable direction in relation to the parking or movement of the vehicle on the site, despite that direction being different from a direction in a sign.

Penalty: a fine of \$50.

#### **10. Speed limits**

- (1) A person must not drive a vehicle on a roadway or parking facility —
  - (a) if no speed restriction sign is displayed, at a speed exceeding 20 km/h; or

- (b) if a speed restriction sign is displayed in relation to a part of a roadway or parking facility, at a speed exceeding the speed indicated by the speed restriction sign.

Penalty: a fine of \$50.

- (2) Sub-bylaw (1) does not apply to the driving of an emergency vehicle.

**11. Giving way**

The driver of a vehicle that is entering or about to enter a parking facility is to give way to a vehicle that is leaving the parking facility.

Penalty: a fine of \$50.

**12. No instruction or repairs on site**

A person must not —

- (a) drive a vehicle on the site for the purpose of giving or receiving driving instructions; or
- (b) repair or adjust a vehicle on the site, unless the person has permission to do so or in the case of an emergency.

Penalty: a fine of \$50.

**Division 2 — Parking**

**13. Parking to be in parking spaces only**

A person must not park a vehicle on the site unless the vehicle is parked in a parking space.

Penalty: a fine of \$50.

**14. Signs to be obeyed**

A person must not park, stand or move a vehicle on the site contrary to a direction in a sign.

Penalty: a fine of \$50.

**15. Parking in parking spaces**

- (1) In this by-law —  
*specified* means specified in a sign.
- (2) A sign may contain a direction that parking in a parking space, parking facility or part of a parking facility is set aside for —
  - (a) a specified vehicle or specified class of vehicle; or
  - (b) the vehicle of a specified person or specified class of persons; or
  - (c) parking of vehicles for a specified period of time; or
  - (d) parking of vehicles for a maximum period of time as is specified; or
  - (e) vehicles that display a specified permit in a specified position on the vehicle.
- (3) A person must not park, stand or move a vehicle in a parking space or a parking facility contrary to a direction in a sign.  
Penalty: a fine of \$50.
- (4) Without limiting sub-bylaw (3), a person must not park a vehicle in a parking space, parking facility or part of a parking facility set aside for vehicles displaying a specified permit unless the person is the holder of the specified permit that is current.  
Penalty: a fine of \$50.

**16. Permit**

- (1) In this by-law —  
*specified* means specified in the relevant permit.
- (2) A person who wishes to obtain a permit to park a vehicle on the site is to apply to the chief executive officer or an authorised person.
- (3) An application under sub-bylaw (2) must be in a form approved by the chief executive officer.

- (4A) The fee payable for a parking permit is \$2.00 for each day on which the permit holder is permitted to park a vehicle on the site (up to a maximum of \$10.00 per week).
- (4B) The chief executive officer or authorised person may issue a parking permit even though the fee for the permit is not paid in full if satisfied that arrangements are in place for the fee for the permit to be paid in instalments.
- (4) The chief executive officer or the authorised person to whom the application under sub-bylaw (2) is made, may issue to the applicant, a permit that allows the applicant to park a vehicle on the site.
- (5) A permit may be of general application or be issued —
  - (a) to allow a specified vehicle only to be parked; or
  - (b) to allow a vehicle of a specified person or class of persons only to be parked; or
  - (c) to allow a vehicle of a specified class only to be parked; or
  - (d) to allow a vehicle to be parked only in a specified part of the site; or
  - (e) to allow a vehicle to be parked for a specified period of time only.
- (6) A permit expires on the day specified in the permit.
- (7) The chief executive officer or an authorised person may cancel a permit if —
  - (a) a vehicle in respect of which the permit is issued is parked on the site in contravention of —
    - (i) these by-laws; or
    - (ii) the terms of the permit;or
  - (b) a person to whom the permit is issued —
    - (i) contravenes these by-laws; or

- (ii) ceases to be in the category of persons to whom a permit may be issued.
- (8) A person must not park a vehicle on the site in an area that has been set aside for permit holders only, without a current permit to do so.

Penalty: a fine of \$50.

*[By-law 16 amended in Gazette 28 Nov 2010 p. 5947;  
24 Jun 2011 p. 2504; 23 Dec 2011 p. 5439.]*

## Part 4 — Infringement notices

### 17. Interpretation

In this Part —

***alleged offender*** includes the registered owner of a vehicle to which an infringement notice is attached;

***infringement notice*** means an infringement notice under by-law 18;

***modified penalty*** means a penalty prescribed in Schedule 1 for an offence under Part 3 or 4.

### 18. Infringement notices

- (1) An authorised person who has reason to believe that a person has committed an offence under Part 3 or this Part may, within 28 days after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender.
- (2) An infringement notice may be given to an alleged offender by delivering it to the alleged offender or by attaching it to the vehicle involved in the commission of the alleged offence.
- (3) An infringement notice is to be in the form of Form 1 in Schedule 2 and in every case, is to —
  - (a) contain a description of the alleged offence; and
  - (b) advise that if the alleged offender does not wish to have the alleged offence heard and determined by a court, the amount of money specified in the notice as being the modified penalty for the offence may be paid to an authorised person, other than the authorised person who issued the infringement notice, within a period of 28 days after the giving of the notice.
- (4) In an infringement notice the amount specified as being the modified penalty for the offence referred to in the notice is to be the amount that was the modified penalty at the time the alleged offence is believed to have been committed.

- (5) An authorised person other than the authorised person who issued an infringement notice in a particular case, may extend the period of 28 days within which the modified penalty may be paid and the extension may be allowed whether or not the period of 28 days has elapsed.
- (6) If the modified penalty specified in an infringement notice has been paid within 28 days or such further time as is allowed and the notice has not been withdrawn, the bringing of proceedings and the imposition of penalties are prevented to the same extent as they would be if the alleged offender had been convicted by a court of, and punished for the alleged offence.
- (7) Payment of a modified penalty is not to be regarded as an admission for the purposes of any proceedings, whether civil or criminal.

*[By-law 18 amended in Gazette 28 Nov 2010 p. 5948;  
23 Dec 2011 p. 5439.]*

#### **19. Withdrawal of infringement notice**

- (1) An authorised person other than the authorised person who issued an infringement notice in a particular case, may, whether or not the modified penalty has been paid, withdraw an infringement notice by delivering to the alleged offender a notice in the form of Form 2 in Schedule 2 stating that the infringement notice has been withdrawn.
- (2) If an infringement notice is withdrawn after the modified penalty has been paid, the amount is to be refunded.

#### **20. Authorised person to have certificate**

The chief executive officer is to issue to each authorised person who may issue infringement notices, a certificate stating that the person is so authorised, and the authorised person is to produce the certificate whenever required to do so by a person to whom the authorised person has given or is about to give an infringement notice.

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**21.        Authorised persons only to endorse and alter infringement notices**

A person must not endorse or alter an infringement notice unless the person is an authorised person.

Penalty: a fine of \$50.

**22.        Restriction on removal of infringement notices**

A person must not remove an infringement notice that is attached to a vehicle unless the person is —

- (a)    the driver, registered owner or person in charge of the vehicle; or
- (b)    an authorised person.

Penalty: a fine of \$50.



## **Part 5 — General**

### **23. Removal of vehicles**

- (1) The chief executive officer or an authorised person may order that a vehicle that —
  - (a) is parked in contravention of these by-laws; or
  - (b) has been left on the site for more than 3 days,be removed to a storage place on the site.
- (2) The chief executive officer or an authorised person may order that a vehicle that —
  - (a) is parked in contravention of these by-laws; and
  - (b) is obstructing other vehicles or activities of the Osborne Park Hospital,be removed immediately to a storage place on the site.
- (3) An authorised person may take such action as is reasonably necessary for the purposes of removing a vehicle under this by-law, by way of unlocking, driving, towing or otherwise causing the removal of the vehicle.
- (4) The board may retain possession of a vehicle removed and stored under this by-law until —
  - (a) the owner of the vehicle has paid the fee to recover the vehicle calculated at the rate of \$50 for the first 24 hours or part thereof and \$5 for each 7 day period or part period after that; or
  - (b) if the vehicle was removed under sub-bylaw (2) — the owner or the person in charge of the vehicle has been given an infringement notice for the contravention.
- (5) Payment under sub-bylaw (4)(a) may be made by one of the following methods —
  - (a) in person to an authorised person at the site;

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- (b) in person at the Metropolitan Access and Parking Department at —  
100 Flinders Street  
Mt. Hawthorn WA
- (c) at any Australia Post Office or agency;
- (d) by telephone on 1800 753 191;
- (e) by cheque or money order payable to “Metropolitan Access and Parking” and posted to —  
Metropolitan Access and Parking  
PO Box 1135  
Osborne Park WA 6916

*[By-law 23 amended in Gazette 23 Dec 2011 p. 5439-40.]*

**24. Registered owner may be treated as being driver or person in charge of vehicle at time of offence**

- (1) If an offence under these by-laws is alleged to have been committed by the driver or person in charge of a vehicle, the chief executive officer or an authorised person may, by written notice delivered to the registered owner of the vehicle, request the name and address of the driver or person in charge of the vehicle at the time the offence is alleged to have been committed.
- (2) If the registered owner of the vehicle does not supply the requested details to the chief executive officer or the authorised person (as the case may be) within 14 days of the date of receipt of the notice, the registered owner is to be treated as being the driver or the person in charge of the vehicle at the time the offence is alleged to have been committed.

**25. Other offences**

A person must not —

- (a) intentionally obstruct an officer or servant of the board in the discharge of his or her duty under these by-laws;  
or

(b) remove, damage, deface or misuse a sign.

Penalty: a fine of \$50.

**Schedule 1 — Infringement notices and modified penalties**

[bl. 17, 18]

| <b>By-law</b> | <b>Description of offence</b>  | <b>Modified penalty (\$)</b> |
|---------------|--|------------------------------|
| 8(1)          | Driving or bringing vehicle on part of site other than on roadway or parking facility, without permission .....  | 40                           |
| 8(2)          | Driving or bringing onto the site, a vehicle with an unladen weight of more than 4 tonnes, without permission .....  | 30                           |
| 8(3)          | Driving, using or standing on part of site, a vehicle contrary to a sign .....   | 40                           |
| 9             | Disobeying an authorised person's reasonable direction .....   | 30                           |
| 10(1)(a)      | Driving in excess of 20 kph .....  | 40                           |
| 10(1)(b)      | Driving in excess of speed limit indicated by speed restriction sign .....   | 40                           |
| 11            | Failing to give way when entering parking facility .....   | 30                           |
| 12(a)         | Driving on site for the giving or receiving of driving instruction .....   | 30                           |
| 12(b)         | Repairing or adjusting a vehicle on site .....   | 30                           |
| 13            | Parking a vehicle on site not in a parking space .....   | 40                           |
| 14            | Failing to obey a stop sign on site .....  | 45                           |
| 14            | Parking, standing or moving a vehicle on site contrary to a sign other than a stop sign .....  | 40                           |
| 15(2)(b), (3) | Parking in an area on site set aside for vehicles of disabled persons identified in the manner specified in a sign, contrary to the sign .....   | 40                           |
| 15(2)(e), (3) | Displaying a permit in a manner other than that specified in a sign .....  | 20                           |
| 15(2)(e), (3) | Failing to display a permit, contrary to a sign .....  | 40                           |
| 15(3)         | Parking, standing or moving a vehicle in a parking space or parking facility contrary to a sign in relation to vehicles of disabled persons or contrary to any sign other than a sign with a direction under by-law 15(2)(e) ..... | 40                           |

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| <b>By-law</b> | <b>Description of offence</b>  | <b>Modified<br/>penalty<br/>(\$)</b> |
|---------------|--|--------------------------------------|
| 15(4)         | Parking in an area set aside for vehicles with a specific permit identified in the manner specified in a sign, contrary to the sign..... | 40                                   |
| 16(8)         | Parking in an area on the site set apart for permit holders only, without a current permit .....   | 40                                   |
| 21            | Unauthorised person endorsing or altering an infringement notice .....   | 30                                   |
| 22            | Removing an infringement notice when not authorised to do so .....   | 30                                   |

*[Schedule 1 amended in Gazette 23 Dec 2011 p. 5440.]*

## **Schedule 2 — Forms**

[bl. 18 and 19]

### **Form 1: Infringement Notice (by-law 18)**

| <b>Infringement Notice</b>                |                       |                   |
|---|-----------------------|-------------------|
| <i>Osborne Park Hospital By-laws 2007</i> |                       |                   |
| <b>Notice No.</b>                         | <b>Issue date</b>     | <b>Issue time</b> |
| <b>Location</b>                           |                       |                   |
| <b>Vehicle</b>                            |                       |                   |
| Plate no. & type                          | Make                  | Model/Style       |
| <b>Alleged Offence</b>                    |                       |                   |
| Date                                      | Time                  |                   |
| By-law                                    | Modified penalty      |                   |
| <b>Issuing Officer</b>                    |                       |                   |
| Name                                      | Signature/Officer No. |                   |

You have 28 days from when this Notice is given to you to pay the modified penalty or elect to go to court. If you don't, enforcement proceedings will be taken against you.

#### **Paying the modified penalty**

By post:      Send a cheque or money order payable to "Metropolitan Access and Parking" to —  
Metropolitan Access and Parking  
PO Box 1135

Osborne Park WA 6916

In person:      Pay at the Metropolitan Access and Parking Department at —  
100 Flinders Street  
Mt. Hawthorn WA

OR

Pay at any Australia Post Office or agency.

By telephone:    Call 1800 753 191

**Electing to go to court**

If you wish to elect to go to court, sign here:

..... Date: .....

then send this notice to —

The Chief Executive Officer  
Metropolitan Access and Parking Department  
100 Flinders Street  
Mt. Hawthorn WA 6016

Make sure you keep a copy. If you go to court and are convicted you may be fined \$50 and ordered to pay costs.

**If enforcement proceedings are taken against you, your driver's licence and/or vehicle licence may be suspended** until you pay the modified penalty and expenses or you elect to go to court.

*[Form 1 inserted in Gazette 23 Dec 2011 p. 5441-2.]*

**Form 2: Withdrawal of Infringement Notice (by-law 19)**

|   |                                   |            |
|---|-----------------------------------|------------|
| <i>Osborne Park Hospital By-laws 2007</i><br><b>Withdrawal of Infringement Notice</b>   |                                   | Notice No: |
| <b>To</b><br><i>[Person to whom<br/>Infringement Notice<br/>was issued]</i>   | Family name                       |            |
|   | Other names                       |            |
|   | Address .....                     |            |
|   | .....                             |            |
| <b>Infringement<br/>Notice</b>  | Infringement Notice No.           |            |
|   | Date of issue ...../...../20..... |            |
|   | Alleged offence .....             |            |
|   | .....                             |            |
| Vehicle plate no.   |                                   |            |
| <b>The Infringement Notice has been withdrawn.</b><br>If you paid the modified penalty before the Infringement Notice was withdrawn, take your receipt and this notice to the cashier at the Osborne Park Hospital and your payment will be refunded. |                                   |            |
| <b>Notice<br/>withdrawn by</b>  | Name                              |            |
|   | Signature                         |            |
|   | Date ...../...../20.....          |            |

*[Form 2 amended in Gazette 23 Dec 2011 p. 5442.]*



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**Notes**

- <sup>1</sup> This is a compilation of the *Osborne Park Hospital By-laws 2007* and includes the amendments made by the other written laws referred to in the following table.

**Compilation table**

| <b>Citation</b>   | <b>Gazettal</b>           | <b>Commencement</b>   |
|---|---------------------------|---|
| <i>Osborne Park Hospital By-laws 2007</i>                       | 5 Jun 2007<br>p. 2577-97  | 5 Jun 2007  |
| <i>Osborne Park Hospital Amendment<br/>By-laws 2010</i>         | 26 Nov 2010<br>p. 5947-8  | bl. 1 and 2: 26 Nov 2010<br>(see bl. 2(a));<br>By-laws other than bl. 1 and 2:<br>1 Jan 2011 (see bl. 2(b)) |
| <i>Osborne Park Hospital Amendment<br/>By-laws 2011</i>         | 24 Jun 2011<br>p. 2503-4  | bl. 1 and 2: 24 Jun 2011<br>(see bl. 2(a));<br>By-laws other than bl. 1 and 2:<br>1 Jul 2011 (see bl. 2(b)) |
| <i>Osborne Park Hospital Amendment<br/>By-laws (No. 2) 2011</i> | 23 Dec 2011<br>p. 5438-42 | bl. 1 and 2: 23 Dec 2011<br>(see bl. 2(a));<br>By-laws other than bl. 1 and 2:<br>1 Jan 2012 (see bl. 2(b)) |

**Defined Terms**

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**Defined Terms**

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

| <b>Defined Term</b>          | <b>Provision(s)</b> |
|------------------------------|---------------------|
| alleged offender .....       | 17                  |
| authorised person .....      | 2(1)                |
| chief executive officer..... | 2(1)                |
| driver.....                  | 2(1)                |
| infringement notice .....    | 17                  |
| modified penalty .....       | 17                  |
| parking facility .....       | 2(1)                |
| parking space .....          | 2(1)                |
| permission.....              | 2(2)                |
| permit.....                  | 2(1)                |
| registered owner.....        | 2(1)                |
| roadway.....                 | 2(1)                |
| sign.....                    | 2(1)                |
| site.....                    | 2(1)                |
| specified .....              | 4(1), 15(1), 16(1)  |
| speed restriction sign.....  | 2(1)                |
| vehicle .....                | 2(1)                |