

# BURNIE CITY COUNCIL

## Parking By-Law No 1 of 2017

BY-LAW made under section 145 of the *Local Government Act 1993* for the purpose of regulating and controlling the use of parking areas belonging to or controlled by the Burnie City Council and section 100 of the *Local Government (Highways) Act 1982* for the purpose of prescribing compositions under that section.

### Part 1

#### **PRELIMINARY**

##### **SHORT TITLE**

1. This By-law may be cited as the Burnie City Council Parking By-law, Number 1 of 2017.

##### **COMMENCEMENT**

2. This By-law commences on the date it is published in the "*Tasmanian Government Gazette*".

##### **APPLICATION**

3. This By-law applies to the municipal area of the City of Burnie.

##### **INTERPRETATION**

4. In this By-law:

"authorised officer" means the Director Land and Environmental Services, the Compliance Support Manager, the Municipal Inspector, a person appointed by the General Manager to control a parking area and any other person appointed by the Council as an officer for the purposes of this By-law;

"Compliance Support Manager" includes the person holding the position of Compliance Support Manager of the Burnie City Council or a person appointed by the General Manager to perform the functions required by this By-law of that person, the General Manager and the Director Land and Environmental Services;

"Council" means the Burnie City Council;

"Director Land and Environmental Services" includes the person holding the position of Director Land and Environmental Services of the Burnie City Council or a person appointed by the General Manager to perform the functions required by this By-law of that person and the General Manager;

"General Manager" means the General Manager of the Burnie City Council;

"infringement notice" means a notice complying with sections 149 and 170 of the *Local Government Act 1993*;

"liquor" has the same meaning as under the *Liquor Licensing Act 1990*;

“Municipal Inspector” means the person appointed to that position;

“park” means to leave a vehicle in a stationary position whether attended or not;

“parking area” includes any area owned by or under the control of the Council and designated for the parking of vehicles and all buildings equipment, signs, access ways, land, fences, chattels and structures used or connected in any way with the parking area;

“parking meter” means a device installed adjacent to a parking space for the measuring of time;

“parking space” means a space within a parking area or a space controlled by a parking meter, indicated by lines or other marks on the ground or indicated by any other method, of sufficient clear space to accommodate a vehicle within that space;

“parking voucher” or “voucher” means a document issued by a voucher machine;

“penalty unit” means a sum prescribed under the provisions of the *Penalty Units and Other Penalties Act 1987*;

“Registered Operator” of a motor vehicle or trailer includes:

- (a) the meaning assigned to that expression in the *Vehicle and Traffic Act 1999*; or
- (b) the registered operator of the vehicle within the meaning of the law of another jurisdiction, or
- (c) in the case of a vehicle to which a trade plate or similar device is affixed under the *Vehicle and Traffic Act 1999* or the law of another jurisdiction - the person to whom the trade plate has been issued; or
- (d) in the case of a vehicle to which a short term unregistered vehicle permit or similar permit has been issued under the *Vehicle and Traffic Act 1999* or the law of another jurisdiction - the person to whom the permit has been issued.

“reserved parking area” means an area designated by Council for long term parking;

“reserved parking permit” means a permit issued in accordance with clause 11 of this By-law for a parking space in a reserved parking area

“reserved parking space” means a space designated by Council for long term parking;

“shopping trolley” includes any wheeled apparatus used for conveying items from one place to another;

“trolley bay” means a place in a parking area designated for the temporary storage of shopping trolleys;

“voucher machine” is a device installed by or for Council that issues a voucher or document after the correct coin or coins have been inserted and:

- (a) indicates that the holder may park a vehicle in a space in the parking area where the voucher was purchased, and
- (b) bears the date and time of issue.

## **DRIVING OF VEHICLES**

### **ENTRY AND EXIT OF PARKING AREAS**

5. A person driving a vehicle must not enter or leave a parking area except by an access point designated by a Council sign.

**Penalty:** a fine not exceeding 3 penalty units.

### **DRIVING OF VEHICLES**

6. A person must not drive a vehicle in a parking area at more than 20 kilometres per hour or at an unsafe speed.

**Penalty:** a fine not exceeding 4 penalty units.

## **PARKING**

### **PARKING OF VEHICLES**

7.

- (1) A person must not park a vehicle which is:

- (a) not wholly within one parking space or parked as directed by an authorised officer; or
- (b) in a position where it obstructs the entry or exit of a vehicle to another parking space.

**Penalty:** a fine not exceeding 3 penalty units.

- (2) An authorised officer or a police officer may remove a vehicle if it contravenes this clause.

### **PAYMENT OF FEE**

8. A person must not park a vehicle in a parking area without payment of the fee required by the conditions of entry to that parking area, which conditions are indicated by signs displayed in the parking area.

**Penalty:** a fine not exceeding 3 penalty units.

### **PARKING VOUCHERS**

9.

- (1) A person must not park a vehicle in a parking area controlled by a voucher machine unless that person has displayed on the driver's side of the vehicle's dashboard an unexpired voucher.

- (2) A voucher must be displayed so that the date and time of issue is clearly visible from outside the vehicle.

**Penalty:** a fine not exceeding 3 penalty units.

## **PARKING LONGER THAN MAXIMUM PERIOD**

10. A person must not allow a vehicle to remain parked in a parking area for a longer period than is allowed by the conditions of entry to that parking area, which conditions are indicated by signs displayed in the parking area.

**Penalty:** a fine not exceeding 3 penalty units.

## **RESERVED SPACES**

11.

- (1) The General Manager may create reserved parking areas and spaces on land owned or under the control of the Council.

- (2) A person holding a valid reserved parking permit must not park a vehicle to which the permit applies in a parking space other than the parking space assigned by the permit.

**Penalty:** a fine not exceeding 3 penalty units.

- (3) A person must not park or leave a vehicle in a parking space or parking area which is designated "Reserved" unless authorised to do so.

**Penalty:** a fine not exceeding 3 penalty units.

- (4) An authorised officer may remove a vehicle if it contravenes this clause.

## **PROHIBITED ACTIVITIES**

### **DAMAGE TO EQUIPMENT**

12. A person must not in any way damage equipment used or connected in any way with the parking area nor use notes or coins other than the type of notes or coins indicated on the outside of the equipment.

**Penalty:** a fine not exceeding 5 penalty units.

### **UNAUTHORISED REMOVAL OF INFRINGEMENT NOTICE**

13. A person other than the registered owner or person in charge of the vehicle must not remove or cause to be removed an infringement notice affixed to a vehicle.

**Penalty:** a fine not exceeding 5 penalty units.

### **WASHING, DISMANTLING AND REPAIR OF VEHICLES**

14.

- (1) A person must not dismantle, paint, wash or repair any vehicle in a parking area without the consent of the General Manager, unless it is necessary to enable the vehicle to be moved from the parking area.

**Penalty:** a fine not exceeding 5 penalty units.

- (2) A police officer may arrest a person found offending under this clause.

## SKIDDING OF VEHICLES

15.

(1) A person must not drive a vehicle so:

- (a) it skids; or
- (b) it leaves rubber from its tyres on the surface of the parking area.

**Penalty:** a fine not exceeding 5 penalty units.

(2) A police officer may arrest a person found offending under this clause.

## DISTRIBUTION OF ADVERTISEMENTS

16. A person must not distribute or cause to be distributed any advertisement, book, card, handbill, notice, pamphlet, print, paper or placard within a parking area without the written permission of the Compliance Support Manager.

**Penalty:** a fine not exceeding 5 penalty units.

## DAMAGE TO COUNCIL PROPERTY

17.

(1) A person must not remove or damage Council property within any parking area.

**Penalty:** a fine not exceeding 10 penalty units.

(2) A police officer may arrest a person found offending under this clause.

## GRAFFITI

18.

(1) A person must not mark, write on or in any other way deface Council property within any parking area.

**Penalty:** a fine not exceeding 5 penalty units.

(2) The General Manager of Council may give written approval for painting or a similar activity to occur in a parking area.

(3) A police officer may arrest a person found offending under this clause.

## LIQUOR

19.

(1) A person must not possess an open container of liquor or sell liquor within a parking area without approval to do so.

**Penalty:** a fine not exceeding 5 penalty units.

(2) The General Manager of Council may give written approval for the consumption and sale of liquor in an area which has been set aside for that purpose within any parking area.

- (3) A police officer may arrest a person found offending against this clause.

#### **PROHIBITED CONDUCT**

20.

- (1) A person must not threaten, or use abusive language to an authorised officer acting in the course of their employment in relation to or in connection with any matter relating to a parking area.

**Penalty:** a fine not exceeding 5 penalty units.

- (2) A police officer may arrest a person found offending under this clause.

#### **USE OF SKATES AND CYCLES**

21.

- (1) A person is not to ride a machine propelled by human power which includes a skateboard, bicycle, scooter, in-line skates and roller skates during hours indicated by signs in a parking area.

**Penalty:** a fine not exceeding 2 penalty units.

- (2) A person may ride a bicycle in a parking area in order to park it.

#### **OBSTRUCTION AND SHOPPING TROLLEYS**

22.

- (1) A person must not cause any obstruction to vehicle or foot traffic in a parking area.

**Penalty:** a fine not exceeding five penalty units.

- (2) A person must not leave unattended or abandon a shopping trolley anywhere in a parking area other than in a trolley bay.

**Penalty:** a fine not exceeding three penalty units.

#### **SUPPLY OF NAME AND ADDRESS**

23.

- (1) A person within a parking area must supply their correct and full name and permanent or present temporary address if requested by an authorised officer or by a police officer.

**Penalty:** a fine not exceeding 10 penalty units.

- (2) A police officer may arrest a person if the officer or an authorised officer finds the person offending against this clause.

## REQUEST TO LEAVE AN AREA

24.

- (1) A police officer or authorised officer may ask a person whom they reasonably believe is offending against this by-law to leave a parking area.
- (2) A person who does not obey the directions of a police officer or an authorised officer is guilty of an offence.

**Penalty:** a fine not exceeding 5 penalty units.

- (3) A police officer or authorised officer may remove any person from the parking area who is offending under this clause.

## CLOSURE OF PARKING AREAS

25. The Compliance Support Manager may close any parking area or portion of a parking area.

## USE OF PARKING AREAS FOR OTHER PURPOSES

26. The Compliance Support Manager may give written approval for a parking area to be used for any purpose and impose conditions for its use.

## Part 2

### PENALTIES

#### INFRINGEMENT NOTICES

27.

- (1) In this clause “specified offence” means an offence against the clause specified in either Column 1 in the Table to clause 29 or in Column 1 of Schedule 1.
- (2) An infringement notice may be used in respect of a specified offence and the monetary penalty set out adjacent to the offence Column 6 in the Table to clause 29 or in Column 3 of Schedule 1 is the penalty payable under the infringement notice for that offence.

#### AMOUNTS PAYABLE

28.

- (1) An authorised officer may:
  - (a) Issue an infringement notice to a person that the authorised officer has reason to believe is guilty of a specified offence;
  - (b) Issue one infringement notice in respect of more than one specified offence.
- (2) An infringement notice alleging that a vehicle has been used in relation to a specified offence may be served by affixing it to that vehicle.
- (3) The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this By-law.

29. For the purposes section 100(4) of the *Local Government (Highways) Act 1982*, the prescribed penalty for an infringement notice issued for an offence under section 97, 98 or 99 of that *Act* is the applicable sum specified in Column 6 adjacent to the offence in the Table to clause 29.

## DEFENCES

30.

- (1) A person issued with an infringement notice may provide a statutory declaration to the Council within 28 days of the issue of the infringement notice setting out the details of the defence under clause 30(2) on which the person wishes to rely.
- (2) Without affecting the availability of any other defence, it is a defence against issue of an infringement notice that –
  - (a) The infringement notice is incorrect or incomplete in its detail;
  - (b) The vehicle was exempt under the provisions of any Act or Regulation from the application of a control on the parking or stopping of a vehicle;
  - (c) The vehicle was directly engaged in the business of one of the following at the time of the offence –
    - (i) an emergency service responder;
    - (ii) an essential service provider; or
    - (iii) a law enforcement agency;
  - (d) In relation to a vehicle that was stopped other than within a parking space –
    - (i) the vehicle was required to stop because it became disabled, and it was stopped for no longer than was necessary for the vehicle to be removed to a place where it was permitted to be parked;
    - (ii) the vehicle had stopped to allow the driver to attend to a medical or other emergency, and the vehicle was stopped for no longer than was necessary in the circumstances;
    - (iii) the vehicle was stopped because the condition of the driver, a passenger, or the vehicle made it necessary to stop in the interests of safety, and the vehicle was stopped for no longer than was necessary in the circumstances;
    - (iv) the vehicle was stopped to comply with the provisions of another law, and the vehicle was stopped for no longer than was necessary in the circumstances; or
    - (v) the vehicle was stopped in accordance with an instruction of a Police Officer or any other person acting with proper and lawful authority under this by-law;
  - (e) In relation to a vehicle within a parking space –
    - (i) a parking meter or voucher machine could not be made to operate by the insertion of coins of the kind required;



- (ii) the meter or voucher machine failed to provide the time indicated to be available for the value of the coins inserted;
  - (iii) the vehicle had only recently been parked, and the driver had not yet had time to set the meter running or to purchase a voucher;
  - (iv) by reason of illness or accident, or the necessity to receive or provide treatment as a result of illness or accident, the driver was unable to set the meter running or to purchase or display a voucher;
  - (v) as a consequence of a defect in or damage to the vehicle it was necessary to draw the vehicle into a parking space and it had since not been possible to remove the vehicle from the space or area;
  - (vi) a road leading into or leaving the parking area or a traffic aisle within the parking area was obstructed by another vehicle, traffic accident, roadwork or other event sufficient to detain the vehicle for a period longer than it was permitted to park without payment of a further fee; or
  - (vii) a valid voucher had been obtained, and reasonable measures had been taken to adequately display the voucher inside the vehicle.
- (f) Signage indicating the operation of parking controls in the space or area was obscured by abnormal activity in the locality or had been removed or was missing at the time of the offence
- (3) The General Manager, Director of Land and Environmental Services or Compliance Support Manager may withdraw an infringement notice if satisfied a defence relied upon has been made out.

**TABLE TO CLAUSE 29**

| Column 1<br><br>Section:<br>Local<br>Government<br>(Highways)<br>Act 1982 | Column 2<br><br>Clause:<br>Parking By-<br>law, No. 1 of<br>2017 | Column 3<br><br>Description of Offence                                 | Column 4<br><br>Penalty Units | Column 5<br><br>Reduced<br>penalty if<br>paid to<br>Council<br>within 14<br>days from<br>date of<br>service of the<br>Infringement<br>Notice | Column 6<br><br>Reduced<br>penalty if<br>paid to<br>Council after<br>14 days but<br>within 28<br>days from<br>date of<br>service of the<br>Infringement<br>Notice |
|---|---|--|-------------------------------|--|---|
| Section<br>97(1)(a)(i)  | Clause 8  | Remaining parked whilst meter not running                              | 0.39                          | 0.13   | 0.26  |
| Section<br>97(1)(a)(ii)   | Clause 10   | Exceeding maximum parking period notified on meter                     | 0.39                          | 0.13   | 0.26  |
| Section<br>97(1)(b)(i)  | Clause 8 and<br>9   | Parking without current parking voucher displayed                      | 0.39                          | 0.13   | 0.26  |
| Section<br>97(1)(b)(ii)   | Clause 10   | Parking longer than the maximum period authorised by a parking voucher | 0.39                          | 0.13   | 0.26  |
| Section<br>97(1)(c)   |   | Parking more than one motor vehicle in a space                         | 0.39                          | 0.13   | 0.26  |
| Section<br>97(1)(d)   | Clause<br>7(1)(a)   | Parking a motor vehicle partly inside and partly outside a space       | 0.39                          | 0.13   | 0.26  |
| Section 98  | Clause<br>7(1)(b)   | Obstructing use of parking space                                       | 0.39                          | 0.13   | 0.26  |
| Section 99  | Clause<br>11(2)(3)  | Parking whilst space closed  | 0.39                          | 0.13   | 0.26  |

## SCHEDULE 1

| Column 1<br><b>CLAUSE</b> | Column 2<br><b>GENERAL DESCRIPTION OF OFFENCE</b>              | Column 3<br><b>PENALTY<br/>(Penalty Units)</b> |
|---------------------------|--|--|
| 5                         | Entry and exit to parking area except by access point          | 0.5  |
| 6                         | Excessive or unsafe speed in parking space                     | 0.5  |
| 12                        | Damaging equipment in parking area                             | 1  |
| 13                        | Removal of infringement notice                                 | 1  |
| 14                        | Washing, dismantling or repairing vehicle in parking area      | 1  |
| 15                        | Skidding vehicles in parking area                              | 1  |
| 16                        | Distribution of advertising and other material in parking area | 1  |
| 17                        | Damage to Council Property                                     | 1  |
| 18                        | Graffiti in parking area                                       | 1  |
| 19                        | Possession or sale of liquor in parking area                   | 1  |
| 20                        | Prohibited Conduct   | 1  |
| 21                        | Use of skateboards etc in parking area                         | 0.5  |
| 22(1)                     | Obstruction of pedestrians in parking area                     | 1  |
| 22(2)                     | Unattended or abandoned shopping trolleys in a parking area    | 1  |
| 23                        | Supply of name and address                                     | 1  |
| 24                        | Request to leave an area                                       | 1  |

**The Parking By-law, By-law No. 1 of 2017:**

Was certified as being in accordance with the *Local Government Act 1993* by Andrew Wardlaw, General Manager.

Was certified as being in accordance with the law by Geoff Tremayne, Legal Practitioner.

The common seal of the Burnie City Council has been hereunto affixed pursuant to a resolution of the Council passed on the 21<sup>st</sup> day of March 2017 in the presence of A Wardlaw, General Manager.

Dated 24 March 2017 at Burnie.