

**BURNIE CITY COUNCIL
PARKING BY-LAW
BY-LAW NO. 12 OF 2007**

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 Parking By-law.

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 Council 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 and Accommodation 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 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.—(1) 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.

(2) An authorised officer may issue an infringement notice for this offence.

(3) A person may avoid prosecution by paying a fine to the Council of:

a) \$15.00 within 14 days after the date of issue of the infringement notice;

b) \$30.00 14 days or more days after the date of issue of an infringement notice but before the filing of a complaint; or

c) \$50.00 after the filing of a complaint but at least 48 hours before the Court hearing date.

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.

(2) An authorised officer may issue an infringement notice for this offence.

(3) A person may avoid prosecution by paying a fine of \$50.00 to Council within 21 days after the issue of the infringement notice.

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; and

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 may issue an infringement notice for this offence.

(3) A person may avoid prosecution by paying a fine to the Council of:

- a) \$15.00 within 14 days after the date of issue of the infringement notice;
 - b) \$30.00 14 days or more days after the date of issue of an infringement notice but before the filing of a complaint; or
 - c) \$50.00 after the filing of a complaint but at least 48 hours before the Court hearing date.
- (4) An authorised officer or a police officer may remove a vehicle if it contravenes this clause.

PAYMENT OF FEE

8—(1) 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.

- (2) An authorised officer may issue an infringement notice for this offence.
- (3) A person may avoid prosecution by paying a fine to the Council of:
 - a) \$15.00 within 14 days after the date of issue of the infringement notice;
 - b) \$30.00 14 days or more days after the date of issue of an infringement notice but before the filing of a complaint; and
 - c) \$50.00 after the filing of a complaint but at least 48 hours before the Court hearing date.

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.

- (3) An authorised officer may issue an infringement notice for this offence.
- (4) A person may avoid prosecution by paying a fine to the Council of:
 - a) \$15.00 within 14 days after the date of issue of the infringement notice;
 - b) \$30.00 14 days or more days after the date of issue of an infringement notice but before the filing of a complaint; or

- c) \$50.00 after the filing of a complaint but at least 48 hours before the Court hearing date.

PARKING LONGER THAN MAXIMUM PERIOD

- 10.—(1)** 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.

- (2) An authorised officer may issue an infringement notice for this offence.
- (3) A person may avoid prosecution by paying a fine to the Council of:
 - a) \$15.00 within 14 days after the date of issue of the infringement notice;
 - b) \$30.00 14 days or more days after the date of issue of an infringement notice but before the filing of a complaint; or
 - c) \$50.00 after the filing of a complaint but at least 48 hours before the Court hearing date.

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 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.

- (3) An authorised officer may issue an infringement notice for this offence.
- (4) A person may avoid prosecution by paying a fine to the Council of:
 - a) \$15.00 within 14 days after the date of issue of the infringement notice;
 - b) \$30.00 14 days or more days after the date of issue of an infringement notice but before the filing of a complaint; or
 - c) \$50.00 after the filing of a complaint but at least 48 hours before the Court hearing date.
- (5) An authorised officer may remove a vehicle if it contravenes this clause.

PROHIBITED ACTIVITIES

DAMAGE TO EQUIPMENT

- 12.—(1) 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.

- (2) An authorised officer may issue an infringement notice for this offence.
- (3) A person may avoid prosecution by paying to Council a fine of \$50.00 within 21 days after the issue of the infringement notice.

UNAUTHORISED REMOVAL OF INFRINGEMENT NOTICE

- 13.—(1) 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.

- (2) An authorised officer may issue an infringement notice for this offence.
- (3) A person may avoid prosecution by paying to Council a fine of \$50.00 within 21 days after the issue of the infringement notice.

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) An authorised officer may issue an infringement notice for this offence.
- (3) A person may avoid prosecution by paying a fine of \$50.00 to the Council within 21 days after the issue of the infringement notice.
- (4) 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) An authorised officer may issue an infringement notice for this offence.
- (3) A person may avoid prosecution by paying a fine of \$50.00 to the Council within 21 days after the issue of the infringement notice.
- (4) A police officer may arrest a person found offending under this clause.

DISTRIBUTION OF ADVERTISEMENTS

16—(1) 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.

- (2) An authorised officer may issue an infringement notice for this offence.
- (3) A person may avoid prosecution by paying a fine of \$50.00 to the Council within 21 days after the issue of the infringement notice.

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) An authorised officer may issue an infringement notice for this offence.
- (4) A person may avoid prosecution by paying a fine of \$50.00 within 21 days after the issue of the infringement notice.
- (5) 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) It is a defence to a prosecution for the person charged with the offence to establish that he or she did not have an open container of liquor in their possession for the purpose of drinking it in the parking area.
- (4) An authorised officer of Council or police officer may remove a person from the parking area if they believe the person is offending against this clause.
- (5) 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.
- (3) An authorised officer may issue an infringement notice for this offence.
- (4) A person may avoid prosecution by paying a fine to the Council of:
- a) \$15.00 within 14 days after the date of issue of the infringement notice;
 - b) \$30.00 14 days or more after the date of issue of an infringement notice but before the filing of a complaint; or

- c) \$50.00 after the filing of a complaint but at least 48 hours before the Court hearing date.

OBSTRUCTION AND SHOPPING TROLLEYS

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

Penalty: a fine not exceeding five penalty units.

- b) An authorised officer may issue an infringement notice for this offence.

- c) A person may avoid prosecution by paying a fine of \$50.00 to the Council within 21 days after the issue of the infringement notice.

- (2) a) 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.

- b) An authorised officer may issue an infringement notice for this offence.

- c) A person may avoid prosecution by paying a fine of \$50.00 to the Council within 21 days after the issue of the infringement notice.

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.

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

Penalty: a fine not exceeding 10 penalty units.

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) An authorised officer of Council:

- a) may issue an infringement notice to a person in respect of offences specified in this by-law;
- b) may impose a fine for an offence in respect of which an infringement notice is issued in accordance with the fines specified in this by-law.

(2) An infringement notice is lawfully given if it is:

- a) affixed to the vehicle; or
- b) given to the registered owner or person apparently in charge of the vehicle.

(3) A fine is a penalty payable to the Council as an alternative to prosecution and any penalty that may be imposed as a result of the prosecution.

(4) A fine specified in an infringement notice is:

- a) payable to the Cashier at the City Offices, 80 Wilson Street, Burnie; or
- b) if payment is not made in person, payable by a cheque or money order made out to the Council and posted to the Burnie City Council at PO Box 973, Burnie 7320.

(5) To avoid the filing of a complaint, a fine levied under this section is to be paid within 14 days from the date the infringement notice is issued.

(6) If at any time after an infringement notice is issued the Compliance Support Manager decides that the infringement notice should be withdrawn, the Compliance Support Manager may withdraw an infringement notice.

(7) The withdrawal of an infringement notice will not prevent Council from prosecuting the person to whom the notice was issued for breach of this by-law.

AMOUNTS PAYABLE

28.—The sum to be paid to Council as composition for the contravention of Sections 97, 98 or 99 of the *Local Government (Highways) Act 1982* if payments made to Council are as follows:

NATURE OF CONTRAVENTION	Contravention of section 97, 98 or 99 of the <i>Local Government (Highways) Act 1982</i>
Amount of composition if paid within 14 days following the contravention.	\$15.00
Amount of composition if paid after the contravention but before filing of the complaint.	\$30.00
Amount of composition if paid after the filing of complaint but at least 48 hours before the day on which the complaint is called on for Hearing.	\$50.00

Certified as being in accordance with the law by G.W. TREMAYNE, Legal Practitioner.

Certified as being in accordance with the *Local Government Act 1993* by P. Arnold, General Manager.

The common seal of the Burnie City Council has been hereunto affixed pursuant to a resolution of the Council passed on the 20th day of February 2007 in the presence of P Arnold, General Manager.

Dated this 2nd day of March 2007 at Burnie.