

BURNIE CITY COUNCIL

Public Places By-law

By-law No. 1 of 2025

A By-law of the Burnie City Council, made under Section 145 of the *Local Government Act 1993*, to provide for the management and protection of public places owned by or under the control of the Burnie City Council.

PART 1 – PRELIMINARY

1. SHORT TITLE

This By-law may be cited as the Public Places By-law, Number 1 of 2025.

2. OBJECTIVES

The objective of this By-law is to –

- (a) provide for fair and orderly use of a public place;
- (b) provide for the health, safety, amenity and peaceful enjoyment of people in or on a public place; and
- (c) protect a public place against harm and damage.

3. APPLICATION

- (1) This By-law applies to the municipal area of the Burnie City Council.
- (2) This By-law does not apply to a person who enters and remains in or on a public place if that person is –
 - (a) an authorised officer or a Council employee in the course of their duties;
 - (b) a person accompanying an authorised officer or a Council employee in the course of their duties;
 - (c) a contractor or person undertaking work for which they have been engaged by the Council;
 - (d) a person authorised to act under legislation;
 - (e) a person engaged on behalf of the Crown; or
 - (f) emergency services personnel in the course of their duties.

4. INTERPRETATION

In this By-law, unless the context otherwise indicates:

“*Act*” means the *Local Government Act 1993* (Tas);

“*aircraft*” means a drone, other remotely piloted motorised aircraft, or a human-piloted motorised aircraft;

“*animal*” means an animal as defined in the *Dog Control Act 2000* (Tas) other than a dog to which the provisions of the Act apply or any wildlife;

“*authorised*” means authority granted through any written approval, authority, consent, notice, permit or permission, with or without conditions, issued by the Council or an authorised officer for a use regulated by this By-law, and includes a Use Agreement issued under this By-law or an arrangement made under section 177 or 178 of the Act;

“*authorised officer*” means the General Manager and an employee of Council appointed by the General Manager for the purpose of this By-law;

“*bicycle*” has the same meaning as under the Road Rules 2019 (Tas);

“*building*” means as defined in the *Building Act 2016* (Tas);

“*Burnie Town Centre*” means the zone within the deliberated area shown in Figure Bur-S2.1 in the Burnie Local Provisions Schedule in the Tasmanian Planning Scheme;

“*children’s playground*” means any area in which children’s play equipment is installed and includes the area extending for a distance of 10 metres in all directions from the play equipment;

“*Council*” means the Burnie City Council;

“*food business*” has the same meaning as under the *Food Act 2003* (Tas);

“*General Manager*” means the General Manager appointed by the Council pursuant to section 61 or 61B of the *Local Government Act 1993*;

“*goods*” means any merchandise, article, substance or matter, and any food or beverage for the purpose of sale;

“*highway*” means any highway or road shown on the map maintained by the council pursuant to section 208 of the Act;

“*liquor*” has the same meaning as under the *Liquor Licensing Act 1990* (Tas);

“*notice*” means, as contexts requires, a written instruction or requirement issued by the Council or an authorised officer and which is –

- (a) displayed in a public place or in the vicinity of the public place;
- (b) published in a daily newspaper circulating in the Burnie municipal area; or

- (c) published on the Council’s website; or
- (d) served by an authorised officer upon a person in the course of their duties, including by electronic means where a person has consented to receiving a notice by such electronic means;

as may be appropriate to the matter communicated or regulated by the notice.

“*object*” means an article or material which is capable of physical removal;

“*organised use*” means a scheduled activity, event or undertaking including for a sporting, community, charity, political, commercial, recreational, religious, professional, or personal purpose, , and includes a use to which the public, a select portion of the public, or a private individual or group, are invited whether personally or generally by notice or advertisement, but excludes a casual or informal use carried out in accordance with the requirements of any notice relating to that place;

“*parking area*” includes any area in a public place designated for parking of vehicles and includes all equipment, signs, access ways, fences, and structures used or connected in any way with the parking area;

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

“*penalty unit*” means the amount of money set under the *Penalty Units and Other Penalties Act 1987* (Tas) as amended;

“*person*” means a natural person or an incorporated association, club, corporation, or organisation;

“*public place*” includes –

(a) all land owned by the Council other than:

- i land on which there is a residential building, including public land within the meaning of section 177A(1) *Local Government Act 1993 (TAS)* as recorded on the relevant map maintained by the Council;
- ii a “local highway” within the meaning assigned to it by the *Local Government (Highways) Act 1982*; and

(b) any land in or over which the Council has an interest, including by way of a lease or licence, other than:

- i land on which there is a residential building; and
- ii a “highway under local management” as defined in the *Local Government (Highways) Act 1982*

(c) any parking area owned by or under the control of the Council other than a parking area to which a Burnie City Council Parking By-law applies;

(d) any bridge, jetty, wharf, boat ramp or similar structure owned or under the control of the Council that is not a road or road related area as defined under the Road Rules 2019 (Tas);

and

- (e) any building, structure, or furniture on any land owned by or under the control of the Council other than a building for residential purposes;

“road” means a road which is not a highway as defined under the *Local Government (Highways) Act 1982* with a constructed surface suitable for use by a vehicle;

“sale” means to sell, agree to sell, offer or expose for sale, barter or exchange;

“sign” means any device, structure, depiction, or the like, that is intended to give information, advertise or attract attention to a person, place, product, service or event, and includes a flag, banner or placard, an election sign, and any sign erected or displayed by the council under this By-law;

“Use Agreement” means a written permission, with or without conditions, issued by the council or an authorised officer authorising a use regulated by this By-law;

“User” means a person to whom a Use Agreement has been issued and is in effect under this By-law;

“vehicle” means as defined in the *Road Rules 2019* (Tas);

“waste” means any domestic waste, recyclables, food organics and garden organics waste, biohazardous waste, controlled waste, noxious waste, trade waste and other waste, debris, litter, or any other similar materials, articles or things that is by notice determined to be waste;

“watercraft” includes a boat, ship, hovercraft, aircraft, pontoon or platform; any other form of water craft; any trailer used to transport any of them; and a vehicles that is capable of use in or on the water whether floating, partly submersible or submersible and whether or not self-propelled;

“wildlife” means any living creature other than:

- (a) a dog or cat;
- (b) domestic stock;
- (c) vermin as defined under the *Vermin Control Act 2000* (Tas)
- (d) fish within the meaning of the *Living Marine Resources Management Act 1995* (Tas); and
- (e) an animal that is –
 - i. being farmed under and in accordance with the *Animal Farming (Registration Act) 1994* (Tas); or
 - ii. has been farmed and is legally in the possession of any person.

PART 2 – MANAGEMENT AND CONTROL OF A PUBLIC PLACE

5. NOTICES FOR THE CONTROL OF PUBLIC PLACES

- (1) The General Manager may by notice make rules for the management, control and use of a public place in accordance with this By-law.
- (2) A notice under sub-clause (1) may be issued, published, displayed or served in such manner as the General Manager deems appropriate.
- (3) A person in a public place must obey the terms and conditions of any notice issued under sub-clause (1).

Penalty A fine not exceeding 10 penalty units

6. NOTICES AND DIRECTIONS GENERALLY

- (1) A notice or direction given under this By-law may be subject to such conditions and requirements and subject to such time period as the General Manager or authorised officer, where applicable, may determine.
- (2) Unless otherwise specified in a notice or direction, a person to whom a notice or direction is given is to comply with the notice or direction at the cost of that person.
- (3) A notice or direction given under this By-law requiring a person to carry out or undertake action or work may direct that the action or work be done only by a person with the appropriate qualification, knowledge or expertise.
- (4) The Council may undertake the work required by a notice or direction given pursuant to this By-law if the person to whom a notice or direction is given fails to comply with the notice or the direction within the time specified in the notice or direction.
- (5) The Council may recover as a debt payable to it, its expenses in undertaking work under the notice issued or direction given pursuant to this By-law as a debt payable to it from the person who fails to comply with the notice or direction in addition to any penalty imposed under this By-law.

7. CLOSURE OR RESTRICTIONS ON ACCESS TO A PUBLIC PLACE

- (1) An authorised officer may by notice close a public place to members of the public or to a User indefinitely or for such period as the authorised officer may determine.
- (2) An authorised officer may by notice restrict access to a public place to certain hours, days, or to certain classes of person or some combination thereof.

- (3) A person must comply with a notice or Use Agreement closing or restricting access to a public place unless otherwise authorised to enter the public place.

Penalty A fine not exceeding 20 penalty units

8. ISSUING OF DIRECTIONS AND REMOVAL OF PERSONS

- (1) An authorised officer may issue a direction to any person in relation to their use, behaviour, or presence in a public place if the authorised officer reasonably believes a person is offending or has offended against this By-law to establish compliance with the by-law.
- (2) A direction by an authorised officer may be given verbally or in writing.
- (3) An authorised officer may require a person whom the authorised officer reasonably believes is offending or has offended against this By-law to leave a public place.
- (4) An authorised officer may refuse to admit or re-admit a person to any public place whom the authorised officer reasonably believes is offending or has offended against this By-law.
- (5) An authorised officer may remove any person from any public place whom the authorised officer reasonably believes is offending against this By-law.
- (6) A person must comply with the terms of a direction issued under this clause.

Penalty A fine not exceeding 10 penalty units.

9. REMOVAL AND DISPOSAL OF A STRUCTURE, FURNITURE, OBJECT, SIGN, VEHICLE OR WATERCRAFT

- (1) An authorised officer may remove or cause to be removed from a public place any structure, furniture, object, sign, vehicle or watercraft which the authorised officer reasonably believes has been brought into, is being or has been used, or has been abandoned, left, lost, installed or stored in or on a public place -
- (a) without an authorisation required under this By-law;
 - (b) in breach of an authorisation issued under this By-law;
 - (c) in contravention of this By-law; or
 - (d) in a manner which causes or is likely to cause a nuisance or harm, or is dangerous or hazardous to safety of the public if placed, left or used in a public place.
- (2) An authorised officer may remove any structure, furniture, object, sign, vehicle or watercraft to a place of safety and keep it there until the following has been paid to Council:

- (a) any penalty required to be paid pursuant to this By-law; and
 - (b) any fee required by Council to be paid for the removal and detention of an animal, building, furniture, object, sign, vehicle or watercraft; and
 - (c) the council's costs to remove, maintain and store the structure, furniture, object, sign, vehicle or watercraft.
- (3) As soon as is reasonably practicable after removing any structure, furniture, object, sign, vehicle or watercraft pursuant to sub-clause (1) an authorised officer must make all reasonable endeavours to identify and contact the owner or person responsible to advise that that structure, furniture, object, sign, vehicle or watercraft and advise it has been removed from a public place and is being kept by the council.
- (4) If the structure, furniture, object, sign, vehicle or watercraft removed pursuant to sub-clause (1) has not been recovered or surrendered to the council within 7-days or such longer period as may be agreed from the day on which the owner or person responsible has been advised by an authorised officer pursuant to sub-clause (3), such structure, furniture, object, sign, vehicle or watercraft may be sold, disposed of, or destroyed at the direction of an authorised officer.
- (5) If after 21-days from taking possession of the item or items referred to in clause 9(1) an authorised officer has not been able to contact the owner or the person responsible for a structure, furniture, object, sign, vehicle or watercraft removed pursuant to sub-clause (1) such structure, furniture, object, sign, vehicle or watercraft may be sold, disposed of or destroyed at the direction of an authorised officer.
- (6) If the structure, furniture, object, sign, vehicle or watercraft is sold pursuant to sub-clauses (3) or (4) or (5), council may retain the following from the sale proceeds:
 - (a) any amounts outstanding pursuant to sub-clause (2);
 - (b) any expenses associated with the sale, including any auctioneer's fees.
- (7) If the sale proceeds are less than the total of the amounts specified in sub-clause (2), the balance must be paid by the owner and is recoverable by the Council as a debt due to it.

10. LIQUOR FREE AREA

- (1) The Council may by resolution declare an area in or on a public place to be a liquor free area –
 - (a) during any specified hours or periods or both; or
 - (b) at all times.
- (2) For the purposes of sub-clause (1) an area of a public place is a liquor free area if –
 - (a) it has been declared a liquor free area under sub-clause (1); and
 - (b) the area is identified as being a liquor free area by a sign within its close

proximity identifying that the possession of open containers of alcohol and its consumption is prohibited.

11. ABUSE OR OBSTRUCT AN AUTHORISED OFFICER

A person must not while an authorised officer is acting in the course of his or her duties -

- (a) threaten, intimidate or use abusive language to an authorised officer; or
- (b) assault, resist, or obstruct an authorised officer.

Penalty A fine not exceeding 20 penalty units

12. ASSISTANCE OF POLICE

An officer of Tasmania Police is authorised to:

- (a) assist an authorised officer to carry out any action under this By-law;
- (b) remove any person from a public place whom the officer of Tasmania Police reasonably believes has committed or who is committing an offence under this By-law; and
- (c) arrest any person who is in a public place whom the officer of Tasmania Police reasonably believes has committed or who is committing an offence under this By-law.

13. SUPPLY OF PERSONAL DETAILS

- (1) An authorised officer or an officer of Tasmania Police may require a person to give his or her name, address, and date of birth if the authorised officer or officer of Tasmania Police reasonably believes that the person is offending or has offended against this By-law.
- (2) A person who fails or refuses to comply with a request to give his or her name and/or address is guilty of an offence.

Penalty A fine not exceeding 10 penalty units

- (3) An officer of Tasmania Police making a request under sub-clause (1) may arrest a person who is in a public place and whom the officer of Tasmania Police reasonably believes is offending against sub-clause (1).

PART 3 – RESTRICTIONS ON USE

14. RIGHT TO PEACEABLE USE

A person must not commit or cause a nuisance to any person or do any act or thing in or on a public place which wilfully obstructs, hinders, or annoys, or is likely to obstruct, hinder, or annoy, any member of the public or interfere with the reasonable peaceable use of a public place by any other person.

Penalty A fine not exceeding 3 penalty units

15. LIQUOR

A person must not within a liquor free area declared under clause 10 of this By-law, unless authorised to do so –

- (a) have any open container of liquor in their possession or control;
- (b) sell or serve liquor to any person unless the holder of an appropriate authorisation under the *Liquor Licensing Act 1990*; or
- (c) consume any alcoholic beverage.

Penalty A fine not exceeding 10 penalty units

16. DAMAGE AND INTERFERENCE TO A PUBLIC PLACE

- (1) A person must not in or on a public place unless authorised to do so -
 - (a) climb onto any building or sign;
 - (b) cut, pluck, prune, damage, destroy, remove, or burn any tree, shrub, flower, garden bed, turf, or other vegetation or any part thereof;
 - (c) propagate, plant, cultivate, water or otherwise tend to any vegetation;
 - (d) damage, modify, disturb, interfere with, mark, move, or remove any building, furniture, notice, sign, vehicle or watercraft, or any equipment, operation or work for the care, control or maintenance of a public place;
 - (e) disturb, interfere with, harm, hunt, take, or trap any animal lawfully in a public place;
 - (f) remove or feed an animal, unless the person is responsible for the animal;
 - (g) abandon, deposit, install, keep, or store, whether temporarily or otherwise, any animal, building, furniture, sign, or vegetation;

Penalty A fine not exceeding 5 penalty units

- (2) A person must not in or on a public place unless authorised to do so -
- (a) set up, construct or undertake works for any building, furniture, notice, or sign;
 - (b) make any change to the natural or existing surface condition of a public place, including to -
 - i. permanently mark out or form any playing surface;
 - ii. remove any soil, sand, clay, gravel, stone, rock, or any humus, compost or any other natural substance, or disturb any surface including for the purpose of exposing or recovering any buried object;
 - iii. dam up, divert, fill in, excavate or pollute any water on or under the surface, or take up or collect any water for sale or reuse; or
 - (c) fence or divide any part of a public place.

Penalty A fine not exceeding 10 penalty units.

17. BALL GAMES AND PROJECTILES

- (1) A person must not in or on a public place unless authorised to do so –
- (a) play or practice golf;
 - (b) discharge any projectile or missile from a slingshot, catapult, bow, gun or a similar device; or
 - (c) discharge any firework or pyrotechnic.

Penalty A fine not exceeding 5 penalty units

- (2) A person must not in or on a public place recklessly throw or launch any object or missile to the danger or damage of another person or to the property of another person.

Penalty A fine not exceeding 5 penalty units

- (3) A person must not in or on a public place play or practice any ball game where it is likely to cause danger to another person or to the property of another person.

Penalty A fine not exceeding 5 penalty units

18. CONTROL OF VEHICLES

This clause of the By-law does not apply to bicycles.

(1) Control of Vehicles

A person must not drive a vehicle in a public place other than on a road unless authorised to do so.

Penalty A fine not exceeding 5 penalty units

(2) Closed Road

With the exception of emergency services personnel, a person must not drive a vehicle on a road in a public place that has been closed by a barrier or notice, unless authorised to do so.

Penalty A fine not exceeding 5 penalty units

(3) Parking

A person must not, unless authorised to do so, park or leave any vehicle in a public place –

- (a) except within an area designated by notice as a parking area;
- (b) where parking spaces are marked, other than wholly within the marked parking space;
- (c) where it will obstruct the lawful passage of another vehicle;
- (d) in a parking area or in a parking space designed by notice for “reserved parking” unless the vehicle displays a valid reserved parking permit for that parking area or parking space; or
- (e) for longer than the person is in lawful use of the public place in which the parking area is located or associated, if that parking area is provided for the benefit of the users of a public place.

Penalty A fine not exceeding 5 penalty units

(4) Powers of authorised officers

- (a) An authorised officer may require the driver or user of a motor vehicle in a public place to stop or move the vehicle when the authorised officer believes on reasonable grounds that the person in control of the vehicle has committed an offence under this By-law.
- (b) An authorised officer may:
 - i. give reasonable directions to the person in control of a vehicle which has been stopped pursuant to clause 18(4)(a);
 - ii. close any road or place in a public place;
 - iii. prohibit any vehicle from being allowed to remain on any road, parking area or place in any public place;

- iv. require any vehicle to be removed from any road, parking area or place in a public place;
- v. in relation to reserved parking –
 - a. designate a reserved parking area or a reserved parking space
 - b. grant a Reserved Parking Permit
- (c) A person who is the person in control of a vehicle must not fail or refuse to stop or comply with a reasonable direction from an authorised officer given pursuant to clause 18(4)(b)(i) of this By-law.

Penalty A fine not exceeding 5 penalty units

19. JETTIES AND BOAT RAMPS

- (1) A person must only use a boat ramp or jetty –
 - (a) to launch or recover watercraft;
 - (b) in accordance with any direction indicated on a notice displayed on or in the vicinity of the boat ramp or jetty; and
 - (c) in accordance with any reasonable direction of an authorised officer.

Penalty A fine not exceeding 5 penalty points

- (2) A person must not unless authorised to do so –
 - (a) use a boat ramp or jetty that is closed by a notice displayed on or in the vicinity of the boat ramp or jetty;
 - (b) park a vehicle or trailer on a boat ramp or jetty or on any access road to or from a boat ramp or jetty, including on the South Burnie bund;
 - (c) moor or leave a watercraft unattended on or in the water adjacent to a boat ramp or at a jetty;
 - (d) repair or paint a watercraft while it is on a boat ramp or berthed at a jetty;
 - (e) discharge any substance on or in the vicinity of a boat ramp or from a watercraft moored at a jetty, including but not limited to toilet waste, fuel, or fish waste; or
 - (f) clean fish or other marine products on a boat ramp or jetty.

Penalty A fine not exceeding 5 penalty units

20. FIRE

A person must not in or on a public place light or maintain any fire unless authorised to do so –

- (a) except in a designated fire place or a place designated by notice for public use for that purpose; and
- (b) the fire –
 - i. is not left unattended unless it has been completely extinguished; and
 - ii. all reasonable measures are taken to contain the fire and prevent it from spreading.

Penalty A fine not exceeding 10 penalty units

21. WASH, DISMANTLE OR REPAIR EQUIPMENT, PLANT OR VEHICLE

A person must not in or on a public place dismantle, paint, wash, or make extensive repair to any equipment, plant or vehicle unless authorised to do so except if necessary to enable the equipment, plant or vehicle to be lawfully moved from the public place.

Penalty A fine not exceeding 5 penalty units

22. AIRCRAFT

With the exception of Tasmania Police or the State Emergency Service or any person authorised by either organisation, a person must not in or on a public place launch or land an aircraft unless authorised to do so.

Penalty A fine not exceeding 10 penalty units

23. AMPLIFIED SOUND

- (1) A person must not in or on a public place use or operate any equipment for the purpose of amplifying any announcement or address, any musical instrument or performance, or to play or reproduce any music or sound in a manner that would give rise (or be reasonably expected to give rise to) harm or nuisance to another person unless authorised to do so.

Penalty A fine not exceeding 10 penalty units

- (2) An authorised officer may require any person to moderate or stop amplification of sound.

- (3) A person who fails to comply with a direction given pursuant to 23 (2) of the By-law is guilty of an offence.

Penalty A fine not exceeding 5 penalty units

24. ANIMALS

- (1) This clause does not apply for a dog within the meaning of the *Dog Control Act 2000* or to transporting animals over or through a public place.
- (2) A person must not take, permit or allow any animal to be taken into, enter, or remain in a public place unless authorised to do so.

Penalty A fine not exceeding 5 penalty units

- (3) A person who is the owner or keeper of an animal authorised to be in a public place must keep the animal under effective control.

Penalty A fine not exceeding 5 penalty units

25. BUILDING WORK

A person must not in or on a public place unless authorised to do so –

- (a) place, build, erect, set up or leave any building;
- (b) make any alteration or extension to a building; or
- (c) demolish or remove any part of a building.

Penalty A fine not exceeding 20 penalty units

26. CAMPING

A person must not camp in or on a public place unless authorised to do so, including for the purposes of camping, to –

- (a) erect a tent, camper trailer or similar portable shelter designed or equipped internally or externally to accommodate sleeping;
- (b) place, park or leave a caravan, campervan, motor home or similar vehicle designed or equipped internally or externally to accommodate sleeping;
- (c) use a vehicle or shelter attached to a vehicle for shelter and sleeping;
- (d) erect or use any building, shelter or structure in a public place as a place to sleep.

Penalty A fine not exceeding 10 penalty units and 1 penalty unit for each day the offence continues

27. COMMERCIAL UNDERTAKINGS

A person must not in or on a public place unless authorised to do so –

- (a) sell or offer for sale any food or beverage, including from a mobile food van;
- (b) sell or offer or expose for sale, lease or hire any object or property;
- (c) sell or offer for sale, lease or hire any vehicle, plant or equipment;
- (d) carry out any busking, entertainment or performance for financial reward; or
- (e) carry out any business, trade or calling or provide or offer to provide any service in exchange for money or gain where that business trade, calling or solicitation is primarily undertaken in the public place.
- (f) For the purpose of clause 27(a) of this By-law, “authorised to do so” means the food van has a current certificate of registration issued under the Food Act 2003 by a council established under s.18 of the Act.
- (g) The authorisation permitted by subclause (f) of Clause 27 does not extend to permitting the use of a mobile food van on a parking space within the Burnie Town Centre. The use of a mobile food van on or from a parking space with the Burnie Town Centre is prohibited.

Penalty A fine not exceeding 10 penalty units and 1 penalty unit for each day the offence continues

28. CREATION OF AN ENTRANCE, PATH OR ROAD

A person must not create or cause to be created any temporary or permanent entrance, path or road whether for animal, pedestrian, bicycle, vehicle or other purposes, in or on a public place, or between a public place and adjoining land or a highway, unless authorised to do so.

Penalty A fine not exceeding 10 penalty units

29. CREMATED REMAINS

- (1) This clause does not apply for a cemetery managed by the Council under the *Burial and Cremation Act 2019*.
- (2) A person must not bury or place any cremated remains of a deceased person or a deceased animal in or on a public place unless authorised to do so.

Penalty A fine not exceeding 5 penalty units

30. DEPOSIT OF WASTE

- (1) A person must not in or on a public place unless authorised to do so –

- (a) deposit any waste; or
- (b) disturb or distribute any waste in or from a designated waste disposal bin; or
- (c) place, leave, drop or dispose of any sharp or syringe unless in a facility provided for that purpose; or
- (d) wilfully break and leave any object.

Penalty A fine not exceeding 10 penalty units

- (2) A person is to be regarded as having been authorised to deposit waste in or on a public place –
- (a) in a receptacle provided by the Council for the depositing of refuse; and
 - i. if not more than 5 litres in volume; or
 - ii. in compliance to any a notice displayed on or in the vicinity of the receptacle, relating to the depositing of refuse in the receptacle; or
 - (b) if the person has deposited the refuse in that place:
 - i. in compliance to any notice relating to the public place; and
 - ii. in accordance with any conditions specified in the notice in relation to the depositing of refuse in that place; or
 - (c) the person has deposited the refuse in that place pursuant to an authority conferred by or under any statute.

31. DINING

A person must not in or on a public place organise or carry out the placement of anything, including furniture, which may encourage or allow the consumption of food or beverages from a food business by the customers of that business unless authorised under a Use Agreement to do so.

Penalty A fine not exceeding 10 penalty units, and for a continuing offence 1 penalty unit per day

32. ORGANISED PUBLIC AND PRIVATE USE

A person must not in or on a public place, unless authorised to do so, carry out an Organised Use of a public or private nature, whether by invitation or otherwise, such as a ceremony, dinner, meeting, wedding, family reunion, school picnic, organised sports or other use of a like nature.

Penalty A fine not exceeding 10 penalty units

33. SIGNS AND ADVERTISEMENTS

A person must not in or on a public place unless authorised to do so –

- (a) adhere, erect, exhibit, or display an advertisement or sign, or allow an advertisement or sign to be adhered, erected, exhibited, or displayed; or
- (b) give out, distribute, scatter or throw down any advertisement, book, card, handbill, notice, pamphlet, print, paper, picture, placard, sticker or other thing.

Penalty A fine not exceeding 10 penalty units

34. BICYCLES AND SMALL WHEELED RECREATIONAL VEHICLES

A person must not in or on a public place ride, drive or use a bicycle, tricycle, scooter, skateboard, or in-line skates, unless authorised to do so, except:

- (a) on a road, path or track provided for that type of traffic, including on a bicycle path or a shared pathway as defined and permitted by the Road Rules 2019; or
- (b) in accordance with any notice which indicates that it is allowed.

Penalty A fine not exceeding 5 penalty units

PART 4 – USE AGREEMENTS

35. REQUIREMENT FOR AUTHORISED USE

- (1) The Council or an authorised officer may authorise a person to use a public place and impose terms and conditions under a Use Agreement.
- (2) An authorisation issued under Burnie City Council Public Reserves and Public Buildings By-law No 1 of 2011 is a valid Use Agreement provide that –
 - (a) if issued for a specified time period, that period has not expired;
 - (b) if issued for a particular event, that event has not occurred;
 - (c) if issued for a particular date, that date has not passed; and
 - (d) it is carried out in compliance to any terms and conditions contained on the Use Agreement.

36. APPLICATION FOR A USE AGREEMENT

- (1) A person may, by application, request a Use Agreement for a use in or on a public place for which an authorisation is required under this By-law.

- (2) An application for a Use Agreement must be made in writing in accordance with any form approved by the General Manager.

37. DETERMINATION OF A USE AGREEMENT APPLICATION

- (1) The Council or an authorised officer is to have regard to the following when determining whether to grant a Use Agreement –
 - (a) type of use;
 - (b) location of that use;
 - (c) date, day, time, and duration of the use;
 - (d) potential for damage to Council infrastructure;
 - (e) public access in the area;
 - (f) maintenance of public order in the area;
 - (g) movement of traffic in the area;
 - (h) manner of proposed advertising;
 - (i) availability of appropriate and adequate arrangements for parking;
 - (j) likely impact on the environment;
 - (k) likely impact on public health, safety and amenity, including on adjacent land;
 - (l) the level of risk and exposure to liability for Council; and
 - (m) any representation or requirement made by other regulatory agencies in relation to the use.
- (2) Council or an authorised officer may –
 - (a) grant a Use Agreement, with or without conditions; or
 - (b) refuse to grant a Use Agreement.
- (3) If a Use Agreement is refused, Council or an authorised officer must provide the applicant in writing with the reasons for the decision.

38. TERMS AND CONDITIONS OF A USE AGREEMENT

- (1) The Council or an authorised officer may impose terms and conditions in a Use Agreement regarding:

- (a) the type of use;
 - (b) the period or times in which the use may be carried out;
 - (c) a requirement to obtain insurance cover;
 - (d) the precautions to be observed while the use is being carried out;
 - (e) a requirement for risk management, supervision or control of the use;
 - (f) the record to be kept or notification to be given in relation to the use carried out pursuant to the Use Agreement; and
 - (g) the provision of an indemnity to Council for any loss or damage.
- (2) A Use Agreement may expressly confer upon a User the right to –
- (a) make charges for admission to the public place to which the Use Agreement applies; and
 - (b) exclude any person from the public place to which the Use Agreement applies who does not pay such charge.
- (3) A Use Agreement may require that prior to commencement of the use the User is to pay a bond or security to the Council in such sum as Council or an authorised officer may determine against any damage to the public place or any failure of the User to comply or perform to the obligations and requirements under the Use Agreement.

39. ISSUE OF A USE AGREEMENT

- (1) Council or an authorised officer may issue a Use Agreement for any use for which a Use Agreement is required under this By-law.
- (2) No provision of this By-law is to be construed as preventing an authorised officer from referring an application for a Use Agreement to the Council for it to determine the application.
- (3) A Use Agreement issued under this By-law does not exempt the User from any requirement for an approval, authorization, consent or permit required under any other legislation, regulation or By-law relating to the use on or in a public place.
- (4) A Use Agreement must –
 - (a) be in writing;
 - (b) clearly identify -
 - i. the person to whom it is issued;

- ii. the nature of the use approved;
 - iii. the dates, days and times or period during which the Use Agreement is in effect;
- (c) bear the date on which it is issued;
- (d) include such terms and conditions as may reasonably be considered necessary;
and
- (e) identify arrangements for monitoring and compliance, and termination.
- (5) A Use Agreement is not assignable or transferable to any person except with the written consent of an authorised officer and any purported transfer without such consent is of no effect.
- (6) A Use Agreement will remain in force for the date, period or event for which it was issued unless it is amended, revoked, or surrendered.
- (7) A User must produce the Use Agreement immediately if requested to do so by an authorised officer or an officer of Tasmania Police, and the User must answer all questions which are reasonably necessary to establish that the person holds a Use Agreement in good faith.

Penalty A fine not exceeding 5 penalty units

40. COMPLIANCE WITH TERMS AND CONDITIONS OF A USE AGREEMENT

The User must comply with the terms and conditions of the Use Agreement.

Penalty A fine not exceeding 10 penalty units and 3 penalty units for each day the offence continues

41. AMENDMENT OF A USE AGREEMENT

- (1) The Council or an authorised officer may only amend a Use Agreement if the authorised officer considers it is appropriate to do so after having regard to the matters in clause 42.
- (2) If a Use Agreement is amended pursuant to sub-clause (1), an authorised officer must serve a notice in writing on the User:
- (a) identifying the terms and conditions of the Use Agreement which are amended; and
 - (b) stating the reason or reasons for the variation of the Use Agreement conditions.
- (3) An amendment to a Use Agreement will have effect from the date of service of the notice of the amendment on the User.

42. REVOCATION OF A USE AGREEMENT

- (1) The Council or an authorised officer may revoke a Use Agreement if the User does not -
 - (a) comply with a requirement of this By-law; or
 - (b) comply with a term or condition of the Use Agreement.
- (2) If a Use Agreement is revoked, the Council or an authorised officer must serve a notice in writing on the User stating:
 - (a) the Use Agreement is revoked; and
 - (b) the reason or reasons for the revocation.
- (3) Revocation of a Use Agreement is effective from the date of service of the notice.
- (4) Nothing in this By-law is to be construed as preventing or prohibiting the revocation of a Use Agreement if required due to the exercise or intended exercise of any function, power, right or duty of the Council.
- (5) Notwithstanding sub-clause (2) and (3), an authorised officer may suspend a Use Agreement for a specified period in the event of an emergency or in any situation considered appropriate by the authorised officer, by a communication conveyed to the User, including a notice by newspaper or by an electronic message sent to the User.

43. EFFECT OF AN EMERGENCY DIRECTION ON A USE AGREEMENT

Notwithstanding any Use Agreement to carry out a use, a User must comply with any requirement or direction issued by –

- (a) an authorised officer under the *Emergency Management Act 1997* (TAS);
- (b) the Director of Public Health under the *Public Health Act 1997* (TAS); or
- (c) an authorised officer exercising a power under any legislation, regulation or By-law applicable to any matter, use or person within a public place.

PART 5 - OFFENCES

44. OFFENCES

A person who contravenes or fails to comply with any of the relevant provisions of this By-law is guilty of an offence under this By-law and is liable on conviction to the penalty set out in the relevant provision.

45. INFRINGEMENT NOTICES

- (1) In this clause “specified offence” means an offence against the clause specified in Column 1 of Schedule 1.
- (2) 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;
 - (c) impose a monetary penalty for the specified offence in respect of which the infringement notice is issued.
- (3) Infringement notices may be issued in respect of the offences specified in Column 1 of Schedule 1 to this By-law and the penalty specified in Column 3 opposite the offence is the penalty payable under an infringement notice issued in respect of that offence.
- (4) In order to avoid the infringement notice being referred to the Director Monetary Penalties Enforcement Service for enforcement action the person issued with an infringement notice must within 28 days of the date of service of the notice:
 - (a) pay the total amount of the monetary penalty stated on the infringement notice to the General Manager;
 - (b) apply to the General Manager for withdrawal of the infringement notice;
 - (c) apply to the General Manager for a variation of payment conditions; or
 - (d) lodge a notice of election with the General Manager to have the offence heard by a Court.
- (5) An infringement notice alleging that a vehicle has been used in relation to a prescribed offence may be served by affixing it to that vehicle.
- (6) The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this By-law.
- (7) All monies payable to the Council or General Manager under this By-law are a debt due to the Council and recoverable at law.

SCHEDULE 1 – PUBLIC PLACES BY-LAW NO. 1 OF 2025

INFRINGEMENT NOTICE OFFENCES

Column 1	Column 2	Column 3
Clause	General Description of Offence	Penalty Units
5(3)	Failure to comply with a notice	2.5
7(3)	Failure to comply with notice of closure or restricted access	5
8(6)	Failure to comply with a direction	2.5
11	Abuse or obstruct Authorised Officer	5
13(2)	Failure to supply personal details	2.5
14	Breach of right to peaceable use	0.75
15	Use or possession of liquor	2.5
16(1)	Interference to Public Place	1.25
16(2)	Damage to Public Place	2.5
17(1)	Carry out ball games and projectiles	1.25
17(2)	Risk to person or property with object or missiles	1.25
17(3)	Risk to person or property with ball games	1.25
18(1)	Failure to control a vehicle	1.25
18(2)	Use of a closed road	1.25
18(3)	Unauthorised parking	1.25
18(4)	Failure to comply with direction	1.25
19(1)	Unauthorised use of jetty and boat ramp	1.25
19(2)	Unauthorised activity on a jetty or boat ramp	1.25
20	Unauthorised fire	2.5
21	Wash and dismantle vehicle	1.25
22	Unauthorised aircraft	2.5
23(1)	Unauthorised amplified sound	2.5
23(3)	Failure to comply with direction	1.25
24(2)	Unauthorised taking of an animal into a public place	1.25
24(3)	Animal not under effective control	1.25
25	Unauthorised building works	5
26	Unauthorised camping	2.5
27	Unauthorised commercial undertakings	2.5
28	Unauthorised creation of an entrance	2.5
29	Unauthorised disposal of cremated remains	1.25

Column 1	Column 2	Column 3
Clause	General Description of Offence	Penalty Units
30(1)	Unauthorised deposit of waste	2.5
31	Unauthorised dining	2.5
32	Unauthorised organised public or private events	2.5
33	Unauthorised signs and advertisements	2.5
34	Unauthorised bicycles and small wheeled recreational vehicles	1.25
39(7)	Failure to produce use agreement	1.25
40	Non-compliance with terms and conditions of a use agreement	2.5