

LAUNCESTON CITY COUNCIL

MALLS

BY-LAW NO. 1 OF 2010

A By-Law of the Launceston City Council, made under section 145 of the Local Government Act 1993 for the regulation, control and protection of Council's malls throughout the municipal area of the Launceston City Council.

PART 1 - PRELIMINARY

1. Short title

This by-law may be cited as the Malls By-Law, Number 1 of 2010.

2. Application

This by-law applies to all malls in the Launceston Municipal Area owned by or under the management or control of Council.

3. Interpretation

In this by-law, unless a different intention appears;

"authorised officer" includes the Team Leader Environmental Services, the Manager of Parks and Recreation, the Manager of Environmental Services, a person appointed by Council, any person authorised in writing by the General Manager, or a police officer of the Tasmania Police Service;

"Council" means the Launceston City Council;

"Customer Service Consultant" means a person holding the position of Customer Service Consultant with the Launceston City Council;

"General Manager" means the General Manager of the Launceston City Council, or a person acting in that position;

"Guidelines" means the Launceston City Council Booking and Use Guidelines for Brisbane Street Mall, Quadrant Mall and Civic Square dated July 2009, and includes any amended versions of that document or any substitute or replacement guidelines as may be approved and used by Council from time to time;

"mall" means an area listed in Schedule 1;

"Manager Parks and Recreation" means the person holding the position of Manager Parks and Recreation with the Launceston City Council, or a person acting in that position;

"Manager Environmental Services" means the person holding the position of Manager Environmental Services with the Launceston City Council, or a person acting in that position;

"Manager Customer Service" means the person holding the position of Manager Customer Service with the Launceston City Council, or a person acting in that position;

"Team Leader Environmental Services" means the person holding the position of Team Leader with the Launceston City Council, or a person acting in that position;

"penalty unit" has the same meaning as it does under the *Penalty Units and Other Penalties Act 1987*;

"vehicle" means a vehicle as defined in the *Traffic Act 1925*.

PART 2 - USE OF MALLS

4. Closing of malls

(1) An authorised officer may from time to time, and for such period as he or she determines, close a mall or any part of it to members of the public.

(2) A person other than an authorised officer must not be present in a mall if it is closed to the public unless the person has a permit to be present issued by Council or that person is under the immediate direction of an authorised officer.

Penalty: a fine not exceeding 5 penalty units.

5. Use of malls

1) Council may permit the use of a mall or part of a mall upon such terms and conditions as Council considers appropriate.

2) A permit issued in accordance with the Guidelines may be issued by the Manager Customer Service or a Customer Service Consultant.

6. Function

(1) A person must not conduct or hold a reception, party or function in a mall without a permit to do so.

Penalty: a fine not exceeding 5 penalty units.

7. Erection of structure

(1) A person must not erect a structure in a mall, without a permit to do so.

Penalty: a fine not exceeding 5 penalty units.

(2) Where a structure is erected in contravention of this clause, Council may do any work that is necessary to remove that structure, and may take possession of that structure.

(3) Council may take any reasonable measure to return the mall to the condition it was in before a structure was erected in contravention of this clause.

(3) If Council does work under this clause, Council may recover from the person who erected a structure in contravention of this by-law all costs associated with the removal of that structure.

(4) Council may take any other action reasonably necessary to recover costs associated with removal of structures in a mall, including but not limited to the disposal and or sale of structures removed under sub-clause (2).

8. Signs

(1) A person must not erect or place or allow to be erected or places a sign, banner or billboard in a mall unless:

- (a) the person has a permit to do so issued by Council; or
- (b) it is lawfully erected pursuant to the provisions of a planning scheme.

Penalty: a fine not exceeding 5 penalty units.

(2) An authorised officer may remove any sign, banner or billboard that has been placed or erected contrary to this clause.

9. Sale of Items

(1) A person must not sell or offer for sale, or give away merchandise, food or drink in a mall without first obtaining a permit and in the case of food items, a license from the Manager Environmental Services.

Penalty: a fine not exceeding 5 penalty units.

10. Busking, raffles and collection of money

(1) A person must not busk, sell raffle tickets or take up a collection of money in a mall without a permit to do so issued by Council.

Penalty: a fine not exceeding 5 penalty units.

(2) Council may provide conditions in a permit specifying:

- (a) date and duration of the permit;
- (b) the position where activity can take place;
- (c) the person or persons to undertake activity;
- (d) for buskers that an authorised officer may revoke a permit if two or more people complain in writing to the Council about the busker.

(3) A busker must not obstruct a footpath in a mall.

(4) An authorised officer may remove a person found offending under this section.

PART 3 – UNACCEPTABLE BEHAVIOUR

11. Distribution of advertisement

With the exception of the designated poster pole in the Brisbane Street Mall, a person must not distribute or arrange to be distributed or affix to any Council property, any advertisement, book, card, notice, pamphlet, print, paper or placard in a mall without a permit to do so issued by an authorised officer.

Penalty: a fine not exceeding 5 penalty units.

12. Preaching and concerts

(1) A person must not organise or participate in an assembly, concert, or engage in preaching or public speaking in a mall without a permit to do so issued by an authorised officer.

Penalty: a fine not exceeding 5 penalty units.

13. Organised sport

A person must not participate in an organised sport, contest, or game in a mall without a permit to do so issued by an authorised officer.

Penalty: a fine not exceeding 5 penalty units.

14. Climbing of trees and other objects

A person must not climb or climb onto a tree, shrub, roof, seat, fence or other object in a mall, whether permanent or temporary, excluding any play equipment.

Penalty: a fine not exceeding 5 penalty units.

15. Animals

(1) With the exception of sub-clause (2), a person must not possess or have under their control any animal in a mall without a permit to do so issued by an authorised officer.

(2) A person may have a dog in a mall provided that dog is leashed and under control at all times in accordance with the *Dog Control Act 2000*.

Penalty: a fine not exceeding 2 penalty units.

16. Committing a nuisance

(1) A person must not in a mall obstruct, hinder or annoy any member of the public.

Penalty: a fine not exceeding 5 penalty units.

17. Damage to Council property

(1) A person must not remove or damage or interfere with Council property in a mall.

Penalty: a fine not exceeding 10 penalty units.

PART 4 - MISCELLANEOUS

18. Driving of vehicles

(1) A person must not drive a vehicle in a mall except:

- (a) when the owner has a permit to do so issued by Council; and
- (b) at a safe speed not in excess of 5 kilometres an hour or such other speed as is indicated by traffic signs.

Penalty: a fine not exceeding 5 penalty units.

(2) This clause does not apply to vehicles owned or operated by an emergency service.

PART 5 - ENFORCEMENT

19. Supply of name and address

- (1) Where a police officer or authorised officer becomes aware that, or has reasonable grounds for believing that, a person has committed or is committing an offence against this by-law, he or she may require that person to state their name and permanent or present temporary address, and a person who fails or refuses to comply with such a requirement or, in response to such a requirement, states a name or address that is false, is guilty of an offence.
- (2) A police officer making a requirement under clause (1) may arrest, without warrant, a person who fails or refuses to comply with that requirement or who, in response to the requirement, gives a name or address that the police officer has reason to believe is false.

Penalty: a fine not exceeding 5 penalty units

20. Infringement notices and fines

- (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;
 - (c) impose a monetary penalty for the specified offence in respect of which the infringement notice is issued.
- (2) Infringement notices may be issued in respect of the offences specified in Column 1 of Schedule 2 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.
- (3) 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 either:
 - (a) pay the total amount of the monetary penalty stated on the infringement notice to; or
 - (b) lodge a notice of election to have the offence heard by a Court with the General Manager at the Town Hall, St John St Launceston within 28 days of the date of service of the notice.
- (4) 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.

(5) The Monetary Penalties Enforcement Act 2005 applies to an infringement notice issued under this By-law.

Schedule 1 - Malls in which the Malls By-Law applies

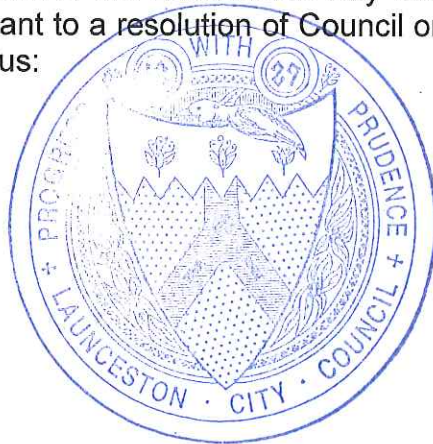
- | | | |
|---|---|---|
| 1 | Brisbane Street Mall | Between Charles and St John Streets |
| 2 | The Quadrant Mall | The Quadrant between Brisbane Street and St John Street |
| 3 | Civic Square | Cameron Street between Charles Street and St John Street |
| 4 | The Avenue | The area from the shop front to the kerb edge of the widened footpath in Brisbane Street between St John Street and George Streets. |
| 5 | Charles Street | The area from the shop front to the kerb edge of the widened footpath in Charles Street between Paterson and York Streets. |
| 6 | St John Street | The area from the shop front to the kerb edge of the widened footpath in St John Street between Paterson and York Streets. |
| 7 | Any other area which the Council determines from time to time, by notice published in the Gazette, to be a mall to which this by-law applies. | |

Schedule 2 - Infringement Notice Offences

| Clause | General Description of Offence | Penalty Units |
|--------|--|---------------|
| 4 | Entering mall closed to public | 0.5 |
| 6 | Conducting a function without permission | 0.5 |
| 7 | Erecting a structure without permission | 0.5 |
| 8 | Erecting a sign without permission | 0.5 |
| 9 | Sale of items without permission | 0.5 |
| 10 | Busking, selling raffle tickets or collecting money without permission | 0.5 |
| 11 | Distribution of advertisement without permission | 0.5 |
| 12 | Preaching, concerts and similar activities without permission | 0.5 |
| 13 | Organised sport without permission | 0.5 |
| 14 | Climbing of trees and other objects | 0.5 |
| 15 | Animals without a permit | 1 |
| 16 | Committing a nuisance | 0.5 |
| 17 | Damage to Council Property | 1 |
| 18 | Driving of vehicles where not permitted | 0.5 |

The Common Seal of the Launceston City Council was placed on this document this 28th day of April 2010.

The Common Seal of the Launceston City Council has been placed on this document pursuant to a resolution of Council on the 19th day of April 2010 in the presence of us:



Albert van Zetten
MAYOR

ALDERMAN

Certified as being made in accordance with *Local Government Act 1993*

Rod Sweetnam
ACTING GENERAL MANAGER

Certified as being in accordance with the law.

Lynda-Jane Jackson
LEGAL PRACTITIONER