

LAUNCESTON CITY COUNCIL
RESERVES, PARKS AND GARDENS

BY-LAW NO. 4 OF 2009

A By-Law of the Launceston City Council, made under section 145 of the Local Government Act 1993 to regulate, control and protect Council's reserves, parks and gardens throughout the municipal area of the Launceston City Council.

PART 1 - PRELIMINARY

1. Short title

This by-law may be cited as the Reserves, Parks and Gardens By-Law, Number 4 of 2009.

2. Application

This by-law applies to all public reserves in the Launceston Municipal Area.

3. Interpretation

This by-law is not intended to interfere with the cultural activities of the Tasmanian aboriginal community, nor with the cultural activities of any other peoples.

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

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

"Council" means the Launceston City Council;

"liquor" has the same meaning as under the *Police Offences Act 1935*;

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

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

"parking area" means an area in a public reserve allocated by Council for parking of vehicles and not controlled under Council's Parking by-law Number 24 of 2003;

"parking space" means a space within a parking area, 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, and not controlled by Council's Parking By-law Number 24 of 2003;

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

"public reserve" means a reserve, rockery, area of bushland, planted embankment, nature strip, median strip, plantation, sports ground, park, or garden open to the public and under the control and management of the Council;

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

PART 2 - USE OF RESERVES

4. Closure of public reserve

(1) The Manager Parks and Recreation may from time to time, and for such period as he or she determines, close a public reserve or any part of a public reserve to members of the public.

(2) A person must not enter or remain in a public reserve if it is closed to the public or any section of a public reserve if it closed to the public unless the Manager Parks and Recreation has given the person written permission to be there.

Penalty: a fine not exceeding 5 penalty units.

5. Hire of public reserve

(1) The Manager Parks and Recreation may let or hire a public reserve or a part of a public reserve.

(2) The Manager Parks and Recreation may impose terms and conditions in an agreement to lease or hire a public reserve.

6. Gatherings

(1) A person may conduct, arrange or participate in an informal gathering in a public reserve at which not more than 100 people are present without written permission from the Manager Parks and Recreation, provided that gathering does not:

- (a) amount to an exclusive use of a public reserve or part of a reserve;
- (b) interfere with a prior booking made with Council for a function, party or reception in a public reserve or any section of a reserve; and
- (c) interfere with the passive, incidental use and enjoyment of the area by other members of the public.

(2) A person must not conduct, arrange or participate in a function, party, or reception in a public reserve at which more than 100 people are present without written permission from the Manager Parks and Recreation.

Penalty: a fine not exceeding 5 penalty units.

(3) If permission is withheld, reasons are to be provided.

(4) A police officer may arrest without warrant a person who:-

- (a) he or she believes on reasonable grounds to have committed an offence against this clause; and
- (b) is on land owned by, or under the control of Council.

7. Creation of an entrance to a public reserve

(1) A person who has land adjoining a public reserve may create an entrance to the public reserve if the person has the Manager Parks and Recreation's written approval to do so.

(2) The Manager Parks and Recreation may impose terms and conditions for the creation of an entrance.

(3) If the Manager Parks and Recreation notifies the person in writing to close an entrance the person must close the entrance by the method notified.

(4) A person who receives notice to close an entrance from his or her land to a public reserve must close the entrance within 2 weeks of receiving the notice.

(5) Council may execute any necessary work to close an entrance if:

- (a) the person whose land it leads to is directed to close the entrance and they fail to do so; or
- (b) the entrance is not closed in the manner notified by the Manager Parks and Recreation.

(6) If Council closes an entrance pursuant to clause 7(5), the person failing to close the entrance as directed must pay to Council the cost to Council in doing the work.

(7) A person must not have an entrance to a public reserve which is not approved by the Manager Parks and Recreation.

Penalty: a fine not exceeding 10 penalty units.

PART 3 – UNACCEPTABLE BEHAVIOUR

8. Erection of structure

(1) A person must not erect a building, booth or other structure in a public reserve without written permission from the Manager Parks and Recreation.

Penalty: a fine not exceeding 5 penalty units.

(2) If permission is withheld, reasons are to be provided.

(3) A police officer may arrest without warrant a person who:-

- (a) he or she believes on reasonable grounds to have committed an offence against this clause; and
- (b) is on land owned by, or under the control of Council.

(4) Council may do any work that is necessary to remove a structure that is erected in contravention of this clause and take any reasonable measure to return the public reserve to the condition it was in before the structure was erected.

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

9. Signs

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

- (a) the person has written permission from the Manager Parks and Recreation; or
- (b) it is lawfully erected pursuant to the provisions of a planning scheme.

Penalty: a fine of 5 penalty units.

(2) If permission is withheld, reasons are to be provided.

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

10. Outside dining

(1) In this clause "outside dining" means the consumption in a reserve of food and or beverages from a shop or restaurant licensed to serve food, by its customers seated outside the shop or restaurant.

(2) A person must not position, or cause, permit or allow to be positioned any furniture to encourage or allow outside dining in a public reserve except under

the conditions of a license or lease issued by the Manager Parks and Recreation or Council.

Penalty: a fine not exceeding 10 penalty units and for a continuing offence, a further daily fine not exceeding 1 penalty unit.

11. Sale of Items

(1) A person must not sell or offer for sale merchandise, food or drink in a public reserve without written permission from the Manager Parks and Recreation and in the case of food items, a license from the Manager Environmental Services.

Penalty: a fine not exceeding 5 penalty units.

(2) A police officer may arrest without warrant a person who:-

- (a) he or she believes on reasonable grounds to have committed an offence against this clause; and
- (b) is on land owned by, or under the control of Council.

12. Busking, raffles and collection of money

(1) A person must not busk, sell raffle tickets or take up a collection of money in a public reserve without permission in writing from the Manager Parks and Recreation.

Penalty: a fine not exceeding 5 penalty units.

(2) If permission is withheld, reasons are to be provided.

(3) 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 who may undertake the 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.

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

13. Distribution of advertisement

(1) 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 public reserve without written permission from the Manager Parks and Recreation.

Penalty: a fine not exceeding 5 penalty units.

(2) If permission is withheld, reasons are to be provided.

14. Preaching and concerts and similar activities

A person must not organise or participate in an assembly, concert, or engage in preaching or public speaking or any similar activity in a public reserve without written permission from the Manager Parks and Recreation.

Penalty: a fine not exceeding 5 penalty units.

If permission is withheld, reasons are to be provided.

- (3) A police officer may arrest without warrant a person who:-
- (a) he or she believes on reasonable grounds to have committed an offence against this clause; and
 - (b) is on land owned by, or under the control of Council.

15. Organised sport

(1) A person must not participate in an organised sport, contest, or game in a public reserve unless in an area approved in writing by the Manager Parks and Recreation.

Penalty: a fine not exceeding 5 penalty units.

16. Use of change room and public toilet

(1) A person must not in a public reserve if that person is over the age of ten years, enter a change room or public toilet reserved for the use of people of the opposite sex except to help someone who is injured, elderly or disabled or except to accompany a child under the age of ten years in the care of such person.

Penalty: a fine not exceeding 5 penalty units.

- (2) A police officer may arrest without warrant a person who:-
- (a) he or she believes on reasonable grounds to have committed an offence against this clause; and
 - (b) is on land owned by, or under the control of Council.

17. Climbing of trees and other objects

(1) A person must not climb or climb on to a tree, shrub, roof, seat, or fence in a public reserve.

Penalty: a fine not exceeding 5 penalty units.

18. Dogs and other animals

(1) A person must not possess or have under his or her control an animal in a public reserve except a dog where the possession or control is exercised in

conformity with the provisions of the *Dog Control Act 2000* and the Regulations made under that Act.

Penalty: a fine not exceeding 5 penalty units.

(2) The Manager Parks and Recreation may permit an area in a public reserve to be used for horse riding.

19. Use of skates and cycles

(1) A person must not ride, drive or use a bicycle, trail bike, tricycle, skateboard or in-line skates or other vehicle in a public reserve except;

- (a) on roads, paths or tracks provided for this type of traffic; and
- (b) where signs or notice boards indicate that such use is allowed; or
- (c) with written permission from the Manager Parks and Recreation.

Penalty: a fine not exceeding 5 penalty units.

(2) This clause does not apply to Police Bike Patrols.

20. Projectiles

(1) A person must not in a public reserve fire a gun, throw a stone or other similar object, or use a slingshot, catapult, bow and arrow or a similar device, without prior written approval from the Manager Parks and Recreation.

Penalty: a fine not exceeding 5 penalty units.

(2) If permission is withheld, reasons are to be provided.

(3) A police officer may arrest without warrant a person who:-

- (a) he or she believes on reasonable grounds to have committed an offence against this clause; and
- (b) is on land owned by, or under the control of Council.

21. Breaking of glass

(1) A person must not in a public reserve wilfully break any glass item the breakage of which would be likely to injure or endanger a person.

Penalty: a fine not exceeding 5 penalty units.

(2) A police officer may arrest without warrant a person who:-

- (a) he or she believes on reasonable grounds to have committed an offence against this clause; and
- (b) is on land owned by, or under the control of Council.

22. Disorderly conduct

(1) A person must not in a public reserve:

- (a) be intoxicated; or
- (b) use indecent and/or offensive language; or
- (c) act in a disorderly way.

Penalty: a fine not exceeding 5 penalty units.

- (2) A police officer may arrest without warrant a person who:-
 - (a) he or she believes on reasonable grounds to have committed an offence against this clause; and
 - (b) is on land owned by, or under the control of Council.

23. Committing a nuisance

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

Penalty: a fine not exceeding 5 penalty units.

- (2) A police officer may arrest without warrant a person who:-
 - (a) he or she believes on reasonable grounds to have committed an offence against this clause; and
 - (b) is on land owned by, or under the control of Council.

24. Liquor

In this section – “public reserve” excludes those areas prescribed by regulation as public places for the purposes of Section 25 of the *Police Offences Act 1935*.

- (1) A person must not in a public reserve:
 - (a) possess an open or unsealed container of liquor; or
 - (b) consume liquor; or
 - (c) sell liquor.

Penalty: a fine not exceeding 5 penalty units.

- (2) A police officer may arrest without warrant a person who:-
 - (a) he or she believes on reasonable grounds to have committed an offence against this clause; and
 - (b) is on land owned by, or under the control of Council.

- (3) The Manager Parks and Recreation may give written approval for any public reserve or any part of a public reserve to be exempted from the provisions of this clause for a period of time.

PART 4 - DAMAGE TO COUNCIL PROPERTY

25. Damage to Council property

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

Penalty: a fine not exceeding 10 penalty units.

(2) A police officer may arrest without warrant a person who:-

- (a) he or she believes on reasonable grounds to have committed an offence against this clause; and
- (b) is on land owned by, or under the control of Council.

26. Fire

(1) A person must not light a fire other than in a fireplace provided by Council for public use, without written permission from the Manager Parks and Recreation.

Penalty: a fine not exceeding 10 penalty units.

(2) If permission is withheld, reasons are to be provided.

(3) A police officer may arrest without warrant a person who:-

- (a) he or she believes on reasonable grounds to have committed an offence against this clause; and
- (b) is on land owned by, or under the control of Council.

27. Graffiti

(1) A person must not in a public reserve mark, write on or in any other way deface Council property without written permission from the Manager Parks and Recreation.

Penalty: a fine not exceeding 10 penalty units.

(2) If permission is withheld, reasons are to be provided.

(3) A police officer may arrest without warrant a person who:-

- (a) he or she believes on reasonable grounds to have committed an offence against this clause; and
- (b) is on land owned by, or under the control of Council.

28. Wood

(1) A person must not in a public reserve collect or remove any wood or timber without written approval from the Manager Parks and Recreation.

Penalty: a fine not exceeding 10 penalty units.

(2) If permission is withheld, reasons are to be provided.

PART 5 - VEHICLES

29. Parking of Vehicles

(1) This clause does not apply to a nature strip.

(2) A person must not in a public reserve park a vehicle so it is;

- (a) wholly or partially outside one parking space or parked otherwise than 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: fine not exceeding 2 penalty units.

(3) An authorised officer who is an employee of the Council may remove a vehicle if it contravenes this clause.

30. Driving of vehicles

(1) A person must not drive a vehicle in a public reserve unless:

- (a) on a road, path or track provided for such vehicles; and
- (b) at a safe speed and not in excess of 25 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.

31. Parking when reserve is closed

(1) The Manager Parks and Recreation may close a public reserve or any part of a public reserve to vehicular traffic.

(2) A person driving a vehicle must not enter or remain in a public reserve or park a vehicle when the public reserve is closed.

Penalty: a fine not exceeding 5 penalty units.

32. Entry and exit of parking area

(1) A person driving a vehicle in a public reserve must enter or leave a parking area in a public reserve by an appropriate access point provided by Council.

Penalty: a fine not exceeding 2 penalty units.

33. Reserved space

- (1) The Manager Parks and Recreation may in a public reserve determine;
- (a) the location of reserved parking areas and spaces; and
 - (b) the conditions that apply to parking a vehicle in reserved parking areas and spaces.

(2) A person must not park or leave a vehicle in a parking space or parking area which is designated "Reserved" unless authorised by the Manager Parks and Recreation to do so.

Penalty: a fine not exceeding 2 penalty units.

(3) An authorised officer may remove a vehicle parked in breach of this clause to a safe place and keep it there until the fine, removal and storage charges have been paid.

34. Washing, dismantling and repair of vehicle

(1) A person must not in a public reserve dismantle, paint, wash or repair a vehicle without written permission from the Manager Parks and Recreation unless it is necessary to enable the vehicle to be moved from the reserve.

Penalty: a fine not exceeding 2 penalty units.

- (2) A police officer may arrest without warrant a person who:-
- (a) he or she believes on reasonable grounds to have committed an offence against this clause; and
 - (b) is on land owned by, or under the control of Council.

PART 6 - ENFORCEMENT

35. Removal from area

(1) An authorised officer may remove any person from a public reserve if the person commits an offence against this by-law or is reasonably believed by the authorised officer to be offending against this by-law.

(2) A police officer may assist an authorised officer acting under the authority of clause 35(1) to remove the person from the public reserve.

(3) A police officer may arrest, or assist an authorized officer to remove, a person who has been previously removed from a public reserve under this section, if that person returns within four hours.

36. 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.

37. Abuse or obstruction of an authorised officer

(1) A person must not:

- (a) threaten, intimidate or use abusive language to an authorised officer in a public reserve while the officer is acting in the course of his or her duties; or
- (b) assault, resist or authorise obstruct an authorised officer in the execution of his or her duty.

Penalty: a fine not exceeding 5 penalty units.

(2) A police officer may arrest without warrant a person who:-

- (a) he or she believes on reasonable grounds to have committed an offence against this clause; and
- (b) is on land owned by, or under the control of Council.

38. Infringement notices and fine

(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 Schedules 1 and 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, unless otherwise specified.

(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 Infringement Notice Offences

Clause	General Description of Offence	Penalty Units
4	Entering reserve when closed to public	0.5
6	Conducting a function in a reserve without permission	0.5
7	Having an unapproved entrance to a reserve	0.5
8	Having an unapproved structure on a reserve	0.5
9	Erecting a sign without approval in a reserve	0.5
10	Conduct outside dining without a licence in a reserve	1
11	Sale of items without permission in a reserve	1
12	Busking, selling raffle tickets or collecting money without permission in a reserve	0.5
13	Distribution of advertisement without permission in a reserve	0.5
14	Preaching, concerts and similar activities in a reserve without permission	0.5

15	Organised sport in a reserve without permission	0.5
16	Use of change room and public toilet	0.5
17	Climbing or trees and other objects	0.5
18	Dog or other animal in reserve other than in accordance with Dog Control Act 2000	1
19	Use of skates and cycles other than where permitted	0.5
20	Use of Projectiles without permission	1
21	Breaking of glass	0.5
22	Disorderly Conduct	0.5
23	Committing a nuisance	0.5
24	Liquor without permission	1
25	Damage to Council Property	1
26	Fire without permission	1
27	Graffiti without permission	1
28	Collect wood without permission	1
30	Driving of vehicles where not approved	1
31	Parking when reserve is closed	0.5
33	Use of reserved space without permission	0.5
34	Washing, dismantling and repair of vehicle without permission	0.5
37	Abuse of an authorised officer	1

Schedule 2 – Parking Infringement Notice Offences

Column 1	Column 2	Column 3	Column 4	Column 4
Clause	General Description of Offence	Penalty (\$ amount)	Reduced penalty if paid to Council within 14 days from	Reduced penalty if paid to Council after 14 days but


			date of service of Infringement Notice	within 28 days from date of service of Infringement Notice
29	Parking of vehicles where not approved	\$50	\$25	\$35
32	Entry and exit of a parking area	\$50	\$25	\$35

The Common Seal of the Launceston City Council was placed on this document this 26th day of October 2009.

The Common Seal of the Launceston City Council has been placed on this document pursuant to a resolution of Council on the nineteenth day of October 2009 in the presence of us:





.....
Albert van Zetten
MAYOR


.....
ALDERMAN

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


.....
Frank Dixon
GENERAL MANAGER

Certified as being in accordance with the law


.....
Lynda-Jane Jackson
LEGAL PRACTITIONER