

LAUNCESTON CITY COUNCIL

PARKING FACILITIES BY-LAW NO. 2 of 2023

A by-law made under sections 145, 161 and section 170 of the *Local Government Act 1993*, in respect of the parking of vehicles and other activities on land owned by or under the control of the Launceston City Council and designated a parking area within the municipal area of the Launceston City Council.

PART 1 – PRELIMINARY

1. Short title

This by-law may be cited as the *Parking Facilities By-Law Number 1 of 2023*.

2. Repeal

The *Launceston City Council Parking By-Law No. 2 of 2013* is repealed.

3. Interpretation

In this by-law, unless the contrary intention appears:

"article" includes a vehicle, motor vehicle, goods and rubbish.

"authorised officer" means the Chief Executive Officer, a person employed by the Council as a Parking Officer, and a person appointed by the Chief Executive Officer for the purpose of this by-law;

"Chief Executive Officer" means the General Manager as appointed by Council pursuant to section 61 of the *Local Government Act 1993* (Tas);

"Council" means the Launceston City Council;

"drive" has the same meaning as under the Dictionary in the *Road Rules 2019*;

"General Manager" means the General Manager as appointed by Council pursuant to section 61 of the *Local Government Act 1993* (Tas);

"highway" has the same meaning as a local highway under the *Local Government (Highways) Act 1982*;

"Manager Compliance" means the person holding the position of Manager Compliance with the Council, or a person acting in that position, or other person as authorised by the Chief Executive Officer;

"motor vehicle" has the same meaning as in the *Vehicle and Traffic Act 1999*;

"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 by public notice for the parking of vehicles, but does not include a highway;

"parking meter" means a device installed by or for the Council for measuring time on the insertion of coin, note or other accepted payment method, of the name or value shown on the device;

"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" 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" has the same meaning as under the *Vehicle and Traffic Act 1999*;

"ride" includes travel in or on, and drive.

"vehicle" means "wheeled recreational device", "wheeled toy", "scooter", "motorised scooter" and "personal mobility device" as defined by the *Road Rules 2019*;

"voucher machine" means a device that is installed by or for Council that issues a parking voucher after the correct coin, note or other accepted payment method, has 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.

PART 2 - DRIVING OF VEHICLES

4. Entry and exit of parking areas

A person driving a motor vehicle must not enter or leave a parking area except by an access point designated by the Council's signs.

Penalty: a fine not exceeding 2 penalty units.

5. Driving of motor vehicles

A person must not drive a motor vehicle in a parking area at more than twenty kilometres an hour.

Penalty: a fine not exceeding 2 penalty units.

PART 3 - PARKING

6. Parking of motor vehicles

- (1) A person must not park a motor vehicle which is not wholly within one parking space or parked otherwise than as directed by an authorised officer or signage; or

Penalty: a fine not exceeding 2 penalty units.

- (2) A person must not park a motor vehicle in a disabled parking space unless that person holds a permit or authority issued by a competent authority authorising such parking in the same or similar circumstances.

Penalty: a fine not exceeding 2 penalty units.

7. Parking of motor vehicles

- (1) Subject to sub-clause 7(2), a person must not park a motor vehicle in a parking area:

- (a) in a parking space for which there is a parking meter -

- (i) unless there is time registered on the parking meter relating to that parking space; or
- (ii) for a period longer than the maximum period notified on the parking meter;

- (b) in a parking space regulated by any Council sign in the parking area -

- (i) for a period longer than the maximum period notified on the sign relating to that parking space;

- (c) in a parking space for which a voucher machine is available -

- (i) unless the parking of the motor vehicle is authorised by a parking voucher (or parking vouchers) obtained from the relevant voucher machine and clearly displayed on the motor vehicle, or there is time registered on a virtual meter relating to that parking space; or
- (ii) for a period longer than the maximum period notified on the voucher machine; or

- (d) partly inside and partly outside of a parking space.

Penalty: a fine not exceeding 2 penalty units.

- (2) Sub-clause 7(1) does not apply to:

- (a) bicycles and tricycles moved only by human strength;

- (b) trolleys with only two wheels if those wheels are less than 310 millimetres in diameter;
 - (c) motor vehicles used as ambulances being used on urgent ambulance services; or
 - (d) motor vehicles used by a fire brigade in connection with a fire with which the brigade is then dealing.
- (3) For the purposes of sub-clause 7(1):
- (a) "virtual meter" means a piece of software that can be run on a computer, mobile phone or other electronic device and that allows for payment to be made for parking in a parking space; and
 - (b) a voucher is clearly displayed on a motor vehicle if the voucher is so placed on the dashboard against the interior of a windscreen or window of the motor vehicle, such that all writing and imprinted words, figures, and symbols appearing on the side of the voucher bearing the date and time of issue are capable of being clearly read by a person standing beside the motor vehicle.

8. Reserved spaces

- (1) The Manager Compliance is to decide on the location of, and the conditions applicable to, reserved parking areas and spaces.
- (2) A person must not park or leave a motor vehicle in a parking space or parking area which is designated "Reserved" unless authorised to do so.

Penalty: a fine not exceeding 2 penalty units.

- (3) An authorised officer may remove or, permit an agent of the Council to remove, a motor vehicle if it is parked in contravention of this clause.

PART 4 - PROHIBITED ACTIVITIES

9. Damage to equipment

A person must not, in any way, damage equipment used or connected in any way with a parking area or parking space nor use anything other than the type of notes or coins or payment method indicated on the outside of the equipment as acceptable for that purpose.

Penalty: a fine not exceeding 2 penalty units.

10. Unauthorised removal of infringement notice

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

Penalty: a fine not exceeding 2 penalty unit

11. Washing, dismantling and repair of motor vehicles

- (1) A person must not dismantle or repair any motor vehicle in a parking area without the permission of an authorised officer unless it is necessary to enable the motor vehicle to be moved from the parking area.

Penalty: a fine not exceeding 2 penalty units.

- (2) A person must not paint or wash any motor vehicle in a parking area without the consent of an authorised officer.

Penalty: a fine not exceeding 2 penalty units.

12. Skidding of motor vehicles

A person must not intentionally drive a motor vehicle so:

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

Penalty: a fine not exceeding 2 penalty units.

13. Damage to the Council's property

A person must not remove or damage the Council's property in any parking area.

Penalty: a fine not exceeding 2 penalty units.

14. Obstruction

A person must not cause any obstruction to motor vehicle or foot traffic in a parking area.

Penalty: a fine not exceeding 5 penalty units.

15. Use of skates and cycles

- (1) Except as otherwise provided in subclause (2) or (3) a person must not to ride a vehicle or bicycle in a parking area.

Penalty: a fine not exceeding 2 penalty units.

- (2) A person may ride a vehicle or bicycle in a parking area for the purpose of parking in, transiting directly through, or taking the nearest path to a designated exit of, a parking area.

- (3) A person may ride a vehicle in a parking area outside the ordinary operating hours of that parking area, except where such riding is prohibited by a notice at such parking area.

PART 5 - MISCELLANEOUS

16. Supply of name and address

- (1) An authorised officer or a police officer who reasonably believes that a person has committed or is committing an offence against this by-law may request that person to supply their full name and permanent or present temporary address.
- (2) A person must not refuse to supply their correct and full name and permanent or present temporary address if requested to do so by an authorised officer or police officer;

Penalty: a fine not exceeding 2 penalty units

17. Request to leave an area

- (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 an authorised officer is guilty of an offence.

Penalty: a fine not exceeding 2 penalty units.

18. Closure of parking areas

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

19. Use of parking areas for other purposes

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

20. Recovery of expenses

In addition to a penalty imposed in relation to a failure to comply with or a contravention of a provision of this by-law, an expense incurred by the Council in consequence of that failure or contravention is recoverable by the Council as a debt payable by the person so failing to comply or in contravention.

21. Unauthorised articles

- (1) A person must not leave any unauthorised article on or in a parking area.
Penalty: a fine not exceeding 2 penalty units.
- (2) An authorised officer may seize and remove any unauthorised article found on or in a parking area.
- (3) An article will be an 'unauthorised article' for the purposes of this clause if it has been placed or remains on or in a parking area contrary to this by-law, or without the permission of an authorised officer.

22. Handling of unauthorised articles

- (1) An article removed from a parking area pursuant to sub-clause 21(2) must be stored in a safe place until it has been:
 - (a) claimed by the owner (or a person acting on behalf of the owner); or
 - (b) disposed of pursuant to this by-law.
- (2) If an article removed from a parking area pursuant to sub-clause 21(2) is not claimed by the owner (or a person acting on behalf of the owner) within 48 hours of said removal, and the identity of the owner of the article is known, an authorised officer is to give notice to the owner of the removal of the article in accordance with sub-clause 22(3).
- (3) A notice given under subclause 22(2) must contain:
 - (a) a description of the article, including any distinguishing features;
 - (b) the place from which the article was removed;
 - (c) the date on which the article was removed;
 - (d) the place from which the article may be claimed;
 - (e) the fees, costs or charges payable in respect of the removal, maintenance and storage of the article; and
 - (f) a statement that, if the article is not claimed within 14 days of receipt of the notice, that article may be disposed of by the Chief Executive Officer.
- (4) If an article removed from a parking area pursuant to sub-clause 21(2) has not been claimed by its owner (or a person acting on behalf of its owner) within 48 hours of said removal, the identity of the owner of that article is not known and cannot be readily ascertained, and the Chief Executive Officer is of the opinion that the value of the article is such that Council ought issue a public notice to attempt to identify the owner, the Chief Executive Officer is to publish, on at least one occasion, a notice in a newspaper circulating in the municipal area containing either:
 - (a) the particulars specified in sub-clause 22(3); or
 - (b) a brief description of the article and the location at which interested persons can obtain the particulars specified in sub-clause 22(3).
- (5) If 14 days after:
 - (a) the giving of notice pursuant to sub-clause 22(2); or
 - (b) publication of a notice pursuant to sub-clause 22(4),

an article has not been claimed by its owner (or a person acting on behalf of its owner), the article may be disposed of by the Chief Executive Officer in accordance with clause 24.

- (6) If the owner of an unauthorised article which has been removed from a parking area pursuant to sub-clause 21(2) is not known, and cannot be readily ascertained, no advertising is published in accordance with sub-clause 22(4), and the article is not claimed by the owner (or a person acting on behalf of the owner) within 28 days after the date on which it was removed, the article may be disposed of in accordance with clause 24.
- (7) Notwithstanding sub-clauses 22(1) to 22(6) (inclusive), if in the opinion of the Chief Executive Officer an article removed from a parking area pursuant to sub-clause 21(2) has no material value, the article may be disposed of in whatever manner the Chief Executive Officer sees fit.

23. Fees, costs and charges

- (1) The owner of any article removed from a parking area pursuant to sub-clause 21(2) is liable to pay the Council:
 - (a) any fees, costs and charges specified in a notice issued pursuant to sub-clauses 22(2) or 22(4);
 - (b) any further fees incurred in the storage and maintenance of the article once removed, together with any relevant advertising and administrative costs; and
 - (c) any fees, costs or charges incurred in the disposal of the article pursuant to clause 24.
- (2) Any unpaid fees, costs or charges are a debt due to the Council and may be recovered by the Council in a court of competent jurisdiction.
- (3) The Council may retain an article until all relevant fees, costs or charges incurred pursuant to this by-law have been paid in full.

24. Disposal of unauthorised articles

- (1) The Chief Executive Officer may dispose of an article removed from a parking area pursuant to sub-clause 21(2) if:
 - (a) the article is not claimed within 14 days of the service of a notice under sub-clause 22(2);
 - (b) the article is not claimed within 14 days of publication of a notice pursuant to sub-clause 22(4);
 - (c) sub-clause 22(6) applies;
 - (c) sub-clause 22(7) applies;

- (d) the owner of the article has been notified of all applicable fees, costs or charges specified in sub-clause 23(1) and such fees, costs or charges have not been paid within 14 days of such notification; or
 - (e) sub-clause 25(2) applies.
- (2) An article that satisfies one or more of the pre-requisites for disposal prescribed in sub-clause 24(1) or sub-clause 25(2) may be disposed of:
- (a) by tender or public auction following notification in a local newspaper circulating in the municipal area; or
 - (b) in a manner determined by the Chief Executive Officer if:
 - (i) the Chief Executive Officer is of the opinion that the article has a value that does not warrant the costs of a tender or a public auction; or
 - (ii) no tender is received, or no bid is made at a public auction.
- (3) If an article is disposed of under this clause 24, the Chief Executive Officer must notify the owner of the article as soon as possible if the owner can be ascertained or found by reasonable enquiries.
- (4) If an article is disposed of under this clause 24 and the owner is subsequently identified, any proceeds of the disposal must be paid to the owner, less any fees, costs or charges incurred by the Council in the removal, storage or disposal of the article.

25. Article required for prosecution

- (1) Where an article removed from a parking area pursuant to sub-clause 21(2) is to be used by the Council as evidence in support of the prosecution of an offence created by this by-law, the article will be released to the owner following the completion or withdrawal of the prosecution, subject to payment by the owner to the Council of any relevant fees, costs and charges payable by operation of clause 23 (unless otherwise directed by a court).
- (2) The Chief Executive Officer may dispose of any article retained by the Council pursuant to sub-clause 25(1):
- (a) which is not claimed by the owner; and
 - (b) in relation to which any fees, costs or charges payable by operation of clause 23 have not been paid in full,

within 30 days of completion of the relevant prosecution.

26. Assistance of police officer

A Police Officer is authorised to assist an Authorised Officer to carry out an action under this by-law.

Part 6 - INFRINGEMENT NOTICES

27. Infringement notices

- (1) In this clause:

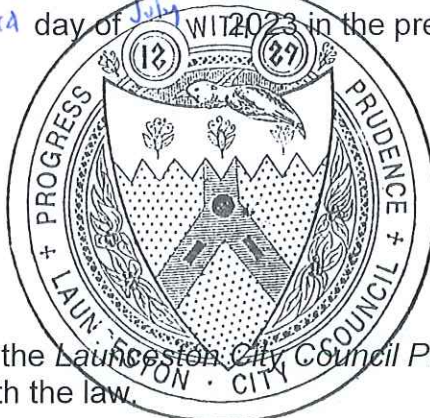
"specified offence" means an offence against the clause specified in column 1 of Schedule 1 and generally described in column 2 of Schedule 1.
- (2) An authorised officer may issue an infringement notice in respect of a specified offence and the monetary penalty set out adjacent to the offence in Column 3 of Schedule 1 is the penalty payable under the infringement notice for that offence.
- (3) An authorised officer may:
 - (a) issue an infringement notice to a person who the authorised officer has reason to believe is guilty of a specified offence; and
 - (b) issue one infringement notice in respect of more than one specified offence.
- (4) The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this By-law.
- (5) In addition to any other method of service, an infringement notice alleging that a vehicle has been used in relation to a specified offence may be served by affixing it to that vehicle.
- (6) A person who is served with an infringement notice must, within 28 days of the date of service, do one or more of the following:
 - (a) pay the monetary penalty in full to the Chief Executive Officer;
 - (b) apply to the Chief Executive Officer for withdrawal of the infringement notice;
 - (c) apply to the Chief Executive Officer for a variation of payment conditions; or
 - (d) lodge with the Chief Executive Officer a notice of election to have the offence or offences set out in the infringement notice heard and determined by a court.
- (7) If a person who has been served with an infringement notice fails to take one or more of the actions required by sub-clause (6) within the prescribed time, the infringement notice may be referred to the Director, Monetary Penalties Enforcement Service.

Schedule 1 - Infringement Notice Offences

Column 1	Column 2	Column 3
Clause	General Description of Offence	Penalty (penalty units)
4	Failure to use designated access point to parking area	0.5
5	Exceeding speed limit in parking area	0.5
6(1)	Not parking as directed	0.5
6(2)	Parking in disabled parking space	1
7(1)(a)(i)	Failure to pay parking fee for parking space	0.5
7(1)(a)(ii)	Parking for longer than maximum period	0.25
7(1)(b)	Parking for longer than maximum period regulated by Council sign	0.25
7(1)(c)(i)	Parking without authorisation of voucher or virtual meter	0.5
7(1)(c)(ii)	Parking for longer than maximum period	0.25
7(1)(d)	Park outside parking space	0.5
8(2)	Parking in a reserved space without authorisation	0.5
9	Damaging equipment in a parking area	0.5
10	Unauthorised removal of infringement notice	0.5
13(1)	dismantling and repairing motor vehicle without consent	0.5
13(2)	Washing or painting motor vehicle without consent	0.5
12	Skidding of motor vehicles	0.5
13	Damage to Council property	0.5
14	Obstructing vehicle or foot traffic	0.5
15(1)	Using vehicles and bicycles in a parking area	0.25
16(2)	Fail to provide name and address	0.5
17	Fail to obey request	0.5

Seal and Certification

Pursuant to section 161 of the *Local Government Act 1993* and the decision of Council on the 15th day of June 2023, the Common Seal of the Launceston City Council was placed upon this document on the 3rd day of July 2023 in the presence of:



.....
Matthew Garwood
Acting Mayor

I certify that the provisions of the *Launceston City Council Parking Facilities By-Law No. 2 of 2023* are in accordance with the law.

.....
Duncan Campbell
Legal Practitioner

The *Launceston City Council Parking Facilities By-Law No. 2 of 2023* has been made in accordance with the *Local Government Act 1993*

.....
Michael Stretton
Chief Executive Officer

being the General Manager as appointed by Council
pursuant to section 61 of the *Local Government Act 1993*