

HOBART CITY COUNCIL

PUBLIC SPACES BY-LAW

BY-LAW No. 1 of 2018

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HOBART CITY COUNCIL

PUBLIC SPACES BY-LAW

BY-LAW No. 1 of 2018

PART 1 – PRELIMINARY

1. This by-law is made pursuant to section 145 of the Act for the purpose of managing and controlling conduct in public spaces in the municipal area, including in all parks, gardens, beaches, waterways, natural areas and undeveloped land owned by Council, and on highways.
2. This by-law may be cited as the Public Spaces By-law.
3. The Parks, Recreation and Natural Areas By-Law No. 5 of 2008 is repealed.
4. This by-law applies to the Hobart municipal area.
5. In this by-law:
 - Act** means the *Local Government Act 1993*;
 - aircraft** means any machine that can derive support from the atmosphere from the reactions of the air, with the exception of Remotely Piloted Aircraft (including drones) weighing less than 2kg;
 - authorised officer** means an employee of the Council authorised by the General Manager for the purposes of this by-law;
 - authorised person** means a person, other than an employee of the Council, authorised by the Council for a purpose under this by-law;
 - bicycle** has the same meaning as in the Road Rules;

~~camp~~ means to:

- ~~(a) erect a tent, camper trailer or similar portable shelter; or~~
- ~~(b) place, park or leave a caravan, campervan, motorhome or similar vehicle in a public space between 10 pm and 6 am (except if legally parked on a highway); or~~
- ~~(c) sleep in the open or in any form of shelter or vehicle between 10 pm and 6 am;~~

car park means:

- (a) any land owned by Council or under Council's control which Council makes available to the public to park vehicles; and
- (b) all buildings, equipment, signs, access ways, land, fences, chattels and structures used or connected in any way with the car park;

children's playground means any area under the management or control of the Council in which children's play equipment is installed and extends for a distance of 10 metres in all directions from the play equipment;

Council means Hobart City Council;

General Manager means the General Manager of the Council appointed pursuant to section 61 of the Act;

highway means any highway or road shown on the map maintained by Council pursuant to section 208 of the Act;

intercity cycleway means the concrete cycleway that runs adjacent to the railway lines from the northern boundary of the city to the Queens Domain;

mall means an area of a highway that has been set aside primarily for pedestrian traffic and recreational purposes, and includes:

- (a) the portion of Elizabeth Street between Collins and Liverpool Streets;
- (b) the area known as Wellington Court;
- (c) the area known as Salamanca Square;

- (d) the area known as Collins Court; and
- (e) Mathers Place;

meeting means any assembly of people and includes a parade, performance, spectacle, entertainment, exhibition, rally, march, demonstration or other event which causes or is likely to cause people to assemble;

motor vehicle has the same meaning as in the Road Rules;

municipal area has the same meaning as section 16 of the Act and as specified in Column 1 of Schedule 3 of the Act, including any amendment;

occupy includes:

- (a) to place tables and chairs, umbrellas, signs or barriers to enable the service of food or beverages;
- (b) to use cranes, concrete pumps or any other special vehicle used for building work;
- (c) to fence or divide any part of a public space to exclude members of the public;
- (d) to place an object within or over a highway; and
- (e) to build or erect any structure;

owner means, in relation to a vehicle:

- (a) the person or people who are registered as the owner of a vehicle under the *Vehicle and Traffic Act 1999*, or any corresponding enactment or ordinance of a State or Territory of the Commonwealth; or
- (b) a person who has use of the vehicle under a hiring or a hire-purchase agreement;

at the time at which there was a contravention of this by-law with that vehicle;

permit means:

- (a) a current permit or other written approval (including a booking confirmation provided by electronic means) granted pursuant to

this by-law; or

- (b) any permit, licence or written approval granted pursuant to another by-law or legislation including a by-law or legislation which has been repealed;

providing that:

- (c) if the permit, licence or written approval was issued for a certain time period, that time period has not expired; or
- (d) if the permit, licence or written approval was issued for a certain event, that event has not yet taken place;

person means an individual, corporation or other legal entity (other than the Crown);

public space includes:

- (a) all public land as defined by section 177A(1) of the Act and as recorded on the municipal map maintained on behalf of Council;
- (b) any other land owned by Council;
- (c) any land in which Council has an interest including by way of a lease or license;
- (d) any highway (including any mall but excluding any highway within Wellington Park);
- (e) any car park; and
- (f) all marinas, bridges, jetties, wharves, boat-houses and other similar structures owned or under the control of Council;

except it does not include Wellington Park;

road means a road (which is not a highway) with a constructed surface suitable for the use of four-wheeled motor cars or an area set aside by the Council as a parking place for vehicles;

Road Rules means the *Road Rules* 2009;

roadside vendor means any person who sets up a stall in or on any highway to sell or offer for sale any wares to the public;

signboard means any board, sign, plaque, or banner which in any way makes an announcement or is an advertisement for any restaurant,

shop, place of business, product, wares or any other thing which is not permanently attached to any building or other structure;

stall means any table, wagon, trailer, wheelbarrow or transportable structure;

track includes:

- (a) a trail; or
- (b) a track or route that is managed for walking, horseriding or other similar activity;

trail means a constructed track with a surface which is managed for maintenance or emergency access;

vehicle has the same meaning as in the Road Rules;

vessel means a craft for use, or that is capable of being used, in navigation by water, however propelled or moved;

wares includes any subscription, good, thing, article, or matter, and any food, or article of food, within the meaning of the *Food Act 2003*;

wheelchair has the same meaning as in the Road Rules;

wheeled recreational device has the same meaning as in the Road Rules;

wildlife means means any living creature other than:

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

PART 2 – ACTIVATION OF PUBLIC SPACES

Division 1 – Occupation of public spaces

Occupation of public spaces

6. A person must not occupy a public space unless they have been issued a permit to do so.

Penalty: 1 penalty unit and 1 penalty unit for every day the breach continues

Signboards – permitted

7. Unless otherwise authorised to do so by a permit, subject to clause 8, a person may only place a signboard on a footpath which complies with the following:
- (a) only one signboard per premises;
 - (b) only those premises with a ground floor direct frontage to the public footpath may place a signboard on the footpath;
 - (c) the signboard must be designed and constructed as follows:
 - (i) no larger than 1050mm high by 650mm wide;
 - (ii) to not occupy a volume of more than 1 cubic metre;
 - (iii) to not present a hazard to pedestrians or other highway users, including pedestrians with disabilities; and
 - (iv) to be secure and stable;
 - (d) the signboard must be placed on the footpath as follows:
 - (i) so as to maintain clear and unobstructed pedestrian access;
 - (ii) directly outside the premises owned or occupied by the person seeking to place the signboard which is bordered by the boundaries of the premises and the road; and
 - (iii) as far from the face of the building as is reasonably

practicable;

- (e) for commercial arcades, up to two signboards advertising multiple businesses may be placed on the public footpath in front of the common area of the arcade, provided the signboards are manufactured, owned and managed by the Body Corporate, arcade owner, or equivalent representative body.

Penalty: 1 penalty unit and 1 penalty unit for every week the breach continues

Signboards – not permitted

- 8. Unless otherwise authorised to do so by a permit, signboards are not permitted on a footpath in the following circumstances:
 - (a) when the business to which the signboard relates is closed;
 - (b) in the Elizabeth Mall, Wellington Court or Salamanca Square (including Woobys Lane and Kennedy Lane);
 - (c) on footpaths where less than:
 - (i) 1.2m of clear footpath width remain (on low pedestrian volume footpaths / or non commercial areas);
 - (ii) 1.8m of clear footpath width remains (on busy footpaths / or commercial areas); or
 - (iii) 2.4m of clear footpath width remains (on high volume footpaths in commercial areas).

Penalty: 1 penalty unit and 1 penalty unit for every week the breach continues

Directions regarding signboards

- 9. The General Manager or an authorised officer may provide reasonable directions as to the use or location of a signboard and any such direction must be complied with.

Penalty: 2 penalty units

Division 2 – Access to public spaces

10. This Division does not apply to highways.

Power to close public spaces

11. The General Manager may close the whole of or any part of any public space at any time for any reason.

Limited access to certain places

12. With the exception of emergency services personnel, a person must not enter or remain in:

- (a) any public space declared by Council or the General Manager to be an area to which the public does not have a general right of access; or
- (b) any part of a public space at which a notice is exhibited prohibiting or restricting access to that part of the public space; unless authorised to do so by permit or in company with an authorised officer.

Penalty: 5 penalty units

13. Clause 12 does not apply to an authorised person or any Council employee entering or remaining in a public space in the course of their duties.

Entry into public spaces when closed

14. With the exception of emergency services personnel, a person must not without a permit enter any public space or part of any public space if it is

closed or leased or hired to any other person unless authorised to do so.

Penalty: 5 penalty units

Division 3 – Commercial conduct

Offer wares or services

15. A person must not offer or expose for sale any wares or offer any services in a public space, whether in exchange for money or otherwise, unless the person has first obtained a permit.

Penalty: 2 penalty unit

Setting up stalls

16. A person must not set up, place, keep, maintain or park any stall in a public space to sell wares or to pursue any business, trade or employment unless the person has first obtained a permit.

Penalty: 2 penalty units

Roadside vendors

17. A person must not act as a roadside vendor unless:
- (a) the land has been designated as land upon which a roadside vendor may carry on trading activities;
 - (b) the person has a permit to act as a roadside vendor; and
 - (c) the person has a permit to carry on trading activities on that land.

Penalty: 2 penalty units

Sale of vehicles

18. The General Manager may signpost areas in a public space where vehicles are not to be offered for sale.

19. A person must not park or leave a vehicle offered for sale in an area signposted by the General Manager pursuant to clause 18, unless authorised to do so.

Penalty: 10 penalty units

Display of items

20. With the exception of malls, clause 21 does not apply to highways, unless the activity may or does restrict the movement of pedestrians or vehicles.

21. A person must not adhere, display, exhibit, or distribute any advertisement, book, card, handbill, notice, pamphlet, paper, picture, placard, sticker or other thing whatsoever in a public space, except:
 - (a) on any area specifically designated by the Council or the General Manager for that purpose;
 - (b) in the case of the sale of newspapers, periodicals, and printed matter where the vendor or distributor has first obtained a permit;
or
 - (c) if the person has obtained a permit to do so.

Penalty: 2 penalty units

PART 3 – PROTECTION OF PUBLIC SPACES

Protection of Wildlife

22. Unless authorised to do so by permit, a person must not in any public space:
- (a) remove or have in his or her possession any wildlife or unprocessed products of wildlife;
 - (b) use or have in his or her possession any hunting equipment;
 - (c) lay or set any trap or snare or deposit any poisonous or chemical substance;
 - (d) interfere with the nest, breeding place or habitation of any wildlife;
 - (e) feed any wildlife or leave food for wildlife to eat; or
 - (f) intentionally harm or disturb any wildlife.

Penalty: 20 penalty units

Protection of Vegetation

23. A person must not, by any act, wherever performed, cut, prune, pluck, destroy, [remove](#) or injure any tree, shrub, flower or other vegetation growing in a public space unless authorised to do so by permit.

Penalty: 20 penalty units

Declared weeds

24. A person must not bring into or be in possession of any plants listed as a declared weed under the *Weed Management Act 1999* in a public space unless authorised to do so by permit.

Penalty: 5 penalty units

Protection of soil and material

25. Unless authorised to do so by permit, a person must not in any public space:
- (a) dam up, divert or pollute any water on or under the surface;
 - (b) take or collect any water for sale;
 - (c) interfere with, dig up, cut up, collect, or remove any sand, gravel, clay, rock, or any timber, firewood, humus or other natural substance; or
 - (d) remove, damage, or deface any rock formation in a cave.

Penalty: 20 penalty units for each act

Encroachments

26. Unless authorised to do so by permit, a person must not in any public space:
- (a) dump or store any material or substance;
 - (b) landscape garden or undertake any other works;
 - (c) erect a cairn or memorial;
 - (d) make or mark out a track or route;
 - (e) disturb the surface of the ground for the purpose of uncovering any metallic items which may be buried; or
 - (f) erect a fence, retaining wall or any other structure.

Penalty: 20 penalty units

Deposit, discharge of noxious matter

27. A person must not in any public space:
- (a) deposit the dead body or any part of the body of any creature; or
 - (b) deposit, discharge, or leave any faecal matter, offal, filth, dung or other noxious or polluting matter or thing.

Penalty: 20 penalty units

Buildings, structures, obstructions and signs

28. A person must not place, build, erect, set up or leave any building, structure or obstruction, sign or signage, of any kind or allow any building, structure or obstruction, sign or signage, to remain in a public space unless authorised to do so by permit.

Penalty: 5 penalty units

Interference with items

29. A person must not interfere with, remove or disturb any brick, glass, coin, masonry, ceramics or any other object of artistic, architectural, archaeological, historical, or scientific interest in a public space unless authorised by permit.

Penalty: 20 penalty units

PART 4 – PROHIBITIONS IN PUBLIC SPACES

Signs or notices

30. The General Manager may display a sign or notice permitting, prohibiting or restricting any activity in a public space except a highway, including but not limited to:
- (a) the playing or engaging in a game, sport or activity;
 - (b) driving or leaving any vehicle in a public space;
 - (c) the riding of bicycles;
 - (d) using wheeled recreational devices; or
 - (e) the lighting of fires.

31. A person must not fail to comply with a prohibition or restriction contained in a sign or notice in a public space.

Penalty: 2 penalty units

Division 1 – Activities in public spaces

Activities which are prohibited in a children's playground

32. A person must not do any of the following in a children's playground:
- (a) fail to comply with reasonable directions of an authorised officer, any Council employee or any sign or notice displayed in the children's playground;
 - (b) play any competition ball games; or
 - (c) misuse any children's playground equipment.

Penalty: 2 penalty units for a breach of sub-clause (a) or (b); and
10 penalty units for a breach of sub-clause (c)

Regulation of organised sporting and recreational activities

33. A person must not engage in organised sporting or recreational activities in a public space, whether or not the participants have paid any fee for participating, unless authorised to do so by permit. This clause does not apply to highways.

Penalty: 2 penalty units

Directions by authorised officers regarding games, sport and activities

34. An authorised officer may give reasonable directions to any person playing or engaging in a game, sport or activity in any public space:
- (a) to regulate the playing or engaging in a game, sport or activity in any public space; or

(b) to avoid inconvenience or risk of danger to any person in public space.

35. A person must not fail to comply with a direction by an authorised officer under clause 34.

Penalty: 2 penalty units

Playing or practising of golf in public spaces

36. A person must not play or practise golf or permit any person to play or practise golf in a public space, except where a public space has been designated by the General Manager for that purpose.

Penalty: 2 penalty units

Wheeled recreational devices

37. Except on a highway, a person must not use a wheeled recreational device in a public space other than on or in a specifically designed facility determined suitable by the General Manager.

Penalty: 2 penalty units

Bicycles

38. A person riding a bicycle in a public space must ride on a path designed for use by bicycles or for shared use by bicycles and pedestrians, which has been formed by Council. This clause does not apply to highways.

Penalty: 2 penalty units

Motorised bicycles and motorised wheelchairs

39. A person using a motorised bicycle or a motorised wheelchair in a public space must not exceed 25 kilometers per hour. This clause does not apply to highways.

Penalty: 2 penalty units

Aircraft

40. A person must not land or launch an aircraft in a public space unless authorised to do so by permit or in case of emergency.

Penalty: 10 penalty units

Division 2 – Control of animals

41. This Division does not apply to guide dogs as defined in the *Guide Dogs and Hearing Dogs Act 1967*.

Control of animals in public spaces

42. A person who is the owner or keeper of an animal may only allow the animal to be in a public space while it is under effective control.

Penalty: 5 penalty units

Dog training

43. A person must not conduct any organised dog training activities in a public space unless authorised to do so by permit or within an area which has been declared to be a training area pursuant to the *Dog Control Act 2000*, as identified by signs.

Penalty: 5 penalty units

Seizing animals

44. An authorised officer may seize any animal, except a dog, in a public space that is:
- (a) in a public space contrary to this by-law;
 - (b) causing or likely to cause danger to any person in a public space;
or
 - (c) posing or likely to pose a risk to public health and safety.

Notice of impounding

45. Subject to clause 49, an owner may claim an impounded animal if:
- (a) the person who asserts that they are the owner of the impounded animal has provided proof of ownership of the animal to the satisfaction of an authorised officer; and
 - (b) an authorised officer is satisfied that the offence committed under this by-law will not be repeated.
46. If an animal has not been claimed by its owner or a person on behalf of the owner within 48 hours of it being impounded, the General Manager is to give notice to the owner of the animal in accordance with section 195 of the Act.
47. If the owner of an impounded animal cannot be ascertained or found, the General Manager is to publish notice of the impounding of the animal in accordance with section 195 of the Act.
48. The owner of an impounded animal must pay any fees, costs and charges incurred by Council in respect of the impounding, maintenance and treatment of the animal, as notified by the General Manager, within 30 days of the notice provided by the General Manger unless otherwise agreed.

Penalty: 5 penalty units

49. The General Manager may detain an impounded animal until any fees, costs and charges specified in a notice are paid.

Sale or destruction of animals

50. The General Manager may:
- (a) sell, give away free of charge or destroy any animal impounded pursuant to this by-law, in accordance with section 197 of the Act, if:
 - (i) no one has claimed the animal within 14 days of impounding; or
 - (ii) any fees, costs and charges specified by notice have not been paid within the time specified in that notice; and
 - (b) arrange for an animal impounded pursuant to this by-law to be destroyed, in accordance with section 198 of the Act, if, in the opinion of a qualified veterinary surgeon, the animal is:
 - (i) seriously diseased; or
 - (ii) so injured or disabled as to be apparently in continual pain.

Interference with animals in pounds

51. A person must not remove or interfere with any animal seized under this Division.

Penalty: 10 penalty units

52. An authorised officer may:
- (a) retrieve by seizure an animal that is illegally removed; and
 - (b) detain the animal until the fees and costs arising from its detention and retrieval are paid.

Division 3 – Control of motor vehicles

53. This Division does not apply to highways.

Control of motor vehicles

54. A person must not drive a motor vehicle in a public space other than on a road unless authorised to do so by permit or an authorised officer.

Penalty: 5 penalty units

Barriers on roads

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

Penalty: 5 penalty units

Powers of authorised officers

56. An authorised officer may require the driver or user of a motor vehicle in a public space to stop the motor vehicle where the authorised officer believes on reasonable grounds that the driver, user or the occupants of the motor vehicle have committed an offence under this by-law.

57. An authorised officer may:

- (a) give reasonable directions to the driver, user or the occupants of a motor vehicle which has been stopped pursuant to clause 56;
- (b) close any road or place in a public space;
- (c) prohibit any motor vehicle from being taken or being allowed to remain on any road or place in any public space; or
- (d) require any motor vehicle to be removed from any road or place in a public space.

58. A person who is the driver or user of a motor vehicle must not fail or refuse to stop or comply with a reasonable direction from an authorised officer given pursuant to clauses 56 or 57.

Penalty: 5 penalty units

Parking

59. A person must not park or leave any motor vehicle in a public space except within an area set aside by the General Manager as a parking area, unless authorised to do so by permit.

Penalty: 5 penalty units

Division 4 – Camping

60. This division does not apply to a person who:

- (a) has inadequate, insecure or unsafe housing; or
- (b) is of no fixed address.

61. In this division:

camp means to:

- (a) erect a tent, camper trailer or similar portable shelter; or
- (b) place, park or leave a caravan, campervan, motorhome or similar vehicle in a public space between 10 pm and 6 am (except if legally parked on a highway); or
- (c) sleep in the open or in any form of shelter or vehicle between 10 pm and 6 am;

inadequate housing means a person is seeking respite from overcrowded housing;

insecure housing means a boarding house or where a person does

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not have control over access to their housing;

no fixed address means that a person does not have the right to live in a place; and

unsafe housing means person is escaping family or domestic violence.

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Camping

~~60-62.~~ Subject to clause ~~6364~~, a person must not camp in a public space without a permit to do so.

Penalty: 2 penalty units and 1 penalty unit for each day during which the offence continues

Signs to allow camping

~~61-63.~~ The General Manager may display any signs or notices in a public space permitting subject to conditions, or prohibiting or restricting the use of any site for camping.

~~62-64.~~ A person must not fail to comply with any signs or displayed under clause ~~6364~~.

Penalty: 5 penalty units and 1 penalty unit for each day during which the offence continues

Use of vehicle for camping

~~63-65.~~ The owner of a vehicle must not allow their vehicle to be used to camp on any public space.

Penalty: 2 penalty units and 1 penalty unit for each day during which the offence continues

Division 5 – Fires

Fires

[64-66.](#) A person, unless authorised to do so by permit, must not light a fire in a public space except:

- (a) in a designated fire place in a careful manner for cooking or warmth; or
- (b) in an emergency.

Penalty: 20 penalty units

[65-67.](#) Clause [6664](#) does not authorise the lighting of a fire contrary to the *Fire Service Act 1979*.

Responsibility for fires

[66-68.](#) If a fire is lit in a public space pursuant to clause [6664](#) then the person who lit the fire or any person who uses the fire for any purpose must:

- (a) not leave the fire unattended until it has been completely extinguished; and
- (b) take all reasonable steps to prevent the fire from spreading.

Penalty: 20 penalty units

Division 6 – Interacting with other users of public spaces

[67-69.](#) With the exception of malls, this division does not apply to highways, unless the activity may or does restrict the movement of pedestrians or vehicles.

Noisy activities

~~68~~.70. A person must not in a public space:

- (a) deliver any address or speak to an assembly of people;
- (b) play any musical instrument or sing;
- (c) play or reproduce any music or sound so that it is able to be heard outside a parked vehicle; or
- (d) conduct any amusement or entertainment for financial reward; except if the person has first obtained a permit.

Penalty: 2 penalty units

Meetings

~~69~~.71. A person must not conduct, take part or attend a meeting in or on a public space unless the General Manager has issued a permit authorising the meeting.

Penalty: 2 penalty units

Tours

~~70~~.72. A person must not act as a guide to organised tours or to individuals to provide assistance or information about matters including architecture, history and cultural matters unless the General Manager has issued a permit to do so.

Penalty: 2 penalty units

Division 7 – Miscellaneous

Cremated remains

~~71~~.73. A person must not scatter or place any cremated remains of a deceased person in a public space, unless authorised to do so by

permit.

Parking: 2 penalty units

PART 5 – MARINAS AND JETTIES

Use of marinas and jetties

72.74. A person may only use a marina or jetty:

- (a) subject to the provisions of this by-law;
- (b) in accordance with any notices displayed on or adjacent to the marina or jetty; and
- (c) in accordance with any reasonable direction made by an authorised officer or authorised person in relation to the marina or jetty.

Penalty: 5 penalty units

Days and times of operation

73.75. The days and times on which a marina or jetty will operate are those displayed on a sign on or adjacent to the marina or jetty, unless otherwise determined by the Council, the General Manager or an authorised officer.

74.76. Despite any sign on or adjacent to a marina or jetty, a marina or jetty may be closed by the General Manager.

Time limits

~~75.~~77. A person must not use a marina or jetty for a period which exceeds the berthing time limit as displayed on the notice erected at the marina or jetty, or if there is no berthing time limit displayed then for more than 24 hours.

Penalty: 2 penalty units

Registration of vessels

~~76.~~78. A person may only use a marina or jetty with vessels which are lawfully registered or exempt from registration in Tasmania.

Penalty: 5 penalty units

Condition of vessels

~~77.~~79. A person may only use a marina or jetty with vessels which are seaworthy.

Penalty: 5 penalty units

Standard terms of use of a marina or jetty

~~78.~~80. The following are standard terms of use of a marina or jetty and by using a marina or jetty, a person agrees to these terms:

- (a) Council does not take any responsibility for any vessel or any other property belonging to a person, including any property contained within a vessel, while the vessel or property are at a marina or jetty;
- (b) Council may obtain the name and address and any other personal information regarding the registered operator of that person's vessel; and
- (c) Council may operate CCTV at marinas or jetties and may use this

information for its own purposes.

Prohibited activities

~~79~~81. A person must not do the following:

- (a) repair or paint a vessel while it is berthed at a marina or jetty;
- (b) discharge any substance from a vessel while it is berthed at a marina or jetty, including toilet waste, oil and any chemicals; or
- (c) use the fire hoses at the marina or jetty unless in an emergency situation.

Penalty: 5 penalty units

PART 6 – CYCLEWAYS

Application of Road Rules

~~80~~82. A person who uses:

- (a) the intercity cycleway;
- (b) the Hobart Rivulet Park Shared Path; or
- (c) any other path which is identified by a sign erected by Council as being subject to the Road Rules;

must comply with the requirements of the Road Rules as if those areas were a road, as defined in rule 12 of the Road Rules.

Penalty: 2 penalty units

Restrictions on use

~~81~~83. A person must comply with any signage erected by the Council on:

- (a) the intercity cycleway; or
- (b) the Hobart Rivulet Park Shared Path.

Penalty: 2 penalty units

PART 7 – PERMITS

Granting permits

~~82-84.~~ A permit may be granted for any purpose under this by-law by:

- (a) the General Manager; or
- (b) any electronic method authorised by the General Manager, including via Council's website or an application operated by or on behalf of Council.

~~83-85.~~ No provision of this by-law is to be construed as preventing the General Manager from referring any application for a permit to the Council.

Applications

~~84-86.~~ Any application for a permit pursuant to this by-law is to be:

- (a) in accordance with any form approved by the General Manager;
- (b) accompanied by the fee specified by the General Manager, if any; and
- (c) where applicable, must be accompanied by the following:
 - (i) a statement in writing of the type of activity proposed to be undertaken by the applicant and the period in which it is proposed to be carried out;
 - (ii) a scaled drawing showing the location and extent of the proposed activity;
 - (iii) approvals from relevant authorities;
 - (iv) evidence of current public liability insurance or other relevant insurance; and
 - (v) such other information that the General Manager may

reasonably require.

~~85:87.~~ In deciding whether or not to grant a permit pursuant to this by-law, the General Manager may have regard to the following and any other relevant matters:

- (a) the type of activity proposed;
- (b) the location of that activity;
- (c) the impact of the proposed activity on public safety, the environment and amenity; and
- (d) any comments made by any employee of the Council or by a police officer in relation to the application.

Permits

~~86:88.~~ A permit granted under this by-law must be in writing and may be granted under such terms and conditions as the General Manager considers appropriate. Those conditions may include:

- (a) a restriction on the type of activity;
- (b) a restriction on the period in which the activity may be carried out;
- (c) the precautions to be observed while the activity is being carried out;
- (d) the requirement for supervision or control of the activity;
- (e) the record to be kept or notification to be given in relation to the any activity carried out pursuant to the permit;
- (f) the payment of a bond to cover any damage to Council property or any cleaning required, or the provision of an indemnity to Council for any other loss or damage; or
- (g) the acceptance of responsibility for any damage to or loss of Council property as a result of the activity.

~~87:89.~~ The holder of a permit granted pursuant to this by-law must comply with the terms and conditions of the permit.

Penalty (unless otherwise specified): 1 penalty unit

Production of a permit

~~88~~90. A permit holder is to produce the permit immediately when requested to do so by a police officer or an officer of the Council, and the holder of the permit must answer all questions which are reasonably necessary to establish that the person holds a permit in good faith.

Variation of permit conditions

~~89~~91. The General Manager may vary the conditions of any permit if he or she considers it is appropriate to do so.

~~90~~92. If the conditions of any permit are varied pursuant to clause ~~91~~89, the General Manager must serve a notice in writing on the permit holder stating:

- (a) the conditions of the permit are varied; and
- (b) the reason or reasons for the variation of the permit conditions.

~~91~~93. The conditions of a permit will be varied from the date of service of the notice of the variation.

Cancellation of permits

~~92~~94. The Council or the General Manager may cancel any permit if satisfied that:

- (a) a permit holder has breached any of Council's by-laws; or
- (b) a permit holder has breached a term or condition of the permit.

~~93~~95. If a permit is cancelled pursuant to clause ~~94~~92, the General Manager must serve a notice in writing on the permit holder stating:

- (a) the permit is cancelled; and

- (b) the reason or reasons for the cancellation.

~~94.96.~~ Cancellation of any permit is effective from the date of service of the notice of the cancellation.

~~95.97.~~ Nothing in this by-law is to be construed as preventing or prohibiting the Council from cancelling any permit if this is required due to the exercise or intended exercise of any local government functions, powers, rights or duties by the Council.

Notices

~~96.98.~~ For the purposes of clauses ~~92.90~~ and ~~95.93~~, a notice may be served in any of the following ways:

- (a) on the holder of the permit personally;
- (b) by ordinary post to the last known address of the permit holder; or
- (c) by notice being given in the public notice section of a newspaper circulating in the Hobart City Council municipal area.

~~97.99.~~ The date of service of a notice will be:

- (a) if the holder of the permit was served by ordinary post, 3 business days from the date the notice was posted; or
- (b) if the notice was given in a newspaper, the date of the publication of that newspaper.

PART 8 – RECOVERY OF COSTS

Expenses incurred

~~98.100.~~ The Council may rectify a breach of this by-law, including any damage to Council property, without ordering the offending person to undertake the rectification works.

~~99-101.~~ Any expense or damages incurred by the Council as a result of the breach of any of the by-laws, including expense or damages incurred by the forced closure or evacuation of a public space, will be paid by the person committing the breach and is recoverable by the Council as a debt due to it.

PART 9 – INFRINGEMENT NOTICES

~~100-102.~~ In this Part:

specified offence means an offence against the clause specified in Column 1 of the Schedule to this by-law.

~~101-103.~~ An authorised officer may issue an infringement notice to a person in respect of a specified offence and the monetary penalty payable under the infringement notice for that offence is the applicable sum specified adjacent to the offence in of the Schedule to this by-law.

~~102-104.~~ Different sums may be specified in an infringement notice according to the nature of the offence and whether payment is made within a specified time.

~~103-105.~~ 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.

~~104-106.~~ The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this by-law.

~~105-107.~~ 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.

~~106.108.~~ 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 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 with the General Manager a notice of election to have the offence or offences set out in the infringement notice heard and determined by a court.

~~107.109.~~ If a person who has been served with an infringement notice fails to take one or more of the actions required by clause ~~108.106~~ within the prescribed time, the infringement may be referred to the Director, Monetary Penalties.

~~108.110.~~ If the owner of the vehicle is issued with an infringement notice pursuant to this by-law, and the owner was not in control of the vehicle at the time the offence was committed, a statutory declaration may be provided to the General Manager within 14 days after being served with the infringement notice, pursuant to sections 170(2)(a) and 170(3) of the Act.

PART 10 – ENFORCEMENT

Hindering or resisting authorised officers

~~109.111.~~ A person must not obstruct, hinder, abuse, or resist any authorised officer in a public space in the discharge of the authorised

officer's duty.

Penalty: 3 penalty units

Directions

~~110~~112. An authorised officer may give reasonable directions to any person in relation to their use or treatment of, or presence in a public space.

~~111~~113. An authorised person may give reasonable directions to any person in relation to their use or treatment of, or presence in a public space.

~~112~~114. A person must not fail to comply with a reasonable direction from an authorised officer or an authorised person given under this by-law.

Penalty: 3 penalty units

Removal from public spaces

~~113~~115. Any authorised officer may:

- (a) remove any person from a public space whom the authorised officer reasonably believes has committed or who is committing an offence under this by-law; and
- (b) remove any thing which the authorised officer reasonably believes is in a public space without a permit or in breach of a permit.

Assistance of police officers

~~114~~116. A police officer is authorised to:

- (a) assist an authorised officer to carry out any action under clause ~~115~~113;
- (b) remove any person from a public space whom the police officer reasonably believes has committed or who is committing an offence under this by-law;
- (c) remove anything which is in a public space without the approval of the Council; and
- (d) arrest any person who is in a public space whom the police officer reasonably believes has committed or who is committing an offence under this by-law.

Removal and sale of vehicles

~~115~~117. If an authorised officer reasonably believes that there has been a breach of clauses 19 or 59 of this by-law, the authorised officer may:

- (a) remove the vehicle to a place of safety and keep it there until the following has been paid to Council:
 - (i) any penalty required to be paid pursuant to this by-law; and
 - (ii) any fee required by Council to be paid for the removal and detention of a vehicle; and
- (b) if the vehicle has not been collected pursuant to clause ~~117~~115(a) for a period of 7 days, the vehicle may be sold or destroyed by Council or at its direction.

~~116~~118. If a vehicle is sold pursuant to clause ~~117~~115(b), Council may retain the following from the sale proceeds:

- (a) any amounts outstanding pursuant to clause ~~117~~115(a);
- (b) any expenses associated with the sale of the vehicle, including any auctioneer's fees.

~~117,119.~~ If a vehicle is destroyed pursuant to clause ~~117115~~(b) or if the sale proceeds are less than the total of the amounts specified in clause ~~118116~~(a) and (b), the balance must be paid by the owner of the vehicle and are recoverable by the Council as a debt due to it.

**SCHEDULE
INFRINGEMENT NOTICE OFFENCES**

1: CLAUSE	2: DESCRIPTION	3: PENALTY (penalty units)
PART 2 – ACTIVATION OF PUBLIC SPACES		
6	Occupation of public spaces	0.25
7	Signboards – permitted	0.25
8	Signboards – not permitted	0.25
9	Directions regarding signboards	0.5
12	Limited access to certain places	1.25
14	Entry into public spaces when closed	1.25
15	Offer wares or services	0.5
16	Setting up stalls	0.5
17	Roadside vendors	0.5
19	Sale of vehicles	2.5
21	Display of items	0.5
PART 3 – PROTECTION OF PUBLIC SPACES		
22	Protection of Wildlife	5
23	Protection of Vegetation	5
24	Declared weeds	1.25
25	Protection of soil and material	5
26	Encroachments	5
27	Deposit, discharge of noxious matter	5
28	Buildings, structures, obstructions and signs	1.25

1: CLAUSE	2: DESCRIPTION	3: PENALTY (penalty units)
29	Interference with items	5
PART 4 – PROHIBITIONS IN PUBLIC SPACES		
31	Signs or notices	0.5
32(a) or (b)	Activities which are prohibited in a children's playground	0.5
32(c)	Misuse or damage any children's playground equipment	2.5
33	Regulation of games, sport and activities	0.5
35	Direction by authorised officers	0.5
36	Playing or practising of golf in public spaces	0.5
37	Wheeled recreational devices	0.5
38	Bicycles	0.5
39	Motorised bicycles and motorised wheelchairs	0.5
40	Aircraft	2.5
42	Control of animals in public spaces	1.25
43	Dog training	1.25
48	Notice of impounding	1.25
51	Interference with animals in pounds	2.5
54	Control of motor vehicles	1.25
55	Barriers on roads	1.25
58	Powers of authorised officers	1.25
59	Parking	1.25

1: CLAUSE	2: DESCRIPTION	3: PENALTY (penalty units)
6260	Camping	0.5
6462	Signs to allow camping	1.25
6563	Use of vehicle for camping	0.5
6664	Fires	5
6866	Responsibility for fires	5
7068	Noisy activities	0.5
7169	Meetings	0.5
7270	Tours	0.5
7374	Cremated remains	0.5
PART 5 – MARINAS AND JETTIES		
7472	Use of marinas and jetties	1.25
7775	Time limits	0.5
7876	Registration of vessels	1.25
7977	Condition of vessels	1.25
8179	Prohibited activities	1.25
PART 6 – CYCLEWAYS		
8280	Application of road rules	0.5
8384	Restrictions on use	0.5
PART 7 – PERMITS		
8987	Failure to comply with permit	.25
PART 10 – ENFORCEMENT		
111409	Hindering or resisting authorised officers	0.75

1: CLAUSE	2: DESCRIPTION	3: PENALTY (penalty units)
114112	Directions by authorised officers	0.75

Certified that the provisions of this by-law are in accordance with the law by:

.....
K.M. ABEY
Solicitor
Dated
At Hobart

Certified that this by-law is made in accordance with the *Local Government Act 1993* by:

.....
N.D. HEATH
General Manager
Dated
At Hobart

The common seal of the Hobart City Council was affixed on in the presence of:

.....
H.J. SALISBURY
Deputy General Manager
Dated:

.....
P.A. JACKSON
Manager Legal & Governance

