

DEVONPORT CITY COUNCIL

PARKING BY-LAW NO 1 OF 2023

BY-LAW made under section 145 of the *Local Government Act 1993* for the purpose of regulating and controlling the use of car parks belonging to or controlled by the Devonport City Council and section 100 of the *Local Government (Highways) Act 1982* for the purpose of prescribing compositions under that section.

PART 1

PRELIMINARY

SHORT TITLE

1. This by-law may be cited as the Parking By-Law No.1 of 2023.

REPEAL

2. Parking By-Law No.1 of 2013 notified in the *Tasmanian Gazette* on 27 November 2013 is repealed.

APPLICATION

3.
 - (a) With the exception of clause 33, this by-law applies to all off street car parks in the municipal area of the City of Devonport operated by the Council.
 - (b) Clause 33 of this by-law relates to infringement notice penalties pursuant to section 100 of the *Local Government (Highways) Act 1982*.

INTERPRETATION

4. In this by-law:
 - “authorised officer” means any employee of the Council authorised by the General Manager for the purposes of this by-law;
 - “car park” means any area owned by or under the control of the Council and designated for the parking of vehicles and all buildings equipment, signs, access ways, land, fences, chattels and structures used or connected in any way with the car park;
 - “Council” means the Devonport City Council;
 - “General Manager” means the General Manager of the Devonport City Council;
 - “infringement notice” means a notice complying with sections 149 and 170 of the *Local Government Act 1993*;
 - “note” means the monetary unit of Australia as defined in the *Currency Act 1965*;

“park” means to leave a vehicle in a stationary position whether attended or not;

“parking space” means a space within a car park 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;

“penalty unit” means a sum prescribed under the provisions of the *Penalty Units and Other Penalties Act 1987*;

“registered operator” of a motor vehicle or trailer includes:

- (a) the meaning assigned to that expression in the *Vehicle and Traffic Act 1999*; or
- (b) the registered operator of the vehicle within the meaning of the law of another jurisdiction; or
- (c) in the case of a vehicle to which a trade plate or similar device is affixed under the *Vehicle and Traffic Act 1999* or the law of another jurisdiction – the person to whom the trade plate has been issued; or
- (d) in the case of a vehicle to which a short term unregistered vehicle permit or similar permit has been issued under the *Vehicle and Traffic Act 1999* or the law of another jurisdiction – the person to whom the permit has been issued.

“reserved car park” means an area designated by Council for long term parking;

“reserved parking space” means a space designated by Council for long term parking;

“shopping trolley” includes any wheeled apparatus used for conveying items from one place to another;

“trolley bay” means a place in a car park designated for the temporary storage of shopping trolleys;

“voucher” means a document issued by a voucher machine;

“voucher machine” is a device installed by or for Council that issues a voucher or document after payment has been made

and:

- (a) indicates that the holder may park a vehicle in a space in the car park where the voucher was purchased; and
- (b) bears the date and time of issue.

DRIVING OF VEHICLES

PAYMENT OF FEE

5. A person must not park a vehicle in a car park without payment of the fee required by the conditions of entry to that car park, which conditions are indicated by signs displayed in the car park.

Penalty: a fine not exceeding 5 penalty units

PARKING LONGER THAN MAXIMUM PERIOD

6. A person must not allow a vehicle to remain in a car park if a voucher machine is installed and operating for longer than the person has paid for.

Penalty: a fine not exceeding 5 penalty units

USE OF VOUCHER MACHINES

7. A person parking a vehicle in a car park if a ticket dispensing machine is installed and operating, must not operate the ticket vending machine except in accordance with any notice or sign displayed or erected on or near the machine.

Penalty: a fine not exceeding 5 penalty units

INTERFERENCE WITH VOUCHER MACHINES

8. A person must not interfere with any voucher machine other than to take a voucher from a machine or to make payment for a voucher of the kind notified on the machine and take a voucher from the machine.

Penalty: a fine no exceeding 5 penalty units

PARKING VOUCHERS

- 9.
- (a) A person must not park a vehicle in a car park in which a voucher machine is installed and operating unless that person has displayed on the driver's side of the vehicle's dashboard an unexpired voucher.
 - (b) A voucher must be displayed so that the date and time of issue is clearly visible from outside the vehicle.

Penalty: a fine not exceeding 5 penalty units

- (c) A person must produce or display any voucher in a car park if the person is instructed to do so by an authorised officer, or if there is an instruction or direction to do so printed on the voucher or on a sign or notice posted in the car park.

Penalty: a fine not exceeding 2 penalty units

PARKING OF VEHICLES

- 10.
- (a) A person must not park a vehicle which is:
 - (a) not wholly within one parking space or which is not parked as directed by an authorised officer; and
 - (b) in a position where it obstructs the entry or exit of a vehicle to another parking space.

Penalty: a fine not exceeding 5 penalty units

- (b) An authorised officer or a police officer may remove a voucher if it contravenes this clause.

ENTRY AND EXIT OF CAR PARKS

11. A person driving a vehicle must not enter or leave a car park except by an access point designated by a Council sign.

Penalty: a fine not exceeding 5 penalty units

DRIVING OF VEHICLES

12. A person must not drive a vehicle in a car park at more than 15 kilometres per hour.

Penalty: a fine not exceeding 5 penalty units

PARKING EXCEEDING MAXIMUM TIME

13. A person must not park a vehicle in a car park if the period of parking is fixed for any duration exceeding that period. If the period is not fixed then the period must not exceed 24 hours unless approved by Council.

Penalty: a fine not exceeding 5 penalty units

PARKING IN AREAS SET ASIDE FOR CERTAIN VEHICLES

14. A person must not park a vehicle in any area of the car park which is set aside for certain class or kind of vehicle to be parked in that area, and there are signs, notices or other directions indicating that the area is set aside for that purpose, unless the vehicle is of the class or kind authorised by the sign, notice or other direction.

Penalty: a fine not exceeding 5 penalty units

PARKING IN AREAS SET ASIDE FOR CERTAIN PEOPLE

15. A person must not park a vehicle in any area of the car park which is set aside or reserved for use by a certain class of people, and there are signs, notices or other directions indicating that the area is set aside for that purpose, unless the person is of the class or kind authorised by the sign, notice or other direction.

Penalty: a fine not exceeding 5 penalty units

TOW AWAY

16. If a vehicle is parked in a car park in contravention of any provision of this by-law, the Council may remove the vehicle to a place of safety and keep it there until any fine, forfeit or composition has been made in accordance with

this by-law for the contravention. Council will recover all expenses incurred by it relating to the removal and holding of the vehicle.

INSTRUCTIONS BY AUTHORISED OFFICER

17. A person in a car park must not fail to comply with any signal or reasonable direction or instruction by an authorised officer.

Penalty: a fine not exceeding 2 penalty units

RESERVED SPACES

- 18.
- (a) The General Manager may create reserved car parks and spaces on land owned or under the control of the Council.
 - (b) A person must not park or leave a vehicle in a parking space or car park which is designated "Reserved" unless authorised to do so.

Penalty: a fine not exceeding 5 penalty units

- (c) An authorised officer may remove a vehicle if it contravenes this clause.

UNAUTHORISED REMOVAL OF INFRINGEMENT NOTICE

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

Penalty: a fine not exceeding 5 penalty units

SKIDDING OF VEHICLES

- 20.
- (a) A person must not drive a vehicle so:
 - (a) it skids; or
 - (b) it leaves rubber from its tyres on the surface of the car park.

Penalty: a fine not exceeding 5 penalty units

- (b) A police officer may arrest a person found offending under this clause.

DISTRIBUTION OF ADVERTISEMENTS

21. A person must not distribute or cause to be distributed any advertisement, book, card, handbill, notice, pamphlet, print, paper or placard within a car park without the written permission of an authorised officer.

Penalty: a fine not exceeding 5 penalty units

DAMAGE TO COUNCIL PROPERTY

22.

- (a) A person must not remove or damage Council property within any car park.

Penalty: a fine not exceeding 10 penalty units

- (b) A police officer may arrest a person found offending under this clause.

GRAFFITI

23.

- (a) A person must not mark, write on or in any other way deface Council property within any car park.

Penalty: a fine not exceeding 5 penalty units

- (b) The General Manager of Council may give written approval for painting or a similar activity to occur in a car park.

- (c) A police officer may arrest a person found offending under this clause.

PROHIBITED CONDUCT

24.

- (a) A person must not threaten, or use abusive language to an authorised officer acting in the course of their employment in relation to or in connection with any matter relating to a car park.

Penalty: a fine not exceeding 5 penalty units

- (b) A police officer may arrest a person found offending under this clause.

USE OF SKATES AND CYCLES

25.

- (a) A person is not to ride a machine propelled by human power which includes a skateboard, bicycle, scooter, in-line skates and roller skates during hours indicated by signs in a car park.

Penalty: a fine not exceeding 2 penalty units

- (b) A person may ride a bicycle in a car park in order to park it.

OBSTRUCTION AND SHOPPING TROLLEYS

26.

- (a) A person must not cause any obstruction to vehicle or foot traffic in a car park.

Penalty: a fine not exceeding 5 penalty units

- (b) A person must not leave unattended or abandon a shopping trolley anywhere in a car park other than in a trolley bay.

Penalty: a fine not exceeding 5 penalty units

SUPPLY OF NAME AND ADDRESS

27.

- (a) A person within a car park must supply their correct and full name and permanent or present temporary address if requested by an authorised officer or by a police officer.
- (b) A police officer may arrest a person if the officer or an authorised officer finds the person offending against this clause.

Penalty: a fine not exceeding 5 penalty units

REQUEST TO LEAVE AN AREA

28.

- (a) A police officer or authorised officer may ask a person whom they reasonably believe is offending against this by-law to leave a car park.
- (b) A person who does not obey the directions of a police officer or an authorised officer is guilty of an offence.

Penalty: a fine not exceeding 5 penalty units

- (c) A police officer or authorised officer may remove any person from the car park who is offending under this clause.

CLOSURE OF CAR PARKS

29. An authorised officer may close any car park or portion of it.

USE OF CAR PARKS FOR OTHER PURPOSES

30. An authorised officer may give written approval for a car park to be used for any purpose and impose conditions for its use.

ACTING CONTRARY TO SIGNS OR DIRECTIONS

31.

- (a) A person must not do anything in the car park contrary to any direction or instruction on any notice or sign erected, displayed, or shown or contrary to any sign or instruction given by any authorised officer.

Penalty: a fine not exceeding 2 penalty units

PART 2

PENALTIES

INFRINGEMENT NOTICES

32.

- (a) In this clause "**specified offence**" means an offence against the clause specified in Column 1 of Schedule 1.
- (b) An infringement notice may be used 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.

AMOUNTS PAYABLE

33.

- (a) An authorised officer may:
 - (a) Issue an infringement notice of 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.
- (b) 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, by mailing to registered address or by electronic means.
- (c) The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this by-law.
- (d) Payment of an infringement notice issued under this by-law must be made to the General Manager within 28 days of the issue of the infringement notice to avoid the infringement notice being referred to the Director, Monetary Penalties Enforcement Service.

34. For the purposes section 100(4) of the *Local Government (Highways) Act 1982*, the prescribed penalty for an infringement notice issued for an offence under section 97, 98 or 99 of that Act is the applicable sum specified adjacent to the offence in the following table and shall be rounded down to the nearest dollar:

Section	Description of Offence	Penalty (Penalty Units)	Reduced penalty if paid to Council within 14 days from date of service of the Infringement Notice (Penalty Units)	Reduced penalty if paid to Council after 14 days but within 28 days from date of service of the Infringement Notice (Penalty Units)
Section 97(1)(a)(i)	Remaining parked whilst meter not running	.55	.16	.27
Section 97(1)(a)(ii)	Exceeding maximum parking voucher displayed	.55	.16	.27
Section 97(1)(b)(i)	Parking without parking voucher displayed	.55	.16	.27

Section	Description of Offence	Penalty (Penalty Units)	Reduced penalty if paid to Council within 14 days from date of service of the Infringement Notice	Reduced penalty if paid to Council after 14 days but within 28 days from date of service of the Infringement Notice
Section 97(1)(b)(ii)	Parking longer than authorised by a parking voucher	.55	.16	.27
Section 97(1)(c)	Parking more than one motor vehicle in a space	.55	.16	.27
Section 97(1)(d)	Parking a motor vehicle partly inside and partly outside a space	.55	.16	.27
Section 98	Obstructing use of parking space	.55	.16	.27
Section 99	Parking whilst space closed	.55	.16	.27

SCHEDULE 1

Column 1 CLAUSE	Column 2 GENERAL DESCRIPTION OF OFFENCE	Column 3 Penalty (Penalty Units)	Column 4 Reduced penalty if paid to Council after 14 days from date of service of Infringement Notice (Penalty Units)	Column 5 Reduced penalty if paid to Council after 14 days but within 28 days from date of service of Infringement Notice (Penalty Units)
6	Parking longer than maximum period	.55	.16	.27
7	Use of voucher machine	.55	.16	.27
8	Interference with voucher machines	1	0.5	.75
9	Parking in car park without displaying current voucher	.55	.16	.27
10	Parking outside parking space	.55	.16	.27
11	Entry and exit to car park except by access point	1	0.5	.75
12	Excessive or unsafe speed in parking space	1	0.5	.75
13	Parking exceeding maximum time	.55	.16	.27
14	Parking in areas set aside for certain vehicles	.55	.16	.27
15	Parking in areas set aside for certain people	.55	.16	.27
17	Instructions by authorised officer	1	0.5	.75
18	Reserved spaces	.55	.16	.27

CLAUSE	GENERAL DESCRIPTION OF OFFENCE	Penalty	Reduced penalty if paid to Council after 14 days from date of service of Infringement Notice	Reduced penalty if paid to Council after 14 days but within 28 days from date of service of Infringement Notice
19	Removal of infringement notice	1	0.5	.75
20	Skidding vehicles in car park	1	0.5	.75
21	Distribution of advertising and other material in car park	1	0.5	.75
Column 1	Column 2	Column 3 (Penalty Units)	Column 4 (Penalty Units)	Column 5 (Penalty Units)
22	Damaging equipment in car park	1	0.5	.75
23	Graffiti in car park	1	0.5	.75
24	Prohibited conduct	1	0.5	.75
25	Use of skateboards etc in car park	1	0.5	.75
26	Obstruction of pedestrians and shopping trolleys in car park	1	0.5	.75
27	Supplying name and address	1	0.5	.75
31	Acting contrary to signs or directions	1	0.5	.75

Certified as being in accordance with the law by, Legal Practitioner.

.....
LEGAL PRACTITIONER

Certified as being in accordance with the *Local Government Act 1993* by the General Manager.

.....
GENERAL MANAGER

The common seal of the Devonport City Council has been hereunto affixed pursuant to a resolution of the Council passed on the 2023 in the presence of the General Manager.

Dated this day of 2023 at Devonport.

DRAFT