

**WEST COAST COUNCIL
PARKING BY-LAW**

By-Law No. 1 of 2016

A by-law of the West Coast Council made:

- (a) under Section 145 of the *Local Government Act 1993* (Tas) for the purposes of regulating and controlling the use of parking areas belonging to or controlled by the Council; and
- (b) under Section 100 of the *Local Government (Highways) Act 1982* (Tas) for the purpose of prescribing penalties for infringement notices issued for the commission of offences under the *Local Government (Highways) Act 1982* (Tas).

PART 1 – PRELIMINARY

1. Short Title

This By-Law may be cited as the Parking By-Law No 1 of 2016.

2. Repeal

The West Coast Council Parking By-Law No. 2 of 2006 made on the 22nd of November 2006 and notified in the Tasmanian Government Gazette on the 29 November 2006 at page 1889 is hereby repealed.

3. Interpretation

- (1) In this By-law, unless the contrary intention appears –

‘**Act**’ means the *Local Government Act 1993* (Tas);

‘**Authorised Officer**’ means an employee of the Council appointed by the General Manager as an authorised officer for the purpose of this By-Law. An Authorised Officer is to be considered the ‘Parking Attendant’ as defined in *Local Government (Highways) Act 1982* and has all the functions and authority described therein;

‘**By-Law**’ is a reference to this Parking By-Law No. 1 of 2016;

‘**Council**’ means the West Coast Council (ABN 20 448 787 926) constituted pursuant to the Act;

‘**General Manager**’ means the person appointed by Council from time to time to the position of general manager in accordance with section 61 of the Act;

‘**Highways Act**’ means the *Local Government (Highways) Act 1982* (Tas);

‘**Infringement Notice**’ means a notice complying with section 149 of the Act;

'Local Highway' has the meaning given to that term in section 3(1) of the Highways Act;

'Notice' includes a sign;

'Park' or **'Parking'** in relation to a Vehicle, means to stop the Vehicle or allow it to remain in a place where the driver or person in charge of the Vehicle intends to remain stationary, otherwise than: -

- (a) because the stopping of traffic prevents movements; or
- (b) so long only as is required to set down or take up passengers or goods without waiting;

'Parking Area' means any land owned or controlled by the Council and designated by public Notice or by a Notice erected on, over or within that land to be an area for the Parking of Vehicles but does not include any part of a Local Highway;

'Parking Meter' means a device installed by the Council in a Parking Area for measuring time on the insertion of a coin of the value shown on the device;

'Parking Space' means a place in a Parking Area, marked or indicated by means of lines, strips or other marks or devices, for the Parking of a Vehicle;

'person' includes a body corporate;

'Prescribed Hours' means the hours and days during which controlled Parking operates in a Parking Area or Parking Space as shown by a Notice: -

- (a) on or in the vicinity of a Voucher Machine and specifying the area to which that Notice applies; or
- (b) on a Parking Meter related to that Parking Space; or
- (c) on a Notice in the vicinity of that Parking Space; or
- (d) on a Notice near the entrance of the Parking Area;

'Vehicle' means a vehicle within the meaning of s.3(1) of the *Traffic Act 1925* (Tas);

'Voucher' means the document issued by a Voucher Machine; and

'Voucher Machine' means a device installed by the Council in a Parking Area that, on the insertion of a coin of the value shown on the device or on a Notice in the vicinity of the device, issues a document bearing an imprint indicating the date and time to which the holder is authorised to park a Vehicle.

- (2) A Parking Meter is related to a Parking Space if: -

- (a) a single Parking Meter is installed in, above or adjacent to the boundary of that single Parking Space; or
 - (b) the Parking Meter has indicated on it or on a Notice in its near vicinity that it relates to a particular Parking Space, whether alone or including other Parking Spaces;
- (3) A Notice may use words, generally understood abbreviations, generally understood numbers, or generally understood symbols, or any combination of them.
- (4) A Notice that is substantially the same as any traffic sign shown in Schedule 2 of the *Road Rules 2009* (Tas) has the same meaning as that traffic sign under those Rules and any symbols or abbreviations used in those signs are taken to be generally understood.
- (5) Any abbreviations listed in Schedule 1 of the *Road Rules 2009* (Tas) are taken to be generally understood abbreviations for the purposes of this By-Law.

PART 2 – COUNCIL OFF-STREET CAR PARKS

4. Parking Offences

During Prescribed Hours, a person must not Park a Vehicle in a Parking Area: –

- (1) in a Parking Space for which there is a related Parking Meter: -
 - (a) unless that Parking Meter is running; or
 - (b) longer than the maximum period (if any) notified in writing on that Parking Meter; or
- (2) in a Parking Space for which there is a Voucher Machine: -
 - (a) unless the parking of the Vehicle is authorised by a voucher obtained from that Voucher Machine and properly displayed on the Vehicle; or
 - (b) after the expiry of time shown on the Voucher; or
 - (c) longer than the maximum period (if any) authorised by the Voucher or by a Notice on or in the vicinity of the Voucher Machine; or
- (3) in a Parking Space in which another Vehicle, that was Parked before the first mentioned Vehicle stopped there, remains Parked in it; or
- (4) partly inside and partly outside a Parking Space.

Penalty: in each case, as provided in Schedule 1 and as defined clause 9 of this By-Law.

For the purposes of this clause 4, a Voucher will be considered to be properly displayed on a Vehicle if: -

- (1) not being a motor cycle or trailer, if the Voucher is so placed on the dashboard against the interior of a windscreen or window of the Vehicle; or
- (2) being a motor cycle or trailer, the Voucher is attached to the Vehicle,

and all writing and imprinted words, figures and symbols appearing on the side of the Voucher bearing the date and time of expiry are capable of being clearly read by a person standing beside the driver's side of the Vehicle.

5. Restricted parking

- (1) An Authorised Officer may in or by a Parking Space or on any related meter or with respect to any other space within a Parking Area place a Notice indicating: -
 - (a) that the space may not be used for the parking of vehicles; or
 - (b) the words "*no parking*", "*no standing*", or other words indicating that the Parking Space may not be used for the parking of Vehicles;
- (2) Council may issue permits authorising persons to Park a Vehicle in a Parking Space that is subject to a notice referred to in clause 5(1)(b) on the terms and conditions or in the circumstances or for the purposes specified in the permit.
- (3) Clauses 4(1) and 4(2) do not apply to a Vehicle while it is Parked in a Parking Space in accordance with a permit issued under clause 5(2) in respect of that Vehicle.
- (4) A person must not Park a Vehicle or allow a Vehicle to remain parked in a Parking Space: -
 - (a) to which clause 5(1)(a) applies; or
 - (b) with respect to which clause 5(1)(b) applies without, or contrary to, a permit issued under clause 5(2) with respect to that Parking Space.

Penalty: as provided in Schedule 1 and as defined in clause 9 of this By-Law.

6. Reserved parking spaces

- (1) A person must not Park a Vehicle in a Parking Space in respect of which there is in, on or in the near vicinity of that Parking Space, a Notice indicating that the Parking Space is reserved:
- (a) for people with disabilities unless: -
 - (i) the Vehicle displays a current parking permit for people with disabilities in accordance with the *Traffic (Road Rules) Regulations 1999* (Tas); and
 - (ii) the person complies with the conditions of the use of that permit; or
 - (b) for a specific Vehicle or category of Vehicle unless the Vehicle is the specific Vehicle or within the category specified by that Notice; or
 - (c) for a specific person or category of people unless that person is a person within the category of persons for which that Parking Space is reserved; or
 - (d) if the Notice does not indicate the person or Vehicle or category or persons or Vehicles, then without a permit issued by Council authorising the use of that Parking Space by that person or Vehicle.

Penalty: in each case, as provided in Schedule 1 and as defined in clause 9 of this By-Law.

7. Tow away

- (1) If a Vehicle is parked in a Parking Area 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 and there has been paid to the Council together with the further sums of: -
- (a) \$50.00; plus
 - (b) \$2.00 for each day, or part of a day, during which the Vehicle is so kept by the Council.
- (2) A Police officer may assist an employee of the Council to remove a Vehicle under clause 7(1) of this By-Law.

PART 4 – MISCELLANEOUS OFFENCES

8. Offences

A person must not, within a Parking Area: -

- (1) operate, or cause to be operated, a Parking Meter or Voucher Machine otherwise than in accordance with the instructions (if any) affixed to, appearing on, or nearby the Parking Meter or Voucher Machine; or
- (2) insert, or cause to be inserted, into a Parking Meter or Voucher Machine anything other than a coin of the kind specified on or nearby the Parking Meter or Voucher Machine; or
- (3) operate, or cause to be operated, a Parking Meter or Voucher Machine otherwise than by the insertion of a coin of the kind specified on or nearby the Parking Meter or Voucher Machine;
- (4) insert, or cause to be inserted, a bent, damaged, deformed or otherwise irregular coin into a Parking Meter or Voucher Machine; or
- (5) remove, or cause to be removed, an infringement notice affixed to a Vehicle so that its contents do not become known to the person in charge of the Vehicle; or
- (6) except with the authority of the Council damage, deface, paint, write on, obscure, or otherwise interfere with a Parking Meter, Voucher Machine or a device for covering a Parking Meter or a voucher machine; or
- (7) except with the authority of the Council, attach or affix anything to, place anything on or stand anything against a Parking Meter, Voucher Machine or a device for covering a Parking Meter or a Voucher Machine; or
- (8) Park a Vehicle in a Parking Area or part of a Parking Area for a longer period of time than that specified in any Notice which the Council has displayed within the Parking Area limiting the maximum period of time during which Vehicles may be Parked in it; or
- (9) fail to obey the lawful direction of an Authorised Officer or Police officer in directing that person as to the manner in which to Park; or
- (10) Park a vehicle in such a position as to prevent or hinder the ingress or egress of other vehicles; or
- (11) drive a Vehicle at a speed exceeding a signposted speed limit, or, if no speed limit is so signposted, exceeding 25kmph; or
- (12) except with the authority of the Council, dismantle, paint, wash, or repair any Vehicle within a Parking Area except where necessary to enable the Vehicle to be removed from the Parking Area; or
- (13) deposit or place in or on any Vehicle any advertisement, book, card handbill, notice, pamphlet, paper, placard, or print without the consent of an Authorised Officer, the Council, or the owner or the driver of the Vehicle; or

- (14) remove, damage or deface any equipment of or provided by the Council in a Parking Area.

Penalty: in each case, as provided in Schedule 1 and as defined in clause 9 of this By-Law.

PART 5 –PENALTIES & EXEMPTIONS

9. Parking Penalties

A person who commits an offence specified in clauses 4, 5, 6, or 8 of this By-Law is liable on summary conviction to a fine of 5 penalty units.

10. Council Expenses

In addition to any penalty imposed under this By-Law, the Council may recover any expense incurred by it in consequence of a failure to comply with, or a contravention of, this By-Law as a debt payable by the person so failing to comply or contravening.

11. Exemptions

Clauses 4, 5, 6 and 8 of this By-Law do not apply to Vehicles: -

- (a) in use as ambulances in connection with a medical emergency;
- (b) being used by the Tasmanian Fire Service in connection with a fire which the Vehicle is attending to; or
- (c) in use by Tasmania Police in connect with police business;
- (d) in use by West Coast Council in connection with West Coast Council business.

PART 6 – INFRINGEMENT NOTICES & ENFORCEMENT

12. Infringement notices – breach of By-Law

- (1) In this clause 12, ‘**specified offence**’ means an offence against the clause of this By-Law specified in Column 1 of Schedule 1 to this By-Law.
- (2) An infringement notice may be issued 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 that 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) In addition to any other methods 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.
- (5) Payment of an infringement notice issues 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.
- (6) The *Monetary Penalties Enforcement Act 2005* (Tas) applies to an infringement notice issued under this By-Law.

13. Infringement notices – offences under Highways Act

- (1) In this clause 13, '**highways offence**' means an offence against the relevant provision of the Highways Act specified in Column 1 of Schedule 2 to this By-Law.
- (2) Pursuant to section 100(4) of the Highways Act, the prescribed penalties to be paid to Council for infringement notices issued for the commission of a highways offence are set out in Schedule 2 to this By-Law.
- (3) An infringement notice may be issued in respect of a highways offence and the monetary penalty set out adjacent to the offence in Column 3 of Schedule 2 is the penalty payable under the infringement notice for that offence.
- (4) An Authorised Officer may:
 - (i) issue an infringement notice to a person that the Authorised Officer has reason to believe is guilty of a highways offence; and
 - (ii) issue one infringement notice in respect of more than one highways offence.
- (5) In addition to any other methods of service, an infringement notice alleging that a Vehicle has been used in relation to a highways offence may be served by affixing it to that Vehicle.
- (6) Clauses 12(5) and 12(6) of this By-Law apply with respect to infringement notices issued in respect of highways offences.

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SCHEDULE 1

INFRINGEMENT NOTICES - PENALTIES

Column 1 CLAUSE	Column 2 OFFENCE	Column 3 PENALTY (Penalty Units)	Column PENALTY Penalty reduced if paid with 14 days.
4(1)	Parking a Vehicle in a Parking Space where there is a Parking Meter in breach of (a) or (b)	0.25	0.13
4(2)	Parking a Vehicle in a Parking Space which there is a Voucher Machine in breach of (a) or (b) or (c)	0.25	0.13
4(3)	Parking a Vehicle in a Parking Space in which another Vehicle is parked	0.25	0.13
4(4)	Parking a Vehicle partly inside and partly outside a Parking Space	0.25	0.13
5(4)	Parking a Vehicle or allowing a Vehicle to remain parked in a Parking Space in breach of (a) or (b)	0.25	0.13
6(1)(a)	Parking a Vehicle in a Parking Space reserved for people with disabilities in breach of (i) & (ii)	0.25	0.13
6(1)(b)	Parking a Vehicle in a Parking Space reserved for a special Vehicle or category of Vehicle	0.25	0.13

6(1)(c)	Parking a Vehicle in a Parking Space reserved for a specific person or category of people	0.25	0.13
6(1)(d)	Parking a Vehicle in a Parking Space without Council permit	0.5	No reduction in penalty
8(1)	Operate or cause to be operated a Parking Meter or Voucher Machine otherwise than in accordance with instructions	0.5	No reduction in penalty
8(2)	Inserting or cause to be inserted anything other than a coin of the specified kind into a Parking Meter or Voucher Machine	0.5	No reduction in penalty
8(3)	Operate or cause to be operated a Parking Meter or Voucher Machine otherwise than by the insertion of a coin of the specified kind	0.5	No reduction in penalty
8(4)	Insert or cause to be inserted a bent, damaged, deformed or otherwise irregular coin into a Parking Meter or Voucher Machine	0.25	No reduction in penalty
8(5)	Remove or cause to be removed an Infringement Notice affixed to a Vehicle	0.5	No reduction in penalty
8(6)	Damage, deface, paint, write on, obscure, or otherwise interfere with a Parking Meter, Voucher Machine or a device for covering a Parking Meter or a Voucher Machine	1	No reduction in penalty

8(7)	Attaching or affixing anything to, placing anything on or stand anything against a Parking Meter, Voucher Machine or a device for covering a Parking Meter or a Voucher Machine	1	No reduction in penalty
8(8)	Parking a Vehicle in a Parking Area or part of a Parking Area for a period of time longer than that specified in a relevant Notice	0.25	No reduction in penalty
8(9)	Failure to obey a lawful direction given by a relevant person as to the manner in which to Park	0.5	No reduction in penalty
8(10)	Parking a Vehicle in a manner that prevents or hinders the ingress or egress of other Vehicles	0.5	No reduction in penalty
8(11)	Driving a Vehicle at a speed exceeding the speed limit for a Parking Area	0.5	No reduction in penalty
8(12)	Dismantling, painting, washing, or repairing a Vehicle within a Parking Area	1	No reduction in penalty
8(13)	Depositing or placing materials in or on any Vehicle without consent	0.25	No reduction in penalty
8(14)	Removing, damaging or defacing any equipment of, or provided by, the Council in a Parking Area	1	No reduction in penalty


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SCHEDULE 2

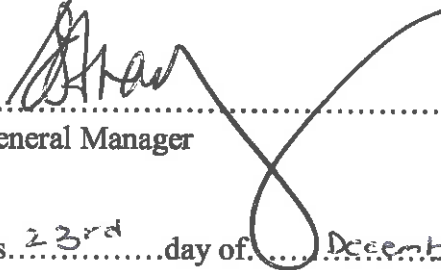
INFRINGEMENT NOTICES - PENALTIES

Column 1 SECTION	Column 2 OFFENCE	Column 3 PENALTY (Penalty Units)
97(1)	Enforcement of controlled parking	1
98(1)	Obstruction of parking space	1
99(9)	Closure of parking space	1


Certified as being in accordance with the law by:


.....
Legal Practitioner *Marc Edwards*
Paige Scragg Lawyers
Dated this *22nd* day of *December* 2016 at *Hobart, Tasmania*

Certified as being in accordance with the *Local Government Act* 1993 (Tas)


.....
Acting General Manager
Dated this *23rd* day of *December* 2016 at *Queenstown, Tasmania*

The Common Seal of the West Coast Council has been placed on this document pursuant to a resolution of Council passed on the *13th* day of *December* 2016 in the presence of:


.....
Mayor


.....
Acting General Manager



