



Proposed By-Law and Regulatory Impact Statement

Glenorchy City Council
**Public Places and Infrastructure By-Law
2022**

By-Law No. 1 of 2022
Adopted by Council on 25 July 2022

Glenorchy City Council Public Places and Infrastructure By-Law 2022

Contents

	Page
Preliminary	
1 Short title	2
2 Dictionary	2
Public Places Generally.....	4
3 Permit required to interfere with Public infrastructure.....	4
4 Commercial activity	4
5 Busking and similar activities.....	4
6 Public speaking and similar activities	4
7 Camping	5
Recreational areas, Natural Area and Reserves	5
8 Restricted access to certain places.....	5
9 Possession of certain items in Parks	5
Flood Catchment Management.....	5
10 Protection of Riparian Areas	5
Licenses and Permits	
11 Application for a Permit.....	6
12 Permit Not Required.....	6
13 Grant of a Permit	6
14 Cancellation, variation or suspension of a Permit.....	7
Notices and Enforcement	7
15 Directions of Authorised Persons.....	7
16 Infringement notices	8
17 Continuing offences	8
18 Supply of name and address	9
Schedule 1 Specified Offences	9

Glenorchy City Council Public Places and Infrastructure By-Law No.1 of 2022

Preliminary

1 Short title

This By-law may be cited as the Public Places and Infrastructure By-Law.

2 Dictionary

In this By-law—

Act means legislation of the State or Commonwealth.

Aircraft means any manned or unmanned craft that can fly through the air.

Authorised Person means:

(a) an employee of the Glenorchy City Council staff who has been assigned duties related to compliance with legislation and Council policies; or

(b) a police officer.

Busk means conducting a public performance on a Road, including playing musical instruments, dancing, singing and other acts of a similar nature.

Camp/Camping includes the erection or use of a tent or other similar moveable or temporary shelter.

Council means the Glenorchy City Council established under the *Local Government Act 1993*.

Event means a presentation, public display, assembly, concert, or similar occasion but excludes:

(a) a private function, party, reception, dinner, where less than 150 people are present and no animals other than guide dogs and assistance animals are involved; or

(b) a sporting event where less than 50 people are present, other than an activity for the purpose of using wheeled transport such as Vehicle racing.

Hunting Equipment includes a firearm, slingshot, archery devices, traps, snares, hunting animals, or similar thing capable of injuring a person or animal.

Interfere means without Council approval on or under a Road or Park:

(a) carry out works (including excavations, erecting signs, landscaping, creating entrances to Park, fencing, making gardens, building tracks, altering vegetation);

- (b) damage, alter, or remove Council infrastructure;
- (c) cause or allow the persistence of an encroachment or obstruction (including the storing of objects such as building materials, firewood, shipping containers, skip bins, caravans, boats, Vehicle parts, and construction plant and equipment);
- (d) discharge or dump of material (such as excessive amounts of water, soil or pollutants); or

but excludes the lawful use of a Road by a Vehicle exercising highway rights.

Permit includes a letter, ticket, licence, lease or other form of written approval issued by Council for the purposes of allowing or regulating the activities described in this By-law but excludes a permit for a use or development issued under the *Land Use Planning and Approvals Act 1993*.

Permit holder means a person who has obtained a Permit from the Council under this By-law.

Park means the whole or any part of a:

- (a) sports ground, pool facility, or recreation ground;
- (b) area of reserve, bushland, esplanade or other public open space;
- (c) planted embankment, gardens, rockery or similar installation;
- (g) any other area or facility designated by a sign at a public entry point as a park, reserve, or similar type of public open space; or
- (f) any vehicle route, cycleway, pathway or car park area within any of the above areas, that is owned by, or under the control of, the Council.

Public Speaking means delivering an address to the public.

Riparian Area means any part of:

- (a) a watercourse or public stormwater system as defined in the *Urban Drainage Act 2013*;
- (b) a "A landslip area" or a "B landslip area" or equivalent declared under the *Mineral Resources Development Act 1995*
- (c) an area identified in a public notice published by the Council as a Riparian Area for the purposes of this By-Law.

Road means a highway subject to the care, control or management of Council and includes (but is not limited to) any part of a —

- (a) highway;
- (b) local highway as defined by the *Local Government (Highways) Act 1982*;
- (c) footpath or cycleway not within a Park; and
- (d) nature strip or median strip.

Roadside Vending means:

- (a) the sale, promotion or provision of goods, services, food or drink to the public from a Park or on a Road; and
- (b) the bringing on to a Park or Road of a Vehicle, equipment or goods for that purpose,

but excludes the temporary display for sale of a lawfully parked Vehicle outside the Vehicle owner's residence.

Special Event means an activity approved as a Special Event by the Council.

Vehicle has the meaning given in the *Traffic Act 1925*.

Wildlife includes whole or parts of, any living creature as defined in the *National Parks and Wildlife Act 1970*, except domestic or farmed animals.

Public Places Generally

3 Permit required to interfere with Public infrastructure

- (1) Unless authorised by a Permit, a person must not Interfere with a Road or Park.

Penalty: Fine not exceeding 20 penalty units.

4 Commercial activity

- (1) Unless authorised by a Permit, a person must not conduct Roadside Vending.

Penalty: Fine not exceeding penalty—5 penalty units.

5 Busking and similar activities

- (1) Unless authorised by a Permit, a person must not Busk in a Park or on a Road.

Penalty: Fine not exceeding 5 penalty units.

6 Public speaking and similar activities

- (1) Unless authorised by a Permit, a person must comply with a Council sign on Park or Road that regulates or prohibits a person, organising or participating in an Event, Public Speaking, or any similar activity.

Penalty: Fine not exceeding 5 penalty units.

7 Camping

- (1) Unless authorised by a Permit, a person must comply with a Council sign that regulates or prohibits Camping in an area.
Penalty: Fine not exceeding 5 penalty units.
- (2) It is an offence to a charge under subclause 7(1) that the person was homeless and had no alternative options for accommodation.

Recreational areas, Natural Area and Reserves

8 Restricted access to certain places

- (1) Unless authorised by a Permit, without lawful excuse a person must not enter or remain in any part of a Park contrary to a sign, or notice reserving, prohibiting or restricting access to that part of the Park
Penalty: Fine not exceeding 5 penalty units.
- (2) Unless authorised by a Permit, without lawful excuse a person must not drive or park a Vehicle in a Park unless it is:
 - (a) driven on a road or trail designated as open for Vehicles of that type;
or
 - (b) parked within an area set aside by the Council as a parking area.Penalty: Fine not exceeding 5 penalty units.

9 Possession of certain items in Parks

- (1) Without lawful excuse, or a permit, a person must not enter or remain in a Park while in possession of any Hunting Equipment, poisonous baits, Wildlife, woodcutting implements, or Aircraft.
Penalty: Fine not exceeding 5 penalty units.

Flood Catchment Management

10 Protection of Riparian Areas

- (1) Unless authorised by a Permit, a person must not, contrary to the instructions of an Authorised Person, create or allow the continuance of a danger of harm to the health, safety or welfare of the public in relation to a Riparian Area, including (but not limited to):
 - (a) causing or permitting the continuance of a water flow obstruction;
 - (b) taking inadequate measures to secure against contaminating a Riparian Area with soil, debris and pollutants; or
 - (c) obstructing inspections, testing, or other control measures intended to deal with risks to life and property in a Riparian Area."

Penalty: Fine not exceeding 5 penalty units.

Licenses and Permits

11 Application for a Permit

- (1) An application for a Permit must be in writing to the Council. The application is to be accompanied by:
 - (a) any prescribed fee;
 - (b) in any form that may be prescribed by the Council; and/or
 - (c) any other information and materials requested by Council officers or specified elsewhere in this By-law.

12 Permit Not Required

- (1) Despite anything else in this By-law, a Permit is not required if:
 - (a) the activity is otherwise authorised under an Act without the person requiring the agreement of Council as the owner and manager of the relevant land;
 - (b) a public notice or approved Council policy explicitly identifies the activity as one which does not require a Permit under this By-law; or
 - (c) the activity or class of activity is approved as a Special Event.
- (2) Emergency services personnel do not require a Permit for an activity regulated by this By-Law while acting in:
 - (a) the ordinary course of their employment, or
 - (b) the role of an emergency services volunteer.

13 Grant of a Permit

- (1) The Council may grant a Permit.
- (2) When considering the grant of a Permit, the Council may have regard to any matter including (but not limited to):
 - (a) the applicant's prior record of compliance with this By-law or any other relevant law;
 - (b) any failure to comply with a request to provide relevant information;
 - (c) the safety and convenience of the public; and
 - (d) the provisions of any relevant Act, standard, policy, or guideline.Applications which do not meet the above criteria may be refused.
- (3) When considering an application for a Permit, or the setting of Permit conditions, any competition that might arise between new and previously established businesses is not a relevant consideration. Otherwise, the

Council may impose any conditions on a Permit granted under this By-law that they consider appropriate.

- (4) The Council may grant a Permit of any duration and for single or multiple activities.
- (5) Unless specified otherwise by Council, a Permit is not transferrable.
- (6) The holder of a Permit must not contravene the conditions of a Permit granted under this By-law.

Penalty: Fine not exceeding 5 penalty units.

14 Cancellation, variation, or suspension of a Permit

- (1) The Council may cancel, vary, or suspend a Permit—
 - (a) if the Permit Holder contravenes any Act, this By-law; or a condition of a Permit;
 - (b) if the Permit was granted on the basis of false, misleading or incomplete information;
 - (c) if changes in circumstances since the Permit was granted make the continued operation of the Permit inappropriate or unlawful;
 - (d) if necessary to prevent—
 - (a) non-compliance with an Act or this By-law;
 - (b) harm to human health or safety or personal injury;
 - (c) property damage or a loss of amenity;
 - (d) the unsafe movement or obstruction of traffic;
 - (e) the unsafe use of a road; or
 - (e) at the Permit Holders request.
- (2) Council must give the Permit Holder written notice of a variation to, or cancellation or suspension of a Permit.

Notices and Enforcement

15 Directions of Authorised Persons

- (1) An Authorised Person may give a direction to a person to—
 - (a) cease any conduct or activity which constitutes a breach of the by-law; or
 - (b) take action to prevent or remedy a breach of the by-law.
- (2) A direction given by an Authorised Person under this By-law may be given verbally, or in writing.
- (3) A direction given under this By-law may:

- (a) be subject to such conditions and requirements and allow such time period as the Authorised Person may determine;
 - (b) may require that the action or work to be done only by a person with the appropriate qualification or experience.
- (4) Unless otherwise specified in a direction, a person to whom a notice or direction is given is to comply with the direction at the cost of that person.
- (5) A person must not without lawful excuse, fail to comply with a direction given under this By-law.
Penalty: Fine not exceeding 20 penalty units.
- (6) The Council may undertake the work required in a direction given pursuant to this By-law if the person to whom a direction is given fails to comply with the direction within the time specified in the direction.
- (7) Any expense incurred by Council as a result of a person's contravention or failure to comply with a provision of this By-law is a debt payable to Council by that person and is recoverable in a court of competent jurisdiction in addition to any penalty imposed under this By-law.

16 Infringement notices

- (1) An infringement notice may be issued by an Authorised Person:
- (a) for an offence; and
 - (b) for the penalty,
- listed in column 1 of Schedule 1.
- (2) The infringement notice may be issued for more than one offence.
- (3) payment of the monetary penalty set out in an infringement notice must be made to Council in the manner specified in the infringement notice.
- (4) To avoid having the matter referred to the Monetary Penalties Enforcement Service a person who is served with an infringement notice must, within 28 days of the date of service of the notice, do one or more of the following:
- (a) pay the monetary penalty in full;
 - (b) apply to the Council for withdrawal of the infringement notice; or
 - (c) lodge a notice of election to have the offence or offences set out in the infringement notice heard and determined by a court.

17 Continuing offences

- (1) Where a person:
- (a) commits an offence under this By-law;
 - (b) is given notice of the offence;
 - (c) continues to carry out the act or omission that constituted the offence after being given notice of the offence; and

(d) is subsequently convicted of the offence,

the person is liable to a further penalty of 2 penalty units for each day during which the act or omission continues after the person was given notice of the offence.

- (2) The penalty in sub-clause (1) does not displace the penalty specifically prescribed elsewhere for the offence and is to be imposed in addition to the penalty for the offence.
- (3) In this clause **convicted** includes a deemed conviction, such as a result of a person paying a fine or failing to appeal an infringement notice within a prescribed time limit.

18 Supply of name and address

- (1) An Authorised Person may require a person to give his or her name and address if the Authorised Person reasonably believes that the person is offending or has offended against this By-law.
- (2) A person who fails or refuses to comply with a requirement under sub-clause (1) or who states a name or address that is false, is guilty of an offence.

Penalty: Fine not exceeding 5 penalty units.

Schedule 1 Specified Offences

Column 1	Column 2	Column 3
Clause	General description of offence	Penalty units
3	Interfere with Public Infrastructure without a permit	2
4(1)	Roadside Vending without a permit	2
5	Busking without a permit	1
6	Public speaking without a permit	1
7(1)	Camping without a permit	2
8(1)	Entering a restricted place	2
8(2)	Misuse of Vehicle in a Park	2
9	Restricted items in a Park	2
10	Nuisances in Riparian Areas	2
13	Contravening permit conditions	2
15(5)	Obstruction or Failure to Comply with a Direction	5
18(2)	Failure to provide name and address	2