

KENTISH COUNCIL

RESERVES, PARKS AND GARDENS BY-LAW

BY-LAW NO 1 OF 2012

A By-law of the Kentish Council, made under Section 145 of the Local Government Act 1993 to regulate, control, and protect Council's reserves, recreation grounds, parks and gardens owned by or under the control of the Kentish Council.

PART 1 - PRELIMINARY

1. Short Title

This By-law may be cited as the "Reserves, Parks and Gardens By-law".

2. Interpretation

In this By-law, unless the context otherwise indicates:-

"authorised officer" includes the Manager and any other person appointed by the Manager as an officer for the purposes of this By-law;

"camping" includes:

- (a) to erect portable shelter suitable for sleeping in overnight, whether or not that portable shelter is on or attached to a vehicle; or
- (b) being in any such portable shelter at any time during a night, or
- (c) to sleep at any time during a night in the open or in any vehicle or shelter except a building designed for human habitation; or
- (d) at any time during a night, to place, park or leave a vehicle that appears designed or equipped internally or externally to accommodate overnight sleeping, including a mobile home, campervan, caravan, slide-on-van, fifth wheeler, camper trailer or any other similar vehicle;

"Council" means the Kentish Council;

"Doc's Walk" means a series of pathways at the Kentish Health Care Centre Park;

"fire pot" means a container with a flue or vent in which a fire may be safely lit;

"honesty box"	means method of charging for a service such as camping which relies upon each visitor to pay at an unattended box using the honour system. Tickets are not issued and such sites are usually unmanned;
"Manager"	means the General Manager appointed as such under Section 61 of the Act or a person appointed by the General Manager to perform the relevant function under this By-law;
"Kentish Health Care Centre Park"	means all the land situate at 1 Henry Street Sheffield comprised in Folio of the Register Volume 158313 Folio 1 of approximately 2608 hectares;
"night"	means from 8.00pm to 7.00am on the next day;
"overnight permit"	means the permit provided for in clause 48 of this by-law;
"parking area"	means any area in or associated with a public reserve constructed or set aside by Council for parking of vehicles including all equipment, signs, access ways, fences and structures used or connected in any way with the parking area;
"parking space"	means a space within a parking area 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 penalty units for the purposes of the <i>Penalty Units and Other Penalties Act 1987</i> ;
"public reserve"	means the whole or any part of a reserve, beach, coastal or river foreshore, rockery, area of bushland, natural area, planted embankment, plantation, sports ground, recreation ground, swimming pool, park or garden owned, or under the control of the Council, including: (a) any road, path or car parking area within any of those areas; (b) any structure or building erected on those areas; and (c) the exterior grounds of any building owned, leased or otherwise under the control of the Council that is not in those areas.
"RV"	means a self contained recreational vehicle;
"self contained recreational vehicle"	means a vehicle that is fully self-contained with respect to shower, toilet, washing, cooking and sleeping facilities and must have holding tanks for all toilet waste and sullage water sufficient for at least 96 hours use by the occupants.

- "vehicle" means a vehicle as defined in the *Vehicle & Traffic Act 1999*.
- "written authority" includes authorisation or permission given in any relevant lease, licence or hire agreement granted by or on behalf of the Council.

3. Application & Exemptions

- (1) Except as provided in Parts 6 and 7, this By-law applies to all public reserves within the municipal area of the Kentish Council.
- (2) The offences created by this By-law do not apply to:
 - (a) any employee, contractor or authorised volunteer of or engaged by the Council who is acting within their authorised role; or
 - (b) any emergency services personnel acting within their emergency services role; or
 - (c) any person acting in accordance with written authority or consent of the Manager given before the relevant action is done and in compliance with any condition or restriction expressed in that authority or consent.

PART 2 - USE OF PUBLIC RESERVES

4. Closure of Public Reserve

- (1) The Manager may close all or any part of a public reserve to members of the public by a notice to that effect erected in a conspicuous position at each entrance to the public reserve (if all the public reserve is closed) or near the part closed.
- (2) The Manager may only close a public reserve or part of it under subclause (1) if the Manager considers that is reasonably necessary for:
 - (a) safety reasons; or
 - (b) its repair, maintenance or improvement; or
 - (c) the conduct of an organised event or competition.
- (3) A person must not be in any part of a public reserve that is closed to the public, whether or not that closure is effected in accordance with this clause.

Penalty: a fine not exceeding 2 penalty units.

5. Hire of Public Reserve

- (1) The Manager may enter into an agreement to hire a public reserve.

(2) The Manager may impose terms and conditions in an agreement to hire a public reserve.

(3) A person must comply with the terms and conditions within an agreement to hire a public reserve.

Penalty: a fine not exceeding 5 penalty units.

(4) A person who has hired a public reserve must not sub-hire the public reserve.

Penalty: a fine not exceeding 5 penalty units.

(5) In this clause "hire" includes lease or licence and "hired" has a similar meaning.

6. Creation of an Entrance to a Public Reserve

(1) A person who owns land adjoining a public reserve may create an entrance to a public reserve only if that person has the Manager's written authority to do so.

(2) The Manager may impose terms and conditions on the creation and use of an entrance to a public reserve.

(3) If the Manager notifies a person in writing to close an entrance to a public reserve that person must close the entrance by the method notified.

(4) A person who is served with a notice to close an entrance from their land to a public reserve must close the entrance within 14 days of receiving the notice.

(5) Council may execute any necessary work to close an entrance to a public reserve if:-

(a) the person whose land it leads to is directed by the Council to close the entrance and fails to do so; or

(b) the entrance is not closed in the manner notified by the Manager.

(6) If Council closes an entrance, the person from whose land it leads must pay to the Council any cost or expense it incurs in closing the entrance.

(7) A person must not have an entrance from his or her land to a public reserve which is not approved by the Manager.

Penalty: a fine not exceeding 10 penalty units.

PART 3 - DISALLOWED ACTIVITIES

7. Erection of a structure

(1) A person must not erect a building or other structure in a public reserve.

Penalty: a fine not exceeding 5 penalty units.

- (2) Council may remove an unauthorised building or structure and take any reasonable measures to return the public reserve to the condition it was in before the building or structure was erected.
- (3) A person who erects an unauthorised building or structure must pay to the Council any cost or expense the Council incurs in removing it.
- (4) The Manager may give an exemption from the requirements of clause 7(1) for a specified period of time.

8. Erection of a Sign

- (1) A person must not erect or allow to be erected a sign, banner or billboard in a public reserve.

Penalty: a fine not exceeding 5 penalty units.

- (2) An authorised officer may remove an unauthorised sign and store it in a safe place until any fine imposed under this clause has been paid.
- (3) The Manager may give an exemption from the requirements of clause 8(1) for a specified period of time.

9. Sale of Wares, Chattels or Property

A person must not sell or offer for sale any wares, chattels or property, or undertake any fundraising activity, in any park, recreation ground, natural area or open space unless authorised to do so in writing by the Manager.

Penalty: a fine not exceeding 8 penalty units

10. Distribution of an Advertisement

- (1) A person must not distribute or arrange to be distributed any advertisement, book, card, notice, pamphlet, print, paper, promotional article or placard in a public reserve.

Penalty: a fine not exceeding 8 penalty units.

- (2) The Manager may give an exemption from the requirements of clause 10(1) for a specified period of time.

11. Sport or Activities

- (1) Except as provided in subclause (2), a person must not in a public reserve:
 - (a) conduct or participate in an organised sport, contest or game; or
 - (b) conduct any amusement or entertainment for financial reward; or
 - (c) play or practise golf.

Penalty: a fine not exceeding 10 penalty units.

- (2) Subclause (1) does not apply:
- (a) to the Sheffield Recreation Ground, the Railton Recreation Ground or the Wilmot Recreation Ground; or
 - (b) where signs or noticeboards indicate that the relevant activity is allowed; or
 - (c) to areas leased or hired to any person for the purposes of a sports ground.
- (3) The Manager may grant an exemption from the requirements of clause 11(1) for a specified period of time.

12. Use of Amplifiers

- (1) A person must not in a public reserve use or operate any amplifying or playing music or other sound in such a way as to annoy other users of the public reserve, residents of nearby houses or any other persons in the vicinity whether or not those persons are in the public reserve.

Penalty: a fine not exceeding 5 penalty units.

- (2) The Manager may give an exemption from the requirements of clause 12(1) for a specified period of time.

13. Use of Change Room and Public Toilet

A person over the age of six years, must not in a public reserve, enter a change room or public toilet reserved for the use of people of the opposite sex except to assist someone who is injured, threatened or in danger, elderly or disabled.

Penalty: a fine not exceeding 5 penalty units.

14. Use of children's playground

- (1) A person must not within 10 metres of any children's play equipment installed in a public reserve play any ball games.
- (2) A person must not in any public reserve misuse or damage any playground equipment.
- (3) A person must not use any playground equipment in a public reserve unless that person is of a suitable age for the use of that equipment or contrary to any Council sign on or near that equipment.

Penalty: a fine not exceeding 10 penalty units.

15. Collection of Money

- (1) A person must not take up a collection of money in a public reserve.

Penalty: a fine not exceeding 8 penalty units.

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- (2) The Manager may give an exemption from the requirements of clause 15(1) for a specified period of time.

16. Camping and Overnight Permits

- (1) Except as provided in subclause (2), (3) and (4) a person must not camp in a public reserve without written permission from an authorised officer.

Penalty: a fine not exceeding 10 penalty units.

- (2) A person may camp in the areas set aside for that purpose at:

- (a) Kentish Park, Sheffield; or
- (b) Lake Barrington Park, Wilmot;

for not more than 21 days in any 2 consecutive monthly periods.

- (3) In the areas set aside for camping at:

- (a) Sheffield Recreation Ground, Sheffield;
- (b) Railway Park, Railton;

a person may camp in a self-contained recreational vehicle for not more than 4 days any period of 28 consecutive days.

- (4) A person may camp in the area set aside for that purpose at O'Neills Creek Picnic Reserve, Gowrie Park ("the reserve") for not more than 4 days in any consecutive month period

- (5) (i) A person may only camp at any of the public reserves referred to in 16(2), (3) and (4) if that person has obtained an overnight permit or is covered by the terms of such a permit. Failure to obtain a permit is a breach of this by-law.

Penalty: a fine not exceeding 5 penalty units.

- (ii) A fee for an overnight permit will not exceed 15 fee units calculated in accordance with the *Fee Units Act 1997* for each night to which the overnight permit applies.

- (iii) An overnight permit must include the following information:

- (a) the full name, residential address and postal address of the person applying for the permit and the names of those who will stay in that camp; and
- (b) the registered number and description of any vehicle owned or used by the applicant for a permit; and
- (c) the date or dates in respect of which overnight stopping is permitted.

- (iv) An overnight permit must be displayed

- (a) in a position clearly readable by a person standing outside the camp;
and
- (b) during the period authorised by the overnight permit.

Penalty: a fine not exceeding 1.5 penalty units.

- (v) An authorised officer or a person referred to in clause 2 may cancel any overnight permit if that officer or person reasonably believes that the overnight permit was issued is in breach of any provision of this By-law or any owner, renter or occupant of the vehicle in respect of which the permit was issued has or is offending against this By-law.
 - (vi) The Manager may give an exemption from the requirements of Clause 16 (1) for a specified period of time.
- (6) A person must not in a public reserve discharge or allow to be discharged from any vehicle or container any sillage, effluent or water except into a facility provided by Council and indicated by signs in its vicinity to be used for that purpose and in accordance with the directions given on that sign. For this purpose "discharge" includes empty or partially empty the relevant container by hand or otherwise.

Penalty: a fine of 15 penalty units

17. Climbing of Trees, Natural Features and Other objects

A person must not climb a tree, cliff or escarpment or on to a building or roof in a public reserve.

Penalty: a fine not exceeding 5 penalty units.

18. Animals

- (1) A person must not in a public reserve ride any animal or permit any animal referred to in subclause (2) that is owned by them, normally kept by them or under their control to walk, exercise, stray, forage or graze in a public reserve except:-

- (a) on roads, paths or tracks or in areas provided for that activity; and
- (b) where signs or noticeboards indicate that the activity is allowed.

Penalty: a fine not exceeding 5 penalty units.

- (2) In subclause (1), "animal" means an animal as defined in the *Dog Control Act 2000* except:

- (a) a dog as defined in that Act; and
- (b) native birds and animals.

19. Use of wheeled recreational devices

- (1) A person must not in a public reserve ride, drive or use a wheeled recreational device except;
- (a) except as permitted by Parts 6 of this By-law; or
 - (b) on roads, paths or tracks where signs or notice boards indicate that use of that device is allowed.

Penalty: a fine not exceeding 5 penalty units.

- (2) A person may drive or use a wheeled recreational device on the pathways on Doc's Walk provided in the Kentish Health Care Centre Park and on Doc's Walk.

20. Firearms & Missiles

A person must not in a public reserve:

- (a) fire a firearm; or
- (b) throw a stone or other object; or
- (c) use a slingshot, catapult, bow or arrow or a similar device; or
- (d) fire, discharge or propel any other missile.

Penalty: a fine not exceeding 20 penalty units

21. Breaking of glass

- (1) A person must not in a public reserve break any glass.

Penalty: a fine not exceeding 10 penalty units.

- (2) It is a defence to the offence created by subclause (1) if the person:

- (a) did not intentionally break the glass; and
- (b) took reasonable care to avoid the glass being broken; and
- (c) acted promptly to clean up all the broken glass and remove it from the public reserve or lawfully deposit it within the public reserve.

22. Disorderly conduct

A person must not in a public reserve:

- (a) use threatening or offensive language; or
- (b) act in a disorderly or indecent manner.

Penalty: a fine not exceeding 8 penalty units.

23. Abuse of an authorised officer

A person must not threaten, intimidate, 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 public reserve.

Penalty: a fine not exceeding 8 penalty units.

24. Alcohol Free Areas

- (1) The areas identified in Schedule 2 are alcohol free areas at all times.
- (2) The Council may by resolution declare any other area in a public reserve to be an alcohol free area:
 - (a) during any specified hours or periods or both; or
 - (b) at all times.
- (3) The Council may by resolution revoke or amend any resolution under subclause (2), whether or not any specified period has expired.
- (4) For the purposes of subclause (5) an area of a public reserve is an alcohol free area if it is identified in Schedule 2, or:
 - (a) has been declared an alcohol free area under subclause (2); and
 - (b) the area is identified as being an alcohol free area by a sign within it or in its close proximity; and
 - (c) the sign indicates that the possession or consumption of alcohol is prohibited within that area: and
 - (d) if the Council's resolution provides that the area is alcohol free only during specified hours or periods:
 - (i) the sign states those hours or period; and
 - (ii) the action occurs during those hours or period.
- (5) A person must not in an alcohol free area:
 - (a) have any alcoholic beverage in their possession or control; or
 - (b) consume any alcoholic beverage.

Penalty: a fine not exceeding 10 penalty units.

- (6) In this clause "alcoholic beverage" means a beverage (other than a medicine) that:
 - (a) is intended for human consumption; and
 - (b) has an alcoholic content greater than 0.5% by volume when at a temperature of 20° Celsius.

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- (7) The Manager may give an exemption from the requirements of clause 24(1) for a specified period of time.

25. Fires

- (1) Subject to 25(3) a person must not light, feed, tend or use a fire in a public reserve except:

- (a) in a fire place provided by the Council for public use; and
- (b) in accordance with any directions given for its use by a Council sign on or in the vicinity of that fire place.
- (c) when using a fire pot.

Penalty: a fine not exceeding 20 penalty units.

- (2) When using a fire pot it must be set at least 100mm off the ground and must not be lit if it is within 3 metres of combustible vegetation.
- (3) A person must not light any fire in a reserve during a total fire ban.
Penalty: a fine not exceeding 20 penalty units

PART 4 - DAMAGE TO PROPERTY

26. Planting or Tending Vegetation

- (1) Except in the area designated for a "Community Garden" a person must not in a public reserve plant any vegetation

Penalty: a fine not exceeding 8 penalty units.

- (2) For the purposes of this clause, "plant" includes:

- (a) any method of placing vegetation in or on the ground in a way that is likely to allow or induce the vegetation to survive or grow; and
- (b) propagating, husbanding, watering or otherwise tending to vegetation.

27. Damage or Interference with Property

- (1) A person must not, in a public reserve move, remove, tamper with or damage any:

- (a) tree, shrub, plant, flower, or garden bed; or
- (b) wood or timber; or
- (c) sod, turf, loam, sand, gravel, stone, rock, cave formation; or
- (d) water pipe, tap, sprinkler, or hose; or

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- (e) pond or fountain or the water in it except to drink from a drinking fountain; or
 - (f) building or statue; or
 - (g) item of historic, archaeological, architectural or scientific interest whether man made or natural; or
 - (h) sign or public notice erected by or authorised by the Council.

Penalty: a fine not exceeding 15 penalty units.

- (2) In subclause (1), "tamper" includes write on, paint, deface or obscure.

28. Protection of wildlife

A person must not in a public reserve:-

- (a) take from the public reserve or have in their possession any wildlife or products of wildlife from that public reserve; or
- (b) use or have in their possession any hunting equipment; or
- (c) lay or set any trap or snare or deposit any poisonous or chemical substance; or
- (d) interfere with the nest, breeding place or habitation of any wildlife; or
- (e) intentionally rouse or disturb any wildlife.

Penalty: a fine not exceeding 20 penalty units.

PART 5 - VEHICLES

29. Owners and Persons in Charge of Vehicles

- (1) A person who is the registered operator of a vehicle as defined in section 170 (4) *Local Government Act 1993* or a person in charge of a vehicle must not permit or allow a person to do anything in or in connection with that vehicle that is contrary to this By-law.

Penalty: a fine not exceeding 10 penalty units.

30. Parking of a Vehicle

A person must not in a public reserve park a vehicle:-

- (a) in a parking area where parking spaces are marked unless it is parked wholly within a parking space; or
- (b) parked otherwise than as directed by an authorised officer or by signs and notice boards erected by the Council; or

- (c) in a position where it obstructs the entry or exit of a vehicle to another parking space or parking area.

Penalty: a fine not exceeding 5 penalty units.

31. Driving of a Vehicle

- (1) A person must not drive, ride or use a motorised vehicle in a public reserve or bring a motorised vehicle into a public reserve except:-
 - (a) on or in a road, path, track or parking area where signs or notice boards indicate that the type of vehicle is permitted; and
 - (b) in compliance with any directions, including any speed limit, indicated on the sign or notice board; and
 - (c) at a safe speed and in a safe manner.

Penalty: a fine not exceeding 10 penalty units.

- (2) The provisions of subclause (1) do not apply with respect to any road or parking area that appears from its design and construction to be a road or parking area open to public vehicles during any period during which it is open to public vehicles and in compliance with any signs with respect to the use of that road or parking area.
- (3) A person driving a vehicle in a public reserve must enter or leave a parking area in a public reserve by a proper access point provided by Council.

Penalty: a fine not exceeding 3 penalty units.

- (4) The Manager may grant an exemption from the requirements of Clause 31 (1) for a specified period of time.

32. Closure of Reserves to Vehicles

- (1) The Manager may close a public reserve or any part of a public reserve to vehicular traffic.
- (2) When a public reserve is closed to vehicular traffic a person must:-
 - (a) not enter the public reserve with a vehicle; or
 - (b) remove his or her vehicle from the public reserve.

Penalty: a fine not exceeding 10 penalty units.

33. Reserved Car Parking Space

- (1) The Manager may in a public reserve determine;

- (a) the location of reserved parking spaces or parking areas; and
 - (b) the conditions that apply to reserved parking spaces or parking areas.
- (2) A person must not park or leave a vehicle in a parking space or area which is designated "Reserved" unless authorised to do so.

Penalty: a fine not exceeding 5 penalty units.

34. Washing, Dismantling and Repair of Vehicle

A person must not in a public reserve dismantle, paint, wash, service or repair a vehicle unless it is reasonably necessary to enable the vehicle to be moved from the reserve.

Penalty: a fine not exceeding 5 penalty units.

PART 6 –SKATEBOARD & BMX TRACKS

35. Application

(1) This Part applies to:

- (a) that part of the area of the land in Certificate of Title Volume 107612 Folio 1 being part of the public reserve known as the King George V Park at High Street Sheffield which is developed as a skateboarding facility;
- (b) that part of the public reserve known as Goliath Park Railton that is laid out for use as BMX Tracks and enclosed within fencing;
- (c) in the event that a BMX Track and/or Skate Track is constructed at the Wilmot Recreational Ground that part of the land in Certificate of Title 230328 Folio 1 which is developed as a BMX Track and/or Skate Track.

(2) Except to the extent, if any, that any provision of this By-law expressly provides to the contrary, all other Parts of this By-law apply to all Skate and BMX Tracks referred to in this part.

36. Interpretation

In this Part, unless the context otherwise indicates:

"BMX" means a non-motorised bicycle.

"Skateboard" means skates, skateboard, rollerblades, non-motorised scooter or any similar device;

"Track" means an area laid out as a track for riding of a BMX or Skateboard in an area in the King George V Park, the Goliath Park Railton and/or the Wilmot Recreational Ground and includes any area laid out for persons waiting their turn to ride.

37. Use of Skate Track

A person may only use, be on or in the immediate vicinity of a Skateboard Track for the purpose of riding a Skateboard on such a Track or supervising or coaching a person who is doing so.

Penalty: a fine not exceeding 3 penalty units.

38. Use of BMX Track

A person may only use, be on or in the immediate vicinity of a BMX Track for the purpose of riding a BMX on such a Track or supervising or coaching a person who is doing so.

Penalty: a fine not exceeding 3 penalty units.

39. Open Hours - Tracks

A person must not use, be on or in the immediate vicinity of a Track:

- (a) before 8.00am or after 9.00pm between 14th October in any year and the 14th April in the following year, both dates inclusive; or
- (b) before 9.00am or after 6.00pm at any other time of the year.

Penalty: a fine not exceeding 5 penalty units.

40. Safety

- (1) A person on a Track who is riding BMX or Skateboard must at all times wear a helmet of the nature and in the manner required for a rider of a bicycle on a public road.

Penalty: a fine not exceeding 3 penalty units.

- (2) A person in or within 2 metres a Track must not do anything that endangers the safety of users of the relevant Track, including:
 - (a) leaving or placing anything, including any wheeled recreational device, on or within 2 metres of any Track; or
 - (b) being on or within 2 metres of any Track except when riding a wheeled recreational device.

Penalty: a fine not exceeding 8 penalty units.

- (3) Subclause (2) does not apply if:
 - (a) the person has fallen when riding and that person removes their wheeled recreational device from and leaves the Track as soon as practicable; or

- (b) the person is assisting another person who has fallen to leave the Track;
or
 - (c) with respect to subclause 2 they are within an area laid out for persons preparing to ride and they have their wheeled recreational device with them.
- (4) A person under the age of 5 years must not be on or within the immediate vicinity of a Track unless they are being supervised by a parent, legal guardian or another responsible adult acceptable to an authorised officer.

41 Bicycles Only - BMX Track

A person must not on the BMX Track:

- (a) ride, drive, use or bring into it any wheeled recreational device except a bicycle;
- (b) ride a bicycle within the Goliath Park Railton or the Wilmot Recreational Ground except on a BMX Track.

Penalty: a fine not exceeding 5 penalty units.

42. Designated Tracks

- (1) The Manager may erect a sign in a conspicuous position near the commencement of any Track specifying any or all of:
- (a) the age of the persons who may or may not use that Track;
 - (b) the experience, skills or other qualifications of persons who may or may not use that Track;
 - (c) the standard of equipment, including wheeled recreational devices and protective equipment, to be ridden, worn or used by persons who may or may not use that Track.
- (2) A person must not ride on a Track contrary to a sign erected under subclause (1).

Penalty: a fine not exceeding 5 penalty units

43. Restricting Others

- (1) A person must not restrict or attempt to restrict others from using a Track in compliance with this By-law.

Penalty: a fine not exceeding 3 penalty units.

- (2) For the purposes of subclause (1) "restrict" includes persuading or disrupting or attempting to persuade or disrupt others from lawfully using all or any part of a Track, whether verbally, by behaviour or otherwise and whether acting individually or as a group and any action which is reasonably likely to have or has that effect, whether that effect is intended or not.

44. Compliance with Directions

An authorised officer may give reasonable directions to any person on or in the vicinity of a Track or within 10 metres of it to:

- (a) avoid inconvenience or risk of danger to any person on the relevant Track; or
- (b) avoid a nuisance to persons in the vicinity, including the residents of nearby houses; or
- (c) ensure compliance with this By-law.

Penalty: a fine not exceeding 8 penalty units.

45. Requirement to Leave

- (1) A police officer or authorised officer may require any person who that officer reasonably believes is offending against this By-law to leave a Track and the area within 10 metres of it and remain out of the relevant Track and the 10 metre area around it until the next day or such longer period as that officer states.
- (2) A person who is required to leave under subclause (1) must promptly leave as directed and must not enter the relevant Track or be within 10 metres of it until the later of:
 - (a) the next day, if that officer has not stated any longer period; or
 - (b) after the period stated by that officer.

Penalty: a fine not exceeding 8 penalty units.

46. Banning

- (1) The Manager may give a written notice to a person banning that person from entering and/or being within 10 metres of a Track for up to six months from the date on which that notice is given if the person has, on at least two occasions within the preceding 12 month period, been required to leave under clause 45 and has complied with that requirement.
- (2) The Manager may give a written notice to a person banning that person from entering and/or being within 10 metres of a Track for up to 12 months, if the person has been required to leave under clause 45 on at least two occasions in the preceding 12 month period and has not complied with that requirement.
- (3) In addition to any other method provided by law, a notice under subclause (1) to be given to a person under the age of 18 years is sufficiently given to them if given to a parent or legal guardian of that child.

- (4) A person to whom a notice has been given under subclause (1) must not be in the vicinity of a Track or within 10 metres of it during the period to which that notice applies.

Penalty: a fine not exceeding 8 penalty units.

- (5) A person who breaches subclause (4) must not be on or in the immediate vicinity of a Track or within 10 metres of it for 2 years from that breach.

Penalty: a fine not exceeding 10 penalty units.

- (6) If the Manager is satisfied that a person who has been banned under subclauses (1), (4) or (5) will in future behave in an appropriate manner whilst using a Track, the Manager may by written notice terminate the banning period subject to any conditions or restrictions imposed in that notice.

- (7) A person to whom a notice has been given under subclause (6) must not act contrary to any condition or restriction imposed in that notice.

Penalty: a fine not exceeding 10 penalty units.

- (8) The Manager may give a written notice under subclause (1)(b) if a person breaches subclause (7).

47. Miscellaneous Offences

A person must not in any public reserve:

- (a) tie anything to any plant, pole, post, structure or building; or
- (b) hang any clothing, bedding or similar items outside the vehicle; or
- (c) damage any part of the overnight stop area including any landscaping, plants, poles, posts, structure or building; or
- (d) wash the exterior of any vehicle; or

Penalty: a fine of 5 penalty units

PART 7 - ENFORCEMENT

48. Rectification Notice

- (1) An authorised officer may give notice to a person who has done anything in contravention of this by-law which is capable of being rectified by any work or thing, requiring that person to do the work or thing that the authorised officer considers is reasonably required to rectify the consequences of that contravention.

- (2) A notice under sub-clause (1):

- (a) is to be in writing, signed by the authorised officer; and

- (b) is to be given to the person who contravened this by-law; and
 - (c) is to identify the contravention of this by-law; and
 - (d) is to state the work or thing to be done that is required to rectify the contravention; and
 - (e) is to state the time by which the work or thing is to be completed; and
 - (f) may state the time by which the work or thing is to be commenced or any timetable for the commencement or completion of any part of the work or thing to be done; and
 - (g) may require that the work or thing be done only by a person who has appropriate qualifications that are so required.
- (3) A person must not fail to comply with a notice given under sub-clause (1).
- Penalty: a fine not exceeding 10 penalty units
- (4) The Council may do any work or thing required by a notice under sub-clause (1) that is not done in accordance with that notice.

49. Recovery of Council's Expenses

Any expenses reasonably incurred by the Council in rectifying or remedying the consequences of any contravention of this by-law are recoverable by the Council as a debt payable by the person whose act or default constituted that contravention.

PART 8

INFRINGEMENT NOTICES

50. (1) In this clause –
- “specified offence” means an offence against the clause specified in column 1 of Schedule 1.
- (2) 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;
 - (b) Issue one infringement notice in respect of more than one specified offence;
 - (c) Impose a monetary penalty for the specified offence in respect of which the infringement notice is issued.
- (3) Infringement notices may be issued in respect of the offences specified in Column 1 of Schedule 1 to this By-law and the penalty specified in Column 3 opposite the offence is the penalty payable under an infringement notice issued in respect of that offence.

- (4) In order to avoid the infringement notice being referred to the Director Monetary Penalties Enforcement Service for enforcement action the person issued with an infringement notice must either:
 - (a) pay the total amount of the monetary penalty stated on the infringement notice to; or
 - (b) lodge a notice of election to have the offence heard by a Court with; the General Manager within 28 days of the date of service of the notice.
- (5) An infringement notice alleging that a vehicle has been used in relation to a prescribed offence may be served by affixing it to that vehicle.
- (6) The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this By-law.
- (7) All monies payable to the Council or General Manager under this By-law are a debt due to the Council and recoverable at law.

PART 9 – BY-LAW RESCISSION

51. The following By-laws of the Council are amalgamated with this By-law and are rescinded as separate By-laws from the date of commencement of this By-law:
- (1) King George V and Skate Park By-Law No 1 of 2002.
 - (2) BMX Park By-law No 1 of 2007.

SCHEDULE 1
Reserves, Parks & Gardens By-law No. 1 of 2012

INFRINGEMENT NOTICE OFFENCES

Column 1	Column 2	Column 3
CLAUSE	GENERAL DESCRIPTION OF OFFENCE	PENALTY UNITS
4(3)	Be in closed reserve	0.5
5(3)	Breach of hire agreement	2
5(4)	Sub-hire public reserve	2
6(7)	Non-approved entrance to a public reserve	3
7(1)	Illegal erection of building or structure	2
8(1)	Erection of sign, banner or billboard	2
9	Sale of wares	3
10	Distribution of advertisements	2
11(1)	Conduct or participate in sport	3
12(1)	Use of amplifiers	1
13	Use of change room	2
14(3)	Unsuitable use of playground equipment	3
15	Collection of money	3
16(1)	Camping without permission	2
16(4)	Discharge of sullage, effluent or water	5
16(5)(i)	Failure to obtain a camping permit	1
16(5)(iv)	Failure to display camping permit	5
17	Climbing trees or other objects	1
18(1)	Riding animal in contravention of by-law	1
19	Use of wheeled recreational devices	2
20	Firearms, slingshot, catapult, missile in contravention of by-law	5
21(1)	Breaking glass	2
22	Disorderly conduct	2
23	Abuse of authorised officer	2
24(5)	Have or consume alcohol in alcohol free area	2
25(1)	Light fire except in accordance with by-law	5
25(2)	Light fire in fire permit period	5
26(1)	Planting vegetation	2
27(1)	Damage or interfere with property	5
28	Hunting, disturbing or taking of wildlife, setting traps or snares	7.5
29(1)	Owners & persons in charge of vehicles responsible for compliance with by-law	2
30	Illegal parking of motor vehicle	1
31(1)	Driving or riding motor vehicle in contravention of by-law	3
31(3)	Drive in or out of reserve by other than proper access	1
32(2)	Vehicle entering closed public reserve	2
33(2)	Unauthorised parking	1
34	Dismantle, paint, wash, service or repair a vehicle	1
37	Use of Skate Track in contravention of by-law	2

38	Use of BMX Track in contravention of by-law	1
39	Be in BMX Track outside of opening hours	1
40(1)	Failure to wear a helmet	1
40(2)	Endangering safety	3
41	Use of vehicle other than bicycle or not on Track	1
42(2)	Ride on Track contrary to signage	1
43(1)	Restricting others from use	1
44	Failure to comply with directions	2
45(2)	Failure to leave when directed	2
46(4)	Failure to obey notice banning entrance	2
46(5)	Breach of notice banning entrance	3
46(7)	Acting contrary to notice banning entrance	3
49	Miscellaneous offences	1
50(3)	Failure to comply with a rectification notice	3

SCHEDULE 2

Alcohol Free Areas

- King George V Park Sheffield and including the Skate Park to which Part 6 applies.
- The area of Goliath Park and the Railton BMX Park to which Part 6 applies.
- Kentish Health Care Centre

This By-Law is certified as being in accordance with the Law.



.....
GEOFFREY W TREMAYNE
LEGAL PRACTITIONER

The Common Seal of the Kentish Council was affixed this*21st*.....day of*November*..... 2012 for and on behalf of the Kentish Council pursuant to a resolution of the Council passed on*20th November 2012*.....



GENERAL MANAGER