

# Code of Practice for Parking Enforcement on Private Land

## New Zealand



# CODE OF PRACTICE FOR PARKING ENFORCEMENT ON PRIVATE LAND

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## **1. Executive summary**

This Code summarises recommended best practice for parking management and enforcement on private land to maximise compliance. It includes:

- Conditions for signatories
- A hierarchy of enforcement options and supporting rationale:
  1. breach notices
  2. towing
  3. wheel clamping
- Situations when wheel clamping and/or towing should not be applied
- Responsibilities of signatories, including guidelines for:
  - a. signage information, placement and format
  - b. breach notices
  - c. customer service
  - d. use of third party subcontractors
  - e. grace periods
  - f. response time upon clamping
  - g. evidential requirements (photos)
  - h. complaints and appeals process
  - i. recovering unpaid breach notices and fees.

## **2. Code objectives**

- 2.1 The purpose of this Code is to promote industry best practice to ensure the control of parking on private land is fair and undertaken professionally.
- 2.2 The Code describes the enforcement tools that may be used and the processes to resolve disputes. It sets out best practice for people and organisations carrying out parking control on private land. It provides guidelines for property managers and landlords to ensure they have installed effective signage, markings or other parking controls at the entry point and within that clearly indicate parking is restricted, and the methods that may be used to achieve compliance.

## **3. Code administration**

### **3.1 Conditions**

- 3.1.1 Signatories must agree to abide by the Code and its principles at all times.
- 3.1.2 In the event of any conflict between the law and the Code, then the relevant law would take precedence.

### **3.2 Code signatories as preferred agents**

- 3.2.1 Property managers, landlords or those designated to manage on the principal's behalf are recommended wherever possible to engage enforcement agents to manage car parking who are Code signatories.
- 3.2.2 Wherever possible, enforcement agents are encouraged to only contract services to landlords and property managers who agree to comply with the minimum signage and operational requirements of the Code (section 5).

## **4. Enforcement options**

### **4.1 Prevention before enforcement**

Enforcement actions should be a last resort. The preventative approach should be prioritised over enforcement.

The following preventative mechanisms should be used to deter unauthorised parking:

- physical barriers to restrict or prevent access
- easy to understand and highly visible *warning* or *attention* signs
- consistent application of parking terms and conditions.

#### **4.2 A clear enforcement hierarchy for responding to unauthorised parking**

There are three recognised enforcement options for responding to unauthorised parking. These should be used in the following order of priority:

i. Issuing of breach notices

If this enforcement option fails, over a reasonable time period, to significantly reduce systemic unauthorised parking, an operator can consider using:

ii. Towing; or

iii. Wheel clamping where towing is not a practical option

#### **4.3 Breach notices**

A breach notice should be the primary enforcement tool because it:

- does not deprive the motorist of the use of their vehicle
- provides the motorist with a right to challenge their alleged unauthorised parking instead of making payment to recover their vehicle; this promotes natural justice
- reduces the risk of face-to-face confrontation between the enforcer and motorist
- is less damaging to the reputation of property owners and private parking operators than clamping or towing.

#### **4.4 Towing**

Signatories should only use towing to enforce unauthorised parking when the vehicle is:

- causing a major obstruction to traffic or access to parking
- a danger to pedestrians or other road users
- parked incorrectly or in a reserved space
- a repeat offender and in arrears for outstanding parking fees or enforcement costs
- found to be abandoned (see section 5.11).

In all other circumstances a breach notice should be issued instead.

#### **4.5 Wheel clamping**

Wheel clamping is “the immobilising of a vehicle by attaching a clamp or other device to a wheel to prevent or restrict its movement”. Wheel clamping is less effective as an enforcement tool because it does not free up the parking space.

Wheel clamping should only be considered for repeat offenders where access to authorised users would not be significantly restricted or where towing is not an option due to limited access. However, clamping should not be considered if there is a risk the vehicle will be left overnight. In such cases, towing should be considered instead where breach notices have previously failed to induce compliance. If a vehicle is clamped during the day, and the owner has not recovered it before night-time, the wheel clamp should be removed and the vehicle towed instead.

#### **4.6 Situations when wheel clamping and/or towing should not be applied**

##### **4.6.1 Avoiding confrontation (if a driver is present)**

A wheel clamp or tow should not be applied when the driver is present or returns to the vehicle. This is because there is a risk of confrontation between the parties which can lead to a breach of the peace.

##### **4.6.2 Wrongful detention of property**

A vehicle should not be clamped or towed if it is likely to result in the wrongful detention of property.

##### **4.6.3 Emergency vehicles**

A wheel clamp should not be applied to stationary emergency vehicles that are, or appear to be, undertaking emergency duties (e.g. police/fire/ambulance/doctor).

##### **4.6.4 Person performing an essential duty**

Local authority, public utility or their contractors' vehicle undertaking public duties should not be clamped or towed.

##### **4.6.5 Time limit exceeded**

When a vehicle has stayed beyond its purchased time but is otherwise correctly parked. A breach notice should be issued in this situation.

## **5. Responsibilities of Code Signatories**

### **5.1 Landlords' and property managers' responsibilities**

Landlords and property managers as signatories agree to comply with the minimum signage requirements in section 5.3 below. If parking restrictions are to be enforced at night, then the signage at the entrance to the carpark and the signage stating the terms and conditions should be clearly visible during the hours of darkness.

## 5.2 Parking enforcers' responsibilities

Parking enforcers as signatories agree not to enforce parking restrictions on private land where the signage does not meet the minimum requirements in section 5.3.

Parking enforcers, as signatories, also agree to comply with the minimum requirements for breach notices, fees and payments and dispute processes.

## 5.3 Enforcement signage, information, placement and format

If vehicles are parked under a contract (terms and conditions of parking), enforcement action may only be undertaken when there has been a breach of contract.

5.3.1 Enforcement signs should clearly state, in easy to understand language, the terms and conditions and the circumstances under which enforcement will take place.

5.3.2 There are four main types of enforcement signage:

- a. **Terms and conditions** of parking signs
- b. **'Warning'** or **'Attention'** signs
- c. **Repeater** Signs
- d. **Surface Markings**

Practical considerations, such as the size of the car park site or area, will determine whether all four sign types are necessary. For example, a car park area consisting of just five bays with limited signage space may only require a **terms and conditions** sign or a **'Warning'** or **'Attention'** sign.

**Terms and Conditions** signs detail the contract and terms to which the vehicle driver agrees upon entering, parking and leaving the vehicle in the car park.

**'Warning'** or **'Attention'** signs summarise the key enforcement terms of the contract, and for larger sites with additional restrictions refer the driver to the terms and conditions signage in the car park.

**Repeater signs** are additional short-reference signs. For example, they can specify whether the car park is enforced, or indicate specific bays, length of stay, mobility parking, loading zones etc.

**Surface markings** are line-marked wording that provide additional information on the ground. For example, directions, length of stay, mobility parking, loading zones, specific bays, or that the car park is enforced etc.

5.3.3 **Terms and conditions** of parking signs should include the following information:  
a) that the land is private property and is enforced

- b) if a vehicle is parked without authorisation, or has breached any parking conditions that apply, parking enforcement action may take place at any time, or during the hours specified
- c) the types of parking enforcement that may be used
- d) the enforcement fees that will apply if the driver is in breach of the terms and conditions
- e) a phone number where enquiries may be made
- f) any particular terms or conditions that are unusual that a driver should be aware of
- g) the registered company name and phone number of the enforcement operator.

5.3.4 **'Warning' or 'Attention' signs** should summarise the key enforcement terms and provide information on how to get a vehicle released and the cost thereof, if enforcement includes any form of vehicle immobilisation or removal.

5.3.5 Additional signage such as **repeater signs** and **surface markings** should be utilised where practical and whenever possible to enhance directions and information to the driver at the time of entering, parking or leaving the vehicle.

5.3.6 Placement

- enforcement signs should be clearly visible at the vehicle entrance to the site and at pedestrian exit points
- additional enforcement signs should be placed in other locations throughout the site where they are clearly visible and can be safely read without hindrance
- enforcement signs should be positioned to ensure visibility and be conspicuous
- if the site is enforced during the hours of darkness, the need for enforcement signage to be visible is just as important, and if other light sources are inadequate then supplementary illumination may be necessary
- enforcement signs should not be blocked from view, with clear lines of sight for both vehicular traffic and pedestrians
- enforcement signs should be clean and maintained regularly.

5.3.7 Format

- enforcement signs should be appropriately scaled to the type of site and placed in locations where they will attract the driver's attention
- enforcement entry or internal signage that vehicles drive past needs to be large-scale, brief and succinct
- enforcement signage located inside the car park that can be safely viewed on foot or from a parked vehicle should have more detail relating to the key enforcement terms.

## 5.4 Breach notices

- 5.4.1 When a vehicle is parked in a private car park, the driver is usually responsible for paying the tariff fee (if any) for parking, for following the terms and conditions which apply and for paying any enforcement fees.

The parking breach notice is the document you give to the driver or attach to the windscreen to inform them that they have broken the terms and conditions and are subject to enforcement fees. Where the driver is unable to be identified the breach notice should be sent to the vehicle owner.

- 5.4.2 As a minimum the breach notice is to include:

- a. Name and contact details of the organisation issuing the notice
- b. Notice number
- c. Notice date and time of breach
- d. Vehicle registration, make and colour
- e. Breach details (needs to clearly inform driver of breach)
- f. Breach dollar value
- g. Payment due date
- h. How to appeal
- i. What happens if payment is not made (including additional charges)
- j. Where to go for further information
- k. Issuers ID number or similar details.

## 5.5 Customer service/professionalism

- 5.5.1 As a signatory you should maintain a professional standard of behaviour in carrying out your operational duties and when dealing with the public.

This includes making sure that:

- your operational vehicles are marked clearly with appropriate livery or your business name, so that members of the public can identify you as the operator
- your front-line operational staff wear a uniform and carry a photo-identity card that is available for inspection by drivers
- you deal with drivers and other members of the public in a professional way, and avoid using aggressive or threatening language or behaviour.

- 5.5.2 You should not issue breach notices to:

- emergency vehicles (e.g. police/fire/ambulance/doctor) on an emergency call
- vehicles being used by a health worker (such as a midwife or district nurse) who is on an emergency call at the address under control and/or where the vehicle is clearly marked as such.

## **5.6 Misrepresentation of authority**

You should provide clear information to the public about what parking activities are allowed and what is unauthorised. It will be a breach of the Code if you:

- a. misrepresent to the public that your parking enforcement work is carried out under the statutory powers of the police or any other statutory authority.
- b. use terms which imply that parking is being managed, controlled and enforced under statutory authority. This includes using terms such as 'fine', 'penalty' or 'infringement'.

## **5.7 Third-party sub-contractors**

You may use sub-contractors to undertake individual tasks to help you in your parking management and enforcement responsibilities. If you do this, you are responsible for ensuring the sub-contractor is a signatory to the Code and complies with it as if you were carrying out the tasks. If the subcontractor does not comply with the Code, this failure will be treated as an act of non-compliance by you.

## **5.8 Grace periods**

You should allow a driver who enters your car park a reasonable 'grace period' in which to read terms and conditions signs and decide if they are going to stay or leave without having their vehicle issued with a parking breach notice.

You should allow the driver a reasonable grace period, for example 10 minutes, to leave the car park after the parking contract has ended, before considering enforcement action.

## **5.9 Response time upon clamping**

A contractor should remove a wheel clamp from a vehicle in breach within 30 minutes of receiving a request from the driver or owner.

Where the safety or wellbeing of the motorist is perceived to be at risk, for example elderly or disabled persons, priority attendance and release should be given by the contractor.

## **5.10 Vehicle clamped in error**

Where a vehicle is clamped in error the contractor shall promptly obtain management approval and, upon authorisation, immediately release the vehicle with a full verbal apology and no fee will apply.

### **5.11 Abandoned vehicles**

If a vehicle appears to be abandoned, the property owner/manager should be informed and advised to take appropriate action. Dealing with abandoned vehicles is outside the remit of this Code and the local police should be advised.

### **5.12 Evidential requirements/proof of non-compliance (photos)**

5.12.1 Photographs are to be taken at the time a breach notice is being issued. Digital photographs are preferable. As many photos as necessary to prove the breach of parking rules should be taken. These photographs should be provided on request or as part of any correspondence to the vehicle owner by post, fax or email, as evidence of the breach.

5.12.2 Requirements for photos include:

- the number plate or licence label is clearly visible
- a view of the entire dashboard
- the vehicles position including a detailed view of the background
- any other relevant details such as chalk markings and signage.

### **5.13 Disabled motorists**

Your staff should understand that some disabled people may take a longer time to park, get to the payment machine and leave the car park.

### **5.14 Complaints and appeals process**

The appeal process is to be outlined on the breach notice. The appeals process should contain the following key conditions:

- the driver/vehicle owner shall appeal in writing stating why they feel this breach notice was issued incorrectly
- the appeal can be sent via post, email or fax
- appeals should be sent within 14 days of the breach notice being issued unless extenuating circumstances apply
- a response should be sent to the customer within one week of receipt of the appeal
- if the response states there is an amount to pay, additional time should be provided to allow payment
- that additional time for payment should be a minimum of 14 days
- any re-appeals should be reviewed by a manager.

### **5.15 Complaints register**

A register of all complaints regarding the enforcement service or appeals process should be kept and made available to the Code administrators upon request.

### **5.16 Recovering unpaid breach notices and fees**

This code recommends:

- the breach notice provides 21 days for payment to be made
- a reminder letter is posted no later than 28 days following the initial breach notice issue date. This reminder letter will reiterate the payment timeline and consequences of non-payment as originally outlined on the breach notice
- after a 14 day period has expired a further letter can be sent to advise the vehicle owner they have incurred an additional late payment fee and must make this payment within 21 days of the breach notice issue date, unless an appeal is pending
- if no response or payment is received by the due date as described in the further letter, the breach notice may be referred to a collection agency. The vehicle owner should be told this may incur additional fees.

## **APPENDIX**

### **6. List of Signatories**

#### **Secure Parking NZ Ltd**

Level 3, Vulcan Building  
118 Queen Street  
Auckland 1010  
PO Box 911499, Auckland 1142

#### **Traffic Monitoring Services NZ Ltd (a division of Secure Parking NZ Ltd)**

Level 3, Vulcan Building  
118 Queen Street  
Auckland 1010  
PO Box 911499, Auckland 1142

#### **Tournament Group**

City Works Depot  
Shed 9D, 77 Cook Street  
Auckland 1010  
PO Box 90930, Auckland 1142

#### **New Zealand Car Park Monitoring Services (a division of Tournament Group)**

City Works Depot  
Shed 9D, 77 Cook Street  
Auckland 1010  
PO Box 90930, Auckland 1142

#### **Wilson Parking NZ Ltd**

Level 12, SAP Tower  
151 Queen Street  
Auckland Central 1010  
PO Box 8290, Auckland 1150

#### **Parking Enforcement Services (a division of Wilson Parking NZ Ltd)**

Level 12, SAP Tower  
151 Queen Street  
Auckland Central 1010  
PO Box 8290, Auckland 1150

## **7. Sample signs and markings**

This schedule provides generic guideline samples of enforcement signage and markings.

It is accepted that there will be instances where the nature of the property may not make full compliance feasible. In such cases signatories are required to keep to the spirit of the Code.

Signs should be constructed from material that is sufficiently robust to withstand normal external elements and be professionally manufactured and installed. This will ensure it is apparent to the driver that the signs convey important information regarding the existence of parking restrictions.

The size of the text must be readable dependant on whether the sign is viewed from a moving vehicle, or on foot. The colours used on enforcement signage should be such that the contrast between the background and the text makes the wording on the sign clearly legible. Colour combinations which might cause difficulties for the visually challenged should be avoided.

There should be a sufficient number of signs displayed, in particular 'Warning/Attention' and 'Repeater' signage, commensurate with the size and other characteristics of the property to ensure drivers have no doubt to the fact that parking restrictions exist.

Further guidelines on signage are provided in [Part 13 of the Traffic Control Devices manual](#). While primarily intended for local authorities, this includes reference to private parking in section 2.1 and 2.2, and recommends following the general requirements of parking signs and markings provided in section 3.3.

The following are generic guideline samples of enforcement signage formats. The sub-headings in each sample and specific wording should be relevant to the sign-type and restrictions. This should be provided by the Parking Enforcer or Property Manager. In doing so signatories are required to keep the spirit of the Code and follow the minimum requirements as detailed in section 5.3.

Sign samples included in this appendix:

- **TERMS & CONDITIONS OF PARKING SIGNS**
- **'WARNING' or 'ATTENTION' SIGNS**
- **'REPEATER SIGNS'**
- **'SURFACE MARKINGS'**

## 7.1 Terms and conditions of parking signs

# TERMS AND CONDITIONS

## TO PEOPLE ENTERING THIS CAR PARK WITH A VEHICLE

### REFERENCE TO WHOM THIS APPLIES TO

1. Eum cu veri hendrerit. Amet dictas nam cu, ei tollit vidisse quaestio pro.  
Eum no nominati mandamus, at paulo recusabo quo.  
Pri melius oblique adversarium ea, eum ad feugiat recteque.
2. Sonet quidam dicunt at vim, tale facete omnesque et his. No affert graeco detraxit mel, mel ei justo prompta,  
at vidit dolor laboramus cum.  
At vel dictas intellegat, quo an stet volumus adipisci. Id quem saperet mel, augue homero sensibus mea ea,  
ea pro Idus munere conceptam.

### DETAILS REGARDING RESTRICTIONS

3. Erant pertinacia intellegam mei ad, audiam aeterno saperet ex mei.
  - a) Per tale vocent ea, eros persius mei ad. Causae omnium liberavisse mei at.  
At blandit abhorreant intellegam has, ex est ridens inciderint, ius labitur deserunt consetetuer ad.
  - b) Vix ignota corpora consetetur at, amet labitur delicata nam ea, ex eum purto vidit ullm.  
Ad soleat doming nam, no consul quidam eruditi sea, amet habeo bonorum pri no.
  - c) Tation tacimates vulputate eu sea, modo justo elit ut eum. Eu pro eius torquatos constituam, mea at aequae epicuri.  
At nam oporteat aperiarian percipitur.
4. Eum cu veri hendrerit. Amet dictas nam cu, ei tollit vidisse quaestio pro.

### WHAT HAPPENS IF THE RESTRICTIONS ARE BREACHED

5. Sonet quidam dicunt at vim, tale facete omnesque et his.
6. No affert graeco detraxit mel, mel ei justo prompta, at vidit dolor laboramus cum. At vel dictas intellegat, quo an  
stet volumus adipisci. Id quem saperet mel, augue homero sensibus mea ea, ea pro Idus munere conceptam.  
At nam oporteat aperiarian percipitur. Est semper fuisset concludaturque an, ad his saperet signiferumque,  
ea sit summo appareat luptatum.

### BREACH FEE DETAILS, LATE PAYMENT FEES & DEBT COLLECTION

7. Duo debet aperiarian et, mea epicurei legendos id. An magna detracto vim. Has ex cibo errem ponderum.  
Qui an fabellas legendos. An eos quas ludus vitae, volumus volutpat te ius.  
Pro te iisque argumentum, sit vero explicari consetetur no, per cu reque recusab abhorreant.
8. Vis ut brute dicat nulla. His ut tantas omnesque neglegentur, eam ea nostrum platonem posidonium.  
Quo tamquam persequeris te. Mei eu dicant inermis. Mnesarchum signiferumque usu ex.
9. Vix ignota corpora consetetur at, amet labitur delicata nam ea, ex eum purto vidit ullm.  
Ad soleat doming nam, no consul quidam eruditi sea, amet habeo bonorum pri no.

### RESPONSIBILITIES OF DRIVERS AND OPERATOR

- . Eum cu veri hendrerit. Amet dictas nam cu, ei tollit vidisse quaestio pro.
  - (a) Eum no nominati mandamus, at paulo recusabo quo.
  - (b) Pri melius oblique adversarium ea, eum ad feugiat recteque.
  - (c) Sonet quidam dicunt at vim, tale facete omnesque et his.

### ANY FURTHER DETAILS AND INTERPRETATIONS

Erant pertinacia intellegam mei ad, audiam aeterno saperet ex mei.  
Per tale vocent ea, eros persius mei ad, Causae omnium liberavisse mei at.

All other enquiries telephone 0800-123-456

— ACME PARKING —

7.2 'Warning' or 'Attention' signs



7.3 Repeater signs





# LOADING ZONE

ENFORCEMENT  
APPLIES

—**ACME**PARKING—

# MOBILITY BAY

# ENFORCEMENT APPLIES

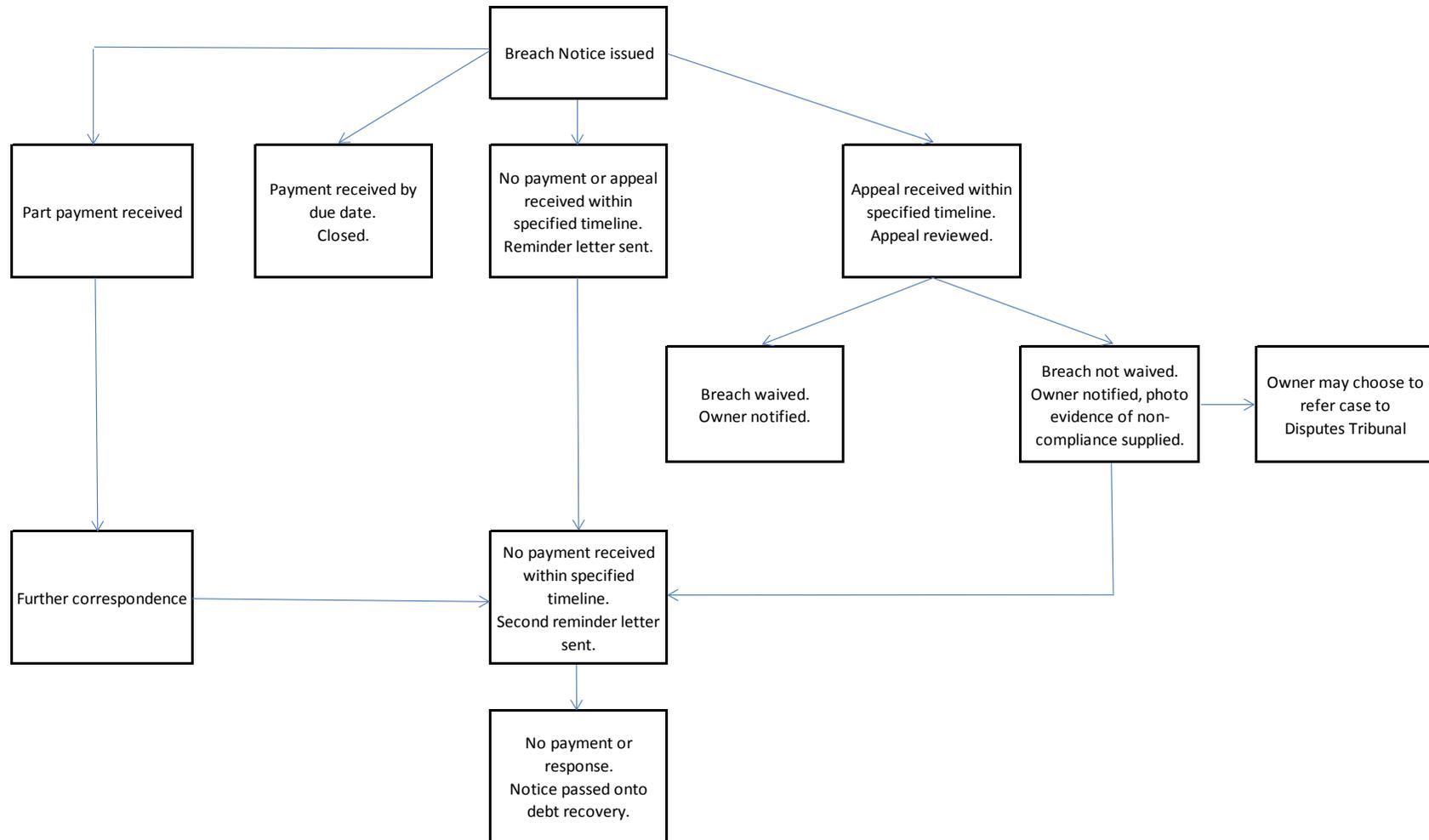
— **ACME**PARKING —

7.4 Sample surface markings



## 8. Breach notices

### 8.1 Breach notice flowchart



## 8.2 Sample breach notice

The following is a generic guideline sample of a Breach Notice. It is accepted that the format and font size of the lettering on the breach notice, when issued from a hand-held printing device, may be determined by the specifications of the printing device and system used by the Parking Enforcer.

Breach notices can also be used for the purpose of issuing a Warning. The breach notice should clearly state it is a Warning and show a zero value when this is the case.

<p style="text-align: center;"><b>Enforcement Organisation Name</b></p> <p><b>BREACH NOTICE</b> To the Driver &amp; Owner of the Vehicle described below. You have breached the Terms and Conditions of Parking displayed on the signage at this car park:</p> <p><b>Breach Number:</b> 1234567890</p> <p><b>Breach Date:</b> 25 September 2015</p> <p><b>Breach Time:</b> 12.00pm</p> <p><b>Breach Details:</b> Why the vehicle received this</p> <p><b>Location:</b> Fort Street</p> <p><b>Vehicle registration:</b> XXXXXX</p> <p><b>Make:</b> Toyota</p> <p><b>Colour:</b> Red</p> <p><b>Breach Fee Due:</b> \$fee</p> <p><b>Due Date:</b> 25 October 2015</p> <p><b>Issuer Number:</b> 1234</p> <p><b>APPEAL/PAYMENT DETAILS</b> (State if these appear on rear of notice)</p> <p><b>How to appeal this Breach Notice:</b> (Appeal process/options/timelines)</p> <p><b>Payment:</b> (Payment options. Include timelines detailing what happens if payment not made, and details re. any additional charges)</p> <p><b>Name &amp; contact details of organisation</b> <b>Details on where to go for further information</b></p>
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**9. Reminder letters and appeals letters**

**9.1 First letter sample**

*Date*

*Name*

*Address*

*Name*

RE: Breach Notice Number:                      Vehicle Registration Number:

We refer to the above Breach Notice which was issued to your vehicle at *(location)*.

This letter is a reminder that payment of this Breach Notice being *(amount)* must be paid within 21 days of the Breach Notice issue date. Failure to comply within this time frame will result in additional recovery/administration costs of *(amount)* being applied.

If you wish to appeal this Breach Notice, all appeals must be in writing by letter, email or fax and received within 14 days of the Breach Notice issue date.

Total amount due *(amount)*, *(insert payment options and methods)*.

If payment has already been made, or you have sent in an appeal within the 14 day timeframe, please disregard this letter.

Yours faithfully

## 9.2 Second letter sample

*Date*

*Name*

*Address*

*Name*

RE: Breach Notice Number:                      Vehicle Registration Number:

We refer to the above Breach Notice which was issued to your vehicle and our previous letter (*date*).

Payment of (*amount*) has not been received. As stated on the Breach Notice and our previous letter this was due within 21 days of notice issue.

Regretfully due to this 21 day period lapsing, additional recovery/administration costs of (*amount*) have now been incurred bringing the total due to (*amount*).

Please forward payment. Debt collection proceedings along with collection costs will ensue if full payment is not received by (*date*).

Total amount due (*amount*), (*insert payment options and methods*).

If payment has already been made, or you have sent in an appeal within the 14 day timeframe, please disregard this letter.

Yours faithfully

### 9.3 Appeal letter Sample

*Date*

*Name*

*Address*

*Name*

RE: Breach Notice Number:                      Vehicle Registration Number:

Thank you for your recent correspondence in relation to the above Breach Notice.

After consideration of your appeal we regret to advise this Breach Notice will not be withdrawn due to a breach of the Terms & Conditions of parking as displayed at the car park.

*(Elaborate on the reasons where applicable and provide evidence or access to evidence)*

Total amount due (*amount*), (*insert payment options and methods*).

Please forward payment. Debt Collection proceedings along with collection costs will ensue if full payment is not received by (*date*).

Yours faithfully