

31 May 2013

Glenn Collis

Email: fyi-request-869-9612615d@requests.fyi.org.nz

Dear Sir

**LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT (LGOIMA)
REQUEST – PARKING METERS**

I refer to your official information request dated 13 May 2013.

With regard to the land title of all public roads within the Central Business District and the documentation that gives the Palmerston North City Council the rights to charge for parking on a public road or to issue infringements, I advise as follows.

- 1. I require a copy of land title for all public roads within the Central Business District of Palmerston North where there are paid parking meters.**

The roads in the Central Business District do not have land titles; in fact no legal road has a land title.

Legal roads are created in many ways such as Crown Grants, an Order in Council, Vesting on Deposit of Land Transfer plans or by way of a Gazette Notice. There are many different Acts that are or can be used to create legal roads but none will give a legal road a land title. Local Council's own and administer all roads in its district (except State Highways which are the responsibility of the Crown) and are responsible for paper roads as well.

- 2. I also require all documentation that gives the Palmerston North City Council the right to charge for parking on a public road within the CBD or to issue infringement notices (Bill of Exchange) to a Sovereign citizen under the Constitution Act 1986.**

The Land Transport Act 1998 provides the legal framework that enables enforcement of all parking controls by Parking Wardens appointed by a Local Authority. Section 22AB(1)(m) Land Transport Act 1998 allows bylaws prohibiting or restricting parking on any road.

22AB Road controlling authorities may make certain bylaws

- (1) A road controlling authority may make any bylaw that it thinks fit for 1 or more of the following purposes:*
 - Parking*
 - (m) prohibiting or restricting, subject to the erection of the prescribed signs, the stopping, standing, or parking of vehicles on any road;*

limiting the stopping, standing, or parking of vehicles on any road to vehicles of any specified class or description; limiting the period of time that vehicles may park on any part of the road where parking is limited to such vehicles; and providing that a vehicle used for the time being for any specified purpose must be treated for the purposes of the bylaw to be of a specified class or description, whether or not the vehicle belongs to any other class or description for any other purpose:

Palmerston North City Council's Traffic and Parking By Law 2011 subsequent to this gives the power under Part 2 Section 6 to 14 inclusive to both charge for and enforce the requirements associated with parking in the CBD.

PART 2 PARKING

6. RESTRICTED PARKING

6.1. The Council may identify and delineate using signs and markings any road, or part of any road, or any other Council controlled place, as a restricted parking area.

6.2. Use of a restricted parking area may be governed by such conditions, restrictions or controls governing the use, stopping, standing, and parking of vehicles as the Council determines, including:

(a) the time period or time when parking restrictions have effect;

(b) the number and situation of parking spaces;

(c) the maximum time allowed for parking in any restricted parking space;

(d) whether a parking space is designated for a specified class of vehicle (for example, taxi stand) or class of road user (for example, mobility parking) or for a designated activity (for example, a loading zone);

(e) whether or not the restricted parking space is a charged parking space;

(f) whether the restricted parking area is a residents' parking area;

(g) whether parking is prohibited in that restricted parking space.

6.3. The Council may impose standing or stopping restrictions on any road or any part of any road or any Council controlled place whether by way of a time restriction, a restriction to a specified class, classes or description of vehicle (for example, bus parking), a total prohibition or any combination of these qualities.

6.4. All restricted parking, including charged parking areas, residents' parking areas and where applicable any restrictions, conditions, or controls, must be identified and delineated by road markings and signs as specified in the Land Transport Rule: Traffic Control Devices 2004 and in accordance with any mandatory requirements of that Rule and otherwise with such qualities (including wording, height, and visibility), spacing and locations as the Council considers appropriate.

7. STOPPING, STANDING AND PARKING RULES

7.1. No person may use, stop, stand, or park a vehicle on any road, or any Council controlled place in contravention of a restriction, control or condition that applies to a restricted parking area.

7.2. Any person parking a vehicle in a parking space must occupy only one parking space and comply with all controls, conditions, and restrictions that apply to that space unless it is

necessary for a vehicle to extend onto an adjoining and unoccupied parking space by reason of the size of the vehicle. Any applicable parking fee is paid for each charged parking space occupied or partially occupied by the vehicle.

7.3. Except with the prior written permission of the Council, no person shall park a vehicle on a road or Council controlled place for any period exceeding seven days, if that vehicle cannot be moved on at the request of the Council.

7.4. No person may park or place any machinery, equipment, materials, waste disposal bins or freight containers on any road or public place except with the permission of the Council and in accordance with any conditions that may be required. This clause does not apply to containers that are used solely for the purpose of domestic refuse or recycling as authorised by the Council and placed off the roadway, provided that such containers are not left on any road or public place for a period exceeding 48 hours.

7.5. No person may park any vehicle in a parking space which is already occupied by another vehicle. However more than one motorcycle (but no other vehicle) may occupy any parking space at the same time, (and such motorcycles must park at right angles to the kerb in the parking space).

7.6. No person may repair, alter or add to a vehicle while the vehicle is on the road, unless necessary to enable the vehicle to be removed from the road.

7.7. No person may stop, stand or park a vehicle on a berm or grass verge or any cultivated land adjacent to, or forming part of, a road in an urban traffic area.

7.8. No person may park a vehicle on or overhanging any footpath.

8. CHARGED PARKING AREAS AND PARKING MACHINES

8.1. The Council may from time to time in accordance with the Local Government Act 2002 prescribe parking fees. The parking fees are only payable through parking machines and are for periods of parking in charged parking areas not exceeding any specified maximum. Approved methods of payment are specified on the parking machine governing the charged parking area.

8.2. At least one parking machine must be located within a charged parking area. Any parking machine must issue a parking receipt or clearly display the amount of parking time purchased.

9. PARKING FEE TO BE PAID

9.1. No person may park in a charged parking space unless:

- (a) A parking machine controlling the charged parking space is operational; and*
- (b) A parking fee is paid using a parking machine controlling the charged parking space and the parking machine is correctly activated; and*
- (c) The period of parking authorised by a parking machine controlling the charged parking space has not expired; and*
- (d) The requirements of clause 9.2 are met.*

9.2. Where a vehicle is parked on a charged parking space controlled by a parking machine, either:

- (a) A valid parking receipt issued by the parking machine must be prominently displayed on the dashboard at the front of the vehicle, in a manner which will allow the expiry time to be seen by an authorised officer from outside the vehicle, or
- (b) A parking machine must display the remaining time purchased for the vehicle.

9.3. Where more than one motorcycle occupies a charged parking space only one parking fee paid in accordance with this Bylaw is required.

10. DISCONTINUED PARKING SPACE

10.1. Where an authorised officer of the Council is of the opinion that any parking space should be temporarily discontinued as a parking space, the authorised officer may display a sign indicating “No Stopping” or a permit showing reserved parking at the affected parking space or spaces.

10.2. No person may park a vehicle in a parking space when a sign, meter hood, or permit identifies it as a discontinued parking space.

11. INTERFERENCE WITH PARKING MACHINES

11.1. No person may interfere, tamper, or attempt to tamper with any parking machine. No person may, without Council authority, affix or attempt to affix anything, or paint, write upon or disfigure any parking machine.

12. ONLY NEW ZEALAND CURRENCY TO BE USED

12.1. A person paying at a parking machine must use only New Zealand currency.

13. MOBILITY PARKING

13.1. A mobility parking permit must be prominently displayed at the front of any vehicle parked in a mobility parking space in a manner which will allow the permit to be seen by an authorised officer from outside the vehicle. No person may display a mobility parking permit on a vehicle if the vehicle is not being used by the permit holder.

14. RESIDENTS’ PARKING

14.1. No person shall park in a residents’ exemption area contrary to a time restriction of that area except for eligible residents, subject to the display of a residents’ parking permit.

14.2. No person may park a motor vehicle in a residents’ only area except for:

- (a) Eligible residents displaying a valid residents’ parking permit;
- (b) Vehicles operated by the Council or for the Council if necessary for the provision of, or maintenance of, facilities within the road reserve;
- (c) Vehicles operated by network utility operators if necessary for the provision of, or maintenance of, a network utility operation;
- (d) Vehicles driven by authorised officers (for example, dog control officers, building inspectors) attending the property of an eligible resident;
- (e) Vehicles used to pick up or deliver goods to, or in connection with maintenance of, the property of an eligible resident.

14.3. Where a residents' parking permit is required to be displayed for parking in a residents' exemption area or a residents' only area:

- (a) The permit must be prominently displayed so as to be legible through the windscreen of the parked motor vehicle.*
- (b) The permit must identify the motor vehicle to which it relates and the parked vehicle must be the same as the vehicle identified on the permit.*
- (c) The motor vehicle is in the residents' parking area referred to in the permit and is valid only during the time period specified on the permit.*
- (d) The permit must be returned to the Council immediately after the resident ceases to be an eligible resident.*

The Parking Wardens who undertake this activity are appointed under Clause 128D of the Land Transport Act 1998.

128D Appointment of parking wardens

- (1) A local authority may appoint a person to hold the office of parking warden.*
- (2) A person who holds the office of parking warden at the commencement of this section is to be treated as having been appointed under subsection (1).*
- (3) A parking warden may perform the functions and duties, and exercise the powers, of a parking warden that are conferred or imposed by or under this or any other Act only on a road within the district or region of the local authority that appointed the parking warden.*
- (4) A local authority that appoints a person under subsection (1) is liable for the actions of that person as a parking warden in all respects as if—*
 - (a) that person were an officer or employee of the local authority (whether or not that is the case); and*
 - (b) any directions given or control exercised by any other person over the parking warden in that capacity were directions given or control exercised by the local authority.*

Once appointed under the above authority Parking Wardens can then undertake their duties as prescribed by Clause 128E Land Transport Act 1998

128E Powers of parking wardens

- (1) A parking warden in uniform or in possession of a warrant or other evidence of authority as a parking warden—*
 - (a) may enforce the provisions of any stationary vehicle offence or special vehicle lane offence:*
 - (b) may, in relation to enforcing the provisions of any stationary vehicle offence or special vehicle lane offence, direct any person on any road, and apparently in charge of or in any vehicle.....*

These Parking Wardens so appointed then have the powers to enforce parking offences as dictated by the Land Transport (Offences and Penalties) Regulations 1999 and the dollar value of such offences is set down in Schedule 1B of this Regulation.

SCHEDULE 1B

Part 1

Offences parking wardens may enforce

<i>Infringement offence</i>	<i>Infringement fee</i>
<i>1 Any parking offence involving parking on a road in breach of a local authority bylaw, in excess of a period fixed by a meter or otherwise, where the excess time is—</i>	
<i>not more than 30 minutes</i>	<i>\$12 or such lesser amount as is fixed by the local authority</i>
<i>more than 30 minutes but not more than 1 hour</i>	<i>\$15 or such lesser amount as is fixed by the local authority</i>
<i>more than 1 hour but not more than 2 hours</i>	<i>\$21 or such lesser amount as is fixed by the local authority</i>
<i>more than 2 hours but not more than 4 hours</i>	<i>\$30 or such lesser amount as is fixed by the local authority</i>
<i>more than 4 hours but not more than 6 hours</i>	<i>\$42 or such lesser amount as is fixed by the local authority</i>
<i>more than 6 hours</i>	<i>\$57 or such lesser amount as is fixed by the local authority</i>
<i>2 Parking on or within 6 metres of an intersection</i>	<i>\$60</i>
<i>3 Parking on or near a pedestrian crossing</i>	<i>\$60</i>
<i>4 Parking on broken yellow lines</i>	<i>\$60</i>
<i>5 Double parking</i>	<i>\$60</i>
<i>6 Inconsiderate parking</i>	<i>\$60</i>
<i>7 Parking on a clearway</i>	<i>\$60</i>
<i>8 Parking on a bus-only lane</i>	<i>\$60</i>
<i>9 All other parking offences</i>	<i>\$40</i>
<i>Towage fee: If expenses are incurred by an enforcement authority in respect of the movement or proposed movement under <u>section 113(2)(c)</u> or 128E of the Act of the vehicle involved in the offence (whether or not the vehicle is in fact moved), the infringement fee is the total of the amount specified above in respect of the offence and the amount of the appropriate towage fee (including any goods and services tax payable in respect of the towage fee).</i>	

In responding to your request, we have been unable to ascertain the relevance of your reference to the Constitution Act 1986 as it relates to the provision and enforcement of on-street parking in the City.

All documents and other information in relation to your request have been included in this response and no material has been withheld.

Please contact the author of this response if you require any further clarification.

Yours sincerely



Graeme Tong
ROADING MANAGER