

HOBART CITY COUNCIL

ENVIRONMENTAL HEALTH BY-LAW

BY-LAW No. 2 of 2018

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HOBART CITY COUNCIL

ENVIRONMENTAL HEALTH BY-LAW

BY-LAW 2 of 2017

PART 1 – PRELIMINARY

1. This by-law is made pursuant to section 145 of the Act for the purpose of regulating and controlling matters of environmental health.
2. This by-law may be cited as the Environmental Health By-law.
3. The Health and Environment Services By-law No. 1 of 2008 is repealed.
4. This by-law applies to the Hobart municipal area.
5. In this by-law:
 - Act** means the *Local Government Act 1993*;
 - animal** means an animal referred to in section 3 of the *Animal Welfare Act 1993*;
 - authorised officer** means an employee of the Council authorised by the General Manager for the purposes of this by-law;
 - bee hive** means a modular framed housing for a honey bee colony, which normally contains either a nucleus colony or a standard size colony;
 - Council** means the Hobart City Council;
 - General Manager** means the General Manager of the Council appointed pursuant to section 61 of the Act;
 - highway** means any highway or road shown on the map maintained by

Council pursuant to section 208 of the Act;

livestock has the same meaning as section 1 to Schedule 5 of the *Road Rules 2009*;

LUPAA means the *Land Use Planning and Approvals Act 1993*;

occupier includes a resident or owner of premises;

occupy includes reside or live in or use any caravan for entertainment, sleeping, resting, cooking, eating, commercial or retail activities or for any similar use;

owner includes the occupier or other person having the control and management of any land or premises;

permit means:

- (a) a current permit or other written approval (including a booking confirmation provided by electronic means) granted pursuant to this by-law; or
- (b) any permit, licence or written approval granted pursuant to another by-law or legislation including a by-law or legislation which has been repealed;

providing that:

- (c) if the permit, licence or written approval was issued for a certain time period, that time period has not expired; or
- (d) if the permit, licence or written approval was issued for a certain event, that event has not yet taken place;

person means an individual, corporation or any other legal entity (other than the Crown);

poultry includes ducks, fowl, geese, guinea fowl, peacocks, pheasants pigeons and domestic birds including caged birds;

vehicle has the same meaning as in the *Road Rules 2009*.

PART 2 – CONTROL OF ANIMALS

Division 1 – Keeping Animals

Maintenance of premises used by animals

6. The occupier of any premises where an animal, including livestock and poultry, is kept must:
- (a) keep any structures, buildings, enclosures or areas which the animal has access to clean and sanitary;
 - (b) dispose of bedding or floor covering, and waste food, or store until disposed, in a waterproof and tightly covered container;
 - (c) keep manure in a waterproof and tightly covered container when requested to do so by an authorised officer;
 - (d) not allow any build-up of manure such that there is any nuisance or run-off into rivers, drains or stormwater;
 - (e) empty any container used for keeping used bedding or floor covering, waste food, or manure regularly and keep the container hygienic;
 - (f) not allow the animal to cause any nuisance through smell, noise, rodents, flies or drainage;
 - (g) take all necessary steps to abate any nuisance that may arise as a result of keeping of the animal; and
 - (h) maintain fencing or other structures, buildings or enclosures housing the animal to an adequate standard, as may be determined by an authorised officer, so as to prevent the escape of the animal onto a highway or another person's property.

Penalty: 2 penalty units

Keeping of horses, pigs or other livestock

7. A person must not keep any horse, pig or other livestock in a stable, sty, lot, paddock or secure premises without first obtaining a permit.

Penalty: 2 penalty units

Horse manure in public places

8. A person who is in charge of a horse must immediately remove and dispose of any manure left by the horse where the manure is left by the horse in any public place.

Penalty: 5 penalty units

Keeping of domestic poultry

9. Subject to clause 10 a person must not keep any poultry within 6 metres of any dwelling-house or within 1 metre of any fence line or boundary, or allow any poultry to have access to any area within 6 metres of a dwelling-house except if the sale of live poultry is part of the usual business of any shop and the poultry is in properly maintained cages.

Penalty: 2 penalty units

Keeping of roosters

10. A person must not keep a rooster within 300 metres of a neighbouring dwelling without the written approval of the occupants of that neighbouring dwelling.

Penalty: 2 penalty units

Maximum number of bee hives

11. A person may keep a maximum number of bee hives specified in column 2 on land of size specified in column 1:

Column 1	Column 2
Land Size (m²)	Maximum Number of Bee Hives
Less than 400	0
400 to 1,000	2
1,000 to 2,000	5
2,000 to 4,000	10

12. A person must not keep more than the maximum number of bee hives specified in clause 11 without a permit to do so.

Penalty: 2 penalty units

Keeping of bee hives

13. A person keeping bee hives must ensure:
- (a) the provision of a good and sufficient water supply on the land which is readily accessible by the bees on the land; and
 - (b) each bee hive is located near a screen or other barrier so as to prevent the bees flying over a thoroughfare, public place or adjoining land.

Penalty: 2 penalty units

Location of bee hives

14. A person must not keep bee hives within 3 metres of a property boundary without a permit to do so.

Penalty: 2 penalty units

Division 2 – Seizure, Detention and Impounding of Animals

Seizure, detention and impounding animals

15. An authorised officer may seize, detain and impound an animal where the authorised officer believes an offence has been committed under this by-law.

Notice of impounding

16. Subject to clause 20, an owner may claim an impounded animal if:
- (a) the person who asserts that they are the owner of the impounded animal has provided proof of ownership of the animal to the satisfaction of an authorised officer; and
 - (b) an authorised officer is satisfied that the offence committed under this by-law will not be repeated.
17. If an animal has not been claimed by its owner or a person on behalf of the owner within 48 hours of it being impounded, the General Manager is to give notice to the owner of the animal in accordance with section 195 of the Act.
18. If the owner of an impounded animal cannot be ascertained or found, the General Manager is to publish notice of the impounding of the animal in accordance with section 195 of the Act.
19. The owner of an impounded animal must pay any fees, costs and charges incurred by Council in respect of the impounding, maintenance and treatment of the animal, as notified by the General Manager, within 30 days of the notice provided by the General Manger unless otherwise agreed.

Penalty: 5 penalty units

20. The General Manager may detain an impounded animal until any fees, costs and charges specified in a notice are paid.

Sale or destruction of animals

21. The General Manager may:

- (a) sell, give away free of charge or destroy any animal impounded pursuant to this by-law, in accordance with section 197 of the Act, if:
 - (i) no one has claimed the animal within 14 days of impounding;
or
 - (ii) any fees, costs and charges specified by notice have not been paid within the time specified in that notice; and
- (b) arrange for an animal impounded pursuant to this by-law to be destroyed, in accordance with section 198 of the Act, if, in the opinion of a qualified veterinary surgeon, the animal is:
 - (i) seriously diseased; or
 - (ii) so injured or disabled as to be apparently in continual pain.

Interference with animals in pounds

22. A person must not:

- (a) remove or interfere with any animal seized under this Division; or
- (b) destroy or damage any structure, enclosure or pound in which animals seized under this Division are detained.

Penalty: 10 penalty units

23. An authorised officer may:
- (a) retrieve by seizure an animal that is illegally removed; and
 - (b) detain the animal until the fees and costs arising from its detention and retrieval are paid.

PART 3 – CARAVANS

Application

24. This Part does not apply to a caravan that is:
- (a) situated in a caravan park which is operating in accordance with LUPAA;
 - (b) used by a travelling show person in the ordinary course of their business;
 - (c) used by work gangs or contractors involve in construction work that is authorised by the Council;
 - (d) situated at a person's principal residence and used solely for the purpose of storage on site; or
 - (e) used by family members of the owner or occupier of the premises for up to 14 days within a calendar year.

Structures included as caravans

25. For the purposes of this Part, a "caravan":
- (a) is any object or structure which has the general characteristics of a caravan, house on wheels, a covered van or trailer and any vehicle used or adapted for occupation;
 - (b) includes any structure, awning, verandah, lean-to, tent, car-port or any other enclosed or partly enclosed area used or capable of being used attached or with any caravan;
 - (c) may or may not have the wheels or axles attached; and

- (d) may be resting directly on the ground or placed on blocks or other supports.

Allow use of land for caravan

26. A person who is the owner or occupier of any land must not use or allow the land to be used to set up a caravan which is to be used for human habitation or occupation without first obtaining a permit.

- Penalty: 5 penalty units

27. A permit granted for land to be used to set up a caravan will be valid for up to 2 years, unless an extension of time is granted by the General Manager.

Application for permit

28. Any owner of land intending to allow that land to be used to set up a caravan for human habitation must apply for a permit to do so, unless a permit has been obtained pursuant to LUPAA in relation to the caravan.

Refusal of permit

29. A permit may be refused if, in the opinion of the General Manager:
- (a) the use of the caravan will adversely affect or is likely to adversely affect the amenities of the neighbourhood in which the caravan is to be set up; or
 - (b) the caravan does not have sufficient facilities for the supply of water or disposal of sewerage available to the occupants; or
 - (c) the occupation of the caravan is likely to cause a health hazard.

Occupation of caravans

30. A person must not occupy a caravan unless the owner or occupier of the

land on which the caravan is set up is the holder of a valid permit issued pursuant to this by-law or a permit issued pursuant to LUPAA in relation to the caravan.

Penalty: 2 penalty units

PART 4 – PERMITS

Granting permits

31. A permit may be granted for any purpose under this by-law by:
- (a) the General Manager; or
 - (b) any electronic method authorised by the General Manager, including via Council's website or an application operated by or on behalf of Council.
32. No provision of this by-law is to be construed as preventing the General Manager from referring any application for a permit to the Council.

Applications

33. Any application for a permit pursuant to this by-law is to be:
- (a) in accordance with any form approved by the General Manager;
 - (b) accompanied by the fee specified by the General Manager, if any; and
 - (c) where applicable, must be accompanied by the following:
 - (i) a statement in writing of the type of activity proposed to be undertaken by the applicant and the period in which it is proposed to be carried out;
 - (ii) a scaled drawing showing the location and extent of the proposed activity;
 - (iii) evidence of current public liability insurance or other relevant

insurance; and

- (iv) such other information that the General Manager may reasonably require.

34. In deciding whether or not to grant a permit pursuant to this by-law, the General Manager may have regard to the following and any other relevant matters:

- (a) the type of activity proposed;
- (b) the location of that activity;
- (c) the impact of the proposed activity on public safety, the environment and amenity; and
- (d) any comments made by any employee of the Council or by a police officer in relation to the application.

Permits

35. A permit granted under this by-law must be in writing and may be granted under such terms and conditions as the General Manager considers appropriate. Those conditions may include:

- (a) a restriction on the type of activity;
- (b) a restriction on the period in which the activity may be carried out;
- (c) the precautions to be observed while the activity is being carried out;
- (d) the requirement for supervision or control of the activity;
- (e) the record to be kept or notification to be given in relation to the any activity carried out pursuant to the permit;
- (f) the payment of a bond to cover any damage to Council property or any cleaning required, or the provision of an indemnity to Council for any other loss or damage; or
- (g) the acceptance of responsibility for any damage to or loss of Council property as a result of the activity.

36. The holder of a permit granted pursuant to this by-law must comply with the terms and conditions of the permit.

Penalty (unless otherwise specified): 1 penalty unit

Production of a permit

37. A permit holder is to produce the permit immediately when requested to do so by a police officer or an officer of the Council, and the holder of the permit must answer all questions which are reasonably necessary to establish that the person holds a permit in good faith.

Variation of permit conditions

38. The General Manager may vary the conditions of any permit if he or she considers it is appropriate to do so.
39. If the conditions of any permit are varied pursuant to clause 38, the General Manager must serve a notice in writing on the permit holder stating:
- (a) the conditions of the permit are varied; and
 - (b) the reason or reasons for the variation of the permit conditions.
40. The conditions of a permit will be varied from the date of service of the notice of the variation.

Cancellation of permits

41. The Council or the General Manager may cancel any permit if satisfied that:
- (a) a permit holder has breached any of Council's by-laws; or
 - (b) a permit holder has breached a term or condition of the permit.

42. If a permit is cancelled pursuant to clause 41, the General Manager must serve a notice in writing on the permit holder stating:
 - (a) the permit is cancelled; and
 - (b) the reason or reasons for the cancellation.

43. Cancellation of any permit is effective from the date of service of the notice of the cancellation.

44. Nothing in this by-law is to be construed as preventing or prohibiting the Council from cancelling any permit if this is required due to the exercise or intended exercise of any local government functions, powers, rights or duties by the Council.

Notices

45. For the purposes of clauses 39 and 42, a notice may be served in any of the following ways:
 - (a) on the holder of the permit personally;
 - (b) by ordinary post to the last known address of the permit holder; or
 - (c) by notice being given in the public notice section of a newspaper circulating in the Hobart City Council municipal area.

46. The date of service of a notice will be:
 - (a) if the holder of the permit was served by ordinary post, 3 business days from the date the notice was posted; or
 - (b) if the notice was given in a newspaper, the date of the publication of that newspaper.

PART 5 – RECOVERY OF COSTS

Expenses incurred

47. The Council may rectify a breach of this by-law, including any damage to Council property, without ordering the offending person to undertake the rectification works.

48. Any expense or damages incurred by the Council as a result of the breach of any of the by-laws, including expense or damages, will be paid by the person committing the breach and is recoverable by the Council as a debt due to it.

PART 6 – INFRINGEMENT NOTICES

49. In this Part:
specified offence means an offence against the clause specified in Column 1 of the Schedule to this by-law.

50. An authorised officer may issue an infringement notice to a person in respect of a specified offence and the penalty payable under the infringement notice for that offence is the penalty specified in Column 3 of the Schedule to this by-law.

51. An authorised officer may:
 - (a) issue an infringement notice to a person who the authorised officer has reason to believe is guilty of a specified offence; and
 - (b) issue one infringement notice in respect of more than one specified offence.

52. The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this by-law.
53. In addition to any other method of service, an infringement notice alleging that a vehicle has been used in relation to a specified offence may be served by affixing it to that vehicle.
54. A person who is served with an infringement notice must, within 28 days of the date of service, do one or more of the following:
- (a) pay the monetary penalty in full to the General Manager;
 - (b) apply to the General Manager for withdrawal of the infringement notice;
 - (c) apply to the General Manager for a variation of payment conditions;
or
 - (d) lodge with the General Manager a notice of election to have the offence or offences set out in the infringement notice heard and determined by a court.
55. If a person who has been served with an infringement notice fails to take one or more of the actions required by clause 54 within the prescribed time, the infringement may be referred to the Director, Monetary Penalties.

PART 7 – ENFORCEMENT

Hindering or resisting authorised officers

56. A person must not obstruct, hinder, abuse, or resist any authorised officer in the discharge of the authorised officer's duty.

Penalty: 3 penalty units

Directions by authorised officers

57. An authorised officer may give reasonable directions to any person in relation to matters which are the subject of this by-law.
58. A person must not fail to comply with a reasonable direction from an authorised officer given under this by-law.

Penalty: 3 penalty units.

Production of animals and evidence of authorisation

59. An authorised officer may require the occupier of the premises to produce for inspection by the authorised officer:
- (a) all animals of which the occupier is the owner; and
 - (b) any other animals kept on those premises; and
 - (c) evidence of authorisation to keep those animals on those premises.

SCHEDULE
INFRINGEMENT NOTICE OFFENCES

1: CLAUSE	2: DESCRIPTION	3: PENALTY (penalty units)
PART 2 – CONTROL OF ANIMALS		
6	Maintenance of premises used by animals	2
7	Keeping of horses, pigs or other livestock	2
8	Horse manure in public places	5
9	Keeping of domestic poultry	2
10	Keeping of roosters	2
12	Maximum number of bee hives	2
13	Keeping of bee hives	2
14	Location of bee hives	2
19	Fees, costs and charges	5
22	Interference with animals in pounds	10
PART 3 – CARAVANS		
26	Allow use of land for caravan	5
30	Occupation of caravan	2
PART 4 – PERMITS		
36	Failure to comply with permit	1
PART 7 – ENFORCEMENT		
56	Hindering or resisting authorised officers	3

1: CLAUSE	2: DESCRIPTION	3: PENALTY (penalty units)
58	Directions by authorised officers	3

Certified that the provisions of this by-law are in accordance with the law by:



K.M. Abey

Solicitor

Dated 10/7/18

At Hobart

Certified that this by-law is made in accordance with the *Local Government Act* 1993 by:



N.D. HEATH

General Manager

Dated 10/7/18

At Hobart

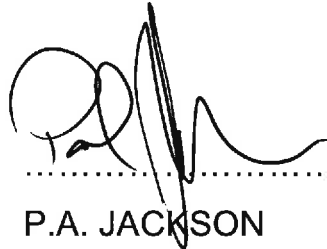
The common seal of the Hobart City Council was affixed on in the presence of:



H.J. SALISBURY

Deputy General Manager

Dated: 10/7/2018



P.A. JACKSON

Manager Legal & Governance

Dated: 10/7/18

