

Caravan By-law 2015

HUON VALLEY COUNCIL

CARAVAN BY-LAW

BY-LAW NO. 1 OF 2015

A BY-LAW of the Huon Valley Council made under the provisions of section 145 of the *Local Government Act 1993* for the purpose of regulating and controlling occupation of caravans, motor vehicles and temporary structures on land in the municipal area.

PART 1 - PRELIMINARY

Short Title

1. This By-Law may be cited as the *Caravan By-Law 2015*.

Application

2. This By-Law applies to the municipal area of the Huon Valley.

Repeal

3. The *Caravan By-law No.17 of 2005* made on the 16th day of September, 2005 and published in the Tasmanian Government Gazette on 21 September, 2005 at page 1613 is repealed.

Interpretation

4. In this By-Law

“authorised officer” means the general manager and a person appointed by the general manager as an authorised officer for the purposes of this By-law;

“building code” means the “National Construction Code” defined under section 4 of the *Building Act 2016* and includes any subsequent replacement thereof;

~~“building code” has the same meaning as in the *Building Act 2000* and includes any subsequent replacement thereof;~~

“caravan”:

- (a) means any object or structure having the general characteristics of a caravan, a house or dwelling on wheels, a covered van or trailer and any vehicle used or adapted for human habitation or occupation excluding a motor vehicle; and
- (b) includes any structure, awning, verandah, lean-to, car-port or other enclosed or partly enclosed area used or capable of being used in connection with, attached to, or appurtenant to any caravan but does not include a building or temporary structure for which a permit is required under any other law; and
- (c) may or may not have the wheels or axles attached or removed; and
- (d) may be resting directly on the ground or is placed on blocks or other supports; and
- (e) may or may not be registered under any other law.

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“caravan park” means land used or set aside and allowed or permitted under any law for camping, camping in temporary structures and the use of a caravan for overnight or temporary accommodation;

“casual or recreational accommodation” means to occasionally occupy for the purposes of enjoyment or care of the land upon which the caravan is situated but does not include temporary accommodation or permanent accommodation;

“council” means the Huon Valley Council established under the *Local Government Act 1993*;

“emergency accommodation” means accommodation that is required by a person at their principal place of residence by reason of an emergency including circumstances rendering a permanent dwelling unfit for occupation as a result of fire, flood or storm;

“environmental health officer” means a person appointed as an environmental health officer of the Council under section 11 of the *Public Health Act 1997*;

“general manager” means the general manager appointed by the Council pursuant to section 61 of the *Local Government Act 1993* and includes a person acting in that capacity;

“land” means land within the municipal area;

“major towns” means the towns of Huonville, Ranelagh, Franklin, Cygnet, Geeveston and Dover;

“motor vehicle” means a motor vehicle as defined in the ~~Road Rules 2009~~*Road Rules 2019*, whether or not it is registered under any other law, whether or not its wheels or axles are attached or removed and whether or not it is resting directly on the ground or is placed on blocks or other supports but does not include a bus, campervan, or other vehicle that is purpose built for occupation or camping;

“municipal area” means the Huon Valley Council municipal area as defined by section 16 of the *Local Government Act 1993*;

“permit” means a permit granted under Part 4 of this By-law;

“permit holder” means a person to whom a permit is granted and includes any person occupying a caravan or temporary structure under a permit;

“occupy” includes to reside or live in for the purposes of shelter, entertainment, sleeping, resting, cooking, eating, or for any other similar use whether of a temporary or permanent nature;

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“permanent accommodation” means to occupy on a full time permanent basis;

“permanent dwelling” means a building approved as a class 1 dwelling under the building code;

“proprietor” includes the owner, occupier or the person having the control or management of any land;

“self contained vehicle” means a vehicle that is registered under the *Vehicle and Traffic Act 1999* and has internal cooking facilities, sleeping facilities plus water tanks for drinking and other purposes, holding tanks for “grey water” and holding tanks for toilet effluent and shower facilities;

“temporary accommodation” means to occupy on a full time basis for a temporary period while a permanent dwelling is constructed on the land;

“temporary structure” has the same meaning as in the ~~*Building Act 2000*~~ *Building Act 2016* and includes a tepee or similar structure but does not include any temporary structure:

- (a) situated in a caravan park;
- (b) used by a travelling show person in the ordinary course of their business;
- (c) the subject of a permit or licence granted or issued under any other By-law of the Council; ~~and,~~
- (d) that requires approval to occupy under any Act or Regulation; ~~and,~~
- (e) that is exempt from approval to occupy under any Act or Regulation.

“temporary use” means an activity which requires the provision of full time on-site accommodation on land for the period of the activity which may include construction, agricultural or other similar or seasonal activities;

“vessel” includes a boat, ship, craft, hovercraft, aircraft or platform and any trailer used to transport any of them and a vehicle that is capable of use in or on water whether floating, partly submersible or submersible and whether or not self propelled.

PART 2 - NON-APPLICATION OF BY-LAW

5. This By-Law does not apply to land that is:
 - (a) a road as defined in the Council’s *Roads (Local Highways) By-law 2014*; and,
 - (b) council land as defined in the Council’s ~~*Council Land and Recreational Facilities By-law 2017*~~ *Council Land and Recreational Facilities By-law 2006*.

**PART 3 - OCCUPATION OF CARAVANS, MOTOR VEHICLES AND
TEMPORARY STRUCTURES**

Permit Necessary to Occupy a Caravan

6. (1) A person must not occupy a caravan on land without a permit.
Penalty: Fine not exceeding 10 penalty units and in the case of a continuing offence, a further fine not exceeding 1 penalty unit for each day during which the offence continues.
- (2) This clause does not apply to a caravan that is -
- (a) situated in a caravan park;
 - (b) used by a travelling show person in the ordinary course of their business;
 - (c) used by Council employees or contractors involved in performing duties for and on behalf of the Council;
 - (d) situated at a person's principal residence and used solely for the purpose of storage;
 - (e) the subject of a permit or licence granted or issued under any other By-law of the Council.
- (3) A person may occupy a self contained vehicle on land for a period of no more than 30 days in any calendar year without a permit provided that vehicle is removed from the land at all other times.

Occupation of motor vehicles and vessels

7. A person must not occupy a motor vehicle or a vessel on land.
Penalty: Fine not exceeding 10 penalty units and in the case of a continuing offence, a further fine not exceeding 1 penalty unit for each day during which the offence continues.

Occupation of temporary structures

8. (1) A person must not occupy a temporary structure for a period of more than 30 days in any one calendar year on any land without a permit.
Penalty: Fine not exceeding 10 penalty units and in the case of a continuing offence, a further fine not exceeding 1 penalty unit for each day during which the offence continues.
- (2) A permit may only be granted to occupy a temporary structure under this clause on land of the principal residence of a person for the purpose of emergency accommodation.

Occupation generally

9. (1) A proprietor of land must not authorise or permit any person to occupy a caravan, motor vehicle, vessel or temporary structure upon that land without a permit.
Penalty: Fine not exceeding 5 penalty units and in the case of a continuing offence, a further fine not exceeding 1 penalty unit for each day during which the offence continues.
- (2) A permit will not be issued under this clause to occupy a motor vehicle or a vessel.
- (3) This clause does not apply to a caravan or temporary structure that is-
- (a) situated in a caravan park;
 - (b) used by a travelling show person in the ordinary course of their business;

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- (c) used by Council employees or contractors involved in performing duties for and on behalf of the Council; or
- (d) the subject of a permit or licence granted or issued under any other By-law of the Council;
- (e) a self contained vehicle and is on the land and occupied for a period of no more than 30 days in any calendar year provided that vehicle is removed from the land at all other times.

PART 4 - PERMITS

Applications

- 10.** (1) A person may apply to the general manager for a permit.
(2) An application for a permit is to be made in writing in a form approved by the general manager and must be accompanied by:
- (a) such information that the general manager may require; and
 - (b) payment of the fee or charge imposed by the Council pursuant to section 205 of the *Local Government Act 1993* for an application under this By-law.

Grant of Permit

- 11.** The general manager may grant or refuse to grant a permit on an application made under clause 10.

Factors to be considered when granting a Permit

- 12.** (1) In deciding whether or not to grant a permit, the general manager may have regard to the following and any other relevant matters:
- (a) whether the use and occupation of the caravan or temporary structure will adversely affect or is likely to adversely affect the amenity of the neighbourhood in which the caravan or temporary structure is or is to be situated; and
 - (b) whether the caravan or temporary structure contains satisfactory facilities, or provision is made for satisfactory facilities, for the supply of water and the disposal of night soil and sullage water; and
 - (c) whether the occupation of the caravan or temporary structure is likely to cause a health hazard or environmental nuisance; and
 - (d) whether appropriate provision is made for the safety of the occupants of the caravan or temporary structure including, but not limited to, installation of fire extinguishers and smoke alarms; and
 - (e) any relevant policy of the Council.
- (2) The general manager is not to grant a permit unless the proposed method for the disposal of night soil and sullage water has been approved by the environmental health officer.
- (3) A permit will not be granted for:
- (a) permanent accommodation;
 - (b) occupation in a major town except for the purpose of:
 - i. temporary accommodation while construction of a permanent dwelling is being undertaken on that land and evidence is provided that a permit has been issued for that permanent dwelling or an application for approval for a permanent dwelling has been lodged with the relevant authority; or,

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- ii. emergency accommodation.
- (4) A permit will only be granted outside a major town:
 - (a) for temporary accommodation while construction of a permanent dwelling is being undertaken on that land and evidence is provided that a permit has been issued for that permanent dwelling or an application for approval for a permanent dwelling has been lodged with the relevant authority;
 - (b) for the purposes of a temporary use;
 - (c) for the purpose of emergency accommodation; or;
 - (d) for the purposes of casual or recreational accommodation.

Conditions of Permit

- 13.** (1) The general manager may grant a permit subject to such terms and conditions as the general manager may determine.
- (2) A permit holder or other person occupying a caravan or temporary structure under a permit must comply with the terms and conditions of a permit.
- Penalty: Fine not exceeding 5 penalty units and in the case of a continuing offence, a further fine not exceeding 1 penalty unit for each day during which the offence continues.

Permits generally

- 14.** Every permit granted pursuant to the By-law is to:
- (a) for a caravan, be for a period not exceeding twelve months but may be renewed and granted for further periods of twelve months provided the application and renewal is in accordance and consistent with this By-law and there are no breaches of the previous permit or terms and conditions of the permit;
 - (b) for a temporary structure, be for a period not exceeding 6 months but may be renewed and granted for such further period as determined by the General Manager taking into account all relevant circumstances of the matter provided the application and renewal is in accordance and consistent with this By-law and there are no breaches of the previous permit or terms and conditions of the permit;
 - (c) be in accordance with the form in Schedule 1 to this By-law in the case of occupation of a caravan or in any other case in any form approved by the general manager and may be by letter;
 - (d) remain in force for the period for which it was granted, unless it is cancelled or surrendered;
 - (e) be displayed in a prominent position in the caravan or temporary structure for which it was granted; and
 - (f) be surrendered to the Council if it is cancelled or when it is due for renewal.

Cancellation of Permits

- 15.** (1) The general manager may cancel a permit if a permit holder commits any breach of this By-law or any condition of a permit.
- (2) The general manager is to serve a notice in writing on a permit holder stating that the permit is cancelled and the reason for that cancellation.

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(3) Cancellation of any permit is effective from the day the notice has been served on the permit holder or the date specified in the notice whichever is the later.

Production of the Permit

16. (1) A permit holder must produce the permit immediately when requested to do so by a police officer or an authorised officer.

Penalty: Fine not exceeding 2 penalty units.

(2) A permit holder will answer all questions from a police officer or an authorised officer which are reasonably necessary to establish that the person is a permit holder.

Penalty: Fine not exceeding 2 penalty units.

Cessation of Occupation

17. If a caravan or temporary structure ceases to be occupied before the expiry date of the Permit, the permit holder is to inform the Council within ten days of the date occupation ceased.

Penalty: Fine not exceeding 2 penalty units.

Transition

18. A permit granted under the *Caravan By-law No.17 of 2005* made on the 16th day of September, 2005 and published in the Tasmanian Government Gazette on 21 September, 2005 and in force at the commencement of this By-law is taken to be a permit granted under this Part.

PART 5 – ENFORCEMENT

Enforcement

19. (1) An authorised officer may require a person to give his name and address if the authorised officer reasonably believes that the person is offending or has offended against this By-law.

(2) A police officer is authorised to carry out any action under sub-clause (1) and assist an authorised officer in carrying out those actions;

(3) A person must supply their full name and address if requested to do so by an authorised officer or by a police officer.

Penalty: Fine not exceeding 5 penalty units.

PART 6 – INFRINGEMENT NOTICES

Offences

20. A person who contravenes or fails to comply with a provision of this By-law is guilty of an offence and is liable to a penalty as specified in this By-law in respect of such offence.

Infringement notices

21. (1) In this clause –
“specified offence” means an offence against the clause specified in column 1 of Schedule 2.

(2) An infringement notice may be issued in respect of a specified offence and the monetary penalty set out adjacent to the offence in Column 3 of

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Schedule 2 is the monetary penalty payable under the infringement notice for that offence.

(3) 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.

(4) Payment of an infringement notice issued under this By-law must be made to the General Manager within 28 days of the issue of the infringement notice to avoid the notice being referred to the Director, Monetary Penalties Enforcement Service appointed under section 8 of the *Monetary Penalties Enforcement Act 2005*.

(5) The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this By-law.

Monies Payable to Council as a recoverable debt

22. All monies payable to the council or general manager in respect of an infringement notice are a debt due to the council and recoverable at law.

PART 7 – MISCELLANEOUS

Referral to Council

23. 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.

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SCHEDULE 2

INFRINGEMENT NOTICE OFFENCES

Column 1 CLAUSE	Column 2 OFFENCE	Column 3 PENALTY (Penalty Units)
	GENERAL DESCRIPTION OF OFFENCE	
6	Occupying a caravan on land without a permit	2
7	Occupying a motor vehicle/vessel on land	2
8	Occupying a temporary structure on land without a permit	2
9	As the proprietor of land, allowing occupation of a caravan/temporary structure/motor vehicle/vessel upon that land without a permit	1.5
13(2)	Fail to comply with conditions of permit	2
16(1)	Fail to produce a permit when required	1
16(2)	Fail to answer questions when required	1
17	Fail to notify cessation of occupation of caravan/temporary structure	.5
19(3)	Fail to supply name and address	1

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Certified as being in accordance with the Law by:

(signed)
Matthew Charles Grimsey, Legal Practitioner

Dated this 8th day of September, 2015 at Huonville

Certified as being made in accordance with the *Local Government Act 1993*.

(signed)
Simone Watson, General Manager

Dated this 8th day of September, 2015 at Huonville

The Common Seal of the Huon Valley Council has been hereunto affixed this 8th day of September, 2015 pursuant to a resolution of the Council passed the 26th day of August, 2015 in the presence of:

(seal) (signed)
Simone Watson, General Manager