

HUON VALLEY COUNCIL
WASTE MANAGEMENT BY-LAW
BY-LAW NO. 1 OF 2012

By-law made under section 145 of the *Local Government Act 1993* for the purpose of regulating the disposal and collection of waste and use of waste management facilities.

PART 1 – PRELIMINARY

Short Title

1. This By-law may be cited as the Waste Management By-law 2012.

Repeal

2. The Huon Valley Council – Waste Management By-law, By-law No. 15 of 2002 made on 20 January 2003 and notified in the Tasmanian Government Gazette on 26 March 2003 page 363 is repealed.

Application

3. This By-law applies to the disposal and collection of waste and use of waste management facilities within the municipal area of the Huon Valley.

Interpretation

4. In this By-law –

“Act” means the *Local Government Act 1993*;

“authorised contractor” means a contractor appointed by the Council for the purposes of conducting a kerbside collection service on behalf of the Council;

“authorised officer” means the General Manager and any person appointed by the General Manager for the purposes of this By-law;

“clean fill” means “clean fill” as defined under the *Environmental Management and Pollution Control Act 1994*;

“controlled waste” means controlled waste under the *Environmental Management and Pollution Control Act 1994*;

“declared weed” means a plant declared to be as such under the *Weed Management Act 1999*.

“domestic waste” means all garbage, rubbish, debris, litter and other similar matter generated at domestic premises and from staff rooms of any place of business or industry but does not include liquid waste, inert waste, hot ash, controlled waste, sharps, trade waste and hard waste;

“General Manager” means the person appointed under section 61 of the Act to that position by the Council or a person acting in that capacity;

“hard waste” means large or bulky materials not able to be contained in a mobile garbage bin or mobile recycling bin;

~~“inert waste” means wood sawdust, shaving and chips, timber and treated timber, lumber and treated lumber, agricultural materials, silvicultural materials, tree debris and stumps, diseased trees, grass, weeds, soil, rock, concrete, bitumen or similar non-putrescible materials that is not contaminated by other waste and does not contain contaminant levels exceeding limits set by the Director of Public Health;~~

“kerbside collection service” means a service provided by the Council for the collection of domestic waste and/or recyclables;

“mobile garbage bin” means a wheelie bin of a design and construction approved by the General Manager for the temporary deposit of domestic waste;

“mobile recycling bin” means a wheelie bin of a design and construction approved by the General Manager for the temporary deposit of recyclables;

“penalty unit” means penalty unit under the *Penalty Units and Other Penalties Act 1987*;

“premises” means a separately occupied property to which the Council makes a kerbside collection service available;

“recyclables” means materials that the Council has by notice classed as being able to be recycled;

“re-use shop” means a facility in a waste management facility for the receiving and sale of materials that may be re-used without further treatment or processing;

“sharps” means objects or devices having acute rigid corners, edges, points or protuberances capable of cutting or penetrating the skin and includes hypodermic needles, intravenous sets, pasteur pipettes, lancets, and scalpel blades used in medical, dental, veterinary and nursing applications;

“trade waste” means waste products arising from or incidental to the carrying on of any profession, trade, business or manufacture but does not include liquid waste or controlled waste;

“vehicle” means a vehicle as defined in the *Traffic Act 1925*;

“waste” includes, without limitation, domestic waste, controlled waste, inert waste, trade waste, hard waste, recyclables and any other garbage, rubbish, debris, litter or similar matter;

“waste management facility” means an area within the municipal area of the Huon Valley set aside by the Council for the collection or disposal of waste, and includes a waste transfer station and a re-use shop.

PART 2 – DISPOSAL OF WASTE

Local Waste Only

5. (1) A waste management facility is intended for the use only of persons who reside in or have a place of business in the municipal area of Huon Valley for the disposal of waste originating from a residence, place, or place of business within the municipal area or for waste, other than from within the

municipal area, where Council has a specific waste agreement for the receipt of such waste.

- (2) An authorised officer may refuse to accept any waste which in that person's opinion does not come from within the municipal area of Huon Valley.

Normal Hours of Waste management facility

6. (1) A person without written permission from the General Manager must not deposit, place or drop or allow any person to deposit, place or drop any waste in or on any waste management facility unless it is during the days and hours of operation of that waste management facility as determined by Council or the General Manager from time to time and notified on a sign erected at the waste management facility and on payment of the relevant fee or charge imposed under section 205 of the Act.
Penalty: 5 penalty units
- (2) The General Manager may provide written permission to a person to place or drop any waste in or on any waste management facility outside of the days and hours of operation of that waste management facility referred to in sub-clause (1).

Access to Waste Management Facility

7. The General Manager may by notice refuse access to any waste management facility to any person or company representative not authorised in writing from the General Manager for the purpose of depositing waste at such facility.

Disposal of Waste

8. (1) Any person depositing waste at a waste management facility must:
 - (a) comply with any direction on any sign at that waste management facility; and
 - (b) comply with any direction by an authorised officer.Penalty: 5 penalty units
- (2) An authorised officer may refuse to accept any waste at a waste management facility which in the opinion of the authorised officer:
 - (a) is likely to pose a substantive and unacceptable hazard to employees of the Council or employees of its authorised contractor or the public unless authorised under sub-clause (3); or
 - (b) is excluded by any act or statute, any permit issued in respect of the waste management facility under the *Land Use Planning & Approvals Act 1993* and by any environmental protection notice issued in respect of the waste management facility under the *Environment Management Pollution & Control Act 1994*; or
 - (c) contains a declared weed.
- (3) A person must not deposit any controlled waste, ~~inert waste~~clean fill or trade waste at a waste management facility without the prior approval of the General Manager and upon such conditions as he may determine.
Penalty: 10 penalty units

Off Loading Waste at Waste Management Facility

9. A person must not –
 - (a) deposit any waste outside the boundary of any waste management facility at any time;

- (b) deposit any waste or animal manure within any waste management facility, except in such place and position and in such manner and under such conditions approved by the Council or the General Manager or an authorised officer or in accordance with any signs erected;
 - (c) deposit any material capable of becoming airborne, without first securing it from being scattered by the wind;
 - (d) deposit sharps at a waste management facility except at such place and position and in such manner and under such conditions approved by the Council or the General Manager;
 - (e) remain within any waste management facility longer than is necessary to deposit waste brought to that facility or for the purposes of attending at a re-use shop unless with the written permission of the General Manager;
 - (f) deposit a declared weed within any waste management facility;
- Penalty: 5 penalty units

Lighting of Fires

- 10.** A person must not –
- (a) dump hot waste such as recently burnt contents of incinerators or woodheaters, including embers and coals, within a waste management facility; or
 - (b) cause or knowingly permit any open burning on a waste management facility otherwise than in an approved heater or incinerator under the supervision of an authorised officer; or
 - (c) set fire to any waste within the waste management facility.
- Penalty: 10 penalty units

Scavenging and Recycling

- 11.** (1) A person must not enter a waste management facility other than a re-use shop for any purpose other than the depositing of waste without the written permission of the General Manager and on such conditions that he may determine.
- Penalty: 5 penalty units
- (2) A person must not remove any article or thing deposited as waste at a waste management facility, nor interfere with any materials, plant or equipment thereon without the written permission of the General Manager and on such conditions that he may determine.
- Penalty: 5 penalty units
- (3) The General Manager may approve, subject to terms and conditions, a section of any waste management facility for the purpose of collecting material to be recycled provided that the area is:
- (a) fenced or otherwise clearly delineated; and
 - (b) identified by appropriate signs.

Cartage of Waste

- 12.** A person must not convey in any vehicle or container any waste or recyclables unless the material is in a closed container or carried in such a manner as to prevent:
- (a) the escape of any of the contents from the vehicle or container in the course of transit to a waste management facility;

- (b) the creation of any nuisance or situation prejudicial to public health and safety.

Penalty: 10 penalty units

PART 3 – KERBSIDE COLLECTION SERVICE

Kerbside Collection Service

- 13.** (1) The Council may provide a kerbside collection service for domestic waste or other waste or recyclables, within an area or areas and upon such conditions and terms as determined by the Council or the General Manager.
- (2) The General Manager may determine by notice classes of materials as being recyclables for the purpose of kerbside collection.
- (3) The General Manager may determine by notice the management and control of the storage, collection, transport and disposal of waste or recyclables associated with a kerbside collection service within the municipal area.
- (4) For the purposes of this Part, “notice” means a notice:
- (a) at a waste management facility; or
 - (b) advertised in a newspaper circulated in the municipal area; or
 - (c) forwarded by the Council or an authorised officer to a person to whom this By-law applies.
- (5) A person must comply with any direction from an authorised officer in relation to the storage, collection, transport or disposal of waste or recyclables in the municipal area and with the terms and conditions of any notice issued pursuant to sub-clause (3).

Penalty: 5 penalty units

- (6) The General Manager may require by notice that owners and occupiers of premises sort domestic waste to enable the separate collection of recyclables, and any other waste as specified in that notice.

- (7) Every premises within an area provided with a kerbside collection service will, upon request, be provided with a mobile garbage bin for the storage and collection of domestic waste and a mobile recycling bin for the storage and collection of recyclables.

- (8) A mobile garbage bin or a mobile recycling bin provided in accordance with sub-clause (7) remains the property of the Council or its authorised contractor unless otherwise advised by notice in writing by the General Manager.

- (9) The Council or its authorised contractor will only collect domestic waste that is contained within a mobile garbage bin with the lid closed, or recyclables that are wholly contained within a mobile recycling bin.

- (10) No person other than the Council or its authorised contractor is to collect domestic waste or recyclables placed in a mobile garbage bin or a mobile recycling bin for collection by Council’s kerbside collection service.

Penalty: 20 penalty units

General Provisions

- 14.** (1) A person within an area provided with a kerbside collection service who is entitled to receive the kerbside collection service must:
- (a) store the mobile garbage bin and mobile recycling bin wholly within their premises unless otherwise authorised by the General Manager or an authorised officer, except when placed on the kerbside for collection in accordance with direction contained in a notice relating to the kerbside collection service;

- (b) keep the mobile garbage bin and mobile recycling bin in good repair and in a sanitary condition;
- (c) clean and disinfect the mobile garbage bin and mobile recycling bin if required to do so by an authorised officer;
- (d) place the mobile garbage bin and mobile recycling bin for the collection of its contents in a place and in a manner and between the hours as notified by the Council, the General Manager or an authorised officer unless otherwise approved by an authorised officer;
- (e) ensure that the contents of the mobile garbage bin and mobile recycling bin each do not exceed 50 kilograms;
- (f) not place in any mobile recycling bin any matter except recyclables in accordance with the General Manager's notice under clause 13(2);
- (g) not place the mobile garbage bin or mobile recycling bin on any footpath in a position which blocks the footpath or unreasonably impedes pedestrian traffic on the footpath;
- (h) not load a mobile garbage bin or mobile recycling bin so that the domestic waste or recyclables protrude over the top rim of the bin and prevent complete closing of the lid;
- (i) remove the mobile garbage bin and mobile recycling bin from the kerbside as soon as practicable after collection of their contents.

Penalty: 5 penalty units

(2) The Council or its authorised contractor may refuse to empty any approved waste container or recycling crate which, in the opinion of the Council or its authorised contractor, does not meet any requirements of this By-law.

Dangerous Substances

- 15.** (1) The occupier of any premises must not place in any mobile garbage bin or mobile recycling bin which is placed for Council collection any thing or substance which:
- (a) is hot, or is likely to, become hot;
 - (b) may, or is likely to, explode;
 - (c) may interact with other substances in the mobile garbage bin or mobile recycling bin and generate toxic or poisonous gases or fumes;
 - (d) is corrosive;
 - (e) contains sharps or potentially infectious waste; or
 - (f) is in any other way dangerous.

Penalty: 5 penalty units

PART 4 – ENFORCEMENT AND INFRINGEMENT NOTICES

Request to Leave a Waste Management Facility

- 16.** (1) An authorised officer may ask a person whom the authorised officer reasonable believes is offending against this By-law to leave a waste management facility.
- (2) A person must obey a request to leave a waste management facility given by an authorised officer under sub-clause (1).

Penalty: 5 penalty units

(3) An authorised officer may remove anything which is in or on a waste management facility without the approval of the Council.

(4) An authorised officer may remove any person whom the authorised officer is reasonably believes is offending against this By-law from a waste management facility.

- (5) A police officer is authorised to:
- (a) to carry out any action to be able to be carried out by an authorised officer under sub-clauses (3) and (4); and
 - (b) to arrest any person who is on a waste management facility and whom the police officer reasonably believes is offending against this By-law.

Supply of Name and Address

- 17.** (1) If an authorised officer reasonably believes that a person has offended or is offending against this By-law that officer may require that person to supply their full name and address.
- (2) A person must supply their full name and address if requested to do so by an authorised officer under sub-clause (1).
- Penalty: 5 penalty units

Ban from a Waste Management Facility

- 18.** (1) The General Manager may impose a ban on a person using or entering a waste management facility as stipulated in the ban where that person has contravened a provision of clauses 8 or 9 on more than one occasion.
- (2) A ban imposed under sub-clause (1) may be for a maximum of 12 months duration.
- (3) A person who has been banned from entering a waste management facility pursuant to this clause must not enter the waste management facility when such a ban is in place.
- Penalty: 20 penalty units

Infringement notices

- 19.** (1) In this clause –
- “**specified offence**” means an offence against the clause specified in column 1 of Schedule 1.
- (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 Schedule 1 is the 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 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

- 20.** All monies payable to the council or General Manager in respect of an infringement notice issued under clause 19 are a debt due to the council and recoverable at law.

Expenses

21. In addition to any penalty imposed in relation to any failure by a person to comply with any of the provisions of this By-law any expense incurred by the Council as a consequence of that contravention is recoverable by the Council as a debt payable by that person.

PART 5 – MISCELLANEOUS**Delegation**

22. Where under this By-law any matter may be determined by the General Manager, the General Manager may, in accordance with the Act, delegate to an employee of the Council the performance of those functions.

Referral to Council

23. No provision of this By-law is to be construed as preventing the General Manager from referring any application for approval to the Council.

SCHEDULE 1

INFRINGEMENT NOTICE OFFENCES

Column 1 CLAUSE	Column 2 OFFENCE	Column 3 PENALTY (Penalty Units)
GENERAL DESCRIPTION OF OFFENCE		
6	Deposit waste at a waste management facility outside of operating hours/without paying charge	1
8(1)	Fail to comply with a direction at a waste management facility	1
8(3)	Deposit controlled waste/inert waste/trade waste at a waste management facility without approval	2
9(a)	Deposit waste outside boundary of waste management facility	1
9(b)	Deposit waste/animal manure outside of specified area in waste management facility	1
9(c)	Deposit unsecured material capable of becoming airborne	1
9(d)	Deposit sharps outside of specified area in waste management facility	1
9(e)	Remain in waste management facility longer than necessary to deposit waste	1
9(f)	Deposit a declared weed in a waste management facility	1
10(a)	Dump hot waste in a waste management facility	2
10(b)	Cause/Permit open burning in a waste management facility	2
10(c)	Set fire to waste in waste management facility	2
11(1)	Enter waste management facility for purpose other than to deposit waste	1
11(2)	Remove article deposited as waste/interfere with any materials, plant or equipment at a waste management facility	1
12	Fail to convey waste in a manner to prevent escape from vehicle/create a nuisance/cause risk to public health	2
13(5)	Fail to comply with direction of an authorised officer on disposal of waste/ recyclable in a kerbside collection service.	1
13(10)	Collect waste/recyclables placed for Council's kerbside collection service	4
14(1)(a)	Fail to store mobile garbage bin/mobile recycling bin within premises	1
14(1)(b)	Fail to keep mobile garbage bin/mobile recycling bin in good repair/sanitary condition	1
14(1)(c)	Fail to clean and disinfect mobile garbage bin/mobile recycling bin as required by an authorised officer	1
14(1)(d)	Fail to place mobile garbage bin/mobile recycling bin for collection in notified place and manner	1
14(1)(e)	Fail to ensure contents of mobile garbage bin/mobile recycling bin do not exceed 50kgs	1
14(1)(f)	Place non-recyclables in recycling crate	1
14(1)(g)	Place mobile garbage bin/mobile recycling bin in position to block/obstruct pedestrians	1
14(1)(h)	Load mobile garbage bin/mobile recycling bin preventing complete closing of the lid	1
14(1)(i)	Fail to remove mobile garbage bin/mobile recycling bin after collection	1
15(1)(a)	Place hot/likely to become hot substance in mobile garbage bin/mobile recycling bin	1

15(1)(b)	Place substance in mobile garbage bin/mobile recycling bin that may/is likely to explode	1
15(1)(c)	Place substance in mobile garbage bin/mobile recycling bin that may generate toxic gas or fumes	1
15(1)(d)	Place corrosive substance in a mobile garbage bin/mobile recycling bin	1
15(1)(e)	Place sharps/infectious waste in a mobile garbage bin/mobile recycling bin	1
15(1)(f)	Place dangerous substance in a mobile garbage bin/mobile recycling bin	1
16(2)	Fail to leave waste management facility as requested	1
17(2)	Fail to supply full name and address	1
18(3)(1)	Enter a waste management facility contrary to a ban	2

CERTIFICATION

Certified as being in accordance with the Law by:

Matthew Charles Grimsey, Legal Practitioner

Dated this 27th day of February, 2013 at Huonville

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

Simone Watson, Acting General Manager

Dated this 27th day of February, 2013 at Huonville

The Common Seal of the Huon Valley Council has been hereunto affixed this 27th day of February 2013 pursuant to a resolution of the Council passed the 20th day of February, 2013 in the presence of:

(seal)

Simone Watson, Acting General Manager