

**BRIGHTON COUNCIL
ENVIRONMENTAL HEALTH BY-LAW**

By-Law No. 1 of 2017

A BY-LAW of the Brighton Council made under the provisions of Section 145 of the *Local Government Act 1993* (Tas) for the purpose of controlling matters of environmental health.

PART 1 - PRELIMINARY

1. Short Title

This By-Law may be cited as the Environmental Health By-Law No. 1 of 2017.

2. Repeal

The Brighton Council – Environmental Health By-law, By-law No. 1 of 2016 made on the 26th July 2016 and notified in the Tasmanian Government Gazette on the 3rd August 2016 at page 1000 is hereby repealed.

3. Definitions and Interpretation

In this By-law, unless the contrary intention appears –

‘**Act**’ means the *Local Government Act 1993* (Tas);

‘**Authorised Officer**’ means:

- (a) an employee of the Council appointed by the General Manager as an authorised officer for the purpose of this By-law; and
- (b) Environmental Health Officers;

‘**By-Law**’ is a reference to this Environmental Health By-Law being No. 1 of 2017;

‘**Council**’ means the Brighton Council (ABN 12 505 460 421) constituted pursuant to the Act;

‘**Environmental Health Officer**’ means the person (or persons) appointed by Council from time to time in the positions of Senior Environmental Health Officer and Environmental Health Officer;

‘**General Manager**’ means the person appointed by Council from time to time to the position of general manager in accordance with section 61 of the Act;

‘**Municipal Area**’ means the municipal area of the Brighton Council defined in accordance with section 16 of the Act;

‘**person**’ includes a body corporate;

‘**proprietor**’ includes the owner, occupier or any person having the control or management of any land;

‘**Residential Zone**’ means area of land zoned General Residential; Inner Residential; Low Density Residential; Urban Mixed Use; and Village under the Brighton Interim Planning Scheme 2015; and

‘Rural Zone’ means area of land zoned Rural Living and Rural Resource under the Brighton Interim Planning Scheme 2015.

PART 2 - CARAVANS

4. Interpretation of Part 2

In this Part 2 –

‘caravan’ means:

- (a) 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; and
- (b) includes any structure, awning, verandah, lean-to, tent, carport or any other enclosed or partly enclosed area used or capable of being used in connection with, or attached to any caravan; and
- (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;

‘caravan licence’ means a licence to occupy a caravan ;

‘occupy’ includes reside or live in any caravan for the purposes of shelter, entertainment, sleeping, resting, cooking, eating, or for any other similar use whether on a temporary or permanent basis;

‘uninhabitable state’ means:

- (a) there is no electricity, water, sanitation or other form of domestic utility connection servicing the caravan and no bedding is made up; and
- (b) in the reasonable opinion of an Authorised Officer, the caravan does not show signs of current or recent human habitation.

5. Application of Part 2

Part 2 of this By-Law does not apply to a caravan that is:

- (a) parked for less than forty eight (48) hours on Council land which is signposted or otherwise designated as a RV rest stop;
- (b) situated on land for which a planning permit has been issued under the *Land Use Planning and Approvals Act 1993* (Tas) permitting the use and/or development of caravans, including but not limited to caravan parks;
- (c) used on a temporary basis by persons engaged in a travelling show, including but not limited to a circus, the annual Brighton Rural Show or some other form of public performance; or
- (d) used by Council work gangs or Council contractors involved in construction work for the Council.

6. Application for caravan licence

- (a) A person may apply for a caravan licence by submitting to an Environmental Health Officer:

- i. an application made in accordance with the form in Schedule 1 of this By-law; and
 - ii. the application fee determined by Council.
- (b) Upon receipt of an application made in accordance with clause 6(a), an Environmental Health Officer may request that the applicant supply additional information for the purpose of assessing the application. If an applicant fails to comply with a request made pursuant to this clause 6(b), the relevant application will be refused.
 - (c) Subject to subclauses 6(d), 6(e) and 6(f) of this By-Law, an Environmental Health Officer may grant or refuse an application made in accordance with subclause 6(a) and if an application is granted the Environmental Health Officer may impose reasonable terms and conditions upon a caravan licence.
 - (d) A caravan licence will not be granted where the applicant intends to keep the caravan on land located in a Residential Zone.
 - (e) Where an applicant intends to occupy a caravan on land located in a Rural Zone, a caravan licence will only be granted if the applicant can demonstrate that approval has been granted under the *Building Act 2016* (Tas) to construct a residential dwelling on the land identified in the application.
 - (f) A caravan licence will not to be granted unless an Environmental Health Officer has approved the proposed method for the disposal of refuse and on-site wastewater during the period of occupancy.
 - (g) All caravan licences will remain valid for a maximum period of twenty six (26) weeks from the date of issue, after which time they will automatically expire.
 - (h) An Environmental Health Officer may cancel any caravan licence issued pursuant to this By-Law by giving written notice of cancellation to the holder of the licence in the event that the terms and conditions of the licence are breached.

7. Licence necessary to occupy a caravan

- (a) A person must not occupy a caravan without a licence.

Penalty: Fine not exceeding 12 penalty units.

- (b) The proprietor of any land within the Municipal Area must not authorise, allow or otherwise permit any person to occupy a caravan upon their land unless such occupancy is authorised by a current caravan licence.

Penalty: Fine not exceeding 12 penalty units.

8. Storage of caravans

A caravan being stored on any land within the Municipal Area must at all times be kept and maintained in an uninhabitable state.

Penalty: Fine not exceeding 12 penalty units.

PART 3 - BUILDING SITE SANITATION

9. Interpretation of Part 3

In this Part 3 –

‘**builder**’ in relation to a building site, has the meaning given to that term in section 3 of the *Building Act 2016* (Tas);

‘**building site**’ means a place where building work is carried out;

‘**toilet**’ includes a facility that has a seat and a removable pan, a water closet or a portable toilet; and

‘**urinal**’ means a facility used solely for the receipt of human urine.

10. Work Health and Safety Act 2012 (Tas)

For the avoidance of doubt, the provisions of Part 3 of this By-law are in addition to, and not in derogation of, the provisions of the *Work Health and Safety Act 2012* (Tas) and all regulations thereto.

11. Location of toilets and urinals

A builder must not fail to comply with any reasonable direction which may be given by an Authorised Officer concerning the siting of toilets and urinals on building sites.

Penalty: Fine not exceeding 2 penalty units.

PART 4 – CONTROL OF INCINERATORS AND OPEN AIR BURNING

12. Interpretation of Part 4

In this Part 4 –

‘**barbecue**’ means any device, structure or equipment used or adapted for use for the cooking of food for human consumption in the open air;

‘**incinerator**’ includes any fireplace, fire pot, construction or container not housed inside a building, which is used for the purpose of burning any flammable material and which is not licensed under the provisions of the *Environmental Management and Pollution Control Act 1994* (Tas), but does not include a barbecue being used for any *bona fide* purpose in connection with the cooking of food for human consumption;

‘**Building Code of Australia**’ means the code produced by the Australian Building Code Board relating to the design and construction of buildings; and

‘**open-air fire**’ means any fire that is conducted outside a building, including a fire conducted in a garden, yard, alley, field, park, industrial site, construction site, building lot, parking lot, street or other open place.

13. Fire Services Act 1979 (Tas)

For the avoidance of doubt, the provisions of Part 4 of this By-law are in addition to, and not in derogation of, the provisions of the *Fire Service Act 1979* (Tas) and all regulations thereto.

14. Incinerator construction

A person must not operate an incinerator unless the incinerator:

- (a) is constructed of a suitable non-combustible material, including but not limited to brick, concrete, metal, or any combination of same;
- (b) is fitted with a lid or other form of spark arrestor which must be in active use during the burning of materials; and
- (c) is in a state of repair which, in the opinion of an Authorised Officer, is suitable for the safe burning of materials.

Penalty: Fine not exceeding 12 penalty units.

15. Location of incinerator and open-air fire

A person must not operate an incinerator or light an open-air fire:

- (a) within two (2) metres of any neighbouring property boundary; or
- (b) within ten (10) metres of the external wall of any structure, including but not limited to a dwelling or outbuilding; or
- (c) in any location where vegetation overhangs or is otherwise situated above the incinerator or the open-air fire.

Penalty: Fine not exceeding 12 penalty units.

16. Supervision of fires

A person must not, on land with an area which is less than two thousand (2000) square metres, leave unattended an active incinerator or an open-air fire unless it has been completely extinguished.

Penalty: Fine not exceeding 12 penalty units.

17. Capacity to extinguish fire

A person must not:

- (a) operate an incinerator or light an open-air fire; or
- (b) allow an incinerator to be operated or an open-air fire to be lit on that person's land,

unless a suitable means of extinguishing the relevant fire is available, including but not limited to a hose which is connected to a water supply and capable of reaching the relevant fire.

Penalty: Fine not exceeding 12 penalty units.

18. Burning of green vegetation

A person must not, on land with an area which is less than two thousand (2000) square metres, in an incinerator or in an open-air fire, burn green vegetation.

Penalty: Fine not exceeding 12 penalty units.

19. Time restrictions

Notwithstanding any other provisions of this By-Law to the contrary, a person must not light or allow to be lit or to remain alight any incinerator or open-air fire on land with an area which is less than two thousand (2000) square metres

on any day or time other than Monday, Wednesday or Saturday between the hours of 10 a.m and 4 p.m.

Penalty: Fine not exceeding 12 penalty units.

20. Extinguishing fires

- (a) Any person who is burning any material in contravention of this By-Law must not fail to extinguish the relevant fire where directed to do so by an Authorised Officer.

Penalty: Fine not exceeding 12 penalty units.

- (b) An Authorised Officer may undertake or coordinate the extinguishing of any fire which is the subject of a direction given under clause 20(a) of this By-Law where the relevant direction is not complied with within a reasonable time.
- (c) The Council may recover all costs incurred by it as a result of any action taken pursuant to clause 20(b) from the person who failed to comply with the relevant direction given pursuant to clause 20(a).

PART 5 – ANIMAL CONTROL

21. Interpretation of Part 5

In this Part 5 –

‘animal’ includes any live companion animal, domestic animal, farm animal, fowls, poultry or native animal;

‘cattle’ means a bull, cow, ox, steer, heifer, or calf;

‘companion animal’ means an animal kept by a person as a companion pet;

‘domestic animal’ includes an animal or bird that is:

- (a) kept by an owner or some other person who has charge of the animal; and
(b) reliant upon human contact to satisfy its welfare requirements;

‘effective control’ means:

- (a) confined by a cage or enclosure, or fence and closed gates; or
(b) on a leash; or
(c) under the direct supervision of a competent person; or
(d) confined by such other appropriate method that prevents uncontrolled animal activity;

‘farm animal’ means a horse, stock or any other animal that is commonly being farmed or grazed;

‘feral animal’ means any animal which is not native to Australia and which is living in a wild state and substantially independent of human contact;

‘fowl’ means a domestic hen, but does not include a rooster;

'horse' includes a stallion, mare, gelding, pony, filly, colt, foal, ass, donkey, mule, or any other animal used for burden, draught or for carrying people, irrespective of size;

'native animal' means any animal native to Australia;

'nuisance' has the same meaning as 'nuisance' under s.199 of the *Local Government Act 1993* and includes anything relating to an animal that –

- (a) causes, or is likely to cause, danger or harm to the health, safety or welfare of any person; or
- (b) causes, or is likely to cause, a risk to public health; or
- (c) gives rise to unreasonable or excessive levels of noise or pollution;

'pest animal' means a feral animal, vermin or vectors;

'poultry' includes ducks, fowl, geese, guinea fowl, peacocks, pheasants and pigeons, or any other birds kept in an aviary;

'prepared food' includes:

- (a) a product manufactured altered or modified for the purpose of consumption by animals; or
- (b) commercial products or household scraps used for the purpose of animal consumption,

but does not include hay or straw of any type;

'property' means any land, dwelling, flat or unit in separate occupation;

'public land' means land owned, vested in or managed by Council or any Government department, agency or instrumentality;

'stock' includes cattle, goats, deer, sheep, pigs, or a combination of two or more of them;

'stray animal' includes any animal not in the current care and control of any person but excludes a feral animal;

'vermin' means rats, mice, flies, fleas, lice, or any other animal or insect pest; and

'welfare' means the basic health, protection, care and comfort of any animal.

22. Prohibition on keeping certain animals in the Residential Zone

Subject to clause 23 of this By-Law, a person must not have or keep, on a temporary or permanent basis, any of the following in a Residential Zone:

- (a) horses, cattle, other farm animals or stock, including:
 - i. sheep,
 - ii. goats,
 - iii. pigs,
 - iv. roosters.
- (b) bees;
- (c) poultry, excluding fowls;

or any other animal of a non-domestic nature which the General Manager considers ought not be kept in a Residential Zone.

Penalty: Fine not exceeding 12 penalty units.

23. Permission to keep animals in Residential Zone

(a) Clause 22 of this By-Law does not apply where:

- i. a person has sought and obtained the written permission of the General Manager to keep the relevant animal; and
- ii. the portion of the premises or land to which the relevant animal has access is effectively fenced so that the animal cannot approach within:
 - A. fifteen (15) metres of any dwelling, schoolroom, hospital, child health centre, workroom or food premises; and
 - B. two (2) metres of a street boundary, or any adjoining property; and
- iii. boundary fencing suitable for the containment of the relevant animal is installed and maintained in good condition.

(b) In determining whether or not to grant the permission referred to in sub clause 23(a)(i), the General Manager must take into account whether or not the relevant animals will unreasonably interfere with the health or amenity of the relevant neighbourhood.

24. Effective control of animals

(a) Subject to sub-clause 24(b), the owner of any animal must ensure that their animal does not:

- i. enter or remain on any private property without the consent of the owner or occupier of such property; or
- ii. enter any public land unless there is a sign displayed on that land authorising the entry of that kind of animal.

Penalty: Fine not exceeding 12 penalty units.

(b) Sub-clause 24(a) of this By-Law does not apply to

- i. domestic cats or domestic dogs; or
- ii. a situation where farm animals or stock are on a public road and are under the effective control of a competent person.

25. Keeping of fowls

(a) A person must not keep more than a total of six (6) fowls on a property within a Residential Zone.

Penalty: Fine not exceeding 12 penalty units.

(b) A person must not, in any area, keep any fowl or fowls within twelve (12) metres of any dwelling house or two (2) metres of a property boundary or allow the fowl or fowls to have access to any area which is within twelve (12) metres of a dwelling house.

Penalty: Fine not exceeding 12 penalty units.

26. Maintenance of premises used by animals

- (a) The occupier of any premises must:
- i. keep any structures, buildings, enclosures or areas to which animals have access in a clean and sanitary condition;
 - ii. keep any bedding or floor coverings used by animals, or to which animals have access, in a clean and sanitary condition;
 - iii. regularly empty any container used for the keeping of animal waste, animal food or manure and keep such container in a clean and sanitary condition; and
 - iv. not use or include any part of an adjoining property fence as part of an animal enclosure.

Penalty: Fine not exceeding 12 penalty units.

- (b) A person must not discharge, deposit, or allow or permit to be discharged or deposited, any animal waste including but not limited to faeces:
- i. on to any property excepting the property on which the relevant waste is produced; or
 - ii. into any water course or drain,

Penalty: Fine not exceeding 12 penalty units.

27. Pest animals

- (a) An Authorised Officer may direct an owner or occupier of land where pest animals are present to take steps to remove or eradicate the relevant pest animals.
- (b) A person must not fail to comply with a direction given by an Authorised Officer pursuant to clause 27(a).

Penalty: Fine not exceeding 12 penalty units.

28. Storage of animal food for consumption

A person must not keep, store or allow to be kept or stored on any land, prepared food unless it is stored in a sealed receptacle constructed of a material that is resistant to access by pest animals.

Penalty: Fine not exceeding 12 penalty units.

PART 6 – OFFENCES AGAINST AUTHORISED OFFICERS

29. Obstruction of an authorised officer

- (a) A person must not obstruct, hinder, assault, threaten, abuse or intimidate an Authorised Officer engaged in the exercise of the powers conferred by this By-Law.

Penalty: Fine not exceeding 12 penalty units.

30. Failure to provide name and address

A person must not:

- (a) fail or refuse to give his or her name and address; or
- (b) knowingly give a false name or address,

if so required by an Authorised Officer who reasonably believes the person is committing or has committed an offence against this By-Law.

Penalty: Fine not exceeding 12 penalty units.

PART 7 - INFRINGEMENT NOTICES AND ENFORCEMENT

31. Entry onto land

For the purposes of this By-Law, an Authorised Officer may:-

- (a) enter and remain on land for any reasonable purpose connected with the administration or enforcement of the By-Law; and
- (b) take photographs, audio, video or other recordings as reasonably required in connection with the administration of the By-Law.

32. Infringement notices

- (a) In this clause 32 '**specified offence**' means an offence against the clause specified in Column 1 of Schedule 2 of this By-Law.
- (b) 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 2 is the penalty payable under the infringement notice for that offence.
- (c) The General Manager or an Authorised Officer may –
 - i. issue an infringement notice to a person who the General Manager or authorised officer has reason to believe is guilty of a specified offence; and
 - ii. issue one infringement notice in respect of more than one specified offence.
- (d) 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.
- (e) Payment of an infringement notice issued must be made to the General Manager within 28 days of the issue of the infringement notice to avoid the infringement notice being referred to the Director, Monetary Penalties Enforcement Service.
- (f) The Monetary Penalties Enforcement Act 2005 applies to an infringement notice issued under this by-law.

33. Monies payable to council recoverable as a debt

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.

SCHEDULE 1: CARAVAN LICENCE APPLICATION FORM



**Brighton
Council**

Application for Licence to Occupy a Caravan

Applicant's Details:

Mr/Mrs/Ms/Miss

Surname

Given Names

Telephone (Home)

Telephone (Work)

Mobile Telephone No.

About the Caravan:

Registration No.

Size (Length)

No. of Berth:

Manufacturer:

Colour

Site Details:

Address where caravan will be kept:

.....

.....

Type of water supply to caravan:

Proposed method of disposal of waste water (including toilet, bath, shower, hand-basin, sink and laundry):

Number of people to occupy caravan:

Period proposed to remain on site:

Name of Applicant:

Signature of Applicant:

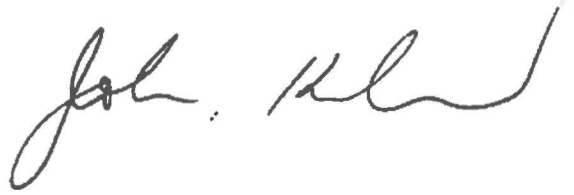
Date:

Please attach a site plan to your application showing the outline of the property,
the existing buildings
and the proposed location of the caravan

SCHEDULE 2 - INFRINGEMENT NOTICE OFFENCES

Column 1 CLAUSE	Column 2 OFFENCE	Column 3 PENALTY (Penalty Units)
7 (a) & (b)	Licence necessary to occupy a caravan	3
8	Storage of caravans	3
11	Location of toilets and urinals	1
14	Incinerator construction	3
15	Location of incinerator and open-air fire	3
16	Supervision of fires	3
17	Capacity to extinguishing fire	3
18	Burning of green vegetation	3
19	Time restrictions	3
20	Extinguishing fires	3
22	Prohibition on keeping certain animals in the Residential Zone	3
24(a)	Effective Control of animals	3
25 (a) & (b)	Keeping of poultry	3
26 (a) & (b)	Maintenance of premises used by animals or poultry	3
27	Pest animals	3
28	Storage of animal food for consumption	3
29	Obstruction of an authorized officer	3
30	Failure to provide name and address	3

Certified as being in accordance with the law by:



John Kirkwood, Abetz Curtis, Qualified Legal Practitioner.

Dated this 1st day of June 2017, at Hobart.

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

Ronald Victor Sanderson, General Manager

Dated this 15th day of August 2017, at Old Beach.



The Common Seal of the Brighton Council has been hereunto affixed this 15th day of **August 2017** pursuant to a resolution of the Council passed on the 15th day of **August 2017** in the presence of:

Ronald Victor Sanderson, General Manager

