

BURNIE CITY COUNCIL
REFUSE COLLECTION AND WASTE MANAGEMENT BY-LAW
BY-LAW NO. 11 OF 2007

BY-LAW made under section 145 of the *Local Government Act 1993* for the purpose of regulating the storage, collection and disposal of refuse in the City of Burnie.

PART 1
PRELIMINARY

SHORT TITLE

1.—This By-law may be cited as the Refuse Collection and Waste Management By-law.

COMMENCEMENT

2.—This By-law commences on the date it is published in the ‘Tasmanian Government Gazette’.

APPLICATION

3.—This By-law applies to the municipal area of the City of Burnie.

INTERPRETATION

4.—In this By-law:—

“at the kerbside” means at or near the back of the kerbface of a road, street or way and where there is no kerb, “at the kerbside” means at the outside edge of the carriageway;

“authorised officer” means a person appointed by the Council or by the General Manager as an authorised person for the purposes of this By-law;

“biohazardous waste” means waste that arises from medical, dental or similar procedures that is or has the potential to become, harmful to human health;

“Code of Practice” means the Code of Practice For The Safe Removal of Asbestos, 2nd Edition [NOHSC: 2002 (2005)];

“controlled waste” means controlled waste as defined in the *Environmental Management and Pollution Control Act 1994*;

“Council” means Burnie City Council;

“Director” means the Director of Environmental Management holding office under Section 18 of the Environmental Management and Pollution Control Act 1994;

“General Manager” is the person appointed as the General Manager of the Council;

“disposal site” means any area set apart by the Council for the disposal of refuse, and transfer stations and recycling centres within the municipal area;

“domestic refuse container” means a wheelie bin or recycling crate supplied by the Council and bearing the Council logo, or such other receptacle approved by the General Manager;

“domestic refuse” means all domestic garbage, rubbish and waste arising from human habitation and the usual routine of housekeeping;

“garden waste” means branches, grass, leaves, plants, loppings, tree trunks, tree stumps and the like and includes any mixture of those materials.

“hard waste” means waste furniture, white goods or domestic waste that is too large to fit in a domestic refuse container;

“land” means land in the municipal area;

“litter bin” means a litter bin in a public place provided by the Council for public use to dispose of litter;

“low level controlled waste means:

- (i) Asbestos waste;
- (ii) Scrap tyre waste;
- (iii) Untreated solid sewage products such as grit and screening, but not sewage sludge and septic waste; and
- (iv) Medical waste such as sharps in an approved sealed sharps container and sanitary waste, but not infectious or cytotoxic waste.

“municipal area” means the municipal area of the City of Burnie;

“notice” means a Council notice:—

(a) displayed or set up in a public place or adjacent to a public place in the municipal area; or

(b) in a daily newspaper circulating in the municipal area; or

(c) forwarded by the Council or General Manager to a person to whom this By-law applies;

“noxious refuse” means the highly putrescible content of refuse when not disposed of in sealed plastic bags and any animal carcasses, fish and poultry, offal, kitchen wastes and other offensive matter;

“public place” means any land (including highway) owned by or under the control of the Council and any public land in the municipal area and any building or structure in or upon that land that is part of any property or facility owned, controlled, managed or maintained by the Council or otherwise being the responsibility of the Council;

“recyclable” means:

(a) recyclable containers including bottles, jars, can, tins or cartons that have previously contained a beverage, food or non-toxic substance and are made of polyethylene terephthalate (PET), high density polyethylene (HDPE), polyvinyl chloride, glass, aluminium, steel or liquid paper board, excluding coloured high density polyethylene, and

(b) recyclable paper and cardboard including newspapers, magazines, advertising material, office paper, envelopes, cardboard boxes and packaging.

(c) recyclable plastics, milk and juice containers, polystyrene including expandable polystyrene, low density polythene, polypropylene and other acrylic and nylon plastics.

“recycling centre” means an area set aside by the Council for receiving materials that are recyclable and may include a shop;

“refuse” means any domestic refuse, biohazardous waste, controlled waste, noxious refuse, trade waste and other rubbish, debris, litter, recyclable materials, or any other similar materials, articles or things that is by notice determined to be refuse;

“refuse collection area” means that part of the municipal area served by a household garbage collection service;

“scavenge” means to pick up, move or take away any discarded item;

“scavenging agreement” means an agreement made between the council and a person that entitles the person to scavenge in a refuse disposal area;

“shop” means any land, stall or building with unrestricted access to the general public during the hours when the waste management facility is open to the public where retail goods are offered for sale;

“the Act” means the Local Government Act 1993;

“trade waste” means liquid waste and any solids contained in it (excluding sewage), generated by, or collected from, any industry, business, trade process, manufacturing process, or commercial activity from, on, or in relation to land, including, but not limited to:—

(a) commercial food waste;

(b) any matter discharged from any laundry used in relation to commercial activities or for commercial purposes including but not limited to laundrettes, hotels, motels, hospitals, and schools;

(c) any matter discharged:

- (i) from any industrial or commercial cooling, refrigeration or air conditioning system;
- (ii) from any marine vessel to land;
- (iii) as run-off water used to extinguish a fire or to deal with any other hazard or emergency on land used for industrial or commercial activities;
- (iv) as leachate from any private, commercial or municipal landfill disposal site.

“vehicle” has the same meaning as in the *Traffic (Road Rules) Regulations 1999* and as defined by the Traffic Act 1925.

“waste management facility” means an area within the municipal area of the City of Burnie set aside by the Council for the collection or disposal of refuse, and includes a waste transfer station, resource recovery and recycling centre;

COLLECTION OF DOMESTIC REFUSE

KERBSIDE DOMESTIC REFUSE COLLECTION

5.—(1) The Council may by a notice designate a refuse collection area or areas.

(2) The Council may provide a kerbside domestic refuse collection service for domestic refuse within the refuse collection area upon such conditions and terms as determined by the Council.

(3) The General Manager may by notice determine what recyclable material will be collected as part of any kerbside collection service.

(4) A person must comply with any direction from an authorised officer in relation to the storage, collection, transport or disposal of refuse in the municipal area and with the terms and conditions of any notice given pursuant to subclause (3).

Penalty: 5 penalty units.

(5) The General Manager may require by notice that owners and occupiers of premises sort domestic refuse to enable the separate collection of recyclables and domestic refuse.

(6) Every premises within a refuse collection area will be provided with an approved recycling crate for the storage and collection of recyclables.

(7) An approved refuse container or a recycling crate provided in accordance with sub-clause (6) remains the property of the Council or its authorised contractor unless otherwise advised by notice by the General Manager.

(8) The Council or its authorised contractor will only collect household refuse that is contained within an approved refuse container with the lid closed, or nominated recyclables that are wholly contained within a recycling crate provided by or purchased from the Council for that purpose.

(9) No person other than the Council or its authorised contractor is to collect refuse or recyclable material placed in an approved refuse container or a recycling crate for collection by Council's kerbside refuse collection service.

Penalty: 20 penalty units.

(10) An occupier of land within a refuse collection area must use the domestic refuse containers provided by the Council or approved by the General Manager; and

(a) must keep domestic refuse containers in a sanitary condition so as to not be a nuisance or injurious to health; and

(b) must place all domestic refuse containers at the kerbside or road shoulder adjacent to the entrance to land, or as otherwise specified by notice; and

(c) must not place in a domestic refuse container any:—

- (i) hot or burning matter;
- (ii) garden waste;
- (iii) liquid waste;

- (iv) gases or vapours;
- (v) medical waste including sharps;
- (vi) item likely to rupture or pierce the domestic refuse container whilst it is being collected and emptied into the collection vehicle or transported in the collection vehicle or being emptied from the collection vehicle.

(d) must not place in a domestic refuse container any:-

- (i) biohazardous waste;
- (ii) controlled waste;
- (iii) noxious refuse; or
- (iv) trade waste;

unless otherwise approved by the General Manager or an authorised officer.

Penalty: fine not exceeding 5 penalty units.

CONVEYANCE OF REFUSE TO DISPOSAL SITES

6.—(1) A person must not within the municipal area convey in or on any vehicle or in or on a trailer towed by a vehicle any refuse, unless the same is in a sealed container or effectively covered with a tarpaulin or other suitable cover.

(2) The refuse must be conveyed in such a manner as to prevent:—

- (a) the escape of any of the contents from the vehicle or container; or
- (b) the emission of any offensive odours from the container; or
- (c) the creation of any nuisance.

Penalty: fine not exceeding 2 penalty units.

WASTE MANAGEMENT FACILITIES

NORMAL HOURS OF WASTE MANAGEMENT FACILITY

7.—(1) Domestic refuse may only be deposited at a waste management facility during normal hours of operation of that waste management facility and on payment of the relevant fee or charge imposed under section 205 of the Act.

(2) Normal hours of operation of the waste management facility will be determined by the General Manager from time to time and notified by a sign erected at the waste management facility.

ACCESS TO REFUSE DISPOSAL SITES

8.—(1) The General Manager may by notice refuse access to any waste management facility.

(2) A person must not:

(a) enter any waste management area for any purpose other than:

- (i) to deposit rubbish;
- (ii) to deposit recyclable materials in an area within the waste management facility area designated by the Council or an authorised officer for that purpose; or
- (iii) with the written permission of an authorised officer, to remove items deposited there; or
- (iv) to visit any shop situated within the waste management area.

(b) without the written permission of an authorised officer, remain in a waste management facility longer than is reasonably necessary to deposit rubbish or recyclable materials that person has brought to that area.

(c) without written permission from an authorised officer enter a waste management facility when the area is closed.

Penalty: A fine not exceeding 10 penalty units.

DISPOSAL OF REFUSE

9.—(1) Any person depositing refuse at a waste management facility must:—

(a) comply with any direction by an authorised officer; and

(b) comply with any direction on any sign at that waste management facility.

Penalty: 5 penalty units.

(2) An authorised officer may refuse to accept any refuse at a waste management facility which in the opinion of the authorised officer:—

(a) may be hazardous to employees of Council or employees of its authorised contractor or the

public unless authorised under sub-clause 3; or

(b) is excluded by the Environmental Protection Notice conditions for the waste management facility.

(3) Subject to clause 9(4) of this By-law a person must not deposit any controlled waste at a waste management facility without the prior written approval of the Director and may only do so upon such conditions as that person may determine.

Penalty: 20 penalty units.

(4) Subject to complying with any relevant provisions of this By-law a person may deposit at a waste management facility any low level controlled waste.

(5) Prior to depositing any low level controlled waste at a waste management facility a person must notify an authorised officer at the waste management facility of that person's intention to deposit such waste.

OFF LOADING REFUSE AT WASTE MANAGEMENT FACILITY

10.—A person must not:—

(a) deposit any refuse in a waste management facility outside normal hours of operation;

(b) deposit any refuse outside the boundary of any waste management facility;

(c) deposit any refuse within any waste management facility, except in such place and position and in such manner and under such conditions approved by the General Manager or an authorised officer or in accordance with any signs erected;

(d) deposit any material capable of becoming airborne, without first securing it from being scattered by the wind;

(e) deposit sharps at a waste management facility except at such place and position and in such manner and under such conditions approved by an authorised officer;

(f) remain within any waste management facility longer than is necessary to deposit refuse brought to that area unless with the consent of an authorised officer;

(g) fail to comply with any direction given by an authorised officer.

Penalty: 5 penalty units.

DISPOSAL OF ASBESTOS

11. - (1) A person must not deposit asbestos or any material containing asbestos at a waste transfer station without first:-

- (a) separating the asbestos and/or any material containing asbestos from any other waste being brought into the waste transfer station;
- (b) ensuring that the asbestos and/or any material containing asbestos has been dampened to reduce dust emission and either:
 - (i) placed in heavy duty polythene bags of a minimum thickness of 200 µm and a maximum dimension of 1200 mm long and 900 mm wide; or
 - (ii) wrapped in two layers of heavy duty polythene sheet and sealed with adhesive tape. The polythene sheet is to be a minimum thickness of 100 µm. The maximum size of a parcel of material containing asbestos is 1200 mm long and 900 mm wide;
- (c) ensuring that all polythene bags containing asbestos and/or any material containing asbestos are labeled: ***“Caution – Asbestos. Do Not Damage or Open Bag; Do Not Inhale Dust; Cancer and Lung Disease Hazard”*** or have a similar warning as specified in the Code of Practice;
- (d) The size and weight that can be safely handled will be determined by an authorised officer.
- (e) notifying the person collecting the fee that is payable in order to enter the waste transfer station that material is being brought into that site containing asbestos;

Penalty: 10 penalty units

- (2) All asbestos and material containing asbestos that is to be deposited at a waste management facility must be, collected, stored and disposed of in accordance with any directions given by an authorised officer. In the absence of any specific direction in accordance with any relevant sign erected at the waste management facility and must as far as practicable be in accordance with the provisions of clause 9.10.2 of the Code of Practice-

LIGHTING OF FIRES

12.—A person must not:—

- (a) dump hot refuse 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 refuse within the waste management facility.

Penalty: 20 penalty units.

RECYCLING AND SCAVENGING

13.—(1) A person must not remove any article or thing deposited as refuse 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 as that person may determine.

Penalty: 5 penalty units.

(2) 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.

(3) The Council may enter into a scavenging agreement with a person on such terms and conditions as the Council thinks fit.

(4) A person must not scavenge in a waste management area unless that person is authorised to do so by a scavenging agreement.

Penalty: 5 penalty units.

GENERAL PROVISIONS

IMPROPER USE OF LITTER BIN

14. — (1) A person must not place domestic or commercial refuse that is in excess of 5 litres in volume in or near a litter bin-

Penalty: 5 penalty units.

(2) For the purpose of this by-law commercial refuse is any refuse arising from commercial activities.

REQUEST TO LEAVE AN AREA

15. —(1) A police officer or authorised officer may ask a person found offending against this by-law to leave a waste management facility.

(2) A person must obey the directions of an authorised officer or a police officer given under this clause.

(3) A police officer or authorised officer may remove any person from the waste management facility who is offending against this clause.

SUPPLY OF NAME AND ADDRESS

16. — (1) A person must supply their correct and full name and permanent or present temporary address if requested to do so by an authorised officer or by a police officer.

Penalty: 5 penalty units

(2) A police officer may arrest a person if that officer finds the person offending against this clause or reasonably believes the details provided are false.

PART 2

PENALTIES

INFRINGEMENT NOTICES

17.—(1) If the General Manager or an authorised officer has reason to believe that any person is guilty of an offence under the provisions of this By-law he or she may serve on that person an infringement notice in respect to the offence or offences specified in the By-law.

(2) The General Manager or an authorised officer may issue one infringement notice in respect of more than one offence specified in the By-law.

(3) The General Manager or an authorised officer may impose a fine for an offence in respect of which an infringement notice is issued.

(4) A fine is a penalty payable to the Council as an alternative to prosecution and any penalty that may be imposed as a result of the prosecution.

(5) An alleged offender may, if he or she wishes, be dealt with by a court of competent jurisdiction.

(6) The person served with an infringement notice may within fourteen (14) days of the date of service of the infringement notice (or such other time agreed by the General Manager) pay the amount specified in the infringement notice to the Council in order to avoid the filing of a complaint.

(7) Fines payable pursuant to an infringement notice are to be paid to the Council, 80 Wilson Street, Burnie, Tasmania.

(8) If a person pays a fine as set out in clause (3) then that person is not liable to prosecution for a breach of this By-law in respect of the breach to which the fine relates.

(9) An infringement notice may be served by:—

(a) personally serving the infringement notice on the alleged offender; or

(b) sending the notice by certified post addressed to the alleged offender at that person's last known place of residence or business.

(10) An infringement notice served on a person is to include:

(a) the date, time and place the alleged offence occurred;

(b) the penalty for such infringement;

(c) the place or places at which the penalty may be paid;

(d) the date of issue of the notice and a statement that the penalty may be paid within a period of 14 days after that date;

(e) a summary of the provisions of this By-law relating to the withdrawal of infringement notices;

(f) a brief statement of the contravention.

(11) An infringement notice may be withdrawn:-

(a) whether the appropriate fine has been paid or not, at any time within 28 days after the service of the notice, by the sending by post of a notice signed by the General Manager, to the effect that the infringement notice has been withdrawn.

(b) The notice is to be addressed to the person on whom the infringement notice was originally served, at that person's last known place of residence or business.

(8) The fine for an infringement in respect of which an infringement notice is issued is as follows:-

Clause 5(4)	2.5 penalty units
Clause 5(9)	10 penalty units
Clause 5(10)	2.5 penalty units
Clause 6(2)	1 penalty unit
Clause 8(2)	5 penalty units
Clause 9(1)	2.5 penalty units
Clause 9(3)	10 penalty units
Clause 10	2.5 penalty units
Clause 11(1)	5 penalty units
Clause 12	10 penalty units
Clause 13(1)	2.5 penalty units
Clause 13(4)	2.5 penalty units
Clause 14	2.5 penalty units
Clause 16(1)	2.5 penalty units

RECOVERY OF EXPENSES

18.—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 expenses incurred by the Council as a consequence of that contravention is recoverable by the Council as a debt payable by that person.

Certified as being in accordance with the law by G.W. TREMAYNE, Legal Practitioner.

Certified as being in accordance with the *Local Government Act 1993* by P. Arnold, General Manager.

The common seal of the Burnie City Council has been hereunto affixed pursuant to a resolution of the Council passed on the 20th day of February 2007 in the presence of P Arnold, General Manager.

Dated this 2nd day of March 2007 at Burnie.