



Hastings District Council

Bylaw

Chapter 10: Miscellaneous-Matters

The chapters have been separated from the consolidated document for ease of use

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CHAPTER 1 INTERPRETATION AND GENERAL PROVISIONS

1.1 Purpose and authority

1.1.1 The purpose of this part of the Bylaw is to provide consistency in the interpretation of terms used throughout the Bylaw and to provide for general matters common to many parts of the Bylaw.

1.1.2 Unless otherwise stated every part of the Bylaw is made under s 145 of LGA 02.

1.2 Commencement and revocation

1.2.1 Unless otherwise stated every part of the Bylaw will commence on the day following the date upon which the Council publicly notifies its decision to adopt the Bylaw.

1.2.2 The revocation of a former bylaw will take effect the day following the date upon which the Council publicly notifies its decision to revoke the former bylaw.

1.3 Definitions

1.3.1 The definitions in this clause apply to all parts of the Bylaw. Any definition specific to only one part of the Bylaw may be set out at the beginning of that part of the Bylaw. In the event of any conflict between a definition in this clause and the definition in another part of the Bylaw, the latter will prevail.

1.3.2 In this Bylaw:

“advertising device” has the same meaning as in the district plan

“animal” has the same meaning as in the Animal Welfare Act 1999 and, for the avoidance of doubt, includes poultry and stock

“approval” means an approval in writing granted by the Council under clause 1.5 and, where the context requires, includes a resource consent granted by the Council under the RMA

“berm” means the grass verge of a road

“Bylaw” means the Hastings District Council Consolidated Bylaw, any part of that Bylaw and any other bylaw made by the Council from time to time under LGA 02 or any other enactment

“carriageway” means the part of a road intended for movement of vehicles, does not include the berm or footpath but does include a vehicle crossing

“constable” means a sworn officer of the New Zealand Police

“Council” means Hastings District Council and when the context requires extends to include:

- a committee of the Council with delegated responsibility for the administration of the Bylaw
- an enforcement officer
- a Council officer with delegated responsibility for the administration of the Bylaw
- a parking warden and

- any other person with responsibility for administration of the Bylaw engaged by the Council under s 179 LGA 02

“Council facility” means any premises owned, occupied, managed or otherwise controlled by the Council

“cycle” has the same meaning as in Rule 1.6 of the Land Transport (Road User) Rule 2004.

“cycle path” means the part of a road physically separated from the roadway that is intended for the use of cyclists, but may also be used by pedestrians, and includes a cycle track formed under s 332 of the Local Government Act 1974

“district” means the district of the Council as defined in Part 2 of Schedule 2 of LGA 02

“district plan” means the plan made under the RMA for the district and includes both the operative district plan and any proposed district plan

“enforcement officer” means any person appointed by the Council under s 177 LGA 02

“footpath” means that part of a road laid out or set aside for exclusive use by pedestrians and includes any berm

“hazardous substance” has the same meaning as in the district plan

“LGA 02” means the Local Government Act 2002

“LGA 74” means the Local Government Act 1974

“licence” has the same meaning as “approval”

“mobile advertising device” means an advertising device attached to a vehicle or trailer and includes a motor vehicle if the signwriting on the vehicle advertises goods or services but does not include a motorvehicle if the signwriting on the vehicle is limited to a business name, address, phone number and logo

“nuisance” means anything which is offensive or likely to be injurious to health and includes any of the nuisances deemed to be created by the circumstances listed in s 29 of the Health Act 1956

“occupier” means the person in possession of premises;

“organised event” means an assembly of people at a specific time for a specific purpose;

“owner”, in relation to premises, means the person for the time being entitled to receive the rent of the premises, whether on an own account or as the agent or trustee for any other person, or who would be so entitled if the premises were let at a rent and includes any person for the time being registered under the Land Transfer Act 1952 as the proprietor of the premises

“parking warden” means a person appointed by the Council under s 128D of the Land Transport Act 1998

“person” includes a corporation sole, a body corporate and an unincorporated body

“poultry” means all types of domestic fowls and includes geese, ducks, pigeons, swans, turkeys and roosters

“premises” means any land and/or building comprised in a single certificate of title or any self-contained and separately occupied part of any premises

“public place” means a place that, at any material time, is open to or is lawfully being used by the public, whether free or on payment of a charge, notwithstanding that any owner or occupier of that place is entitled to exclude or eject any person from that place and, for the avoidance of doubt, includes:

- a beach
- a road
- an aircraft, hovercraft, ship, ferry or vehicle carrying passengers for reward
- a cemetery or crematorium
- the foreshore
- a park
- a reserve under the Reserves Act and
- premises used by the Council for the purposes of service delivery, including (but not limited to) an administrative office, community centre, swimming pool, library or art gallery

“public notice” has the same meaning as in s 5 of LGA 02 and “publicly notified” has a corresponding meaning

“RMA” means the Resource Management Act 1991

“road” has the same meaning as in s 315 of the Local Government Act 1974 and includes all land, including any berm, footpath, cycle path or carriageway, within the legal boundaries of the road

“rural area” means those parts of the district defined as “Rural Areas/Zones” in the district plan

“shared zone” means part of a road intended to be used by pedestrians and vehicles

“sports field” means any part of a public place which is laid or set aside for playing organised games or sports and includes an area used for practising a sport or game but, for the avoidance of any doubt, does not include an area beside a sports field used by spectators

“stock” means animal which may be farmed for the production of meat, milk, fibre or hides, extends to include a horse, donkey or mule and, for the avoidance of doubt, includes any animal kept as a pet

“urban area” means those parts of the district defined as “Urban Areas/Zones” in the district plan

“vehicle” has the same meaning as in the Land Transport Act 1998 and, for the avoidance of doubt, includes a bicycle, hovercraft, skateboard, in-line skates and roller skates

“working day” means a day of the week other than:

- a Saturday, Sunday or public holiday as observed throughout New Zealand
- Hawkes Bay Anniversary Day and
- Any day in the period commencing with 20 December in a year and ending with 10 January in the following year

1.4 Interpretation

1.4.1 The Interpretation Act 1999 applies to this Bylaw.

1.4.2 The interpretation rules set out below apply to all parts of the Bylaw.

1.4.3 In this Bylaw:

- (a) Words referring to the masculine, feminine or neuter gender refer also to the other genders;
- (b) Singular words include the plural and vice versa;
- (c) The phrase “part of the Bylaw” refers to a Chapter of the Bylaw or to part of a Chapter, as the context requires;
- (d) In the event of inconsistency or interpretation conflict between this part of the Bylaw and any other part of the Bylaw, the latter prevails;
- (e) In the event of any inconsistency or conflict between the provisions of any part of the Bylaw and any rule in the district plan, the latter shall prevail;
- (f) In the event of any inconsistency or conflict between the conditions of an approval and the conditions of a resource consent granted under RMA relating to the same activity, the latter prevails.

1.5 Approvals and dispensations

1.5.1 A person proposing to do anything or to cause any condition to exist for which a licence, permit, approval or dispensation (however described) is required under the Bylaw must first obtain an approval.

1.5.2 A person seeking an approval must make application on the prescribed form (if any), supply any supporting information that may be required and pay the application fee.

1.5.3 An approval may be granted for a single event, on a temporary basis, for a fixed term or until further notice and upon such terms and conditions as the Council thinks fit.

1.5.4 An application for an approval, or the payment of the application fee, does not confer any right, authority or immunity on the person making that application or payment. The Council shall be under no obligation to grant an approval.

1.5.5 If the Council believes that a condition of an approval has been breached or is being breached the Council may, without the need to give any preliminary or warning notice:

- (a) prosecute the person responsible for the breach for an offence under the Bylaw; and
- (b) suspend the approval for a specified period; or
- (c) cancel the approval.

1.5.6 A person whose application for an approval was declined, or who is unhappy with a decision made under clause 1.5.3 or clauses 1.5.5(b) or (c) may apply to the Council for a review of that decision.

1.6 Service of notices

1.6.1 Any notice or document required to be given under the Bylaw may be delivered to that person either personally or by sending it to the person's last known address, place or abode or business, and in the case of a company to its registered office, by messenger or by ordinary post.

1.6.2 If the person to whom the notice or document is to be given is:

- (a) deceased; or
- (b) absent from New Zealand,

the notice or document may be sent to that person's personal representative, executor, attorney or other authorised agent .

1.6.3 If the person to whom the notice or document is to be given is not known, or is absent from New Zealand and has no known agent in New Zealand, and the notice or document relates to any premises, the notice or document may be served occupier of those premises or, if there is no occupier, may be affixed to some conspicuous part of the premises.

1.6.4 Where a notice or document is sent by post it shall be deemed to have been served at the time when the letter would be delivered in the ordinary course of post.

1.7 Offences

1.7.1 Every person who acts contrary to any prohibition contained in the Bylaw, or to any condition of an approval, or any requirement or condition made by publicly notified resolution in accordance with the Bylaw, commits an offence against the Bylaw.

1.8 Fees and Charges

1.8.1 The Council may by publicly notified resolution set or vary any fee or charge in respect of any matter provided for in this Bylaw. Where a fee or charge relates to the use of or entry to a public place, payment of the fee or charge shall be a condition of use or entry.

CHAPTER 10 MISCELLANEOUS MATTERS

10.1 CONTROL OF FIRES

10.1.1 In this clause:

“combustible material” means every type of material that burns when exposed to heat or fire, includes live and dead vegetation, coal within 20 metres of the surface of the land and peat in any form, any building or fence;

“fire ban” means a prohibition or restriction upon the lighting of fires in the open air imposed under clause 10.1.2;

“incendiary device” means any device which emits heat through a chemical or combustion process and includes fireworks, oil fired flares, candles, distress flares (except when discharged in an emergency) and lanterns in which the flame is not enclosed by glass;

“open air” in relation to fires means a fire which is lit otherwise than within:

- an enclosed fireproof place or incinerator which has been constructed in a manner approved by the Council;
- a gas barbeque;
- such other fireplace, barbeque or other apparatus which may be approved by the Council from time to time (as published in a list on its website).

10.1.2 In addition to its powers as a fire authority under the under the Forest and Rural Fires Act 1977, the Council may impose a fire ban at any time and from time to time where it believes that there is an extreme fire hazard and the risk of spread of fire. A fire ban imposed under this clause may be subject to such terms and conditions as the Council thinks fit and (without limiting the generality of that discretion) may:

- (a) be for a finite period or for an indefinite period (i.e. “until further notice”);
- (b) relate to all of the district, or to those parts of the district over which it may lawfully impose a fire ban under this Bylaw;
- (c) be limited to the use of incendiary devices or to the lighting of some types of fire;
- (d) apply to the times that fires may be lit

10.1.3 The Council resolution imposing or cancelling a fire ban must be publicly notified.

10.1.4 Any person may apply to the Council for a dispensation from a fire ban.

10.1.5 A person who lights a fire in the open air must:

- (a) continuously attend the fire until it is extinguished; and
- (b) ensure that the fire is properly controlled at all times; and
- (c) have on hand sufficient resources to control and suppress the fire in the event of an escape; and
- (d) completely extinguish a fire in the open air at sunset.

10.1.6 A person must not:

- (a) light a fire in the open air in a public place at any time;

- (b) light a fire in the open air during the period of a fire ban;
- (c) light a fire in the open air in windy conditions or when windy conditions are forecast,
- (d) light a fire in the open air within 3 metres of a building, fence or any other combustible material;
- (e) light a fire, or use an incendiary device, in the open air in circumstances where it is more likely than not that an uncontrolled fire will eventuate which may:
 - spread to a building, fence or vegetation on the premises;
 - spread beyond the boundary of the premises; or
 - result in a nuisance from smoke or ash to the occupiers of adjoining premises
- (f) accumulate, or permit the accumulation of, combustible material on any premises without taking all reasonable steps:
 - to eliminate the risk of accidental combustion; and/or
 - to ensure that there are adequate fire fighting resources available on the premises to prevent the spread of fire beyond the boundaries of the premises.

10.1.7 A person will be deemed to have taken “all reasonable steps” under clause 10.1.6(f) if:

- (a) the combustible materials were stored in a suitable fire resistant container or place designed to eliminate or reduce the risk of spread of fire; or
- (b) the premises were fitted with an automatic sprinkler system.

10.2 NUISANCES

10.2.1 This part of the bylaw is made under s 64 of the Health Act 1956.

10.2.2 A person must not cause a nuisance, or allow a nuisance to be caused, on any premises.

10.2.3 Without limiting the generality of clause 10.2.2, a person must not cause a nuisance, or allow a nuisance to be caused, by any of the following:

- (a) the burning of any matter or thing on any premises;
- (b) the emission of offensive odours, smoke, fumes, dust, sawdust or other matter from any premises;
- (c) the deposit or accumulation of rubbish, recyclable material, inorganic material, dead animals, dung, manure or fertiliser on any premises;
- (d) the failure to control or eradicate the conditions on any premises giving rise, or conducive to giving rise, to breeding by rats and other vermin, flies, mosquitoes, mites, ticks or any other insect capable of causing or transmitting disease;
- (e) the failure to eradicate an infestation of rats and other vermin, or flies, mosquitoes, mites, ticks, cockroaches or other insects, on any premises;
- (f) the failure to cleanse any drain, water closet, septic tank or outbuilding, including any outbuilding used to house animals, any premises;
- (g) the keeping of an animal on any premises, notwithstanding that the keeping of that animal may be in accordance with clauses 10.4.3 to 10.4.6

(inclusive) of this Bylaw, or the undertaking of an activity related to the keeping of that animal.

10.3 REFUSE

10.3.1 In this clause:

“approved receptacle” means a receptacle approved by the Council for storage and disposal of waste and includes receptacles for household refuse, green waste, recycling material or kitchen waste;

“collection” means collection by the Council or its contractor from the kerbside in accordance with any requirements for collection set by the Council by publicly notified resolution from time to time

“collection day” is a day nominated by the council for the collection of refuse or recycling material from premises within any part of the district

“green waste” means any compostible garden waste that Council accepts for collection

“household refuse” means waste generated from domestic residential activities but does not include green waste, demolition material, building material, inorganic waste or recycling material

“inorganic waste” means any inorganic material that is too large to be placed in an approved receptacle and includes demolition material and building material

“kitchen waste” means food scraps and other compostible materials that Council accepts for collection

“medical waste” means waste generated from any facility where illness and injuries are treated or medical procedures are carried out and includes hypodermic needles used for any purpose

“recycling material” means any material that the Council accepts for recycling

“refuse” means household refuse, green waste and kitchen waste

10.3.2 A person must not:

- (a) put out for collection any hazardous substance or medical waste;
- (b) if the approved receptacle is a plastic bag, put out for collection a bag which contains any sharp objects;
- (c) dispose, or attempt to dispose, of any hazardous substance or medical waste at a facility provided by the Council for the disposal of refuse or recycling material;
- (d) put out household refuse or recycling material for collection which is not entirely contained within, without overflowing, an approved receptacle;
- (e) put out an approved receptacle earlier than the day before the collection day for the area where the premises are located;

- (f) fails to remove an approved receptacle by the end of the day following the collection day for the area where the premises are located;
- (g) put out for collection as recycling material, material which is not accepted by the Council;
- (h) put out inorganic waste for collection except at the times directed by the Council
- (i) remove any item from an approved receptacle for recycling materials or from a pile of inorganic waste put out for collection in accordance with clause 10.3.2(h), unless that person is a resident of the premises from which the material originated

10.4 STOCK, POULTRY AND BEES

- 10.4.1 The provisions in this part of the Bylaw are in addition to any rules in the district plan dealing with the keeping of pigs, poultry, stock or bees. In the event of conflict or ambiguity between a provision in this Bylaw and a rule in the district plan, the district plan rule will prevail.
- 10.4.2 A person must not keep stock on premises within the urban area without an approval.
- 10.4.3 A person must not keep on premises within the urban area:
- (a) a rooster; or
 - (b) more than 12 head of poultry.
- 10.4.4 If poultry are kept on premises within the urban area:
- (a) the premises must be adequately fenced to prevent escape; or
 - (b) if confined to a poultry house or poultry run, the house or run must be located more than 2 metres from any boundary of the premises and adequately enclosed to prevent escape.
- 10.4.5 A person must not keep bees on premises if the keeping of those bees is, or is likely to become, a danger to the public or a nuisance.
- 10.4.6 A person must not keep, provide food to or provide shelter for, on any premises:
- (a) if the premises are a stand-alone self-contained residential unit, more than four cats over the age of six months;
 - (b) if the premises are one of two self-contained residential units, more than two cats over the age of six months in each residential unit;
 - (c) if the premises are one of three or more self-contained residential units, more than one cat over the age of six months in each residential unit;
 - (d) subject to clause 10.4.7, if the premises are not used for residential purposes, more than four cats over the age of six months on those premises.