



## Wairarapa Consolidated Bylaw 2019

### Part One Introductory

## Commencement

The Wairarapa Consolidated Bylaw 2019 came into force throughout the Masterton, Carterton and South Wairarapa districts on 8 July 2019.

## Adoption

Council	Bylaw/Amendments	Adoption Date
Masterton District Council	Consolidated Bylaw 2012: Parts One to Eighteen	14 August 2013
South Wairarapa District Council	Consolidated Bylaw 2012: Parts One to Six, Parts 8 and 9, Parts Eleven to Sixteen	31 July 2013
Masterton District Council Carterton District Council South Wairarapa District Council	Wairarapa Consolidated Bylaw 2019: Part One – Introductory	26 June 2019
Masterton District Council Carterton District Council South Wairarapa District Council	Wairarapa Consolidated Bylaw 2019: Parts One and Eleven. Revocation of Part 11: Speed. Amendments to Part 1: Introductory to reflect revoking of Part 11: Speed.	20 February 2023 (Masterton and South Wairarapa District Councils) 25 October 2023 (Carterton District Council)

# Wairarapa Consolidated Bylaw 2019

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## Part 1 – Introductory

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### Contents

Foreword .....	3
1. Title and Commencement .....	3
2. Repeal .....	3
3. Scope.....	4
4. Definitions .....	4
5. Interpretation.....	13
6. Officers to Continue in Office.....	13
7. Serving of Orders and Notices.....	13
8. Powers of Entry .....	14
9. Licences .....	14
10. Suspension and Revocation of Licences.....	14
11. Dispensing Power.....	15
12. Forms .....	15
13. Fees and Charges .....	15
14. Removal of Works .....	15
15. Offences and Penalties.....	16

## Referenced Documents

Reference is made in this Part to the following New Zealand legislation:

- Dog Control Act 1996
- Health Act 1956
- Land Transfer Act 2017
- Land Transport Act 1998
- Local Government Act 2002
- Reserves Act 1977
- Reserves and Domains Act 1953

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## Foreword

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The Masterton, Carterton and South Wairarapa District Councils hereby make the following bylaw, pursuant to the Local Government Act 2002 (LGA) and all other legislation, powers and authorities enabling the Council to make bylaws.

This Part of the bylaw draws on the New Zealand Standard Introductory Model Bylaw from the New Zealand Standard 9201 series (NZS 9201). The NZS 9201 series are model bylaws covering various matters under local authority jurisdiction.

This Part contains definitions and provisions of a general nature which apply to all Parts of the Wairarapa Consolidated Bylaw 2019.

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## 1. Title and Commencement

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1.1. The title of this bylaw is the Wairarapa Consolidated Bylaw 2019.

1.2. The bylaw is divided into parts as follows:

Part	Title
1	Introductory
2	Public Places (including Parks and Reserves)
3	Selling of Goods or Services in Public Places
4	Prevention of Nuisance from Fire and Smoke
5	Water Supply
6	Keeping of Animals, Poultry and Bees
7	Cemeteries and Crematoria
8	Wastewater
9	Trade Waste
10	Traffic
	<i>Part 11: Speed revoked on 25 October 2023</i>
12	Beauty Therapy, Tattooing, and Skin Piercing

1.3. Except as otherwise provided in this bylaw, the bylaw including Parts 1 to 12 shall come into force throughout the Masterton, Carterton and South Wairarapa districts on 8 July 2019.

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## 2. Repeal

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2.1. The Masterton and South Wairarapa Consolidated Bylaw 2012 is revoked at the time of the Wairarapa Consolidated Bylaw 2019 coming into force.

2.2. All bylaws hereby revoked shall remain in full force and effect so far as relates to any application made, consent given, anything done or any offence committed, penalty incurred, prosecution or proceeding commenced, right or liability accrued, licence used, notice given, or order made, under or against any of the provisions thereof before the coming into force of this bylaw. All licences issued under any revoked bylaw shall, after the coming into operation of this bylaw, be deemed to have been issued under this bylaw and are subject to the provisions thereof.

- 2.3. All inspectors and other officers appointed by Council under, or for the purpose of, any revoked bylaw, and holding office at the time of this bylaw coming into force, shall be deemed to have been appointed under this bylaw.
- 2.4. All fees and charges fixed by resolution of Council in regard to any goods, services, inspections or licences provided for in any revoked bylaw, shall apply under the corresponding provisions of this bylaw until altered by further resolution of Council.

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### 3. Scope

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- 3.1. The purpose of Part 1 is to identify and clearly interpret those terms and expressions that are used throughout all Parts of this bylaw.
- 3.2. This Part outlines serving of orders and notices, powers of delegation and entry, suspension and revocation of licences, removal of works executed contrary to the bylaw dispensing powers, fees and charges, offences and breaches, and penalties for breach of bylaws.

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### 4. Definitions

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- 4.1. The definitions below apply to all Parts of this bylaw, unless otherwise stated. Definitions specific to, or different in the context of, a particular Part of this bylaw, are provided in the relevant Part.

**Agent:** A person or business authorised to act on another's behalf.

**Animal:** Fish, bird, stock, poultry and any other vertebrate animal of any age or sex that is kept in a state of captivity or is dependent upon human beings for its care and sustenance but does not include humans or dogs.

**Approval or Approved:** Means approval or approved in writing by the Council, either by resolution of the Council or by an authorised officer of the Council for that purpose.

**Authorised Agent:** Any person who is not an employee of the Council but is authorised in writing by the Chief Executive or by the Council to act on its behalf.

**Authorised Officer:** Any officer or agent appointed by Council working within their delegations, including any officer for the time being appointed by the Council, as an enforcement officer under the LGA or the Land Transport Act 1998, or an Environmental Health Officer under the Health Act 1956, and includes a member of the police. Authorised Officers have powers of entry as prescribed by sections 171-174 of the LGA.

**Building:** A temporary or permanent, movable or immovable, structure (including a structure intended for occupation by people, animals, machinery, or chattels).

**Carriageway:** That portion of the road, (including any shoulder, edging, kerbing or channelling) devoted particularly to the use of travelling vehicles.

**Cemetery:** Any cemetery vested in or under the control of the Council from time to time but excludes any closed cemetery.

**Cemeteries and Crematoria:** Any crematorium maintained by the Council.

**Certificate of Title:** A certificate registering the freehold ownership of land available to any owner(s) under the Land Transfer Act 2017.

**Chief Executive:** The principal administrative officer of the Council, irrespective of the designation given to the officer, and includes any person for the time being appointed by the Council to perform the duties or a particular duty of the Chief Executive.

**Combustible Material:** Material capable of catching fire and burning.

**Council:** The Masterton, Carterton or South Wairarapa District Council and includes any officer authorised to exercise the authority of the Council.

**Custodian:** Any person for the time being appointed by the Council to control or manage or to assist in the control and management of any land, or premises belonging to, or under the jurisdiction of, the Council.

**Debris:** A collection of loose material derived from rocks or an accumulation of animal or vegetable matter, scattered items, or pieces of rubbish.

**District:** The district of the territorial authority established under the LGA, which has adopted this bylaw.

**Dog:** Includes any bitch, speyed bitch or puppy.

**Dog Control Officer:** A person appointed as a dog control officer pursuant to section 11 of the Dog Control Act 1996.

**Dog Ranger:** A person appointed as a dog ranger by the territorial authority pursuant to section 12 of the Dog Control Act 1996 and includes an honorary ranger.

**Dwelling or Dwelling-house:** Any house, vehicle or other structure, whether permanent or temporary, and whether attached to the soil or not, used in whole or in part for human habitation.

**Emergency Vehicle:** A vehicle used for attendance at emergencies and operated:

- by an enforcement officer:
- by an ambulance service:
- as a fire service vehicle:
- as a civil defence emergency vehicle:
- as a defence force emergency vehicle.

**Enactment:** The whole or part of an Act or regulation.

**Enforcement Officer:** Means:

- a person appointed by a local authority under section 177 of the LGA, to exercise the powers of an enforcement officer in relation to offences against, and infringement offences under the LGA, including enforcement of the bylaws of the local authority; or
- a constable; or
- a Police employee who is not a constable who is authorised for the purpose by the Commissioner of Police; or
- a person who is appointed to that office by warrant under section 208 of the Land Transport Act 1998 or who holds that office by virtue of that Act.

**Environmental Health Officer:** An Environmental Health Officer appointed by the Council in accordance with section 28 of the Health Act 1956.

**Fees and Charges:** The list of items, terms, and prices for services associated with providing Council services, adopted by the Council in accordance with the LGA 2002 and the Local Government (Rating) Act 2002.

**Footpath:** So much of any road as is laid out or constructed by authority of the Council primarily for pedestrian use, and includes the edging, kerbing, and channelling thereof.

**Freight Container:** An article of transport equipment that is:

- of a permanent character and strong enough to be suitable for repeated use;
- specifically designed to facilitate the transport of goods, by one or more modes of transport, without intermediate loading; and
- designed to be secured and readily handled having fittings for these purposes.

**Goods:** Any product or service.

**Heavy Motor Vehicle:** A motor vehicle that has a gross vehicle mass exceeding 3,500kg.

**Household Refuse and Litter:** Sweepings, dust, paper, bottles, bones and waste food, cans, cartons, or other food containers (non-recyclable), or any other refuse arising or resulting from domestic housekeeping operations.

**Infringement Fee:** The amount prescribed by regulations under section 259 of the LGA, for committing an infringement offence.

**Infringement Offence:** An offence for which any person can be punished on conviction, by summary process, or by an infringement process. Infringement offences are specified by regulation made under section 259 of the LGA.

**Kennel:** Any building or structure intended or occupied for use or, used solely or principally as a shelter for a dog or dogs, and includes any enclosed space for a dog run attached or adjacent to such building or structure.

**Licence:** A licence or approval issued under this bylaw.

**Litter:** Any refuse, rubbish, animal remains, glass, metal, garbage, material, debris, dirt, filth, rubble, ballast, stones, earth, or waste matter or any other thing of a like nature.

**Local Authority:** A regional council or territorial authority.

**Long-Term Plan:** A long-term plan adopted under Section 93 of the LGA.

**Memorandum of Encumbrance:** An agreement for the payment by any person or persons, by yearly or periodical payments or otherwise of any annuity, rent, charge, or sum of money other than a debt where land owned by the person or persons is legally defined and used as security should failure to pay occur.

**Metered Area:** Any road or portion of a road or any area of land or any building owned or controlled by the Council, which is authorised by resolution of Council to be used as a parking place, and at which parking meters or multiple space parking meters are installed and maintained.

**Metered Parking Space:** Any part of a road, or a space, within a metered area or multiple space parking meter area, indicated by and lying within, markings made by the Council for parking of vehicles.

**Minor Earthworks:** Any alteration to the contours of the land and includes the excavation, backfilling or recompaction of metal backfill, topsoil or vegetation.



**Mobility Parking Permit:** A permit or concession card, issued by the New Zealand Crippled Children Society (CCS) Incorporated, to persons with physical disabilities for the purpose of its operation mobility programme.

**Mobility Parking Space:** A parking space set aside for use by people who hold a mobility parking permit.

**Motor Vehicle:** A vehicle drawn or propelled by mechanical power, and includes a trailer, but does not include:

- a vehicle running on rails;
- a trailer (other than a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of the New Zealand Defence Force;
- a trailer running on one wheel and designed exclusively as a speed measuring device or for testing the wear of vehicle tyres;
- a vehicle designed for amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles;
- a pedestrian-controlled machine;
- a vehicle that the Agency has declared under section 168A of the Land Transport Act 1998 is not a motor vehicle; or
- a mobility device.

**Nuisance:** Includes actual and potential nuisance. Without limiting the meaning of the term nuisance, a nuisance shall be deemed to be created in any of the following cases, in accordance with section 29 of the Health Act 1956:

- where any pool, ditch, gutter, watercourse, sanitary convenience, cesspool, drain, or vent pipe is in such a state or is so situated as to be offensive or likely to be injurious to health;
- where any accumulation or deposit is in such a state or is so situated as to be offensive or likely to be injurious to health;
- where any premises, including any accumulation or deposit thereon, are in such a state as to harbour or to be likely to harbour rats or other vermin;
- where any premises are so situated, or are in such a state, as to be offensive or likely to be injurious to health;
- where any building or part of a building is so overcrowded as to be likely to be injurious to the health of the occupants, or does not, as regards air space, floor space, lighting, or ventilation, conform with the requirements of this or any other Act, or of any regulation or bylaw under Health Act 1956 or any other legislation;
- where any factory, workroom, shop, office, warehouse, or other place of trade or business is not kept in a clean state, and free from any smell or leakage from any drain or sanitary convenience;
- where any factory, workroom, shop, office, warehouse, or other place of trade or business is not provided with appliances so as to carry off in a harmless and inoffensive manner any fumes, gases, vapours, dust, or impurities generated therein;
- where any factory, workroom, shop, office, warehouse, or other place of trade or business is so overcrowded while work is carried on therein, or is so badly lighted or ventilated, as to be likely to be injurious to the health of the persons employed therein;
- where any buildings or premises used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive or likely to be injurious to health;

- where any animal, or any carcass or part of a carcass, is so kept or allowed to remain as to be offensive or likely to be injurious to health;
- where any noise or vibration occurs in or is emitted from any building, premises, or land to a degree that is likely to be injurious to health;
- where any trade, business, manufacture, or other undertaking is so carried on as to be unnecessarily offensive or likely to be injurious to health;
- where any chimney, including the funnel of any ship and the chimney of a private dwelling-house, sends out smoke in such quantity, or of such nature, or in such manner, as to be offensive or likely to be injurious to health, or in any manner contrary to any regulation or Act of Parliament;
- where the burning of any waste material, rubbish, or refuse in connection with any trade, business, manufacture, or other undertaking produces smoke in such quantity, or of such nature, or in such manner, as to be offensive or likely to be injurious to health;
- where any street, road, right of way, passage, yard, premises, or land is in such a state as to be offensive or likely to be injurious to health;
- where any well or other source of water supply, or any cistern or other receptacle for water which is used or is likely to be used for domestic purposes or in the preparation of food, is so placed or constructed, or is in such a condition, as to render the water therein offensive, or liable to contamination, or likely to be injurious to health; or
- where there exists on any land or premises any condition giving rise or capable of giving rise to the breeding of flies or mosquitoes or suitable for the breeding of other insects, or of mites or ticks, which are capable of causing or transmitting disease.

**Occupier:** The inhabitant occupier of any property and, in any case where any building, house, tenement, or premises is or are unoccupied includes the owner.

**Offence:** Any act or omission in relation to this bylaw for which any person can be punished either on conviction or by summary process.

**Owner:** As applied to any land, building, or premises, means any person for the time being entitled to receive the rent for such property, or who would be so entitled if it were let to a tenant at a rack rent, and where any such person is absent from New Zealand, includes their attorney or agent.

**Parking Meter:** A single space parking meter or a multiple space parking meter or a pay and display parking meter (including the stand to which the parking meter is attached) installed under this bylaw being an instrument designed for the purpose of:

- measuring and showing the period of time paid for or which remains to be used; or
- issuing a receipt showing the period of time paid for and accordingly which remains to be used.

**Parking Place:** A place (including a building) where any class of vehicle, may wait, and includes:

- all necessary approaches and means of entrance to, and exit from, any such place;
- all such buildings, ticket offices, waiting rooms, cloak rooms, structures, appliances; and
- any other facilities as the Council considers necessary or desirable for the efficient use of that place for the purpose for which it is provided and the collection of charges in relation to that use.

**Parking Warden:** A parking warden appointed under section 128D of the Land Transport Act 1998.

**Passenger Service Vehicle:** A vehicle used or available for use in a passenger service for the carriage of passengers; but does not include:

- a vehicle designed or adapted to carry 12 or fewer persons (including the driver) provided by one of the passengers being carried; or
- a vehicle specified as an exempt passenger service vehicle in the regulations and rules.

**Person:** A natural person, corporation sole or a body of persons whether corporate or otherwise.

**Potable:** In relation to drinking water, means water that does not contain or exhibit any determinants to any extent that exceeds the maximum acceptable values (other than aesthetic guideline values) specified in the drinking-water standards issued or adopted under section 69O of the Health Act 1956.

**Poultry:** Any live domesticated or farmed bird including but not limited to: fowl, goose, duck, pigeon, turkey, parrot, budgerigar, pheasant, canary, ostrich, guinea fowl, or emu.

**Premises:** Any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands and associated additions, buildings, and places adjoining each other and occupied together are deemed to be the same premises.

**Private Road:** Any roadway, place, or arcade laid out or formed within a district on private land, by the owner thereof, but intended for the use of the public generally.

**Privateway:** Any way or passage whatsoever over private land within a district, the right to use which is confined or intended to be confined to certain persons or classes of persons, and which is not thrown open or intended to be open to the use of the public generally.

**Public Notice:** In relation to a notice given by a local authority, means

- a notice published in:
  - 1 or more daily newspapers circulating in the region or district of the local authority; or
  - 1 or more other newspapers that have at least an equivalent circulation in that region or district to the daily newspapers circulating in that region or district; and
- includes any other public notice that the local authority thinks desirable in the circumstances.

**Public Place:** A place that:

- is within the territorial authority's district; and
- is open to, or being used by, the public, whether or not there is a charge for admission; and
- includes:
  - a road, whether or not the road is under the control of a territorial authority;
  - any part of a public place; and
  - any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward. (Dog Control Act 1996).

**Reserve or Public Reserve:** Has the same meaning as the Reserves Act 1977, being any land set apart for any public purpose, and includes:

- a) any land which immediately before the commencement of the Reserves Act 1977 was a public reserve within the meaning of the Reserves and Domains Act 1953;
- b) any land vested in the Crown which after the commencement of the Reserves Act 1977 is reserved or set apart under Part 12 of the Land Act 1948 or other lawful authority as a reserve, or alienated from the Crown for the purpose of a reserve;
- c) any land which after the commencement of the Reserves Act 1977 is vested in the Crown by or under the authority of any Act as a reserve;

- d) any land which after the commencement of the Reserves Act 1977 is taken, purchased, or otherwise acquired in any manner whatever by the Crown as a reserve or in trust for any particular purpose;
- e) any land acquired after the commencement of the Reserves Act 1977 in any manner by an administering body as a reserve within the meaning of the Reserves Act 1977, and any land vested in any local authority which, not theretofore being a public reserve, is by resolution of the local authority pursuant to section 14 declared to be set apart as a reserve;
- f) any private land set apart as a reserve in accordance with the provisions of any Act;
- g) any land which immediately before the commencement of the Reserves Act 1977 was a domain or public domain within the meaning of the Reserves and Domains Act 1953;
- h) any land, other than a national park within the meaning of the National Parks Act 1980, administered under the Tourist and Health Resorts Control Act 1908;
- i) any land taken or otherwise acquired or set apart by the Crown under the Public Works Act 1981 or any corresponding former Act, whether before or after the commencement of this Act, for the purposes of a reserve, a recreation ground, a pleasure ground, an agricultural showground, or a tourist and health resort;

but does not include:

- j) any land taken or otherwise acquired or set apart under the Public Works Act 1981 or any corresponding former Act, whether before or after the commencement of this Act, for any purpose not specified in paragraph (i);
- k) any land to which section 167(4) of the Land Act 1948 applies;
- l) any land taken, purchased, or otherwise in any manner acquired, whether before or after the commencement of the Reserves Act 1977, by a local authority, unless the land is acquired subject to a trust or a condition that it shall be held by the local authority as a reserve; or
- m) any Māori reservation.

**Road:** Includes:

- a) a street;
- b) a motorway;
- c) a beach;
- d) a place to which the public have access, whether as of right or not;
- e) all bridges, culverts, ferries, and fords forming part of a road or street or motorway, or a place referred to in paragraph (d); and
- f) all sites at which vehicles may be weighed for the purposes of the Land Transport Act 1998 or any other enactment.

**Roading Authority:** A territorial authority or New Zealand Transport Agency.

**Roadway:** That portion of the road used or able to be used for the time being for vehicular traffic in general.

**Rural Area:** Any area zoned rural in the Wairarapa Combined District Plan, unless otherwise stated.

**Service Delivery Vehicle:** Any vehicle being used for the purpose of delivering goods to the premises of any business or organisation and does not involve the sale of the goods to the general public in any public place.

**Solarium:** A commercial establishment containing one, or more, sun-tanning units. A sun-tanning device emits ultra violet radiation to produce a cosmetic tan.

**Territorial Authority (TA):** A city council or district council. Includes South Wairarapa District Council, Carterton District Council and Masterton District Council.

**Traffic Control Device:** A device used on a road for the purpose of traffic control; and includes any:

- sign, signal, or notice;
- traffic calming device; or
- marking or road surface treatment.

**Urban Area:** Any area zoned residential, commercial or industrial in the Wairarapa Combined District Plan, unless otherwise stated.

**Vehicle:** Has the same meaning as in the Land Transport Act 1998 being:

- a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and
- includes a hovercraft, a skateboard, in-line skates, and roller skates;
- but does not include:
  - a perambulator or pushchair;
  - a shopping or sporting trundler not propelled by mechanical power;
  - a wheelbarrow or hand-trolley;
  - a pedestrian-controlled lawnmower;
  - a pedestrian-controlled agricultural machine not propelled by mechanical power;
  - an article of furniture;
  - a wheelchair not propelled by mechanical power;
  - any other contrivance specified by the rules not to be a vehicle for the purposes of this definition; or
  - any rail vehicle.

**Wastewater Authority (WWA):** The Masterton District Council, Carterton District Council or South Wairarapa District Council, including their authorised agents, responsible for the collection, treatment and disposal of sewage.

**Water Supply Authority (WSA):** The Masterton District Council, Carterton District Council or the South Wairarapa District Council, or their authorised agents.

**Working Day:** Any day of the week other than:

- A Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, ANZAC Day, Matariki, the Sovereign's birthday, Labour Day; and day in the period commencing with the 25<sup>th</sup> day of December in a year and ending with the 2<sup>nd</sup> day of January in the following year.

**Working Dog:** Has the same meaning as in the Dog Control Act 1996, being:

- any disability assist dog; and
- any dog:
  - kept by the Police or any constable, the Customs Department, the Ministry of Agriculture, the Ministry of Fisheries or the Ministry of Defence, or any officer or employee of any such Department of State solely or principally for the purposes of carrying out the functions, powers, and duties of the Police or the Department of State or that constable, officer, or employee;
  - kept solely or principally for the purposes of herding or driving stock;
  - kept by the Department of Conservation or any officer or employee of that Department solely or principally for the purposes of carrying out the functions, duties, and powers of that Department;
  - kept solely or principally for the purposes of destroying pests or pest agents under any pest management [plan] under the Biosecurity Act 1993;
  - kept by the Department of Corrections or any officer or employee of that Department solely or principally for the purposes of carrying out the functions, duties, and powers of that Department;
  - kept by the Aviation Security Service established under section 72B(2)(ca) of the Civil Aviation Act 1990, or any officer or employee of that Service solely or principally for the purposes of carrying out the functions, duties, and powers of that Service;
  - certified for use by the Director of Civil Defence Emergency Management for the purposes of carrying out the functions, duties, and powers conferred by the Civil Defence Emergency Management Act 2002;
  - owned by a property guard as defined in section 9 of the Private Security Personnel and Private Investigators Act 2010 or a property guard employee as defined in section 17 of that Act, and kept solely or principally for the purpose of doing the things specified in section 9(1)(a) to (c) of that Act; or
  - declared by resolution of the territorial authority to be a working dog for the purposes of this Act, or any dog of a class so declared by the authority, being a dog owned by any class of persons specified in the resolution and kept solely or principally for the purposes specified in the resolution.

**Writing, Written or Similar Term:** Words, written, printed, painted, engraved; lithographed, or otherwise traced or copied.

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## **5. Interpretation**

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- 5.1. In this bylaw the singular includes the plural and the plural includes the singular.
- 5.2. Words referring to any district, locality, place, person, office, officer, functionary, party or thing means each district, locality, place, person, office, officer, functionary, party, thing, to whom or to which the provision applies.
- 5.3. Every schedule to this bylaw forms part of this bylaw.
- 5.4. For the purposes of the bylaw, the word 'shall' refers to practices that are mandatory for compliance with this bylaw, while the word 'should' refers to practices which are advised or recommended.
- 5.5. If any Part of this bylaw includes a reference to a repealed enactment, it shall be read as a reference to its replacement.

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## **6. Officers to Continue in Office**

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- 6.1. All officers appointed by the Council at the time this bylaw takes effect, are deemed to have been appointed under this bylaw.

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## **7. Serving of Orders and Notices**

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- 7.1. Except as otherwise provided for in any other enactment, where any notice, order, or other document is required to be served on any person for the purposes of this bylaw, service may be affected by delivering it personally to the person or by sending it by registered post to that person's last known residential or business address.
- 7.2. If the person is absent from New Zealand, the order, notice, or other document may be served on the person's agent in the manner referred to in clause 7.1.
- 7.3. If the order, notice, or other document relates to land or buildings, then the order, notice, or other document should be served on the person who owns that land or buildings. However, if that person is not known, or is absent from New Zealand, or has no known agent in New Zealand, the order or notice may be:
  - a) served on the person who is occupying the land or buildings; or
  - b) if there is no person in occupation, put up on some conspicuous part of the land or buildings.
- 7.4. If a notice is issued under clause 7.3, it is not necessary in that notice to name the occupier or the owner of that land or buildings.
- 7.5. Where an order or notice is sent by registered post, the order or notice shall be sent so as to arrive no later than the latest time on which such order or notice is required to be served.
- 7.6. Any order or notice issued shall state the time within which the remedial action is to be carried out, and may be extended from time to time by written authority of an authorised officer.

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## **8. Powers of Entry**

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- 8.1. Except where provided for under any other enactment, sections 171, 172, 173, and 182 of the LGA apply in relation to any power of entry under this bylaw.

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## **9. Licences**

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- 9.1. Any person doing, or proposing to do, anything or to cause any condition to exist for which a licence from the Council is required under this bylaw, shall first obtain a licence from the Council or any authorised officer.
- 9.2. Every application for a licence shall be accompanied by the relevant fee. If the application for the licence is declined, the fee shall be refunded less any reasonable processing costs.
- 9.3. No application for a licence, and no payment of, or receipt for, any fee paid in connection with such application, confers any right, authority or immunity on the person making that application or payment.
- 9.4. Any licence is deemed to be issued in compliance with this bylaw if it is issued by an authorised officer, and every licence is subject to such conditions as may be imposed.
- 9.5. Unless this bylaw provides otherwise, every licence and every application for a licence shall be in such form as may be prescribed from time to time by the Council.
- 9.6. Unless this bylaw provides otherwise, a licence is not transferable, and no such licence authorises any person other than the licence holder to act in any way under its terms or conditions.
- 9.7. If, following a request for payment, any licence fee due remains unpaid, the licence shall immediately cease to have effect.

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## **10. Suspension and Revocation of Licences**

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- 10.1. Unless this bylaw provides otherwise, should the licence holder be convicted of any offence relating to the holder's suitability as a licensee, the Council may immediately revoke or suspend the licence for any specified time.
- 10.2. The Council may by notice in writing call upon the licence holder to appear before the Council and give reasons why the licence should not be revoked or suspended, if any of the following are brought to the notice of the Council:
- a) that the licence holder:
    - (i) has acted or is acting in a manner contrary to the true intent and meaning of this bylaw;
    - (ii) has failed to comply with any of the conditions of the licence;
    - (iii) is in any way unfit to hold the licence;
  - b) that the premises for which the licence was issued is being used for any purpose other than that stated in the licence, or is in a state of disrepair contrary to the terms of the licence; or
  - c) that the bylaw is not being properly observed.



- 10.3. The Council may, if it considers the allegations correct or if there is no appearance by the licence holder, revoke or suspend the licence for any specified time.
- 10.4. A person whose licence has been suspended under this clause, and any premises for which that licence has been so suspended is, during the period of that suspension, deemed to be unlicensed.

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## 11. Dispensing Power

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- 11.1. Where in the opinion of the Council, full compliance with any of the provisions of this bylaw would needlessly or injuriously affect any person, or the course or operation of the business of, or bring loss or inconvenience to any person without any corresponding benefit to the community, the Council may, at its discretion, dispense with the full compliance with the provisions of this bylaw, provided that any other terms or conditions (if any) that Council may deem fit to impose shall be complied with by that person.

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## 12. Forms

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- 12.1. Wherever forms are prescribed in bylaws, slight deviations, but to the same effect and not calculated to mislead, do not invalidate those forms.

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## 13. Fees and Charges

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- 13.1. The Council may, by resolution publicly notified, prescribe fees to be charged for any certificate, authority, approval, permit, or consent from, or inspection by, the Council.
- 13.2. The setting of any fees or charges shall be in accordance with section 150 of the LGA.
- 13.3. Where a fee has been paid for a service that has not been given, the Council may provide a refund, a remission, or waiver of any such fee, or portion of it as the Council may determine.

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## 14. Removal of Works

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- 14.1. Where a notice served under section 7 of this Part of the bylaw has not been complied with, the Council, or any authorised officer or agent of the Council, may:
- a) remove or alter any work or thing constructed in breach of this bylaw (refer section 163 of the LGA); and/or
  - b) seize and impound property (refer sections 164, 165, 167 and 168 of the LGA).
- 14.2. The Council may recover from any person responsible for a breach of this bylaw, all expenses incurred by it in connection with such removal or alteration (refer section 163 of the LGA). This includes the cost of debt collecting and legal fees.
- 14.3. The exercise of this authority does not relieve any such person from liability for any penalty for erecting or permitting the continued existence of any such work, material or thing.

- 14.4. If, however the breach is such that public health, or safety considerations, or risk of consequential damage to Council assets is such that delay would create unacceptable results, the Council may take immediate action to rectify the defect, and recover all reasonable costs, as set out in clause 15.2.
- 14.5. On payment of all Council's costs, including storage where applicable, the lawful owner may claim any object, material or thing removed under clause 14.1.
- 14.6. If not claimed within a reasonable time, the Council may dispose of any object, material or thing as it sees fit and apply the proceeds to meet any outstanding costs. The lawful owner shall be entitled to claim any residual sum.

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## 15. Offences and Penalties

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- 15.1. Any person who breaches this bylaw commits an offence and may be liable for a penalty, as set out in section 242 of the LGA or under another enactment where a penalty for a particular breach of bylaw is specified.
- 15.2. Any person commits a breach of this bylaw who:
- a) does, or causes to be done, or knowingly permits or suffers to be done anything whatsoever contrary to or otherwise than as provided by this bylaw;
  - b) omits or neglects to do, or knowingly permits or suffers to remain undone, anything which ought to be done under this bylaw by that person at the time and in the manner provided by this bylaw;
  - c) knowingly permits or suffers any condition of or things to exist contrary to any provision contained in this bylaw;
  - d) obstructs or hinders any authorised officer of Council in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred upon that officer by this bylaw; or
  - e) fails to comply with any notice or direction given under this bylaw.
- 15.3. Where it is suspected that any person has committed a breach of this bylaw, that person shall, on the direction of an authorised officer, provide their full name and address.
- 15.4. The Council may apply to the District Court for an injunction to restrain a person from committing a breach of this bylaw (refer section 162 of the LGA).