Kaipara te Oranganui

KAIPARA DISTRICT

Two Oceans Two Harbours

# General Bylaws Hearing Panel Agenda

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|---|---|
| **Date:** | Thursday 6 August 2020 |
| **Time:** | 10.00 am |
| **Location:** | Conference Room<br>Northern Wairoa War Memorial Hall<br>37 Hokianga Road<br>Dargaville |
| **Elected Members:** | Deputy Mayor Anna Curnow (Chair)<br>Councillor Jonathan Larsen<br>Councillor Mark Vincent |

*For any queries regarding this meeting please contact the Kaipara District Council on (09) 439 7059*

KAIPARA DISTRICT

Kaipara te Oranganui • Two Oceans Two Harbours

Thursday, 6 August, 2020
10:00 am
Conference Room, Northern Wairoa Memorial Hall, Dargaville


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KAIPARA DISTRICT

Kaipara te Oranganui • Two Oceans Two Harbours

**Minutes of the meeting of the**

**General Bylaws Hearing Panel**

| | |
|---|---|
| **Date:** | **Tuesday 30 June, 2020** |
| **Time:** | **1:00 p.m. - 2.00 p.m.** |
| **Location:** | **Kaipara District Council Offices**<br>**The Hub**<br>**6/6 Molesworth Drive**<br>**Mangawhai** |
| **Members present:** | Deputy Mayor Anna Curnow **(Chair)**<br>Councillor Jonathan Larsen<br>Councillor Mark Vincent |

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**1. Opening and Karakia**

The Deputy Mayor opened the Hearing with a Karakia.

**2. Introductions and Hearing process information**

The Hearing Panel and Council staff were introduced. Processes and guidelines for the Hearing were explained.

**3. Submissions**

**Moved By:** Cr Larsen
**Seconded By:** Cr Vincent

That the General Consolidated Bylaw Panel:

a) Receives the submissions as attached in Attachment A.

b) Hears the individuals or organisations who have requested to present their views in person.

**Carried**

The following submitters presented at the Hearing.

| Name | Organisation |
|---|---|
| Ayla Wiles (by video conferencing) | Department of Conservation |
| Reg Whale (in person) | |
| Rachel Williams (in person) | |

**3. Next steps**

It was explained that an informal Public Excluded deliberations workshop would take place on Monday 20 July, followed by a final deliberation hearing on Wednesday 6 August, where final recommendations would be made to the Kaipara District Council.

**4. Closure and Karakia**

The Deputy Mayor closed the Hearing with a Karakia.

The hearing closed at 2.00 pm.

**Kaipara District Council**

# Deliberations – Proposed Consolidated General Bylaw

**Meeting:** **Consolidated General Bylaw Panel**
**Date of meeting:** **6 August 2020**
**Reporting officer:** **Paula Hansen, Senior Policy Analyst**

## Purpose/Ngā whāinga

To deliberate on matters raised in submissions and further matters raised by staff to make a recommendation to Council on the final form and content of the proposed Consolidated General Bylaw.

## Recommendation/Ngā tūtohunga

That the Consolidated General Bylaw Panel:

a) Approves the proposed changes to the Consolidated General Bylaw as shown in track changes in Attachment B and as per the staff recommendations in this report, for a final recommendation to Council.

b) Delegates the Chair of the Panel the authority to approve a report to Council recommending the making of the Consolidated General Bylaw based on the decisions made at this meeting, including the final version of the proposed Bylaw incorporating any final typographical changes

## Context/Horopaki

At its meeting on 29 April 2020, Council adopted a Statement of Proposal to revoke and replace Council's Consolidated General Bylaw (the Bylaw). This proposal was a result of the statutory review of the Bylaw completed in accordance with section 159 of the Local Government Act 2002 (the Act).

Consultation, in accordance with section 83 of the Act was undertaken, seeking written submissions for six weeks during May and June 2020. Council received 16 written submissions during this period. Three submitters also requested to attend the hearing, held on 30 June 2020 to present their views in person.

The Panel must now deliberate on the matters raised in submissions as well as any further staff advice before making a final recommendation to Council.

## Discussion/Ngā kōrerorero

### Matters raised in submissions

Matters raised in submissions were restricted to Parts 1, 2, 3, 4, 8, 9 and 16 of the Bylaw. Other matters that were out of scope of the proposed Bylaw were also raised in submissions.

No community feedback was received on any of the other Parts of the proposed Bylaw. Therefore, deliberations are not required on these Parts and they can proceed as proposed for Council's final consideration.

### Overview of matters raised

A detailed summary of submission issues, including out of scope matters; together with staff comments is provided in Attachment A.

**1. Smokefree matters (Parts 1, 2, 3 and 9)**

Three submitters requested changes in relation to smokefree clauses. This includes requests for appropriate definitions, more stringent application of the smokefree matters and requests for clarity on what public areas Council may potentially designate as smoke free.

**Staff recommendation:**

a. That proposed clause 204 in Part 2 be removed and reconsidered when the Smokefree Kaipara Policy is next reviewed.
b. That requests for amendments to other clauses regarding smokefree matters (in Parts 1, 2, 3 and 9), be declined, but consideration of the matters raised are included in the next review of the Smokefree Kaipara Policy.
c. That the term mind altering substances be replaced with psychoactive substances and to use the definition provided in the Psychoactive Substances Act 2013

**2. Footpath use (Part 2)**

One submission was received on this matter. The request appears to be on the conflict, or potential conflict, between pedestrians and non-pedestrians on the footpaths within the Kaipara District and that the definition of 'recreational devices' should be extended to include bicycles, electric bicycles and other devices. The submitter has also provided considerable background information on shared paths.

**Staff recommendation:**

a. That the definition of skating device is changed to the definition of 'wheeled recreational device' as provided in the Land Transport (Road User) Rule 2004.
b. That clause 203 is amended to reference wheeled recreational devices instead of skating devices to ensure alignment and consistency with legislation.

**3. Vehicles, and horses on Mangawhai Wildlife Sanctuary (Part 2)**

Four submitters expressed concerned about the number of vehicles and horses that are accessing the Mangawhai Wildlife Sanctuary on Mangawhai spit and the effect that they are having on nesting shorebirds, particularly the critically endangered fairy tern.

The submissions request that Council prohibits vehicles, including bikes and e-bikes, horses, dogs, drones and motorised gliders, on the beach below mean high water springs adjacent to the Mangawhai Government Purpose Wildlife Refuge Reserve.

**Staff recommendation:**

Making the requested amendments to the Bylaw are not recommended at this time. Any changes would be considered significant and further consultation would be required. Additionally, further analysis is required to gain a better understanding of the issues and the legal framework on these matters. Any research on vehicles and horses on beaches should include the entire District.

**4. Solid Waste (Part 4)**

Two submission points were received regarding solid waste. The first point relates to a request to increase fines for fly dumping. The second matter is a request to allow for the recycling of materials from disposal sites where possible to reduce the environmental impacts.

**Staff recommendation:**

a. The amount of 'fines' are regulated through the legislation within which the Bylaw is made. No changes to the proposed Bylaw can be made in this respect.
b. Amend clause 427 to explicitly allow for the re-use of materials.

**5. Bees (Part 8)**

Two submissions were received on the keeping of bees. One supported the provisions that allows Council to address nuisances caused by bees in rural areas. The other submission supported owner obligations, however had concerns around extending these obligations beyond the urban area and into the rural area. The submitter also recommended a proactive approach for limited numbers of hives in urban areas, rather than requiring permits for all hives in these locations.

**Staff recommendation:**

a. That clause 806 allows for a slightly more permissive approach for urban areas to reduce the requirement for applications for permits.
b. To include a detailed guideline for beekeepers as an explanatory note in the Bylaw.
c. To add other subclauses to the Part to ensure enforcement officers have the necessary powers to undertake enforcement actions and to allow for existing permits to continue.

**6. Cemeteries and Crematoria (Part 9)**

The Submitter considered the Bylaw should reference any future replacement of the current legislation by including 'or its replacement' in the reference to the Burial and Cremation Act 1964.

**Staff recommendation:**

It is not standard practice to reference legislation in this way, the requested change is not recommended.

**7. Water supply (Part 16)**

Two submitters commented on this Part. One submission is concerned about an existing agreement that may be affected by the proposed changes within the Bylaw. The other submission requests that Council includes provisions to require the storage of water sufficient for a one in 100-year drought event and to define what an emergency is. A request to waive reconnection fees in certain circumstances was also requested.

**Staff recommendation:**

a. That a saving clause be added to this Part of the Bylaw, allowing any existing agreements or permits to continue under current arrangements.
b. Add an explanatory note on what would be considered an emergency.
c. Provide a general waiver section in Part 1 of the Bylaw, allowing the Chief Executive to waive fees in certain circumstances.
d. That clauses 1610 and 1620 are further reviewed and combined to provide clarity on the relevant matters.

**8. Proposed staff amendments**

Since the consultation document was adopted, further advice has been sought and the Bylaw was reviewed for technical strength, consistency of terminology and use of 'plain English'. This has resulted in several proposed changes, deletion of duplications and additions that do not change the overall content or context of the Bylaw but remove potential ambiguity and/or provide more clarity, including for enforcement purposes. Some consequential amendments to Parts 8 and Parts 16 of the Bylaw have also been identified as a result of submissions issues raised.

All proposed staff amendments are identified in the report in Attachment A.

Another specific matter recommended is renumbering the existing Parts of the Bylaw as well as providing them in a different sequence, so that Parts of a similar nature are grouped together. Where clauses and Parts are referenced in this report, these references are for the clauses and Parts as provided in the proposed Bylaw for consultation. The revised numbering of Parts is shown in the table below.

| **Existing Parts and Titles** | | **Amended Parts and Titles** | |
|---|---|---|---|
| Part 1 | Introduction | Part 1 | Introduction |
| Part 2 | Public Places | Part 2 | Public Places |
| Part 3 | Trading in Public Places, and Trading as a Hawker, Mobile Shop or Itinerant Trader | Part 3 | Trading in Public Places, and Trading as a Hawker, Mobile Shop or Itinerant Trader |
| Part 4 | Solid Waste | Part 4 | Public Nuisances |
| Part 5 | Signs | Part 5 | Signs |
| Part 8 | Keeping of Animals, Poultry and Bees | Part 6 | Keeping of Animals, Poultry, Stock and Bees |

| | | | |
|---|---|---|---|
| Part 9 | Cemeteries | Part 7 | Cemeteries and Crematoria |
| Part 12 | Nuisances | Part 8 | Traffic |
| Part 15 | Traffic | Part 9 | Solid Waste |
| Part 16 | Water Supply | Part 10 | Water Supply |
| Part 17 | Land Drainage | Part 11 | Land Drainage |

**Proposed changes**

All changes, both as a result of submissions and staff recommendations are shown as track changes in Attachment B. As there were no submissions received for Parts 5, 12, 15 and 17, nor any staff recommended changes, these Parts have not been included in the Attachment. Part 3 has also been excluded, as the staff recommendation was not to make any amendments to this Part as a result of submissions. The Parts are now renumbered as per the highlighted rows in Table 1.

## Significance and engagement/Hirahira me ngā whakapāpā

The decisions and matters of this agenda do not trigger the significance criteria of Council's Significance and Engagement Policy. Council has consulted with the community on the issues of this agenda in accordance with the statutory requirements of the Local Government Act 2002. The public will be informed via agenda publication on Council's website.

## Next steps/E whaiake nei

Staff will draft a report for Council on behalf of the Panel and in accordance with the decisions made at this meeting.

## Attachments/Ngā tapiritanga

| | Title |
|---|---|
| A | Summary of submissions and staff comments |
| B | Consolidated General Bylaw Track Changes proposed amendments to parts |

# General Consolidated Bylaw
# Summary of submissions and staff comments

## 1. Out of scope matters

This table summarises the topics raised by submitters that cannot be addressed by the General Consolidated Bylaw and/or need to be addressed through other regulatory mechanisms.

| Submitter comment | Staff comments |
|---|---|
| Submitter would have liked better consultation on this matter. The document and amount of information in it made it hard to assess and understand properly. Council should have anticipated this and broken it down to make it easier for the public to understand. | Staff agree that the Consolidated General Bylaw is a large document and therefore difficult to read and understand. Council has had this type of combined bylaw for over two decades at least, however this is not a legislative requirement and consideration to split the Bylaw up into more manageable and aligned topics is an option, should Council wish to see this happen. |
| Submitter requests staff who issue notices regarding upgrading wastewater disposal systems, provide evidence of their findings a part of the process. | This matter pertains to Council's Wastewater Drainage Bylaw. The comment has been provided to the relevant team and a note made for future Wastewater Bylaw reviews. |
| Submitter makes some general comments that there is no point in submitting to Council as they don't listen to any community feedback. Submitter has now moved out of the District. | The submitter's comments are noted for future engagement activities. |
| Submitter has requested a speed limit change to 40km/hr, together with the introduction of adequate signage. | This matter pertains to Council's Speed Limits Bylaw. The matter has been forwarded to the relevant Council staff. |
| Provide adequate speed bumps on Kedge Drive to reduce traffic speed | This is an operational roading matter and has been referred to the relevant team. |
| Submitter would like to see Council develop a Health and Hygiene Bylaw. | This issue is a new matter that has been raised and staff will discuss the concern with the Regulatory Team in the first instance. This matter has not previously been raised with Council as far as staff are aware. |

## 2. Smokefree matters (Parts 1, 2, 3 and 9)

Three submitters requested changes in relation to smokefree clauses, this includes requests for appropriate definitions, but also more stringent application of the smokefree matters as well as requests for clarity on what public areas Council may potentially designate as smoke free.

### Staff comments/initial recommendations

The submissions made relating to smoke free environments and thus also Council's Smoke Free Policy indicate that there is potentially a lack of clarity and direction in the Policy and that this may need review. In order to ensure the Bylaw accurately reflects the Policy in a manner that is lawful, it is recommended that clause 204 is removed from the Bylaw at this point in time. Given the intent of the Policy and the proposed Bylaw was to undertake community engagement prior to establishing any designated smoke free areas, this clause can be proposed to be re-inserted and consulted on at the same time as any proposed designated smoke free areas, therefore this doesn't change the overall approach that contemplates community consultation prior to the designation of any smoke free areas. This approach acknowledges all the matters raised in the various submissions received and can ensure the relevant matters are addressed through the above proposed process. Staff agree that definitions should align to national legislation where possible and that the definition for mind altering substances should be amended accordingly.

## 3. Footpath use (Part 2)

One submission was received on this matter. The focus of the submitter's request appears to be on the conflict, or potential conflict, between pedestrians and non-pedestrians on the footpaths within the Kaipara District and that the definition of 'recreational devices' should be extended to include bicycles, electric bicycles and other devices. The submitter has also provided considerable background information on shared paths.

### Staff comments/initial recommendations

The Land Transport (Road User) Rule 2004 (the Rule) contains most of the relevant matters relating to this issue:

- Bicycles (including electric bicycles) are defined as 'cycles' in the Rule. Clause 11.11 of the Rule already prohibits the riding of cycles on footpaths, unless they are delivering mail, newspapers or other printed material.
- Mobility devices (also defined in the Rule) are permitted on footpaths but must be operated at a speed and in a manner that does not present a hazard to pedestrians, they are not wheeled recreational devices.
- Wheeled recreational devices are defined in the Rule. The definition includes bicycles which have a wheel diameter smaller than 355 mm (anticipated to allow for small children's bicycles on a footpath), as well as wheel conveyances that are propelled by human power or gravity, but which can also be propelled by small motors with a power output of less than 300 W.
- Scooters and e-scooters are also included in the definition of wheeled recreational devices and further, scooters meeting certain criteria (aligned to the definition of a wheeled recreational device) have been declared not be motor vehicles (which are prohibited from driving on footpaths) by Gazette notice in 2018.
- Footpaths are not shared paths. The Traffic Control Devices 2004 provides that Council must install appropriate signage to signal that a path is a shared path and what kind of devices are allowed to use that path and how.

It is therefore unnecessary to duplicate the existing regulations regarding bicycles on footpaths. However, the submitter's comments regarding other devices on footpaths are

relevant. Currently clause 203 refers to skateboards, roller skates, rollerblades or other similar recreation devices and the associated definition of 'skating device' includes roller skates, in-line skates and similar recreation devices. The definition and the clause terminology are not clearly aligned, nor is it clear what a 'similar recreation device' is.

Staff are therefore recommending that the definition of skating device is changed to the definition of 'wheeled recreational device' as provided in the Rule and that clause 203 is amended so that it allows Council to designate areas to prohibit some or all types of wheeled recreational devices, to ensure alignment and consistency with legislation.

~~**Skating device**~~

~~means a wheeled device controlled or propelled by gravity or by the muscular energy of the rider, including roller skates, in-line skates, or similar recreational devices. The definition does not include any bicycle, wheelchair, recognised mobility aid or baby carriage.~~

*Wheeled recreational device* has the meaning given by the Land Transport (Road User) Rule 2004.

| |
|---|
| Definition here for completeness:<br>Wheeled recreational device<br>(a) means a vehicle that is a wheeled conveyance (other than a cycle that has a wheel diameter exceeding 355 mm) and that is propelled by human power or gravity; and<br>(b) includes a conveyance to which are attached 1 or more auxiliary propulsion motors that have a combined maximum power output not exceeding 300 W. |

203 ~~Skating Devices~~ Wheeled recreational devices

**(1)** Council may by resolution publicly notified:

**(a)** designate areas in which the use of ~~skateboards, roller skates, rollerblades or other~~ all or specified ~~similar~~ wheeled recreational devices is prohibited;

**(b)** add to, amend, or remove areas designated under (a)**.**

**(2)** Except with the prior permission of Council or an Authorised Officer, a person shall not use a ~~skateboard, roller skates, rollerblades or any other similar~~ wheeled recreational device:

**(a)** in an area contrary to a prohibition made under clause 203(1);

**(b)** in any public place, in a manner that may cause damage to any property or is inconsiderate or harmful to others.

**Explanatory Note:** A list of the areas which are subject to a resolution made under clause 203(1) is maintained together with this Bylaw.

## 4. Vehicles, and horses on Mangawhai Wildlife Sanctuary (Part 2)

Four submitters expressed concerned about the number of vehicles and horses that are accessing the Mangawhai Wildlife Sanctuary on Mangawhai spit and the effect that they are having on nesting shorebirds, particularly the critically endangered fairy tern.

Vehicles and horses pose a significant threat to nesting shorebirds, they can flush birds from the nest, run over or trample eggs and chicks, and cause stress to adult birds. They believe that their requests are necessary to eliminate any 'grey areas' for the Public around the use of vehicles and animals within this area.

The submissions request that Council prohibits vehicles, including bikes and e-bikes, horses, dogs, drones and motorised gliders, on the beach below mean high water springs adjacent to the Mangawhai Government Purpose Wildlife Refuge Reserve.

### Staff comments/initial recommendations

There are several considerations regarding the beach area of the Mangawhai Spit, as well as any other beaches in the District. The Mangawhai spit is surrounding by privately owned properties and beach access can only be gained through these properties or from the Auckland Region. Council would therefore also have difficultly gaining access to enforce any bylaw. Council's enforcement options for this type of matter within the Bylaw are only seeking prosecution, there is no ability to issue 'fines'. Additionally, there are legal limitations on environmental matters Council can address through a bylaw mechanism.

Historically, vehicles on beaches are a reoccurring theme for a variety of reasons. A wider understanding of the issues, why they are occurring, and the level of the problem, needs to be established first in order to be able to consider the appropriate response or mechanism.

Making the requested amendments to the Bylaw are not recommended as any changes would be considered significant and further consultation would be required.

Legal guidance is being sought to help understand all the moving parts of legislation within the area between HMWS and LMWS and to help present options, including the possibility of extending the wildlife sanctuary down to LMWS.

Staff will discuss with the Regulatory Team how to work with DoC to better understand how Council may help, with potential to support with education around the problems vehicles and horses cause on the Mangawhai Spit.

It is also noted that this matter is under appeal with Northland Regional Council's Proposed Regional Plan for Northland and the outcome of that process may provide solutions to the problem.

## 5. Solid Waste (Part 4)

Two submission points were received regarding solid waste. The first point relates to a request to increase fines for fly dumping. The second matter is a request to allow for the recycling of materials from disposal sites where possible to reduce the environmental impacts.

### Staff comments/initial recommendations

The amount of 'fines' are regulated through the legislation within which the Bylaw is made and therefore Council cannot set the amounts for fines. In this matter, any fines would be issued in accordance with the Litter Act 1979.

There is a second chance area at the Dargaville transfer station where some items are set aside which people may recycle back. They also have certain items not put into the mainstream to be recycled, e.g. metal, iron which is picked up by a recycler. Staff consider clause 427 of the Bylaw should be reworded to explicitly allow for the re-use of these materials.

*'A person must not enter, loiter at, or disturb any deposit of waste at any land or premises set aside by Council for the disposal of waste, nor remove from such a place any article or material of any kind, unless those premises have specific approved facilities that allow for members of the public or other agencies to purchase or obtain waste materials for the purposes of re-use or upcycling.'*

## 6. Bees (Part 8)

Two submissions were received on the keeping of bees. One supported the provisions that allows Council to address nuisances caused by bees in rural areas.

The other submission supported owner obligations, however had concerns around extending these obligations beyond the urban area and into the rural area. The submitter also recommended a proactive approach for limited numbers of hives in urban areas, rather than requiring permits for all hives in these locations. It was also recommended that Council refers to the ApiNZ Code of Conduct as a guideline when faced with responding to failures of beekeepers to abide by the bylaw's obligations of owners.

### Staff comments/initial recommendations

Staff have reviewed the submissions and recommend some proposed changes that retains the necessary enforcement options in rural areas around nuisances but allows for a slightly more permissive approach for urban areas. The proposed changes, together with associated proposed amendments, are provided below. It is also recommended to include a detailed guideline for bee keepers as an explanatory note in the Bylaw.

***Beehive and hive*** mean any receptacle housing a honeybee colony and includes 1 receptacle per colony used solely for the purposes of queen breeding, hive maintenance and swarm prevention purposes between 1 October and 31 March. ~~*Hive* means any receptacle housing a honeybee colony.~~

806 Bee Keeping *(replacing the entire existing section 806 of the proposed Bylaw)*

**(1)** No person shall keep bees in the District if in the opinion of an authorised officer, the keeping of bees is likely to become a nuisance or potential danger to any person.

**(2)** For the avoidance of doubt, clauses 802(1) and (2) and 806 (1) apply to any keeping of bees in the District, including in a rural area.

**(3)** A person may keep bees in the urban area as follows:

| **Property Area** | **Maximum number of hives** |
|---|---|
| 1000 square metres or less | 2 |
| 1001 square metres or greater | 4 |

**(4)** Council may give written approval to persons to keep additional hives to those permitted under clause 806 (3) and may prescribe any conditions, including specifying distances from boundaries, maximum number of hives and time limits on such licences.

***Explanatory note:*** *Beekeepers have a legal obligation to register their apiary under the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998. Registration of apiaries is intended to protect honeybees from American foulbrood disease. The register also allows the Ministry for Primary Industries to carry out surveillance for exotic pests and diseases of honey bees and respond to an incursion. Registrations are processed by AsureQuality Ltd and registration codes are required to be displayed in a visible manner in each apiary, usually on a beehive. Further information on American foulbrood disease can be found at www.afb.org.nz. In addition to the registration of hives, beekeepers are also required to comply with the on-going management requirements as provided in the AFB Pest Management Plan and are required to provide evidence of this compliance where required. Honey and bee products that are produced for commercial purposes are also subject to additional legal requirements, such as the Food Act 2014. Information on these requirements is available on the Ministry for Primary Industries website.*

*Apiculture New Zealand Incorporated provides a Code of Conduct for beekeepers.*

*In cases where enforcement officers respond to complaints about bees, the initial assessment will include determining whether the bees are being kept in accordance with national regulations as well as the Apiculture NZ Code of Conduct.*

***Additional Guidelines***

*Compliance with the following guidelines is also recommended to minimise potential nuisances arising from beekeeping activities. Kaipara District Council also advises every person wishing to keep bees in an urban area to participate in a beekeeping course.*

***Flight path management***

*Honey bees will fly at head height for some distance from their hives unless their surrounding environment directs their flight path upwards. Honey bees can be encouraged to fly above head height if a flyway barrier, two or more metres tall, is placed 1-2 metres out from the front of the hive entrance. It is important that flightpaths are not directed across public pathways on private and public land. Barriers that can be used include shrubs or trees, a wall, a hedge or a fence. Beehives can be placed on top of sheds or buildings, but it may be more difficult to work with the bees in these restricted locations.*

***Swarming/seasonal build up***

*Swarming is the natural means of dispersal of honey bee colonies. However, beekeepers can undertake responsible bee management practices to minimise the occurrence of swarms in urban areas. These practices can include re-queening on an annual basis, taking a nucleus colony out of populous hives (artificial swarming) and re-queening colonies that have been started from swarms.*

*Honey bee colonies are more likely to swarm if there are limited cells in the hive for the worker bees to store honey and pollen. Responsible bee management practices include providing plenty of room for the queen to lay eggs and for the bees to store honey.*

***Water provision***

*Providing a source of clean water may reduce the number of bees foraging elsewhere for water and creating a nuisance to neighbours, especially if they own a swimming pool.*

***Bee excrement management***

*Like other animals, bees excrete waste products. Honeybees going on orientation, foraging or cleaning flights often excrete after exiting the hive. This can leave distinct trails of coloured bee excrement within a 500 metre radius of the hive and can cause a nuisance to neighbours. The colour of the excrement is typically yellow to brown. The excrement may be hard to remove from clothing, vehicles and buildings. Hives can be re-positioned on the property or rotated so that flight paths can be encouraged in a direction away from neighbouring properties.*

809. Savings

10.1 Any permissions, approvals or other authorisations issued under the General Bylaw 2008 continue in force in accordance with their terms, unless cancelled by Council.

## 7. Cemeteries and Crematoria (Part 9 General Bylaw)

Submitter considers the Bylaw should have reference to any replacement in the current legislation by including ‘or its replacement’ in the reference to the Burial and Cremation Act 1964.

**Staff comments/initial recommendations**

It is not standard practice to do this. Staff keep up to date with any legislative changes and where they relate to a bylaw, a review is undertaken to determine if there are any consequential impacts. If there are and they do not change the substantive nature of the bylaw, then Council can make an amendment via resolution. If the legislative changes would mean a substantive change to the bylaw, then an amendment after consultation is considered appropriate in any case.

## 8. Water supply (Part 16)

Two submitters commented on this Part. The table below summarised the submission items and provides staff comments and initial recommendation for each matter.

| Submission matter | Staff comments/initial recommendations |
|---|---|
| The submitter has interpreted section 16 to mean that the processing plant would fall into the 'Extraordinary Supply' category. They object as their licence for Council water supply already contains clauses that in times of water shortage the Dargaville plant may be required to limit its water use and at extreme circumstances stop taking water from the Council system all together.<br><br>The submitter also raises other concerns regarding their water supply arrangements during a drought situation, including the matter of animal welfare. | The submitter's initial comments are valid, and staff suggest adding a savings clause that would cover Council's existing arrangement with the submitter appropriately.<br><br>*Any permissions, approvals or other authorisations given under the General Bylaw 2008 for ordinary or extraordinary water supply will continue to be in force in accordance with their terms, until such time as it is re-ordered, cancelled, re-negotiated or renewed.*<br><br>The bylaw currently allows for customers, including customers utilising an extraordinary supply, to apply for an exemption from a restricted water supply. As per the above there is an existing arrangement in place and this application and approval can be re-negotiated with the submitter to address their concerns. |
| For properties with no ordinary water supply, the submitter wishes to see the inclusion of a clause that requires water tanks to be of sufficient storage to allow for a 100 year drought event. | This Part of the Bylaw addresses the provision of water through council's water supply network. The provision of water tanks and the volumes of those for properties that are not connected to the water supply network is regulated through other mechanisms such as the Building Code. Should Council decide to allow dwellings that are connected to the reticulated water system to also have water tanks, further work and consideration needs to be undertaken by staff as to what terms and conditions need to be in place to ensure quality of supply and risks around stopping contamination of the reticulated system is managed. Once this analysis is completed and a decision is made to proceed, an amendment to the Bylaw will be necessary. |
| Submitter wants a definition of 'emergency'. | Suggest adding an Explanatory note: 'An emergency is where a situation arises that requires prompt action and delays may cause a situation to be made worse.' |
| The submitter has raised issues regarding the definition of restricted water supply and associated concerns regarding Councils' obligations under the Health Act 1956 and concerns regarding a fee to remove any restrictions imposed. | Staff agree that sections 1610 and 1620 lack clarity and that the Bylaw should allow Council to waive fees in certain circumstances. Staff will review and recommend associated changes as part of the deliberations report to the Panel. A clause in Part 1 of the Bylaw can be amended to allow for fees to be waived in certain circumstances. |

## 9. Other changes - staff recommendations

Since the draft Bylaw was adopted for consultation, several matters have been brought to the attention of staff or have come to light in undertaking the analysis for matters raised in submissions. The table below summarises these matters. The proposed changes are not considered to provide substantive changes to the context and application of the Bylaw, they are primarily proposed for clarity and cohesiveness throughout the document.

| Proposed changes | Reason |
|---|---|
| Remove clause 202(1)(b) | The research into footpaths also provided some insights into the use of vehicles in public places. The driving of vehicles in a manner that is unsafe or causes a nuisance is addressed through various legislative tools already. In addition to this, only NZ Police Officers have the power to stop moving vehicles and thus undertake any associated enforcement activities. |
| Reword clause 211(4) | Vehicle crossings can also be required through resource consenting processes. It is important that the clause is clear to avoid confusion between any resource consent conditions for crossing as opposed to crossing permits under the Bylaw.<br>Reword clause 211(4) to read:<br>A permit for the construction, repair, removal, reconstruction, relocation or widening of a vehicle crossing and is not subject to a resource consent, shall be valid for six months, during which time the work shall have been completed, to the satisfaction of an Authorised Officer. |
| Remove clause 438 | The clause states – 'A person must not light any fire outside of a building within 150 metres of any waste disposal site without the express permission of Council or within an approved incinerator.'<br>It has been found that this clause is not appropriate as there are resource consents in place for landfills that address any risk related matters for neighbouring properties. |
| Amend clause 929(3)(b) | A technical request from Council's Parks Officers to amend the height from 650mm to 900mm to accommodate existing circumstances. |
| Amend heading of clause 1611 | Replace heading of 1611 from 'Exemption from Restricted Water Supply' to 'Exemption from Water Supply Restrictions' to accurately reflect the purpose of the clause. |
| Renumber Bylaw Parts | This would provide for a continuous numbering of the Bylaw and not appear to have Parts missing (e.g. it currently skips from Part 5 to Part 8) |
| Various amendments<br>Some of these proposed amendments are as a result of legal advice, some are to provide clarity on the | Part 1 Definitions – proposed amendments:<br>***Animal***<br>Animal means any member of the animal kingdom, but does not include humans or dogs.<br>***Nuisance***<br>~~shall~~ includes but is not ~~not be~~ limited to the meaning assigned to it by the Health Act 1956 and includes a person, animal, thing or |

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| operational aspects of the Bylaw | circumstance causing unreasonable interference with the peace, comfort or convenience of another person.<br>**Explanatory note**: *Circumstances that may be deemed a nuisance can include noises and odour associated with the keeping of animals.*<br><br>***Approval or Approved***<br>means written ~~approved~~ approval by Council or by any Authorised Officer.<br><br>***Urban area***<br>means any area that has been zoned Residential, Commercial or Industrial in the Operative Kaipara District Plan ~~and may include land that is associated with residential activities in other zones~~.<br><br>Consequential amendments to Part 8 – Animals<br>***Animal***<br>Animal means any member of the animal kingdom, that is kept in a state of captivity or is dependent upon a human being for its care and sustenance, but does not include humans or dogs.<br><br>Insert this clause:<br>**801(3)** An Authorised Officer may give written approval subject to any conditions and payment of any prescribed fee.<br><br>And remove individual clauses: 803(2), 804(2), 805(5), 807(2).<br><br>Add a new clause **809** for clarification:<br>809 Consequences of breach of bylaws<br>**(1)** Council may remove or alter a work or thing that is, or has been, constructed in breach of this Bylaw.<br>**(2)** Council may recover the costs of removal or alteration from the person who committed the breach.<br>**(3)** If an authorised officer is issued with a warrant under the Search and Surveillance Act 2012 the authorised officer may enter private property pursuant to section 165 of the Local Government Act 2002 and:<br>a. seize stock, poultry and bees that are on the premises in breach of this Bylaw<br>b. seize property other than stock, poultry and bees that is materially involved in the commission of an offence under this Bylaw.<br>Add a new clause 810 for transitional purposes<br>810 Savings<br>**(1)** Any permissions, approvals or other authorisations given under General Bylaw 2008 continue in force in accordance with their terms, unless cancelled by Council. |

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| Editorial and consequential amendments from final staff review | This is to correct any cross referencing and or changes in wording that do not alter the intent of a clause, e.g. 1613 needs to say 1614(3), take out further doubling up of provisions. Also, some simplification of terms and clauses such as:<br>*The Authorised Officer shall be given ~~not less than~~ at least 2 working days' notice prior to any burial.* |

# Kaipara District Council

# Draft Consolidated General Bylaw 2020

# Part 1 - Introduction

Kaipara te Oranganui
KAIPARA DISTRICT
Two Oceans Two Harbours

# Part 1 – Introduction

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**Relationship between this Bylaw and Acts, regulations, bylaws and Council's District Plan**

Compliance with the Bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws and the Operative Plan of the Kaipara District Council. Where there is any conflict between this Bylaw and any Act or Regulation, the Act or Regulation will take precedence.

# *Part 1 – Introductory*

## Purpose

The purpose of this Part is to set out general provisions which may be relevant to more than one Part of the Consolidated General Bylaw. As well as defining some terms and expressions that are used throughout the General Bylaw, this Part also covers the following matters:

(a) serving of orders and notices;
(b) powers of delegation;
(c) powers of entry onto land;
(d) licences, suspension of licences (approvals) and revocation of licences;
(e) removal of works executed contrary to the Bylaw;
(f) fees and charges; and
(g) offences and breaches and penalties for breach of the Bylaw.

This Part should be read in conjunction with all other Parts of the General Bylaw. If there is a discrepancy with another Part of the Bylaw, the other Part will take precedence. This includes where the other Part of the Bylaw contains more specific provisions dealing with the same subject matter e.g. a licensing regime.

## 101 Interpretation

**(1)** In this Bylaw, unless the context otherwise requires:

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| *Agent of Council* | means a person who is not a Council employee who has been delegated or appointed to act on Council's behalf and with its authority. |
| *Animal* | Animal means any member of the animal kingdom but does not include humans or dogs. |

~~means stock, bees, poultry and any other vertebrate and invertebrate animal of any age or sex that is kept in a state of captivity or is dependent upon a human being for its care and sustenance.~~

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| *Approval or Approved* | means ~~approved~~ written approval by Council or by any Authorised Officer. |
| *Authorised Officer* | means any Officer or other person appointed or authorised by Council to perform duties required under this Bylaw, irrespective of the designation given to that officer and person; and includes a Police Constable; or a person appointed as an enforcement officer under section 177 of the Local Government Act 2002. |
| *Bylaw* | means a bylaw of Council in force, made under the provisions of any Act or authority enabling Council to make bylaws. |
| *Berm* | means a raised strip of ground that runs along the side of a road and usually contains a path or/and a strip of grass. |
| *Chief Executive* | means the Chief Executive of the Kaipara District Council or a person acting in their capacity. |
| *Council* | means the Kaipara District Council or any Committee, Community Board, elected member of Council or Officer to which Council has delegated authority to act. |
| *District* | means the Kaipara District. |
| *Dwelling or dwelling house* | includes any house, tent, 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, and includes any adjacent land associated with the dwelling. |
| *Electronic means* | means any means of digital communication including email, text and any other such electronic messaging but does not include social media platforms such as Facebook or Twitter. |
| *Licence* | means any written approval, permission or licence from Council or an Authorised Officer. |
| *Licensed* | means holding a licence under this Bylaw or under any Act. |
| *Material or Thing* | means any material or thing of whatever kind and includes but is not limited to jumbo bins and other containers for waste material, but excludes vehicles. |
| *Motor vehicle* | has the meaning in the Land Transport Act 1998, namely:<br>(a) means a vehicle drawn or propelled by mechanical power; and<br>(b) includes a trailer; but<br>(c) does not include: |

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(i) a vehicle running on rails; or

(ii) [Repealed]

(iii) 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; or

(iv) a trailer running on 1 wheel and designed exclusively as a speed measuring device or for testing the wear of vehicle tyres; or

(v) 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; or

(vi) a pedestrian-controlled machine; or

(vii) a vehicle that the Agency has declared under s168A of the Land Transport Act 1998 is not a motor vehicle; or

(viii) a mobility device.

*Nuisance*

~~shall~~ includes but is not ~~be~~ limited to the meaning assigned to it by the Health Act 1956 and includes a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person.

**Explanatory note**: *Circumstances that may be deemed a nuisance can include noises and odour associated with the keeping of animals.*

*Occupier*

means a person who inhabits, leases, uses or controls any property or premises, whether as an owner, tenant, licensee or otherwise.

*Owner*

means, in relation to real property, a registered proprietor, trustee and any person for the time being entitled to receive the rent of the property, land, building, or premises or who would be entitled to the rent if the property were let to a tenant. Where any such person is absent from New Zealand or mentally incapable as defined in section 94 of the Protection of Personal and Property Rights Act 1988, 'owner' includes his or her attorney or agent.

means, in relation to personal property, the person lawfully in charge of the management of the property, whether or not that person possesses or occupies the property.

*Offence*

includes any act or omission in relation to this Bylaw or any part of it for which any person can be penalised either by prosecution or by issuing an infringement notice.

*Person*

includes an individual, a corporation sole, a body corporate, and an unincorporated body.

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| *Poultry* | means any bird (including domestic fowls, ducks, geese, turkeys, guinea-fowl, pheasants, peacocks, swans and pigeons) that is kept or raised to produce eggs, hatching eggs or poultry products for human consumption, or for the purpose of rearing on behalf of another person. |
| *Prescribed fee* | means the fee or fees that may be set by Council from time to time for a certificate, approval, permit, consent, inspection or other matter, including a fee set pursuant to clause 110 of this Bylaw. |
| *Premises* | means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands, buildings, and places adjoining each other and occupied together shall be deemed to be the same premises. |
| *Public litterbin* | means a refuse container made available by the Council for the placement of litter by members of the public. |
| *Public notice* | has the meaning in s5(1) of the Local Government Act 2002. |
| *Publicly notified* | means notified by way of a public notice. |
| *Public place* | means a place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place, and includes but is not limited to every reserve, park, domain, beach, and recreational ground under the control of Council. |
| *Reserve* | has the meaning in the Reserves Act 1977. |
| *Residential activity* | means the use of land and buildings by people for the primary purpose of living accommodation. |
| *Road* | shall have the same meaning as in s315 of the Local Government Act 1974 whereby the term street is considered a road and includes all land lying within the boundaries of a road including footpaths and berms. |
| *Rural area* | means any land that has been zoned Rural in the Operative Kaipara District Plan. |
| *Sign* | means a visual message or notice conveyed to the public and visible from a public place displayed to advertise or identify a product, business, or service, inform or warn the public and includes any frame, supporting device and associated ancillary equipment. It includes but is not limited to any mural, message or notice painted on, affixed to, or otherwise incorporated with a building, structure, site, banner, flag, poster, billboard, sandwich board, wind sock, vehicle, blimp or projection of light to create an advertising image. A bunting that has symbols or |

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| | messages on it shall also be considered a sign for the purposes of this part of the Bylaw. |
| *Stock* | means any cattle, deer, alpaca, llama, sheep, goat, donkey, mule, horse and any other animal kept in captivity, or farmed, and dependent on humans for their care and sustenance, but does not include poultry. |
| *Private road, footpath and private way* | have the respective meanings in section 315 of the Local Government Act 1974 . |
| *Urban area* | means any area that has been zoned Residential, Commercial or Industrial in the Operative Kaipara District Plan ~~and may include land that is associated with residential activities in other zones.~~. |
| *Vehicle* | has the meaning in s2(1) of the Land Transport Act 1998, namely:<br>(a) a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and<br>(b) includes a hovercraft, a skateboard, in-line skates, and roller skates; but<br>(c) does not include:<br>(i) A perambulator or pushchair;<br>(ii) A shopping or sporting trundler not propelled by mechanical power;<br>(iii) A wheelbarrow or hand-trolley;<br>(iv) A pedestrian-controlled lawnmower;<br>(v) A pedestrian-controlled agricultural machine not propelled by mechanical power;<br>(vi) An article of furniture;<br>(vii) A wheelchair not propelled by mechanical power;<br>(viii) Any other contrivance specified by rules made under the Land Transport Act 1998 not to be a vehicle for the purposes of this definition; and<br>(ix) Any rail vehicle;<br>and includes any other contrivance or conveyance specified by Council resolution as a vehicle for the purposes of a Bylaw. |
| *Writing, written* | or any similar term means and includes words printed, painted, engraved, lithographed, or otherwise traced or copied, including by electronic means. |

**(2)** Words implying the singular include the plural and vice versa.

**(3)** The Interpretation Act 1999 applies to this Bylaw.

**(4)** Any explanatory notes and attachments are for information purposes, and do not form part of this Bylaw, and may be inserted, amended or revoked without formality.

**(5)** All Council resolutions made under this Bylaw will be ~~publically~~publicly notified in accordance

with section 5(3) of the Local Government Act 2002

**Explanatory Note:** *For the purposes of 101 (2), every resolution is still required to consider and follow sections 76-81 of the Local Government Act prior to making a resolution.*

## 102 Powers of Delegation

**(1)** In all cases where this Bylaw provides for the issue of any order, notice or licence, such order notice or licence shall be deemed to be issued in compliance with this Bylaw if the same is issued by an Authorised Officer.

**(2)** The powers or duties imposed on any Authorised Officer under this Bylaw may be delegated to any other Officer of Council, either generally or particularly and with or without conditions.

**(3)** All Authorised Officers appointed by Council under or for the purpose of any repealed or expired Bylaw, and holding office at the time of the coming into operation of this Bylaw, shall be deemed to have been appointed under this Bylaw in relation to any provision of this Bylaw that with or without modification, replaces or that corresponds to a provision of the repealed or expired Bylaw.

**(4)** In this bylaw, where any written permission or approval of the Council is required, that approval may be given by the Chief Executive, and the Chief Executive may delegate all or part of that function to any other officer of Council

## 103 Powers of Entry for Purposes of This Bylaw

**(1)** In administering and enforcing the Bylaw, the Council may utilise the applicable powers of entry in the Local Government Act 2002 and any other relevant legislation.

**(2)** Every person who obstructs or hinders any such Officer or agent in the exercise of their power of entry under this Bylaw, shall be liable to prosecution for an offence against this Bylaw.

**Explanatory note:** *Specific powers of entry are provided to Council under a range of legislation, including under the Local Government Act 2002. Any person exercising a power of entry onto private land is required to provide a written warrant under seal of the Council as evidence of authority to do so.*

## 104 Licences

**(1)** Any person doing or proposing to do anything or cause any condition to exist for which a licence from the Council is required under a Bylaw, shall first obtain such a licence.

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**(2)** A written consent issued by an Authorised Officer in accordance with any enactment to allow a person to do anything or to cause any condition to exist for which a licence of Council is required under this Bylaw, shall be deemed to be a licence under this Bylaw.

**(3)** Every application for a licence or permission shall be accompanied by the relevant prescribed fee.

**(4)** No application for a licence, payment or receipt for any fee paid in connection with such application, provides any right, authority or immunity on the person making that application or payment.

**(5)** Any licence is deemed to be issued under this Bylaw if it is issued by an Authorised Officer and will be subject to such conditions as may be imposed.

**(6)** Unless a Bylaw provides otherwise, every licence or permission and every application for a licence shall be in such a form as may be prescribed by Council.

**(7)** Unless a 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 and conditions.

**(8)** If, following a request for payment, any licence fee due remains unpaid, the licence shall immediately cease to be valid.

## 105 Suspension and Revocation of Licences or Permissions

**(1)** Unless otherwise expressly provided for in this Bylaw, should the holder of any licence granted under this Bylaw be subsequently convicted of any offence that the Council considers has an effect on the holder's suitability as a licensee, Council may immediately revoke or suspend the licence for any specified time.

**(2)** Council may by notice in writing call upon the licence holder to appear before Council and give reasons why the licence should not be revoked or suspended, if any of the following are brought to the notice of Council:

**(a)** That the licence holder:

**(i)** has acted or is acting in a manner contrary to the purpose and meaning of any bylaw;

or

**(ii)** has failed to comply with any of the conditions of the licence; or

**(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 or the conditions of the licence are not being properly observed.

**(3)** Council may, if it considers that any of the circumstances described in clause 105(2) apply, or if there is no appearance by the licence holder:

**(a)** revoke the licence; or

**(b)** suspend the licence for any specified time; or

**(c)** amend the terms and conditions of the licence.

**(4)** A person whose licence has been suspended under this clause and any premises for which that licence has been suspended shall, during the period of such suspension, be deemed to be unlicensed.

## 106 Compliance Waiver

**(1)** An application may be made to Council to waive full compliance with any provision of this Bylaw on the basis that it would needlessly cause harm, loss or inconvenience to any person, or the operation of any business, without any corresponding benefit to the community.

**(2)** On receipt of an application under clause 106(1), Council may:

**(a)** waive the strict observance or performance of any provision of this Bylaw;

**(b)** impose such other terms or conditions consistent with the intention and purpose of the Bylaw as Council may think fit.

**(3)** Except to the extent expressly stated, any waiver granted by Council under clause 106(2) shall only be applicable to the person it is granted to and shall be restricted to the particular issue considered by Council and such waiver shall not constitute a justification for the breach of the provisions of a Bylaw for anything other than the expressed terms of the waiver.

## 107 Documents

**(1)** Council may prescribe the form of any application, certificate, licence, permit or other document, which is required under this Bylaw. These forms may be altered or amended at any time.

**(2)** Variation from the exact form prescribed under clause 107(1) shall not render any application, certificate, licence, permit, or other document void. However, Council may reject any document where it considers the non-compliance is of significance and substantially detracts from the required spirit and effect of the document.

## 108 Fees and Charges

**(1)** Council may, by resolution, ~~publically~~publicly notified:

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**(a)** charge a fee for receiving and processing an application and issuing a permit under this Bylaw;

**(b)** prescribe any charges to be paid for the use of a permit issued under this Bylaw;

**(c)** determine situations when permit fees under this Bylaw may be remitted, refunded or waived.

**(2)** Council may, by resolution, vary any fee in respect of any matter provided for in this Bylaw.

**(3)** Council may require either full or a part payment of any fee or charge payable in respect of this Bylaw before issuing any licence, approval or consent or performing any other action to which the fee or charge relates.

**(4)** Where any inspection or service for which a fee has been paid under the provisions of clause 108(1) has not been given or made, Council may refund any such fee or portion thereof as it may determine.

**(5)** The Chief Executive of Council may waive fees on a case by case basis.

## 109 Orders, Notices and Service

**(1)** Where any notice, order, or other document is required to be served on any person for the purposes of this Bylaw, service may be made by delivering it personally to the person or by sending it by courier or post or fax or by electronic means, to that person's last known residential or business address, or last known contact details.

**(2)** If such person is absent from New Zealand the order or notice may be served on that person's agent instead of to such person, in any manner referred to in Clause 109(1).

**(3)** If the order, notice, or other document relates to land or buildings, and the owner 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 occupier of the land or buildings; or

**(b)** if there is no occupier, put up on some noticeable part of the land or buildings.

It is not necessary to name the occupier or the owner of the land or buildings in that notice.

**(4)** An Authorised Officer may require any person who breaches or fails to comply with the provisions of any bylaw or the conditions of a licence issued pursuant to it, to remedy the breach or comply with the same by giving such person notice in writing.

**(5)** Any order or notice shall state the time within or date before which any remedial action must be carried out, and may be extended by written authority from an Authorised Officer.

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## 110 Offences and Breaches

**(1)** 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 contrary to the provisions of this Bylaw; or
- **(b)** Omits or neglects to do, or knowingly permits or suffers to remain undone, anything which according to the purpose and meaning of this Bylaw, ought to be done by that person at the time and in the manner provided for by this Bylaw; or
- **(c)** Does something which under this Bylaw they are required not to do; or
- **(d)** Knowingly permits or suffers any condition or thing/s to exist contrary to any provision/s in this Bylaw; or
- **(e)** Fails to comply with any notice or direction given to that person under this Bylaw; or
- **(f)** Obstructs or hinders any Authorised Officer in the performance of any duty to be discharged by that Officer under or in the exercise of any power conferred upon them by this Bylaw.

**(2)** 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.

## 111 Penalties for Breach of the Bylaw

**(1)** Every person who commits an offence against this Bylaw is liable to:

- **(a)** The penalty set out in section 242 of the Local Government Act 2002; or
- **(b)** Where another enactment specifies the penalty for a breach of the Bylaw, that other penalty.

**(2)** In accordance with section 162 of the Local Government Act 2002, Council may apply to the District Court for an injunction to restrain a person from committing a breach of this Bylaw.

**Explanatory Note:** *Pursuant to section 242(5) of the Local Government Act, the penalty upon conviction for an offence under this Bylaw is a fine of up to $20,000.*

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# Kaipara District Council

# Proposed Draft Consolidated General Bylaw 2020

# Part 2 - Public Places; and

# Part 3 - Trading in Public Places and Trading as a Hawker, Mobile Shop or Itinerant Trader

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# Part 2 - Public Places

# Part 3 - Trading in Public Places and Trading as a Hawker, Mobile Shop or Itinerant Trader

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**Relationship between this Bylaw and Acts, regulations, bylaws and Council's District Plan**

Compliance with the Bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws and the Operative Plan of the Kaipara District Council. Where there is any conflict between this Bylaw and any Act or Regulation, the Act or Regulation will take precedence.

# *Part 2 - Public Places*

## Purpose

The purpose of this Part of the Bylaw is to regulate a diverse range of activities for the well-being and enjoyment of the public in public places. Communities need to feel safe and maintain high confidence in their ability to visit and conduct business in public places.

Part 2 seeks to:

(a) protect the public from nuisances;
(b) protect and maintain public health and safety;
(c) minimise the potential for offensive behaviour; and
(d) manage public land under the control of the Council.

The Bylaw does not duplicate statutory provisions. It seeks to complement existing statutory provisions that may also affect public places such as under the Local Government Act 1974 and 2002, the Resource Management Act 1991 and the Building Act 2004, by addressing specific needs assessed in the community from time to time.

Council shall accept no liability for any damage arising from the activities in any public place and permitted under this Bylaw.

## 201 Interpretation

**(1)** In this Bylaw, unless the context otherwise requires;

*Advertising Devices* means a structure or device, which conveys information or directions of any kind and is intended for advertising purposes that is external to a building and visible from a public place, or inside a building and visible from a road.

includes any land-borne inflatable devices, fairground rides and any other mechanically-powered unit that is used for rider entertainment.

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| *Amusement Devices* | |
| *Busking* | means any transient street entertainer performing for donations. |
| *Infrequent* | means no more than once a week on an unsealed road and no more than once a fortnight on a sealed road. |
| *psychoactive substance* ~~*Mind-altering substance*~~ | Has the meaning given by ~~section~~ 9 of the psychoactive substance Act 2013. ~~means a substance, whether synthetic or naturally occurring which may alter consciousness, mood or emotions, or which might intoxicate or induce pleasurable sensations. It includes the substances used for what is commonly known as glue sniffing, but does not include:~~<br>~~(a) medically prescribed substances ingested by the person for whom they were prescribed;~~<br>~~(b) substances purchased from a pharmacy without a medical prescription;~~<br>~~(c) nicotine;~~<br>~~alcohol as defined in the Sale and Supply of Alcohol Act 2012.~~ |
| ~~*Skating device*~~ | ~~means a wheeled device controlled or propelled by gravity or by the muscular energy of the rider, including roller skates, in-line skates, or similar recreational devices. The definition does not include any bicycle, wheelchair, recognised mobility aid or baby carriage.~~ |
| ~~*Smokefree area*~~ | ~~means an area where the smoking of tobacco products, vaping (the use of electronic cigarettes) and the use of heated tobacco products (HTPs) is not permitted.~~ |
| *Stall* | means any structure or thing controlled by an organisation or a person occupying any portion of any public place for the purpose of advertising and/or selling any food or refreshments, newspapers, lottery tickets, textiles, hardware or merchandise. |
| *Vehicle Crossing* | means a formed vehicle access from the carriageway of any road to a property adjacent to the road and includes any culvert, bridge or kerbing. |
| *Vaping* | Is the use of electronic cigarettes and the use of heated tobacco products (HTPs), and *vape* has the equivalent meaning. |
| *Wheeled recreation device* | has the meaning given by the Land Transport (Road User) Rule 2004. Means: |

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(a) a vehicle that is a wheeled conveyance (other than a cycle that has a wheel diameter exceeding 355 mm) and that is propelled by human power or gravity; and

(b) includes a conveyance to which are attached 1 or more auxiliary propulsion motors that have a combined maximum power output not exceeding 300 W.

## 202 Public Safety and Nuisances

**(1)** Except with the prior written permission of Council or an Authorised Officer and in accordance with any conditions that may be required, a person shall not on any public place:

**(a)** place or leave litter or any material, thing or substance that is likely to be hazardous or cause injury to any person, or likely to create a nuisance;

~~drive any vehicle except on a formed road, or in a manner that is dangerous or inconsiderate to pedestrians or other vehicles in the public place~~;

**(b)** cause or allow any material or thing to be deposited onto a public place or road;

**(c)** dispose of, the body or part of the body of any animal into a public place or into any water body or onto any bank thereof;

**(d)** deposit, discharge or leave any offensive or dangerous matter or cause pollution of any river, stream, pond, lake, watercourse, or open drain;

**(e)** leave any work, hole or excavation in a public place in a manner that could be a danger to anyone entering or using that public place;

**(f)** cause a nuisance by flying from or land any aeroplane including model aeroplanes, helicopter, drones, hot air balloons or hang-gliders except in an emergency;

**(g)** consume, inject or inhale any psychoactive substances ~~mind-altering substances~~ or offer or sell such substances to any person;

**(h)** play any game, use or ride any object including but not limited, to skating devices or similar, bicycles or motorised scooters, recklessly or in a manner which may intimidate, be dangerous or cause injury or cause a nuisance to persons in any public place, or damage the public place;

**(n)** erect or place any structure on, over or under any public place except in compliance with any other Part of this Bylaw;

**(o)** light any fireworks or explosive material near or on any public place as to endanger, annoy or frighten passers-by or cause distress to animals and wildlife.

**(2)** An Authorised Officer may give written notice to an owner or occupier requiring them to repair or remove any fence, wall, retaining wall or any other structure encroaching on a public place or posing some danger, if in the Authorised Officer's opinion the said fence, wall, retaining wall, or adjacent land is in a condition that could cause damage or injury to a person.

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## 203 ~~Skating Devices~~Wheeled Recreation Devices

(1) Council may by resolution publicly notified:

(a) designate areas in which the use of ~~skateboards, roller skates, rollerblades~~ or other similar recreational devices is prohibited;

(b) add to, amend, or remove areas designated under (a).

(2) Except with the prior permission of Council or an Authorised Officer, a person shall not use a ~~skateboard, roller skates, rollerblades or any other similar~~ wheeled recreational device:

(a) in an area contrary to a prohibition made under clause 203(1);

(b) in any public place, in a manner that may cause damage to any property or is inconsiderate or harmful to others.

**Explanatory Note:** *A list of the areas which are subject to a resolution made under clause 203(1) is maintained together with this Bylaw.*

## ~~204 Designated Smokefree Areas~~

~~(1) Council may, by resolution a publicly notified:~~

~~(a) create designated smokefree areas within a public place;~~

~~(b) amend or remove designated smokefree areas within a public place.~~

~~(2) No person shall smoke nicotine and/or vape in any designated smokefree area resolved under this Part of the Bylaw~~

~~**Explanatory Note:** *Prior to Council resolving to establish a smokefree area, it is likely that there will be public consultation in accordance with section 82 of the Local Government Act 2002.*~~

## ~~205~~ 204 Obstructing Public Places

(1) No person without the express prior written permission of an Authorised Officer and in accordance with any conditions that are imposed shall in a public place:

(a) obstruct the entrances to or exits from a public place;

(b) place, carry or leave any material or thing, including signage, that could obstruct the public right of passage;

(c) allow any gate or door on property abutting or next to a public place, to swing over or across a public place or any part of it;

(d) carry out any work on any motor vehicle, unless the work is essential to move the vehicle after an accident or in an emergency;

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(2) Council may require the alteration or removal of any material, building or thing placed on, over or under a public place in contravention of this Bylaw, by giving notice to the owner. The owner shall comply with any notice within the time stated in the notice.

## ~~206~~205 Encroachment to be Removed upon Notice

(1) No person shall construct or place any work or thing, including any material, part of a building or structure on, under, over or across any public place without first obtaining the prior written approval of Council.

(2) Council may by written notice require the owner to remove any work or thing that has been constructed or placed upon, under, over or across any public place.

(3) Any notice issued under clause ~~206~~205(2) may require such precautions to be taken as Council thinks fit for the safety of the public and for the proper securing of such work or thing that may remain after such removal.

## ~~207~~206 Removal of Works

(1) Where a notice served under clause ~~206~~205(2) has not been complied with in the timeframe specified in the notice, an Authorised Officer may remove or alter any work or thing constructed or placed under, over or across any public place in contravention of this Bylaw.

(2) Council may recover costs from any person responsible for the construction, or permitting the continued existence of any such work or thing, all costs incurred in connection with any removal or alteration. This includes the cost of debt collection and legal fees.

(3) The exercise of this authority under clause ~~207~~ 206 shall not release any such person of any penalty for erecting or permitting the continued existence of any such work or thing.

(4) Council may take immediate action and recover all reasonable costs of doing so, if the Council considers that the breach causes a public health or safety concern or there is a risk of consequential damage to Council assets.

(5) Subject to clause ~~207~~206(6), on payment of all Council's costs, including storage where applicable, the lawful owner may claim any work or thing removed under clause ~~207~~206(1) or (4).

(6) If not claimed within 6 months, Council may notify the owner pursuant to section 168(2) of the Local Government Act 2002 that it intends to dispose of the work or thing. If not claimed within the time period specified in the notice, Council may dispose of any work or thing as it sees fit

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and apply any proceeds to meet any outstanding costs. The lawful owner shall be entitled to claim any remaining amount.

**Explanatory note:** *The powers to remove, seize and dispose of works under this clause are subject to sections 163 to 168 of the LGA02*

## ~~208~~207 Damage to Public Places

**(1)** Except with the prior approval of Council or an Authorised Officer, and in accordance with any conditions in such approval, a person in a public place shall not:

**(a)** damage, interfere with, destroy or remove any grass plot, flowerbed, tree, shrub or plant growing there or any inscription or label relating to it;

**(b)** pollute, damage, deface or disfigure, apply graffiti, posters or advertising devices to, or interfere with any ornament, statue, building, structure, or facility;

**(c)** cause or permit to be done any act whatsoever by which damage is caused to any public place, or any work or thing in, on, over or under the public place;

**(d)** damage or interfere with any natural feature, animal or plant;

**(e)** use any vehicle, any object, or be in control of an animal in any manner so that it damages any part of a public place;

**(f)** drive or park any vehicle in a public place, including footpaths, except in an area set aside for the driving or parking of vehicles;

**(g)** remove any sand, soil or other naturally occurring material found in a public place;

**(h)** remove any metal or gravel placed in a public place by Council or agent of Council;

**(i)** open, damage or obstruct any culvert, drain or sewer on any public place;

**(j)** disturb or remove the surface of, any public place.

**(2)** Any person carrying out authorised works on a public place shall provide reinstatement of the works to a standard approved by an Authorised Officer.

## ~~209~~208 Placing of Articles on Public Places

**(1)** No person shall place or leave any material or thing, including signage, amusement devices or items for sale or hire, on any public place except:

**(a)** if they have written approval by Council or an Authorised Officer and subject to any such conditions as may be imposed; or

**(b)** for the purpose of waste or other collections from the public place authorised by Council; or

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**(c)** if they have approval given under any other Part of this Bylaw or any other bylaw.

## ~~210~~209 Exposing Articles for Sale

**(1)** Except in accordance with any licence having first been obtained from Council or an Authorised Officer and in accordance with any conditions that may be required, a person shall not on any public place:

**(a)** Expose for sale any article whatsoever on any footpath, or outside any shop or other business premises, or doorway connected to any public place, so as to encroach onto any public place, or hang or suspend any article over such public place, (refer to Part 3 of this Bylaw in relation to Trading in Public Places, and trading as a Hawker, Mobile shop or itinerant trader);

**(b)** Place any table, trestle, chair, seating, display stand, stall or otherwise display, advertise or sell any goods or services, (refer to Part 3 of this Bylaw in relation to Trading in Public Places, and trading as a Hawker, Mobile shop or itinerant trader);

**(c)** Place or carry any placard, board, flag, screen, frame or other device by way of advertisement or any other sign, including any traffic sign;

**(d)** Park a vehicle or trailer displaying advertising or sales material on any public place including any parking place or transport station. This restriction includes vehicles and trailers that are for sale and mobile billboards.

## ~~211~~210 Vehicle Crossings

**(1)** Any person wishing to construct, repair, remove, reconstruct or widen any vehicle crossing shall apply to an Authorised Officer for permission and pay such fees as prescribed in Council's Fees and Charges.

**(2)** No person shall construct, repair, remove, reconstruct, relocate or widen any vehicle crossing without first having obtained a permit from an Authorised Officer.

**(3)** A permit issued by Council under clause 210(2) may be subject to such conditions and standards the Authorised Officer considers reasonably necessary to ensure protection of the road adjacent to the vehicle crossing, and to ensure safe and convenient use of the road by pedestrians and vehicles.

**(4)** A permit for the construction, repair, removal, reconstruction, relocation or widening of a vehicle crossing and is not subject to a resource consent, shall be valid for six months, during which time the work shall have been completed, to the satisfaction of an Authorised Officer.

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**(5)** If construction, repair, removal, reconstruction, relocation or widening of a vehicle crossing has not been completed within six months of the date of issue of the permit, the permit shall be deemed to have expired and the permit holder shall be required to apply for a fresh permit and pay a further fee before construction, repair, removal, reconstruction, relocation or widening can begin or be continued.

**(6)** No person shall drive, ride, propel, or wheel any motor vehicle across any footpath or water channel in any public place otherwise than upon a vehicle crossing properly constructed under the provisions of this Bylaw. This does not include driving across a water channel along a beach within the district.

**(7)** If in the opinion of an Authorised Officer any vehicle crossing is in a bad or unsafe state of repair, an Authorised Officer may by notice in writing, require the owner of the land to which the vehicle crossing provides access, to repair, reconstruct, or renew such crossing to the satisfaction of an Authorised Officer. Every such owner or occupier who fails to comply with any such notice within the period specified shall be guilty of an offence against this part of this Bylaw.

**(8)** Where a vehicle crossing is required and has not be constructed or has not been correctly constructed an Authorised Officer may by notice in writing, require the owner of the land to which the vehicle crossing is required to provide access, to obtain a vehicle crossing permit in accordance with this Part of the Bylaw and to construct the vehicle crossing in accordance with that permit. Every such owner or occupier who fails to comply with any such notice within the period specified shall be guilty of an offence against this Part of this Bylaw.

## ~~212~~211 Assembly

**(1)** No person shall, without the prior written consent of an Authorised Officer:

**(a)** participate in any assembly or associate with other persons on a public place in such a way as to impede pedestrian or vehicular traffic or to prevent or hinder ready access to shops or premises facing onto the public place;

## ~~213~~212 Awnings and Blinds

**(1)** No person shall erect or maintain, or cause to be erected or maintained, any awning over any public place, or hang any awning, blind, or screen from any portico on any public place except with the permission of an Authorised Officer. In granting such permission an Authorised Officer may set such conditions as are considered appropriate. Any such permission may be revoked at any time by an Authorised Officer.

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## ~~214~~213 Projections on Public Places Not Permitted

**(1)** Except where permitted by any other Part of this Bylaw or by Council consent, no person shall put any portico, projecting window, balcony, wall, lamp, doorstep, cellar door, lamp post, signboard, window shutter, gatepost, or other obstruction or projection of anything whatsoever in, on, over or under a public place or in such a position as to interfere with or obstruct in any way the free passage of pedestrians or traffic upon any public place.

## ~~215~~214 Restrictions on Use of Barbed Wire and Electrified Fences

**(1)** Except with the written permission of an Authorised Officer:

**(a)** no person shall erect or permit to be erected any electrified fencing or barbed wire along, or within one metre of any boundary line between any land or building on the one side, and any public place on the other side;

**(b)** no person shall renew or repair or join, in whole or in part, any existing or future fence, along, or within one metre of any such boundary line as said above, with barbed wire, or electrified wire.

**(2)** Clause 214(1) shall not apply within any Rural Area, except when the fence borders on or adjoins a footpath.

## ~~216~~215 Road and Building Identification

**(1)** Council shall have the exclusive right to paint or affix on a clearly visible part of a building, the name of the road, private road or public place to which it has frontage.

**(2)** Notwithstanding that a building or property is identified by other means, the owner or occupier of every building or group of buildings forming part of a complex or of the property shall mark such building or complex with numbers no less than 50mm in height for residential buildings and ~~not less than~~ at least 150mm in height for all other buildings. Numbers shall be as allocated or approved by an Authorised Officer and displayed in a position so as to be readily visible from the road to which it has frontage.

**(3)** Numbers required by clause 215(2) shall be maintained by the owner or occupier in such a manner as to readily identify the property at all times.

**(4)** Council shall have the power at any time to alter the number of any building where it may be in Council's opinion necessary or desirable to do so.

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## ~~217~~216 Animals and Stock on Public Places

**(1)** No person shall take or allow any animal under their care or control onto any public place if the Council has by resolution or public notice prohibited entry of that type of animal to that public place.

*See also Council's Policy on Dogs and Dog Management Bylaw and Part ~~8~~ 6 Keeping of Animals, Poultry, Stock and Bees.*

**(2)** No person shall take or allow stock under their care or control onto a public place except as provided in other statutes, regulations and bylaws.

**(3)** Any person having control of stock on any public place shall ensure that the stock are kept under proper control, with consideration for other persons using the public place.

**(4)** No person shall drive any stock on any road including a beach during the period between half an hour after sunset and half an hour before sunrise unless sufficient warning is provided and maintained by such person by the use of lights or other effective devices or means to ensure that other persons using such road shall have adequate notice of the presence of such stock on the road.

**(5)** No person shall drive any stock along any road including a beach within the district except:

**(a)** in the case of escape or emergency;

**(b)** for the infrequent movement of stock up to five kilometres but not in an urban area;

**(c)** with the prior written permission of an Authorised Officer.

**(6)** No person shall move stock along or across a road where they may reasonably move the cattle along private land instead. Where it is not reasonable to move cattle on private land those cattle shall not be moved on a public place unless it is with the prior written consent of an Authorised Officer who may set such conditions as the Authorised Officer considers necessary.

**(7)** Council may by resolution publicly notify certain roads to be stock routes and prohibit or restrict the use of any public place or urban area for the driving of stock. Any public notification of a route, prohibition or restriction may be altered or revoked by a further Council resolution publicly notified. This shall not apply to any person who rides or leads a horse under proper control on a road.

**(8)** Subject to the requirements of clauses 216(1) to ~~214~~216(7) every person being the owner or having the care, custody, or control of any animal shall keep and prevent the animal from wandering or being at large without proper control on any public place.

*See also Council's Policy on Dogs and Dog Management Bylaw.*

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## ~~218~~217 Vegetation Liable to Obstruct

**(1)** No person shall permit or allow vegetation to encroach onto or over any public place so as to obstruct or interfere with the free movement of persons using that public place.

## ~~219~~218 Additional Requirements for Reserves

**(1)** Subject to the provisions of this Part of this Bylaw every reserve shall be open to the public at all times except during such hours as Council or an Authorised Officer may determine that any reserve shall be closed to the public.

**(2)** An Authorised Officer may set aside areas of a reserve, for the exclusive use of particular groups or for particular kinds of recreational activities to take place there for such periods as they think fit. An Authorised Officer may set conditions upon such approvals and Council may charge for the right to have exclusive use of a reserve.

**(3)** Council may fix charges for the entry to a reserve or part of it, and it shall be an offence against this Part of the Bylaw to enter a reserve or part of it without having paid the proper charge for entry if a charge is payable.

**(4)** An Authorised Officer may close or restrict entry to all of, or any portion of, a reserve at such times as are considered necessary to prevent damage to, or allow maintenance of, the reserve, or for safety reasons. Any closure shall be advertised by signs at the entrance(s) to the reserve. It shall be an offence against this Part of the Bylaw to be found on a reserve at any time when the reserve is closed to public entry.

**(5)** Apart from the requirements of any other clause of this Part of the Bylaw a person shall not on any reserve:

**(a)** light any fire except at fireplaces specially provided, or in an appliance designed for outdoor cooking; subject to any restriction imposed by Council on the lighting of fires;

**(b)** camp in an area not set aside for the purpose of camping. In this context camping shall include the use of any vehicle for sleeping whether or not it is specially set out for sleeping.

**(6)** The exercise of any powers in this clause ~~219~~ 218 is subject to the Reserves Act 1977".

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# Kaipara District Council

# Proposed Draft Consolidated General Bylaw 2020

## Part ~~8~~ 6 - Keeping of Animals, Poultry, Stock and Bees

# Part ~~8~~ 6 - The Keeping of Animals, Poultry, Stock and Bees

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**Relationship between this Bylaw and Acts, regulations, bylaws and Council's District Plan**

Compliance with the Bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws and the Operative Plan of the Kaipara District Council. Where there is any conflict between this Bylaw and any Act or Regulation, the Act or Regulation will take precedence.

# *Part 8 6 - The Keeping of Animals, Poultry, Stock and Bees*

## Purpose

This Part of the Bylaw regulates the keeping of animals (excluding dogs), poultry, stock and bees within the urban area unless otherwise specified.

The purpose of this Part of the Bylaw is to protect the public from nuisance and maintain and promote public health and safety.

### Explanation

This Part of the Bylaw supplements, rather than duplicates, other animal owner obligations. Dogs are regulated by the Kaipara District Council Policy on Dogs and Dog Management Bylaw.

## 801601 Interpretation

**(1)** In this Bylaw, unless the context otherwise requires:

*Animal* Means any member of the animal kingdomAnimal means any member of the animal kingdom, including any mammal, bird, finfish, shellfish, reptile, amphibian, insect or invertebrate, and includes their young or eggs, but does not include humans or dogs. that is kept in a state of captivity or is dependent upon a human being for its care and sustenance, but does not include humans or dogs.

*Hive* means any receptacle housing a honeybee colony and includes 1 receptacle per colony used solely for the purposes of queen breeding, hive maintenance and swarm prevention purposes between 1 October and 31 March.

*Owner* in relation to any animal, means a person who has an animal in their possession or custody, or under that person's care, control or supervision, and includes the parent or guardian of a person under the age of 16 years who:

(a) owns the animal; and

(b) is a member of the parent's or guardian's household living with and dependent on the parent or guardian;

(c) but does not include any person who has seized or taken custody of an animal in accordance with the Animal Welfare Act 1999 or the National Parks Act 1980 or the Conservation Act 1987.

**(2)** Where there are reasonable grounds to do so an approval granted under this Part of the Bylaw may be cancelled by an Authorised Officer at any time.

## ~~802~~602 Obligations of Animal Owners in General

**(1)** The owner or person in charge of any animal shall:

**(a)** ensure that animal does not cause a nuisance to any other person;

**(b)** ensure that animal does not cause a risk to public health and safety;

**(c)** ensure that animal does not damage any property belonging to any other person.

**(2)** Any owner who, in the opinion of an Authorised Officer, fails to comply with these obligations, must act on any request of the Authorised Officer to comply with these obligations, including, if directed, to remove the animal(s) or hive(s) from the property within a specified period.

**Explanatory note:** *Circumstances that may be deemed a nuisance can include noises and odour associated with keeping animals.*

## ~~803~~603 Pig Keeping

**(1)** A person must not keep any pig in an urban area without the prior written approval of an Authorised Officer.

**(2)** An Authorised Officer may give written approval subject to the payment of any prescribed fee and subject to any conditions, including, but not limited to, specifying distances from boundaries, maximum number of pigs to be kept and the period for which the approval applies.

## ~~804~~604 Stock in Urban Areas

**(1)** A person must not keep any stock in an urban area without the prior written approval of an Authorised Officer.

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(2) An Authorised Officer may give written approval subject to the payment of any prescribed fee and subject to conditions, including, but not limited to, specifying distances from boundaries, maximum number of permissible stock and the period for which approval applies.

## ~~805~~605 Poultry Keeping

(1) A person must not keep a rooster on any premise in an urban area.

(2) Subject to clause ~~805~~605(5), a person may not keep more than six head of poultry in an urban area.

(3) Any poultry house located on any premises in an urban area must meet the requirements of ~~802~~602(1), in the opinion of an Authorised Officer.

(4) A person may apply to the Council to keep more than six head of poultry in an urban area.

(5) An Authorised Officer may give written approval subject to payment of any prescribed fee and subject to conditions, including, but not limited to, specifying distances from boundaries, and maximum number of poultry permitted and the period for which approval applies.

## ~~806~~606 Bee Keeping

~~(1) A person must not keep bees in an urban area without the prior written approval of an Authorised Officer.~~

~~(2) An Authorised Officer may give written approval subject to any conditions and to payment of any prescribed fee.~~

~~(3) For the avoidance of doubt, clauses 802(1) and (2) apply to any keeping of bees in the District, including in a rural area.~~

(1) No person shall keep bees in the District if in the opinion of an authorised officer, the keeping of bees is likely to become a nuisance or potential danger to any person.

(2) For the avoidance of doubt, clauses 602(1) and (2) and 606 (1) apply to any keeping of bees in the District, including in a rural area.

(3) A person may keep bees in the urban area as follows:

| Property Area | Maximum number of hives |
|---|---|
| 1000 square metres or less | 2 |
| 1001 square metres or greater | 4 |

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(4) Council may give written approval to persons to keep additional hives to those permitted under clause 606 (3) and may prescribe any conditions, including specifying distances from boundaries, maximum number of hives and time limits on such licences.

***Explanatory note:*** *Beekeepers have a legal obligation to register their apiary under the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998. Registration of apiaries is intended to protect honeybees from American foulbrood disease. The register also allows the Ministry for Primary Industries to carry out surveillance for exotic pests and diseases of honey bees and respond to an incursion. Registrations are processed by AsureQuality Ltd and registration codes are required to be displayed in a visible manner in each apiary, usually on a beehive. Further information on American foulbrood disease can be found at www.afb.org.nz. In addition to the registration of hives, beekeepers are also required to comply with the on-going management requirements as provided in the AFB Pest Management Plan and are required to provide evidence of this compliance where required. Honey and bee products that are produced for commercial purposes are also subject to additional legal requirements, such as the Food Act 2014. Information on these requirements is available on the Ministry for Primary Industries website. Apiculture New Zealand Incorporated provides a Code of Conduct for beekeepers.*
*In cases where enforcement officers respond to complaints about bees, the initial assessment will include determining whether the bees are being kept in accordance with national regulations as well as the Apiculture NZ Code of Conduct.*

***Additional Guidelines***

*Compliance with the following guidelines is also recommended to minimise potential nuisances arising from beekeeping activities. Kaipara District Council also advises every person wishing to keep bees in an urban area to participate in a beekeeping course.*

***Flight path management***

*Honey bees will fly at head height for some distance from their hives unless their surrounding environment directs their flight path upwards. Honey bees can be encouraged to fly above head height if a flyway barrier, two or more metres tall, is placed 1-2 metres out from the front of the hive entrance. It is important that flightpaths are not directed across public pathways on private and public land. Barriers that can be used include shrubs or trees, a wall, a hedge or a fence. Beehives can be placed on top of sheds or buildings but it may be more difficult to work with the bees in these restricted locations.*

***Swarming/seasonal build up***

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*Swarming is the natural means of dispersal of honey bee colonies. However, beekeepers can undertake responsible bee management practices to minimise the occurrence of swarms in urban areas. These practices can include re-queening on an annual basis, taking a nucleus colony out of populous hives (artificial swarming) and re-queening colonies that have been started from swarms.*

*Honey bee colonies are more likely to swarm if there are limited cells in the hive for the worker bees to store honey and pollen. Responsible bee management practices include providing plenty of room for the queen to lay eggs and for the bees to store honey.*

***Water provision***

*Providing a source of clean water may reduce the number of bees foraging elsewhere for water and creating a nuisance to neighbours, especially if they own a swimming pool.*

***Bee excrement management***

*Like other animals, bees excrete waste products. Honeybees going on orientation, foraging or cleaning flights often excrete after exiting the hive. This can leave distinct trails of coloured bee excrement within a 500 metre radius of the hive and can cause a nuisance to neighbours. The colour of the excrement is typically yellow to brown. The excrement may be hard to remove from clothing, vehicles and buildings. Hives can be re-positioned on the property or rotated so that flight paths can be encouraged in a direction away from neighbouring properties.*

### ~~807~~607 Cats

**(1)** No person may keep more than five cats of an age greater than three months on any property within the urban area without the written approval of an Authorised Officer.

**(2)** The Authorised Officer may provide written approval subject to conditions and subject to payment of any prescribed fee.

## 608 Savings

**(1)** Any permissions, approvals or other authorisations issued under Part 6 of the General Bylaw 2008 continue to be in force in accordance with their terms, unless cancelled by Council.

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# Kaipara District Council

# Proposed Draft Consolidated General Bylaw 2020

## Part ~~9~~ 7 – Cemeteries and Crematoria

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# Part 9 7 – Cemeteries and Crematoria

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**Relationship between this Bylaw and Acts, regulations, bylaws and Council's District Plan**

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# *Cemeteries*

## Purpose

Cemeteries play a very important role in our community. Kaipara District Council administers six cemeteries in the Kaipara area. They are old Mt Wesley, new Mt Wesley, Dargaville (Mt Wesley) RSA, Redhill, Arapohue and Tokatoka. All of the cemeteries that Council administers have Historical Significance as they have been going for over a 100 years.

All other cemeteries are administered by Trustees - people who live within the area where the cemetery is located. They are open to the public seven days a week, 52 weeks a year.

The purpose of this Part of the Bylaw is to enable Council to control and set standards for the operation of cemeteries and crematoria within the district.

## ~~901~~ 701 Interpretation

**(1)** In this Part of the Bylaw, unless the context otherwise requires:

| | |
|---|---|
| *Cemetery* | means any land vested in or under the control of Council from time to time that is held, taken, purchased, acquired, set apart, dedicated, or reserved, under the provisions of any Act, or before the commencement of the Burial and Cremation Act 1964, exclusively for the burial of the dead generally, and, where the context so permits, includes a closed cemetery. |
| *Closed cemetery* | means a cemetery which has been closed by a closing order. |
| *Concrete Berm* | Means a load bearing structure fabricated from concrete of prescribed dimensions, set flush with the ground and supplied by the Council, for the purpose of mounting monuments. |

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|---|---|
| *Crematorium* | means appliances and machinery and furnaces for the purpose of cremation that are under the control of Council, and includes any building in which any such appliances, machinery, or furnaces are fixed. |
| *Removal* | means the removal of any body, or the remains of any body, from its burial place. Exhumation has the same meaning. |
| *Exclusive Right of Burial* | means the exclusive right of burial referred to in Section 10 of the Burial and Cremation Act 1964 |
| *Authorised Officer* | means any person appointed by Council to control or manage or to assist in the control and management of any cemetery and crematorium under the control of Council and to carry out burials and cremations as provided in this Part of the Bylaw. |

**(2)** Nothing in this Part of the Bylaw shall derogate from any provision of, or the necessity for, compliance with:

- **(a)** Burial and Cremation Act 1964;
- **(b)** Health Act 1956;
- **(c)** Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967;
- **(d)** Cremation Regulations 1973; and
- **(e)** Health (Burial) Regulations 1946.

# General

## ~~902~~702 Hours of Burials

**(1)** Burials at cemeteries administered by the Kaipara District Council may be held on such days and at such times as the Council shall determine.

**(2)** Except to comply with the duties of the Council under Section 86 of the Health Act 1956 relating to the burial of people who have died of an infectious and/or notifiable disease, Council by resolution publicly notified the days and times to which burials may take place.

**(3)** No burials shall take place on New Year's Day, ANZAC Day, Good Friday or Christmas Day.

**(4)** The Authorised Officer will, after consultation with the funeral director or other person responsible for the management or control of the burial, determine the time of the burial.

**(5)** Burials that occur during the weekend will incur additional fees/charges.

**(6)** Burials may take place at other times than specified in clause ~~902~~702(2) by special arrangement with the Council and on payment of the prescribed additional fee.

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## ~~903~~703 Notice of Burial

(1) The Authorised Officer shall be given ~~not less than~~ at least 2 working days' notice prior to any burial.

(2) If such notice is not given, the burial may be delayed for such reasonable period of time as the Authorised Officer decides to enable the Authorised Officer to make the necessary arrangements.

(3) Any extra expenses incurred because of late notice shall be the responsibility of the funeral director or other person responsible for the management or control of the burial.

(4) An additional fee maybe charged where notice has been received less than 2 working days prior to burial.

## ~~904~~704 Burial of Persons in Financial Need

(1) Where an application is made to the Council for the interment of a deceased person in financial need, the applicant shall provide a declaration signed by a Justice of the Peace, certifying that:

- (a) the deceased person has not left sufficient means to pay all the prescribed fees; and
- (b) all the prescribed fees are not covered by an Accident Compensation or Government entitlement or subsidy; and
- (c) the deceased person's relatives are unable or unwilling to pay the prescribed fees.

(2) Additional proof to confirm the declaration may be required by the Council.

**Explanatory Note:** *Council will work with family or undertaker as appropriate to arrange burial under mutually satisfactory conditions.*

## ~~905~~705 Fees

(1) The Council may by resolution, publicly notified, set fees for all services provided for the operation and maintenance of cemeteries and crematoria.

(2) Except as provided for in clause ~~904~~704, burials will only be carried out on payment of all the prescribed fees or suitable financial arrangement acceptable to the Council have been made.

(3) Out of district fees:

- (a) An out of district fee shall be payable under the following circumstances:
  - i) where the burial is of a deceased person not permanently residing within the boundaries of the Kaipara District for at least twelve months prior to date of death; or

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ii) where the deceased person is a child of less than twelve months of age, including stillborn children, unless one of whose parents was a resident or ratepayer of the district for at least six months prior to date of death.

**(b)** Temporary absences of short duration from the district will not detract from the permanency of residence.

**(c)** The Council will determine if payment of the out of district fees are required.

## ~~906~~706 Maintenance of memorials

**(1)** All memorials, including laminated photographs, shall be kept in proper order and repair by the owner of the plot or their representatives.

**(2)** Should a memorial fall into a state of decay or disrepair, it may be at any time be dealt with by Council pursuant to the Burial and Crematorium (Removal of Monuments and Tablets) Regulations 1967.

**Explanatory Note:** *A photographic record of the memorial will be taken prior to any removal and retained in Cemetery records*.

## ~~907~~707 Physical works Associated with Plots or other Work in any Cemetery

**(1)** Maintenance or other work, including digging and/or filling any grave in a cemetery, may only be carried out by an employee of the Council, or a person authorised by the Council.

**(2)** Any Authorised person undertaking physical works within any cemetery must;

**(a)** obtain prior approval from the Council for the works;

**(b)** pay all applicable fees;

**(c)** adequately protect the surrounding plots, memorial and cemetery infrastructure;

**(d)** not use any footpaths or other part of the cemetery for placing or depositing any tools, planks or materials for longer than is reasonably necessary to complete that work.

## ~~908~~ 708 Soliciting Trade

With the exception of the transactions of the Authorised Officer and their staff undertaken in the course of running the cemetery and crematorium, no person may solicit trade or accept orders or goods or services within a cemetery.

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## ~~909~~ 709 Display of manufacturer's name

(1) Notwithstanding clause ~~908~~ 708 of this Bylaw, the manufacturer of a monument, other than a tablet, may display their name on the monument in a space no larger than 50mm by 100mm, with the consent of the person entitled to maintain the monument and of the Council.

(2) The display of the manufacturer's name must be unobtrusive and meet the aesthetic requirements of the Council.

## ~~910~~ 710 Photography

(1) No person shall take any photograph or make video recordings for commercial or editorial purposes, or for the purpose of publication, at a funeral without prior approval of the funeral director or other person responsible for the management or control of the funeral.

(2) No person shall take any photograph or make video recordings for commercial or editorial purposes, or for the purposes of publication, of a grave without prior approval from the person entitled to maintain the monument.

# Tributes

## ~~911~~711 Flowers Placed at Time of Interment

(1) Only flowers, wreathes, and floral tributes may be placed on graves at the time of interment. After seven days from the date of interment, the Council may remove from any grave any flowers, wreaths, or floral tributes placed there at the time of interment, and level-off the surface of the grave to be sown down in grass.

(2) In the case of a designated natural burial area, the grave shall be levelled and the area mulched to encourage the planned native vegetation.

(3) A temporary grave marker made from timber or plastic, not exceeding 800mm in height, may be placed on the concrete berm in a secure manner for up to 12 months following burial.

## ~~912~~ 712 Permitted Floral Tributes

(1) After a grave has been levelled and sown as described in clause ~~911~~711, artificial or natural cut

flowers may only be placed in the container set in recess in the base of the memorial. Containers may not be placed on the concrete berm or the grave.

(2) In natural burial areas tributes must be limited to natural cut flowers only and no containers of any kind are to be placed on or near graves.

## ~~913~~713 Removal and Disposal of Floral Tributes

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(1) Any object, or artificial or natural cut flowers, placed or remaining on any grave in contravention of clause ~~912~~ 712 or which have become unsightly, or any receptacle which has been broken or damaged, may be removed and disposed of by the Authorised Officer.

(2) The Council shall be under no liability to any person in respect of such removal, destruction or disposal.

(3) Any fences and rails; any glass, plastic, ceramic or terracotta items; any rocks, stones or pebbles; any wire or other metal-based items may be removed from any grave by the Manager and may be destroyed or disposed of by the Council as it shall see fit.

### ~~914~~ 714 Vegetation

(1) No vegetation shall be planted on any grave or within the cemetery boundaries without the prior consent of the Council.

(2) Vegetation planted in any portion of the cemetery may at any time be trimmed, removed or cut down at the discretion of the Council without notice.

(3) No person shall disturb, damage, take or pick any cutting or flower from any tree, shrub, plant or other vegetation in any cemetery without the consent of the Council.

(4) No person shall plant, cut down or destroy any tree or shrub in any cemetery without the consent of the Council.

## Conduct

### ~~915~~715 Vehicles

(1) Unless authorised by the Council, no person shall take any vehicle of any kind into any cemetery except during the hours of daylight or during such times stipulated by a publicly notified resolution of Council.

(2) Within cemeteries, vehicles may only be driven on formed roads which are open to vehicular traffic and may only be parked in designated parking areas.

(3) All vehicles (other than hearses) shall yield unconditional right of way to any funeral procession.

(4) Any person driving a vehicle in a cemetery shall stop or move that vehicle as directed by the Authorised Officer or any other Authorised Officer.

(5) Any person driving a vehicle in a cemetery shall obey all signs or notices concerning traffic movement and parking displayed in that cemetery.

(6) No vehicle shall be driven faster than the speed limit indicated by a sign or notice on any road within the cemetery, and in any direction other than that indicated on a sign or notice.

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**(7)** In the absence of a speed limit sign or notice, no vehicle may be driven at a speed greater than 10 km/h in any cemetery.

**(8)** Clause ~~915~~715(1) to (7) do not apply to an emergency vehicle used at the time to save or protect life or health, or prevent injury or serious damage to property.

## ~~916~~716 Animals

**(1)** No person shall take any animal into, or allow to remain in, any open cemetery other than during the hours of daylight, subject to the provisions of other Bylaws.

**(2)** Any animal in a cemetery must be under the control of the owner at all times.

## ~~917~~717 General Conduct

**(1)** No person shall:

- **(a)** damage, paint, write or carve on any building or monument within a cemetery or crematorium or damage property within any cemetery;
- **(b)** unlawfully or improperly interfere with, interrupt or delay the carrying out of any burial, cremation, funeral service or ceremony within any cemetery or crematorium;
- **(c)** behave in a manner that creates a nuisance or is offensive or is likely to create a nuisance or be offensive to any other person;
- **(d)** bring into or exhibit in any cemetery or crematorium any article that is a nuisance or offensive;
- **(e)** enter or remain in the cemetery between the hours of sunset and sunrise without prior permission;
- **(f)** conduct themselves in a manner that is unlawful, violent, or improper;
- **(g)** remove, interfere, or take from any grave in any cemetery, any vase, wreath, plant, flower, shrub or other object, except for the purpose of tidying the grave and surrounding area;
- **(h)** disturb, damage, or take any cutting or flower from any plant or tree in the cemetery;
- **(i)** light or allow any fire to be lit in the cemetery; or
- **(j)** discard household waste in cemetery bins.

**Explanatory Note:** *In administering and enforcing this clause the Council will, where appropriate, take into account the rights and freedoms contained in the New Zealand Bill of Rights Act 1990.*

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# Burials

## ~~9 18~~718 Burial Warrants

**(1)** No burial shall be made in any cemetery without a burial warrant for that purpose, obtained by the funeral director or other person having the management or control of the burial from the Council and presented to the Authorised Officer as authority for burial.

**(2)** A person requiring a burial warrant shall apply to the Council on the approved application form.

**(3)** No burial warrant may be issued unless ground conditions are suitable for burial or before suitable financial arrangements acceptable to the Council have been made, for the exclusive right of burial.

**Explanatory Note:** *Physical works within any cemetery must do so in accordance with clause 7~~9~~08(2).*

## ~~9~~719 Burials and Sale of Plots

**(1)** Burials may be made in any plot in any cemetery vested in the Council or under its control that is not closed, and in accordance with the terms and conditions determined by the Council and this Part of the Bylaw.

**(2)** The Council shall determine the size and location of the plots that may be sold and the allocation of the sold plots.

**(3)** Burial plots shall be sold upon the terms and conditions as may be determined by the Council and the exclusive right of burial may be granted for such limited period as the Council determines.

**(4)** The Council, upon receipt of the prescribed fees for any exclusive right of burial, shall issue a Certificate of Title to Plot to the applicant, and on request and payment of the prescribed fee the Council may issue a duplicate Certificate of Title to Plot to replace any lost Certificate of Title to Plot.

**(5)** Unless the exclusive right of burial has been obtained, a burial shall take place in a plot and in a cemetery determined by the Council.

**(6)** No person shall place any monument on a grave until all the prescribed fees have been paid.

## ~~920~~720 Exclusive Right of Burial

**(1)** The exclusive right of burial shall be granted to the purchaser of a plot once the Council has received the prescribed fees or suitable financial arrangements acceptable to the Council have been made.

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(2) The purchase of the exclusive right of burial excludes the digging and closing of a grave or the opening and closing of the ground for burial.

(3) The holder of an exclusive right of burial must comply with any conditions imposed by the Council before a burial may take place.

(4) Burial of any other person than the owner of the exclusive right to be buried within a plot will only take place with the express prior consent of the holder of the right.

## ~~921~~721 Physical works Associated with Plots or other Work in any Cemetery

(1) Maintenance or other work, including digging and/or filling any grave in a cemetery, may only be carried out by an employee of the Council, or a person authorised by the Council.

**Explanatory Note:** *Physical works within any cemetery must do so in accordance with clause ~~908~~708(2).*

## ~~922~~722 Transfer of Exclusive Right

(1) The holder of the exclusive right to be buried in a plot in which no burial has yet taken place may sell or transfer that right to any other person with the consent of the Council, subject to the payment of the prescribed fee to the Council.

(2) The holder of the exclusive right of burial in a plot in which no burial has yet taken place may, if able to prove to Council that they are suffering significant financial hardship or experiencing extraordinary circumstances, sell or transfer that right to the Council on such terms and conditions as the Council may determine, subject to the payment of the prescribed fee to the Council. Plots that have been bought back may be resold by the Council.

# Burial Plots and Graves

## ~~923~~723 Digging Plots and Graves

(1) No person other than the Authorised Officer or assistants of the Authorised Officer or any other person authorised by the Council shall dig or fill any grave in or open the ground for burial in any part of a cemetery.

(2) Extra-depth burials can only occur if the water table permits and ground conditions are suitable.

(3) A maximum of two (2) people may be buried in any one plot, except if prior consent is given by the Council to bury more than two people.

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(4) No grave may be re-opened for a further burial except with the consent of the person entitled to maintain the monument and consent is given by Council.

(5) If a casket for a child is too large for a child burial plot, it shall be buried in an adult burial plot subject to the payment of the prescribed fees.

## ~~924~~724 Burial of ashes

(1) With the prior approval of the Council any person may scatter the ashes of a deceased person in a cemetery, as directed by an Authorised Officer.

(2) With the prior approval of the Council and on payment of the prescribed fees any person may bury a container holding the ashes of a deceased person in any plot, subject to the exclusive right of burial.

**Explanatory Note:** *Clause 7~~9~~24 also applies to burial of ashes.*

## ~~925~~725 Removal

(1) Where a request for a removal is received by the Council, the removal shall be conducted pursuant to section 51 of the Burial and Cremation Act 1964 and subject to the payment of the prescribed fees.

(2) The removal and/or reinternment of a body must be conducted with the prior approval of the Council and must take place in the presence of:

- **(a)** the Authorised Officer; and
- **(b)** a funeral director and staff; and
- **(c)** an inspector of the Ministry of Health; and
- **(d)** any other person with prior approval of the Council.

(3) It will be the responsibility of the Council to open the grave only to the extent of exposing the lid of the casket. Removal of the casket from the grave will be the responsibility of the funeral director present.

(4) No plot from which a removal has taken place will be used for any subsequent burial of another person and no refund of the cost of the original burial or any part of that cost will be made.

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# Installation, maintenance and removal of monuments

## ~~926~~726 Construction and Installation

**(1)** Minimum structural design, installation and renovation for all monuments shall be those specified in New Zealand Standard for Headstones and Cemetery Monuments NZS4242:2018.

**(2)** Only one tablet or monument will be allowed on any one grave, including extra-depth burial graves, and it shall be placed on the grave in a position approved by the Council. A tablet may be attached to an existing monument. Monuments may cover no more than two plots.

**(3)** All monuments shall be constructed of permanent materials. The Council may from time to time by resolution publicly notified determine a list of permanent materials that may be used in the construction of monuments.

**(4)** All monuments will be constructed in accordance with sound engineering principles and will meet the aesthetic requirements of the Council.

**(5)** Delivery and installation of monuments will be at the expense of the owner and will be carried out at times agreed with the Authorised Officer.

**(6)** Any rubble and earth not required in the filling in of the grave or in connection with the levelling will immediately be removed either from the cemetery or to a place within the cemetery approved by the Authorised Officer.

**(7)** All monuments must be consistent with the Kaipara District Council Cemeteries and Crematoria Policy.

**Explanatory Note:** *In administering and enforcing this clause the Council will, where appropriate, take into account the rights and freedoms contained in the New Zealand Bill of Rights Act 1990.*

## ~~927~~727 Work Practices

**(1)** No person erecting or repairing any monument or carrying out other work in any cemetery shall use any footpaths or other part of the cemetery for placing or depositing there any tools, planks or materials for a longer time than is reasonably necessary to complete the work.

**(2)** Any person mixing cement or mortar within a cemetery shall do so on a proper mixing board approved by the Council. Residue shall be removed from the cemetery.

**(3)** Any person installing or tending to a monument or carrying out any other work in a cemetery shall withdraw for the duration of an adjoining funeral service. Such person shall also remove tools, planks and other materials which may obstruct access to an adjoining service for the duration of the service.

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## ~~928~~728 Safety

(1) The Council may carry out regular audits of all monuments to ensure the health and safety of any persons or property within the cemetery boundaries.

(2) Any headstone that an Authorised Officer considers to be unsafe may be removed in accordance with clause 7~~9~~07(2).

## ~~929~~729 Monumental and Upright Memorial Cemeteries

(1) Any person wishing to install a monument in any part of a cemetery must apply for Council approval to carry out such work. The applicant must submit details of the monument design, including materials and dimensions, and details of all inscriptions and their positions on the monument and pay the prescribed fee.

(2) Monumental cemeteries may inter either ashes or full body remains.

(3) The following criteria are applicable to the construction of monuments in monumental cemeteries:

(a) the holder of an exclusive right to burial may enclose the plot or plots allotted to him or her with kerbing. Where the allocated plots are next to each other they may be enclosed as a single unit;

(b) the kerbing of the plots in a monumental area will be constructed out of permanent materials approved by the Council and shall not exceed a maximum height of ~~600mm~~ 900mm above ground level;

(c) monuments may be erected within the plot boundary;

(d) it is preferred that the design of the memorial include one or two recesses for flower vases within the memorial dimensions;

(e) once a memorial has been installed, artificial or natural cut flowers may only be placed in the container set in vase recess in the memorial. Containers may not be placed on the concrete berm or the grave.

## ~~930~~730 Removal of Monuments

(1) No person will be allowed to remove from a grave or plot any monument without obtaining the prior written permission of the Authorised Officer.

## ~~931~~731 Authorisation

(1) Maintenance and any other work in a cemetery may only be carried out by a person duly authorised by the Council, or under the supervision of a Council employee.

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**Explanatory Note:** *This excludes monuments which are the responsibility of the exclusive rights person representative in accordance with clause 79 07(1).*

# Types of Cemetery

## 932 732 Type of Cemetery

**(1)** Council may, by council resolution publicly notified, declare any part of a Council Cemetery to be of a particular kind.

## 933 733 Lawn Cemetery

**(1)** Lawn area cemeteries may inter either ashes or full body remains.

**(2)** The Council may provide a continuous concrete berm at ground level approximately 500mm wide for a single row or approximately 1 metre wide for a double row for monuments to be placed on.

**(3)** The following conditions and criteria are applicable to lawn cemeteries:

- **(a)** plaque/tablet bases will not stand higher than 100mm above the berm and will be a maximum depth front to back of 400mm and 600mm in length (left to right);
- **(b)** the base will maintain clear space of 100mm at the front of the berm;
- **(c)** plaque/tablet bases may allow for inserts for flower containers where this is required. Flower containers should be embedded below the ground level;
- **(d)** no plaque shall be enclosed with any railing or kerbing or similar and no monument except a tablet shall be placed on any concrete berm;
- **(e)** no person shall place on any plot any memorabilia except flowers and foliage which shall be placed in the flower containers inserted in the headstone;
- **(f)** no grave shall be enclosed with any railing or kerbing or similar and no headstone, memorial, cross, marker or memorial shall be placed on any grave except a memorial plaque, which complies with the stated dimensions.

## 934 734 Ash Berm and Ash Garden Berm Areas

**(1)** An authorised officer may approve the scattering of ashes within specified designated areas. This may be within a cemetery or on other public land.

**(2)** Plaques may be placed on a memorial wall or in the ground after being approved by an authorised officer.

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## 935735 RSA and Services Cemeteries

(1) Eligibility for RSA and Service Cemeteries are as follows:

(a) areas of cemeteries may be laid out as Services Cemeteries.

(b) those eligible for burial there are as defined in the most recent version of the Office of Veterans' Affairs publication, "War Graves and Services Cemeteries Handbook".

(c) notwithstanding clause 79 36(1)(b) the body or ashes of the spouse or partner of a returned service person may at the request of the surviving returned services partner be interred in an extra-depth plot in the Services Cemetery.

(2) Commemoration shall be as described in the above-mentioned publication, or by other means as agreed with the Office of Veteran's Affairs.

(3) The Council may waive the prescribed fee payable for the exclusive right of burial in the Services Cemeteries. Other prescribed fees shall be payable.

## 936736 Closed Cemeteries

(1) As deemed appropriate, the Council may apply to officially close cemeteries under Part 6 of the Burial and Cremation Act 1964.

(2) The Council shall maintain such cemeteries in perpetuity, subject to conditions as set under Part 6 of the Act.

## 937737 Natural Burial Areas

(1) In areas that are set aside for natural burials in Council cemeteries, the following conditions shall apply:

(a) Memorials:

(i) No permanent memorials are permitted. Temporary biodegradable markers supplied by the Council will be installed at the time of interment.

(ii) A cemetery tracking system will be used to find burial plots once the area has returned to native vegetation, otherwise the burial plot will not be identifiable.

(iii) Trees will be selected and planted to be generally in keeping with the cemetery native vegetation restoration plan. In general, there shall be one tree for every few graves.

(b) General:

(i) Natural burials must comply with all legislative and regulatory requirements.

(ii) There is no embalming of the deceased. Certified organic sanitisers are allowable.

(c) Acceptable Caskets:

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**(i)** Caskets must be made of biodegradable, chemically untreated material. Pine, macrocarpa, wicker or willow is deemed acceptable. Casket linings and fittings must be biodegradable. Calico, wool and hemp are deemed acceptable.

**(ii)** All items or contents in the casket (including clothing) must be of biodegradable material.

**(d)** Acceptable Shrouds:

**(i)** Shrouds must be made of natural fibre. Wool, silk or calico are deemed acceptable.

**(ii)** Shrouds must be fastened to a solid base for lowering purposes and made of biodegradable, chemically untreated material.

# Crematoria

## ~~938~~738 Crematoria

**(1)** The Cremations Regulations 1973 are applicable to all crematoria within the District.

**(2)** Subject to clause ~~939~~739(3) of this Bylaw access to any crematorium and any cremation process within the District is restricted and general entrance by members of the public is not allowed.

**(3)** Where a cremation takes place in accordance with a religious ceremony that traditionally practices cremation, persons directly concerned with the deceased may at the manager of the crematorium's discretion attend the placing of the coffin in the incineration hall.

# General

## ~~939~~739 Records

**(1)** The Council will keep plans of the cemeteries it controls, records of all rights of burial granted, and a record of all burials in the cemeteries. Plans and records will be open for inspection by the public at the offices of the Council during normal office hours.

## ~~940~~740 Offences and Breaches

**(1)** No person shall do anything or cause any condition to exist for which prior approval from the Council is required under this Bylaw without first obtaining that approval and the failure to do so shall constitute a breach of this Bylaw.

**(2)** No application for a prior approval from the Council, and no payment of or receipt for any fee paid in connection with such application or approval, shall confer any right, authority, or immunity on the person making such application or payment.

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**(3)** 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; or

**(b)** omits or neglects to do, or knowingly permits or suffers to remain undone, anything which according to the true intent and meaning of this Bylaw, ought to be done by them at the time and in the manner therein provided; or

**(c)** does not refrain from doing anything which under this Bylaw they are required to abstain from doing; or

**(d)** knowingly permits or suffers any condition of or things to exist contrary to any provision contained in this Bylaw; or

**(e)** refuses or neglects to comply with any notice duly given to him/her under the Bylaw; or

**(f)** 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 them by this Bylaw; or

**(g)** fails to comply with any notice or direction given under this Bylaw.

**(4)** Any person commits a breach of this Bylaw who:

**(a)** has constructed, affixed or provided, or caused to be constructed, affixed, or provided, any monument or any work or material of any description whatsoever, contrary to, or otherwise than in accordance with the provision of this Bylaw; or

**(b)** has omitted to construct, affix, or provide any work or materials as required thereby, and who does not within a reasonable time after notice in writing has been given to them by the Council or any authorised officer of the Council, fails to carry out the remedial action specified in that notice.

**(5)** A notice issued under clause ~~941~~741(3) or ~~941~~741(4) shall state the time within which the remedial action is to be carried out, and may be extended from time to time by the Council.

## ~~941~~741 Penalties for Breach of Bylaw

**(1)** Every person who fails to comply with this Bylaw commits an offence and shall be liable for the relevant penalty as provided for under this Bylaw or in applicable legislation.

**(2)** Any person who breaches the following clauses of this Bylaw, will be liable to the maximum fine available in accordance with section16 (i) of the Burial and Cremation Act 1964:

**(a)** Section ~~908~~ 708 offences relating to soliciting trade

**(b)** Section ~~915~~ 715 offences relating to vehicles

**(c)** Section ~~916~~ 716 offences relating to animals and dogs

**(d)** Section ~~1917~~ 717 offences relating to misconduct

**(e)** Sections ~~924~~724, ~~926~~ 726 offences relating to authorised reopening of graves

**(f)** Sections ~~931~~731, ~~932~~732, ~~933~~ 733 offences relating to memorials

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(3) The continued existence of any work or object in a state contrary to this Bylaw shall be deemed a continuing offence.

(4) The Council may in accordance with Section 162 of the Local Government Act 2002 apply for an injunction restraining a person from committing a breach of this Bylaw.

(5) The Council may in accordance with the Trespass Act 1980, serve a Trespass notice after warning a person to leave or warning to stay off its premises.

## ~~942~~742 Removal of works

(1) The Council may remove or alter any work or thing that is, or has been, constructed in breach of this Bylaw.

(2) The Council may recover the costs of removal or alteration under clause ~~943~~743(1) from the person who committed the breach.

(3) The exercise of this authority shall not relieve any such person from any other liability for breach of the Bylaw.

## ~~943~~743 Officers to Continue in Office

(1) All officers appointed by the Council under or for the purpose of the repealed Kaipara District Council Cemeteries and Crematoria Bylaw 2008, and holding office at the time of the coming into operation of this Bylaw, shall be deemed to have been appointed under this Bylaw.

## ~~944~~744 Dispensing Power

(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 operation of any business, or be attended with loss or inconvenience to any person without any corresponding benefit to the community, the Council may, on the application of that person, 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.

(2) The Council may, after consideration of any representation by affected persons and if in its opinion it is justified, extend, withdraw or amend a dispensation granted under clause ~~945~~745(1).

(3) Except if expressly granted otherwise, a dispensation by the Council under clause ~~945~~745(1) shall only be applicable to the person it is granted to and shall be restricted to the particular issue considered by the Council and such dispensation will not constitute a justification for the breach of the provisions of this Bylaw outside the expressed terms of the dispensation.

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# Kaipara District Council

# Proposed Draft Consolidated General Bylaw 2020

## Part ~~4~~ 9 - Solid Waste

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# Part 4-9 - Solid Waste

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**Relationship between this Bylaw and Acts, regulations, bylaws and Council's District Plan**

Compliance with the Bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws and the Operative Plan of the Kaipara District Council. Where there is any conflict between this Bylaw and any Act or Regulation, the Act or Regulation will take precedence.

# *Part 4~~9~~ - Solid Waste*

## Purpose

The purpose of this Bylaw is to contribute to:

(a) the management and minimisation of waste, through regulating the collection, transportation and disposal of waste;

(b) the protection of the health and safety of waste collectors, waste operators and the public;

(c) the management of litter and nuisance.

### Relevant Acts

Local Government Act 2002
Waste Minimisation Act 2008
Litter Act 1979
Health Act 1956

## ~~401~~901 Interpretation

**(1)** In this Part of the Bylaw, unless the context otherwise requires:

| | |
|---|---|
| *Approved container* | means any mobile bin, plastic bag or multi-wall paper bag or other receptacle from time to time approved by Council for the collection of household waste. |
| *Authorised agent* | means any person that has the written authority from the Chief Executive to act as an agent on Council's behalf. |



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| *Approved incinerator* | is a drum or container with a mesh or solid lid designed to prevent the escape of hot ash or fire, and designed exclusively for incineration. |
| *Clean fill material* | means waste that:<br>(a) does not undergo any physical, chemical or biological transformation that, when deposited or with the effluxion of time, is likely to have adverse effects on the environment or human health; and<br>(b) is not diverted material; and<br>(c) includes natural materials such as clay, soil and rock, and other inert materials such as concrete or brick that are free of:<br>(i) combustible, putrescible, degradable or leachable components;<br>(ii) hazardous waste;<br>(iii) products or materials derived from hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices;<br>(iv) materials that may present a risk to human health or the environment; and<br>(v) liquid waste; and<br>(d) has less than 2% by volume by load of tree or vegetable matter. |
| *Clean fill site* | means the land used for the disposal of clean fill material and other hard fill material. |
| *Council collection point* | means a place publically notified by Council as a place where waste and/or recycling may be placed for collection, subject to this bylaw. |
| *Deposit* | means to cast, place, throw or drop any waste or diverted material, and *deposited* has the equivalent meaning. |
| *Disposal* | has the meaning given by the Waste Minimisation Act 2008, namely:<br>(a) the final (or more than short-term) deposit of waste into or onto land set apart for that purpose; or<br>(b) the incineration of waste. |
| *Diverted material* | has the meaning given by the Waste Minimisation Act 2008, namely:<br>anything that is no longer required for its original purpose and, but for commercial or other waste minimisation activities, would be disposed of or discarded. |
| *Donated goods container* | means a container approved by the Council for the collection of donated goods. |

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| *Event* | means any organised temporary activity that is likely to create litter in a public place including an organised gathering, open air market, parade, protest, festival, film shoot, concert or celebration. |
| *Food waste* | means household waste that is derived from any item of food and is organic in origin and includes fruit and vegetable scraps, meat, fish and bone discards, and any other similar food waste. |
| *Green waste* | means waste that is organic in origin and that results from domestic gardening activities or arboriculture business activities and includes lawn clippings and plant material. |
| *Hazardous waste* | means waste that:<br>(a) contains hazardous substances at sufficient concentrations to exceed the minimum degrees of hazard specified by the Hazardous Substances (Minimum Degrees of Hazard) Notice 2017 under the Hazardous Substances and New Organisms Act 1996; or<br>(b) meets the definition for infectious substances included in the Land Transport Rule: Dangerous Goods 2005 and NZ Standard 5433:2012 Part 1 & Part 2 Transport of Dangerous Goods on Land; or<br>(c) meets the definition for radioactive material included in the Radiation Safety Act 2016. |
| *Household waste* | means waste consisting of refuse, recyclable material or organic matter (food waste and/or green waste) originating from any household and includes but is not limited to cold ashes, sweepings, dust, paper, bottles, bones and waste food, cans, cartons, or other food containers, or any other waste arising or resulting from domestic housekeeping operations. |
| *Illegal dumping* | means the placement of any waste onto private or public land where no licence or lawful approval exists to place or accept such waste.<br>This may include but is not limited to small bags of rubbish in an urban environment to larger scale dumping of materials in isolated areas, such as bushland. |
| *Inorganic waste* | means waste consisting of household equipment, furniture, appliances and material of a similar type that due to its nature or size cannot be collected as household waste in an approved container, and that is specified by a Council resolution as suitable for: |

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(a) collection from a public place by Council;
(b) collection from any premises by Council; or
(c) delivery to a resource recovery facility.

*Litter* means any waste, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth, or waste material, or any other similar thing not deposited in an approved container or public litterbin.

*Managed fill site* means land used for the disposal of soil with low levels of contamination.

*Manager* means a person who controls or manages any premises, activity, or event, regardless of whether that person has a proprietary interest in those premises or that activity or event.

*Mono-fill site* means land used for the disposal or storage of waste of a category specified by Council and that originates from a specified source or location.

*Multi-unit building* means a building which contains more than one separate household.

*Organic waste* includes green waste and food waste.

*Other hard fill material* means materials other than natural hard fill material specified by Council under clause ~~426~~ 926 as suitable for disposal at a clean fill site.

*Prohibited waste* means waste containing:
(a) any material capable of causing injury to any person or animal unless it is sufficiently contained to prevent injury;
(b) any material capable of causing damage to an approved container or likely to shatter in the course of collection unless it is sufficiently contained to prevent damage to the approved container or to prevent injury;
(c) any material that may endanger any person, animal or vehicle that may come into contact with it prior to, during or following collection, transportation or disposal;
(d) any liquid or any viscous fluid;
(e) any radioactive wastes, excluding domestic smoke detectors;
(f) any used oil and lead-acid batteries;

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(g) any hazardous waste;

(h) medical waste (as defined in New Zealand Standard 4304:2002 Management of Healthcare Waste);

(i) any material prohibited by Council under clause ~~420~~920.

*Recovery* has the meaning given by the Waste Minimisation Act 2008, namely:

(a) means extraction of materials or energy from waste or diverted material for further use or processing; and

(b) includes making waste or diverted material into compost.

*Recyclables* means items which are so designated from time to time by Council and which are either collected, or accepted at any transfer station, by or on behalf of Council.

*Recycling* has the meaning given by the Waste Minimisation Act 2008, namely:

the reprocessing of waste or diverted material to produce new materials.

*Resource recovery facility* means any facility that receives, collects, sorts, stores or processes waste in order to contribute to waste minimisation and a decrease in waste disposal, and includes a commercial composting operation, a recovery operation, a materials recovery facility, a transfer station and a recycling depot.

*Reuse* has the meaning given by the Waste Minimisation Act 2008, namely:

The further use of waste or diverted material in its existing form for the original purpose of the materials or products that constitute the waste or diverted material, or for a similar purpose.

*Trade waste* means any scrap or waste material resulting from the carrying-on of any business (including a commercial business), construction, demolition, manufacture, process, trade, market, or any other undertaking.

*Transfer Station* means any land or facility owned, managed, leased or used by Council, or used with the consent of Council, as a site for the recovery, reuse, recycling, collection and transfer of any waste including waste, recyclables and organic waste and includes any, resource recovery facility and any similar facility.

*Waste* has the meaning given by the Waste Minimisation Act 2008, namely:

(a) means anything disposed of or discarded; and

(b) includes a type of waste that is defined by its composition or source (for example, organic waste, electronic waste, inorganic waste or construction and demolition waste); and

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(c) to avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded.

It does not include any component of material or thing that has been diverted.

*Waste collector* means any person who collects or transports waste and includes commercial and non-commercial collectors and transporters of waste.

*Waste operator* means a person who owns or manages a landfill site, clean fill site, managed fill site, mono-fill site or a resource recovery facility.

*Waste Management and Minimisation Plan* means the waste management and minimisation plan adopted by Council under section 43 of the Waste Minimisation Act 2008.

**(2)** **(a)** Unless the context requires another meaning, a term or expression that is defined in the Act and used, but not defined, in this bylaw has the meaning given by the Waste Minimisation Act 2008.

**(b)** Explanatory notes and attachments are for information purposes only and do not form part of this bylaw.

**(c)** The Interpretation Act 1999 applies to this Bylaw.

### ~~402~~ 902 General Compliance with Bylaw

**(1)** **(a)** No person may deposit, discard, dispose of, collect, transport, sort, store or process waste other than in accordance with this Bylaw;

**(b)** To avoid doubt, compliance with this Bylaw does not remove the need to comply with all other applicable Acts, regulations, and bylaws.

## Household Waste

### ~~403~~903 Ownership of Waste Stream

**(1)** Except with the approval of an Authorised Officer:

**(a)** with respect to any premises, no person other than the occupier may put waste into an approved container for those premises, without the consent of the occupier;



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**(b)** no person may remove waste from, or interfere with, any waste deposited in an approved container except the person who deposited the waste.

**(2)** The occupier and the manager of any premises is responsible for any waste generated on the premises until it has been collected.

## ~~404~~904 Accumulation of Waste

**(1)** The owner and manager of any premises must provide adequate areas and receptacles for the storage on the premises of waste from activity on the same premises.

**(2)** Where in the opinion of an Authorised Officer an accumulation of household waste exists on any premises that is likely to be:

**(a)** cause injury to health; or

**(b)** harbour vermin;

an Authorised Officer may serve a notice on the occupier requiring them to remove and dispose of the household waste within a specified time. If the occupier of that premises neglects or refuses to comply with such notice, the occupier shall be guilty of an offence.

## ~~405~~905 Approved Containers to be Placed Conveniently for Emptying or Removal at Approved Areas

**(1)** Approved containers containing waste and recycling shall be placed for collection on the berm outside the premises or at a Council collection point on the day and time notified by Council or an Authorised Officer.

**(2)** An Authorised Officer will notify an occupier or owner of an affected premises, of any change to the official collection day, time or Council collection point.

**(3)** occupiers shall not leave an approved container on the berm or at the Council collection point earlier than the collection day.

**(4)** where an occupier fails to remove an approved container or any waste left at the berm or Council collection point, the Council may remove the approved container. Council may recover the costs of removal of the approved container from the owner or occupier of the premises.

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## 406906 Approved Containers

(1) Council may either directly or by way of private contract, supply approved containers to individual properties.

(2) Any approved containers supplied in accordance with 406906(1) may be registered against specific properties and shall remain at that property.

(3) Approved containers no longer required must be returned by the owner of the property to Council.

## 407907 Use of Approved Containers

(1) Where the approved container provided by Council pursuant to clause 406906(1) is re-useable:

- (a) occupiers shall place waste only in a manner that allows the whole of the contents to fall out easily and cleanly when emptied;
- (b) during collection, the licensed waste collector, or its employees or agents, shall pick up any waste spilled and deposit it into the waste collection vehicle;
- (c) the licensed waste collector, or its employees or agents shall return approved containers to the berm adjoining the premises or Council collection point but clear of private ways, car parking areas, and placed in such a way to ensure the container does not unduly intefere with the free passage of pedestrians;
- (d) an approved container must be kept clean and in good repair by the occupier;
- (e) this clause shall not absolve any contractor from any contractual requirements regarding the provision and maintenance of approved containers.

(2) Where the approved container provided by Council pursuant to clause 406906(1) is single use:

- (a) the approved container is to be securely sealed and placed for collection at a Council collection point or within a berm side collection area;
- (b) the contents of the approved container must not weigh more than 15kg.

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## ~~408~~908 Private Waste Collection and Placement of Approved Containers

**(1)** No person shall put out an approved container for private waste collection other than in accordance with a contract between the occupier and a licensed waste collector, and in accordance with the licensed waste collector's conditions.

## ~~409~~909 Deposit of Certain Materials in an Approved Container is Prohibited

**(1)** No prohibited waste may be deposited in an approved container.

## ~~410~~910 Owner of Multi-Unit Building to Manage Waste

**(1)** The owner and manager of a multi-unit development or building must ensure that provision is made through a waste management and minimisation plan approved by Council for the management of all waste generated within the property.

**(2)** The approved container(s), as stipulated in a waste management and minimisation plan provided in accordance with clause ~~410~~910(1) must have sufficient storage capacity to hold waste pending collection and ensure that any potential pests are managed so as to not cause a nuisance or health hazard.

# Trade Waste

## ~~411~~911 Trade Waste General

**(1)** No person carrying on a business or other undertaking shall cause or permit an accumulation of trade waste to remain in, or about the premises.

**(2)** Perishable waste shall be removed at the cost of the owner or occupier on a daily basis, except where stored in a manner approved by an Authorised Officer.

**(3)** Where Council agrees to accept trade waste for disposal, the person disposing of the waste shall take it to the place specified by an Authorised Officer at the appointed time and must pay any charge as Council shall determine by resolution for the disposal of the trade waste.

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**(4)** To avoid doubt, Council is not obliged to accept for disposal any trade waste, or any particular component or type of trade waste.

**(5)** No person shall take to any place of disposal any prohibited waste.

**Explanatory note:** *The term business includes, commercial business, Industrial business, construction, demolition, manufacture, process, trade, market.*

## 412912 Collection by Council

**(1)** No trade waste will be removed or disposed of by Council, unless the waste is contained within an approved container**,** at an approved location.

## 413913 Prohibited or Hazardous Waste

**(1)** All prohibited or hazardous waste is required to be disposed of in a place specifically set aside for the disposal of waste of that type.

**(2)** No person shall place any prohibited or hazardous waste in a public place.

**(3)** When prohibited or hazardous waste is being disposed of by Council, the generator of the waste shall supply to Council a complete description of the waste including:

- **(a)** chemical composition;
- **(b)** form (solid, liquid or gas);
- **(c)** quantity; and
- **(d)** any other information needed to assess the environmental and operational impact of its disposal.

**(4)** Council may charge all reasonable costs associated with undertaking the disposal of prohibited or hazardous waste from the generator of the waste, including any pre-treatment costs.

**(5)** Prior to acceptance for disposal, Council may require prohibited or hazardous waste to be pre-treated to neutralise and stabilise them.

**Explanatory note**: *If the disposal method is unknown, the generator should contact Council to identify the best disposal method.*

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# Recycling

## 414914 Recycling

(1) Council may arrange for the collection of specified recyclable material.

(2) Council may by resolution determine the items which are recyclable and that will be either collected by
Council or accepted at any Council recycling station.

(3) Council may supply to occupiers an approved container for the recyclable materials to be placed in Clause 406 906 applies to any such containers.

(4) When an approved container has been placed on any road berm for collection by Council, no person shall interfere with or remove the container or the contents, except in the course of collecting the container or the contents on behalf of Council.

(5) Where recyclable materials may be received at a Council Resource Recovery Facility, every person using that facility shall adhere to an Authorised Officer's verbal or written directions for the use of that facility.

(6) No person shall place or leave any non-recyclable materials in any approved container meant for recyclable materials at any Resource Recovery Facility, berm or Council collection point.

(7) All private recycling operators are required to be licensed in accordance with this bylaw.

# Collection and transportation of waste

## 415915 Transport of Waste

(1) Persons transporting waste in the district shall at all times ensure that waste contained in any vehicle is adequately secured, to prevent the waste falling or escaping from the vehicle.

## 416916 Restrictions on Waste Collection Operations

(1) All waste collectors require a Waste Collection licence.

(2) No person shall engage in the collection of household waste, green waste, recyclables, trade waste or donated goods from any roadside or from any land or premises owned by or under the control of Council without first obtaining a licence under this Bylaw and subject to such conditions as the Council may impose.

(3) Any waste collector who is operating in the district without a licence as at the date that this Bylaw comes into force must apply for a licence within 30 days. If any such waste collector



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fails to apply for a licence within that time period or if Council refuses the application for a licence, the waste collector must cease operating within the district within 7 days.

**(4)** A waste collector holding a licence at the date that this Bylaw comes into force, shall be required to obtain a new licence under this Bylaw when that licence has expired or five years of the Bylaw coming into force, whichever is the earlier.

## ~~417~~917 Application for Licence

**(1)** Applications for licences must be made in the prescribed form, describe the activities in respect of which the licence is sought and be accompanied by payment of the prescribed application and processing fees and such further supporting information as Council may require to enable processing of the application.

**(2)** The holder of an existing licence may apply to Council for a renewal of that licence.

**(3)** Licences may be granted or declined at the discretion of Council, upon such terms and conditions as an Authorised Officer thinks fit.

**(4)** A licence is personal to the licence holder and is not transferable.

## ~~418~~918 Consideration of Application for Licence

**(1)** When considering an application for a licence and the conditions to be imposed under it, Council may take into account matters relating to the suitability of the applicant to hold a licence, including but not limited to the following:

- **(a)** public health and safety;
- **(b)** the extent to which the licensed activities will promote the achievement of Council's Waste Management and Minimisation Plan and waste reduction initiatives;
- **(c)** the applicant's experience, reputation and track record in the waste industry, including any past operational or other issues which may affect, or may in the future affect, the applicant's performance and suitability to hold a licence;
- **(d)** if the applicant is a past or present licence-holder, the performance of the applicant in carrying out the licensed operations
- **(e)** the type of waste to be collected or transported;
- **(f)** the manner of treatment (if any) and disposal of the waste type, and the identity of the resource recovery facility, landfill site, managed fill site, mono-fill site or clean fill site at which it is proposed that treatment or disposal will occur;

(g) the terms and conditions under which such disposal of waste is permitted and the existence of or need for any statutory approvals, authorisations or consents required to be held or complied with in respect of such disposal;

(h) the frequency and location (private or public space) of the waste collection, transportation (including routes) or disposal services; and

(i) the specifications of the vehicles, equipment and approved containers to be used for the collection, transportation or disposal of waste.

## 419919 Conditions of Licences and Use of a Public Place for Collection of Waste

(1) A licence under clause 416-916 may be issued subject to such conditions as Council may approve, including but not limited to the following matters in relation to the collection or transportation of waste from a public place:

(a) the area to which the licence applies;

(b) the type, size and construction of approved containers that may be used for the storage and collection of waste and recyclable materials;

(c) the categories of recyclable material and waste that may be deposited at or collected from a public place;

(d) the conditions applicable to any collection service from a public place, including the placement and retrieval of approved containers for collection, collection times and restrictions on the number and weight of approved containers;

(e) requirements to ensure the correct separation of waste and recyclable materials into approved containers;

(f) the locations, access times and conditions of use of Council collection points;

(g) duration of licence; and

(h) any other operational matter required for the safe and efficient operation of a collection service from a public place.

(2) Any person providing or using a waste collection service in or from a public place must comply with all conditions of any licence relating to that collection.

(3) The general terms and conditions upon which a licence may be granted include, but are not limited to the following:

(a) term – a licence may be granted for a term of up to five years;

(b) licence fee – the licensee must pay an annual licence fee in an amount determined by the Council from time to time and publicly notified;



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**(c)** bond – Council may require a licence holder to post a bank guaranteed bond;

**(d)** compliance with standards – the licence holder must comply with national and Council's standards and policies for waste collection, transportation or disposal services including, in respect of collection services:

**(i)** the collection of any litter within five metres of an approved container awaiting collection and any litter spillage from the licence holder's vehicle during the collection, transportation or disposal process;

**(ii)** provision of waste collection services within reasonable times specified by Council;

**(e)** provision of information – the licence holder must provide waste data to Council during the term of the licence in the form and at the times specified by Council including the following data:

**(i)** waste log books for each vehicle operated in accordance with the licence recording the quantity, composition and destination of each waste type and the point in time when such data was recorded during the waste collection, transportation or disposal process;

**(ii)** weighbridge receipts;

**(iii)** gate records of waste tonnage; and

**(iv)** provision of itemised recycling volume data.

**(4)** Further conditions may be imposed relating to:

**(a)** the types of vehicles to be employed in waste collection;

**(b)** the hours and days of waste collection;

**(c)** placement of approved containers before and after collection;

**(d)** suitably qualified vehicle operators; and

**(e)** type and capacity of approved containers collected.

## ~~420~~ 920 Controls for the Collection, Transportation and Disposal of Waste

**(1)** Council may specify controls for the following matters in relation to the collection, transportation or disposal of waste:

**(a)** household waste that may be treated for all purposes (including deposit, collection, transportation and disposal) as recyclable material or waste;

**(b)** maximum allowable limits of any matter that may be disposed of at a mono-fill site or clean fill site;



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**(c)** categories and types of waste that may be received, collected, stored, sorted, processed or disposed of at any clean fill site, mono-fill site and material that may be used as cover material at any such site;

**(d)** materials that are suitable for use as natural or other hard fill material at a clean fill site;

**(e)** types of waste originating from a specified single source or location that may be disposed of at a mono-fill site;

**(f)** types of waste that are prohibited;

**(g)** approve containers for use for waste collection;

**(h)** Use and Maintenance of approved containers;

**(i)** Type and amount of waste that may be and may not be deposited in a type of approved container; and

**(j)** The times when approved containers maybe placed on or retrieved from a public place.

**(2)** Any control specified by Council under clause ~~420~~920(1):

**(a)** must, be made by a Council resolution that is publicly notified; and

**(b)** may:

**(i)** prohibit, restrict or control any matter or thing generally, for any specific category of case, or in a particular case;

**(ii)** apply to all waste or to any specified category of waste;

**(iii)** apply to Kaipara district or to a specified part of Kaipara district;

**(iv)** apply at all times or at any specified time or period of time;

**Explanatory note**: *A control under clause ~~402~~902(1)(b) may relate to collection of inorganic waste.*

# Events

## ~~421~~921 Waste Management for Events at Council Reserves and Facilities

**(1)** Council may require an organiser of an event being undertaken on Council-owned reserve or facility to have a Waste Plan approved for that event.

**(2)** Council may require an approved Waste Plan to set out:

**(a)** an estimate of the types and amounts of waste to be generated by the event;

**(b)** how waste generated by the event is to be minimised;

**(c)** the steps that will be taken to maximise the collection and use of recyclables and re-usable material;

**(d)** the equipment to be provided for the storage, collection and transportation of waste and diverted material;



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(e) the person responsible for the collection and disposal of waste and the methods to be used;

(f) a waste analysis following the conclusion of the event.

(3) The organiser of an event must comply with the approved Waste Plan for that event.

# Nuisances, Donated Goods, Litter and Illegal Dumping

## ~~422~~922 Nuisance

(1) No person may:

(a) allow any accumulation of waste or diverted material on any premises they own, occupy or manage to escape, become offensive, be a nuisance or likely to be harmful to health;

(b) use an approved container in a manner that creates a nuisance, is offensive or is likely to be harmful to health;

(i) dispose of any waste on any premises except at a Council approved landfill site, clean fill site, managed fill site, mono-fill site.

## ~~423~~923 Donated Goods Containers

(1) Any Person who places or provides a donated goods container for collection of donated goods on:

(a) a public place; or

(b) any privately owned premises where the donated goods are likely to be left within 10 metres of public place.

must obtain a licence to do so from the Council in accordance with clause ~~416~~ 916 of this Bylaw.

(2) The grant of a licence is at the discretion of the Council, on such terms and conditions as it sees fit.

(3) The licence holder must comply with any conditions of the licence.

(4) The licence holder must take all steps to the satisfaction of the Council to prevent the donated goods from:

(a) being carried from or otherwise escaping from the donated goods container onto a public place; or

(b) accumulating on a public place outside of a donated goods container.

(5) The Council may recover costs from the owner of a donated goods container associated with the removal and disposal of donated goods on a public place in breach of clause ~~423~~923(4).



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## ~~424~~924 Litter and Illegal Dumping

(1) No person may:

(a) deposit any waste arising from that person's household or that person's domestic or business activities in any public litterbins;

(b) remove any waste from any public litterbins, where this results in any waste being deposited outside the approved container unless authorised by Council to do so;

(c) deposit or attempt to deposit any litter in any public litterbin if:

(i) the public litterbin or public recycling litterbin is full; or

(ii) the litter is likely to escape.

(d) deposit in a public litterbin any waste which is not intended for that bin, for example non-recyclable waste in a public recycling litterbin

(e) fix or attach any flag, banner, bunting, balloon, sign, poster, leaflet or similar thing to any public litterbin or public recycling litterbin; or

(f) damage any public litterbin or public recycling litterbin.

(2) No person may undertake illegal dumping of waste within the Kaipara district.

# Other Matters

## ~~425~~ 925 Transfer Stations

(1) A transfer station must be authorised by Council as a disposal site.

(2) The delivery and receipt of waste to a transfer station owned or operated by Council shall be subject to such conditions as may be imposed by Council.

Conditions may include:

(a) the operational hours;

(b) the nature of solid waste including recyclables and/or organic waste which may be delivered;

(c) any prescribed fees that may be payable;

(d) the layout of various disposal options; and

(e) any other matter which Council may consider necessary or desirable as determined by any such resolution.

(3) All persons entering a transfer station shall comply with any relevant rules and requirements of the transfer station and any instructions from an Authorised Officer or manager of the transfer station. Any person who fails to comply with any such rules, requirements or instructions commits a breach of this Bylaw.



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**Explanatory Note:** Conditions imposed may be the result of any consent or approval given under the Resource Management Act 1991 or other legislation and such conditions and policies as Council and/or Council contractors may from time to time impose in respect to access to a transfer station.

## ~~426~~926 Establishment and Control of Other Disposal Sites

**(1)** A Waste disposal sites must be authorised by Council as a disposal site.

**(2)** Any land or premises authorised by Council for the disposal of waste shall be subject to such controls as Council may from time to time by resolution impose in respect of:

- **(a)** the operational hours;
- **(b)** the nature of the waste which may be disposed;
- **(c)** the charges in respect of any such disposal;
- **(d)** the layout of various disposal options; and
- **(e)** any other matter which Council may consider necessary or desirable to determine by any such resolution.

**(3)** All persons entering a disposal site shall comply with the relevant rules and requirements made in accordance with Clause ~~426~~926(1) of this Bylaw and as posted at the entrance of such facility. Any person failing to abide by such conditions or who acts contrary to the instruction of an, Authorised Officer or manager of the disposal site shall be deemed to be in breach of this Bylaw.

**Explanatory Note:** *Conditions imposed may be the result of any consent or approval given under the Resource Management Act 1991 or other legislation and such conditions and policies as Council may from time to time by resolution impose in respect of access to such land or premises.*

## ~~427~~927 Removal of Material from Disposal Site

**(1)** A person must not enter, loiter at, or disturb any deposit of waste at any land or premises set aside by Council for the disposal of waste, nor remove from such a place any article or material of any kind*, unless those premises have specific approved facilities that allow for members of the public or other agencies to purchase or obtain waste materials for the purposes of re-use or upcycling.*~~.~~

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## ~~428 Lighting of Fires Not Permitted near Disposal Sites~~

~~(1) A person must not light any fire outside of a building within 150 metres of any waste disposal site without the express permission of Council or within an approved incinerator.~~

## 9~~29~~28 Solid Waste Policies

(1) Council may, by resolution publicly notified, make and amend controls governing the collection of household waste by or for Council, including:

(a) the weights and contents of containers which will be collected;

(b) the placing of containers for collection and such other matters as Council considers relevant; and

(c) such policy shall be enforceable as part of this Bylaw.

Upon the making or amendment of such policy Council shall in full give public notice of the policy so made or amended.

# Enforcement Powers

## 929 Non-Compliance with Conditions of a Licence

(1) Where a licence holder does not comply with the terms and conditions of the licence, Council may take one or more of the following steps:

(a) Issue a written warning to the licence holder, which may be considered as evidence of a prior breach of a licence condition during any subsequent review of the licence.

(b) Review the licence, which may result in:

(i) amendment of the licence; or

(ii) suspension of the licence; or

(iii) withdrawal of the licence.

(c) Require a performance bond or security where Council has incurred any cost as a result of the breach of the licence condition, including where Council has itself performed or arranged for the performance of any licensed activity on the default of the licence holder;

(d) Review the amount and nature of the performance bond or security, which may result in:

(i) an increase of the amount of the performance bond or security;

(ii) a change to the nature of the security that must be provided;

(e) Prosecute or issue an infringement notice for any offence that may have been committed under the Litter Act 1979;

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**(f)** Prosecute or issue an infringement notice for any breach of this Bylaw, as provided for in the Health Act 1956, the Local Government Act 2002 and the Waste Minimisation Act 2008.

## 431930 Non-Compliance with Conditions for Collection of Waste from a Public Place

**(1)** Where a person does not comply with clauses 405905, 406906, 407907, 409909, 413 913 or 414 914 the waste collector may:

**(a)** Reject (i.e. not collect) the contents of any approved container left out by that person for collection from a public place if the contents or placement of the container is non-compliant;

**(b)** Remove the contents of any approved container left out for collection from a public place, where the contents or placement of the container is non-compliant, subject to payment of the costs of removal, administrative costs and an additional penalty equivalent to the amount due for the collection of the largest available size of approved container of waste from that premises;

**(c)** Withdraw or suspend the collection service provided by the waste collector to that person.

**(2)** Where a person does not comply with clauses 405905, 406906, 407907, 409909, 413 913 or 414 914 Council may:

**(a)** Prosecute or issue an infringement notice for any offence that may have been committed under the Litter Act 1979;

**(b)** Prosecute or issue an infringement notice for any breach of this Bylaw as provided for in the Health Act 1956, Local Government Act 2002, Litter Act 1979 and Waste Minimisation Act 2008.

**(3)** If a person places an approved container for waste collection outside of the specified date, time or place for collection of the approved container, any costs incurred by Council for collection of the approved container may be recovered from that person.

## 432931 Non-Compliance with Controls for Council Collection Points

**(1)** Where a person does not comply with a control made by Council under clause 420 920 the Council may:



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(a) Issue a trespass notice to that person to prevent them from using the Council collection point;

(b) Suspend that person's use of any waste collection service provided by or on behalf of Council;

(c) Prosecute or issue an infringement notice for any offence that may have been committed under the Litter Act 1979;

(d) Prosecute or issue an infringement notice for any breach of this Bylaw, as provided for in the Health Act 1956, the Local Government Act 2002 and the Waste Minimisation Act 2008.

# Offences and Penalties

## ~~433~~932 Bylaw Breaches

(1) A person who fails to comply with this Bylaw commits a breach of this Bylaw and is liable to a penalty upon conviction pursuant to the Waste Minimisation Act 2008, the Local Government Act 2002, Litter Act 1979 and/or the Health Act 1956.

## ~~434~~933 Exceptions, Revocation and Saving Provisions

(1) A person is not in breach of this Bylaw if that person proves that the act or omission was in compliance with the directions of an Authorised Officer.

(2) A product stewardship scheme accredited under the Waste Minimisation Act 2008 may be exempted from the requirements of this Bylaw.

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# Kaipara District Council

# Proposed Draft Consolidated General Bylaw 2020

## Part ~~16~~ 10 - Water Supply

# Part ~~16~~ 10 – Water Supply

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**Relationship between this Bylaw and Acts, regulations, bylaws and Council's District Plan**

Compliance with the Bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws and the Operative Plan of the Kaipara District Council. Where there is any conflict between this Bylaw and any Act or Regulation, the Act or Regulation will take precedence.

# *Part ~~16~~ 10 - Water Supply*

## Purpose

The purpose of this Part of the Bylaw is to protect water supplies in the Kaipara district. The Bylaw sets out regulations on Council-provided water supplies such as pipes, as well as metering and charging. It also aims to prevent contamination of, and wastage from, the water supply system.

## ~~1601~~1001 Interpretation

**(1)** In this Bylaw, unless the context otherwise requires:

| | |
|---|---|
| *Air gap separation* | means a minimum vertical air gap as defined by the Building Code G12 Water Supplies between the outlet of the water supply fitting which fills a storage tank, and the highest overflow water level of that storage tank. |
| *Air gap separator* | means a physical break between a supply pipe and a receiving vessel. |
| *Approved* | means approved by an Authorised Officer. |
| *Backflow* | means a flow of water or other liquid through any service pipe or supply pipe in a reverse direction to the normal supply flow. |
| *Backflow prevention device* | means a testable device that prevents backflow. For the purpose of this Bylaw a backflow prevention device refers to those devices installed at the property boundary. |
| *Check valve* | means a valve designed to prevent flow in the reverse direction to normal flow. |

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| *Controlled catchment area* | means an area under the control of a Council, to which the public and domestic animals are prohibited from entry and from which waters are drawn for a public water supply. |
| *Customer* | means a person who has the right to use or direct the manner of use of water supplied by Council to any premises. |
| *Double check valve* | means an assembly of two independently acting check valves including gate valves on each side of the check valve assembly with suitable leak-detector drains plus connections available for testing the water tightness of each check valve. |
| *Direct connection* | includes any underwater outlet or any arrangement of pipes, hoses, or fittings temporary or otherwise which renders possible back flow into Council's water supply network system. |
| *Domestic* | in relation to water supply, means water used for household activities including but not limited to personal cleaning, for cooking, drinking, for washing linen or clothes, for washing or cleansing floors, windows, domestic or other furniture or utensils or any part of the consumer's dwelling house or premises, and for toilets, baths, and urinals except automatic flushing toilets and urinals |
| *Engineering Standards* | means the Council document for the time being which sets out the processes and standards that are expected to be followed and met whenever any development project is undertaken in accordance with Council's District Plan. |
| *Extraordinary supply* | means any water supplied from the water supply network and not used for the purpose of an ordinary supply |
| *Fire hose reel* | means a metal reel, permanently connected to the water supply, on which is wound rubber tubing and, which can be used for first-aid firefighting purposes. |
| *Fire sprinkler system* | means a system of pipes fitted with sprinkler nozzles which open by extraordinary rise in temperature to automatically drench an area for the purpose of extinguishing fire. |
| *Hydrant* | means a fitting in a street or other public place with a nozzle by which a hose may be attached to public water supply. |
| *Meter* | means a device for the purpose of measuring the volume of water consumed. |
| *Ordinary supply* | means any water supplied from the water supply network to properties situated within an area served by a public water supply and used for strictly domestic purposes. |

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| *Point of supply* | means the point as determined by Council where the responsibility for ownership and maintenance of the water supply pipe passes from the Council to customer. |
| *Potable* | has the same meaning as in section 69G of the Health Act 1956, namely, in relation to drinking water, water that does not contain or exhibit any determinands to any extent that exceeds the maximum acceptable values (other than aesthetic guideline values) specified in the drinking-water standards. |
| *Public water supply* | means a reticulated water system that supplies water to properties and is owned by Council. |
| *quick closing valves* | means a kind of pressure reducing valve in which the an automatic process control valve for fluid pressure control is used for unmanned machinery spaces |
| *Reduced-pressure-zone back-flow-prevention device* | means a device incorporating an automatically operating differential relief valve located between the two check valves, with two gate valves for isolating the necessary appurtenances for testing. |
| *Service pipe* | means the pipe between the street main and the point of supply, and is 250mm distance outside of the consumer's property boundary and includes:-<br>(a) the stop tap at the junction of the service pipe with the main;<br>(b) any stop tap fitted at the end of the service pipe; and<br>(c) any stop tap fitted on the service pipe between the end thereof and the main. |
| *Sprinkler* | means a revolving spray, sprinkler pipe, or device to distribute water for garden or lawn watering, but does not include a hand-held hose, or a<br>device installed exclusively for the purpose of extinguishing fire. |
| *Stop tap* | includes a stopcock, stop valve, and any other device for stopping at will the flow of water in a line of pipes. |
| *Storage tank* | means any tank other than a flushing cistern having free water surface under atmospheric pressure from which water supplied by Council is delivered for use. |
| *Supply pipe* | means the pipe connecting the service pipe to the customer's premises. |

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|---|---|
| *Uncontrolled catchment area* | means an area to which the public and domestic animals are not prohibited from entry and from which waters are drawn or likely to be drawn for public consumption. |
| *Vacuum column* | means an arrangement of pipes which forms an inverted U extending upwards to a point not less than 10.5 m above the highest point in the service pipe and in which there cannot be excess pressure on the property side of the column. |
| *Water supply network* | includes all rivers, streams, lakes, waters, and underground waters, land, watersheds, catchment areas, water collection areas, reservoirs, dams, bores, tanks, and pipes, and all buildings, machinery, and appliances of any kind, vested in Council or acquired or constructed or operated by or under the control of Council for or relating to the purpose of water supply, whether within or outside the district. |
| *Wholesome water* | has the same meaning as in section 69G of the Health Act 1956, namely, in relation to drinking water:<br>(a) being potable; and<br>(b) not containing or exhibiting any determinand in an amount that exceeds the value stated in the guideline values for aesthetic determinands in the drinking-water standards as being the maximum extent to which drinking water may contain or exhibit the determinand without being likely to have an adverse aesthetic effect on the drinking water. |

## ~~1602~~1002 Ordinary Supply

**(1)** Every property or allotment with one or more dwellings can obtain an ordinary supply connection subject to:

- **(a)** the property or allotment being within an area served by a public water supply;
- **(b)** any connection restrictions imposed by Council;
- **(c)** compliance with this part of the Bylaw;
- **(d)** payment of the appropriate charges in respect of the water supply to that property or allotment; and
- **(e)** payment of any other charges or costs associated with the supply of water to the subdivision of the property or allotment.

**(2)** Where no ordinary supply of water is available to a property or allotment with one or more dwellings, a water supply must be made available by the owner of that property or allotment in accordance with the Building Act 2004.

**(3)** Council may determine, by resolution, publicly notified, whether or not any ordinary supply shall be metered.

**Explanatory Note:** *Any restrictions imposed by Council will be consistent with Councils obligations under section 69S of the Health Act 1956.*

## ~~1603~~1003 Extraordinary Supply

**(1)** Council shall be under no obligation to give or continue an extraordinary water supply.

**(2)** For extraordinary supplies, Council may choose to allocate an amount of water for a particular connection and for a particular purpose, and may review or alter that allocation from time to time.

**(3)** Council may, by giving written notice where possible, restrict an extraordinary supply if required to maintain ordinary supplies and protect public health and safety.

## ~~1604~~1004 Use of Ordinary Supply

**(1)** Ordinary supply can only be used for domestic purposes.

## ~~1605~~1005 Use of Extraordinary Supply

**(1)** Extraordinary supply may be used for purposes other than domestic purposes.

**(2)** No consumer or other person receiving an extraordinary supply for one purpose shall use or allow such supply to be used for any other purpose.

**(3)** All extraordinary water supply connections shall have a high hazard testable reduced pressure zone (RPZ) double check valve backflow preventer installed on the connection.

## ~~1606~~1006 Reclassifying Supply

**(1)** Where the Council determines, either at the time of application or subsequently (for example, as a result of monitoring the actual use), that the amount of water used is significantly in excess of an ordinary domestic usage, the Council may, at any time, reclassify the excess supply of water to the premises as an extraordinary supply and charge the customer at the extraordinary supply rate.

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## ~~1607~~1007 Continuity of Supply

**(1)** Council does not guarantee the uninterrupted supply of water, and no allowance will be made or compensation given on account of water being shut off, for maintenance, health concerns, or any other purpose or reason.

**(2)** Council will take reasonable steps to notify in advance any scheduled interruptions to the supply of water.

**(3)** If a customer requires an uninterrupted supply of water, it is the responsibility of that customer to provide any necessary storage, back-up facilities or equipment necessary to ensure effective continuity for their particular purpose.

**Explanatory Notes:** *Loss of supply or restricted flow may occur due to firefighting activities. Any restriction or interruption in supply will be consistent with Council's obligations under section 69S of the Health Act 1956.*

## ~~1608~~1008 Pressure

**(1)** Council does not guarantee any particular maximum or minimum pressure in its water distribution system and no allowance will be made or compensation given on account of change of pressure in the water supply.

## ~~1609~~1009 Prohibition or Restriction of Supply

**(1)** An Authorised Officer may, by public notice, restrict or prohibit the use of water for any specified purpose, if the Authorised Officer considers special measures are required to conserve the water supply. Any restriction or prohibition may be subject to conditions, may apply to the whole of the district, a portion of the district or any customer or customers within the district, and will remain in place until public notice is given that the restriction is removed.

**Explanatory Note:** *Conditions that may exist could include but are not limited to drought, contaminated supplies and flooding.*

**(2)** No consumer will be entitled to any payment or compensation for any restriction or prohibition put in place in accordance with clause ~~1609~~1009(1).

**(3)** It is an offence against this part of this Bylaw for any person to use water in the manner so restricted or prohibited in accordance with clause ~~1609~~1009(1).

**(4)** In the case of emergency, an Authorised Officer may prohibit or restrict the use of water for any purpose considered necessary to deal with the emergency, without public notice.

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## ~~1610~~1010 Restricting Water in Other Circumstances

**(1)** Subject to section 193 of the Local Government Act 2002 and section 69S of the Health Act 1956, Council may restrict a supply of water to any premises if the owner:

**(a)** fails to comply with a notice from the Authorised Officer requiring repair of a leak(s), defective pipes or fittings; or

**(b)** wilfully allows water to run to waste or is misused; or

**(c)** fails to pay any targeted rates for water supply or any other Council prescribed fees and charges payable with respect to the water supply within one month of the due date specified in an invoice issued by Council; or

**(d)** breaches any provision of this Part of the Bylaw.

**(e)** willfully interfering with the Council supply system or equipment;

**(f)** failing to fit quick-closing valves, non-return valves or other protective devices which Council may require to be fitted to protect the water supply system;

**(g)** failing to fully comply with the requirements of Council's terms and conditions relating to the supply of water or of this Bylaw.

An unrestricted supply will be restored only when any non-compliance has been remedied to the satisfaction of Council and the re-connection fee, where applicable, has been paid.

**Explanatory Note:** *As provided for under section 193 of the Local Government Act 2002, Council may restrict the supply of water to any premises where the owner fails to pay any targeted rates that have been assessed on water supplied pursuant to section 19(1) of the Local Government (Rating Act) 2002 within one month of the due date of the rates invoice. Council may also recover all monies owing in any Court of competent jurisdiction as a debt owing to Council. The restriction shall be subject to section 69S of the Health Act 1956.*

*The restricted supply must be sufficient not to create unsanitary conditions.*

~~**(1)** Water supplied to any customer may be restricted by Council in the event of the customer:~~

~~**(a)** failing to pay the appropriate charges by the due date;~~

~~**(b)** failing to repair a leak, or willfully allowing water to run to waste or be misused;~~

~~**(c)** willfully interfering with the Council supply system or equipment;~~

~~**(d)** failing to fit quick-closing valves, non-return valves or other protective devices which Council may require to be fitted to protect the water supply system;~~

~~**(e)** failing to fully comply with the requirements of Council's terms and conditions relating to the supply of water or of this Bylaw.~~

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## ~~1611~~1011 Exemption from ~~Restricted~~ Water Supply Restrictions

**(1)** Customers may apply to Council on the prescribed form for an exemption from a water restriction. An Authorised Officer may approve an exemption and set such conditions as deemed necessary.

**(2)** Where an application has been declined, the water restriction will stand for the applicant until such time as the restriction has been removed.

## ~~1612~~1012 Water Supply before Occupation of Dwelling

**(1)** No person shall occupy or permit the occupation of a building for residential purposes or human habitation unless such building is provided with an adequate and convenient supply of wholesome water for domestic purposes with approved pipes and fittings, installed in accordance with Council's Engineering Standards current at the time of installation and in accordance with a building consent.

## ~~1613~~1013 Change of Ownership

**(1)** In the event of premises changing ownership and where premises are metered, the outgoing customer must:

**(a)** give Council seven working days' notice prior to the change of ownership to arrange a final reading;

**(b)** where an agreement is in place under clause ~~1614~~1014~~(9)~~ inform the new owner that they are required to enter into a separate agreement with Council.

## ~~1614~~1014 Application for Supply

**(1)** Any person may apply for:

**(a)** an ordinary or extraordinary supply of water in respect of any new connections; or

**(b)** a change to the classification of current water supply; or

**(c)** relocation of the point of supply.

**(2)** Any application shall be made on the prescribed form, with the payment of the Council's prescribed fees and charges and any development contribution fee if applicable. The applicant shall provide all the details required by an Authorised Officer, in order for the Authorised Officer to assess the application.

**(3)** The applicant must have the authority to act on behalf of the owner of the premises for which the application is sought, and must produce written evidence of this if required.

**(4)** On the receipt of an application an Authorised Officer has within 10 working days the discretion to

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(a) approve with or without conditions, or

(b) decline the application; or

(c) require further information and place the application on hold.

(5) An approved application for a water supply connection under ~~1614~~1014(4) that has not been actioned within six months of the date of approval will lapse unless an extension of the time to action has been approved.

(6) In the event an approved application under clause ~~1614~~1014(6) lapses, an applicant will need to reapply and pay the Council's prescribed fees and charges.

### ~~1615~~1015 Supplies from Standpipes on Hydrants

(1) An Authorised Officer may approve and set conditions to allow for an extraordinary water supply by means of a stand pipe to be placed upon a specified hydrant. Any application for such supply and for the hire of any stand pipe shall be made in writing on the prescribed form and accompanied by the payment of Council's prescribed fees and charges.

(2) Unless otherwise permitted by law, no person may take water from a hydrant other than as authorised under this clause.

(3) Unauthorised use of a stand pipe or a hydrant is a breach of this Bylaw.

### ~~1616~~1016 Determination of Size of Service

(1) An Authorised Officer shall have the right to determine the size of mains tapping, the size of meters, and the size of service pipes required for any ordinary or extraordinary water supply.

## Connections, Disconnections and Inspections

### ~~1617~~1017 Work Not to be Commenced without Approval

(1) A person must not attach or connect or permit to be attached or connected with the water supply network, any pipe, stop tap, or other apparatus, nor alter or repair any existing pipe or fitting connected with the water supply network other than the re-washing of taps, without authorisation.

(2) An Authorised Officer can approve any work with conditions, if it is carried out by a plumber holding a current practising licence issued under the Plumbers, Gasfitters, and Drainlayers Act 2006 and subsequent amendments or by any other person who has satisfied an Authorised Officer of their ability to carry out such work.

(3) All work must be carried in accordance with the approval. It is an offence against this Part of the Bylaw to carry out such works without an approval or in contravention of any conditions of an approval.

## ~~1618~~1018 Disconnections Required

(1) Where any customer wishes to permanently disconnect any water supply to their premises from the water supply network, the customer must make an application to Council for disconnection. Any such application to Council must be made on the prescribed form and accompanied by any prescribed Council fee or charge.

Disconnections from the water supply network shall only be made by an Authorised Officer or by a person approved by an Authorised Officer subject to any conditions imposed.

## ~~1619~~1019 Notice When Supply Not Required

(1) If a Council water supply is no longer required the owner of the premises must give fourteen days' written notice to Council.

(2) The owner shall remain liable for all charges until the water supply account has been paid in full and any disconnection fee has been paid.

## ~~1620 Non-Payment or Non-Compliance with Notice~~

~~(1) Subject to section 193 of the Local Government Act 2002 and section 69S of the Health Act 1956, Council may restrict a supply of water to any premises if the owner:~~

~~(a) fails to comply with a notice from the Authorised Officer requiring repair of defective pipes or fittings; or~~

~~(b) wilfully allows water to run to waste or is misused; or~~

~~(c) fails to pay any targeted rates for water supply or any other Council prescribed fees and charges payable with respect to the water supply within one month of the due date specified in an invoice issued by Council; or~~

~~(d) breaches any provision of this Part of the Bylaw.~~

~~An unrestricted supply will be restored only when any non-compliance has been remedied to the satisfaction of Council and the re-connection fee, where applicable, has been paid.~~

~~**Explanatory Note:** *As provided for under section 193 of the Local Government Act 2002, Council may restrict the supply of water to any premises where the owner fails to pay any targeted rates that have been assessed on water supplied pursuant to section 19(1) of the Local Government (Rating Act) 2002 within one month of the due date of the rates invoice. Council may also recover all monies*~~

~~owing in any Court of competent jurisdiction as a debt owing to Council. The restriction shall be subject to section 69S of the Health Act 1956.~~

~~The restricted supply must be sufficient not to create unsanitary conditions.~~

## ~~1621~~1021 Re-connection Fee

(1) Whenever the water supply has been disconnected to any premises, the supply will not be turned on again except on payment of any Council prescribed fees and charges for reconnection of the water supply.

## ~~1622~~1022 Inspection of Installations

(1) Pursuant to and subject to the requirements of any powers of entry that Council has under the Building Act 2004, Local Government 2002 or any other applicable enactment, an Authorised Officer may enter any premises for inspection of all or any fittings and other apparatus connected directly or indirectly to the water supply network between the hours of 8.00am and 6.00pm of any day.

(2) Any person who obstructs an Authorised Officer from undertaking any lawful inspection pursuant to clause ~~1622~~1022(1) commits an offence against this Part of this Bylaw. If an Authorised Officer is obstructed or refused admittance without lawful excuse, Council may restrict the supply of water to that premises.

## ~~1623~~1023 Point of Supply

(1) The point of supply to the premises shall be determined by the Council and shall be located at a point that an Authorised Officer considers is as close as is reasonably possible to the property boundary.

(2) The point of supply shall be a point 250mm outside the premises boundary, unless an Authorised Officer determines otherwise.

(3) The supply pipe from the building to the point of supply shall be provided by the owner or occupier in accordance with Council's Engineering Standards current at the date of the works and at the owner or occupier's own cost and expense, to the satisfaction and approval of an Authorised Officer.

(4) In the case of an extraordinary supply requiring metering, the meter may be installed on the supply pipe by prior arrangement between Council and the consumer.

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## ~~1624~~1024 Stop taps to be Provided

(1) In addition to any stop tap fitted by an Authorised Officer on the service pipe, the owner shall, except in the case of a fire sprinkler system, fit stop taps as follows to the satisfaction of an Authorised Officer:

(a) where a building is set back from the street boundary, a stop tap shall be fitted on the supply pipe to control all outlets on the premises;

(b) where a building is on the property boundary a stop tap shall be provided inside the building as close as possible to the point of pipe entry to control all the outlets on the property;

(c) in every building of more than one floor, at every floor level including sub-floor or basement level, one or more stop taps shall be provided to control the supply to all outlets on such floor.

All stop taps shall be kept readily accessible at all times and exterior stop taps shall be protected by strong durable boxes of earthenware, concrete, cast iron, or other approved material.

## ~~1625~~1025 Only One Point of Supply

(1) No premises shall be supplied with more than one service pipe, except with the written consent of an Authorised Officer, and under any conditions prescribed.

(2) Without the prior written approval of an Authorised Officer, no branch fitting shall be connected to the service pipe between the main and the meter.

## ~~1626~~1026 One Pipe Not to Serve Two Premises

(1) A supply pipe must serve only one premise unless held under one rating assessment and written consent has been obtained from an Authorised Officer. The customer must not extend the supply pipe by hose or any other device, to any other premises.

# Fittings, Materials and Installations

## ~~1627~~1027 Work in Streets and Public Places

(1) No person shall carry out work in any road, private road, or public place unless first having obtained written consent from an Authorised Officer and in accordance with any conditions prescribed by an Authorised Officer.

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**(2)** Any work undertaken shall be reinstated by properly refilling all trenches and by removing all waste materials from each road, private road or public place as soon as possible and to the satisfaction and approval of an Authorised Officer.

## ~~1628~~1028 General

**(1)** All materials, fittings and appliances used for the supply and distribution in any premises of water supplied by Council shall be of such design and quality as to prevent waste, undue consumption, misuse, or contamination of water, or the setting up of a water hammer in any part of the system.

**(2)** They shall in every case be of approved design and materials for durability and ready maintenance. All such fittings shall be capable of standing a test pressure of 180 m head of water (1.8MPa) and suitable for working pressure equivalent to 90 m head of water (0.9 Mpa), or other such pressures as the Authorised Officer shall prescribe or in accordance with a building consent if one is required.

**Explanatory Note**: *Will need to check with Council Officers if a Building Consent will be required for any plumbing work undertaken.*

## ~~1629~~1029 Pipes for Fire Fighting Purposes

**(1)** Any supply pipe that is above ground and is or may be required for firefighting purposes shall not be made of:

**(a)** material mechanically affected by the action of heat; or

**(b)** made of plastics, this includes but is not limited to PVC, polythene, rigid PVC.

## ~~1630~~1030 Quick Closing Valves Not to be Used

**(1)** No quick closing valves of any kind are to be used on any pipe directly connected to the service pipe unless approved by an Authorised Officer.

**(2)** Any approval to use a quick closing valve will require the use of a suitable air chamber to be fitted in the supply pipe at the stop tap or next to the fitting and any other conditions stipulated by an Authorised Officer when giving any approval pursuant to clause ~~1638~~1038(1).

**(3)** An Authorised Officer may approve the use of a self-closing tap type of valve in some circumstances.

## ~~1631~~1031 Float Valve Installation

**(1)** Every ball valve or float-operated valve fitted to a storage tank is to be:

**(a)** securely and rigidly fixed above the top water line;

**(b)** supported independently of the inlet pipe (unless such inlet pipe is itself rigid and rigidly fixed to the tank);

**(c)** in such a position that no part of the body of the valve would be submerged; and

**(d)** positioned twice the diameter of the supply pipe and in no case less than 25mm above the tank's overflowing level.

**(2)** Silencing pipes will be permitted only in break pressure tanks such as flushing cisterns and supply tanks for hot water systems.

**(3)** No ball valve shall be fitted directly to any thermal storage electric water heater.

**(4)** Where a nuisance, safety issue or hazard is caused by the location of an overflow or discharge pipe, an Authorised Officer may direct the owner of the premises to fix and/or remediate so the nuisance, safety issue or hazard no longer exists.

## ~~1632~~1032 Flush Valves

**(1)** Flush valves may only be installed with the written approval of an Authorised Officer. Any flush valve approval shall require the flush valve to be:

**(a)** of the approved waste-preventing type discharging not more than 13.5 litres per flush;

**(b)** supplied by a separate storage tank;

**(c)** incapable of delivering more than 13.5 litres per flush regardless of any manipulation of the operating lever;

**(d)** constructed as to seal automatically upon the termination of the prescribed flush, irrespective of the position of the starting lever.

## ~~1633~~1033 Protection of Ball Valves

**(1)** Every stop tap, ball valve or other fitting installed in an exposed position shall be protected against damage by an approved guard and, if considered necessary by an Authorised Officer, shall be fitted in a separate compartment protected by a securely fixed cover.

## ~~1634~~1034 Watering Troughs

**(1)** Every pipe supplying water to a watering trough for animals shall:

**(a)** be fitted with a ball valve or some other effective means of controlling the inflow of water to prevent overflow; and

**(b)** have an air gap as required and specified in clause ~~1637~~ 1037 of this Bylaw and fixed in a separate compartment and protected by a securely fixed cover.

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## ~~1635~~1035 No Connection to Other Supplies

(1) In any system of piping supplied with water by Council, no direct connection with any other sources of supply of water shall be made.

(2) No direct connection shall be made or maintained to any drainage system, or sanitary fitting, or to any fittings or apparatus including steam boilers used for the reception or transportation of any liquid, gas, or drawn water.

## ~~1636~~1036 Drawn Water Not to be Returned

(1) No person shall allow any water drawn from Council's water supply system to return into the water supply system of Council.

## ~~1637~~1037 Minimum Air Gap

(1) The minimum air gap separation between the outlet of a water supply pipe or fitting which is directly connected to the Council system and the highest possible water level of the fixture or receptacle into which water is drawn or used shall be twice the diameter of the nominal diameter of such supply pipe or fitting but in no case shall it be less than 25 mm.

## ~~1638~~1038 Priming of Pumps

(1) No pump shall be equipped with a direct connection for priming or other purposes.

## ~~1639~~1039 Supply to Shipping

(1) Each water supply point available to shipping, including fire connections, shall be equipped with an approved backflow prevention device.

## ~~1640~~1040 Check Valves in Multiple Services

(1) Where a supply of water to premises from more than one point of supply by Council is permitted and where in the opinion of an Authorised Officer they may be interconnected, the supply at each point shall be through a check valve installed between two isolating gate valves with a bleed valve fitted on the delivery side of the supply isolating valve so that the effectiveness of the check valve may be readily determined.

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## ~~1641~~1041 Protection of Supply Pipes

**(1)** No supply pipe or fitting shall be laid or fixed through, in or into any drain, sink, ash pit, or manure pit, nor through, in, or near any place where the water may become contaminated.

## ~~1642~~1042 Prevention of Backflow

**(1)** It is the owner's responsibility (in accordance with the Building Act 2004, and the Health (Drinking Water) Amendment Act 2007), to take all necessary measures on the owner's side of the point of supply to prevent water which has been drawn from Council's water supply from returning to that supply.

**(2)** Owners with supplies serving premises not covered by the Building Act and the New Zealand Building Code e.g. stock or horticultural water supplies, must comply with the relevant sections of the Health (Drinking Water) Amendment Act 2007 regarding protection of potable water.

**Explanatory Note:** *Suitable backflow prevention device includes but is not limited to an air gap separator, double-check valve assembly, reduced-pressure-zone back-flow-prevention device or a vacuum column.*

# Prevention of the Waste of water

## ~~1643~~1043 Waste and Improper Use to be Prevented

**(1)** No person shall use, or permit or suffer to be used, the water supply obtained through Council's water supply network system improperly or to an unreasonable extent or in a wasteful manner, or otherwise in any manner contrary to the provisions of this Part of the Bylaw.

**Explanatory note:** *Improper use includes using an extraordinary supply as an ordinary supply.*

## ~~1644~~1044 Overflow Pipes

**(1)** Overflow pipes, if fitted to baths and water-using fittings or apparatus other than a handwash basin, shall be arranged to discharge in the open air or in an approved conspicuous position, and they shall not be led into waste pipes or drains.

## ~~1645~~1045 Fittings to be in Good Repair

**(1)** The owner or occupier shall keep all pipes, taps, or other fittings on their premises which are connected with the water supply to be fit for purpose so that no water is wasted, misused, or contaminated, or a water hammer is caused.

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## ~~1646~~1046 Deficient Pipes

(1) Where an Authorised Officer considers any pipe, cock, appliance, or fitting in connection with any water service on a premise to be:

(a) deteriorated;

(b) of inferior quality;

(c) causing or likely to cause waste of water;

(d) insufficient for the proper supply of water;

an Authorised Officer may give written notice to the owner or occupier of any premise to carry out any works specified in the notice, and within the timeframe specified.

(2) Failure to comply with the requirements of such notice within the time specified, is an offence against this Part of the Bylaw.

## ~~1647~~1047 Sprinklers and Hoses

(1) Council may by resolution publicly notified, authorise the use of outside sprinklers or hoses to be under the immediate personal care of responsible person at all times when in operation during specified periods as determined by the resolution of Council.

## ~~1648~~1048 Water Used for Cooling

(1) Air conditioning or industrial plant using an extraordinary supply of water for cooling purposes shall provide water conservation equipment so that the consumption is limited to that required to make up reasonable losses due to evaporation, wind, flushing, and similar effects. The use of water once through a cooling system that is without the use of recirculating equipment is prohibited without the written approval of an Authorised Officer.

# Meters

## ~~1649~~1049 Installation and Maintenance of Meters

(1) When a meter is required by Council, the meter will be supplied and installed by Council, at the customer's cost.

(2) The customer shall pay any Council prescribed fees and charges relating to the supply, installation and maintenance of the meter.

(3) Any meter installed by the customer, prior to the coming into operation of this Part of the Bylaw, shall be maintained by the customer. If in the opinion of an Authorised Officer, the meter is no longer fit for use, it must be replaced by a Council meter.

(4) Approved high pressure isolating valves shall be fixed on either side of the meter.

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## ~~1650~~1050 Protection of Meters

**(1)** Where required by an Authorised Officer the customer shall:

**(a)** provide an approved site for the meter, within the premises or as close as practicable to the property boundary;

**(b)** take sufficient precaution to protect the meter from damage at all times;

**(c)** enclose the meter in a suitable box or other enclosure;

**(d)** in cases where natural support is absent, provide suitable wall brackets or other support; and

**(e)** ensure that the meter is readily accessible at all times.

## ~~1651~~1051 Testing of Meters

**(1)** A customer may dispute the accuracy of a meter by applying to an Authorised Officer to have the meter tested. If the meter is found to be inaccurate, due to normal wear and tear, Council will not charge for the associated testing costs including removal and replacement of the meter. However, if in the opinion of the Authorised Officer the fault is due to a deliberate act, the customer will be required to pay all testing costs including removal and replacement of the meter.

**(2)** If the meter is not found to be inaccurate the Council may require the customer to pay all associated testing costs including any removal and replacement of the meter.

**(3)** If an Authorised Officer finds any meter to be broken, or not working, the Officer shall provide written notice to remove the meter and arrange for it to be tested. An Authorised Officer shall obtain a certificate of its accuracy before fixing or re-installing the meter.

**(4)** The fee to be paid for testing meters shall be as provided for in Council prescribed fees and charges.

**Explanatory Note:** *All tests of meters shall be made at Council's workshop. The test will be made by running a measured quantity of not less than 2,000 litres through the meter and the meter shall be deemed to be correct if it registers within 4% either less or more than the measured quantity. In addition, the meter shall be capable of registering small flows from 2% of normal flow upward. The consumer shall have the right of witnessing the test.*

## ~~1652~~1052 Meter Accounts Adjusted

**(1)** Should any tested meter be found to be reading incorrectly an Authorised Officer may make a fee adjustment in accordance with the permissible tolerances and results of the test.

**(2)** The customer shall be responsible to ensure their meter is in good working order. Should any meter be defective, have its seal or dial broken or appear to Council to have been tampered with, Council may declare the reading void. In such a case the consumption will be estimated

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in accordance with clause ~~1654~~1054, and the customer will be liable to pay according to the estimate.

**(3)** Any account payable by the customer as a result of any such adjustment shall be paid within the timeframe specified in any invoice issued by Council.

## ~~1653~~1053 Estimating Consumption

**(1)** An Authorised Officer shall estimate the consumption for the previous period based on:

- **(a)** the average of the previous four periods charged to the customer;
- **(b)** occupancy of the premises and any occupancy changes;
- **(c)** seasonal fluctuations; and
- **(d)** any other evidence for the purpose of arriving at a reasonable estimate.

# Charges

## ~~1654~~1054 Charges for Service Pipes

**(1)** The charges payable by the consumer for tapping into the main pipe and for laying the service pipe, installing a meter, testing a meter where required, keeping such service pipe and meter in good repair and renewing when necessary, disconnection and reconnection where required, and road restoration shall be of such amount as may from time to time be determined by resolution of Council or as may be agreed with any person receiving that supply.

### ~~1655~~1055 Charges for Ordinary Supply

**(1)** Charges for an ordinary supply of water shall be either by water rates, or uniform annual charges, or a charge fixed in accordance with the quantity of water consumed.

## ~~1656~~1056 Charges for Extraordinary Supply

**(1)** Charges for extraordinary supply of water (whether according to the quantity consumed or otherwise) shall be of such amount as may from time to time be fixed by resolution of Council publicly notified, or may be agreed on with any person receiving that supply; minimum charges for such extraordinary supply may likewise be specified in the said resolution or agreement.

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## ~~1657~~1057 Reading of Meters and Accounts

(1) Meters will be read and accounts rendered at such intervals as Council may resolve from time to time.

## ~~1658~~1058 Water Supplied by Standpipe

(1) Where a supply of water is given by means of a standpipe, the customer will be responsible for the full cost of any subsequent repairs found necessary following the use of such standpipe. Water used shall be paid for at normal rates for extraordinary supply or as determined by prior agreement. The customer shall also pay such hire charges as required by Council in the event of using a Council standpipe.

## ~~1659~~1059 Meter Supply to Non-Rateable Properties

(1) The charges for water supplied to a non-rateable property shall be by meter and in amounts as may from time to time be fixed by resolution of Council publicly notified, or as may be agreed on with any person receiving that supply; minimum charges for such extraordinary supply may likewise be specified in the said resolution or agreement.

## ~~1660~~1060 Water Charged at an Annual Charge

(1) When an extraordinary supply of water is granted to a customer for any purpose at an annual charge, Council may affix a meter to such supply, and the charge shall be determined by the provisions of this Part of this Bylaw relating to the purpose for which the water is being used.

## ~~1661~~1061 Supplies to Local Authorities

(1) The charges to be made for water supplied to other local authorities shall be of such amounts as may from time to time be fixed by resolution of Council or as may be agreed on with any local body receiving that supply.

## ~~1662~~1062 Water for Extinguishing Fires

(1) Unmetered connections which may be provided for fire protection systems shall be used for no other purpose and shall be independent of any other service connection to the property.

(2) Where water is likely to be drawn from a fire connection or any part of it for purposes other than firefighting, an Authorised Officer may require a water meter to be installed on the fire connection or any part of it.

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(3) Whenever water has been taken from a metered fire connection for firefighting purposes, an Authorised Officer shall estimate the quantity of water used for firefighting purposes in order to estimate an appropriate charge rate. This charge rate will then be shown as a credit to the meter owner's account.

(4) A fire sprinkler system shall be constructed and installed and thereafter maintained in good order to the satisfaction of an Authorised Officer, and shall be so designed and fixed that water cannot be drawn for any other purpose.

(5) In the case of premises outside the district, a connection for a sprinkler system may be provided from a Council main, with the prior consent of Council.

(6) Fire hose reels may be installed only under conditions prescribed by an Authorised Officer.

(7) The cost of making, repairing, and renewing the fire connection from the main to the customer's premises shall be paid and borne by the customer.

(8) An annual licence fee of such amount fixed by resolution of Council shall be paid by the customer to Council in respect of an installation under clause ~~16631~~1063(7).

(9) Water used for the purpose of extinguishing fires will not be charged for.

# Supply Outside Districts

## ~~16631~~1063 Application of Bylaw

(1) Where Council supplies water outside the district and in the area of another Council with the consent of that Council, then for that supply all of the provisions of this Part of this Bylaw shall apply equally to all places, persons, and things outside the district as they apply to the same within the district.

## ~~16641~~1064 Protection of Water Supply

(1) No person shall pollute or cause to be polluted any water that is part of the water supply network in any controlled catchment area or uncontrolled catchment area, or in any part of the water supply network.

(2) In any controlled catchment area or any part of the water supply network, no person shall:

- (a) camp;
- (b) take, depasture, or allow to stray any stock including horses, cattle, sheep, or goats;
- (c) bathe or wash any linen or other thing; or
- (d) deposit any dirt, rubbish, foul liquid, or matter of any kind.

(3) In any controlled catchment area or land held by Council as a water reserve, no person shall, without first obtaining a permit in writing from Council:

- (a) enter;
- (b) hunt, trap, shoot or fish;

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(c) light or maintain any fire;

(d) take any dog;

(e) damage or destroy any trees, shrubs, or other existing cover, or interfere with any property;

(f) take any firearm or weapon of any kind which may be used for the destruction of birds and animals; or

(g) use any pesticide or toxic substances for any purpose whatsoever.

(4) In granting any such permit, Council may impose such conditions as it considers appropriate, and every person to whom any such permit shall have been issued who shall fail to comply with every condition thereof commits an offence against this Part of this Bylaw.

(5) No person shall burn, bury, or otherwise dispose of any refuse or other matter in any catchment that forms part of the water supply network, except with the prior consent of an Authorised Officer and subject to such conditions as are imposed.

## ~~1665~~1065 Carcasses to be Removed

(1) Any person who kills any animal on any controlled catchment area or land held by Council as a water reserve shall remove the carcass thereof from such area, or shall dispose of the carcass as directed by and to the satisfaction of the an Authorised Officer.

## ~~1666~~1066 Permits to be Presented

(1) No person to whom any permit shall have been issued in clause ~~1665~~1065(3) shall enter or leave any controlled catchment area or land held by Council as a water reserve without presenting such permit for inspection by an Authorised Officer if requested or notifying the Authorised Officer of their intention of entering or leaving such area as the case may be.

(2) Every person on any controlled catchment area or land held by Council as a water reserve shall upon demand forthwith produce any such permit approved in clause ~~1665~~1065(3) for inspection by an Authorised Officer.

(3) No permit issued under clause ~~1665~~1065(3) shall be capable of being transferred.

(4) Council may at any time, by notice in writing delivered to the holder, revoke or suspend any such permit for such time as stated in the notice.

## ~~1667~~1067 Against Interference and Obstruction

(1) In any controlled catchment area or any land held by Council as a water reserve:

(a) no person, other than an Authorised Officer, whether they are a holder of any permit issued under the provisions of this Part of this Bylaw or not.

**(b)** every person shall upon the request of the custodian or Authorised Officer immediately leave the controlled catchment area or land held by Council as a water reserve, but shall nevertheless be liable also to be prosecuted for the breach of any of the provisions of this Part of this Bylaw, and the failure to leave shall constitute a further offence;

**(c)** no person shall obstruct or hinder any Authorised Officer in the exercise of any powers vested in them under the provisions of this Part of this Bylaw.

**(2)** In any restricted or open catchment area or any land held by Council as a water catchment:

**(a)** no person shall commit or cause or permit to be committed any act which may interfere with or be likely to interfere with the free and lawful exercise of any rights vested in any other person in any such area;

**(b)** every person shall upon request of Council immediately leave the restricted or open catchment area or land held by Council as a water catchment, but shall nevertheless be liable also to be prosecuted for the breach for any of the provisions of this Part of this Bylaw, and the failure to leave shall constitute a further offence;

**(c)** no person shall obstruct or hinder any Authorised Officer in the exercise of any powers vested in him under provisions of this Part of this Bylaw.

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