

# Kaipara District Council

# Consolidated General Bylaw 2020

**Made by Kaipara District Council by Resolution in Council** [Insert date here]

**Commencement:** [Insert date here]



Kaipara te Orangahui

**KAIPARA  
DISTRICT**

Two Oceans Two Harbours



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<b>Public Places</b>	<b>Part 2</b>
<b>Trading in Public Places</b> <b>(&amp; trading as a Hawker, Mobile Shop or Itinerant Trader)</b>	<b>Part 3</b>
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**Explanatory note:** In this Bylaw, where a reference to another clause in the Bylaw is provided, that reference is always for the relevant clause number within the same Part of the Bylaw that contains the reference, unless otherwise specified. For example, if in Part 3 under clause 4.3 there is a reference to clause 2.1, that reference means clause 2.1 of Part 3 of the Bylaw.

**Relationship between this Bylaw and Acts, Regulations, Council's District Plan, and other bylaws of Council**

Compliance with this Bylaw does not remove the need to comply with all other applicable Acts, Regulations, the Operative District Plan and other bylaws 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.

# Consolidated General Bylaw 2020

## Part 1 - Introduction

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## 1. Purpose

- 1.1 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:
- serving of orders and notices
  - powers of delegation
  - powers of entry onto land
  - licences, suspension of licences (approvals) and revocation of licences
  - removal of works executed contrary to the Bylaw
  - fees and charges
  - offences and breaches and penalties for breach of the Bylaw.
- 1.2 This Part should be read in conjunction with all other Parts of the Consolidated General Bylaw (the 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.

## 2. Interpretation

- 2.1 In this Bylaw, unless the context otherwise requires:

<i>Agent of Council</i>	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.
<i>Animal</i>	Animal means any member of the animal kingdom but does not include humans or dogs.
<i>Approval or approved</i>	means written approval by Council or by any Authorised Officer.
<i>Authorised Officer</i>	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.
<i>Bylaw</i>	means a bylaw of Council in force, made under the provisions of any Act or authority enabling Council to make bylaws.
<i>Berm</i>	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.
<i>Chief Executive</i>	means the Chief Executive of the Kaipara District Council or a person acting in their capacity.
<i>Council</i>	means the Kaipara District Council or any Committee, Community Board, elected member of Council or Officer to which Council has delegated authority to act.
<i>District</i>	means the Kaipara District.

<i>Dwelling or dwelling house</i>	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.
<i>Electronic means</i>	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.
<i>Licence</i>	means any written approval, permission or licence from Council or an Authorised Officer.
<i>Licensed</i>	means holding a licence under this Bylaw or under any Act.
<i>Material or thing</i>	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.
<i>Motor vehicle</i>	has the meaning in section 2(1) of the Land Transport Act 1998.
<i>Nuisance</i>	includes but is not 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.  <b><i>Explanatory note:</i></b> <i>Circumstances that may be deemed a nuisance can include noises and odour associated with the keeping of animals.</i>
<i>Occupier</i>	means a person who inhabits, leases, uses or controls any property or premises, whether as an owner, tenant, licensee or otherwise.
<i>Owner</i>	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.
<i>Offence</i>	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.
<i>Person</i>	includes an individual, a corporation sole, a body corporate, and an unincorporated body.
<i>Poultry</i>	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.

<i>Prescribed fee</i>	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 9 of this Bylaw.
<i>Premises</i>	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.
<i>Public litterbin</i>	means a refuse container made available by the Council for the placement of litter by members of the public.
<i>Public notice</i>	has the meaning in section 5(1) of the Local Government Act 2002.
<i>Publicly notified</i>	means notified by way of a public notice.
<i>Public place</i>	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.
<i>Reserve</i>	has the meaning in the Reserves Act 1977.
<i>Residential activity</i>	means the use of land and buildings by people for the primary purpose of living accommodation.
<i>Road</i>	shall have the same meaning as in section 315 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.
<i>Rural area</i>	means any land that has been zoned Rural in the Operative Kaipara District Plan.
<i>Sign</i>	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 messages on it shall also be considered a sign for the purposes of this part of the Bylaw.
<i>Stock</i>	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.
<i>Private road, footpath and private way</i>	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.
- Vehicle** has the meaning in section 2(1) of the Land Transport Act 1998.
- Writing, written** or any similar term means and includes words printed, painted, engraved, lithographed, or otherwise traced or copied, including by electronic means.

**Explanatory note:** *In this Bylaw, in some instances the meaning of a word has been determined to have the same meaning as provided for that word or term in a stated piece of Legislation or other Regulatory tool. For completeness, in the event of the meaning of a word or term changing in the relevant legislation or regulatory tool, then the meaning of the word or term changes for the purposes of this Bylaw as well.*

- 2.2 Words implying the singular include the plural and vice versa.
- 2.3 The Interpretation Act 1999 applies to this Bylaw.
- 2.4 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.
- 2.5 All Council resolutions made under this Bylaw will be publicly notified in accordance with section 5(3) of the Local Government Act 2002.

**Explanatory Note:** *For the purposes of clause 2.5, every resolution is still required to consider and follow sections 76-81 of the Local Government Act prior to making a resolution.*

### 3. Powers of delegation

- 3.1 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.
- 3.2 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.
- 3.3 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.
- 3.4 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

### 4. Powers of entry for purposes of this Bylaw

- 4.1 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.
- 4.2 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.*

## **5. Licences**

- 5.1 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.
- 5.2 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.
- 5.3 Every application for a licence or permission shall be accompanied by the relevant prescribed fee.
- 5.4 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.
- 5.5 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.
- 5.6 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.
- 5.7 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.
- 5.8 If, following a request for payment, any licence fee due remains unpaid, the licence shall immediately cease to be valid.

## **6. Suspension and revocation of licences or permissions**

- 6.1 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.
- 6.2 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
    - ii. has failed to comply with any of the conditions of the licence
    - iii. is in any way unfit to hold the licence.
  - b. That the premises for which the licence was issued is being used for any purpose other than that stated in the licence, or is in a state of disrepair contrary to the terms of the licence
  - c. That the Bylaw or the conditions of the licence are not being properly observed.



- 6.3 Council may, if it considers that any of the circumstances described in clause 6.2 apply, or if there is no appearance by the licence holder:
- revoke the licence
  - suspend the licence for any specified time
  - amend the terms and conditions of the licence.
- 6.4 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.

## **7. Compliance waiver**

- 7.1 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.
- 7.2 On receipt of an application under clause 7.1 Council may:
- waive the strict observance or performance of any provision of this Bylaw
  - impose such other terms or conditions consistent with the intention and purpose of the Bylaw as Council may think fit.
- 7.3 Except to the extent expressly stated, any waiver granted by Council under clause 7.2 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.

## **8. Documents**

- 8.1 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.
- 8.2 Variation from the exact form prescribed under CLAUSE 8.1 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.

## **9. Fees and charges**

- 9.1 Council may, by resolution, publicly notified:
- charge a fee for receiving and processing an application and issuing a permit under this Bylaw
  - prescribe any charges to be paid for the use of a permit issued under this Bylaw
  - determine situations when permit fees under this Bylaw may be remitted, refunded or waived.
- 9.2 Council may, by resolution, vary any fee in respect of any matter provided for in this Bylaw.

- 9.3 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.
- 9.4 Where any inspection or service for which a fee has been paid under the provisions of clause 9.1 has not been given or made, Council may refund any such fee or portion thereof as it may determine.
- 9.5 The Chief Executive may waive any fee charged for a license, approval or consent under this Bylaw on a case by case basis.

## **10. Orders, notices and service**

- 10.1 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.
- 10.2 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 10.1.
- 10.3 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:
- served on the occupier of the land or buildings
  - 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.
- 10.4 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.
- 10.5 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.

## **11. Offences and breaches**

- 11.1 Any person commits a breach of this Bylaw who:
- does, or causes to be done, or knowingly permits or suffers to be done anything contrary to the provisions of this Bylaw
  - 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
  - does something which under this Bylaw they are required not to do
  - knowingly permits or suffers any condition or thing/s to exist contrary to any provision/s in this Bylaw
  - fails to comply with any notice or direction given to that person under this Bylaw

- 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.

11.2 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.

## **12. Penalties for breach of the Bylaw**

12.1 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
- b. where another enactment specifies the penalty for a breach of the Bylaw, that other penalty.

12.2 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.*

## **13. Savings**

13.1 Any permissions, approvals or other authorisations issued under the General Bylaws 2008 continue to be in force in accordance with their terms, unless re-negotiated, renewed, or cancelled by Council.

## Consolidated General Bylaw 2020

# Part 2 – Public Places

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## 1. Purpose

- 1.1 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
- 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.

## 2. Interpretation

- 2.1 In this Bylaw, unless the context otherwise requires:

<i>Advertising devices</i>	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.
<i>Amusement devices</i>	includes any land-borne inflatable devices, fairground rides and any other mechanically-powered unit that is used for rider entertainment.
<i>Busking</i>	means any transient street entertainer performing for donations.
<i>Infrequent</i>	means no more than once a week on an unsealed road and no more than once a fortnight on a sealed road.
<i>Psychoactive substance</i>	Has the meaning in section 9 of the Psychoactive Substance Act 2013.
<i>Stall</i>	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.
<i>Vehicle crossing</i>	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.
<i>Vaping</i>	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 in the Land Transport (Road User) Rule 2004.

### **3. Public safety and nuisances**

- 3.1 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
  - 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 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
  - i. erect or place any structure on, over or under any public place except in compliance with any other Part of this Bylaw
  - j. 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.
- 3.2 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.

### **4. Wheeled recreation devices**

- 4.1 Council may by resolution publicly notified:
- a. designate areas in which the use of all or specified wheeled recreational devices is prohibited
  - b. add to, amend, or remove areas designated under a.
- 4.2 Except with the prior permission of Council or an Authorised Officer, a person shall not use a wheeled recreational device:
- a. in an area contrary to a prohibition made under clause 4.1

- 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 4.1a. is maintained together with this Bylaw.*

## **5. Obstructing public places**

- 5.1 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.
- 5.2 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.

## **6. Encroachment to be removed upon notice**

- 6.1 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.
- 6.2 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.
- 6.3 Any notice issued under clause 6.2 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.

## **7. Removal of works**

- 7.1 Where a notice served under clause 6.2 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.
- 7.2 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.
- 7.3 The exercise of this authority under clause 6.2 shall not release any such person of any penalty for erecting or permitting the continued existence of any such work or thing.
- 7.4 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.

- 7.5 Subject to clause 7.6 on payment of all Council's costs, including storage where applicable, the lawful owner may claim any work or thing removed under clause 7.1 or 7.3.
- 7.6 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 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 Local Government Act 2002.*

## **8. Damage to public places**

- 8.1 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:
- damage, interfere with, destroy or remove any grass plot, flowerbed, tree, shrub or plant growing there or any inscription or label relating to it
  - pollute, damage, deface or disfigure, apply graffiti, posters or advertising devices to, or interfere with any ornament, statue, building, structure, or facility
  - 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
  - damage or interfere with any natural feature, animal or plant
  - 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
  - drive or park any vehicle in a public place, including footpaths, except in an area set aside for the driving or parking of vehicles
  - remove any sand, soil or other naturally occurring material found in a public place
  - remove any metal or gravel placed in a public place by Council or agent of Council
  - open, damage or obstruct any culvert, drain or sewer on any public place
  - disturb or remove the surface of, any public place.
- 8.2 Any person carrying out authorised works on a public place shall provide reinstatement of the works to a standard approved by an Authorised Officer.

## **9. Placing of articles on public places**

- 9.1 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:
- if they have written approval by Council or an Authorised Officer and subject to any such conditions as may be imposed
  - for the purpose of waste or other collections from the public place authorised by Council
  - if they have approval given under any other Part of this Bylaw or any other bylaw.



## **10. Exposing articles for sale**

- 10.1 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:
- 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)
  - 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)
  - place or carry any placard, board, flag, screen, frame or other device by way of advertisement or any other sign, including any traffic sign
  - 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.

## **11. Vehicle crossings**

- 11.1 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.
- 11.2 No person shall construct, repair, remove, reconstruct, relocate or widen any vehicle crossing without first having obtained a permit from an Authorised Officer.
- 11.3 A permit issued by Council under clause 11.2 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.
- 11.4 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 (6) months, during which time the work shall have been completed, to the satisfaction of an Authorised Officer.
- 11.5 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.
- 11.6 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.
- 11.7 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.

- 11.8 Where a vehicle crossing is required and has not been 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.

## **12. Assembly**

- 12.1 No person shall, without the prior written consent of an Authorised Officer, 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.

## **13. Awnings and blinds**

- 13.1 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.

## **14. Projections on public places not permitted**

- 14.1 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.

## **15. Restrictions on use of barbed wire and electrified fences**

- 15.1 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.
- 15.2 clause 15.1a. shall not apply within any Rural Area, except when the fence borders on or adjoins a footpath.

## **16. Road and building identification**

- 16.1 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.
- 16.2 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 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.
- 16.3 Numbers required by clause 16.2 shall be maintained by the owner or occupier in such a manner as to readily identify the property at all times.
- 16.4 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.

## **17. Animals and stock on public places**

- 17.1 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.
- 17.2 See also Council's Policy on Dogs and Dog Management Bylaw and Part 6 Keeping of Animals, Poultry, Stock and Bees.
- 17.3 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.
- 17.4 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.
- 17.5 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.
- 17.6 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.
- 17.7 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.
- 17.8 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.

- 17.9 Subject to the requirements of clauses 17.1 to 17.8 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.

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

## **18. Vegetation liable to obstruct**

- 18.1 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.

## **19. Additional requirements for reserves**

- 19.1 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.
- 19.2 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.
- 19.3 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.
- 19.4 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.
- 19.5 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.
- 19.6 The exercise of any powers in clause 19 is subject to the Reserves Act 1977.

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## Consolidated General Bylaw 2020

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

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## 1. Purpose

- 1.1 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 3 seeks to:

- a. regulate the conduct of persons selling goods on public places, roads and footpaths
- b. to regulate the conduct of persons using vehicles to sell goods and services to the general public.

## 2. Interpretation

- 2.1 In this Bylaw, unless the context otherwise requires:

*Goods* means any product or service.

*Hawker* means any person who is a permanent resident in the district, who carries or takes any goods for sale to another person, without invitation to call or any previous request or order for such goods. This only refers to goods carried by a person.

*Itinerant trader* means any person who sells goods in the district and:

- a. is not continuously a resident in the district for at least six months
- b. does not own or lease premises in the district for a period of six months or more.

*Mobile shop operator* means the operator of a vehicle, whether self-propelled or not, from which goods, including food are offered, or exposed for sale in a public place, or road reserve, including the carriageway of a road, or from which goods including food may be ordered in a public place, or road reserve, including the carriageway of a road (whether or not in pursuance of any invitation to call with the goods) or from which services are offered for sale in a public place, or road reserve, including the carriageway of a road: but does not include any vehicle used to transport and deliver goods pursuant to a prior order placed for the delivery of the goods.

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

## 3. Licence required

- 3.1 No person shall, without first having obtained a licence, engage in any public place in the sale of goods of any description whatsoever (except as provided in clause 10.1), whether acting on their own account, or on behalf of another person.
- 3.2 All Hawkers, Mobile Shop Operators and Itinerant Traders must have a licence to operate.

## 4. Application

- 4.1 Every person who wishes to obtain a licence to sell goods in a public place or intending to trade as a hawker, mobile shop or itinerant trader shall make a written application in the prescribed form to the Authorised Officer. The information to be supplied by the applicant may include any of the following, but is not restricted to:
- name and address of the applicant
  - name and address of the person(s) selling the goods
  - location/site
  - telephone number of the applicant
  - type of goods for sale
  - time sought for selling
  - type of vehicle(s) and registration number if applicable.
- 4.2 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.

## 5. Licence details

- 5.1 The Authorised Officer in granting any licence may impose conditions. The conditions imposed may include, but not be restricted to, any of the following:
- reason for licence
  - time and frequency
  - duration of the licence
  - location
  - types of goods for sale
  - area available for sale
  - persons entitled to sell
  - safety and hygiene requirements
  - use of signage
  - use of musical chimes or other audible devices for attracting customers
  - litter, cleanliness
  - name and address to be conspicuously displayed
  - site rental.
- 5.2 The holder of a licence must comply with the terms and conditions of the licence when trading in the public place.
- 5.3 Every licence holder shall, notwithstanding the conditions of the licence, upon being requested to do so on reasonable grounds by an Authorised Officer alter his/her site for sale to any other site as indicated by the Authorised Officer.

## **6. Fees**

- 6.1 Council may by resolution prescribe fees for licences and/or site rentals. Fees may differ for any class of licence as prescribed.

## **7. Production of licence**

- 7.1 Every licence holder shall carry the licence granted to them pursuant to clause 5.1 at all times when engaged in the sale of goods and show the licence to any Authorised Officer on demand.

## **8. Conditions of licence**

- 8.1 Every person who trades not in conformity with any of the conditions of their licence commits an offence.

## **9. Licence not transferable**

- 9.1 No licence issued under this Part of the Bylaw shall be transferable to any other person or location, or times except with the written permission of Council on payment of a transfer fee.

## **10. Exemptions**

- 10.1 No licence shall be required under clause 3.1 for the sale of goods:
- a. pursuant to Part 4 of the Fisheries Act 1996
  - b. from a service delivery vehicle including a milk vendor
  - c. pursuant to any trade or calling that Council has approved by resolution as not requiring a licence
  - d. from any market, stall or stand which has a current approval under any other bylaw, legislation or specific resolution of Council.



# Consolidated General Bylaw 2020

## Part 4 – Public Nuisances

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## **1. Purpose**

- 1.1 The purpose of this Part of the Bylaw is to protect the public from nuisance and to promote public health and safety in relation to activities that take place on private property.
- 1.2 This Part of the Bylaw does not apply to land designated by Council to be a disposal site, landfill or transfer station.

## **2. Burning**

- 2.1 A person must not burn any material or thing in such a way as to cause a nuisance in an urban area.
- 2.2 No incinerator, drum or open fire used for burning any material or thing may be situated closer than three (3) metres to any property boundary.

## **3. Vermin and flies**

- 3.1 The owner or occupier of any land or premises shall not keep any material or thing in such manner as to:
  - a. be offensive
  - b. harbour or be likely to harbour rats or vermin
  - c. likely to cause injury to health.
- 3.2 The owner or occupier of any premises on which there are conditions giving rise, or likely to give rise, to the breeding of flies, mosquitoes or other insects which are capable of causing or transmitting disease, must take such action as directed by an Authorised Officer to prevent such conditions. That action may include:
  - a. disinfecting
  - b. spraying or applying larvicide or insecticide
  - c. cleaning
  - d. screening
  - e. removal or destruction of breeding grounds or places as required to prevent breeding taking place, or other processes as directed by an Authorised Officer.

## **4. Offensive smells**

- 4.1 The owner or occupier of any land or premises shall ensure that no condition exists upon such property which causes or is likely to cause an offensive odour capable of being detected beyond the boundary of the premises.

## **5. Dead animal on private premises**

- 5.1 A person must not leave, permit or allow, any dead animal or any vermin on any private premises in such manner as to create a nuisance.

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## Consolidated General Bylaw 2020

# Part 5 – Control of Advertising Signs

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## 1. Purpose

- 1.1 The purpose of this Part is to ensure that advertising signs visible from a public place are erected, maintained, and displayed in a way that ensures public safety, preserves amenity values and maintains aesthetic standards. The Bylaw recognises there is a need to advertise businesses for commerce or promote activities, and events with signage.

## 2. Explanation

- 2.1 This Part of the Bylaw complements rather than duplicates provisions for signs within the Operative Kaipara District Plan. The environmental impacts of signage are considered more fully in the Operative Kaipara District Plan.

## 3. Application

- 3.1 Part 5 of the Bylaw does not apply to:
- traffic, direction, information and naming signs erected by or with the approval of the Council
  - signs indicating hazardous substances used at a hazardous facility
  - signs erected pursuant to any Act or regulation
  - signs that have been erected or sited pursuant to a resource consent
  - place any sandwich board on public land except in accordance with clause 4.2.

## 4. General requirements for siting of signs

- 4.1 No person shall:
- display or erect any sign which does not comply with this Part of the Bylaw unless:
    - pursuant to clause 3.1, this part of the Bylaw does not apply to the sign
    - an exemption to the requirements of this part of the Bylaw has been granted by Council or an Authorised Officer
  - place any poster on any building or structure without the permission of the owner or occupier of that building or structure unless it is designated display board.
  - erect any sign identified in this part of this Bylaw requiring a building consent before that building consent is issued
  - place or allow to remain in place any sign which explicitly or implicitly:
    - is discriminatory or advocates discrimination based on one or more of the prohibited grounds of discrimination set out in the Human Rights Act 1993
    - is objectionable within the meaning of the Films, Videos and Publications Classification Act 1993
    - is offensive, threatening or insulting
    - incites or counsels any persons to commit any offence
  - erect or display a sign in any location where, in the opinion of an Authorised Officer, the sign would create a traffic hazard or traffic safety issue. This includes any sign that:
    - obstructs, obscures or impairs the line of sight of any corner, bend, intersection, vehicle crossing, pedestrian crossing, or view of any traffic control device

- ii. obstructs or hinders the safety or movement of persons or vehicles using the footpath or any other part of the road
- iii. resembles, or is likely to be mistaken for, a traffic control device
- iv. directed at a person driving a vehicle on a road and cannot be read safely by such a person travelling at the legal speed limit of that road
- v. uses any method of illumination that may adversely affect traffic safety, including but not limited to, reflective materials, lasers, flashing or revolving lights
- f. erect or display any sign, including attaching a sign in any way to a pole, fence, street furniture or other public utility structure, in a public place under the control of Council unless approved by an Authorised Officer or by or under any other provision in this Bylaw or by resource consent

4.2 Council may, by resolution, identify streets or areas of the district where sandwich boards may be placed on public land outside the business to which the sandwich board relates. In approving such streets or areas for this purpose Council may impose conditions including the maximum size of the sandwich boards and their placement. Sandwich boards may only advertise services or products available from the business to which they relate.

4.3 Council may prescribe fees for assessing and determining an application for an exemption for any sign that does not comply with this part of this Bylaw.

## **5. Requirements for construction and maintenance of signs**

5.1 All signs and their supporting structures shall be constructed, fixed, placed and maintained so they do not pose a hazard or danger to property or the public. The sign owner and the owner of the land or building on which the sign is placed shall be responsible for the construction, placement and maintenance of that sign.

## **6. Exemptions**

6.1 Where a sign lawfully existed prior to the coming into force of this Bylaw, it may remain in place and be repaired, altered or maintained, provided that such work does not increase its physical size or the extent of non-compliance with this Bylaw. Every sign shall be removed at the expiry of any time set as a condition of a resource consent or approval under this Bylaw or any other enactment.

6.2 Where an Authorised Officer is satisfied that compliance with any requirements of this Part of the Bylaw would be unreasonable or impracticable, an Authorised Officer may grant an exemption for any clause within this Part of the Bylaw and may include such conditions as are considered appropriate

## **7. Removal or repair of signs**

7.1 An Authorised Officer may by written notice require the owner or lease holder of any unsightly, noncomplying, unsafe or unauthorised sign to remove such sign or repair the sign to the standard so as to comply with this Part of the Bylaw, within the period stated in such notice.

- 7.2 Where any person fails to comply with any requirements to alter or remove any sign an Authorised Officer may have the sign altered or removed. The cost incurred in altering or removing the sign shall be recoverable as a debt against the owner of the sign or the owner of the land on or over which the sign was placed.
- 7.3 Council may alter or remove any sign that has been placed on:
- a. any building or structure without the permission of the owner of that building or structure
  - b. any surface, building or structure in a public place in breach of this Bylaw
- and recover the costs of removal from the persons placing the sign or at whose direction the sign was placed.
- 7.4 Any sign removed by Council shall be released to the owner upon payment of the costs incurred in its removal and storage.
- 7.5 Any sign that remains unclaimed for a period exceeding six months or, is not released for a period exceeding six months may be sold or otherwise disposed of by Council. Where such sign is sold, the proceeds of sale shall be applied first towards the payment of the costs referred to above. Any balance shall be paid to the owner on application.

**Explanatory Note:** *Seizure and disposal of any sign needs to follow the process as applicable that is set out under sections 164 -168 as applicable of the Local Government Act 2002.*

## **8. Display boards**

- 8.1 Council or an Authorised Officer may supply or approve the installation of display boards in any public place for the purpose of allowing posters or advertising devices to be displayed announcing forthcoming functions or events and may impose conditions to such approvals.
- 8.2 Any person who has displayed a poster or advertising device on a display board in a public place shall remove the poster or advertising device within 24 hours of the event concluding.
- 8.3 Should a person fail to remove the poster or advertising device when requested, an Authorised Officer or his/her agent may do so, and all expenses incurred by Council in connection with such removal shall be recoverable from those persons.

## Consolidated General Bylaw 2020

# Part 6 – Keeping of Animals, Poultry, Stock and Bees

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## 1. Purpose

- 1.1 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.

## 2. Burning

- 2.1 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.

## 3. Interpretation

- 3.1 In this Bylaw, unless the context otherwise requires:

*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, and includes their young or eggs, 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
- 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.

- 3.2 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.

## 4. Obligations of animal owners in general

- 4.1 The owner or occupier 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.
- 4.2 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.*

## 5. Pig keeping

- 5.1 A person must not keep any pig in an urban area without the prior written approval of an Authorised Officer.

## 6. Stock in urban areas

- 6.1 A person must not keep any stock in an urban area without the prior written approval of an Authorised Officer.

## 7. Poultry keeping

- 7.1 A person must not keep a rooster on any premises in an urban area.
- 7.2 Subject to clause 7.1 a person may not keep more than six (6) head of poultry in an urban area.
- 7.3 Any poultry house located on any premises in an urban area must meet the requirements of clause 4.1, in the opinion of an Authorised Officer.
- 7.4 A person may apply to the Council to keep more than six (6) head of poultry in an urban area.

## 8. Bee keeping

- 8.1 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.
- 8.2 For the avoidance of doubt, clauses 4.1 and 4.2 and 8.1 apply to any keeping of bees in the district, including in a rural area.
- 8.3 A person may keep bees in the urban area as follows:

Property Area	Maximum number of hives
1,000 square metres or less	2
1,001 square metres or greater	4

- 8.4 Council may give written approval to persons to keep additional hives to those permitted under clause 8.3 and may prescribe any conditions, including specifying distances from boundaries, maximum numbers 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 byASUREQuality 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](http://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 training 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.

## **9. Cats**

- 9.1 No person may keep more than five (5) cats of an age greater than three (3) months on any property within the urban area without the written approval of an Authorised Officer.

## **10. Consequences of breach of Bylaw**

- 10.1 Council may remove or alter a work or thing that is, or has been, constructed in breach of this Bylaw.
- 10.2 Council may recover the costs of removal or alteration from the person who committed the breach.
- 10.3 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
  - a. seize animals and bees that are on the premises in breach of this Bylaw
  - b. seize property other than animals and bees that is materially involved in the commission of an offence under this Bylaw.

## Consolidated General Bylaw 2020

# Part 7 – Cemeteries and Crematoria

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## 1. Purpose

- 1.1 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 which 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.
- 1.2 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.

## 2. Interpretation

- 2.1 In this Part of the Bylaw, unless the context other requires:

<i>Cemetery</i>	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.
<i>Closed cemetery</i>	means a cemetery which has been closed by a closing order.
<i>Concrete berm</i>	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.
<i>Crematorium</i>	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.
<i>Removal</i>	means the removal of any body, or the remains of any body, from its burial place. Exhumation has the same meaning.
<i>Exclusive right of burial</i>	means the exclusive right of burial referred to in Section 10 of the Burial and Cremation Act 1964
<i>Authorised officer</i>	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.

- 2.2 Nothing in this Part of the Bylaw shall derogate from any provision of, or the necessity for, compliance with:
- Burial and Cremation Act 1964
  - Health Act 1956
  - Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967

- d. Cremation Regulations 1973
- e. Health (Burial) Regulations 1946.

### 3. Hours of burials

- 3.1 Burials at cemeteries administered by the Kaipara District Council may be held on such days and at such times as the Council shall determine.
- 3.2 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.
- 3.3 No burials shall take place on New Year's Day, ANZAC Day, Good Friday or Christmas Day.
- 3.4 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.
- 3.5 Burials that occur during the weekend will incur additional fees/charges.
- 3.6 Burials may take place at other times than specified in clause 3.2 by special arrangement with the Council and on payment of the prescribed additional fee.

### 4. Notice of burial

- 4.1 The Authorised Officer shall be given at least two (2) working days' notice prior to any burial.
- 4.2 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.
- 4.3 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.
- 4.4 An additional fee may be charged where notice has been received less than two (2) working days prior to burial.

### 5. Burial of persons in financial need

- 5.1 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
  - b. all the prescribed fees are not covered by an Accident Compensation or Government entitlement or subsidy
  - c. the deceased person's relatives are unable or unwilling to pay the prescribed fees.
- 5.2 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.

## 6. Fees

- 6.1 The Council may by resolution, publicly notified, set fees for all services provided for the operation and maintenance of cemeteries and crematoria.
- 6.2 Except as provided for in clause 5.1, burials will only be carried out on payment of all the prescribed fees or suitable financial arrangement acceptable to the Council have been made.
- 6.3 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
    - 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.

## 7. Maintenance of memorials

- 7.1 All memorials, including laminated photographs, shall be kept in proper order and repair by the owner of the plot or their representatives.
- 7.2 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.*

## 8. Physical works associated with plots or other work in any cemetery

- 8.1 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.
- 8.2 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.

## 9. Soliciting trade

- 9.1 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.



## **10. Display of manufacturer's name**

- 10.1 Notwithstanding clause 9.1 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.
- 10.2 The display of the manufacturer's name must be unobtrusive and meet the aesthetic requirements of the Council.

## **11. Photography**

- 11.1 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.
- 11.2 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.

## **12. Tributes**

- 12.1 Flowers placed at time of interment
- a. 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.
  - b. In the case of a designated natural burial area, the grave shall be levelled and the area mulched to encourage the planned native vegetation.
  - c. 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.
- 12.2 Permitted floral tributes
- a. After a grave has been levelled and sown as described in clause 12.1a. 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.
  - b. 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.
- 12.3 Removal and disposal of floral tributes
- a. Any object, or artificial or natural cut flowers, placed or remaining on any grave in contravention of clause 12.2 or which have become unsightly, or any receptacle which has been broken or damaged, may be removed and disposed of by the Authorised Officer.
  - b. The Council shall be under no liability to any person in respect of such removal, destruction or disposal.
  - c. 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.

### **13. Vegetation**

- 13.1 No vegetation shall be planted on any grave or within the cemetery boundaries without the prior consent of the Council.
- 13.2 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.
- 13.3 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.
- 13.4 No person shall plant, cut down or destroy any tree or shrub in any cemetery without the consent of the Council.

### **14. Vehicles**

- 14.1 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.
- 14.2 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.
- 14.3 All vehicles (other than hearses) shall yield unconditional right of way to any funeral procession.
- 14.4 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.
- 14.5 Any person driving a vehicle in a cemetery shall obey all signs or notices concerning traffic movement and parking displayed in that cemetery.
- 14.6 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.
- 14.7 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.
- 14.8 Clause 14.1 to 14.7 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.

### **15. Animals**

- 15.1 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.
- 15.2 Any animal in a cemetery must be under the control of the owner at all times.

### **16. General conduct**

- 16.1 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
- 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.*

## **17. Burials**

### **17.1 Burial warrants**

- a. 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.
- b. A person requiring a burial warrant shall apply to the Council on the approved application form.
- c. 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 8.2.*

## **18. Burials and sale of plots**

- 18.1** 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.
- 18.2** The Council shall determine the size and location of the plots that may be sold and the allocation of the sold plots.
- 18.3** 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.
- 18.4** 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.

18.5 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.

18.6 No person shall place any monument on a grave until all the prescribed fees have been paid.

## **19. Exclusive right of burial**

19.1 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.

19.2 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.

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

19.4 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.

## **20. Physical works associated with plots or other work in any cemetery**

20.1 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 8.2.*

## **21. Transfer of exclusive right**

21.1 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.

21.2 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.

## **22. Burial plots and graves**

### **22.1 Digging plots and graves**

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

- d. 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.
- e. 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.

## **23. Burial of ashes**

- 23.1 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.
- 23.2 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 23 also applies to burial of ashes.*

## **24. Removal**

- 24.1 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.
- 24.2 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.
- 24.3 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.
- 24.4 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.

## **25. Construction and Installation**

- 25.1 Minimum structural design, installation and renovation for all monuments shall be those specified in New Zealand Standard for Headstones and Cemetery Monuments NZS4242:2018.
- 25.2 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.
- 25.3 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.
- 25.4 All monuments will be constructed in accordance with sound engineering principles and will meet the aesthetic requirements of the Council.

- 25.5 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.
- 25.6 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.
- 25.7 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.*

## 26. Work practices

- 26.1 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.
- 26.2 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.
- 26.3 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.

## 27. Safety

- 27.1 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.
- 27.2 Any headstone that an Authorised Officer considers to be unsafe may be removed in accordance with clause 8.2.

## 28. Monumental and upright memorial cemeteries

- 28.1 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.
- 28.2 Monumental cemeteries may inter either ashes or full body remains.
- 28.3 The following criteria are applicable to the construction of monuments in monumental cemeteries:
- 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
  - 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 950mm above ground level
  - 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.

## **29. Removal of monuments**

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

## **30. Authorisation**

- 30.1 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.

***Explanatory Note:** This excludes monuments which are the responsibility of the exclusive rights person representative in accordance with clause 8.2.*

## **31. Types of cemetery**

- 31.1 Council may, by Council resolution publicly notified, declare any part of a Council Cemetery to be of a particular kind.

## **32. Lawn cemetery**

- 32.1 Lawn area cemeteries may inter either ashes or full body remains.
- 32.2 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.
- 32.3 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.

## **33. Ash berm and ash garden berm areas**

- 33.1 An authorised officer may approve the scattering of ashes within specified designated areas. This may be within a cemetery or on other public land.

- 33.2 Plaques may be placed on a memorial wall or in the ground after being approved by an authorised officer.

### **34. RSA and services cemeteries**

- 34.1 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 34.1 (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.
- 34.2 Commemoration shall be as described in the above-mentioned publication, or by other means as agreed with the Office of Veteran's Affairs.
- 34.3 The Council may waive the prescribed fee payable for the exclusive right of burial in the Services Cemeteries. Other prescribed fees shall be payable.

### **35. Closed cemeteries**

- 35.1 As deemed appropriate, the Council may apply to officially close cemeteries under Part 6 of the Burial and Cremation Act 1964.
- 35.2 The Council shall maintain such cemeteries in perpetuity, subject to conditions as set under Part 6 of the Act.

### **36. Natural burial areas**

- 36.1 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:
    - 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.

### **37. Crematoria**

- 37.1 The Cremations Regulations 1973 are applicable to all crematoria within the District.
- 37.2 Subject to clause 39.3 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.
- 37.3 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.

### **38. Records**

- 38.1 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.

### **39. Offences and breaches**

- 39.1 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.
- 39.2 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.
- 39.3 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
  - 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
  - c. does not refrain from doing anything which under this Bylaw they are required to abstain from doing
  - d. knowingly permits or suffers any condition of or things to exist contrary to any provision contained in this Bylaw
  - e. refuses or neglects to comply with any notice duly given to him/her under the Bylaw
  - 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
  - g. fails to comply with any notice or direction given under this Bylaw.



#### 39.4 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.

39.5 A notice issued under clause 40.3 or 40.4 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.

### 40. Penalties for breach of Bylaw

40.1 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.

40.2 Any person who breaches the following clauses of this Bylaw, will be liable to the maximum fine available in accordance with section 16(i) of the Burial and Cremation Act 1964:

- a. Clause 9 offences relating to soliciting trade
- b. Clause 14 offences relating to vehicles
- c. Clause 15 offences relating to animals and dogs
- d. Clause 16 offences relating to misconduct
- e. Clauses 24, 25 and 26 offences relating to authorised reopening of graves
- f. Clauses 28, 29 and 30 offences relating to memorials.

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

40.4 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.

40.5 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.

### 41. Removal of works

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

41.2 The Council may recover the costs of removal or alteration under clause 39.4 from the person who committed the breach.

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

### 42. Officers to continue in office

42.1 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.

### **43. Dispensing power**

- 43.1 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.
- 43.2 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 43.1.
- 43.3 Except if expressly granted otherwise, a dispensation by the Council under clause 43.1 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.

## Consolidated General Bylaw 2020

# Part 8 – Traffic

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## 1. Purpose

- 1.1 The purpose of this Part of the Bylaw is to set requirements for parking and control of vehicular or other traffic on any road under the control of Council within the Kaipara district.

Schedules to this Bylaw may be amended from time to time by Council. Up-to-date register of resolutions are held at the Council office.

**Explanatory note:** *This Bylaw does not apply to roads under the control of the NZ Transport Agency. Speed Limits have their own Bylaw, please refer to the Kaipara District Council Speed Limits Bylaw 2018.*

## 2. Interpretation

- 2.1 In this Bylaw, unless the context otherwise requires:

*Berm and grass verge* means any part of the land lying between the formed carriageway of the road and the adjacent road boundary.

*Class of vehicle* means a particular grouping of vehicles defined by reference to any common feature and includes:

- vehicles of type, description, weight, size or dimension
- vehicles carrying specified classes of load by the mass, size or nature of such loads
- vehicles carrying no fewer than a specified number of occupants
- vehicles used for specified purposes
- vehicles driven by specified classes of persons
- carpool and shared vehicles
- vehicles displaying a relevant permit authorised by Council.

*Disabled person* has the same meaning as in section 2 of the Disabled Persons Community Welfare Act 1975.

*Enforcement Officer* has the meaning in section 2(1) of the Land Transport Act 1998.

*Emergency vehicle* means a vehicle used for attendance at emergencies and operated:

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

*Footpath* means as much of any road or public place that is laid out or constructed by the authority of Council for pedestrian use; and includes the edging, kerbing and channelling thereof.

*Goods service vehicle* means a motor vehicle used or capable of being used in a goods service for the carriage of goods, but does not include a vehicle specified as an exempt goods service vehicle in regulations or rules made under the Land Transport Act 1998.

<i>Immobile vehicle</i>	means any vehicle that has no effective motor power in or attached to it, or cannot be driven safely, and includes boats, trailers, caravans and the shell or hulk of a vehicle.
<i>Large passenger service</i>	means a passenger service provided in a large passenger service vehicle.
<i>Large passenger service vehicle</i>	means any passenger service vehicle that is designed or adapted to carry more than 12 people (including the driver).
<i>Mobility parking permit</i>	means a disabled person's parking permit or mobility parking permit: <ol style="list-style-type: none"> <li>issued by CCS Disability Action Incorporated or Sommerville Centre for Special Needs Wanganui Incorporated</li> <li>approved by an Authorised Officer.</li> </ol>
<i>Parking and park</i>	means: <ol style="list-style-type: none"> <li>in relation to any portion of a road where parking of the vehicle is permitted but subject to payment of a charge</li> <li>in relation to any other portion of any land or building, the stopping or standing of a vehicle upon that portion of land or building.</li> </ol>
<i>Parking place and parking</i>	means a road or part of a road or any zone or other place, including a building, provided by Council where vehicles, or any class of vehicles, may stop, stand or park.
<i>Parking warden</i>	means any parking warden appointed by Council to hold the office of parking warden under section 128D of the Land Transport Act 1998.
<i>Passenger service</i>	has the meaning in section 2(1) of the Land Transport Act 1998.
<i>Passenger service vehicle</i>	has the meaning in section 2(1) of the Land Transport Act 1998.
<i>Road</i>	means: <ol style="list-style-type: none"> <li>a street</li> <li>a beach</li> <li>a place to which the public have access, whether as of right or not</li> <li>bridges, culverts, gates and fords forming part of a road or street, or a place referred to in sub clause (c) which is under the control of Council.</li> </ol>
<i>Small passenger service</i>	means a passenger service provided in: <ol style="list-style-type: none"> <li>a small passenger service vehicle</li> <li>a vehicle designed or adapted to carry 12 or fewer people (including the driver) that is provided by one of the passengers being carried</li> </ol>

- c. a vehicle designed or adapted to carry 12 or fewer people (including the driver) that is being used in a facilitated cost-sharing arrangement.

*Small passenger service vehicle* means any passenger service vehicle that is designed or adapted to carry 12 or fewer people (including the driver)

*Transport station* has the meaning in section 591(6) of the Local Government Act 1974

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

- a. Land Transport Act 1998 or any Act passed in amendment of or substitution of that Act.
- b. Any regulations or rules made under the Land Transport Act 1998 or any regulations or rules made in amendment of or substitution for those regulations or rules.

### **3. Resolutions made under this part of the Bylaw**

**3.1** The power to make a resolution under this Bylaw includes the power:

- a. to control, restrict or prohibit the matter or thing generally, or for any specified classes of case, or in a particular case
- b. to apply the control, restriction or prohibition to all vehicles or traffic or to any specified class of vehicles or traffic
- c. to apply the control, restriction or prohibition of any specified road or roads or part of a road or roads under the control of Council
- d. to apply the control, restriction or prohibition at any specified time or period of time.

**3.2** The power for Council to make a resolution includes the power to amend or revoke the resolution or to revoke it and replace it with another or to reinstate an earlier resolution. In the event of any conflict between resolutions the most recent resolution shall prevail.

### **4. Stopping, standing and parking**

**4.1** Council may, by resolution publicly notified:

- a. prohibit the stopping, standing or parking of vehicles on any roads
- b. limit the stopping, standing or parking of vehicles on any road to vehicles of any specified class.

**4.2** Council may, by resolution publicly notified, prohibit, restrict or control the parking of vehicles in any parking place (including on a reserve) or transport station or any part or parts of such parking place or transport station.

**4.3** Every resolution under clause 4.2 may:

- a. be made in respect of any specified class of vehicle

- b. prescribe the times, manner and conditions for the parking of the vehicles or classes of vehicle
  - c. prescribe:
    - i. any charges to be paid for the use of the parking place or transport station
    - ii. the manner by which parking charges must be paid by the use of parking machines or electronic payment or in any other specified manner.
- 4.4 In relation to a parking space within a time-limited area, a vehicle first parked then manoeuvred within and parked again in that space shall be deemed to have continuously parked in that location until it has been entirely removed from that parking space.

## **5. Mobility parking**

- 5.1 Council may, by resolution publicly notified, specify any parking space as a mobility parking space, and may prescribe any time limits and parking charges for vehicles parking in the mobility parking space.
- 5.2 A person must not park a vehicle in a mobility parking space unless:
- a. the vehicle is lawfully displaying a mobility parking permit
  - b. the vehicle is being used to convey a disabled person or to pick up or drop off a disabled person.

## **6. Electric charge stations**

- 6.1 Council may, by resolution publicly notified, specify any parking space as an electric charging station parking space.
- 6.2 A person must not stop or park any vehicle on any electric charging station parking space unless the vehicle is an electric vehicle which is in the course of being charged.

## **7. Immobile vehicles**

- 7.1 Except with the written permission of an Authorised Officer given in respect of any immobile vehicle and in compliance with any conditions subject to which permission is given, a person must not park an immobile vehicle on any road or other land under the control or ownership of Council, for a period exceeding seven (7) days. After seven (7) days the immobile vehicle is required to be permanently removed.
- 7.2 If after seven (7) days, the owner or person in charge of any immobile vehicle referred to in clause 7.1 cannot be located or refuses to remove the immobile vehicle, subject to sections 356 to 356B of the Local Government Act 1974, section 113 of the Land Transport Act 1998 and any other applicable legislation, Council may take such reasonable steps as it considers appropriate to remove the vehicle from the road or land, and may recover the costs of doing so.

## **8. General parking restriction**

- 8.1 Except as directed by a police officer, enforcement officer, parking warden, or except in a traffic emergency, a person must not park any vehicle or permit any

vehicle to remain parked on any road, parking place, transport station or reserve, or any part or parts of such road, parking place, transport station or reserve contrary to this Part of the Bylaw or a resolution made under this Part of the Bylaw.

- 8.2 A person must not upon any berm or road reserve in an urban area:
  - a. drive or park any vehicle
  - b. cause or permit any vehicle to be driven or parked.
- 8.3 A person must not park a vehicle in a parking space so that any part of the vehicle extends beyond the marked space or is not entirely within the space.
- 8.4 Notwithstanding clause 8.2, if, because of its size, it is necessary for a vehicle to occupy more than one adjoining parking space, it may do so.
- 8.5 A person must not park any vehicle in a parking space beyond the maximum time period for parking in that parking space.
- 8.6 A person must not, without approval from an Authorised Officer, park in a parking space where parking is temporarily prohibited by an Authorised Officer using signs or cones.

## **9. Selling vehicles on the road**

- 9.1 A person must not use any road or public place for the parking of any vehicle for sale, exhibition, demonstration, advertisement, signage or storage of that vehicle, without prior written approval from an Authorised Officer and in accordance with any conditions placed on any such approval.
- 9.2 Council may, by resolution publicly notified, specify and identify places where the parking of any vehicle for sale shall be permitted.

## **10. Goods service vehicles**

- 10.1 A person must not use any goods service vehicle for the purpose of delivering or picking up any parcels or goods to or from the front entrance of any business premises, if there is vehicular access available to the rear entrance of the premises either by service lane, loading docks, private right-of-way, or lane, yard or otherwise.
- 10.2 Council may by resolution:
  - a. determine any road or part of a road or any parking space to be a loading zone
  - b. specify the class(es) of vehicle that may use the loading zone
  - c. prescribe the maximum length of time any vehicle or class of vehicle may park in a loading zone.
- 10.3 A person must not use a loading zone in contravention of a prohibition or restriction made under clause 10.2.

## **11. Weight restricted bridges**

- 11.1 Council may by resolution publicly notified:
  - a. prohibit or restrict any specified classes(s) of vehicles from using any particular bridge under its control within the district



- b. specify weight limits for vehicles that may use a particular bridge that is under the control of Council and the conditions under which vehicles of a particular weight may use that particular bridge.

11.2 A person may apply to Council to use a particular weight restricted vehicle on a particular bridge contrary to clause 11.1. An Authorised Officer may approve such use and set such conditions as they consider appropriate when allowing any approvals.

## **12. One-way roads**

12.1 Council may by resolution publicly notified prohibit the driving of vehicles or riding of any horse or bicycle along any road except in one specified direction only.

12.2 No person shall drive a vehicle, horse or bicycle other than in the direction specified under clause 12.1.

## **13. Left or right turns and U-turns**

13.1 Council may by resolution prohibit:

- a. vehicles or classes of vehicles on any road from turning to the right or to the left or from proceeding in any other direction
- b. vehicles turning from facing or travelling in one direction to facing or travelling in the opposite direction (performing a U-turn) on specified roads.

13.2 A person must not turn a vehicle to the left, or to the right, or perform a U-turn, or proceed in any other direction on any road where Council has prohibited or restricted such movements.

## **14. Routes and manoeuvres on roads**

14.1 Council may by resolution prescribe for traffic or specified classes of traffic routes that must be followed or any turning movements or manoeuvres that must be undertaken at an intersection, or on a road or cycle path.

14.2 A person must not use a road or cycle path in a manner contrary to a prohibition or restriction made by Council.

## **15. Traffic control by size, nature or goods (including heavy vehicles)**

15.1 Council may by resolution prohibit or restrict the use of roads as unsuitable for the use of any specified class of traffic or any specified class of motor vehicle due to their size or nature or the nature of the goods carried.

15.2 A person must not use a road contrary to a prohibition or restriction made by Council.

15.3 If in the opinion of Council, it is safe to do so, Council may permit a vehicle to use any road in contravention of a prohibition or restriction made under this clause for the purpose of:

- a. loading or unloading goods or passengers at any property whose access is by way of the road

- b. providing an emergency service in or near a road from which it has been prohibited and for which alternative access is not available
- c. undertaking maintenance on a road from which it has been prohibited and for which alternative access is not available
- d. undertaking maintenance of a network utility provider's assets on or near a road from which it has been prohibited and for which alternative access is not available.

## **16. Temporary speed restrictions**

- 16.1** An Authorised Officer may temporarily restrict the use of or speed limit of, or class of vehicle which may use any part of any road or any other vehicle access way under the jurisdiction of the Council. Any such restriction shall be defined by the display of temporary warning signs in accordance with the Land Transport Act 1998.

## **17. Road works**

- 17.1** Without limiting the Land Transport Act 1998, any vehicle being used for the purpose of maintenance or construction of roading or of any other utility or otherwise with permission of an Authorised Officer, may be driven or parked contrary to any restriction in force under this Part of this Bylaw, so long as that is with due consideration for other road users.

## **18. Damage to signs**

- 18.1** A person must not interfere with, damage or remove any infrastructure associated with land transport and the provision of roading services. This includes the road structure and surface, guardrails and sightrails, streetlights, fences, signs, markers and roadmarking. Council may recover the costs incurred from such damage, interference or removal of its roading infrastructure.

## **19. Exemptions and dispensations**

- 19.1** The driver or person in charge of the following emergency vehicles shall be exempt from the provisions of this Bylaw for a vehicle used under the following conditions:
- a. an ambulance being used in an emergency response.
  - b. a fire response vehicle engaged in an emergency response.
- 19.2** The driver or person in charge of the following vehicles shall be exempt from the parking and no stopping provisions of this Bylaw for a vehicle used under the following conditions:
- a. elected members or employees of Council who are at the time engaged on official Council business and who display the appropriate exemption card in a readily visible position or are driving in a vehicle marked as being the property of Council.
  - b. where any vehicle is engaged in a public work at that place, where:
    - i. no other practicable alternative is available
    - ii. the vehicle is being used with due consideration to other road users
    - iii. the use of the vehicle is reasonably necessary for the purposes of the public work.
  - c. Any authorised vehicle engaged in the collection of or delivery of money or other valuable items to any bank.

- d. Volunteer firefighters' personal vehicles shall be exempt from parking restrictions where Council has issued permits to allow parking contrary to this Bylaw. Council may impose conditions on the use of the permit, including specifying parking areas or parking spaces where the permit applies. Any permit may be cancelled by Council at any time.

## 20. Offences and penalties

- 20.1 Without limiting clause 12 of Part 1 of this Bylaw and any enforcement powers under the Land Transport Act 1998, every person commits an offence against this Part of this Bylaw and is liable for the applicable penalty who:
- a. commits or causes to be committed, any act contrary to this Part of the Bylaw or any resolution made under this Part of this Bylaw
  - b. fails to comply in all respects with any prohibition or restriction or direction or requirement indicated by the lines, markings, traffic signs and other signs or notices laid down, placed or made or erected on or upon any road, parking place, reserve or other places controlled by Council pursuant to any of the provisions of this Part of this Bylaw or any resolution made under this Part of this Bylaw
  - c. fails to comply with any condition, duty, or obligation, imposed by this Part of this Bylaw or by any resolution made under this Part of this Bylaw
  - d. obstructs or hinders any Authorised Officer in the performance of any power or duty conferred upon him or her by this Part of this Bylaw or by any resolution made under this Part of this Bylaw.

## 21. Removal of vehicles and items in breach of Bylaw

- 21.1 Where any item or any vehicle is parked on any public place or any road, berm, footpath parking place or transport station in contravention of this Bylaw, Council may give notice to the owner to immediately remove such item or vehicle to any other place. Where the owner fails to comply with the notice given under this clause, the Council may take such action as it considers appropriate to remove such items at the owners cost, which may include:
- a. a towage fee for the removal of the item or vehicle
  - b. reasonable storage charges on a daily basis until the item or vehicle is collected as specified in any Regulations or Notices made pursuant to the Land Transport Act 1998.

**Explanatory Note:** *Removal and disposal of vehicles are to be undertaken in accordance with the relevant provisions in the Local Government Act 1974, Local Government Act 2002 and/or Land Transport Act 1998.*

## 22. Savings

- 22.1 Any resolution, approval, permit or other act of authority made under any Traffic Bylaw of the Council, which is current at the time this Bylaw comes into force, remains in force on its terms until amended, replaced or revoked by resolution of Council. These include the previous schedules of the General Bylaws 2008, being:
- Schedule A      Parts of Carriageway covered by No Stopping Areas

Schedule B	Parts of Carriageway covered by Parking Restrictions
Schedule C	Parts of Carriageway covered by Operation Mobility Carparks
Schedule D	Give way and Stop Signs
Schedule E	Parts of Carriageway covered by Parking Restrictions – Bus stops/taxi stands

**Explanatory Note:** *The Schedules are not themselves part of the Bylaw but are a record of resolutions made by the Council under this Bylaw and former Bylaws.*

## Consolidated General Bylaw 2020

# Part 9– Solid Waste

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## 1. Purpose

### 1.1 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.

### 1.2 Relevant Acts

- a. Local Government Act 2002
- b. Waste Minimisation Act 2008
- c. Litter Act 1979
- d. Health Act 1956

## 2. Interpretation

### 2.1 In this Part of the Bylaw, unless the context otherwise requires:

- Approved container* means any mobile bin, plastic bag or multi-wallpaper 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.
- 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:
- 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
  - b. is not diverted material
  - c. includes natural materials such as clay, soil and rock, and other inert materials such as concrete or brick that are free of:
    - i. combustible, putrescible, degradable or leachable components
    - ii. hazardous waste
    - iii. products or materials derived from hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices
    - iv. materials that may present a risk to human health or the environment
    - v. liquid waste.
  - d. has less than 2% by volume by load of tree or vegetable matter.

<i>Clean fill site</i>	means the land used for the disposal of clean fill material and other hard fill material.
<i>Council collection point</i>	means a place publicly notified by Council as a place where waste and/or recycling may be placed for collection, subject to this bylaw.
<i>Deposit</i>	means to cast, place, throw or drop any waste or diverted material and <i>deposited</i> has the equivalent meaning.
<i>Disposal</i>	has the meaning given by the Waste Minimisation Act 2008.
<i>Diverted material</i>	has the meaning given by the Waste Minimisation Act 2008.
<i>Donated goods container</i>	means a container approved by the Council for the collection of donated goods.
<i>Event</i>	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.
<i>Food waste</i>	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.
<i>Green waste</i>	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.
<i>Hazardous waste</i>	means waste that: <ul style="list-style-type: none"> <li>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</li> <li>b. meets the definition for infectious substances included in the Land Transport Rule: Dangerous Goods 2005 and NZ Standard 5433:2012 Part 1 &amp; Part 2 Transport of Dangerous Goods on Land</li> <li>c. meets the definition for radioactive material included in the Radiation Safety Act 2016.</li> </ul>
<i>Household waste</i>	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.
<i>Illegal dumping</i>	means the placement of any waste onto private or public land where no licence or lawful approval exists to place or accept such waste.



	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.
<i>Inorganic waste</i>	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: <ol style="list-style-type: none"> <li>collection from a public place by Council</li> <li>collection from any premises by Council</li> <li>delivery to a resource recovery facility.</li> </ol>
<i>Litter</i>	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.
<i>Managed fill site</i>	means land used for the disposal of soil with low levels of contamination.
<i>Manager</i>	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.
<i>Mono-fill site</i>	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.
<i>Multi-unit building</i>	means a building which contains more than one separate household.
<i>Organic waste</i>	includes green waste and food waste.
<i>Other hard fill material</i>	means materials other than natural hard fill material specified by Council under clause 27 as suitable for disposal at a clean fill site.
<i>Prohibited waste</i>	means waste containing: <ol style="list-style-type: none"> <li>any material capable of causing injury to any person or animal unless it is sufficiently contained to prevent injury</li> <li>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</li> <li>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</li> <li>any liquid or any viscous fluid</li> <li>any radioactive wastes, excluding domestic smoke detectors</li> <li>any used oil and lead-acid batteries</li> <li>any hazardous waste</li> </ol>

- h. medical waste (as defined in New Zealand Standard 4304:2002 Management of Healthcare Waste)
- i. any material prohibited by Council under clause 21.

<i>Recovery</i>	has the meaning given by the Waste Minimisation Act 2008
<i>Recyclables</i>	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.
<i>Recycling</i>	has the meaning given by the Waste Minimisation Act 2008.
<i>Resource recovery facility</i>	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.
<i>Reuse</i>	has the meaning given by the Waste Minimisation Act 2008.
<i>Trade waste</i>	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.
<i>Transfer Station</i>	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.
<i>Waste</i>	has the meaning given by the Waste Minimisation Act 2008.
<i>Waste collector</i>	means any person who collects or transports waste and includes commercial and non-commercial collectors and transporters of waste.
<i>Waste operator</i>	means a person who owns or manages a landfill site, clean fill site, managed fill site, mono-fill site or a resource recovery facility.
<i>Waste Management and Minimisation Plan</i>	means the waste management and minimisation plan adopted by Council under section 43 of the Waste Minimisation Act 2008.

- 2.2 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.
- 2.3 Explanatory notes and attachments are for information purposes only and do not form part of this bylaw.
- 2.4 The Interpretation Act 1999 applies to this Bylaw.

### **3. General compliance with Bylaw**

- 3.1 No person may deposit, discard, dispose of, collect, transport, sort, store or process waste other than in accordance with this Bylaw;
- 3.2 To avoid doubt, compliance with this Bylaw does not remove the need to comply with all other applicable Acts, regulations, and bylaws.

### **4. Household waste**

#### **4.1 Ownership of Waste Stream**

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

- 4.2 The occupier and the manager of any premises is responsible for any waste generated on the premises until it has been collected.

### **5. Accumulation of waste**

- 5.1 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.
- 5.2 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
  - 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.

### **6. Approved containers**

- 6.1 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.
- 6.2 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.
- 6.3 Occupiers shall not leave an approved container on the berm or at the Council collection point earlier than the collection day.
- 6.4 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.

## **7. Council supplied approved containers**

- 7.1 Council may either directly or by way of private contract, supply approved containers to individual properties.
- 7.2 Any approved containers supplied in accordance with 6.1 may be registered against specific properties and shall remain at that property.
- 7.3 Approved containers no longer required must be returned by the owner of the property to Council.

## **8. Use of approved containers**

- 8.1 Where the approved container provided by Council pursuant to clause 6.1 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 interfere 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.
- 8.2 Where the approved container provided by Council pursuant to clause 6.1 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.

## **9. Private waste collection and placement of approved containers**

- 9.1 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.

## **10. Deposit of certain materials in an approved container is prohibited**

- 10.1 No prohibited waste may be deposited in an approved container.

## **11. Owner of multi-unit building to manage waste**

- 11.1 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.
- 11.2 The approved container(s), as stipulated in a waste management and minimisation plan provided in accordance with clause 10.1 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.

## 12. Trade waste

- 12.1 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.
- 12.2 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.
- 12.3 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.
- 12.4 To avoid doubt, Council is not obliged to accept for disposal any trade waste, or any particular component or type of trade waste.
- 12.5 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.*

## 13. Collection by Council

- 13.1 No trade waste will be removed or disposed of by Council, unless the waste is contained within an approved container, at an approved location.

## 14. Prohibited or hazardous waste

- 14.1 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.
- 14.2 No person shall place any prohibited or hazardous waste in a public place.
- 14.3 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
  - d. any other information needed to assess the environmental and operational impact of its disposal.
- 14.4 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.
- 14.5 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.*

## 15. Recycling

- 15.1 Council may arrange for the collection of specified recyclable material.

- 15.2 Council may by resolution determine the items which are recyclable and that will be either collected by
- 15.3 Council or accepted at any Council recycling station.
- 15.4 Council may supply to occupiers an approved container for the recyclable materials to be placed in. Clause 6 applies to any such containers.
- 15.5 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.
- 15.6 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.
- 15.7 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.
- 15.8 All private recycling operators are required to be licensed in accordance with this bylaw.

## **16. Collection and transportation of waste**

- 16.1 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.

## **17. Restrictions on waste collection operations**

- 17.1 All waste collectors require a Waste Collection licence.
- 17.2 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.
- 17.3 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 thirty (30) days. If any such waste collector 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 seven (7) days.
- 17.4 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 (5) years of the Bylaw coming into force, whichever is the earlier.

## **18. Application for licence**

- 18.1 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.
- 18.2 The holder of an existing licence may apply to Council for a renewal of that licence.

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

18.4 A licence is personal to the licence holder and is not transferable.

## **19. Consideration of application for licence**

19.1 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
- i. the specifications of the vehicles, equipment and approved containers to be used for the collection, transportation or disposal of waste.

## **20. Conditions of licences and use of a public place for collection of waste**

20.1 A licence under clause 17 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
- e. 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
- f. requirements to ensure the correct separation of waste and recyclable materials into approved containers
- g. the locations, access times and conditions of use of Council collection points



- g. duration of licence
- h. any other operational matter required for the safe and efficient operation of a collection service from a public place.

**20.2** 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.

**20.3** 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 (5) 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
- 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 logbooks 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
  - iv. provision of itemised recycling volume data.

**20.4** 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
- e. type and capacity of approved containers collected.

## **21. Controls for the collection, transportation and disposal of waste**

**21.1** 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
- 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
- j. the times when approved containers may be placed on or retrieved from a public place.

**21.2** Any control specified by Council under clause 21.1:

- a. must, be made by a Council resolution that is publicly notified
- 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 21.1 may relate to collection of inorganic waste.

## **22. Waste management for events at Council reserves and facilities**

**22.1** 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.

**22.2** 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
- 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.

**22.3** The organiser of an event must comply with the approved Waste Plan for that event.

## 23. Nuisance

### 23.1 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
- c. dispose of any waste on any premises except at a Council approved landfill site, clean fill site, managed fill site, mono-fill site.

## 24. Donated goods containers

### 24.1 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 ten (10) metres of public place.

must obtain a licence to do so from the Council in accordance with clause 17 of this Bylaw.

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

### 24.3 The licence holder must comply with any conditions of the licence.

### 24.4 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
- b. accumulating on a public place outside of a donated goods container.

### 24.5 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 24.4.

## 25. Litter and illegal dumping

### 25.1 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
  - 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
- (f) damage any public litterbin or public recycling litterbin.

25.2 No person may undertake illegal dumping of waste within the Kaipara district.

## 26. Transfer stations

26.1 A transfer station must be authorised by Council as a disposal site.

26.2 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
- e. any other matter which Council may consider necessary or desirable as determined by any such resolution.

26.3 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.

***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.*

## 27. Establishment and control of other disposal sites

27.1 A waste disposal sites must be authorised by Council as a disposal site.

27.2 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
- e. any other matter which Council may consider necessary or desirable to determine by any such resolution.

27.3 All persons entering a disposal site shall comply with the relevant rules and requirements made in accordance with clause 27.1 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.

## **28. Removal of material from disposal site**

28.1 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.

## **29. Solid waste policies**

29.1 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
- 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.

## **30. Non-compliance with conditions of a licence**

30.1 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
  - ii. suspension of the licence
  - 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
- 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.

### **31. Non-compliance with public place waste collection conditions**

- 31.1 Where a person does not comply with clauses 6,7,8,10,14 or 15, the waste collector may:
- 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
  - 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
  - withdraw or suspend the collection service provided by the waste collector to that person.
- 31.2 Where a person does not comply with clauses 6,7,8,10,14 or 15, Council may:
- prosecute or issue an infringement notice for any offence that may have been committed under the Litter Act 1979
  - 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.
- 31.3 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.

### **32. Non-compliance with controls for Council collection points**

- 32.1 Where a person does not comply with a control made by Council under clause 21 the Council may:
- issue a trespass notice to that person to prevent them from using the Council collection point
  - suspend that person's use of any waste collection service provided by or on behalf of Council
  - prosecute or issue an infringement notice for any offence that may have been committed under the Litter Act 1979
  - 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.

### **33. Offences and penalties**

- 33.1 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.

### **34. Exceptions, revocation and saving provisions**

- 34.1 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.

34.2 A product stewardship scheme accredited under the Waste Minimisation Act 2008 may be exempted from the requirements of this Bylaw.

## Consolidated General Bylaw 2020

# Part 10 – Water Supply

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## 1. Purpose

- 1.1 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.

## 2. Interpretation

- 2.1 In this Part of the Bylaw, unless the context otherwise requires:

<i>Air gap separation</i>	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.
<i>Air gap separator</i>	means a physical break between a supply pipe and a receiving vessel.
<i>Approved</i>	means approved by an Authorised Officer.
<i>Backflow</i>	means a flow of water or other liquid through any service pipe or supply pipe in a reverse direction to the normal supply flow.
<i>Backflow prevention device</i>	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.
<i>Check valve</i>	means a valve designed to prevent flow in the reverse direction to normal flow.
<i>Controlled catchment area</i>	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.
<i>Customer</i>	means a person who has the right to use or direct the manner of use of water supplied by Council to any premises.
<i>Double check valve</i>	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.
<i>Direct connection</i>	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.
<i>Domestic</i>	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.
<i>Engineering Standards</i>	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.

<i>Extraordinary supply</i>	means any water supplied from the water supply network and not used for the purpose of an ordinary supply
<i>Fire hose reel</i>	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.
<i>Fire sprinkler system</i>	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.
<i>Hydrant</i>	means a fitting in a street or other public place with a nozzle by which a hose may be attached to public water supply.
<i>Meter</i>	means a device for the purpose of measuring the volume of water consumed.
<i>Ordinary supply</i>	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.
<i>Point of supply</i>	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.
<i>Potable</i>	has the meaning in section 69G of the Health Act 1956.
<i>Public water supply</i>	means a reticulated water system that supplies water to properties and is owned by Council.
<i>Quick closing valves</i>	means a kind of pressure reducing valve in which the automatic process control valve for fluid pressure control is used for unmanned machinery spaces.
<i>Reduced-pressure-zone back-flow prevention device</i>	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.
<i>Service pipe</i>	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: <ol style="list-style-type: none"> <li>the stop tap at the junction of the service pipe with the main</li> <li>any stop tap fitted at the end of the service pipe</li> <li>any stop tap fitted on the service pipe between the end thereof and the main.</li> </ol>
<i>Sprinkler</i>	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 device installed exclusively for the purpose of extinguishing fire.

<i>Stop tap</i>	includes a stopcock, stop valve, and any other device for stopping at will the flow of water in a line of pipes.
<i>Storage tank</i>	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.
<i>Supply pipe</i>	means the pipe connecting the service pipe to the customer's premises.
<i>Uncontrolled catchment area</i>	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.
<i>Vacuum column</i>	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.
<i>Water supply network</i>	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.
<i>Wholesome water</i>	has the meaning in section 69G of the Health Act 1956.

### 3. Ordinary supply

- 3.1 Every property or allotment with one or more dwellings can obtain an ordinary supply connection subject to:
- the property or allotment being within an area served by a public water supply
  - any connection restrictions imposed by Council
  - compliance with this part of the Bylaw
  - payment of the appropriate charges in respect of the water supply to that property or allotment; and
  - payment of any other charges or costs associated with the supply of water to the subdivision of the property or allotment.
- 3.2 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.
- 3.3 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.

#### **4. Extraordinary supply**

- 4.1 Council shall be under no obligation to give or continue an extraordinary water supply.
- 4.2 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.
- 4.3 Council may, by giving written notice where possible, restrict an extraordinary supply if required to maintain ordinary supplies and protect public health and safety.

#### **5. Use of ordinary supply**

- 5.1 Ordinary supply can only be used for domestic purposes.

#### **6. Use of extraordinary supply**

- 6.1 Extraordinary supply may be used for purposes other than domestic purposes.
- 6.2 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.
- 6.3 All extraordinary water supply connections shall have a high hazard testable reduced pressure zone (RPZ) double check valve backflow preventer installed on the connection.

#### **7. Reclassifying supply**

- 7.1 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.

#### **8. Continuity of supply**

- 8.1 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.
- 8.2 Council will take reasonable steps to notify in advance any scheduled interruptions to the supply of water.
- 8.3 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.*

#### **9. Pressure**

- 9.1 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.

## 10. Prohibition or restriction of supply

- 10.1 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.*

- 10.2 No consumer will be entitled to any payment or compensation for any restriction or prohibition put in place in accordance with clause 10.1.
- 10.3 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 10.1.
- 10.4 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.

**Explanatory Note:** *'An emergency is where a situation arises that requires prompt action and delays may cause a situation to be made worse.'*

## 11. Restricting water in other circumstances

- 11.1 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:
- fails to comply with a notice from the Authorised Officer requiring repair of a leak(s), defective pipes or fittings
  - wilfully allows water to run to waste or is misused
  - 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
  - breaches any provision of this Part of the Bylaw
  - willfully interfering with the Council supply system or equipment
  - 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
  - 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.*

## **12. Exemption from water supply restrictions**

- 12.1 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.
- 12.2 Where an application has been declined, the water restriction will stand for the applicant until such time as the restriction has been removed.

## **13. Water supply before occupation of dwelling**

- 13.1 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.

## **14. Change of ownership**

- 14.1 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 15 inform the new owner that they are required to enter into a separate agreement with Council.

## **15. Application for supply**

- 15.1 Any person may apply for:
- a. an ordinary or extraordinary supply of water in respect of any new connections
  - b. a change to the classification of current water supply
  - c. relocation of the point of supply.
- 15.2 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.
- 15.3 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.
- 15.4 On the receipt of an application an Authorised Officer has within ten (10) working days the discretion to:
- a. approve with or without conditions
  - b. decline the application
  - c. require further information and place the application on hold.
- 15.5 An approved application for a water supply connection under clause 15.4 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.



- 15.6 In the event an approved application under clause 15.6 lapses, an applicant will need to reapply and pay the Council's prescribed fees and charges.

## **16. Supplies from standpipes on hydrants**

- 16.1 An Authorised Officer may approve and set conditions to allow for an extraordinary water supply by means of a standpipe to be placed upon a specified hydrant. Any application for such supply and for the hire of any standpipe shall be made in writing on the prescribed form and accompanied by the payment of Council's prescribed fees and charges.
- 16.2 Unless otherwise permitted by law, no person may take water from a hydrant other than as authorised under this clause.
- 16.3 Unauthorised use of a standpipe or a hydrant is a breach of this Bylaw.

## **17. Determination of size of service**

- 17.1 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.

## **18. Work not to be commenced without approval**

- 18.1 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.
- 18.2 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.
- 18.3 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.

## **19. Disconnections required**

- 19.1 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.
- 19.2 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.

## **20. Notice when supply not required**

- 20.1 If a Council water supply is no longer required the owner of the premises must give fourteen (14) days' written notice to Council.



- 20.2 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.

## **21. Re-connection fee**

- 21.1 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.

## **22. Inspection of installations**

- 22.1 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.
- 22.2 Any person who obstructs an Authorised Officer from undertaking any lawful inspection pursuant to clause 22.1 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.

## **23. Point of supply**

- 23.1 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.
- 23.2 The point of supply shall be a point 250mm outside the premises boundary, unless an Authorised Officer determines otherwise.
- 23.3 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.
- 23.4 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.

## **24. Stop taps to be provided**

- 24.1 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:
- 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
  - 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
  - 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.

## **25. Only one point of supply**

- 25.1 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.
- 25.2 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.

## **26. One pipe not to serve two premises**

- 26.1 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.

## **27. Work in streets and public places**

- 27.1 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.
- 27.2 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.

## **28. General**

- 28.1 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.
- 28.2 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 180m head of water (1.8MPa) and suitable for working pressure equivalent to 90m 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.*

## **29. Pipes for fire fighting purposes**

- 29.1 Any supply pipe that is above ground and is or may be required for firefighting purposes shall not be made of:
- material mechanically affected by the action of heat
  - made of plastics, this includes but is not limited to PVC, polythene, rigid PVC.

### 30. Quick closing valves not to be used

- 30.1 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.
- 30.2 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 38.1.
- 30.3 An Authorised Officer may approve the use of a self-closing tap type of valve in some circumstances.

### 31. Float valve installation

- 31.1 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
  - d. positioned twice the diameter of the supply pipe and in no case less than 25mm above the tank's overflowing level.
- 31.2 Silencing pipes will be permitted only in break pressure tanks such as flushing cisterns and supply tanks for hot water systems.
- 31.3 No ball valve shall be fitted directly to any thermal storage electric water heater.
- 31.4 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.

### 32. Flush valves

- 32.1 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.

### 33. Protection of ball valves

- 33.1 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.

### **34. Watering troughs**

- 34.1 Every pipe supplying water to a watering trough for animals shall:
- be fitted with a ball valve or some other effective means of controlling the inflow of water to prevent overflow
  - have an air gap as required and specified in clause 37.1 of this Bylaw and fixed in a separate compartment and protected by a securely fixed cover.

### **35. No connection to other supplies**

- 35.1 In any system of piping supplied with water by Council, no direct connection with any other sources of supply of water shall be made.
- 35.2 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.

### **36. Drawn water not to be returned**

- 36.1 No person shall allow any water drawn from Council's water supply system to return into the water supply system of Council.

### **37. Minimum air gap**

- 37.1 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 25mm.

### **38. Priming of pumps**

- 38.1 No pump shall be equipped with a direct connection for priming or other purposes.

### **39. Supply to shipping**

- 39.1 Each water supply point available to shipping, including fire connections, shall be equipped with an approved backflow prevention device.

### **40. Check valves in multiple services**

- 40.1 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.

### **41. Protection of supply pipes**

- 41.1 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.

## 42. Prevention of backflow

- 42.1 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.
- 42.2 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.*

## 43. Waste and improper use to be prevented

- 43.1 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.*

## 44. Overflow pipes

- 44.1 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.

## 45. Fittings to be in good repair

- 45.1 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.

## 46. Deficient pipes

- 46.1 Where an Authorised Officer considers any pipe, cock, appliance, or fitting in connection with any water service on a premise to be:
- deteriorated
  - of inferior quality
  - causing or likely to cause waste of water
  - 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.
- 46.2 Failure to comply with the requirements of such notice within the time specified, is an offence against this Part of the Bylaw.

## **47. Sprinklers and hoses**

- 47.1 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.

## **48. Water used for cooling**

- 48.1 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.

## **49. Installation and maintenance of meters**

- 49.1 When a meter is required by Council, the meter will be supplied and installed by Council, at the customer's cost.
- 49.2 The customer shall pay any Council prescribed fees and charges relating to the supply, installation and maintenance of the meter.
- 49.3 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.
- 49.4 Approved high pressure isolating valves shall be fixed on either side of the meter.

## **50. Protection of meters**

- 50.1 Where required by an Authorised Officer the customer shall:
- provide an approved site for the meter, within the premises or as close as practicable to the property boundary
  - take sufficient precaution to protect the meter from damage at all times
  - enclose the meter in a suitable box or other enclosure
  - in cases where natural support is absent, provide suitable wall brackets or other support
  - ensure that the meter is readily accessible at all times.

## **51. Testing of meters**

- 51.1 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.
- 51.2 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.

- 51.3 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.
- 51.4 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.*

## **52. Meter accounts adjusted**

- 52.1 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.
- 52.2 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 in accordance with clause 53, and the customer will be liable to pay according to the estimate.
- 52.3 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.

## **53. Estimating consumption**

- 53.1 An Authorised Officer shall estimate the consumption for the previous period based on:
- the average of the previous four periods charged to the customer
  - occupancy of the premises and any occupancy changes
  - seasonal fluctuations
  - any other evidence for the purpose of arriving at a reasonable estimate.

## **54. Charges for service pipes**

- 54.1 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.

## **55. Charges for ordinary supply**

- 55.1 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.



## **56. Charges for extraordinary supply**

- 56.1 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.

## **57. Reading of meters and accounts**

- 57.1 Meters will be read and accounts rendered at such intervals as Council may resolve from time to time.

## **58. Water supplied by standpipe**

- 58.1 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.

## **59. Meter supply to non-rateable properties**

- 59.1 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.

## **60. Water charged at an annual charge**

- 60.1 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.

## **61. Supplies to local authorities**

- 61.1 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.

## **62. Water for extinguishing fires**

- 62.1 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.
- 62.2 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.
- 62.3 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.

- 62.4 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.
- 62.5 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.
- 62.6 Fire hose reels may be installed only under conditions prescribed by an Authorised Officer.
- 62.7 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.
- 62.8 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 49.
- 62.9 Water used for the purpose of extinguishing fires will not be charged for.

### **63. Application of Bylaw**

- 63.1 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.

### **64. Protection of water supply**

- 64.1 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.
- 64.2 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
  - d. deposit any dirt, rubbish, foul liquid, or matter of any kind.
- 64.3 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
  - 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
  - g. use any pesticide or toxic substances for any purpose whatsoever.

64.4 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.

64.5 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.

## **65. Carcasses to be removed**

65.1 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 an Authorised Officer.

## **66. Permits to be presented**

66.1 No person to whom any permit shall have been issued in clause 64.1 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.

66.2 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 64.1 for inspection by an Authorised Officer.

66.3 No permit issued under clause 64.1 shall be capable of being transferred.

66.4 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.

## **67. Against interference and obstruction**

67.1 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.

67.2 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.

## Consolidated General Bylaw 2020

# Part 11 – Land Drainage

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## 1. Purpose

- 1.1 This Part of the Bylaw regulates the use and maintenance of Council drains and stopbanks. The purpose of this Part is to:
- circumstances where a private drain may connect to a Council drain
  - what cannot be discharged into a Council drain
  - requirements for crossings and stopbanks
  - requirements for repairs to any damaged drains.

## 2. Interpretation

- 2.1 In this Part of the Bylaw, unless the context otherwise requires:

<i>Act</i>	means the Local Government Act 1974
<i>Board</i>	means a Board of Trustees for a district constituted under the Land Drainage Act 1908.
<i>Crossing</i>	means any means by which any vehicle, livestock, or person may go over, through or under any drainage channel or water course or defence against water and includes a bridge, culvert or ford.
<i>Council drain</i>	means and includes every drain vested in or under the management or control of Council, and any canal or watercourse vested in, or under the jurisdiction of Council, or incorporated into its drainage system.
<i>Defence against waters</i>	includes any dam, weir, bank, carriageway, groyne, stopbank, or reservoir, and any structure or appliance of whatsoever kind which has or may have the effect of stopping, diverting, controlling, restricting, or otherwise regulating the flow or spread or subsidence, in or out of a watercourse, of water including flood waters.
<i>Private drain</i>	means any drain constructed by or vested in an owner and not being a Council drain.
<i>Stopbank</i>	means an embankment bordering one or both sides of a drainage channel or watercourse to contain flows of water.
<i>Watercourse</i>	includes all rivers, streams, and channels through which water flows
<i>Watershed</i>	Means the area that drains into a single river.

## 3. Private Drains

- 3.1 The owner of any property must obtain consent from the Council or the Board to:
- connect a private drain to a Council drain
  - connect a private drain to a private drain which is connected to a Council drain
  - extend a connected private drain
  - enlarge a connected private drain and any branches thereof
  - add new branch drains thereto.

- 3.2 Any owner applying for any such consent shall submit to Council or Board such plans and specifications as may be required by Council showing the exact location of the private drain and branches (if any) giving details of length, size and construction and indicating the approximate area sought to be drained.
- 3.3 An Authorised Officer may impose conditions regarding the connection or continuance of the connection of private drains including the payment to Council of a reasonable fee to cover the cost of inspection and any reporting relating to any such drain.
- 3.4 Council may impose a charge or annual fee for a contribution to the cost of the construction, maintenance or extension to Council's drainage system, and the construction and maintenance of any associated bridge or crossing.
- 3.5 The owner of any property for which consent is given under this Bylaw to construct a private drain shall, if required by Council:
- a. construct and thereafter maintain a sufficient bridge or crossing over such private drain
  - b. ensure that any such bridge or crossing shall be placed to enable Council's workers, or agents and their plant and machinery to pass along the banks of such Council drain for the purpose of cleaning or maintaining the same
  - c. Council may enter into any agreement in respect of any such bridge or crossing as it decides is reasonable.

#### **4. Access to Council drains**

- 4.1 Without the prior consent of Council and then only subject to conditions as the Council may impose, no owner of any land on the banks of any Council drain shall:
- a. plant or permit to grow any tree, shrub or hedge
  - b. erect or maintain any fence, building, bridge or other construction
  - c. make any excavation

in such a position as to interfere with or obstruct the free access of any Authorised Officer, plant or machinery to or along such drain or any part thereof, for a distance of 15 metres from the bank of the drain, or such other distance as Council may specify in respect to any particular drain or part thereof.

- 4.2 A person must not construct or maintain any road, or access way for the passage of stock, machines or vehicles along the bank of any Council drain or within 15 metres thereof, except pursuant to a consent, and subject to any conditions imposed in the consent.

#### **5. Obstruction to flow**

- 5.1 A person must not stop, obstruct or interfere with or divert the flow of water in any Council drain or private drain connected with a Council drain without the prior consent of Council.
- 5.2 A person must not put into any drain, or cause, permit or suffer to be put or to fall therein any material or thing causing or likely to cause obstruction of the drain.

- 5.3 No owner of the land on either side of any drain shall allow, permit, or suffer to grow therein or on the banks thereof any trees, plants, weeds or growths that may be likely to impede the flow of water in any such drain.
- 5.4 A person must not permit or suffer any debris, plants, weeds, growths or other cleanings cut or removed from the bottom, side, or banks of any drain to float along such drain or into any other drain or watercourse.
- 5.5 Any person who breaches clause 5.4 shall on request by an Authorised Officer remove such obstruction or Council may remove the obstruction and recover the costs of such removal as a debt due to Council.

## **6. Use as waterway**

- 6.1 A person must not without the prior consent of Council, use any Council drain for the purpose of floating any timber, flax, or any other material or thing, or for any purpose of haulage, propulsion, water carriage or navigation. Any consent granted by Council may be subject to any conditions Council considers appropriate, including requiring payment of a charge for use of the Council drain.

## **7. Drains through watersheds**

- 7.1 Without the prior consent of Council, no owner or occupier shall construct or maintain any drain or system of drains if such drain or system of drains passes through any raised level of land or watershed.

***Explanatory note:** Cannot put in a new drain through a watershed or through raised land without Council consent.*

## **8. Artesian overflow**

- 8.1 No owner or occupier shall allow the overflow of any artesian well on property owned or occupied by them to fall, flow or percolate into any Council drain, or any private drain connected with a Council drain, without prior consent from Council.

## **9. Artificial obstruction or addition of water causing damage**

- 9.1 A person must not in any manner cause, allow or permit any damage to any Council drain or private drain connected with a Council drain to be caused by the release of any water into any such drains other than by natural flow or by the abstraction of water therefrom, without first obtaining the consent of Council and then only upon such conditions and in such manner as Council shall direct.

***Explanatory note:** The collection and release of water needs to be managed and directed by Council. Water stored then released on mass has the ability to cause catastrophic failure and erosion of the asset.*

## **10. Alteration to public drain**

- 10.1 A person must not make or cause to be made any Council drain wider or deeper than it is at the time, or stop or obstruct the same or alter the course thereof or in any way interfere with any public drain or associated works or structures without the prior consent of the Council.

## 11. Pollution

- 11.1 A person must not discharge, cause, permit or suffer to be discharged into a Council drain or private drain connected with a Council drain, any liquid, gaseous or solid matter which is likely to be a nuisance or cause injury to health or cause damage to the drain.
- 11.2 No owner or occupier shall permit or suffer any dead stock or any part thereof to be or remain in any drain on their property, and no owner or occupier of the land on either side of any drain shall permit or suffer to be or remain therein any dead stock or any part thereof which has strayed or fallen from their property into such drain.

**Explanatory note:** For clarity under clause 11.1 *injurious to health means to the health of people, the environment and to ecosystems.*

## 12. Maintenance and repair

- 12.1 An Authorised Officer may by notice:
- require the owner of the land through which any drain passes to clean, maintain and repair the said drain or any part thereof within such reasonable time as shall be allowed by an Authorised Officer
  - if the owner fails to comply with a request pursuant to clause 11.1, Council may execute the work and recover the cost thereof from such owner.
- 12.2 Notwithstanding the provisions of clause 11.1, an Authorised Officer may by notice:
- require the owner of the land through which a drain passes to remove from the banks all obstructions of any kind within such reasonable time as shall be allowed by an Authorised Officer
  - execute the work and recover the cost thereof from the owner.

In this clause obstruction shall include earth, stone, timber and materials of all kinds and trees, plants, weeds and growths of all kinds.

## 13. Obstruction of officers

- 13.1 A person must not, whether on private land or not, obstruct an Authorised Officer in the performance of any duty that the Authorised Officer is empowered to undertake under this part of the Bylaw.

## 14. Damage

- 14.1 A person must not destroy, cause any damage to or interfere with any dam, reservoir, stopbank, headworks or building or other installation connected with Council drainage works, or allow, permit or suffer any stock to damage or destroy the same.

## 15. Repairing damage

- 15.1 Where any drain is damaged by stock or otherwise an Authorised Officer may:
- require the owner or occupier responsible for such damage to repair such drain to the satisfaction of an Authorised Officer
  - may execute the necessary repairs and recover the costs thereof from the said owner.



## **16. Defence against waters**

- 16.1 A person must not erect or cause or permit to be erected any defence against waters without the prior consent of Council and in accordance with such terms and conditions as may be imposed.
- 16.2 Any owner or occupier upon whose property a stopbank is located whether for the protection of that land or not shall:
- a. maintain such stopbank according to the requirements of an Authorised Officer
  - b. not remove it or suffer or permit it to be removed, lowered or breached without the prior consent of Council
  - c. not at any time, plant or suffer to be planted, any trees or other growths thereon or within 15 metres thereof or construct, erect or place any installation, building, roadway, fence or other structure thereon
  - d. not allow, permit or suffer any stock to have access, pass, graze, or trespass thereon
  - e. without the prior consent of Council and then only upon such terms and conditions as an Authorised Officer may direct.

## **17. Crossings**

- 17.1 A person must not cross or pass over a Council drain with any horse or vehicle or drive any stock or convey any implement or machinery or goods or materials over it except at crossings appointed by Council.
- 17.2 A person must not construct any crossing in, upon or over any Council drain without the prior consent of an Authorised Officer and in accordance with any conditions imposed in the consent.
- 17.3 A person must not erect, build or maintain any elevated crossing over any Council drain except to such dimensions as will ensure there is no obstruction or danger of obstruction at any time to the free flow of water in the drain and only with the prior approval of an Authorised Officer.
- 17.4 An Authorised Officer may:
- a. require any owner of land which has or adjoins a Council drain to construct, maintain or renew crossings at places and in such manner required by Council
  - b. execute the works required and recover the cost thereof from any such owner.

## **18. Watering places**

- 18.1 No owner or occupier shall construct, maintain or use a watering place for stock in any Council drain without the prior consent of an Authorised Officer.
- 18.2 An Authorised Officer may impose such conditions for the mode of construction, for fencing and otherwise of a watering place as the Authorised Officer considers appropriate. Consent may be suspended or revoked if the conditions are breached.
- 18.3 The owner or occupier of any land adjoining any watering place shall ensure that the watering place is used and maintained so that no damage to the Council drain will result from their use. In the event of damage, an Authorised Officer may require the owner or occupier of any land adjoining the watering place to repair the Council drain and if the

owner or occupier defaults, Council may execute the work and recover the cost thereof from the owner.

## **19. Inspection**

- 19.1 An Authorised Officer shall have the power to inspect any installation set up for the withdrawal or diversion of water from any public or private drain or other watercourse within its district whether that installation has been given prior consent or not and may direct any alteration, improvement to, replacement of, removal or demolition of such installation at any time.

## Consolidated General Bylaw 2020

# Part 9– Solid Waste

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