



Draft Control of Animals (Excluding Dogs), Bees and Poultry Bylaw 2018

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DRAFT CONTROL OF ANIMALS (EXCLUDING DOGS), BEES AND POULTRY

*Date made: June 2018
Commencement: July 2018*

PART 1: INTRODUCTION

The Whakatāne District Council makes this bylaw pursuant to Sections 145 and 146 of the Local Government Act 2002 and section 64 of the Health Act 1956.

1 SHORT TITLE AND COMMENCEMENT

This bylaw shall be known as the Whakatāne District Council Control of Animals (Excluding Dogs), Poultry and Bees Bylaw 2018.

This bylaw comes into force on 1 July 2018.

2 REVOCATION

The Whakatāne District Council Consolidated Bylaw Part 10: Control of Animals (Excluding Dogs) is hereby revoked from the day this bylaw comes into force.

3 PURPOSE

- (1) The purpose of this bylaw is to outline the requirements for the keeping of animals, poultry and bees. These requirements are necessary to ensure the keeping of animals, poultry and bees does not become a nuisance to people in the community and for the protection and maintenance of public health and safety.
- (2) This bylaw should be read in conjunction with other enactments which affect animals and/or pests, including (but not limited to) the Animal Products Act 1999, Animal Welfare Act 1999, Biosecurity Act 1993, Reserves Act 1977, Health Act 1956, Stock Impounding Act 1955, Resource Management Act 1991, Building Act 2004 and Industry Codes of Practice.

4 EXCLUSION

- (1) This bylaw does not apply to dogs as the control of dogs is provided for under the Whakatāne District Council Dog Control Bylaw and relevant legislation.
- (2) This Bylaw does not address animal welfare matters. Animal welfare is dealt with by the Ministry of Primary Industries and the Society for the Prevention of Cruelty to Animals.

5 INTERPRETATION

In this bylaw, unless the context otherwise requires or where otherwise expressly provided:

ACT means the Local Government Act 2002.

ADEQUATE FENCE means a fence that, as to its nature, condition, and state of repair, is in an adequate condition to satisfactorily retain animals in the areas that they should be kept and to prevent them from straying. No substandard fencing shall be used.

ANIMAL means any domestic animal dependent on humans for their care and sustenance, and includes but is not limited to stock such as cattle, deer, llamas, alpacas, donkeys, mules, horses, sheep, goats and pigs. Dogs are excluded.

AUTHORISED OFFICER means any person authorised by Council to carry out or exercise any powers, duties or functions under this Bylaw or any part thereof and includes any police officer.

BIRDS means any bird, including but not limited to, birds that are commonly domesticated such as chickens, ducks, geese, peacocks, peahens, pheasants, swans, pigeons, doves, parrots, parakeets, budgies.

BYLAW means the Whakatane District Council Control of Animals (Excluding Dogs), Bees and Poultry Bylaw 2018.

CONTROL in relation to or having responsibility for an animal means that the owner, as defined by this bylaw, shall keep that animal on a restraint or confined within a vehicle or other container while in a public place. The owner must also be capable of controlling the animal whilst it is on the restraint in private and permitted areas. Without limiting the generality of the foregoing, an animal shall be deemed to be not under control if:

- (a) its actions become a nuisance or annoyance to any person or animal or damage to property;
- (b) it is found at large in any public place;
- (c) it becomes a nuisance or injurious to health;
- (d) it becomes a nuisance or annoyance to residents in the neighbourhood through noise or by obstructing the lawful passage of persons in public places, or by rushing at or frightening such persons.

COUNCIL means the Whakatane District Council or any Committee, Community Board or elected member of Council or Officer authorised to exercise the authority of Council.

DISTRICT means the area within the territorial boundary of the Whakatane District Council.

DISTRICT PLAN means the operative Whakatāne District Plan.

HOURS OF DARKNESS means those hours half an hour after sunset and half an hour before sunrise the next day.

KEEP or KEEPING means in respect of all animals, the owning, looking after, caring for, being in charge of, a custodian or in possession of any animal and includes their young.

OWNER in relation to any animal means every person who:

- (a) owns the animal or bird or bees; and/or
- (b) has the animal or bird or bees in his or her possession or under his or her control, whether it is at large or in confinement.

NUISANCE as defined in section 29 of the Health Act 1956 and limited to:

S29 (j) where any buildings or premises used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive or likely to be injurious to health;

S29 (k) where any animal, or any carcass or part of a carcass, is so kept or allowed to remain as to be offensive or likely to be injurious to health.

PERMIT means a written authority from Council with or without prescribed conditions and charges.

PREMISES means all land and buildings within a single rating unit.

POULTRY means:

- (a) any live domesticated or farmed bird including, but not limited to chicken, domestic fowls of all descriptions (excluding roosters), duck, geese, turkeys, budgerigar, canary, cockatoo, pigeon, parrot, peacock, pheasant, ostrich, emu; and
- (b) all other types of domestic or fancy birds that Council by resolution from time to time determines to be Poultry for the purposes of this Bylaw.

PUBLIC PLACE means a place that, at any material time, is under the control of Council and is open to or being used by the public, whether free or on payment of a charge, and includes any Road whether or not it is under the control of Council.

ROAD has the same meaning as in the Land Transport (Road User) Rule 2004, or subsequent amendments.

STOCK means:

- (a) Any sheep, goat, pig, horse, cattle, deer, ostrich and emu, or any other animal which are herded, mustered or handled in the manner of farm animals or are kept within an effective fence or enclosure for farming purposes; and
- (b) Any other Animal that Council by resolution from time to time determines to be Stock for the purposes of this Bylaw.

URBAN AREA means any area of the District excluding areas zoned rural and deferred residential in the Whakatāne District Plan.

PART 2: CONTROL OF ANIMALS (EXCLUDING DOGS)

6 STOCK

- (1) Except with the written consent of the Council or an authorised officer, no person shall:
 - (a) Keep any stock in any urban area;
 - (b) Tether or otherwise leave any stock on any public place in an urban area (including public roads and berms) for the purpose of depasturing or grazing;
 - (c) Tether or otherwise leave any stock on any vacant sections in an urban area for the purpose of depasturing or grazing.
- (2) The owner of any animal shall ensure that any building, structure or yard in which that animal is kept is maintained in a clean and sanitary condition to the satisfaction of authorised officers, and that the noise and odour associated with the animal is as far as practicable confined within the premises.
- (3) Every person who owns, cares for or has custody or control of any animal shall prevent the animal from wandering, roaming or being at large without proper control in any public place.
- (4) The owner of any stock found unattended in any public place or on any land not separated by an adequate fence from any public place, shall be guilty of an offence against this Bylaw.
- (5) Every person in control of any stock being driven in any public place shall continuously drive them towards a definite destination without deviation using the most direct route, or the route directed by an authorised officer, and at reasonable speed.
- (6) Any owner commits an offence against this Bylaw who:
 - (a) Breaks in, trains, cleans, shoes, bleeds, dresses, or exposes for show, hire, or sale, any stock in any public place except with the written consent of the Council or an authorized officer;
 - (b) Allows any dangerous animal to stand on any public place, unless properly and securely muzzled;
 - (c) Allows any animal being led, ridden or driven to damage any public place including footways, cycle tracks, grass plots or flower beds, or to create a public nuisance or inconvenience to foot traffic;
 - (d) Allows any horse to defecate in any public place, without removing the faeces immediately and disposing of them in a hygienic manner.

7 PIGS

No person shall:

- (a) Keep any pigs within any urban area.
- (b) Keep pigs in a manner that creates a nuisance or is likely to be injurious to health or is offensive.
- (d) Except with the permission of the Council, construct or allow any pigsty to remain, or any pigs to be at large or to range at a distance less than 50 metres from any:
 - dwelling, wholly or partly occupied building; or
 - any street or public place;
 - or any place used for the preparation, storage, or sale of food for human consumption;
 - or from any boundary of any adjoining property

8 BEE KEEPING

- (1) No person shall keep bees in the District if in the opinion of the Council or an authorised officer, the keeping of bees is likely to become a nuisance or annoyance to any person or potentially dangerous or injurious to health.
- (2) The Council or an authorised officer may prescribe conditions relating to the location and number of hives able to be kept on any premises or place in an urban area.
- (3) Where Council or an authorised officer considers a hive to be dangerous, offensive or likely to be injurious to people, it may require removal of such hive.

9 POULTRY KEEPING

- (1) Except with the written consent of the Council or an authorised officer, not more than twelve head of poultry shall be kept on any property in an urban area. Consent may be refused or revoked if in the opinion of the Council or an authorised officer, the poultry house or poultry run is likely to cause a nuisance or be offensive or dangerous to health.
- (2) No poultry caged or otherwise shall be kept in any urban area except in a properly constructed poultry house. Every poultry house and poultry run shall be maintained by the owner in good repair, in a clean condition free from any offensive smell or overflow and free from vermin.
- (3) All poultry must have access to a properly constructed poultry house, aviary or coop covered with a rainproof roof.
- (4) No poultry house or poultry run shall be erected or maintained so that any part of it is within 2 metres of the boundary of adjoining premises.
- (5) Should any poultry house or poultry run cause a nuisance for any reason due to its construction or state of disrepair, lack of cleanliness, or by reason of any matter referred to in this Part of

the Bylaw, then it shall be the duty of the owner, upon being served a written notice by the Council to abate such nuisance as specified in the notice. Failure to comply with the notice is an offence against this Part of the Bylaw.

- (6) No roosters shall be kept in an urban area.

10 NUISANCE CAUSED BY ANY ANIMAL OR BIRD

- (1) No person shall keep on any premises any animal or bird that causes a nuisance to residents in the neighbourhood or is likely to be injurious to health.
- (2) After a complaint regarding an animal, bird or poultry causing an alleged nuisance under clause 9(1) has been investigated and deemed to be legitimate, an authorized officer from the Council will serve notice on the owner of the animal or bird, outlining the steps that need to be taken to remedy the situation and the defined timeline within which those actions must take place.

11 STOCK PROCESSING

- (1) No person shall slaughter animals on any premises within the urban area.
- (2) All waste associated with the processing of animals must be removed from the premises immediately. No person shall dispose of the body, any part of the body, bodily fluids or effluent of any animal belonging to that person, or in that person's charge or keeping, in a manner that will produce odour, cause a nuisance or a threat to public health.
- (3) No person shall hang or otherwise store an animal carcass in a state where it is injurious to public health or causes a nuisance.

12 STOCK PROHIBITED ON ROADS DURING HOURS OF DARKNESS

- (1) Except with the written permission of the Council, no person shall drive, tether or leave to graze, any stock along any road during the hours of darkness.
- (2) Clause 12.1 shall not apply:
 - (a) Where an animal has escaped from a property, provided such escape was not due to a willful act on the part of the owner of the animal;
 - (b) In the case of an emergency which makes it necessary for the animal to use roads to escape the consequences of the emergency;
 - (c) In the case of any person riding or leading horses if exercising all reasonable care for property and persons.
- (3) No person shall ride or lead any animal on any road during the hours of darkness without suitable means of illumination.