



# Part 19

## *NUISANCES AND PUBLIC HEALTH*

[www.whakatane.govt.nz](http://www.whakatane.govt.nz)



# PART 19

## NUISANCES AND PUBLIC HEALTH

*Date made: 30 June 2008  
Commencement: 1 July 2008*

### **Explanatory Note**

The purpose of Part 19 – Nuisances and Public Health is to provide for the control of nuisances that are not covered by other Parts of the WDC Consolidated Bylaw 2007.

The objective of Part 19 – Nuisances and Public Health is to promote public health and safety and prevent conditions that are likely to cause a nuisance. As well as containing provisions that aim to prevent the creation of a nuisance generally, Part 19 also contains controls for commercial spa and swimming pools to ensure public health and safety is maintained.

# **CONTENTS**

## **PART ONE NUISANCES**

- 19.1 Burial of Refuse**
- 19.2 Deposit of Night Soil**
- 19.3 Deposit of Manure**
- 19.4 Vehicles Containing Manure**
- 19.5 Offences**
- 19.6 Nuisance to be Abated**
- 19.7 Paving and Sealing of Yards**
- 19.8 Subsoil Drainage**
- 19.9 Drainage of Stagnant Water**

## **PART TWO PUBLIC HEALTH AND SAFETY**

- 19.10 Operation of Commercial Spas and Swimming Pools**
- 19.11 Penalties**

## PART 19

### NUISANCES AND PUBLIC HEALTH

#### PART ONE NUISANCES

##### 19.1 BURIAL OF REFUSE

19.1 No person shall bury or allow to be buried any refuse or offensive material in any place not being a place set apart for such purpose by the Council, unless he or she takes sufficient precautions to prevent the creation of a nuisance.

##### 19.2 DEPOSIT OF NIGHT SOIL

19.2.1 No person shall, without the prior written permission of the Council or an authorised officer bury, or allow to be buried, any nightsoil or allow any nightsoil to enter into any sewer or drain otherwise than by means of an approved sanitary fitting or fixture.

##### 19.3 DEPOSIT OF MANURE

19.3.1 No person shall on any premises deposit or cause or permit the deposit of manure, fertiliser or litter, as defined by the Litter Act 1968, unless such manure, fertiliser or litter is so covered as to prevent the creation of a nuisance.

##### 19.4 VEHICLES CONTAINING MANURE

19.4.1 No person shall permit or allow to remain overnight or for any unnecessary length of time during any part of the day or night in any public place or within 30 metres of any dwelling, house or place of human habitation, a vehicle containing or which recently contained manure, offal, offensive matter or thing likely to be a nuisance, or offensive to or injurious to health.

##### 19.5 OFFENCES

19.5.1 No person shall:

- (a) Burn or cause or permit to be burnt, any matter or thing in such a manner as to create a nuisance;
- (b) Being the owner or occupier of premises use or permit to be used or to remain on premises a lavatory other than a flush toilet, unless it be so maintained as to prevent the creation of a nuisance;
- (c) Throw or leave, or permit or allow to remain, any dead animal or vermin on any private property, land or premises;
- (d) Being the owner or occupier of premises so cause or permit offensive liquid or matter to remain in or on, or flow from those premises so as to create or be likely to create a nuisance;

- (e) So deposit in or discharge, or so cause or permit the deposit or discharge into a stream, watercourse, pond, lagoon, open drain, gutter or channel, any litter, animal or other offensive matter or thing as to create or be likely to create a nuisance;
- (f) Being the owner or occupier of premises, cause or permit a sanitary fixture on those premises to be in such a state or defective condition as to create or be likely to create a nuisance;
- (g) Being the owner or occupier of premises create a nuisance on any land or premises within the district of the Council which causes an offensive smell;
- (h) Being the owner or occupier of premises cause or permit any refuse, waste matter, material, or thing which encourages rats or other vermin to be in such building, land or premises;
- (i) Being the owner or occupier of premises, fail to protect from access of rats or other vermin as far as practicable any article which is or is likely to be food for rats;
- (j) Being the owner or occupier of premises neglect in any such building, land or premises where rats or other vermin exist or are harboured, or in which there is evidence of such existence, or harbouring, to destroy rats by poisoning or trapping, or such other means as the authorised officer may direct;
- (k) Being the owner or occupier of premises fail to remove or obliterate nests, burrows, or habitual haunts of rats in any such buildings, land or premises;
- (l) Being the owner or occupier of premises, where conditions exist which give rise, or are likely to give rise, to the breeding of flies, mosquitoes, or other insects dangerous to health, fail to execute and do such disinfecting, spraying or applying of larvicide, cleansing, screening, removal or destruction of breeding grounds or places, as may be necessary to prevent the breeding of flies, mosquitoes or such other insects.

## **19.6 NUISANCE TO BE ABATED**

- 19.6.1 Any person who creates a nuisance shall, on notice being served on that person by the Council or an authorised officer abate the nuisance in accordance with the terms of the notice.

## **19.7 PAVING AND SEALING OF YARDS**

- 19.7.1 Every owner of premises shall, where it is necessary for the abatement of a nuisance and on receiving notice from the Council to do so, shall cause an area within those premises to be sealed in accordance with conditions set out in that notice.

## **19.8 SUBSOIL DRAINAGE**

- 19.8.1 Every owner of land or premises on which is erected any building shall, where in the opinion of an authorised officer of the Council, the dampness of the site renders such a precaution necessary, effectually drain subsoil by approved means so that no water or soakage shall lodge under such building.

## **19.9 DRAINAGE OF STAGNANT WATER**

- 19.9.1 Every owner of land or premises upon which any stagnant water, drainage, or other impure water collects shall cause such land or premises to be effectually drained or filled up so as to prevent the collection of any such stagnant water, drainage, or other impure water thereon.

## **PART TWO PUBLIC HEALTH AND SAFETY**

### **19.10 OPERATION OF COMMERCIAL SPAS AND SWIMMING POOLS**

- 19.10.1 The owner of any premises containing a commercial spa or pool shall ensure compliance with New Zealand Pool Water Quality NZS 5826: 2000 – Code of Practice for the Operation of Swimming Pools.
- 19.10.2 The Council may from time to time monitor the water quality in any commercial pool and in particular may carry out an analysis of water quality on receiving a complaint as to water quality. If further laboratory analysis is required the actual and reasonable costs incurred by the Council to carry out laboratory analysis of water quality shall be recovered from the pool owner.

### **19.11 PENALTIES**

- 19.10.3 Every person who commits an offence against this Part of the Bylaw shall be subject to the penalties set out in section 242(4) of the Local Government Act 2002.
- 19.10.4 Under section 163 of the Local Government Act 2002, the Council or an authorised officer may remove or alter any work that has been constructed in breach of this Part of the Bylaw.
- 19.10.5 The Council may recover the costs of removing or altering the work or thing that is in breach of this Part of the Bylaw from the person who committed the breach. This does not relieve that person of liability for the breach.
- 19.10.6 Under section 162 of the Local Government Act 2002 the Council may apply to the District Court for the grant of an injunction restraining a person from committing a breach of this Part of the Bylaw.