



Animals (Excluding Dogs) Bylaw 2019

Explanatory Note

The objective of this Bylaw is to Control the keeping of Animals (other than dogs) within the District so that they do not create a Nuisance or endanger health.

Matters relating to the Control of dogs are covered by Council's Dog Control Bylaw.



Western Bay of Plenty District Council

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Contents

Definitions.....4

1. Animals.....7

2. Pig Keeping7

3. Poultry Keeping8

4. Horses, Cattle and Stock.....8

5. Bees8

6. Nuisances9

7. Licences.....9

8. Dispensations 10

9. Offences and Breaches..... 10

10. Penalties 11

11. Right of Appeal..... 11

12. Fees..... 11



Authority

Pursuant to the powers vested in it under section 146(a)(v) the Local Government Act 2002, the Western Bay of Plenty District Council makes this Bylaw.

Title

This Bylaw is the Western Bay of Plenty District Council Animals (excluding dogs) Bylaw 2019 and shall come into force on 30 September 2019.

Repeal

Chapter 2 of the Western Bay of Plenty District General Bylaw 2008 is repealed.

Bylaw Structure

This Bylaw comprises the document.

Scope

This Bylaw applies to the whole of the district administered by Western Bay of Plenty District Council, and other locations that are controlled by Western Bay of Plenty District Council, now and in the future.

Validation

The Western Bay of Plenty District Council Animals (excluding dogs) Bylaw 2019 was duly made at a meeting of the Western Bay of Plenty District Council on 29 August 2019, held after completion of the Special Consultative Procedure, and will come into force on 30 August 2019.

Savings

All approvals, permits, and other acts of authority (including any resolutions of the Council) which originated under Chapter 2 of the Western Bay of Plenty District Council General Bylaw 2008, and all applications, and other acts of parties and generally all documents, matters, acts, and things which so originated and are continuing at the commencement of this Bylaw, continue for the purposes of this Bylaw to have full force and effect.

The revocation of Chapter 2 of the Western Bay of Plenty District Council General Bylaw 2008 does not prevent any legal proceedings, criminal or civil, being taken to enforce that bylaw and such proceedings continue to be dealt with and completed as if that bylaw had not been revoked.



Western Bay of Plenty District Council

Animals (Excluding Dogs) Bylaw 2019

Pursuant to the powers vested in it under section 145 and section 146 of the Local Government Act 2002, and section 64 of the Health Act 1956, the Western Bay of Plenty District Council makes this Bylaw.

Definitions

Animal means any living stage of any member of the animal kingdom except human beings and in the case of any mammal, bird, fish, or reptile includes the carcase.

Approved means approved by the Council or by an Officer of the Council authorised in that behalf, and "**approval**" has a corresponding meaning.

Authorised Officer means an officer or other person appointed by the Council to perform duties required under this Bylaw, irrespective of the designation given to that officer or person and includes any Police officer, with powers of entry as prescribed by sections 171-174 of the Local Government Act 2002

Building has the meaning as in the Building Act 2004.

Bylaw means a Bylaw of the Council for the time being in force, made under the provisions of any enactment enabling the Council to make Bylaws.

Cattle means any bull, cow, ox, heifer, steer or calf.

Consent means the Consent in writing given by the Council under this Bylaw authorising the person to whom the Consent is given to carry out any action or activity which is controlled by the provisions of this Bylaw or of any statutory enactment.

Containers means bins used for collection of litter and/or waste, fruit or vegetables used for promotional purposes, delivery of products or removal of household effects.

Council means the Western Bay of Plenty District Council.

Cycle or **bicycle** means a vehicle having at least 2 wheels and designed to be propelled solely by the muscular energy of the rider. Children's cycles having wheels less than 355 mm (14") diameter are excluded.

Cycle track or **cycle-way** means any portion of a Road which has been designated by the Council under Section 332 of the Local Government Act 1974 or this Bylaw for the use of cyclists.



District means the area administered by the Western Bay of Plenty District Council

District Plan means the Western Bay of Plenty Operative District Plan.

Dwelling or dwellinghouse 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 the land appurtenant to a dwelling.

Horses means any horse, mare, gelding, rig, colt, filly, ass, or mule.

Nuisance has the meaning as in the Health Act 1956, and includes anything obnoxious, offensive or injurious to the community or any member of it.

Occupier means in relation to any Premises, the owner and includes any tenant, agent, Manager, foreperson or other person apparently acting in the general management or control of the Premises.

Offence includes any act or omission in relation to this Bylaw or any part of this Bylaw for which any person can be punished either on indictment or by summary process.

Offensive Matter/Liquid means any waste, organic material, animal remains, waste chemicals or gases, or any other obnoxious material which is ill-smelling, annoying or in any way likely to be injurious to health, or will give rise to a nuisance to the community or any member of it; but does not include any matter or material authorised for discharge under a current discharge Consent granted in terms of the Resource Management Act 1991 or under any Bylaw.

Owner in relation to any land or Premises, means the person for the time being entitled to receive the rent of the land or Premises, whether on his or her own account or as the agent of or trustee for any other person, or who would be so entitled if the land or Premises were let at a rent.

Owner in relation to a motor vehicle, means the person lawfully entitled to possession of that vehicle except where –

- (a) the motor vehicle is subject to a bailment for a period not exceeding 28 days; or
- (b) the motor vehicle is let on hire under the terms of a rental-service licence; in which case "owner" means the person who, but for the bailment or letting on hire, would be lawfully entitled to possession of the motor vehicle; and "**owned**" and "**ownership**" have corresponding meanings.

Person includes any individual person, or group of individual persons bound together by common purpose, and includes a body corporate or body sole

Poultry includes geese, ducks, pigeons, turkeys, emus, ostriches and all types of domestic fowls.

Premises means either –



- a) A property or allotment which is held under a separate certificate of title or for which a separate certificate of title may be issued and in respect to which a building consent has been or may be issued; or
- b) A building that has been defined as an individual unit by a cross-lease, unit title or company lease and for which a certificate of title is available; or
- c) Land held in public ownership (e.g. reserve) for a particular purpose; or
- d) Individual units in buildings which are separately leased or separately occupied.

Public Place includes every Road, Street, public highway, footpath, Footway, court, alley, lane, accessway, and thoroughfare of a public nature or open to or used by the public as of right; and every place of public resort or place to which the public have access, so open or used; and every reserve, park, domain, beach, foreshore and recreational ground under the control of Council, whether admission is free or on payment of a charge.

Resident means any person who has a permanent address within the Western Bay of Plenty District or who has lived in the District for a period of one month or more and includes any person who owns property within the District.

Section means a property contained on one Certificate of Title and includes a cross-lease property.

Vehicle has the meaning as in the Land Transport Act 1998.

Waste means any kind of waste, including human waste.

Writing, Written or any term of like import means and includes words printed, painted, engraved, lithographed, or otherwise traced or copied, and where anything is required to be written it may be partly in writing and partly in printing.



1. Animals

- 1.1. Any Person who wishes to graze any Stock in or on any Public Place must apply to Council in writing, and the Consent, if granted, is subject to any conditions the Council considers appropriate as set out in the Consent. Failure to comply with any conditions of the Consent is a breach of this Bylaw.
- 1.2. No Person may –
 - a) Break in, train, clean, shoe, bleed, dress, or expose for show, hire, or sale, any Horse or other Animal on any Public Place without the prior written permission of the Council.
 - b) Allow any dangerous Animal to stand on any Public Place, unless properly and securely controlled.
 - c) By ill-usage or negligence in driving any Cattle along or over any Public Place, permit any injury or damage to be done by such Cattle.
 - d) Being the Owner, or Person having the custody of any Cattle or sheep, ride, lead, or drive the Cattle or sheep, or permit the Cattle or sheep to go along any footway or Cycle Track on any Public Place.
 - e) Cause, or permit any Animal to be led, ridden, or driven upon, across, or along any grass plot or flower bed laid out on any Public Place.
- 1.3. Where a public litter container is used to dispose of any animal droppings they must be suitably wrapped or contained to prevent fouling of the receptacle.
- 1.4. The Owner or Occupier of any land or Premises where hives are sited for the keeping of bees must, on receipt of a notice from an Authorised Officer, resite or remove such hives if in the opinion of an Authorised Officer of Council, such siting has become or is likely to become a nuisance or injurious to health.

2. Pig Keeping

- 2.1. No Person may keep any pigs so as to create any conditions injurious to health, or offensive, or in such a manner as to pollute any water.
- 2.2. No Person may construct or allow any pigsty to remain or any pigs to be at large or to range at a distance less than 50 metres (or some lesser distance as Council may, from time to time approve in specific cases) from any Dwelling, except the subject property dwelling, or any Building, or any street or any place used for the preparation, storage, or sale of food for human consumption (except with the prior written permission of the Council).
- 2.3. No Person may feed any pigs on garbage obtained elsewhere than on the Premises on which the pigs are kept, without obtaining the prior written permission of the Council.



3. Poultry Keeping

- 3.1. No Poultry house or Poultry run may be erected or maintained so that any part of it is within 10 metres from any Dwelling, factory, or any other Building whether wholly or partially occupied, or within 2 metres of the boundary of adjoining Premises.
- 3.2. Except with the written Consent of the Council, not more than 12 head of Poultry maybe kept in any Poultry house or Poultry run on any land in areas other than those zoned Rural. An Authorised Officer of Council may refuse any Consent or revoke and cancel any Consent or apply conditions if it decides that the Poultry house or Poultry run in question is likely to be offensive or dangerous to health.
- 3.3. Where Consent has been revoked or refused by an Authorised Officer of Council the applicant may apply in writing to the Council for reconsideration of the decision. On hearing the objection, the Council' committee may confirm, reverse or modify the decision.
- 3.4. Within any residential zone, every outside Poultry run must be kept at all times clean and dry and in good repair by the Owner of the Poultry to the satisfaction of the officer.
- 3.5. If any Poultry house or Poultry run becomes a Nuisance owing to its construction or state of disrepair, lack of cleanliness, or by reason of any matter referred to in the Bylaw, then, the Owner of the Poultry house or Poultry run or of such Poultry, upon notice being served upon him or her by the Council, must execute and do any work required to abate the Nuisance, and as specified in the notice.

4. Horses, Cattle and Stock

- 4.1. No Person may keep or suffer to be kept within the District (excluding land zoned Rural, Lifestyle, or Rural-Residential) any Horse, Cattle or other Stock at less distance than 2 metres from any boundary of adjoining Premises used for the purpose of a Dwelling, shop, warehouse, factory, work shop, church or school unless the Animal is at the time being used, ridden or driven.

5. Bees

- 5.1. No person may keep more than two bee hives on any property within any residential zone, as defined in the District Plan, except with the prior written permission of an Authorised Officer.
- 5.2. No person may keep any number of bee hives within any residential zone in such a way that it causes a nuisance



6. Nuisances

- 6.1. No Person may keep within any Premises any noisy Animal, bird, or Poultry which is offensive to Residents in the neighbourhood. No proceedings may be taken against any Person for an Offence under this clause of this Part of this Bylaw until after the expiration of 14 days from the date of service on such Person of a notice alleging such an Offence, given by the Council after receipt by it of a complaint, signed by not less than 3 householders residing within hearing of the Animal, bird or Poultry causing the alleged Offence.
- 6.2. No Person may cause or allow any Animal, except for cats or birds, kept within any Premises to escape or wander so as to be offensive or be likely to endanger any Person.
- 6.3. Notwithstanding any of the provisions of this Bylaw, no Person may keep any Animals in such a manner or conditions so as to be offensive to Residents in the neighbourhood by way of odour from the keeping of such Animals.

7. Licences

- 7.1. Any person doing or proposing to do anything or to cause any condition to exist for which a licence from the Council is required under this Bylaw must first obtain a licence from the Council.
- 7.2. The Council may attach to any licence such terms or conditions as it thinks fit.
- 7.3. No application for a licence from the Council, and no payment of or receipt for any fee paid in connection with an application for a licence, confers any right, authority or immunity on the person making such application or payment and the Council is under no obligation to grant any such licence.
- 7.4. The Council may by notice in writing call on a licence holder to appear before the Council and give reasons as to why the licence should not be revoked or suspended, if it is brought to the notice of the Council that the licence holder
 - (i) Has acted or is acting in a manner contrary to this Bylaw ; or
 - (ii) Has failed to comply with any of the conditions of the licence; or
 - (iii) Is in any way unfit to hold the licence; or
 - (iv) Has allowed the Premises covered by the licence to be used for any purpose other than that stated in the licence, or has failed to maintain the Premises in the condition required by such licence.
- 7.5. The Council may, if it considers the allegations correct or if there is no appearance by the holder of a licence, revoke the licence or suspend the same for as long as it may think fit.
- 7.6. Any person whose licence has been suspended, and any Premises in respect of



which the licence has been suspended, is, during the period of such suspension, deemed to be unlicensed.

8. Dispensations

- 8.1. The Council may grant a dispensation from full compliance with any provision in this Bylaw or any other Bylaw enacted by it, in a case where the Council is of opinion that full compliance would needlessly and injuriously affect any person or business, without a corresponding benefit to the public or any part of it.
- 8.2. Any application for a dispensation must –
- (i) Be in writing; and
 - (ii) Give full details of the relief sought and the reasons why the relief is sought.
- 8.3. The Council may either refuse the application, or grant it subject to such conditions as it may consider appropriate.

9. Offences and Breaches

- 9.1. Every person commits a breach of this Bylaw who:
- (i) Does, or causes to be done, or permits anything to be done that is contrary to this Bylaw; or
 - (ii) Omits, or neglects to do, or permits to remain undone, anything which ought to be done by him or her at the time and in the manner provided in this bylaw; or
 - (iii) Does not cease any action which the person is required to cease under this Bylaw; or
 - (iv) Knowingly permits or allows any condition of things to exist or continue to exist contrary to this Bylaw; or
 - (v) Fails, refuses or neglects to comply with any notice duly given to that person under this Bylaw; or
 - (vi) Obstructs or hinders any Officer of the Council or other person appointed by the Council in the exercise of any power conferred on that officer or other person by this Bylaw;
 - (vii) Fails to comply with any notice, or direction, or conditions contained in any licence granted by the Council.
- 9.2. If a person fails to comply with a lawful notice, request, or order, given by an Authorised Officer or Enforcement Officer under this Bylaw the failure, whether wilful or otherwise, to comply with that notice, request, or order is a separate Offence on each day that such person so fails to comply.



- 9.3. Clause 9.2 does not relieve any person from any penalty which he or she may have incurred before receiving that notice, request, or order.
- 9.4. Subject to any Act, any person (including a member of the Police) may lay any information for an Offence against this Bylaw.

10. Penalties

- 10.1. Every person who commits an offence against this bylaw is liable to –
- (i) The penalty set out in section 242(4) of the Act, in relation to the provisions of the bylaw that are made under Part 8 of the Act; or
 - (ii) Where another enactment specifies the penalty for a breach of the Bylaw, that other penalty in relation to the provisions of this bylaw that are made under that other enactment.

11. Right of Appeal

- 11.1. Any person who claims to be unfairly or adversely affected by any decision, order, or direction, given by an Authorised Officer of Council has the right of Appeal to the Council.
- 11.2. The Appeal must be in writing setting out the reasons for the Appeal and must be lodged within fourteen (14) days of the date on which the decision, order, or direction was given.
- 11.3. The Council may appoint any standing committee of Council to consider the Appeal and to hear Written or personal submissions from the appellant if the committee so decides.
- 11.4. The committee, after considering such evidence as it thinks necessary, may revoke, confirm, or modify the decision, order, or direction giving rise to the Appeal.

12. Fees

- 12.1. If this Bylaw provides for the Council to issue a certificate, permit, or consent or give its authority or approval for anything, or carry out an inspection, the Council may require the payment of a fee.
- 12.2. Any such fee must be prescribed by the Council under section 150 of the Act.
- 12.3. Fees may differ for any class of certificate, permit, consent, authority, approval or licence.