



# **Public Health and Safety Bylaw 2009**

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## 1.0 SCOPE

- 1.1 The Local Government Act 2002 (LGA 2002) confers general bylaw making powers on Council. The Local Government Act 1974 specifically gives authority to the Council to adopt bylaws to regulate activities which can be carried out in roads, public places and reserves. This bylaw controls a diverse range of activities to ensure that acceptable standards of public health and safety are maintained for the wellbeing and enjoyment of citizens, visitors and businesses within the district. In particular this bylaw addresses a wide range of issues that could have an adverse effect on the health and safety of the public by regulating Scaffolding and Deposit of Building Materials, Fire Prevention, Keeping of Animals, Food Safety, Body Piercing, Hostels and Prostitution.
- 1.2 Sections 145 and 146 of the LGA 2002 and other relevant Acts e.g. Forest and Rural Fires Act 1977, Health Act 1956 and Prostitution Reform Act 2003 outline some of the powers and requirements of the Council in regard to public health and safety. Areas of control so prescribed by this legislation are not necessarily repeated within this bylaw and therefore the relevant sections of these acts should be read in conjunction with the Bylaw.

## 2.0 INTERPRETATION

- 2.1 For the purposes of this bylaw the following definitions shall apply:

**ACCEPTABLE MEANS OF FIRE SUPPRESSION** means a hose connected to a reticulated water supply or an alternative means of fire suppression approved in writing in a particular case by Council.

**ACCOMMODATION ESTABLISHMENT** means a building in which accommodation is provided in consideration of payment for a single night or longer for one or more persons who are unrelated by blood or marriage (or by or through a civil union or a de facto relationship) to the person providing the accommodation, with or without a common right to the use of common cooking, dining and laundry facilities. An accommodation establishment includes but is not limited to:

- (a) A boarding house;
- (b) A guest house or bed and breakfast establishment;
- (c) A rooming house;
- (d) A private hotel;
- (e) A motel;
- (f) A residential club;
- (g) A backpacker's accommodation

but does not include:

- (a) Any premises in respect of which a licence under the Sale of Liquor Act 1989 is in force;
- (b) Any hospital or residential care facility as defined in section 2 of the Health and Disability Services (Safety) Act 2001;
- (c) Any home for aged persons required to be licensed under section 120A of the Health Act 1956;
- (d) Any residence for the purposes of the Children, Young Persons, and Their Families Act 1989;
- (e) Any child care centre required to be licensed by regulations made under the provisions of the Education Act 1989;
- (f) Any camping ground required to be licensed under regulations made under section 120B of the Health Act 1956.

**ADJOINING** means allotments sharing one or more common boundaries or separated only by a road width or similar equivalent.

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

**APPROVED** means approved by Council or by any officer authorised by Council to act on its behalf.

**AUTHORISED AGENT** means any person who is not an employee of the Council but is authorised by Council to act on its behalf under the relevant legislation.

**AUTHORISED OFFICER** means any person appointed or authorised by Council to act on its behalf and with its authority.

**BARBECUE** means any fixed or portable gas or solid fuel burning equipment or device designed or intended for the cooking of food in the open air.

**BODY PIERCING** any process involving piercing, cutting and puncturing the skin or any other part of the human body, or applying a dye or other substance for the purposes of colouring part of the skin. Body piercing includes such processes as acupuncture, pedicure, epilating (hair removal), body piercing, hair restoration and tattooing.

**BROTHEL:** means any premises kept or habitually used for the purposes of prostitution; but does not include a premises at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere.

**BYLAW** means a Bylaw of Council for the time being in force, made under the provisions of any Act or authority enabling Council to make Bylaws.

**CERTIFICATE** means a certificate in Food Safety that meets unit standards prescribed by the New Zealand Qualifications Authority or alternatively any certificate that has been approved by the Council.

**CHILDREN AND YOUNG PEOPLE** means individuals under 18 years of age.

**COMMERCIAL SEXUAL SERVICES** means sexual services that-

- a) involve physical participation by a person in sexual acts with, and for the gratification of, another person; and
- b) are provided for payment or other reward (irrespective of whether the reward is given to the person providing the services or another person).

**COUNCIL** means the Waitomo District Council or any Officer authorised to exercise the authority of the Council.

**DISTRICT** means the district within the jurisdiction and under the control of the Council.

**DISTRICT PLAN** means the Waitomo District Plan or any subsequent amendments.

**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.

**ENGINEER** means the Group Manager: Assets or his or her representative appointed by Council.

**ETHNIC COOKING FIRE** means any hangi, umu or similar fire in the open air and used for the preparation of food using ethnic cooking methods.

**EXEMPTED FOOD HANDLER** means:

- (a) Any person employed in any food premises that is not involved in the manufacture, preparation or packing of food but does handle pre-packaged foodstuffs at the point of sale or in storage.
- (b) Any other person employed in food premises or who works in connection with any food premises who in the opinion of an Authorised officer is an exempted food handler.
- (c) Exempted food handlers may include:
  - (i) Supermarket checkout operators.
  - (ii) Persons employed exclusively in the handling of packaged goods in storage or the carriage of goods to and from storage.
  - (iii) Persons employed exclusively in the delivery of packaged goods to and from food premises.
  - (iv) Persons employed predominantly in the wholesale or retail sale of fruit or vegetables.

**FIRE PERMIT** means a permit to light a fire in the open air granted in accordance with clause 6.2.4 of this Bylaw.

**FOOD** shall have the same meaning as it has in section two of the Food Act 1981.

**FOOD HANDLER** means any person employed in or on any food premises that at any time may be involved in the manufacture, preparation or packing of food.

**FOOD PREMISES** shall have the same meaning as in the Food Hygiene Regulations 1974 but shall not include occasional food premises as defined in that Regulation.

**GANTRY** means a framework of steel bars raised on side supports to bridge over or around something.

**GUEST** means a person for whom any room or part thereof or rooms in a hostel is or is provided as lodging or for his/her use or occupation in consideration of payment and to whom whole or partial board may also be supplied.

**HOARDING** means a temporary wooden fence around a building or structure under construction or repair.

**HOURS OF DARKNESS** means:

- a) Any period of time between half an hour after sunset on one day and half an hour before sunrise on the next day; or
- b) Any other period of time when any hoarding or scaffolding within 2.5m of the ground is not clearly seen.

**INCINERATOR** means a container used for burning of waste material, which is made of non-combustible materials and which has a grate and a lid or spark arrester.

**INCINERATOR FIRE** means a fire within an incinerator.

**KEEPER** means the person, whatever may be the nature or extent of his interest in the premises or the agent or manager appointed by that person, by whom or on whose behalf an accommodation establishment is operated or who for the time being receives or is entitled to receive the proceeds or profits arising from providing accommodation in consideration of payment.

**LICENSED** means holding a licence under this Bylaw or under any statute.

**LOCAL AUTHORITY** means the Council, person, or group of persons authorised by any Act to make Bylaws, and which has made this Bylaw, and includes the body corporate on behalf of which any such Council, person, or group acts.

**MARAE** means land and buildings of premises that are used as a traditional Maori place of meeting.

**OCCUPIER** means the inhabitant occupier of any property, and in any case where any building, house, tenement, or premises is or are unoccupied shall be deemed to include the owner as hereinafter defined.

**OFFENCE** includes any act or omission in relation to this bylaw for which any person can be punished either on indictment or by summary process.

**OPEN AIR** means in the open either on or above ground level.

**OPEN FIRE SEASON** means a period of time, whether fixed or indefinite during which the lighting of fires in the open air is permitted.

**OWNER** of any property, or as applied to any land, building, or premises, means any person for the time being entitled to receive the rent of such property, or who would be so entitled if the same were let to a tenant at a rent, and where any such person is absent from New Zealand, shall include their attorney or agent.

**PERMITTED BROTHEL AREA** means the commercial and industrial area in any of the urban settlements in the District where Brothels may be located and includes a rural area.

**PERSON** includes a corporation sole and also a body of persons, whether corporate or unincorporated.

**PIT** means a hole excavated in the soil to such a depth that any live cinders, embers or ashes placed therein are at least one metre beneath mean ground level.

**PLACE OF WORSHIP** means land and buildings of premises that are used as a place of religious worship and are subject to Part 1 of Schedule 1 of the Local Government (Rating) Act 2002.

**PORTICO** includes every awning, porch, verandah, shed, shade, or covering upon, across, or over any public footway or part of a road, street, private street, or accessway for the purpose of shade or shelter, together with any supports thereof, other than the building against which it shall be attached.

**POULTRY** means any domesticated bird including fowl, ducks, geese, turkeys, guinea fowl, pheasants and pigeons.

**PREMISES** means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands, buildings, and places adjoining each other and occupied together shall be deemed to be the same premises.

**PRINCIPAL ADMINISTRATIVE OFFICER** means the chief executive of Council, irrespective of the designation given to that officer, and includes any person for the time being appointed by Council to perform the duties or a particular duty of the principal administrative officer.

**PROHIBITED FIRE SEASON** means the period of time, whether fixed or indefinite during which the lighting of fires in the open air is prohibited in accordance with section 6.3 of this Bylaw.

**PROSTITUTION** means the provision of commercial sexual services.

**PUBLIC NOTICE** shall have the meaning assigned to it from time to time by the Local Government Act 2002.

**PUBLIC PLACE** means any place that, at any material time, is under the control of the 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 the Council. It also includes every reserve, park, domain, beach, foreshore and recreational grounds under the control of the Council.

**RESTRICTED FIRE SEASON** means a period of time whether of fixed or indefinite duration during which period permits or authorities are required for the lighting of fires in the open air in accordance with section 6.2 of this Bylaw.

**ROAD** shall have the same meaning as in the Local Government Act 1974 and shall where the context requires include a street.

**SCHOOL / LICENCED EARLY CHILDHOOD CENTRE** means a parcel or adjoining parcels of land that contain a school as defined in section 2 of the Education Act 1989 or a licenced Early Childhood Centre as defined in section 308 of the Education Act 1989.

**SENSITIVE SITE** means a site that is a school / Licensed Early Childhood Centre/ Kindergarten or, a place of worship or, a marae.

**SEX WORKER** means a person who provides commercial sexual services.

**SOLICIT** means any person who, in any public place offers any commercial sexual service not in pursuance to any invitation.

**STALLION** means a male horse which has not been wholly castrated.

**URBAN AREA** means any of the towns situated within the District and includes any community consisting of ten or more dwellings with or without (an) ancillary commercial building(s).



- 2.2 For the purposes of this Bylaw the word "shall" refers to practices that are mandatory for compliance with this Bylaw, while the word "should" refers to practices which are advised or recommended.

## **3.0 OFFENCES AND PENALTIES**

### **3.1 Offences**

- 3.1.1 No person shall do anything or cause any condition to exist for which a licence or approval from Council is required under this Bylaw without first obtaining that licence or approval and the failure to do so shall constitute a breach of this Bylaw.
- 3.1.2 No application for a licence or authority from Council and no payment of or receipt for any fee paid in connection with such application, licence or authority, shall confer any right, authority or immunity on the person making such application or payment.
- 3.1.3 Everyone commits an offence against this Bylaw who:
- (a) Does, or causes to be done, or permits or suffers to be done, or is concerned in doing, anything whatsoever contrary to or otherwise than as provided by this Bylaw; or
  - (b) Omits, or neglects to do, or permits, or suffers to remain undone, anything which according to the true intent and meaning of this Bylaw, ought to be done at the time and in the manner therein provided; or
  - (c) Does not refrain from doing anything which under this Bylaw he or she is required to refrain from doing; or
  - (d) Permits or suffers any condition of things to exist contrary to any provision contained in this Bylaw; or
  - (e) Refuses or neglects to comply with any notice duly given under this Bylaw; or
  - (f) Obstructs or hinders any officer of the Council in the performance of any duty to be discharged by such officer under or in the exercise of any power, conferred by this Bylaw: or
  - (g) Fails to comply with any notice or direction given in this Bylaw.

### **3.2 Penalties**

- 3.2.1 Every person convicted of an offence against this Bylaw shall be liable to the penalties as set out in Section 242(4) of the LGA 2002 and further if the offence is one to which Section 243 of the LGA 2002 applies (and is therefore an infringement offence) shall be liable to infringement fees as prescribed by Regulations made under Section 259 (b) of the Local Government Act 2002, or where any person is alleged to have committed an offence against this Bylaw; be proceeded against pursuant to any other enactment so empowering Council.
- 3.2.2 The continued existence of any work, building, land, premises or thing in such a state or form as to be in contravention of any provision of this Bylaw, shall be deemed to be a continuing offence under this Bylaw.

## **4.0 FEES AND CHARGES**

- 4.1 The fees for any certificate, authority, approval, consent given, inspection made or service given by Council and any other matter described in this Bylaw shall be as set out in Council's Fees and Charges Manual from time to time.

## **5.0 SCAFFOLDING AND DEPOSIT OF BUILDING MATERIALS**

### **5.1 Objectives of this part of the Bylaw**

- 5.1.1 To ensure that scaffolding erected in public areas does not pose a risk to public safety or public and private property.

- 5.1.2 To limit the disruption of vehicular or pedestrian traffic flow due to unmanaged depositing of building materials or use of engines or concrete mixers in public areas.

## **5.2 Authority required for scaffolding and deposit of materials**

- 5.2.1 No person shall, without first obtaining permission from the Council:

- a) Erect or cause to be erected any scaffold, gantry, hoarding, or barricade on or over any public place or any part thereof; or
- b) Deposit any building material or building rubbish on, or make or maintain a hole or excavation in, or disturb the surface of any public place or any part thereof; or
- c) Prepare building materials on any public place or part thereof.

## **5.3 Shutting of fence or hoarding**

- 5.3.1 No person shall erect or demolish any building, or alter, add to, repair, plaster, or cause to be altered, added to, repaired, plastered, painted, or cleaned, the walls, roofs, or other external part of any building abutting on any street or public place, or the footway thereof, unless or until he shall have erected a fence or hoarding so as to shut off and render safe the traffic passing or which may pass along such street, public place, or footway, or otherwise shall have obtained approval from the Council to dispense with such fence or hoarding.

## **5.4 Security for possible damage**

- 5.4.1 Council may grant approval for the work to be undertaken subject to the provisions of this part of the Bylaw to ensure the safety and convenience of the public and protection of the street. An applicant must deposit with the Council such a sum as Council shall direct, to be held as security for the making good by the applicant of any damage that may be caused to the public property by such work or act. If the applicant does not make good such damage Council may repair or make good to the original standard, and charge the cost of such work to the applicant or deduct the cost needed aforesaid.
- 5.4.2 Council shall not grant approval until satisfied that the applicant has taken out insurance under a public liability policy in respect of injury to persons and damage to property arising out of the work involved for such sums and in such form as the Council may require.

## **5.5 Works required to be carried out for protection of the public**

- 5.5.1 Where in the opinion of the Council it is necessary in the public interest, the person intending to erect any scaffolding shall, before commencing the erection of the scaffold, form a gantry over the public footway, so as to allow pedestrians to pass beneath it. Such gantry shall be substantially constructed to the approval of the Council, and so constructed as to prevent tools, dust, rubbish, materials, or water falling upon the pedestrians, vehicular traffic and adjoining properties, and the applicant receiving the consent of the Council to erect such scaffold shall keep the public way beneath it clean to the satisfaction of the Council.
- 5.5.2 Where gantries are not required over the footway, the lower stage of the scaffold shall be close-boarded, such close-boarding to extend to a line with the outside edge of the kerb, or such other precautions taken as the Council may require so as to prevent tools, dust, rubbish, materials, or water falling upon the public.
- 5.5.3 No material shall be deposited under any scaffold on any portion of a footway used by the public.
- 5.5.4 Where needed, or where required by the Council, a boarded platform not less than 1m wide with stout post rails and wheel-kerbs on the outside of it shall be constructed outside the scaffold or enclosure.
- 5.5.5 In all cases where street channels are covered over, the person to whom the permit is issued shall prevent the obstruction of such channels during the currency of the permit.

## **5.6 Hoardings, etc, to be lighted**

- 5.6.1 All scaffolds and hoardings shall be well and sufficiently lit to the satisfaction of the Council during the hours of darkness.

## **5.7 Construction of Hoardings**

- 5.7.1 Builders' hoarding shall be not less than 2m in height; they shall be constructed in a substantial and workmanlike manner of approved material, the ends shall be splayed, and the outside sheeting, whatever the material, shall be left with a smooth and even surface and when required by the Council, any hoarding or any part thereof encroaching on any street or footway shall be painted white or other appropriate colour.
- 5.7.2 Openings in hoardings shall be provided with sliding panels, hung with approved hangers, and shall slide inside the line of hoarding, or such openings may be provided with a door fixed so as not to swing outwards. No such hoarding shall be used for advertising purposes.
- 5.7.3 All fire hydrants shall be left unenclosed in recesses formed of such size and in such a manner as to enable the hydrant to be easily accessible.
- 5.7.4 Access shall be provided to all underground services within the enclosed area.
- 5.7.5 Street lamps shall not be enclosed without the permission of Council. When such enclosure is permitted, the applicant shall put a lamp or lamps temporarily outside the scaffold so that the public way may be properly lit.

## **5.8 Guarding against injury to traffic**

- 5.8.1 Every person erecting, adding to, altering, repairing, plastering, painting, cleaning, or demolishing any building shall, during the operations or works necessary for such erection, additions, alterations, repairs, plastering, painting, cleaning, or demolishing, use all such other or further precautions for guarding against injury to persons using or passing along any street or public place as may be necessary or as may be directed by the Council.

## **5.9 Erection of engine or concrete mixer**

- 5.9.1 No person shall, without the written permission of the Council, place, erect, or use any stationary engine, concrete mixer, air-compressor, crane, hoist, or other machinery on any public place or part thereof in such a way as to cause an obstruction.

# **6.0 FIRES IN THE OPEN AIR**

## **6.1 Objectives of this part of the Bylaw**

- 6.1.1 To prevent nuisances from fires in the open air.
- 6.1.2 To prevent the spread of vegetation fires.
- 6.1.3 To prevent fires from combustible materials damaging nearby buildings.

## **6.2 Fires In The Open**

- 6.2.1** No person shall in any open fire season light any fire in the open air including a barbecue, ethnic cooking fire, or an incinerator fire under the following conditions:
- (a) Where the location, wind, or other conditions cause or are likely to cause the fire to become:
- (i) A danger to any person or property; or
  - (ii) Out of control or spread beyond the limits of the premises on which it is lit; or
  - (iii) A smoke or ash nuisance to any person
  - (iv) An odour or fumes nuisance to any person.
- (b) Within three metres of any part of a building, tree, hedge, fence or other combustible material; or
- (c) Without continuous supervision being maintained at all times; or
- (d) Without an acceptable means of fire suppression being available where the fire is located on residential premises, or land adjoining such premises.

### **6.3 Restricted Fire Season**

- 6.3.1 An authorised officer may at any time prescribe a restricted fire season or seasons within the District or in any specified part or parts thereof, and may at any time cancel or vary such a prescription.
- 6.3.2 Any person wishing to obtain a fire permit during a restricted fire season shall apply to the Authorised Officer.
- 6.3.3 The Authorised Officer may from time to time prescribe a form of application for the purposes of 6.3.2.
- 6.3.4 Upon receiving an application under 6.3.2 an authorised officer may issue a fire permit and may impose such conditions and restrictions in respect of the permit as the authorised officer considers reasonably necessary having regard to:
- (a) Any cultural requirements or practices;
  - (b) The location, terrain, natural vegetation, and the existence of buildings or other structures and any other fuels; and
  - (c) Protection of the safety, health and convenience, of persons on the premises in respect of which the permit is issued and adjoining lands and premises.
- 6.3.5 Nothing in section 6.3 shall apply to an ethnic cooking fire, an incinerator or a barbecue. Provided that Council may in certain circumstances include the above where it considers it necessary to do so.

### **6.4 Prohibited Fire Season**

- 6.4.1 An authorised officer may at anytime prescribe a prohibited fire season or seasons within the District or in any specified part or parts thereof, and may at any time cancel or vary such a prescription.
- 6.4.2 In a prohibited season no person shall light any fire in the open air including an ethnic cooking fire, an incinerator or a barbecue, and no person being the occupier of any premises shall cause, permit or suffer any fire to be lit or continue to burn in the open air on those premises.
- 6.4.3 Nothing in 6.4.2 applies to the use of gas fire barbecues. The authorised officer may in certain circumstances prohibit the use of gas barbecues.

### **6.5 Public Notice Of Restricted Or Prohibited Fire Season**

- 6.5.1 Public notice of the prescription of a restricted or a prohibited fire made under 6.3.1 or 6.4.1 or the cancellation or variation of prescription, shall be made by:
- (a) Broadcast or other similar means within the District; or
  - (b) By a notice inserted in a daily or community newspaper within the District.
  - (c) By any effective means.

### **6.6 Revocation Or Suspension**

- 6.6.1 Subject to 6.6.2, every fire permit issued in accordance with 6.3.4 shall remain in force from the date of issue until the expiry of the period, date or time specified in the permit, unless a prohibited fire season is declared.
- 6.6.2 Notwithstanding any other provisions in this bylaw, any permit issued under this Part of this bylaw maybe revoked or suspended by an authorised officer at any time, or suspended for such periods of time on such terms and conditions, as the authorised officer may consider reasonable in the circumstances.

### **6.7 Council May Extinguish Fires**

- 6.7.1 Where a fire has been lit or allowed to burn in:
- (a) An open fire season in breach of section 6.2.1; or
  - (b) A restricted fire season in breach of the conditions of a fire permit issued in accordance with 6.3.4; or

- (c) A prohibited fire season, in breach of 6.4.2;

any officer or agent of the Council (including the New Zealand Fire Service) may extinguish any such fire or direct the occupier of the premises on which the fire is located, or the person who lit the fire, to extinguish such fire.

- 6.7.2 Where an authorised officer or agent of the Council has extinguished a fire pursuant to 6.7.1, the Council may recover any costs incurred in extinguishing the fire from the occupier of the premises on which the fire was located, or the person who lit the fire.
- 6.7.3 Where any occupier of premises upon which a fire in the open air is located, or person who lit such a fire, disregards a Council direction under 6.7.1 to extinguish the fire, the authorised officer may authorise an agent of the Council (including the New Zealand Fire Service) to extinguish the fire and to take such other steps as may be reasonably necessary to ensure the safety of any person or to protect the premises, or any other property.
- 6.7.4 The Council may recover from the occupier of the premises, or the person who lit the fire, any costs incurred by it as a result of its officer or agents taking any action authorised by the authorised officer under 6.7.3.

## **6.8 Live Ashes**

- 6.8.1 No person shall place any live cinders, embers or ashes in or upon any premises other than:
- (a) In a container made and constructed of concrete or other similarly fire resistant material to prevent the transmission of heat to any combustible material; or
  - (b) In a pit or upon any fire-resistant substance in a manner which will prevent the spreading of fire or heat by the action of wind or otherwise.
  - (c) As part of an ethnic cooking process including hangi and umu.

## **6.9 Removal Of Gorse And Other Growth**

- 6.9.1 No occupier or any other person having the control of any land shall allow any broom, gorse, bushes, scrub, dry grass, or similar growth to exist within 6 metres of any building or adjoining premises, in such a condition or state that it is likely to become a source of risk from fire.
- 6.9.2 An authorised officer of the Council may by written notice require an occupier or person having control of any land to remove any dangerous growth.
- 6.9.3 The Council may cut down or otherwise eradicate and remove any tree, broom, gorse, bushes, scrub, dry grass or similar growth to which 6.9.1 applies, after giving oral notice to the occupier or where there is no occupier, to the owner of the land, if life, property or any road is in imminent danger. The cost of the work shall be a charged against the land.
- 6.9.4 Should the owner or occupier fail to comply with the written request of the Council to remove the dangerous growth then the Council may arrange the removal of such growth and recover the cost of removal from the owner or occupier.

## **6.10 Storage Of Combustible Materials**

- 6.10.1 Except as provided in 6.10.2 no occupier of any premises shall permit the storage or stacking in the open of any combustible material, unless the distance of the stack from any boundary other than a street boundary is at least equal to the height of the stack, but in any case not less than 1.5 metres.
- 6.10.2 A stack may, with the written approval of the adjoining property owner, be placed closer to the boundary than specified in 6.10.1 where any of the following conditions continue to exist:
- (a) Where there is a brick, stone or concrete wall without openings situated on the adjoining property and within 1.5 metres of the common boundary; or
  - (b) Where there are no buildings on the on the adjoining land; or
  - (c) Where there is no danger of a stack adjacent to a boundary increasing the risk of the spread of fire.

## **7.0 THE KEEPING OF ANIMALS, POULTRY AND BEES**

### **7.1 Objectives of this part of the Bylaw**

- 7.1.1 To prevent nuisances arising from the keeping of animals poultry and bees in urban areas.
- 7.1.2 To prevent nuisances for nearby residences occurring from intensive animal husbandry.

### **7.2 Pig Keeping**

- 7.2.1 No pigs shall be kept in any urban area within the District.

### **7.3 Stock In Urban Areas**

- 7.3.1 Any person keeping stock in an urban area shall ensure that premises where stock is kept meet such conditions as may be prescribed by an authorised officer.
- 7.3.2 No person, shall, without having first obtained the written approval of Council keep, have in his possession or control any stallion within any urban area.

### **7.4 Feedlots And Stock Standoff Areas**

- 7.4.1 No feedlot or stock standoff area shall be operated within 30m from the boundary with adjacent property not in the ownership of the same person on whose land such facilities are operated or within 150m from any residence on an adjoining site.

### **7.5 Poultry Keeping**

- 7.5.1 No poultry caged or otherwise (which shall include geese, ducks, pigeons, turkeys, and domestic fowls of all descriptions) shall be kept in an urban area except in a properly constructed poultry house covered in with a rainproof roof and provided with a floor of concrete or other approved material with a surrounding nib wall, to which a poultry run may be attached.
- 7.5.2 Except with the written consent of Council not more than 12 head of poultry and no roosters shall be kept in any urban area.
- 7.5.3 No poultry house or poultry run shall be erected or maintained, so that any part of it is within 10m from any dwelling, factory, or any other building, whether wholly or partially occupied, or within 2 m of the boundary of adjoining premises.
- 7.5.4 Every poultry run in an urban area shall be enclosed to confine the poultry.
- 7.5.5 Every poultry house and poultry run shall be maintained in good a clean condition free from any offensive smell or overflow and vermin.

### **7.6 Noise From Animal, Bird, Or Fowl**

- 7.6.1 No person shall keep on any premises in a predominantly urban area any noisy animal, which causes a nuisance to residents in the neighbourhood.

### **7.7 Bee Keeping**

- 7.7.1 No person shall keep bees in a predominantly urban area if in the opinion of an authorised officer the keeping of bees is, or is likely to become a nuisance or annoyance to any person or potentially dangerous to health.
- 7.7.2 An authorised officer may prescribe conditions relating to the location and number of hives able to be kept on any premises or place within an urban area of the District.

## **8.0 BODY PIERCING**

### **8.1 Objectives of this part of the Bylaw**

- 8.1.1 To promote the health and safety of clients of persons practicing body piercing for jewellery, tattooing or other purposes.
- 8.1.1 To ensure that practice of body piercing is only carried out in premises licensed for this purpose.

### **8.2 Application of Bylaw**

- 8.2.1 This Part of the Bylaw does not apply to body piercing carried out in the practice of medicine, dentistry, nursing, physiotherapy or podiatry by:
  - (a) A medical practitioner registered under the Medical Practitioners Act 1968.
  - (b) A dentist registered under the New Zealand Dental Act 1988.
  - (c) A nurse registered under the Nurses Act 1977.
  - (d) A physiotherapist registered under the Physiotherapist Act 1949.
  - (e) A Pharmacist registered under the Pharmacy Act 1970.
  - (f) An Acupuncturist who is a member of the New Zealand Register of Acupuncturists Incorporated.
  - (g) A person acting under the direction or supervision of any such medical practitioner, dentist, nurse, physiotherapist or podiatrist.

### **8.3 Licensing**

- 8.3.1 A person must only carry out body piercing on a premises licensed by Council for that purpose.
- 8.3.2 A person must apply for a body piercing licence if they are the owner or manager of premises used or intended to be used for body piercing. Council will process an application for a body piercing licence if it is made by a natural person or persons, is on the form prescribed and includes all information requested by the Council and the required licence fee.
- 8.3.3 A body piercing licence will be granted by Council, if and only if the Council is satisfied that the premises and the proposed body piercing service will comply with:
  - (a) The requirements of all relevant Acts and Regulations.
  - (b) The relevant provisions of any District Plan.
  - (c) Relevant New Zealand and Australian Standards including AS 4031:1992, AS 2182:1994, AS 2773:1985, NZS 4303:1990, AS/NZS 3816:1998, and AS/NZS 4261:1994.
  - (d) The Ministry of Health's current Guidelines for the Safe Piercing of Skin (1998).
- 8.3.4 Council may require the person applying to complete a test to show that they are familiar with these documents.

### **8.4 Transfer of Licence**

- 8.4.1 A body piercing licence may not be transferred to another person or to another premise.
- 8.4.2 The person holding the body piercing licence will be responsible for ensuring that the provisions of this part of the Bylaw are complied with and that all persons working on the premises of the body piercing operation are adequately trained and supervised to prevent any breach of the requirements of this part of the Bylaw.
- 8.4.3 A body piercing licence must be displayed in a part of the premises to which the licence relates. The licence must be displayed in an area where the public has access to so that any member of the public or authorised officer can easily see it when visiting the premises.
- 8.4.4 Council will specify the date that the licence expires; this date will be recorded on the licence. The licence holder must apply for a renewal of expired licences, if body piercing is to continue. Applications for renewal of licences will be assessed as if it were a new application.
- 8.4.5 Council may grant a licence on such terms and conditions as are deemed necessary. The person applying must comply with any special terms and conditions specified in the licence in addition to the general requirements for body piercing set out below.

## **8.5 General Requirements**

- 8.5.1 The person holding the licence must comply with the standards in 8.3.3 (c) and (d) above to the extent that they are relevant to the body piercing premises and service.
- 8.5.2 It is the responsibility of the licence holder to ensure that no jewellery thinner than 14 gauge is used below the neck.
- 8.5.3 Body piercing must not be carried out on any person less than 16 years of age without the written permission of that person's parent or guardian.
- 8.5.4 A notice must be displayed in a prominent place within the public part of the premises asking customers to inform the licence holder if they have any communicable or infectious disease, which is likely to have an effect on body piercing.
- 8.5.5 If the licence holder or any other employee at the body piercing premises knows or suspects that they or any other staff member, whether paid or unpaid is suffering from or is carrying a skin infection or a communicable disease, or associated condition, body piercing must not be carried out, without first taking adequate precautions to prevent the transmission of that infection, disease or condition.
- 8.5.6 Before beginning body piercing on a customer, the customer must be advised of the risks associated with body piercing and the potential for infection to occur during and after the process. Written advice appropriate to the procedure to be undertaken must be given, in relation to precautions and post-piercing procedures, which should be followed by the customer.
- 8.5.7 Before any piercing of the skin is commenced, all potential customers must sign a consent form recording the following;
- (a) Whether they have any reason to believe they have a communicable disease or skin disease.
  - (b) Whether they have a history of haemophilia (bleeding).
  - (c) Whether they are taking any medication, such as anticoagulants, which thin the blood or interfere with blood clotting.
  - (d) Whether they have a history of allergies or adverse reactions to pigments, dyes or other skin sensitivities, or a history of epilepsy or seizures.
- 8.5.8 Any customer who knows or suspects that he or she has any of the above diseases or conditions is required to inform the person who appears to be in charge of the premises before the body piercing begins.
- 8.5.9 The licence holder may decline to carry out any body piercing on such a person, or may agree to carry out the body piercing subject to such conditions and safeguards that are considered appropriate by the licence holder in the circumstances. Nothing in this Part of the Bylaw requires the licence holder to perform body piercing on any person.
- 8.5.10 The licence holder must keep records of the names, phone numbers and addresses of any person who undergoes body piercing at the premises, the date on which the body piercing was carried out, the nature of the body piercing, and the location on the body where the body piercing was undertaken. Those records must be kept for at least three years and made available to an Environmental Health Officer, Health Protection Officer or a Medical Officer of Health as defined in the Health Act 1956 who is carrying out any investigation pursuant to Part III of the Health Act 1956 or the Health (Infectious and Notifiable Diseases) Regulations 1966.
- 8.5.11 A copy of this part of the Bylaw and the Ministry of Health's current Guidelines for the Safe Piercing of skin must be kept on the premises and must be freely available for reading by any person employed on the premises and by any person attending the premises for the purpose of undergoing any body piercing.
- 8.5.12 Where Council is satisfied that compliance with any requirement of this part of the Bylaw would be impractical or unreasonable having regard to the premises and body piercing service in question, Council may grant a written exemption from the requirement. The exemption will be granted on such terms and conditions, as are consider desirable in the interest of public health.

## **8.6 Exemptions from Licensing Requirement**

- 8.6.1 The requirement to obtain a licence for body piercing premises does not apply to:



- (a) Carrying out acupuncture at a person's home where the person wishing to undergo acupuncture is unable to attend the licensed premises because of injury, infirmity or medical emergency, if the acupuncture is carried out in compliance with the general requirements in this part of the Bylaw, or
- (b) Carrying out any body piercing in any temporary structure or premises for a maximum period of five days in any 30 day period, if the person carrying out the body piercing complies with all conditions specified by Council.

8.6.2 The written approval of Council and the payment of any fee for any inspection required and payment for Council's time to consider the matter may be required before an exemption from the licensing requirement is granted.

## **9.0 FOOD SAFETY**

### **9.1 Objectives of this part of the Bylaw**

9.1.2 To set requirements so that all premises, where food is prepared for sale, employ persons that are adequately trained in food hygiene. The Bylaw also allows Council to close premises that are insanitary.

9.1.3 To ensure that safe food is available in all food premises throughout the District.

### **9.2 Compulsory Training for Food Handlers**

9.2.1 All food premises are required to have food handling staff that have passed or are in the process of acquiring an NZQA approved basic food hygiene or food safety certificate, with the exception of those premises that have a Food Safety Programme or Food Control Plan approved by the Food Safety Authority.

9.2.2 It shall be the duty of the occupier of every food premise to ensure that food handling staff have passed an NZQA or are in the process of acquiring an NZQA approved basic food hygiene or food safety certificate.

9.2.3 Every food premise shall have at least one person employed in a supervisory and staff training capacity who is trained to the standard required, provided that Council may grant an exemption or partial exemption where full compliance may be unreasonable having regard to the site and the nature of the premises.

9.2.4 In the case of food premises which consist of separate departments or sections, each of which functions more or less in isolation from the others; at least one person shall be appointed to act in a supervisory position within each separate department or section.

9.2.5 The occupier of every food premise shall ensure that adequate records are kept relating to staff training and that copies of all certificates gained by staff are kept on the premises for perusal by any authorised officer upon request.

### **9.3 Closure of Premises**

9.3.1 Where any food premise or part of any food premises or any appliance, fitting or fixture or other equipment on any food premises by reason of their situation, construction, disrepair, or state are in such a condition that any food in the food premises may become unfit for human consumption, an authorised officer may serve a notice in writing on the occupier of the premises requiring him/her:

- (a) To cease using the premises as food premises, and/or to clean or reconstruct or to repair the premises, or part of the premises. and/or
- (b) To cease using, or to clean, reconstruct, or repair any appliance, fittings, fixture or other equipment on those premises in accordance with the requirements and within the time specified in the notice.

9.3.2 Where an occupier has been directed to cease to use any food premises the occupier shall not recommence use of those food premises until permission has been given in writing by Council.

## **10.0 PROSTITUTION**

### **10.1 Objectives of this part of the Bylaw**

- 10.1.1 To support the purpose and intent of the Prostitution Reform Act 2003.
- 10.1.2 To enable commercial sexual service providers to operate within Waitomo District in a manner that both meets community demand for services and addresses community concerns and sensitivities.
- 10.1.3 To allow the establishment of brothels in areas where the effects associated with the operation can be readily controlled.
- 10.1.4 To limit the exposure of children and young people to commercial sex activities.
- 10.1.5 To control the establishment of signage associated with brothels to minimise community harm or offence.
- 10.1.5 To control the soliciting of commercial sexual services in Waitomo District.

### **Location of Brothels**

#### **10.1 Permitted Areas of Operation**

- 10.1.1 Brothels are permitted to locate and provide commercial sexual services from premises located within the permitted brothel area, subject to meeting other conditions in the Bylaw.

#### **10.2 Proximity to Sensitive Sites**

- 10.2.1 Any brothel shall not be located within 100 metres (in a straight line) of any sensitive site.
- 10.2.2 Where a sensitive site establishes within 100m of an existing and lawfully established brothel, the brothel will be exempt from this restriction, provided that this exemption shall not apply where the operation of the brothel is discontinued for a continuous period of more than 6 months.

#### **10.3 Signage of Commercial Sexual Services**

- 10.3.1 Signage of commercial sexual services must conform with the provisions of the Waitomo District Plan and the additional limitations set out in 10.3.2 to 10.3.4 below.
- 10.3.2 Any sign advertising any brothel must be fixed to the premises at which the commercial sexual service is provided.
- 10.3.3 Only one sign is permitted per premises.
- 10.3.4 Signs must not:
  - contain neon lighting or include or be lit by flashing lights; or
  - contain words reasonably considered to be sexually explicit or offensive by Council or delegated officer (under clause 32 of schedule 7 of the Local Government Act 2002); or
  - contain any images (photographs or artwork) or models (human or mannequin) or shapes reasonably considered by Council or delegated officer (under clause 32 of schedule 7 of the Local Government Act 2002) to be sexually explicit or offensive.

#### **10.4 Soliciting of Commercial Sexual Services**

- 10.4.1 No person shall solicit within the Waitomo District area including in any street, road, footpath, road reserve or public place.
- 10.4.2 No person shall solicit within the Waitomo District area where that person is, or may be visible from any public place or reserve.

## **11.0 ACCOMMODATION ESTABLISHMENTS**

### **11.1 Objectives of this part of the Bylaw**

- 11.1 To ensure that establishments providing commercial accommodation services are maintained in a clean and hygienic condition.
- 11.2 To set requirements so that cooking and dining facilities for the use of guests in commercial accommodation establishments are of an acceptable standard.

### **11.1 Responsibilities of Keeper**

- 11.1.1 The keeper of an accommodation establishment shall maintain all of the building and all appliances, fixtures fittings and bedding in the building in good repair and in a clean and hygienic condition and cause all rooms, passages, stores, floors, ceilings, windows, doors and walls of the building to be kept clean and free from vermin;
- 11.1.2 The keeper of an accommodation establishment shall not:
  - (a) At any time permit to be occupied any room in an accommodation establishment wholly or partly as a sleeping room unless such room has at least the area specified in the first column of the Second Schedule to the Housing Improvement Regulations 1947 for the number of persons sleeping in such room calculated in accordance with the second column of such schedule.
  - (b) Permit any room that is not approved for use as a bedroom to be occupied or used for that purpose;
  - (c) Permit equipment for the cooking or heating of food to be provided or used in any room except a kitchen.

### **11.2 Kitchen Standards**

- 11.2.1 Where a kitchen and a dining room is provided in an accommodation establishment it shall be to the following minimum standards for the preparation of meals for guests or where guests can provide their own individual meals:
  - (a) All floors, walls and ceilings in the kitchen shall be kept in good repair, and finished to provide smooth, impervious, easily cleanable surfaces. All walls and ceilings shall be finished in a light colour.
  - (b) All parts of the kitchen and dining room shall be maintained in a clean, hygienic and tidy condition, free from foul odours and vermin;
  - (c) The kitchen shall be provided with a sufficient number of sinks and other sanitary fittings reasonably necessary for the cleansing of crockery, utensils and appliances used in the preparation, service and consumption of food. Every such sink shall be supplied with a piped supply of hot and cold water.
  - (d) A wash-hand basin supplied with piped hot and cold water shall be located within the kitchen or within close proximity to the kitchen. The wash-hand basin shall be supplied with soap, a nail brush and hand-drying equipment.
  - (e) All benches, shelves, tables, cupboards, appliances and equipment shall be constructed and finished so that they are capable of being easily cleaned;
  - (f) Adequate means of preparing food and of cooking food, both by boiling and by baking, sufficient for the numbers of guests, shall be provided in the kitchen;
  - (g) Adequate refrigerated and frozen storage shall be provided sufficient for the numbers of guests, for the storage of perishable and readily perishable foods. All refrigerated storage shall operate at 4°C or below and frozen storage at -18°C or below.
  - (h) Adequate space for the storage of food shall be provided, so placed, fitted and ventilated as to protect the food from flies, dust, and other contamination and from the direct rays of the sun;
  - (i) Adequate tables and chairs and utensils in the dining room for the consumption of food.

### **11.3 Exemptions**

- 11.3.1 Where an authorised officer is satisfied that compliance with the requirements of this Part of the bylaw would be unreasonable or impractical, an exemption in respect of any particular requirements may be granted in whole or in part, with such modifications and subject to such conditions including such time limitations as are desirable in the circumstances.

**Common Seal of Waitomo District Council:**



The Common Seal of the Waitomo District Council  
was hereto affixed in the presence of:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Chief Executive