

New Plymouth District Council Bylaw

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Animals Bylaw 2020

Te Kaunihera-ā-Rohe o Ngāmotu
New Plymouth District Council

DOCUMENT HISTORY

Meeting	Date	Decision	Next Review
Council	2 June 2020	Adopt Bylaw	

Animals Bylaw 2020

New Plymouth District Council

The purpose of this bylaw is to control the keeping of animals (including pigs, poultry, bees, livestock and cats) within the district to ensure they do not create a nuisance or endanger health to neighbours and other members of the public; and to regulate the slaughtering of animals to avoid causing nuisance or offence.

1 Title and Commencement

1.1 This bylaw is the New Plymouth District Council Animals Bylaw 2020.

1.2 This bylaw comes into force on 22 June 2020.

2 Authority

2.1 This bylaw is made under:

a) Sections 145(a) and (b) and 146(a)(v) of the Local Government Act 2002; and

b) Section 64(1)(a), (i), (j), and (m) of the Health Act 1956.

2.2 This bylaw should be read in conjunction with the Operative New Plymouth District Plan, although the Plan does not form part of this bylaw.

3 Purpose

3.1 The purpose of this bylaw is to:

a) Control the keeping of animals within the district to ensure they do not create a nuisance or endanger health to neighbours and other members of the public; and

b) Regulate the slaughtering of animals to avoid causing nuisance or offence.

4 Exclusions

4.1 This bylaw does not apply to:

a) Any animal kept in a zoo or zoological gardens; or

b) Any dogs.

5 Interpretation

Definitions

5.1 In this bylaw unless the context otherwise requires:

Animal means any member of the animal kingdom, including any mammal, finfish, shellfish, reptile, amphibian, insect or invertebrate which is kept in a state of captivity or domesticated and includes the carcass or constituent parts of that animal but it does not include human beings or dogs.

Approval or Approved means a written approval from the Council.

Bylaw means the New Plymouth District Council Animals Bylaw 2020.

Dwelling or Dwellinghouse means any separately occupied household unit used in whole or in part for human habitation, and includes any building, tent, vehicle or other structure, whether permanent or temporary and whether attached to the soil or not.

Feral animal means an animal which is not a stray animal, and which has none of its needs provided by humans. Feral animals generally do not live around centres of human habitation.

Livestock or stock includes any cattle, sheep, deer, horse, donkey, hinny, mule, goat, thar, alpaca, llama, bison, ostrich, emu, pigs or any other herd animal, regardless of age or sex.

Nuisance means any unreasonable interference with the peace, comfort or convenience of another person and includes a statutory nuisance as defined in section 29 of the Health Act 1956, and includes the following:

a) where any accumulation or deposit of any waste or other similar material is in such a state or so situated as to be offensive;

b) where any buildings used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive; and

c) where any noise emitted by an animal unreasonably interferes with the peace, comfort, and convenience of any person.

Occupier (of any property) means the inhabitant of any property, and in any case where the property is unoccupied includes the owner of that property.

Owner (of any property) means any person who would be entitled to receive the rack rent of the property if the property were let, and where any such person is absent from New Zealand includes that person's authorised lawyer or agent, or any other person acting on their behalf.

Person means an individual, a corporation sole, a body corporate, or an unincorporated body.

Poultry means any live domesticated or farmed bird including, but not limited to, chicken, rooster goose, duck, turkey, swan, pheasant, or peafowl.

Property means any parcel of land and/or building capable of being transferred, sold, rented, leased, or otherwise disposed of separately from any other parcel of land and/or building(s), whether or not the land and/or building is occupied.

Stable means a building in which livestock are kept.

Stray animal means a domestic animal which is lost or abandoned, and which is living as an individual or in a group. Stray animals have many of their needs indirectly supplied by humans and live around centres of human habitation.

Urban means any land contained within New Plymouth, Bell Block, Waitara, Inglewood, Oakura, Okato, Lepperton, Egmont Village, Onaero and Urenui, and that has reticulation services for water supply, sewage, or stormwater disposal available to it (even if the services are not currently used).

Waste has the same meaning as defined in section 5 of the Waste Minimisation Act 2008.

References to repealed enactments

5.2 A reference in this bylaw to a repealed enactment, standard or document is a reference to an enactment, standard or document that, with or without modification, replaces, or that corresponds to, the repealed enactment, standard or document repealed.

6 Keeping of animals

6.1 No person may keep, permit or suffer to be kept any animal (including livestock, poultry and bees):

a) which in the opinion of the Council causes a nuisance through noise, smell, dust or through the attraction of flies; or

b) in a manner that in the opinion of the Council is or is likely to become:

i) a nuisance, or

ii) offensive to the occupier of a neighbouring property or a threat to the health of any person.

6.2 Clause 6.1 will apply regardless of whether a person has complied with other clauses in this bylaw.

6.3 Any person keeping an animal (other than cats or bees) must confine the animal within the boundaries of the property where the animal is usually kept.

6.4 Clause 6.3 of this bylaw does not prevent a person from driving, leading or riding any animal.

Releasing domestic animals

6.5 No person may release or abandon a domestic animal.

Note: releasing an animal that has been kept in captivity, in circumstances in which the animal is likely to suffer unreasonable or unnecessary pain or distress is an offence under the Animal Welfare Act 1999.

7 Encouraging nuisances by feral or stray animals (including cats)

7.1 No person shall provide sustenance, harbourage or comfort to an animal that reasonably appears to be a feral or stray animal so as to cause the animal to become a nuisance to other persons.

7.2 Where an animal that is causing a nuisance reasonably appears to be a feral or stray animal, the owner or occupier of the property from which such animals emanate must abate the nuisance caused by the animal(s). Abatement may include but is not limited to:

a) claiming the animal(s) as a domestic owned pet and keeping it in such a state as to abate any nuisance;

b) permanently removing (including disposal of) the animal so it no longer causes a nuisance to others; or

c) agreeing with the Council that the Council will remove the animal and the occupier will pay the Council's reasonable costs.

Note: animal rescue activities in the community are not prohibited unless they are conducted in such a way as to encourage stray or feral animals to cause nuisance. Where possible, Council will work proactively with the SPCA and other animal rescue organisations to ensure animal welfare requirements are met and all practicable options are explored when dealing with feral and stray animals.

8 Keeping of cats or kittens in an urban area

Number of cats in a dwelling

8.1 Except with the written approval of the Council, no person may keep more than three cats or kittens over the age of six months within or by any dwelling located in an urban area.

8.2 Before granting any approval under clause 8.1 of this bylaw, the Council must be satisfied that:

a) the cats or kittens will be adequately housed and that no nuisance will result; and

b) any other lawful requirements of the Council have been satisfied including any relevant provisions of the Operative New Plymouth District Plan.

8.3 The approval of the Council under clause 8.1 of this bylaw may include such terms and conditions as the Council considers appropriate in the circumstances, including requiring the cats to be desexed.

8.4 Any person to whom an approval has been given under clause 8.1 of this bylaw must comply with the terms and conditions of the approval.

Cat breeders

8.5 Despite clause 8.1 of this bylaw, a breeder of cats may keep more than three cats in the breeder's cattery or other place if the breeder and the cattery meet the following criteria:

a) the breeder is a full voting member of an affiliated club of New Zealand Cat Fancy or Catz Incorporated; and

b) the breeder holds a registered prefix granted to them by the New Zealand Cat Fancy or Catz Incorporated; and

c) the breeder's cats are held in a cattery or other place which meets the minimum criteria set in the MPI Code of Welfare – Companion Cats; and

d) the number of cats held in the cattery must be no more than that for which the cattery is accredited; and

e) the cattery is operated to a high standard of hygiene at all times; and

f) the cattery does not create a nuisance.

Note: it is preferable that the breeder holds cats in a cattery or other place which meets an accreditation scheme or equivalent held by the New Zealand Cat Fancy, Catz Incorporated, or a similar accreditation body.

8.6 Clause 8.5 of this bylaw does not prevent a breeder from keeping up to three cats in the breeder's dwelling in accordance with clause 8.1 of this bylaw, in addition to any cats in their cattery or place in which the breeding cats are kept.

8.7 If, in the opinion of the Council, any cattery or place where cats are kept for the purposes of breeding creates a nuisance, or a nuisance is caused by the keeping of cats or kittens, the Council may by written notice to the breeder, owner or occupier, as the case may be, require the breeder, owner or occupier to abate the nuisance.

8.8 Any breeder, owner or occupier who receives a notice under clause 8.7 of this bylaw must, without delay, act to abate the nuisance as required by the notice.

9 Poultry keeping

Poultry in urban areas

9.1 No person may keep roosters, ganders or peacocks in urban areas.

9.2 No person may keep more than 12 head of poultry on any property in an urban area.

Poultry keepers to avoid nuisance

9.3 Any occupier of property on which poultry is kept must ensure that the poultry are confined to that property. This can be achieved by providing either:

a) an enclosed poultry house with an attached run; or

b) an enclosed poultry house and adequate fencing of the property;

where the poultry house and poultry run (if any) complies with the requirements of clause 10 of this bylaw.

9.4 No person keeping any poultry may allow the poultry to create a noise or odour nuisance.

9.5 If, in the opinion of the Council, any poultry creates a nuisance, the Council may by written notice to the owner or occupier require the owner or occupier to abate the nuisance.

9.6 Any owner or occupier who receives a notice under clause 9.5 of this bylaw must, without delay, act to abate the nuisance as required by the notice.

9.7 Clause 9 of this bylaw does not prevent any person temporarily keeping poultry in an auction room or in any property used for the killing and dressing of poultry for sale.

10 Poultry houses and poultry runs

10.1 Every poultry house must be:

a) constructed in accordance with the Building Act 2004 as the case may require;

b) rainproof; and

c) provided with a floor of concrete or other appropriate or suitable material to which a poultry run may be attached.

10.2 No poultry house or poultry run may be located:

a) Within ten metres of any neighbouring dwelling, or

b) Within two metres of the boundary of any adjoining property.

10.3 Every poultry house and poultry run must be adequately graded and drained and must be kept clean and in good repair.

10.4 Effluent or discharge from a poultry house or poultry run must:

a) not be discharged in such a manner as to cause a nuisance; and

b) comply with the Resource Management Act 1991; and

c) comply with the relevant requirements of the Taranaki Regional Council.

10.5 If, in the opinion of the Council, a poultry house or poultry run causes a nuisance, the Council may by written notice to the owner or occupier require the owner or occupier to abate the nuisance.

10.6 Any owner or occupier who receives a notice under clause 10.5 must, without delay, act to abate the nuisance as required by the notice.

11 Beekeeping

Beekeeping not to create a nuisance

11.1 No person may keep bees if, in the opinion of the Council, the keeping of such bees is, or is likely to become, dangerous, injurious to health, or a nuisance to any person.

11.2 A beekeeper must ensure that beehives are positioned so as to ensure the primary flightpath will not impinge on a dwelling or living area of any neighbouring property.

11.3 If, in the opinion of the Council, bees cause a nuisance to or may be dangerous or injurious to the health of any person, the Council may:

a) seek advice from an experienced beekeeper as nominated by a local beekeeping club, other similar recognised body and/or consensus of locally-based registered commercial beekeepers to recommend possible solutions to abate the nuisance or danger;

b) by written notice require the beekeeper or owner or occupier of the property to undertake ~~one or more of the following~~ steps to mitigate or abate the nuisance or danger. These may include, but are not limited to the following:

i) ensure the bees are kept in accordance with the ~~Apiculture NZ Code of Conduct~~New Zealand Honeybee Care Code™ and/or similar code of conduct;

ii) relocate the beehives to another area on the property;

iii) develop a flight management plan and submit this to the Council for approval by the Council to ensure that the bees flightpath is diverted from or made to go a minimum of 1.8 metres high over an adjacent property, footpath, or road;

iv) reduce the maximum number of beehives allowed on the property; and/or

v) remove some or all of the existing beehives from the property.

11.4 Any beekeeper, owner, or occupier who receives a notice under clause 11.3 of this bylaw must, without delay, comply with the notice.

11.5 A beekeeper must register any beehives located within the district in accordance with the Biosecurity Act 1993 and the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998.

Bee keeping in urban areas

11.6 Except with the written approval of the Council, the maximum number of beehives allowed on any property in an urban area is:

a) three beehives on a lot size less than 600m^2;

b) five beehives on a lot size between 601m^2 and 750m^2; and

c) seven beehives on a lot size greater than 750m^2.

11.7 There is no maximum number of beehives for properties outside of any urban area.

11.8 A beekeeper cannot install, keep, or permit any beehive in excess of the maximum numbers allowed under clause 11.6, or any lower maximum imposed under clause 11.3(iv) of this bylaw.

11.9 Before granting any approval under clause 11.6 of this bylaw, the Council must be satisfied that increasing the number of beehives will not result in a nuisance or otherwise be injurious to the health of any person.

11.10 The approval of the Council under clause 11.6 of this bylaw may include such terms and conditions as the Council considers appropriate in the circumstances.

11.11 Any person to whom an approval has been given under clause 11.6 of this bylaw must comply with the terms and conditions of the approval.

12 Keeping of livestock

Livestock near boundary in urban areas

12.1 No person may, keep, or allow to be kept, any livestock on properties in an urban area at a distance less than two metres from a boundary of any adjoining property where, in the opinion of the Council, an annoyance or nuisance may be created by the presence of the livestock within that area.

12.2 Clause 12.1 of this bylaw does not prevent a person from driving, leading, or riding any livestock.

Livestock housing

12.3 Any person keeping livestock must ensure they are housed in a stable that complies with all relevant legislation.

Note: As per clause 6.3 of this bylaw, livestock must be confined within the property concerned, with the exception of the situations described by clause 12.2 of this bylaw.

13 Pig keeping

Pigs to be kept in clean conditions

13.1 No person may:

a) keep any pigs in such a manner so as to create a nuisance, or which is otherwise likely to be injurious to the health of any person or offensive; or

b) keep pigs other than in compliance with the relevant provisions of the Operative New Plymouth District Plan; or

c) erect, or cause to be erected, any pigsty that does not comply with the Building Act 2004 and any other lawful requirements; or

d) discharge effluent from a piggery in such a manner as to cause a nuisance.

13.2 Any discharge from a piggery must comply with the Resource Management Act 1991, and relevant requirements of the Taranaki Regional Council.

Note: The Operative New Plymouth District Plan contains provisions on the keeping of pigs. All pig farmers must also comply with the provisions of the Biosecurity Act 1993, Animal Welfare Act 1999 and any other relevant regulations.

14 Slaughter of livestock

Slaughter of livestock to avoid creating nuisance or offence

14.1 Any person responsible for the slaughter of any livestock must ensure:

a) the slaughter is not carried out in view of any person nearby;

b) any processing of the slaughtered livestock (including skinning, gutting, and cutting of a carcass) is not carried out in view of any person nearby;

c) the waste associated with a slaughter is not disposed of in view of any person nearby; and

d) the slaughter and associated processing does not otherwise create a nuisance or become offensive to any person nearby.

14.2 One way of complying with the requirements in clause 14.1(a), (b), and (c) of this bylaw is to erect adequate screening around the slaughtering, processing and disposal sites that is of sufficient size to prevent the slaughtering operation from being seen.

Offal burial

14.3 Any person responsible for the slaughter of any livestock must ensure:

a) any waste associated with the slaughter of livestock is immediately removed: and

b) the body or part of the body of any slaughtered livestock is disposed of in a manner that will not cause a nuisance (including producing odour), become a threat to the health of any person, or otherwise become offensive to any person nearby.

Interpretation of clause 14

14.4 For the purposes of clause 14 of this bylaw:

A **person responsible for the slaughter of any livestock** includes:

a) the owner of the livestock concerned;

b) any person contracted or otherwise engaged to perform the slaughter; and

c) any person carrying out the slaughter and associated processing and disposal.

Any person nearby:

a) includes a person on a neighbouring property, whether in a dwelling on that property or not, and a person in a dwelling on the property where the slaughter is carried out; but

b) excludes any person responsible for the slaughter of the livestock.

Note: It is an offence under the Health Act 1956 to leave animals or animal carcasses in a state where they are offensive or injurious to health. It is an offence under the Resource Management Act 1991 to contaminate waterways with animal remains. It is an offence under the Biosecurity (Meat and Food Waste for Pigs) Regulations 2005 to feed pigs untreated meat or untreated food waste.

15 Fees

15.1 The Council may, in accordance with the provisions of section 150 of the Local Government Act 2002, prescribe fees for services provided under this bylaw.

16 Offences and penalties

16.1 Any person who fails to comply with the requirements of this bylaw commits an offence, and may be liable to a penalty under the Local Government Act 2002 or the Health Act 1956, as the case may be.

17 Revocation

17.1 All bylaws previously made by Council which relate to animals or any matter dealt with in this bylaw, or which are inconsistent with this bylaw, are hereby revoked.