



KAWERAU DISTRICT COUNCIL

General Bylaw 2009: Part 6 – Fires in the Open Air

Kawerau District Council

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Explanatory Statement

The General Bylaw 2009: Part 6 – Fires in the Open Air is the sixth of a series of parts that makes up the Kawerau District Council General Bylaw 2009. This part of the General Bylaw replaces the Kawerau District Council Fire Prevention Bylaw 2006.

General bylaws, by their nature, address a diverse range of matters. This part of the new General Bylaw is based on the Standards NZ Model General Bylaw for Fires in the Open Air. It is incorporated into the General Bylaw in keeping with the best practice example provided by that model. This part can be read and used on its own. Taken together, all the parts make up the General Bylaw 2009.

This part of the Bylaw aims to prevent the spread of fires involving vegetation, to control fires in the open air and to prevent smoke from such fires from causing a nuisance in urban areas of the District.

The General Bylaw is made pursuant to Part 8 of the Local Government Act 2002. This part is also made pursuant to Part 43 of the Local Government Act 1974 and the Forest and Rural Fires Act 1977.

This Bylaw must be used in conjunction with the provisions of the Forest and Rural Fires Act 1977 where a Restricted or Prohibited Fire Season is declared. Separate declarations must be made under the Forest and Rural Fires Act for rural areas and under this Bylaw for urban areas. Kawerau District Council has no jurisdiction over fires in the rural area of the District, which is part of the Pumicelands Rural Fire District.

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Kawerau District Council
General Bylaw 2009: Part 6 - Fires in the Open Air

1 Title

This part of the Kawerau District Council General Bylaw 2009 shall be known as the Kawerau District Council General Bylaw 2009: Part 6 – Fires in the Open Air.

2 Commencement

This part of the Bylaw shall come into force on the 15th day of December 2009.

3 Repeal

As from the day this part of the Bylaw comes into force, the Kawerau District Council Fire Prevention Bylaw 2006 and any amendments in force in the Kawerau District shall be repealed.

4 Application of Bylaw

This part of the Bylaw shall apply to the urban area of Kawerau District. Rural areas are under the jurisdiction of the Pumicelands Rural Fire District.

5 Scope

- 5.1 The purpose of this part of the Bylaw is to allow Council to exercise control over burning in the open air in urban areas of the District and prevent smoke from fires in the open causing a nuisance.
- 5.2 Council has a further avenue of control over smoke nuisance in the Nuisances provisions of the Health Act and persons responsible for causing a smoke nuisance may be prosecuted under the provisions of either the Health Act or the Bylaw.
- 5.3 Regional Councils have responsibility for discharges into air. Consents and approvals may be required from Regional Councils for discharges into air from fires in the open air.

6 General

Nothing in this part of this Bylaw shall be regarded as derogating from the provisions of the Forest and Rural Fires Act 1977 and Forest and Rural Fires Regulations 1979.

7 Definitions

7.1 For the purposes of this bylaw the following definitions shall apply:

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, and includes a gas-fired ethnic cooking fire.

BRAZIER means a container for fire, generally taking the form of an upright standing of hanging metal bowl or box, that is used as a source of light, heat or cooking.

EFFECTIVE 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 the authorised officer.

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.

FIRE PERMIT means a permit to light a fire in the open air granted in accordance with 9.4 of this part of this Bylaw.

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.

OPEN AIR means in the open whether 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.

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 10.1 of this part of this Bylaw.

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 9.1 of this part of this Bylaw.

8 Open fire season

Although the lighting of fires in the open air is permitted during open fire seasons, no person shall light any fire other than a gas barbeque in the open air during an open fire season under any of 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, odour or ash 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 effective means of fire suppression being available where the fire is located on residential premises, or land adjoining such premises.

9 Restricted fire season

- 9.1 Council 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.
- 9.2 Any person wishing to obtain a fire permit during a restricted fire season shall apply to the authorised officer.
- 9.3 The authorised officer may from time to time prescribe a form of application for the purposes of 9.2.
- 9.4 Upon receiving an application under 9.2, an authorised officer may issue a fire permit for the urban part of the District 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.
- 9.5 Nothing in section 9 shall apply to a gas barbeque, including a gas-fired ethnic cooking fire, an incinerator, or a brazier. Provided that Council may in certain circumstances include the above where it considers it necessary to do so.

10 Prohibited fire season

- 10.1 Council may at any time prescribe a prohibited fire season or seasons within the urban part of the District or in any specified part or parts thereof, and may at any time cancel or vary such a prescription.
- 10.2 In a prohibited season no person shall light any fire in the open air including in an incinerator, a brazier or a charcoal-burning 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.
- 10.3 Nothing in 10.2 applies to the use of gas barbecues and ethnic cooking fires. The authorised officer may in certain circumstances prohibit the use of gas barbecues and ethnic cooking fires.

11 Public notice of restricted or prohibited fire season

Public notice of the prescription of a restricted or a prohibited fire season made under 9.1 or the cancellation or variation of such a prescription, shall be made by:

- (a) Broadcast or other similar means within the District; or
- (b) A notice inserted in a daily or community newspaper circulating within the District
- (c) Any effective means

12 Revocation or suspension of permits

12.1 Subject to 12.2, every fire permit issued in accordance with 9.4 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.

12.2 Notwithstanding any other provisions in this bylaw, any permit issued under this part of this Bylaw may be 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.

13 Fees for permits

The Council may from time to time, by resolution publicly notified, specify the fee or fees payable in respect of the issue of any permit under this part of this Bylaw. Any fee prescribed shall be paid upon uplifting the permit.

14 Council may extinguish fires

14.1 Where a fire has been lit or allowed to burn in:

- (a) An open fire season in breach of section 8; or
- (b) A restricted fire season in breach of the conditions of a fire permit issued in accordance with 9.4; or
- (c) A prohibited fire season, in breach of 10.2

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

14.2 Where an officer or agent of the Council has extinguished a fire pursuant to 14.1, the Council may recover any costs incurred in extinguishing the fire from the occupier of premises on which the fire was located, or the person who lit the fire.

14.3 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 14.1 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.

14.4 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 14.3.

15 Live ashes

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 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.

16 Storage of combustible materials

16.1 Except as provided in 16.2 and 16.3, 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 1.4 metres.

16.2 A stack may be placed closer to the boundary than the distance specified in 16.1 if a brick, stone, or concrete wall extending not less than 450 millimetres above and not less than 1.4 metres beyond the length of the stack, is situated between the stack and the boundary.

16.3 A stack may, with the written approval of the adjoining owner and of the authorised officer, be placed closer to the boundary than the distance specified in 16.1 where any of the following conditions continue to exist:

- (a) Where there is a brick, stone or concrete wall as defined in 16.2 without openings situated on the adjoining property and within 1.4 metres of the common boundary; or
- (b) Where there are no buildings 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.

Revocations

The Kawerau District Council Fire Prevention Bylaw 2006 is hereby revoked.

The Kawerau District Council General Bylaw 2009: Part 6 – Fires in the Open Air was duly made by a resolution passed at a meeting of the Kawerau District Council held on 8 December 2009 following a special consultative procedure.

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

.....
Mayor

.....
Chief Executive Officer

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Date