



**THE MASTERTON AND SOUTH
WAIRARAPA DISTRICT COUNCILS'
CONSOLIDATED BYLAW 2012**

PART SIX

FIRES IN THE OPEN AIR

Masterton District Council

The Consolidated Bylaws 2012 comprising parts one to eighteen were adopted at the Council Meeting held on Wednesday 14th August 2013.

The Consolidated Bylaws 2012 came into force throughout the Masterton and South Wairarapa Districts on the 1st September 2013

Amendment adopted by the Masterton District Council on Wednesday 22nd June 2016 and the amendment came into force on 1st July 2016

South Wairarapa District Council

The Consolidated Bylaws 2012 comprising parts one to six and parts eight and nine and parts eleven to sixteen were adopted at the Council Meeting held on Wednesday 31st July 2013.

The Consolidated Bylaws 2012 came into force throughout the Masterton and South Wairarapa Districts on the 1st September 2013

THE MASTERTON AND SOUTH WAIRARAPA DISTRICT COUNCILS' CONSOLIDATED BYLAW 2012

Part 6 – FIRES IN THE OPEN AIR

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New Zealand Legislation

Forest and Rural Fires Act 1977

Forest and Rural Fires Regulations 1979

Health Act 1956

Local Government Act 2002

FOREWORD

This Bylaw draws on New Zealand Standards 9201 series Fires in the Open Air Bylaw. The NZS 9201 series are Model General Bylaws covering various matters under local authority jurisdiction. Local authorities are empowered under the Local Government Act 2002 to make bylaws.

Reference should be made to the Masterton and South Wairarapa District Council Consolidated Bylaw 2012: Part 1 *Introductory* for definitions not included in this Part.

1 TITLE

A Bylaw of the Masterton and South Wairarapa District Council's by way of Special Order pursuant to the provisions of the Local Government Act 2002 and all other Acts, powers and authorities enabling it in that behalf to make a Bylaw to be known as the Masterton and South Wairarapa District Council Fires in the Open Air Bylaw 2012.

2 SCOPE

2.1

The purpose of this Part of the Bylaw is:

- a) To allow Council to exercise control over burning in the open air in the district and prevent smoke from fires in the open causing a nuisance.
- b) To meet the requirements of the Local Government Act 2002 section 183 for territorial authorities to have a Bylaw to prevent the spread of fires involving vegetation.

2.2

Council has a further avenue of control over smoke nuisance in the nuisances provisions of the Health Act 1956 and persons responsible for causing a smoke nuisance may be prosecuted under the provisions of either the Health Act 1956 or the Bylaw.

2.3

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.

2.4

This Bylaw is made pursuant to section 145 of the Local Government Act 2002 and section 20 of the Forest and Rural Fires Act 1977.

3 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.

4 FIRES IN THE OPEN

4.1

No person shall in the Masterton Urban Area, from the first day of May through to the 31st day of August, light any fire in the open air.

No person shall in South Wairarapa Urban Areas, from the first day of May through to the 31st day of July, light any fire in the open air.

4.2

A person may not 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;
- b) Within three metres of any part of a building, tree, hedge, fence or other combustible material; or
- c) Within 10 metres of any part of a dwelling; or
- d) Without continuous supervision being maintained at all times; or
- e) Without an acceptable means of fire suppression being available where the fire is located on residential premises, or land adjoining such premises.
- f) No fire is to be made or lit or allowed to remain alight outside daylight hours without approval from an authorised officer, except for a barbecue which must be extinguished at midnight.

5 RESTRICTED FIRE SEASON

5.1

An authorised officer may at any time prescribe a restricted fire season or seasons within the urban area of the district or in any specified part or parts thereof, and may at any time cancel or vary such a prescription.

5.2

Any person wishing to obtain a fire permit during a restricted fire season shall apply to the authorised officer.

5.3

The Council may from time to time prescribe a form of application for the purposes of 5.2.

5.4

Upon receiving an application under 5.2 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.

5.5

Nothing in section 5 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 PROHIBITED FIRE SEASON

6.1

An authorised officer may at any time prescribe a prohibited fire season or seasons within the urban area of the district or in any specified part or parts thereof, and may at any time cancel or vary such a prescription.

6.2

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.

6.3

Nothing in 6.2 applies to the use of gas fire barbecues. The authorised officer may in certain circumstances prohibit the use of gas barbecues.

7 EXEMPTIONS

7.1

Any person wishing to obtain an exemption to any prohibition or restriction imposed shall make an application to an authorised officer.

7.2

Upon receiving the application an authorised officer may issue an exemption in writing and may impose any conditions and restrictions considered reasonably necessary having regard to any cultural requirements or practices, the location, terrain, natural vegetation, buildings or other constructions and protection of the safety, health and convenience of persons on the premises or adjoining land.

8 PUBLIC NOTICE OF RESTRICTED OR PROHIBITED FIRE SEASON

Public notice of the prescription of a restricted or a prohibited fire season made under 5.1 or 6.1 or the cancellation or variation of such a prescription, shall be made by:

- a) Broadcast or other similar means within the district; or
- b) By a notice inserted in a daily or community newspaper circulating within the district.
- c) By any effective means.

9 REVOCATION OR SUSPENSION OF PERMITS

9.1

Subject to 9.2, every fire permit issued in accordance with 5.4 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.

9.2

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.

10 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.

11 COUNCIL MAY EXTINGUISH FIRES

11.1

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

- a) An open fire season in breach of section 4; or
- b) A restricted fire season in breach of the conditions of a fire permit issued in accordance with 5.4; or
- c) A prohibited fire season, in breach of 6.2

Any 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.

11.2

Where an authorised officer or agent of the Council has extinguished a fire pursuant to 10.1, 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.

11.3

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 11.1 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.

11.4

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 11.3.

12 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 steel 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 a traditional cooking process including hangi and umu. In which case ashes must be dampened down afterwards.

13 REMOVAL OF GORSE AND OTHER GROWTH

13.1

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 and/or dwelling, or adjoining premises, in such a condition or state that it is likely to become a source of risk from fire.

13.2

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.

13.3

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.

13.4

The Council may cut down or otherwise eradicate and remove any broom, gorse, bushes, scrub, dry grass or similar growth to which 12.1 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 charge against the land.

14 STORAGE OF COMBUSTIBLE MATERIALS

14.1

Except as provided in 14.2 and 14.3, 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 is at least equal to the height of the stack, but in any case not less than 1.5 metres.

14.2

A stack may be placed closer to the boundary than the distance specified in 14.1 if a brick, stone, or concrete wall extending not less than 450 millimetres above and not less than 1.5 metres beyond the length of the stack, is situated between the stack and the boundary.

14.3

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 14.2 where any of the following conditions continue to exist:

- a) Where there is a brick, stone or concrete wall as defined in 14.2 without openings situated on the adjoining property and within 1.5 metres of the common boundary; or
- b) When there are no buildings on the adjoining land; or
- c) Where there is no danger of a stack adjacent to the boundary increasing the risk of the spread of fire.