

# **KAPITI COAST DISTRICT COUNCIL GENERAL BYLAW 2010**

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## **1 Title, Commencement and Application**

- 1.1 This Bylaw may be cited as the Kapiti Coast District Council General Bylaw 2010 and comes into force on 01 February 2010.
- 1.2 This Bylaw is made pursuant to sections 145 and 146 of the Local Government Act 2002 and any other Act or Authority enabling the Council in that behalf.
- 1.3 This Bylaw applies to the Kapiti Coast District.
- 1.4 This Bylaw replaces Part 1 and 2 of the Kapiti Coast District Council General Bylaw 1991.

## **2 Kapiti Coast District Council General Bylaw 2010 Validation**

- 2.1 The Kapiti Coast District Council General Bylaw 2010 was approved at a meeting of the Kapiti Coast District Council held on 28 January 2010 after completion of the Special Consultative Procedure.
- 2.2 The Common seal of the Kapiti Coast District Council was affixed, pursuant to a resolution of Council on 28 January 2010 in the presence of:

.....  
Jenny Rowan  
**Mayor**

.....  
Pat Dougherty  
**Chief Executive Officer**

### 3 Objective

3.1 The object of this Bylaw is to consolidate and make provisions which are common to and form part of all other bylaws of the Council which are in force on or after the 1<sup>st</sup> day of July 2010 except as may otherwise be expressly provided. Schedule 1, Tables 1 and 2 (attached to this bylaw) provide a summary of all Council bylaws planned or currently in force and their supporting policies.

### 4 Interpretation

4.1 In this Bylaw, unless the context requires otherwise:

<b>Act</b>	has the same meaning as in the interpretation Act 1999
<b>Approved</b>	means approved by Council or by any authorised Officer of Council
<b>Authorised Officer</b>	means any person authorised by the Council to carry out any of the duties provided for under this bylaw or any Council bylaw; and (a) includes any Council Enforcement Officer; and (b) includes any agent licensed by Council to carry out a duty or operate a public place on Council's behalf
<b>Chief Executive</b>	means the Chief Executive of the Kapiti Coast District Council or a person acting under delegated authority on behalf of the Chief Executive
<b>Council</b>	means the Kapiti Coast District Council or any committee, community board, or an officer authorised to exercise the authority of the Council
<b>District</b>	means the Kapiti Coast District
<b>Enforcement Officer</b>	means any person appointed by the Council to enforce the provisions of any Council Bylaw and who holds a warrant under section 177 of the Local Government Act 2002 or an appropriate section of any other Act
<b>Licence</b>	means a licence, permit, registration, written consent or approval issued as per the requirements of any Act of Parliament, Council Bylaw or Policy
<b>Person</b>	Includes a corporation sole, and also a body of persons, whether corporate or unincorporated

4.2 In any Bylaw, unless the context otherwise requires:

- (i) Words importing the masculine gender include the feminine.
- (ii) Words importing the singular number include the plural number, and words importing the plural number include the singular number.
- (iii) Every Schedule to a Bylaw is deemed to be part of that Bylaw.

- 4.3 Council may be resolution delegate to any Committee or elected member of Council or an officer any of the functions imposed upon it by any clause of this Bylaw or any amendments thereto.

## 5 Prescribed Forms

- 5.1 A form is not invalid just because it contains minor differences from a form prescribed by a Bylaw as long as the form still has the same effect and is not misleading.

## 6 Service of Notices

- 6.1 Except as otherwise expressly provided for in any Act or Bylaw, where any notice or other document is required to be served on any person for the purposes of a Bylaw service may be effected by:
- (a) delivering it personally; or
  - (b) sending it by courier; or
  - (c) sending it by registered post to the person's last known place of residence or business, or in the case of the company to its registered office.
- 6.2 If the person being served is absent from New Zealand, the notice, or other document may be served on his or her agent instead of on that person.
- 6.3 If the person being served has no known name or address, or is absent from New Zealand and has no known agent in New Zealand, and the notice, or other document relates to any premises, then the notice, or other document may be served on the occupier of the premises, or, if there is no occupier, may be put up on some conspicuous part of the premises. It is not necessary in any such notice, or other document to name the occupier or the owner of the premises.
- 6.4 If the person being served is deceased, the notice, or other document may be served on that person's personal or legal representative or executor.
- 6.5 Notices or other documents sent by post are deemed to have been served at the time when a letter would have been delivered in the ordinary course of post.

## 7 Signing of Notices

- 7.1 Every notice or other document required to be sent by the Council will except as otherwise provided by any Act or Bylaw, be signed by the Chief Executive or any other person authorised by the Council to act on its behalf in that respect, and need not be under seal.

## **8 Appointment of Enforcement Officers**

- 8.1 The Council may from time to time appoint Enforcement Officers to ensure that the provisions of any Bylaws are observed.
- 8.2 Every Enforcement Officer will be issued with a warrant of appointment which must state the statutory authority empowering the Enforcement Officer to enter upon any land, building or premises in order to carry out his or her duties.
- 8.3 Every person who obstructs or hinders an Enforcement Officer in the execution of his or her duties under a particular Bylaw will be deemed to have committed an offence against the Bylaw.

## **9 Granting of Licences**

- 9.1 An application for a licence must:
- (a) be made in writing on the appropriate form provided by the Council (if any);
  - (b) contain all the required information; and
  - (c) be lodged with the appropriate application fee (if any).
- 9.2 An application for a licence does not confer any right, authority or immunity on the person making the application until the application for the licence has been processed and the licence has been granted.
- 9.3 A licence may contain such terms and conditions as the Council sees fit.
- 9.4 The granting of a licence will not render the Council or any officer of the Council liable in respect of any damage caused by or arising out of any act done or omitted in pursuant of or in connection with such licence.

## **10 Suspension and Revocation of Licences**

- 10.1 Except as may be otherwise provided in any particular Act or Bylaw:
- (a) If a licensee under a particular Bylaw:
    - (i) acts in a manner contrary to that Bylaw; or
    - (ii) fails to comply with any of the terms or conditions of the licence; or
    - (iii) acts in a manner which, in the opinion of the Council, renders the licensee unfit to hold such licence; or

- (b) If any premises licensed under a particular Bylaw:
- (i) are no longer being used for the purpose stated in the licence;  
or
  - (ii) have fallen into a state of disrepair or are not being kept and maintained in the condition required by the licence; or
  - (iii) are in any other manner failing to meet the requirements of the Bylaw or applicable regulations

then the Council may, by notice served upon the licensee, require the person to appear before the Council or a committee of the Council, at a time and a place stated in the notice, to show cause why the notice should not be revoked or suspended. If the Council or committee considers the acts or failures of the licensee or the circumstances of the licensed premises, so warrant or if there is no appearance by the licensee then the Council or committee may revoke the licence or suspend the licence for as long as it may think fit.

- 10.2 If a licensee is convicted of an offence constituting a breach of the terms or conditions of the licence, or of an offence concerning his or her character as a licensee, then the Council or a committee of the Council may revoke the licence or suspend it for as long as it may think fit.
- 10.3 A person whose licence has been suspended under Clauses 10.1 or 10.2 and any premises in respect of which the licence has been suspended shall, during the period of such suspension, be deemed to be unlicensed.

## 11 Offences and Breaches

- 11.1 No person may do anything or cause any condition to exist for which a licence from the Council is required under any Bylaw without first obtaining that licence and the failure to do so constitutes a breach of that particular Bylaw requiring the licence.
- 11.2 Every person commits a breach of a particular Bylaw who –
- (a) does, or causes to be done, or permits or allows to be done or be concerned in doing, anything whatsoever contrary to or otherwise than as provided by that particular Bylaw; or
  - (b) omits or neglects to do, or permits or allows to remain undone, anything which according to the true intent and meaning of that particular Bylaw, ought to be done by that person at the time and in the manner provided in that Bylaw; or

- (c) does not refrain from doing anything which under that particular Bylaw that person is required to abstain from doing; or
- (d) permits or allows any condition of things to exist contrary to any provision contained in that particular Bylaw; or
- (e) refuses or neglects to comply with any notice given to that person under that particular Bylaw; or
- (f) obstructs or hinders any officer of the Council or other person duly appointed or authorised by the Council in the performance of any duty to be discharged by that authorised officer or person under or in the exercise of any power conferred by a particular Bylaw; or
- (g) fails to comply with any notice or direction given under that particular Bylaw; or
- (h) omits, neglects or fails to pay any licence fee fixed by the Council in respect of a licence or approval granted to such person; or
- (i) fails to comply with any conditions contained in a licence granted by the Council.

11.3 Every person commits a breach of a particular Bylaw who –

- (a) having constructed, erected, affixed, provided, or removed, or caused to be constructed, erected, affixed, provided or removed, any building or any part of a building, or any work, appliance, or material of any description whatsoever, contrary to, or otherwise than in accordance with the provision of that particular Bylaw; or
- (b) having omitted to construct, erect, affix, provide or remove any work, appliance or material as required thereby, -

and who does not within a reasonable time after notice in writing has been give to him or her by the Council or any authorised officer of the Council carry out the remedial action specified in that notice.

11.4 Every such notice must state the time within which the remedial action is to be carried out, and may be extended from time to time.

## **12 Removal of works executed contrary to Bylaw**

12.1 Pursuant to section 163 of the Local Government Act 2002, where any work or thing is, or has been, constructed in breach of any Bylaw the Council may:

- (a) remove or alter the work or thing; and

- (b) recover the costs of removal or alteration from the person who committed the breach.

12.2 The exercise of this authority by the Council does not relieve any person responsible for a breach of any Bylaw from liability for any other penalty for committing a breach of that Bylaw.

### **13 Operational Policies**

13.1 The Council may, from time to time, as the Council sees fit, adopt operational policies related to matters regulated by this or any other bylaw.

13.2 Operational policies must be adopted by Council resolution, and are listed in the Bylaw Supporting Policy Register (attached as Table 2).

13.3 Operational policies may set out, without limitation, such matters as:

- (a) guidance information
- (b) application procedures
- (c) administrative arrangements
- (d) terms and conditions
- (e) definitions

### **14 Penalties**

14.1 Subject to any provision to the contrary, any person convicted of an offence against a Bylaw is liable to the penalties specified in the Act under which the Bylaw was made.

### **15 Dispensing Power**

15.1 The Council may grant a dispensation to any person or business from full compliance with any provision of a Bylaw in any case where the Council is of the opinion that full compliance would needlessly and injuriously affect that person or business, without a corresponding benefit to the public or any section of it.

### **16 Amendments Included**

16.1 The reference in any Bylaw to any Act or Bylaw, unless the context otherwise requires, includes reference to all subsequent Acts or Bylaws that are in force and were made in amendment or substitution of the Act or Bylaw referred to.

## **17 Revocations and Savings**

- 17.1 Parts One and Two of the Kapiti Coast District Council General Bylaw 1991 are revoked.
- 17.2 All licences or other acts of authority which originated under any of the Bylaws revoked by clause 17.1, and all applications, and other acts of parties and generally all documents, matters, acts, and things which so originated and are continuing at the commencement of this Bylaw, continue for the purposes of this Bylaw to have full force and effect.
- 17.3 The revocation of any of the Bylaws under clause 17.1 does not prevent any legal proceedings, criminal or civil, being taken to enforce those Bylaws and such proceedings continue to be dealt with and completed as if the Bylaws had not been revoked.

## **18 Fees**

- 18.1 The Council may prescribe fees to be charged to any person doing or proposing to do anything or to cause any condition to exist, under the provisions of the Local Government Act 2002 or any other enactment that requires a licence, permit, written consent or approval from, or inspection by the Council. The setting of any fees will be in accordance with section 150 of the Local Government Act 2002.
- 18.2 Where a fee has been paid under any provision of this Bylaw for a service that has not been given, the Council may provide a refund, a remission, or waiver of any such fee, or portion of it as the Council may determine.
- 18.3 If following a request for payment, any due fee remains unpaid, the licence, permit, written consent or approval for which the fee was required, shall have no effect.

## SCHEDULE ONE

**Table 1: The Kapiti Coast District Council Consolidated Bylaw Series**

PART NO.	BYLAW	EFFECTIVE DATE	PLANNED REVIEW DATE
1	General Bylaw	2010	2020
2	Public Places Liquor Control Bylaw	2007	2017
3	Trade Waste Bylaw	2010	<del>2018</del> 2015
4	Dog Control Bylaw	2008	2018
5	Beach Bylaw	2009	2019
6	Cemetery Bylaw	2010	<del>2019</del> 2015
7	Solid Waste Bylaw	2010	<del>2020</del> 2015
8	Public Places Bylaw	2010	2020
9	Keeping of Animals, Bees & Poultry Bylaw	2010	<del>2020</del> 2015
10	Traffic Bylaw	2010	2020
11	Water Supply Bylaw	2010	2020
12	Food Safety Bylaw	2006	2016
13	Fire Prevention Bylaw	2010	<del>2020</del> 2015
14	Speed Bylaw	2005	2015
<del>15</del>	<del>Excavation Bylaw</del>	<del>2011</del>	<del>2021</del>
15	Freedom Camping Bylaw 2012	Pending	2017

**Comment [s1]:** This Bylaw was never created.

**Table 2: Supporting Policy Register**

POLICY	EFFECTIVE DATE	REVIEW DATE
Dog Control Policy	2009	2018
Trading in Public Places Policy	2009	2019
Natural Burial Policy	2008	2018
Freedom Camping Policy	2010	2020

**Comment [s2]:** This Policy will be repealed on 1 September 2012