



**MASTERTON  
DISTRICT COUNCIL**

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**CONSOLIDATED  
BYLAW 2008**

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**PART SIX  
FIRES IN THE OPEN AIR**

The Consolidated Bylaw 2008  
comprising parts one to eleven  
and thirteen to sixteen  
were adopted at the Council Meeting  
held on Wednesday 28<sup>th</sup> May 2008.

The Consolidated Bylaw 2008 came into force  
throughout the district on the 1<sup>st</sup> July 2008

# MASTERTON DISTRICT COUNCIL CONSOLIDATED BYLAW 2008

## 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 from the model Bylaw Fires in the Open Air from Bylaw New Zealand Standard 7231. The model general Bylaw 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 Masterton District Council Consolidated Bylaw 2008: Part 1 *Introductory* for definitions not included in this Part.

## **1 SCOPE**

### **1.1**

The purpose of this Part of the Bylaw is:

- a) 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.
- 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.

### **1.2**

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.

### **1.3**

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.

### **1.4**

This Bylaw is made pursuant to section 684 of the Local Government Act 1974 and section 20 of the Forest and Rural Fires Act 1977.

## **2 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.

## **3 DEFINITIONS AND INTERPRETATION**

### **3.1**

For the purposes of this Bylaw the following definitions shall apply:

#### **ACCEPTABLE MEANS OF FIRE SUPPRESSION**

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.

<b>BARBECUE</b>	Any fixed or portable gas or solid fuel burning equipment or device designed or intended for the cooking of food in the open air.
<b>ETHNIC COOKING FIRE</b>	Any hangi, umu or similar fire in the open air and used for the preparation of food using ethnic cooking methods.
<b>FIRE PERMIT</b>	A permit to light a fire in the open air granted in accordance with 5.4 of this Part of this Bylaw.
<b>INCINERATOR</b>	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.
<b>INCINERATOR FIRE</b>	A fire within an incinerator.
<b>OPEN AIR</b>	In the open whether on or above ground level.
<b>OPEN FIRE SEASON</b>	A period of time, whether fixed or indefinite during which the lighting of fires in the open air is permitted.
<b>PROHIBITED FIRE SEASON</b>	The period of time, whether fixed or indefinite during which the lighting of fires in the open air is prohibited in accordance with 6.1 of this Part of this Bylaw.
<b>RESTRICTED FIRE SEASON</b>	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 5.1 of this Part of this Bylaw.

#### **4 FIRES IN THE OPEN**

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;
- 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.
- e) No fire is to be made or lit or allowed to remain alight between the hours of sunset and sunrise. Excepting a home barbeque which must be extinguished by 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 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.

## **8 REVOCATION OR SUSPENSION OF PERMITS**

### **8.1**

Subject to 8.2, 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.

### **8.2**

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.

## **9 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.

## **10 COUNCIL MAY EXTINGUISH FIRES**

### **10.1**

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.

### **10.2**

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.

### **10.3**

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 10.1 to extinguish the fire, the authorised officer may authorize 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.

### **10.4**

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 authorized by the authorised officer under 10.3.

## **11 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 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.

