



WHANGAREI
DISTRICT COUNCIL



ANIMALS BYLAW 2017

Pursuant to the Local Government Act 2002, Whangarei District Council makes the following bylaw about the management of animals in the Whangarei District.

CONTENTS

1. Title	2
2. Commencement	2
3. Application	2
PART 1 – PRELIMINARY PROVISIONS	2
4. Purpose	2
5. Interpretation	3
PART 2 – GENERAL REQUIREMENTS	4
6. Obligations of animal owners in general	4
PART 3: SPECIFIC RESTRICTIONS	4
7. Keeping poultry in urban areas	4
8. Keeping stock in urban areas	4
9. Keeping bees in urban areas	5
PART 4: ENFORCEMENT POWERS	6
10. Consequences of breach of bylaws	6
PART 5: OFFENCES AND PENALTIES	6
11. Penalties	6
PART 7: SAVINGS	6
12. Savings	6
ADDITIONAL INFORMATION TO ANIMALS BYLAW 2017	7

1. Title

This Bylaw is the Animals Bylaw 2017.

2. Commencement

15 December 2017.

3. Application

This Bylaw applies to the Whangarei District.

PART 1 – PRELIMINARY PROVISIONS

4. Purpose

The purpose of this Bylaw is to provide for the ownership of animals (excluding dogs) in a way that protects the public from nuisance and maintains and promotes public health and safety.

Explanatory note: The Bylaw supplements, rather than duplicates other animal owner obligations, including but not limited to; the Animal Products Act 1999, Animal Welfare Act 1999, related codes of welfare and the Northland Regional Pest and Marine Pathway Management Plan 2017 – 2027. Council also has responsibilities and powers regarding animals under the Biosecurity Act 1993, Health Act 1956, Impounding Act 1955, Reserves Act 1977, Resource Management Act 1991 and the Whangarei District Plan. Matters relating to the control of dogs are addressed in the Dog Management Bylaw 2013 and the Dog Control Act 1996.

5. Interpretation

5.1 In this Bylaw, unless the context otherwise requires:

Animal means any member of the animal kingdom, including any mammal, bird, finfish, shellfish, reptile, amphibian, insect or invertebrate, and includes their young or eggs and the carcass or its constituent parts, but does not include humans or dogs.

Beehive and hive means any receptacle housing a honey bee colony for the purposes of honey production, and includes 1 receptacle per colony used solely for the purposes of queen breeding, hive maintenance and swarm prevention purposes between 1 October and 31 March.

Council means the Whangarei District Council

Enforcement Officer means an enforcement officer appointed under section 177 of the Local Government Act 2002

Nuisance means a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person, and includes the nuisances as defined in section 29 of the Health Act 1956

Explanatory note: Circumstances that may be deemed a nuisance can include noises and odour associated with keeping animals.

Owner, in relation to any animal, means a person who has an animal in their possession or custody, or under that person's care, control, or supervision, and includes the parent or guardian of a person under the age of 16 years who -

- a. owns the animal; and
- b. is a member of the parent's or guardian's household living with and dependant on the parent or guardian; -

but does not include any person who has seized or taken custody of an animal under the Animal Welfare Act 1999 or the National Parks Act 1980 or the Conservation Act 1987 or any order made under the Animal Welfare Act 1999.

Person has the meaning given by the Interpretation Act 1999.

Permit means a licence, permit or approval to do something under this Bylaw and includes all conditions to which the permit is subject.

Poultry means any live bird that is kept or raised to produce eggs, hatching eggs or poultry products or for rearing on behalf of any other person, and includes chickens, ducks, geese, peacocks, peahens, pheasants and roosters.

Premises means any private land that is occupied or unoccupied.

Stock means cattle, deer, llamas, alpacas, donkeys, mules, horses, sheep, goats, pigs and any other animal kept in captivity, or farmed, and dependant on humans for their care and sustenance.

Swarm means a cluster or flying mass of honey bees, including workers, queen and drones.

Urban area means all Environments of the Whangarei District Plan; except for the following Environments:

- a. Countryside Environment
- b. Coastal Countryside Environment
- c. Rural Living Environment (or any alternative final title for this Environment as an outcome of the Whangarei District Plan review)
- d. Rural Countryside Environment (or any alternative final title for this Environment as an outcome of the Whangarei District Plan review)
- e. Rural 'Urban Expansion' Environment – un-serviced sites only (or any alternative final title for this Environment as an outcome of the Whangarei District Plan review)

Explanatory note: The rolling review of the Whangarei District Plan intends to change the names of the primarily rural environments of the District as part of that review. This review has yet to be finalised and the titles provided are provisional. Any changes to the titles will be dealt with through an amendment pursuant to section 156(2) of the Local Government Act 2002 to formalise the final names of the environments.

- 5.2 Any explanatory notes and attachments are for information purposes, do not form part of this Bylaw, and may be inserted, amended or revoked without formality.
- 5.3 The Interpretation Act 1999 applies to this Bylaw.

PART 2 – GENERAL REQUIREMENTS

6. Obligations of animal owners in general

- 6.1 The owner or person in charge of any animal must always:
- ensure that animal does not cause a nuisance to any other person
 - ensure that animal does not cause a risk to public health and safety
 - ensure that animal does not damage any property belonging to any other person.
- 6.2 Any owner who, in the opinion of an enforcement officer, fails to comply with these obligations, must act on any requests of the enforcement officer to comply with these obligations, including, if directed, to remove the animals from the property within a specified period.

Explanatory note: Animal owners are required under the Animal Welfare Act 1999 to provide for the physical, health and behavioural needs of their animals, including food, water, shelter and exercise.

PART 3: SPECIFIC RESTRICTIONS

7. Keeping poultry in urban areas

- 7.1 No person may keep a rooster on any premises in an urban area.
- 7.2 A person may keep up to six head of poultry in an urban area on premises smaller than 2000 square metres.
- 7.3 A person may keep up to 12 head of poultry in an urban area on premises of 2000 square metres or more.

8. Keeping stock in urban areas

- 8.1 A person must not keep stock in an urban area on premises smaller than 4000 square metres.
- 8.2 Council may issue permits to keep stock in an urban area on premises of 4000 square metres or more.
- 8.3 Council may issue permits to persons to keep stock whose premises, due to plan changes to the Whangarei District Plan after the date of this Bylaw coming into force, change from a rural to an urban environment.
- 8.4 Council may prescribe any conditions, including specifying distances from boundaries, maximum number of permissible stock and time limits on permits issued.
- 8.5 Council may by resolution:
- charge a fee for receiving and processing an application and issuing a permit
 - prescribe any charges to be paid for the use of a permit
 - determine situations when permit fees may be remitted, refunded or waived.
- 8.6 A permit may be cancelled by Council at any time.

9. Keeping bees in urban areas

- 9.1 No person shall keep bees in the District if in the opinion of an enforcement officer, the keeping of bees is likely to become a nuisance or potential danger to any person.
- 9.2 Council may prescribe conditions relating to the location and number of hives able to be kept on any premises in an urban area.
- 9.3 Where an enforcement officer considers a hive or hives is likely to become a nuisance or potential danger to any person, it may require removal of such hive(s).
- 9.4 A person may keep bees in the urban areas as follows:

Property area	Maximum number of hives
700 square metres or less	2
701-4000 square metres	4
4001 square metres or greater	6

- 9.5 Council may issue permits to persons to keep additional hives to those permitted under clause 9.4.
- 9.6 Council may prescribe any conditions, including specifying distances from boundaries, maximum number of hives and time limits on permits issued.
- 9.7 Council may by resolution:
- charge a fee for receiving and processing an application and issuing a permit
 - prescribe any charges to be paid for the use of a permit
 - determine situations when permit fees may be remitted, refunded or waived.
- 9.8 A permit may be cancelled by Council at any time.

Explanatory note: Beekeepers have a legal obligation to register their apiary under the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998. Registration of apiaries is intended to protect honey bees from American foulbrood disease. The register also allows the Ministry for Primary Industries to carry out surveillance for exotic pests and diseases of honey bees and respond to an incursion. Registrations are processed byASUREQuality Ltd and registration codes are required to be displayed in a visible manner in each apiary, usually on a beehive. Further information on American foulbrood disease can be found at www.afb.org.nz. In addition to the registration of hives, beekeepers are also required to comply with the on-going management requirements as provided in the AFB Pest Management Plan and are required to provide evidence of this compliance where required. Honey and bee products that are produced for commercial purposes are also subject to additional legal requirements, such as the Food Act 2014. Information on these requirements is available on the Ministry for Primary Industries website.

Apiculture New Zealand Incorporated provides a Code of Conduct for beekeepers.

In cases where enforcement officers respond to complaints about bees, the initial assessment will include determining whether the bees are being kept in accordance with national regulations as well as the Apiculture NZ Code of Conduct.

Additional Guidelines

Compliance with the following guidelines is also recommended to minimise potential nuisances arising from urban beekeeping activities. Whangarei District Council also advises every person wishing to keep bees in an urban area to participate in a beekeeping course.

Flight path management

Honey bees will fly at head height for some distance from their hives unless their surrounding environment directs their flight path upwards. Honey bees can be encouraged to fly above head height if a flyway barrier, two or more metres tall, is placed 1-2 metres out from the front of the hive entrance. It is important that flightpaths are not directed across public pathways on private and public land. Barriers that can be used include shrubs or trees, a wall, a hedge or a fence. Beehives can be placed on top of sheds or buildings but it may be more difficult to work with the bees in these restricted locations.

Swarming/seasonal build up

Swarming is the natural means of dispersal of honey bee colonies. However, beekeepers can undertake responsible bee management practices to minimise the occurrence of swarms in urban areas. These practices

can include re-queening on an annual basis, taking a nucleus colony out of populous hives (artificial swarming) and re-queening colonies that have been started from swarms.

Honey bee colonies are more likely to swarm if there are limited cells in the hive for the worker bees to store honey and pollen. Responsible bee management practices include providing plenty of room for the queen to lay eggs and for the bees to store honey.

Water provision

Providing a source of clean water may reduce the number of bees foraging elsewhere for water and creating a nuisance to neighbours, especially if they own a swimming pool.

Bee excrement management

Like other animals, bees excrete waste products. Honey bees going on orientation, foraging or cleaning flights often excrete after exiting the hive. This can leave distinct trails of coloured bee excrement within a 500 metre radius of the hive and can cause a nuisance to neighbours. The colour of the excrement is typically yellow to brown. The excrement may be hard to remove from clothing, vehicles and buildings.

Hives can be re-positioned on the property or rotated so that flight paths can be encouraged in a direction away from neighbouring properties.

PART 4: ENFORCEMENT POWERS

10. Consequences of breach of bylaws

- 10.1 Council may remove or alter a work or thing that is, or has been, constructed in breach of this Bylaw.
- 10.2 Council may recover the costs of removal or alteration from the person who committed the breach.
- 10.3 If an enforcement officer is issued with a warrant under the Search and Surveillance Act 2012 the enforcement officer may enter private property in an urban area pursuant to section 165 of the Local Government Act 2002 and:
 - a. seize stock, poultry and bees that are on the premises in breach of this Bylaw
 - b. seize property other than stock, poultry and bees that is materially involved in the commission of an offence under this Bylaw.

PART 5: OFFENCES AND PENALTIES

11. Penalties

- 11.1 It is an offence to breach this Bylaw with a penalty, on conviction, of a fine not exceeding \$20,000 under the Local Government Act 2002.

PART 7: SAVINGS

12. Savings

- 12.1 Any permissions, approvals or other authorisations given under the Keeping of Animals Poultry and Bees Bylaw 2007 continue in force in accordance with their terms, unless cancelled by Council.

ADDITIONAL INFORMATION TO ANIMALS BYLAW 2017

This document is for information purpose only and does not form part of this Bylaw. It contains matters made pursuant to this Bylaw and information to help users to understand, use and maintain this Bylaw. The document may be updated at any time.

Section 1: History of Bylaw

Action	Description	Date of decision	Commencement
Revoke	Keeping of Animals, Poultry and Bees Bylaw	NA	15 December 2017
Make	Animals Bylaw	14 December 2017	15 December 2017

Section 2: Related documents

Document	Description	Location	Date
<i>Reports to Council/Committee/Panels</i>			
2017 Bylaw review and consultation programme	Approval of the 2017 bylaws review programme	Council meetings webpage - link	18/5/2017
2017 Bylaw review pre-consultation programme	Approval of the pre-consultation programme	Council meetings webpage - link	15/6/2017
Adoption of Statement of Proposal for proposed Animals Bylaw	Statement of Proposal including draft Bylaw adoption for public consultation	Council meetings webpage - link	29/6/2017
Hearing – proposed Animals Bylaw consultation	Hearing for interested parties to share their views in person	Council meetings webpage - link	1/11/2017
Deliberations – proposed Animals Bylaw	Deliberations on submission issues raised	Council meetings webpage - link	22/11/2017
Making of Bylaw	Council makes final Bylaw	Council meetings webpage - link	14/12/2017

Document	Description	Location	Date
Legislation			
Local Government Act 2002	Provides the functions, duties powers and penalties to make and enforce this Bylaw.	www.legislation.govt.nz	NA
Bylaws Act 1910	Provides for certain matters related to the validity of bylaws.	www.legislation.govt.nz	NA
Interpretations Act 1999	Provides for certain matters related to the interpretation of bylaws.	www.legislation.govt.nz	NA

Section 3: Delegations

Clause	Function, Duty, Power to be delegated	Delegated Authority	Delegation date	Delegation active date
All	All of its responsibilities, duties and powers under this bylaw, except - <ul style="list-style-type: none"> a. the power to set fees b. the power to make a decision for which a Council resolution is required c. the power to hear and decided on any appeal process 	Chief Executive	14 December 2017	15 December 2017

Section 4: Enforcement powers

Legislative provision	Description
Local Government Act 2002	162 Injunctions restraining commission of offences and breaches of bylaws 163 Removal of works in breach of bylaws 164 Seizure of property not on private land 165 Seizure of property from private land 168 Power to dispose of property seized and impounded 171 General power of entry 172 Power of entry for enforcement purposes 173 Power of entry in cases of emergency 175 Power to recover for damage by wilful or negligent behaviour 176 Costs of remedying damage arising from breach of bylaw 178 Enforcement officers may require certain information 183 Removal of fire hazards 185 Occupier may act if owner of premises makes default 186 Local authority may execute works if owner or occupier defaults 187 Recovery of cost of works by local authority 188 Liability for payments in respect of private land

Section 5: Offences and penalties

Provision	Description of offence	Maximum fine upon conviction	Infringement fee
All	A person who fails to comply with this Bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002	\$20,000	Nil