

APPENDIX 1

WELLINGTON CONSOLIDATED BYLAW

Amendment No 16

PART 1: INTRODUCTION BYLAW

The purpose of this part of the Consolidated Bylaw is to make provision for good governance in the administration of the Wellington City Council affairs and to present provisions that are common to all parts of the Consolidated Bylaw.

This part of the Consolidated Bylaw is made pursuant to Part 8 of the Local Government Act 2002.

1.0 INTRODUCTION

1.1 Title

1.1.1 The title of this Bylaw is 'Wellington City Consolidated Bylaw 2008'.

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1.2 Commencement

1.2.1 The Bylaw shall come into force throughout the district on [insert].

1.2.2 Any resolution made under the Wellington Consolidated Bylaw 1991, before this Bylaw comes into force, continues in force under this Bylaw until altered or revoked by further resolution.

1.3 Bylaws revoked

1.3.1 The Wellington Consolidated Bylaw 1991 is revoked at the time of the Wellington Consolidated Bylaw 2008 coming into force.

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1.3.2 The revocation of existing Bylaws does not extinguish any existing cause of action.

1.3.3 All Bylaws revoked shall remain in force and effect so far as they relate to anything done or any offence committed, penalty incurred, prosecution or proceeding commenced, right or liability accrued, licence issued, notice given, or order made, under or against any of the provisions of that Bylaw before the coming into force of this Bylaw.

1.3.4 All licences issued under any revoked Bylaw shall, after the coming into force of this Bylaw, be deemed to have been issued under this Bylaw and be subject to the provisions of this Bylaw.

1.3.5 All Inspectors and other officers appointed by the Council under or for the purpose of any revoked Bylaw, and holding office at the time of the coming into operation of this Bylaw, shall be deemed to have been appointed under this Bylaw.

1.3.6 All fees and charges fixed by resolution of the Council in regard to any goods, services, inspections or licences provided for in any revoked Bylaw shall apply under the corresponding provisions of this Bylaw until altered by further resolution of Council.

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1.4 Documents

- 1.4.1 The Council may prescribe the form of any application, certificate, licence, permit or other document, which is required under this Bylaw. These forms may be altered or amended at any time.
- 1.4.2 Variation from the exact form prescribed under clause 1.4.1 shall not render any application, certificate, licence, permit, or other document void. However, the Council may reject any document where it considers the non-compliance is of a major character and substantially detracts from the required spirit and effect of the document.

1.5 Licences, authority and permission

- 1.5.1 Where a licence, authority or written permission is required from the Council by this Bylaw, it shall be obtained from the Council before doing or omitting to do that act.
- 1.5.2 The Council may specify how an application is to be made and any applicable criteria or policy.
- 1.5.3 No application for a licence, authority or permission from the Council shall confer any right, authority or immunity to the person making the application until the licence, authority or permission is granted by the Council.
- 1.5.4 In all cases where this Bylaw provides that the Council may issue any licence, authority or written permission, it shall be deemed to be issued in compliance with this Bylaw if it is issued by any officer of the Council authorised by the Council for that purpose.

1.6 Fees

- 1.6.1 The Council may by resolution prescribe or vary, any fee in respect of any matter provided for in this Bylaw.

1.7 Refunds and waivers

- 1.7.1 The Council may, for any reasons as it thinks fit, refund, remit or waive any fee or charge prescribed by this Bylaw.

1.8 Notices

- 1.8.1 The Council may issue a notice in writing to any person who owns, occupies or controls any land, building, work or material of any description, requiring:
- (a) compliance with this Bylaw
 - (b) anything to be done or refrained from being done that is in contravention of this Bylaw.
- 1.8.2 Every such notice shall state the date by when the action is to be performed.
- 1.8.3 Clause 1.8 shall apply to any notice issued under any revoked Bylaw.
- 1.8.4 Clause 1.8 shall not relieve any person from any offence committed before receiving the notice.

1.9 Service of notices

- 1.9.1 A notice that is required by this Bylaw to be served on any person may be sent by post, addressed to the person at the last known place of residence or business of that

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person. Where a notice is sent by post, it is deemed to have been received at the time at which the letter would have been delivered in the ordinary course of the post.

1.9.2 If any person on whom a notice is required by this Bylaw to be served is absent from New Zealand or if his or her address is unknown, the notice may be sent to his or her agent. If he or she has no known agent :

- (a) the notice shall be published in a newspaper circulating in the district; or
- (b) where the notice relates to any land or building, the notice may be left on some conspicuous part of the land or building.

1.10 Removal of works in breach of bylaws and recovery of costs

1.10.1 Any person authorised by the Council may remove or alter any work or thing constructed in contravention of any provision of this Bylaw.

1.10.2 The Council may recover from any person responsible for the construction, or permitting the continued existence of any such work or thing, all costs incurred in connection with any removal or alteration.

1.10.3 The exercise of clause 1.10.1 shall not relieve any person from liability for constructing or permitting the continued existence of any such work or thing.

1.11 Compliance waiver

1.11.1 An application to the Council can be made to waive full compliance with any provision of this Bylaw on the basis that it would needlessly injure or effect any person, the operation of any business or cause loss or inconvenience to any person, without any corresponding benefit to the community.

1.11.2 On receipt of an application under clause 1.11.1, the Council may:

- (a) waive the strict observance or performance of any provision of this Bylaw
- (b) impose such other terms or conditions consistent with the intention and purpose of the Bylaw as the Council may think fit.

1.12 Discretionary powers

1.12.1 Where, under this Bylaw, the Council confers on any person a discretionary power, the Council may exercise that power itself.

1.12.2 Where, under this Bylaw, the Council reserves to itself a discretionary power, it may delegate the exercise of that power to any person.

1.12.3 Where any person exercises a discretionary power under this Bylaw, any person directly affected by the exercise of that power may apply to the Council for a review of the decision and the Council may review it accordingly.

2.0 INTERPRETATION

2.1 In this Bylaw, any reference to a specified Act or Regulation shall be deemed to incorporate any amendments to that Act or Regulation. If the Act or Regulation is repealed, any reference to it includes the Act or Regulation that replaces, or corresponds to the Act or Regulation repealed.

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2.2 The headings in this Bylaw shall not affect the construction of the Bylaw.

2.3 In this Bylaw, unless the context otherwise requires:

COUNCIL means the Wellington City Council.

DISTRICT means the City of Wellington as defined from time to time under the procedures set out in the Local Government Act 2002.

OWNER of any real property includes a registered proprietor, a trustee, and any person for the time being entitled to receive the rent of the property, land, building, or premises or who would be entitled to the rent if the property were let to a tenant. Where any such person is absent from New Zealand, 'owner' includes his or her attorney or agent.

OWNER of any personal property includes the person having charge or the management of the property.

PERSON or any other words applying to any person or individual, shall include a firm and also a corporation.

PUBLIC PLACE means any place that, at any material time, is open to or is

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being used by the public, whether free or on payment of a charge; and

whether an owner or occupier of the place is lawfully entitled to exclude or

eject any person from that place, and includes any aircraft, hovercraft, ship or

ferry or other vessel, train, or vehicle carrying or available to carry passengers

for reward. (Note: for the purposes of Part 17B of this bylaw, 'public place'

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does not include the interior of any premises).

RATES RECORDS means the rates records of the Council kept pursuant to the Local Government (Rating) Act 2002.

ROAD shall have the same meaning as in section 315 of the Local

Government Act 1974 and shall where the context requires include a street

(excluding State Highways) and any place the public has access to, whether as of right or not.

3. OFFENCES

3.1 General offences

Every person commits an offence against this bylaw who:

- (a) does or permits anything contrary to this Bylaw
- (b) omits or neglects to do anything which ought to be done at the time and in the manner provided in this Bylaw
- (c) does not refrain from doing anything which under this Bylaw he or she is required to refrain from doing
- (d) refuses or neglects to comply with any notice given under this Bylaw
- (e) obstructs or hinders any authorised officer in the performance of any duty or power conferred by this Bylaw
- (f) damages, destroys or defaces (or has in his or her possession without authority from the Council) any property, article or thing belonging to the Council or under its control.

3.2 Continuing offences

3.2.1 The continued existence of any work, building, land, premises or thing in such a state or form as to be in contravention of any provision of this Bylaw shall be deemed to be a continuing offence under this Bylaw.

3.2.2 Where any person is required by a notice under clause 1.8 to do anything, or refrain from doing anything, then they shall commit a separate or continuing offence on each day that person fails to comply with the notice.