

WAIPA DISTRICT ANIMAL NUISANCE BYLAW 2022

May 2022

First adopted:	26 April 2022
Revisions/Amendments dates:	
Next review date:	May 2027
Engagement required:	Section 83 Local Government Act 2002
Document number:	10700675
Associated documents:	
Bylaw Owner:	Group Manager District Growth and Regulatory Services

This Bylaw is made by Waipa District Council under the powers given to it by the Local Government Act 2002.



PART 1

Preliminary Provisions

1. Title, Application and Commencement

- 1.1. This Bylaw is the Waipa District Animal Nuisance Bylaw 2022.
- 1.2. This Bylaw applies to the district of Waipa District Council.
- 1.3. This Bylaw comes into force on 10 May 2022.

2. Purpose

The purpose of this Bylaw is to regulate the keeping of bees, poultry and other animals in urban areas, so that they do not create a nuisance or endanger the health or safety of the public.

Guidance Note

This bylaw does not apply to dogs. Dogs are covered by the Waipa District Dog Control Bylaw.

There are a number of other legislative requirements that apply to the keeping of animals, including the Animal Welfare Act 1999, Biosecurity Act 1993 and the Impounding Act 1955. The Ministry of Primary Industries has also issued a number of Codes of Practice relating to the keeping of animals.

3. Interpretation

- 3.1. In this Bylaw unless the context otherwise requires:

Act	means the Local Government Act 2002.
Animal	means any live member of the animal kingdom, including any mammal, bird, finfish, shellfish, reptile, amphibian, insect or invertebrate, but does not include human beings or dogs.
Authorised officer	means an officer of Council or other person authorised under sections 174 or 177 or paragraph 32 of schedule 7 to the Act to administer and/or enforce this Bylaw.
Bee	means the insect <i>Apis mellifera</i> , commonly referred to as the Western Honey Bee or the European Honey Bee.
Beehive	means a thing constructed and being used to keep bees; but does not include a cage for introducing or transporting a queen bee to a beehive.
Council	means Waipa District Council.

District Plan	means the operative Waipa District Plan dated 14 August 2017.
Dwelling	means any self-contained building, whether permanent or temporary, that is occupied or designed to be occupied, in whole or in part, by a single household for the purposes of a residential activity and in each case contains a kitchen and may include a kitchenette. Dwelling includes any principal dwelling, secondary dwelling and farm worker dwelling.
Keep or keeping	in relation to an animal, includes owning, looking after, caring for, being in charge of, or in possession of.
Large Lot Residential Zone	means land zoned Large Lot Residential Zone in the District Plan.
Nuisance	without limiting the meaning of the term “nuisance”, includes any unreasonable interference with the peace, comfort or convenience of another person, including by way of excessive noise or offensive odours, and includes the nuisances defined in section 29 of the Health Act 1956.
Poultry	means chickens, turkeys, ducks or geese raised to produce eggs, hatching eggs or poultry products or for rearing on behalf of any other person.
Residential Zone	means land zoned Residential Zone in the District Plan.
Urban area	means land zoned Residential Zone and Large Lot Residential Zone.

- 3.2 To avoid doubt, compliance with this Bylaw does not remove the need to comply with all other applicable Acts, regulations and rules of law.
- 3.3 Unless the context requires another meaning, a term or expression that is defined in the Act and used in this Bylaw, but not defined, has the meaning given by the Act.
- 3.4 Any explanatory notes and attachments are for information purposes, do not form part of this Bylaw, and may be made, amended and revoked without formality.
- 3.5 To avoid doubt, the Legislation Act 2019 applies to this Bylaw.
- 3.6 To avoid doubt, reference to “include” and “including” in this Bylaw means without limitation.

PART 2

Keeping of Animals

4. General Requirements

- 4.1. Any person who keeps, or permits to be kept, any animal on private property in an urban area must ensure that the animal:
 - (a) does not cause a nuisance to any person; and
 - (b) does not cause a threat to public health or safety.
- 4.2. Where an authorised officer has reasonable grounds for suspecting that a person is in breach of clause 4.1, the authorised officer may by written notice require that person to take specified steps to ensure compliance with that provision within a timeframe specified in that notice.
- 4.3. A person issued with a written notice under clause 4.2 must comply with the steps specified in that notice within the specified timeframe.

5. Bee Keeping – additional requirements

- 5.1. A person must not keep bees in an urban area if the manner in which the bees are kept causes or is likely to cause a nuisance or a threat to public health or safety.
- 5.2. Where an authorised officer considers an existing beehive causes or is likely to cause a nuisance or a threat to public health or safety, the authorised officer may require removal of the beehive within a specified timeframe by written notice to the keeper of that beehive.
- 5.3. A person issued with a written notice under clause 5.2 must comply with the steps specified in that notice within the specified timeframe.
- 5.4. A person must not keep bees on a property in an urban area unless that person complies with the following conditions:
 - a) beehives must be placed no closer than 25 metres from the property boundary, or
 - b) beehives must be separated from the property boundary by a solid fence 1.8 metres or taller on that boundary; and
 - c) the beehive must be placed near a suitable water source that is directly accessible to the bees at all times.
- 5.5. The requirements of clauses 5.4(a) and 5.4(b) do not apply where:
 - (a) the beehive is located on or above the second storey of a building; or
 - (b) the person has obtained written approval from an authorised officer that the requirements do not apply, which may be subject to such conditions as the authorised officer considers appropriate.
- 5.6. Any person who receives approval under clause 5.5(b) must comply with all conditions of that approval.
- 5.7. The Council may, in accordance with section 150 of the Act, prescribe fees for any application for approval under clause 5.5(b).

Guidance 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 honeybees from American foulbrood disease. The register also allows the Ministry for Primary Industries to carry out surveillance for exotic pests and diseases of honeybees and respond to an incursion.

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.

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 subject to additional legal requirements and information on these requirements is available on the Ministry for Primary Industries website. Apiculture New Zealand Incorporated provides a Code of Conduct for beekeepers.

Guidelines:

Compliance with the following guidelines is recommended to minimise potential nuisances arising from urban beekeeping activities. Every person wishing to keep bees in an urban area is encouraged to participate in a beekeeping course.

Flight path management

Honeybees will fly at head height for some distance from their hives unless their surrounding environment directs their flight path upwards. Honeybees 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.

Swarming/seasonal build up

Swarming is the natural means of dispersal of honeybee colonies. 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.

Honeybee 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. Honeybees going on orientation, foraging or cleaning flights often excrete after exiting the hive. This can leave distinct trails of 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.

Beehives on buildings

Where beehives are to be located at or above the second storey of a building, for example, a roof top or balcony, the structure of the building at that location should be strong enough to support the additional weight and that the weight of the beehives should be distributed across weight bearing beams.

6. Poultry Keeping – Additional requirements

- 6.1. No person may keep a rooster or cockerel on a property in an urban area.
- 6.2. No person may keep more than 5 head of poultry on a property in a Residential Zone.
- 6.3. No person may keep more than 10 head of poultry on a property of less than 1ha in a Large Lot Residential Zone.
- 6.4. No person may keep more than 50 head of poultry on a property 1ha or over in a Large Lot Residential Zone.
- 6.5. No person may keep poultry on a property in an urban area without a poultry house, which shall be maintained in good repair, in a clean condition, free from any offensive smell or overflow, accumulations of manure, food and vermin.
- 6.6. No person may keep on a property in a Residential Zone poultry houses or poultry runs closer than 2 metres from any dwelling, factory or any other building, or the boundary of adjoining properties.

PART 3 OFFENCES AND PENALTIES

7. Offences

- 7.1. A person who fails to comply with this Bylaw commits a breach of this Bylaw and is liable to a penalty under the Act.
- 7.2. Council may enforce any breach of this Bylaw under the Act.

Guidance Note

Council’s enforcement powers under the Local Government Act 2002 include court injunction (section 162), seizure and disposal of property (sections 164, 165 and 168), liability for costs to remedy damage (section 176), power to request name and address (section 178) and power to execute works and recover costs (section 186 and 187).

Under section 171 of the Local Government Act 2002, an authorised officer may enter and inspect any land or building (other than a dwelling house) for routine inspection or monitoring or for post breach monitoring. The authorised officer must give at least 24 hours notice of the intended entry.

Under section 172 of the Local Government Act 2002 an authorised officer may enter and inspect any land for the purpose of detecting a breach of this Bylaw if the authorised officer has reasonable grounds for suspecting that a breach has occurred or is occurring on the land. The authorised officer must give reasonable notice unless the giving of notice would defeat the purpose of entry.

A person who is convicted of an offence against this Bylaw can be fined a maximum of \$20,000 under section 242(4) of the Local Government Act 2002.

Signed on Behalf of Waipa District Council by:

Mayor

Date

Chief Executive

Date