

MANUKAU CITY CONSOLIDATED BYLAW 2008

CHAPTER 1

GENERAL ADMINISTRATION

EXPLANATORY NOTE

<i>Bylaw made using powers of</i>		<i>Local Government Act 2002</i>	
Description	Date Made	Council Minute	Commencement
<i>Bylaw first adopted by Council with updated chapter and bylaw references.</i>	26 Jun 2008	CL/JUN/745/08	01 Oct 2008

The purpose of this Bylaw is to provide general provisions to assist with the administration of the subsequent Chapters which form the Manukau City Consolidated Bylaw 2008.

This Bylaw should be read in conjunction with the entire Manukau City Consolidated Bylaw 2008 and any other applicable statutory provisions, including but not limited to the Local Government Act 1974 and the Local Government Act 2002.

The Explanatory Note is for information purposes only and does not form part of this Bylaw.

CONTENTS

1.	Interpretation	2
2.	Permits	4
3.	Dispensations	5
4.	Objections	6
5.	Offences	6
6.	Enforcement Powers and Penalties	7

1. Interpretation

1.1 In the Bylaw unless inconsistent with the context:

ANIMAL means any living stage of any member of the animal kingdom except human beings, and in the case of any mammal, bird, fish or reptile, includes the carcass thereof.

APPROVED means approved by the Council.

AUTHORISED OFFICER means a person acting on the Council's behalf in matters of a specified kind or in a specified manner, and includes an Inspector.

BEACH means the foreshore and any adjacent area which can reasonably be considered part of the beach environment including areas of sand, pebbles, shingle, dunes or coastal vegetation.

BUSINESS ZONE means any area zoned for use for business purposes by the District Plan.

BYLAW means a bylaw of the Council, for the time being in force in the district, made under the provisions of any Act or authority enabling the Council to make bylaws, and the expression "this bylaw" means The Manukau City Consolidated Bylaw 2008, or any part or chapter thereof.

CHAPTER means a chapter of this Bylaw.

CLAUSE and **SUBCLAUSE** mean a clause or subclause of the chapter in which the word appears.

COUNCIL means the Manukau City Council or any officer authorised to act on its behalf.

DEPOSIT, in relation to litter or any other material or thing, includes:

- (a) to cast, place, throw or drop; and/or
- (b) to cause or permit litter or other material or thing to be cast, placed, thrown or dropped, or to escape from a motor vehicle or trailer.

DISTRICT means the district of the City of Manukau or any part thereof within the jurisdiction and under the control of the Council.

DISTRICT PLAN means the plan or plans (whether operative or proposed) for the time being in force in the district under the provisions of the Resource Management Act 1991.

DWELLING means:

- (a) a building, house or structure, whether permanent or temporary; or
- (b) a caravan, house bus, house truck or mobile house, whether self propelled or intended to be towed, or whether on wheels or not; and includes; or
- (c) a vehicle, houseboat, seacraft or aircraft, moored or affixed to land, used or intended to be used in whole or in part for human habitation, and includes the land and any outbuildings and utility services and other improvements.

ENVIRONMENTAL HEALTH OFFICER means an Environmental Health Officer appointed or authorised by the Council under the Health Act 1956.

FOOTPATH means so much of any road as is laid out or constructed by authority of the council primarily for pedestrians; and includes the edging, kerbing and channelling thereof.

FORESHORE means

- (a) the marine area that is bounded:
 - (i) on the landward side, by the line of mean high water springs; and
 - (ii) on the seaward side, by the line of mean low water springs; and
- (b) includes the beds of rivers that are part of the coastal marine area (within the meaning of the Resource Management Act 1991).

LICENCE has the same meaning as permit.

LICENCEE means the holder of a permit issued under this bylaw or any Act.

LITTER includes any refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth or waste matter or any other thing of a like nature.

MEDICAL OFFICER OF HEALTH means the Medical Officer of Health for the time being of the health district in which the district of the City of Manukau is included, appointed under the Health Act 1956.

MOTOR VEHICLE means a vehicle drawn or propelled by mechanical power; and includes a trailer, but does not include:

- (a) vehicle running on rails;
- (b) an invalid carriage;
- (c) a trailer (not being a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of any of Her Majesty's Forces;
- (d) a trailer running on 1 wheel and designed exclusively as a speed measuring device or for testing the wear of vehicle tyres;
- (e) a vehicle designed for amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles; or
- (f) a pedestrian controlled machine.

OCCUPIER means the inhabitant occupier of premises, and where the premises are unoccupied includes the owner of the premises.

PERSON includes a corporation sole and also a body of persons, whether corporate or unincorporated.

PERMIT includes any licence, permission, consent, approval, dispensation or certificate of registration issued or given by the Council under this bylaw.

PREMISE means any, or any part of any : land, dwelling, vessel, storehouse, warehouse, factory, shop, office, cellar, yard, building or an enclosed space separately occupied; and all land, buildings and places adjoining each other and occupied together shall be deemed to be the same premises.

PRIVATE ROAD means a roadway, place or arcade laid out or formed on private land by the owner thereof, but intended for the use of the public generally.

PRIVATE WAY means private way as defined in Section 315 of the Local Government Act 1974.

PUBLIC PLACE includes the following, and any part of each:

- (a) Road, footpath, court, alley, lane, access way and thoroughfare of a public nature or open to or used by the public as of right;
- (b) Places of public resort or places to which the public has access;
- (c) Beach, foreshore and reserve.

ROAD means the whole of any land in the district which:

- (a) immediately before the commencement of Part XXI of the Local Government Act 1974 was a road or street or public highway; or
- (b) immediately before the inclusion of any area in the district, was a public highway within that area; or
- (c) is laid out by the Council as a road or street after the commencement of Part XXI of the Local Government Act 1974; or
- (d) is vested in the Council for the purpose of a road as shown on a deposited survey plan; or
- (e) is vested in the Council as a road or street pursuant to any other enactment; and includes :
- (f) except where provided in Part XXI of the Local Government Act 1974, elsewhere than in section 1 of that Part, any access way or service lane which before the commencement

of that Part was under the control of the Council or is laid out or constructed by or vested in the Council as an access way or service lane, or is declared by the Minister of Works and Development or the Minister of Lands as an access way or service lane;

- (g) every square or place intended for use of the public generally, and every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;

but except as provided in Part XI of the Public Works Act 1981 or in any regulations under that Act, does not include a motorway within the meaning of that Act.

RURAL AREA means any area for the time being zoned for rural purposes in the District Plan and for the avoidance of doubt includes any area zoned for rural residential purposes.

STOCK includes either gender, desexed, the young and carcasses of a cow, sheep, horse, deer, donkey, mule, goat, pig, llama or alpaca or any other farmed animal.

TRAILER means a vehicle without motive power that is capable of being drawn or propelled by a motor vehicle from which it is readily detachable; but does not include:

- (a) a sidecar attached to a motorcycle; or
(b) a vehicle normally propelled by mechanical power while it is being temporarily towed without the use of its own power.

VEHICLE has the same meaning as in the Land Transport Act 1998.

WRITING, WRITTEN or a term of like import means and includes words printed, painted, engraved, lithographed or otherwise traced or copied.

- 1.2 Where a Chapter of the Bylaw contains an interpretation of a word or term that interpretation will apply for the purpose of that Chapter.
- 1.3 Unless the context requires otherwise:
- (a) If there is no express definition of a word or term in this bylaw, then, for each chapter, the definitions provided in the primary legislation relative to that chapter shall apply in respect of that chapter.
- (b) In default of express definition of a word or term in this bylaw or in the relative primary legislation, definitions of words or terms provided in the Local Government Act 1974 shall apply.
- (c) If a word or term has no definition as a result of the previous paragraphs of this subclause, then the Acts Interpretation Act 1924 shall apply.
- 1.4 The headings or marginal notes to clauses of this bylaw shall not affect the construction of the clauses.

2. Permits, Licences Consents or Approvals

- 2.1 Any person may make an application for a permit, licence, consent or approval under this Bylaw.
- 2.2 Every application for a permit, licence, consent or approval must include any information required by the Council and must be accompanied by any fee prescribed from time to time by resolution of the Council.
- 2.3 In determining an application for a permit, licence, consent or approval, the Council must have regard to any matters specified by the Council and may inspect the premise for which the application is being made.
- 2.4 After considering an application for a permit, licence, consent or approval the Council may grant or refuse to grant the permit, licence, consent or approval and if it grants the permit, licence, consent or approval, may impose any conditions.
- 2.5 Unless provided for elsewhere in the Bylaw, a permit, licence, consent or approval issued to a person named in that permit is not transferable to any other person, and no such permit, licence,

consent or approval shall authorise any person other than the person named therein to act in any way under its terms and conditions.

- 2.6 The Council may suspend or revoke a permit, licence, consent or approval if:
- (a) the holder of a permit, licence, consent or approval:
 - (i) acts in a manner contrary to the true intent and meaning of this Bylaw; or
 - (ii) fails to observe or comply with the terms of or any conditions included in a permit, licence, consent or approval; or
 - (iii) acts in a way which in the opinion of the Council renders the holder unfit to hold a permit, licence, consent or approval.
 - (iv) is convicted of an offence constituting a breach of the terms of, or conditions included in that permit, licence, consent or approval, or of an offence touching his or her character as the holder of a permit, licence, consent or approval.
 - (b) any premises referred to in a permit, licence, consent or approval:
 - (i) are no longer being used for the purpose stated in the permit, licence, consent or approval; or
 - (ii) have fallen into a state of disrepair or are not being kept or maintained in accordance with the permit, licence, consent or approval; or
 - (iii) that in any other manner the provisions of this Bylaw or any regulations applicable in respect of those premises are not being observed in accordance with their true intent and meaning.
- 2.7 A person whose permit, licence, consent or approval has been suspended or revoked under clause 2.7 and any premises in respect of which that permit, licence, consent or approval has been so suspended or revoked, is deemed to be without a permit, licence, consent or approval.
- 2.8 Unless otherwise specified in a condition pursuant to clause 2.4, in this bylaw or in any Act, every permit, licence, consent or approval issued under this bylaw shall unless sooner revoked or suspended, remain in force from the date of issue until 30 June of the following year and be subject to renewal annually.
- 2.9 No application for a permit, licence, consent or approval and no payment of or receipt for a fee paid in connection with an application for permit, licence, consent or approval shall confer any right, authority or immunity on the person making that application or payment.

3. Dispensations

- 3.1 Any person may make an application for a dispensation from observing or performing any provision of this Bylaw or modifying any provisions of this Bylaw.
- 3.2 An application for a dispensation must include any information required by the Council and must be accompanied by any fee prescribed from time to time by resolution of the Council.
- 3.3 In determining an application for a dispensation, the Council must have regard to:
- (a) whether full compliance with the applicable provisions of the Bylaw would needlessly or injuriously affect any person or the operation of any business without a corresponding benefit to the social, economic, environmental or cultural well-being of the community; and
 - (b) whether full compliance with the applicable provisions of the Bylaw would be consistent with the purpose and intent of the bylaw; and
 - (c) any other matter the Council considers relevant and reasonably necessary to determine the application.
- 3.4 After considering an application for a dispensation, the Council may grant or refuse to grant the dispensation and if it grants the dispensation, may impose any conditions.
- 3.5 Except as expressly granted otherwise, a dispensation granted under clause 3.4 is not transferable to any person other than the person whom the dispensation is granted and is restricted to the subject-matter of the dispensation. A dispensation will not constitute a

justification for the breach of any provisions of this Bylaw other than the specific terms of the dispensation.

4. Objections

- 4.1 Any applicant for or the holder of a permit, licence, consent or approval may lodge an objection to a decision to decline, suspend or revoke a permit, licence, consent or approval if that decision was made under authority delegated by the Council.
- 4.2 Any objection must include any information required by the Council and must be accompanied by any fee prescribed from time to time by resolution of the Council.
- 4.3 In determining an objection the Council may have regard to:
- (a) whether declining an application for a permit, licence, consent or approval is consistent with the purpose and intent of the bylaw;
 - (b) whether imposing a condition on a permit, licence, consent or approval is consistent with the purpose and intent of the bylaw;
 - (c) any other matter the Council considers relevant and reasonably necessary to determine the objection.
- 4.4 After considering an objection, the Council may uphold or decline the objection and if it upholds the objection, may impose any conditions on the decision to grant or reinstate a permit, licence, consent or approval.

5. Offences

- 5.1 Every person commits an offence against the Bylaw who:
- (a) does, or causes to be done, or knowingly permits or suffers to be done anything whatsoever contrary to or otherwise than as provided by this Bylaw; or
 - (b) omits or neglects to do, or knowingly permits or suffers to remain undone, anything which according to the true intent and meaning of this Bylaw, ought to be done by that person at the time and in the manner therein provided; or
 - (c) does not refrain from doing anything which under this Bylaw that person are required to abstain from doing; or
 - (d) knowingly causes or permits any condition of or things to exist contrary to any provision contained in this Bylaw; or
 - (e) refuses or fails to comply with any request, notice or direction duly given to that person under the Bylaw; or
 - (f) obstructs or hinders any authorised officer of the Council in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred by this Bylaw; or
 - (g) breaches any requirement or standard adopted under this bylaw; or
 - (h) having constructed, affixed or provided, or caused or permitted to be constructed, affixed, or provided, 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 any provision of this Bylaw; or
 - (i) having omitted to construct, affix, or provide any work, appliance or materials as required by this bylaw, and who does not within a reasonable time after notice in writing has been given to that person by the Council or any authorised officer of the Council, fails to carry out the remedial action specified in that notice.

6. Enforcement and Penalties

- 6.1 The Council may use any power available to it under any Act or Regulation to enforce the Bylaw.
- 6.2 Without limiting clause 6.1, the Council is authorised to use the powers contained in section 357 of the Local Government Act 1974 and section 163 of the Local Government Act 2002 to -
- (a) remove or alter a work or thing that is, or has been, constructed in breach of the Bylaw;
 - and
 - (b) recover the costs of removal or alteration from the person who committed the breach.
- 6.3 Any person who commits an offence is liable to such penalty as is provided for a breach of a bylaw under any Act or Regulation authorising the Bylaw.