

PART 11

FIRE PREVENTION IN URBAN AREAS



Whakatane District Council



PART 11

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Date made: 17th June 2010
Commencement: 1st July 2010

EXPLANATORY NOTE

Part 11 – Fire Prevention in Urban Areas was made pursuant to sections 145 and 146 of the Local Government Act 2002.

The purpose of Part 11 is:

- (a) Allow the Council to exercise control over burning in the open air in urban areas of the Whakatane District and to prevent smoke from fires in the open air causing a nuisance;
- (b) To prevent the spread of fires involving vegetation in urban areas.

Part 11 is subject to sections 20, 21 and 22 of the Forest and Rural Fires Act 1977 that make provision for the prohibition of fires during periods of extreme fire hazard (s20) prohibition of certain operations during periods of extreme fire hazard (s21) and restricted or prohibited fire seasons (s22) and the Forest and Rural Fire Regulations 2005. Separate declarations relating to the prohibition of fires must be made under the Forest and Rural Fires Act 1977 for rural areas and under this bylaw for urban areas. For declarations for both rural and urban areas both the Forest and Rural Fires Act 1977 and this bylaw should be used.

The Bay of Plenty Regional Council is responsible for discharges into the air. Fires in the open air must comply with the Bay of Plenty Regional Council's Regional Air Plan Rules, the Water and Land Plan and any other applicable rules. Consents or approvals may be required from the Bay of Plenty Regional Council for discharges into the air from fires in the open air.

Part 11 is in addition to existing fire control and prevention measures available in the Local Government Act 2002, the Forest and Rural Fires Act 1977, the Forest and Rural Fires Regulations 2005, control over smoke nuisance contained in the Health Act 1956 and the requirements of the Bay of Plenty Regional Council as set out in its "Regional Air Plan" rules.

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PART 11

FIRES IN THE OPEN AIR

11.1 INTERPRETATION

- 11.1.1 “**Acceptable means of fire suppression**” means a hose connected to a reticulated water supply or an alternative means of fire suppression approved in writing in a particular case by an authorised officer.
- 11.1.2 “**Barbeque**” means any fixed solid fuel equipment, or fixed or portable gas equipment, for the cooking of food.
- 11.1.3 “**Brazier**” means a grate type-heating appliance designed to be used outdoors with wood.
- 11.1.4 “**Broadcast**” means broadcast as defined in section 2 of the Broadcasting Act 1989.
- 11.1.5 “**Combustible material**” means a substance or material that is able to catch fire and burn.
- 11.1.6 “**Incinerator**” means 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.
- 11.1.7 “**Open Air**” means in the open whether on or above ground level.
- 11.1.8 “**Open Fire Season or Open Season**” in respect of any area or district, means a period of time, whether of fixed or indefinite duration, during which period the lighting of fires in the open air in that area or district is neither prohibited nor restricted under section 22 of the Forest and Rural Fires Act 1977.
- 11.1.9 “**Permit or Fire Permit**” in relation to the lighting of fires in the open air, means a fire control measure in accordance with which a person may light such fires without committing an offence against section 23(1) of the Forest and Rural Fires Act 1977 and includes a special permit issued pursuant to section 24 of that Act.
- 11.1.10 “**Principal Rural Fire Officer**” means the Principal Rural Fire Officer for the Whakatane District appointed pursuant to the Forest and Rural Fires Act 1977.
- 11.1.11 “**Prohibited Fire Season**” means a period of time, whether of fixed or indefinite duration, specified pursuant to this Bylaw during which period the lighting of fires in the open air is prohibited.
- 11.1.12 “**Restricted Fire Season**” means a period of time, whether of fixed or indefinite duration, specified pursuant to this Bylaw, during which period permits are required by this Bylaw for the lighting of fires in the open air.
- 11.1.13 “**Traditional Cooking Fire**” means any hangi or similar fire in the open air used for the preparation of food using traditional cooking methods.

11.2 FIRES IN THE OPEN AIR

- 11.2.1 No person shall light a fire in the open air within 3 metres of any tree, hedge, fence or other combustible material, building or boundary of any property.
- 11.2.2 No person shall light any fire or permit or suffer to remain alight or smoulder any fire in the open air between the hours of sunset and sunrise.
- 11.2.3 Clause 11.2.1 and clause 11.2.2 does not apply to any barbecue, brazier or traditional cooking fire as defined in clause 11.1 of this Part of the Bylaw.

11.3 CONDITIONS FOR LIGHTING BARBECUES AND TRADITIONAL FIRES

- 11.3.1 No person shall use or permit the use of any barbecue, traditional cooking fire or fire in the open air:
- (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; and
- (c) Without there being immediately available an acceptable means of fire suppression; and
- (d) Without maintaining adequate supervision and extinguishing upon completion.

11.4 RESTRICTED FIRE SEASON

- 11.4.1 An authorised officer may at any time prescribe a restricted fire season or seasons within the District or in any specified parts thereof and may at any time cancel or vary the prescription.
- 11.4.2 No person shall light or permit any fire in contravention of any prohibitions made under clause 11.4.1.

11.5 APPLYING FOR A PERMIT DURING A RESTRICTED FIRE SEASON

- 11.5.1 Any person may apply for a fire permit during a restricted fire season.
- 11.5.2 An authorised officer may issue a fire permit upon payment of a prescribed fee (if any) and may impose such conditions and restrictions as he or she considers reasonably necessary having regard to:
- (a) The location, terrain, natural vegetation and the existence of buildings or other structures and any other fuels; and
 - (b) Protection of public safety and health.

11.6 PROHIBITED FIRE SEASON

- 11.6.1 An authorised officer may at any time prescribe a prohibited fire season or seasons within the District or in any specified parts thereof and may at any time cancel such a prescription.
- 11.6.2 No person shall light or permit any fire in contravention of any prohibitions made under clause 11.6.1.

11.7 PUBLIC NOTICE OF A RESTRICTED OR PROHIBITED FIRE SEASON

11.7.1 Public notice of the prescription, cancellation or variation of a restricted or prohibited fire season shall be made by:

- (a) A notice in a daily or community newspaper circulating throughout the District, or
- (b) Broadcast and/or other effective means.

11.8 FEES FOR PERMITS

11.8.1 The Council may from time to time, by resolution set fees in accordance with the Local Government Act 2002 for the issue of any permit under this Part of the Bylaw.

11.9 REVOCATION OR SUSPENSION OF PERMITS

11.9.1 Every permit issued or any exempted activities granted pursuant to this Part of the Bylaw remains in force from the date of issue until the time specified in that fire permit or activity unless a prohibited fire season is declared or the permit or activity is revoked in accordance with clause 11.9.2 of this Part of the Bylaw.

11.9.2 A permit issued under this Part of the Bylaw or any exempted activities granted may be revoked by an authorised officer at any time, or suspended for any period of time on such terms and conditions as the authorised officer considers reasonable under the circumstances.

11.10 LIVE ASHES

11.10.1 No person shall place or allow to be placed any live cinders, embers or ashes in or upon any premises other than:

- (a) in a container made and constructed of steel, concrete or other similarly fire resistant material so as to prevent the transmission of heat to any flammable or 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.

11.11 REMOVAL OF GORSE OR OTHER GROWTH

11.11.1 No occupier or any other person having the control of any land shall allow any broom, gorse, manuka, bushes, scrub, dry grass, or any similar growth to exist in such a condition or state on any land that it is likely to become a source of risk from fire.

11.11.2 An authorised officer of the Council may by written notice require an occupier or person having control of any land to remove any dangerous growth within the time specified in the notice.

11.11.3 If the owner or occupier fails to comply with the written notice to remove the dangerous growth then the Council may arrange for the removal of the growth and will recover the cost of that removal from the owner or occupier.

11.11.4 The Council may cut down or otherwise eradicate and remove any broom, gorse, manuka, bushes, scrub, dry grass, or any similar growth to which clause 11.11.1 applies, after giving verbal notice to the occupier or where there is no occupier to the owner of the land, if life, property or any road is in imminent danger. The cost of the removal will be recovered from the owner or occupier (see section 183 of the Local Government Act 2002).

11.12 COUNCIL OR ITS AGENT MAY EXTINGUISH FIRES

- 11.12.1 Where a fire has been lit or allowed to burn in breach of this Part of the Bylaw an authorised officer of the Council or an agent of the Council (including the New Zealand Fire Service) may direct the occupier of the premises on which the fire is located or the persons who lit the fire to extinguish the fire.
- 11.12.2 If a direction given under clause 11.12.1 is disregarded an authorised officer or agent of the Council may extinguish the fire and take such other steps as may be reasonably necessary to ensure the safety of any person or to protect any property.
- 11.12.3 Where a fire has been extinguished pursuant to clause 11.12.2 the Council may recover any costs incurred in extinguishing the fire from the occupier of the premises on which the fire was located and/or from the person who lit the fire.

11.13 STORAGE OF COMBUSTIBLE MATERIALS

- 11.13.1 Except as provided in clause 11.13.2 and 11.13.3, no occupier of any premises shall permit the storage or stacking in the open of any combustible material, unless the distance of the stack from any boundary other than a street boundary is at least equal to the height of the stack, but in any case not less than 1.4 metres.
- 11.13.2 A stack may be placed closer to the boundary than the distance specified in clause 11.13.1 if a brick, stone or concrete wall or wall made with any other fire retardant material extending not less than 450 millimetres above and not less than 1.4 metres beyond the length of the stack is situated between the stack and the boundary.
- 11.13.3 A stack with the written approval of the adjoining owner and of the authorised officer may be placed closer to the boundary than the distance specified in clause 11.13.1 where any of the following conditions exist:
- (a) Where there is a brick, stone or concrete wall or wall made with any other fire retardant material as defined in 11.13.2 without openings situated on the adjoining property and within 1.4 metres of the common boundary; or
 - (b) Where there are no buildings on the adjoining land; or
 - (c) Where there is no danger of a stack adjacent to a boundary increasing the risk of the spread of fire.

