

# HUTT CITY COUNCIL BYLAW 2007

## PARKS AND RESERVES

Adopted by Council 3 July 2007

### 1. Interpretation

**"Animal"** has the same meaning as in section 2 of the Reserves Act 1977.

**"Bylaw"** means this Parks and Reserves Bylaw.

**"Council"** means the Hutt City Council.

**"Custodian"** means a person for the time being lawfully appointed by the Council to control or supervise a reserve or any part of a reserve.

**"Emergency services"** has the same meaning as in section 2 of the Civil Defence Emergency Management Act 2002.

**"Dangerous weapon"** includes any firearm, bow and arrow, catapult or shanghai.

**"Firearm"** has the same meaning as in section 2 of the Arms Act 1983.

**"Reserve"** means any open space, plantation, park, garden or grounds set apart for public recreation or enjoyment that is under the management or control of the Council and includes all land administered by the Council under the Reserves Act 1977, but does not include any land administered by the Greater Wellington Regional Council.

**"Structure"** includes any building, fence, gate, seat, playground equipment, memorial, artwork, fountain, wharf, jetty, platform, goal posts, rubbish bins and rafts.

**"Vehicle"** means:

- (a) a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and
- (b) includes a hovercraft, land yacht, boat, surf ski, skateboard, in-line skates, roller skates, and the shell or hulk of a vehicle; but
- (c) does not include-
  - (i) a perambulator or pushchair:
  - (ii) a shopping or sporting trundler not propelled by mechanical power:
  - (iii) a wheelbarrow or hand-trolley:
  - (v) a pedestrian-controlled lawnmower:
  - (vi) a pedestrian-controlled agricultural machine not propelled by mechanical power:
  - (vii) an article of furniture:
  - (viii) a wheel-chair not propelled by mechanical power.

## **PART 1 – Access to Reserves**

### **2. Hours of opening**

- 2.1 Subject to the provisions of this Bylaw and the Reserves Act 1977, all reserves will be open to the public daily and free of charge.

### **3. Closing of reserves**

- 3.1 The Council may determine the times during which a reserve, or any part of a reserve, will be closed to the public.
- 3.2 No person, other than a Custodian, may enter or remain in a reserve, or any part of a reserve, while it is closed to the public.

### **4. Leased or licensed premises in reserves**

- 4.1 The Council may lease premises in a reserve to any organisation or member of the public, or license any organisation or member of the public to use premises in a reserve, upon any conditions the Council considers appropriate.
- 4.2 No person may enter or use any premises in a reserve that are subject to a lease or a licence other than the Custodian or any other person in accordance with a lease or licence.

### **5. No entry into restricted areas or places in reserves**

- 5.1 The Council may specify any area or place in a reserve to be a restricted area or place.
- 5.2 No person, other than a Custodian, may enter a restricted area or place without the prior written permission of the Council.
- 5.3 Any person doing an activity under clause 5.2 must comply with any conditions imposed by the Council on its written permission.

## **PART 2 – Prohibited and Restricted activities in Reserves**

### **6. Interference with reserves**

- 6.1 No person may:
- (a) remove, destroy, damage, deface, obstruct, disturb, or otherwise interfere with any thing, or any part of any thing, in or enclosing a reserve, including any:
    - (i) structure;
    - (ii) sign, notice, label, inscription, billboard, or placard;
    - (iii) path, track, lawn, step, gravel, sand, soil, or border;
    - (iv) tree, shrub, or plant of any kind, including hedges, flowers, or flowerbeds;
    - (v) area prepared for any sport or game;
  - (b) remove, destroy, injure, disturb, shoot, snare, trap, or otherwise interfere with any animal in a reserve, unless using a firearm in accordance with a permission granted under clause 16.2 of this Bylaw;

- (c) plant any tree, shrub, or plant of any kind, or sow or scatter the seed of any tree, shrub, or plant of any kind, in a reserve;
  - (d) pollute or render unfit for any purpose any water in a reserve;
  - (e) swim, wade or wash in any ornamental water in a reserve;
  - (f) erect, construct, make, or place in a reserve, without the prior written permission of the Council, any structure, walking track, cycling track or other cycling facility, dam, tree-fort, sign, notice, label, inscription, billboard, or placard.
  - (g) Scatter ashes of a deceased person in any reserve.
- 6.2 Any person to whom the Council grants permission under clause 6.1(f) must comply with any conditions imposed by the Council on its written permission.

## 7. Vehicles in reserves

- 7.1 No person may:
- (a) drive, ride or otherwise bring any vehicle into a reserve, except on any part of the reserve set aside by the Council for vehicular traffic; or
  - (b) park any vehicle in or adjacent to a reserve except in a place set aside by the Council for the parking of vehicles, and unless the person in control of the vehicle intends to remain in the reserve while the vehicle is parked; or
  - (c) abandon or dump any vehicle in a reserve.

## 8. Animals in reserves (other than dogs and horses)

- 8.1 No person may take, ride or drive any animal (other than a dog or a horse) into or in a reserve, or allow any animal (other than a dog or a horse) in the person's custody or charge or under the person's control to be in a reserve, without the prior written permission of the Council.
- 8.2 Any person doing an activity under clause 8.1 must comply with any conditions imposed by the Council on its written permission.

## 9. Dogs in reserves

- 9.1 No person may take any dog into a reserve, or allow any dog in the person's custody or charge or under the person's control to be in a reserve, unless in accordance with the Council's Dog Control Bylaw.

## 10. Horses in reserves

- 10.1 No person may take or ride any horse into or on a reserve, or allow any horse in the person's custody or charge or under the person's control to be in a reserve, unless the horse is:
- (a) under the continuous control of the person or otherwise properly secured; and
  - (b) in a reserve, or part of a reserve, specified by the Council as an area where a person may take or ride a horse; and
  - (c) at a time specified by the Council as a time when a person may take or ride a horse into or in that reserve, or that part of a reserve.
- 10.2 The Council may specify:

- (a) a reserve, or any part of a reserve, as an area where a person may take or ride a horse; and
  - (b) the time or times when a person may take or ride a horse into or in a reserve, or part of a reserve, specified by the Council as an area where a person may take or ride a horse.
- 10.3 No person shall leave in a reserve any waste produced by a horse, unless placed in a rubbish bin provided by the Council.

## **11. Camping in a reserve**

- 11.1 No person may camp or stay in a reserve overnight other than in huts, or on sites, set aside by the Council for the purpose of camping or staying in a reserve overnight.
- 11.2 The Council may set aside huts and sites in reserves for the purpose of camping or staying in a reserve overnight.

## **12. Fires in reserves**

- 12.1 No person may light any fire (including fireworks) in a reserve, other than a gas barbecue, without prior written permission from the Council.
- 12.2 Any person doing an activity under clause 12.1 must comply with any conditions imposed by the Council on its written permission.

## **13. Obstructing another person's enjoyment of a reserve**

- 13.1 No person shall intentionally obstruct, disturb or interfere with another person's enjoyment of the reserve, including by:
- (a) directing foul, abusive, indecent, or obscene language toward another person in a threatening manner; or
  - (b) being intoxicated, noisy or riotous.

## **14. Safety in reserves**

- 14.1 No person may act in any way in a reserve that the person knows, or reasonably ought to have known, will endanger the safety of him or herself or any other person.

## **15. Buying, selling or advertising in reserves**

- 15.1 No person may buy, sell or advertise any goods or services, or carry on a trade, in a reserve, without the prior written permission of the Council.
- 15.2 Any person doing an activity under clause 15.1 must comply with any conditions imposed by the Council on its written permission.

## **16. Dangerous weapons in reserves**

- 16.1 No person may carry or use any dangerous weapon, other than a firearm, in a reserve.
- 16.2 No person may carry or use any firearm in a reserve without the prior written permission of the Council.
- 16.3 Any person doing an activity under clause 16.2 must comply with any conditions imposed by the Council on its written permission.

## **PART 3 – Organised Events in Reserves**

### **17. Organised sports and games in reserves**

- 17.1 No person may play any organised sport or game in any reserve, or any part of a reserve, that is not set aside for that purpose.
- 17.2 The Council may set aside any reserve, or any part of a reserve, for the purpose of playing any organised sport or game.
- 17.3 For the purposes of this clause 17, “organised sport or game” includes playing or practising golf, whether by one person or by one or more persons in a group.

### **18. Organised events in reserves**

- 18.1 No person may attend or take part in any organised event held in a reserve, or in any part of a reserve, whether a one-off event or a repeatedly scheduled event, unless the event is being held with the prior written permission of the Council.
- 18.2 A person may apply to the Council for permission to hold an organised event in a reserve, or in any part of a reserve, using a Council approved form.
- 18.3 The Council may grant permission to hold an organised event on such conditions as the Council considers appropriate, and in doing so, may specify whether the person:
- (a) may charge an entry fee for the event;
  - (b) has the exclusive use of a reserve, or any part of a reserve, for the duration of the event.
- 18.4 Any person to whom the Council grants permission to hold an organised event, and any person who attends or takes part in an organised event, must comply with any conditions imposed by the Council on its written permission.
- 18.5 A Custodian may require any person to leave a reserve, or any part of a reserve:
- (a) if the person is attending or taking part in the organised event without paying the required entry fee; or
  - (b) if the person is not attending or taking part in the organised event, but is in part of a reserve that has been set aside for exclusive use for an organised event -
- where the Council specified as part of its permission to hold an organised event that an entry fee could be charged, or that the reserve, or any part of the reserve, could be used exclusively for the organised event.
- 18.6 For the purposes of this clause 18, “organised event” includes an organised sport or game under clause 17.

## **PART 4 - Other matters**

### **19. Offences**

- 19.1 Every person committing any breach of the provisions of this Bylaw must, upon request by a Custodian, immediately leave the reserve.

### **20. Exemptions**

- 20.1 This Bylaw does not apply to any person who commits an act that was done:
- (a) in accordance with a valid contract for services with the Council; or
  - (b) by a member of the emergency services in the course of carrying out his or her duties as a member of the emergency services; or
  - (c) with the written consent of the Council; or
  - (d) in accordance with, or pursuant to, any enactment.
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## Commentary

The following comments do not form part of the Bylaw. They are provided to alert readers to relevant law and information that relate to the Bylaw.

## Statutory authority

This Bylaw is made pursuant to the Council's bylaw-making powers in the Local Government Act 2002.

## Offences

It is an offence under section 239 of the Local Government Act 2002 to breach a bylaw. If you breach this Bylaw, you may be liable for the following:

- (a) where you have wilfully or negligently destroyed, damaged, stopped, obstructed or otherwise interfered with any works or property owned, constructed, acquired, or used by the Council, as the case may be, under section 175 of the Local Government Act 2002, for:
  - (i) the amount of the destruction or damage; or
  - (ii) the cost incurred by the Council in removing the stoppage or obstruction; or
  - (iii) any loss or expenses incurred by the Council by the stoppage or obstruction or interference; and
- (b) to pay to the Council, upon conviction, the costs of remedying any damage caused in the course of committing the offence under section 176(1) of the Local Government Act 2002; and
- (c) for a fine, upon conviction, of up to \$20,000 under section 242(4) of the Local Government Act 2002.

## Defences

Any person prosecuted for an offence under this Bylaw has a defence in accordance with section 240 of the Local Government Act 2002:

### 240 Defence to offences under this Act

- (1) *It is a defence to any offence under this Act or under bylaws made under this Act if the Court is satisfied –*
  - (a) *that –*
    - (i) *the act giving rise to the offence was necessary –*
      - (A) *to save or protect life or health or prevent injury; or*
      - (B) *to prevent serious damage to property; or*
      - (C) *to avoid actual or likely damage to the environment; and*
    - (ii) *the conduct of the defendant was reasonable in the circumstances; and*
    - (iii) *the effects of the act or omission were adequately remedied or mitigated by the defendant after the offence occurred; or*
  - (b) *the act or omission giving rise to the offence was due to an action or event beyond the control of the defendant, and, in each case, –*
    - (i) *the action or event could not reasonably have been foreseen or prevented by the defendant; and*
    - (ii) *the effects of the act or omission of the defendant were adequately remedied or mitigated by the defendant after the offence occurred.*

## Definitions

The interpretation section of this Bylaw refers to various definitions in certain Acts. These include:

*“Animal” as set out in section 2 of the Reserves Act 1977 means, -any mammal, bird, reptile, amphibian, fish (including shellfish) or related organism, insect, crustacean, or organism of every kind; but does not include a human being:*

*“Emergency Services” as set out in section 4 of the Civil Defence Emergency Management Act 2002 means, - the New Zealand Police, New Zealand Fire Service, National Rural Fire Authority, rural fire authorities, and hospital and health services.*

*“Firearm” as set out in section 2 of the Arms Act 1983 means, -*

- (a) *means anything from which any shot, bullet, missile, or other projectile can be discharged by force of explosive; and*
- (b) *includes –*
  - (i) *anything that has been adapted so that it can be used to discharge a shot, bullet, missile, or other projectile by force of explosive; and*
  - (ii) *anything which is not for the time being capable of discharging any shot, bullet, missile, or other projectile but which , by its completion or the replacement of any component part or parts or the correction or repair of any defect or defects, would be a firearm within the meaning of paragraph (a) of this definition or subparagraph (i) of this paragraph; and*
  - (iii) *anything (being a firearm within the meaning of paragraph (a) of this definition or subparagraph (i) of this paragraph) which is for the time being dismantled or partially dismantled; and*
  - (iv) *any specially dangerous airgun:*

## Organised events

The Council operates a booking system to ensure organised events are co-ordinated, to ensure maximum use of parks and reserves within Lower Hutt. If you are organising an event that you want to hold in a reserve area, you need to contact the Council to get its written permission. The Council may require you to take steps to ensure the event does not lead to damage being done to the reserve.

An organised event may be a one-off event or a series of events. Events requiring a permission are likely to include fairs, festivals, sports games between teams, family or school reunion events, church or school group outings.

Permission will generally not be required for small family picnics, informal sports games, or small gatherings of family and friends.

If you are not sure whether you need permission, contact the Council (ph 570 6666). Staff will be able to tell you if a permission is required and can advise you on the best reserve areas to use.

It may be necessary to obtain permission to book the reserve area you want to use. Some areas are in high-demand and it is advisable to book early to secure exclusive use of these areas.

## Getting a permit from the Council

If you want a permit from the Council in relation to this Bylaw, you should contact the Council Call Centre on ph 570 6666 and they will direct you to the appropriate person. There may be an application form you will need to fill in. Council officers will be able to assist you in completing an application form.