



# THE OPOTIKI DISTRICT COUNCIL ANIMALS BYLAW 2008

## EXPLANATORY NOTE

The Opotiki District Council Animals Bylaw 2008 was made in accordance with section 145 of the Local Government Act 2002 and Section 64 of the Health Act 1956.

The purposes of the Opotiki District Council Animals Bylaw 2008 is to ensure the keeping of animals, poultry and bees and movement of stock and riding of horses in a public place does not become a nuisance to people in the community or damage property. The use of animal traps and slaughter of stock is also covered in this Bylaw.

The Opotiki District Council Animals Bylaw 2008 should be read in conjunction with other Bylaws made by the Opotiki District Council, the Operative Opotiki District Council District Plan and other enactments which affect animals and/or pests including (but not limited to) the Animal Products Act 1999, the Animal Welfare Act 1999, the Biosecurity Act 1993, the Reserves Act 1977, the Impounding Act 1955, the Health Act 1956, the Resource Management Act 1991 and the Building Act 2004.

This Bylaw does not cover matters relating to control of dogs. Refer to the Opotiki District Council Control of Dogs Bylaw 2008.

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# The Opotiki District Council

## Animals Bylaw 2008

This Bylaw is made in accordance with the Local Government Act 2002 and Health Act 1956.

1. Title

This Bylaw shall be know as "The Opotiki District Council Animals Bylaw 2008."

2. Commencement

This Bylaw shall come into force on 1 July 2008.

3. Repeals

As from the date this Bylaw comes into force the following Bylaws shall be repealed:

- Opotiki District Council Bylaw 1990 Chapter 13 1972 The Keeping of Animals, Poultry and Bees
- Opotiki District Council Horse Control Bylaw 1997
- Opotiki District Council Stock Bylaw 1997

4. Interpretations

For the purposes of the Bylaw the following interpretations shall apply.

**"Animal"** means any mammal, other than a human being, and includes any bird, reptile, amphibian, fish or invertebrate organism of any kind.

**"Approved"** means approved by the Council or by any officer of the Council appointed or authorised for the purpose.

**"Authorised Officer"** means any person appointed by the Council to act on its behalf and with its authority and includes an agent.

**"Cattle"** refer stock.

**"Control"** in relation to or having responsibility for any animal means that the owner, as defined by this Bylaw, shall have it on a restraint or confined within a vehicle or other container while in a public place. That person must also be capable of controlling the animal whilst it is on the restraint, and have the power of directing or commanding the animal whilst it is off the restraint in private and permitted areas. Without limiting the generality of the foregoing, an animal shall be deemed to be not under control:

- (a) if it causes annoyance or distress to any person or animal or damage to property;
- (b) if it is found at large in any public place;
- (c) if it becomes a nuisance or injurious to health

- (d) it if becomes a nuisance or annoyance to residents in the neighbourhood through noise or by obstructing the lawful passage of persons in public places, or by rushing at or frightening such persons.

**“Council”** means the Opotiki District Council.

**“District”** means the district within the jurisdiction and under the control of the Opotiki District Council.

**“Horse”** includes any horse, stallion, mare, gelding, colt, filly, foal, whinny, donkey, pony, ass and mule.

**“Hours of Darkness”** means any period of time between half an hour after sunset and half an hour before sunrise the next day.

**“Licence”** includes a permit or other authority from the Council.

**“Occupier”** means the inhabitant occupier of any property, and in any case where any building, house, tenement, or premises is or are unoccupied shall be deemed to include the owner as hereinafter defined of such building, house, tenement or premises.

**“Offence”** includes any act or omission in relation to this Bylaw or any Part thereof for which any person is liable to prosecution.

**“Opotiki Ward”** means the Opotiki Ward of the Opotiki District.

**“Owner”** of any property, or as applied to any land, building, or premises, means any person for the time being entitled to receive the rent of such property, land, building, or premises, and where any such person is absent from New Zealand, shall include his attorney or agent, or any other person acting for him or on his behalf.

**“Poultry”** means any live domesticated or farmed bird including but not limited to : fowl, goose, duck, pigeon, turkey, parrot, budgerigar, pheasant, canary, ostrich, guinea fowl, or emu.

**“Private Way”** has the meaning defined in S.315 of the Local Government Act 1974.

**“Property Approved Crossing Place”** means a crossing across the surface of a road that is designed and constructed in compliance with the Council's requirements for such facilities.

**“Public place”** means the term assigned to it in section 147(1) of the Local Government Act 2002.

**“Residential Area ”** has the same meaning as Urban Area and Urbanised Area

**“Road”** has the meaning assigned by S315 of the Local Government Act 1974.

**“Stock”** includes any bull, cow, ox, heifer, steer, calf, horse, stallion, mare, gelding, colt, filly, foal, whinny, donkey, pony, ass, mule, ewe, wether, lamb, sheep, ram, goat, kid, pig, boar, sow, deer or any kind of any other animals.

**“To Drive”** includes **“Lead”** driving includes **“Leading”** Driven includes **“Lead”** and **“To be Driven”** includes **“To Be Led”**

**“To Ride”** includes to ride, lead or drive

**“ Urban Area”** means any areas zoned as Residential ,Industrial , Town Centre and Mixed Activity under the Operative Opotiki District Council Plan

## 5. Animals and Stock

- 5.1 Except with the written consent of the Council or an authorised officer, no person shall:
- (a) Keep any stock or other animal in any urban area as defined in this Bylaw (hereinafter called "urban area");
  - (b) Tether, or otherwise leave out, stock or other animal for the purpose of depasturing or grazing on any public place (especially public roadways and margins);
  - (c) Use any road frontage as a stock race.
  - (d) Keep or allow to be kept any horse or stock excluding a pig or pigs:
    - (i) less than 10 metres from any dwelling, shop, warehouse, factory, workshop, church or school; or
    - (ii) less than 3 metres from the boundary of any adjoining property .
- 5.2 Every person being the owner or having the care, custody or control of any animal shall keep and prevent the same from wandering or being at large without proper guidance on any public place.
- 5.3 If any stock or other animal is found on any public place, or on any land not separated by a sufficient fence from any public place, without any person having charge thereof, the owner of the animal shall be guilty of an offence against this Bylaw.
- 5.4 The owner or the person having the care, custody and control of any stock or other animal shall not allow such animal to loiter in any public place.
- 5.5 Any person shall be guilty of an offence against this Bylaw who –
- (a) Breaks in, trains, cleans, shoes, bleeds, dresses, or exposes for show, hire, or sale, any horse or other animal on any public place;
  - (b) Allows any vicious biting horse or other dangerous animal to stand on any public place, unless properly and securely muzzled;
  - (c) By ill-usage or negligence in driving any stock along or over any public place, permits any injury or mischief to be done by such stock.
  - (d) Being the owner, or the person having the custody of any stock, shall ride, lead, or drive the same, or permit or suffer the same to go along any footway or cycle track on any public place; or
  - (e) Allows any stock to be led, ridden or driven across or along any Council grass plot or flower bed;
  - (f) Allows any horse to defecate in any public place, without removing the faeces immediately and disposing of them in a hygienic manner.

## 6. Pigs

- 6.1 No person shall:
- (a) Keep any pig or pigs within any Urban Area as defined in this Bylaw.
  - (b) Keep any pig or pigs in such a manner as to create a nuisance or is likely to be injurious to health or offensive.
  - (c) Allow any pig or any pigs to be at large or to range at a distance less than 30 metres from any dwelling, wholly or partly occupied building, or any street or public place. except with the permission of the Council.

(d) Allow any pig or pigs to be at large or remain on any street or public place or on any place used for the preparation, storage, or sale of food for human consumption, except with the prior permission of the Council.

(e) Construct any pig sty less than 30 metres from any boundary other than a road boundary except where the written consent of the adjoining property owner/occupier is obtained

## 7. Bee-Keeping

7.1 No person shall keep bees in the District if in the opinion of the Council or an authorised officer the keeping of bees is likely to become a nuisance or annoyance to any person or potentially dangerous or injurious to health.

7.2 The Council or an authorised officer may prescribe conditions relating to the location and number of hives able to be kept on any premises or place in an urban area.

7.3 Where Council or an authorised officer considers a hive or hives to be dangerous, offensive or likely to be injurious to people it may require removal of such a hive or hives.

## 8. Poultry Keeping

8.1 No poultry caged or otherwise shall be kept in any urban area except in a properly constructed poultry house covered in with a rainproof roof and provided with a floor of concrete or other approved material with a surrounding nib wall, to which a poultry run may be attached.

8.2 Every poultry house shall be constructed in the matter required by this Bylaw and as required by the provisions of the Building Code, as the case may require. No poultry house or poultry run shall be erected or maintained so that any part of it is within 10 metres from any dwelling, factory, or any other building, whether wholly or partially occupied, or within two (2) metres of the boundary of adjoining premises.

8.3 Except with the written consent of the Council or an authorised officer, not more than 12 head of poultry shall be kept on any property in an urban area. Consent may be refused or revoked if in the opinion of the Council or an authorised officer, the poultry house or poultry run is likely to cause a nuisance or be offensive or dangerous to health.

8.4 Every poultry run shall be enclosed so as to confine the poultry.

8.5 Every poultry house shall be thoroughly and effectively treated with insecticide at least once in every six months.

8.6 Every outside poultry run shall be adequately graded and drained.

8.7 Every poultry house and poultry run shall be maintained by the owner in good repair, in a clean condition free from any offensive smell or overflow and free from vermin.

8.8 Should any poultry house or poultry run cause a nuisance for any reason due to its construction or state of disrepair, lack of cleanliness, or by reason of any matter referred to in this Bylaw, then it shall be the duty of the owner, upon being served a written notice by the Council to abate such nuisance as specified in the notice. Failure to comply with the notice is an offence against this Bylaw.

8.9 Nothing in this clause contained shall prevent any person keeping poultry in an auction room or in any premises used for the killing and dressing of poultry for not more than 48 hours for the purpose of sale, or keeping poultry on his or her premises in an approved type of coup for the purpose of immediate consumption, or from keeping poultry in a bird fancier's shop for the purpose of sale.

## 9. Noise from Animal, Bird or Fowl

9.1 No person shall keep on any premises any noisy animal, bird, or poultry which causes a nuisance to residents in the neighbourhood.

9.2 No proceedings shall be taken against any person for an offence under Clause 9.1 until after the expiration of 14 days from the date of the service on such person of a notice alleging a nuisance given by the Council after receipt by it of a complaint, signed by not less than three householders residing within hearing of the animal, bird or poultry causing the alleged nuisance.

## 10. Stock Slaughter

10.1 No person shall slaughter any stock including stock intended for human consumption unless such slaughter is carried out on premises licensed pursuant to the Food Act 1981 and the Animal Products Act 1999 and any related enactments.

10.2 Nothing in subclause 10.1 shall apply to:

- (a) a veterinarian registered under the Veterinarians Act 1994;
- (b) an inspector appointed under the Biosecurity Act 1993;
- (c) an inspector appointed under the Animal Welfare Act 1999;
- (d) the slaughter of stock on any land zoned Rural, Coastal, Coastal Settlement or Ohiwa Harbour under the District Plan;
- (e) any person who is carrying out bona fide grazing or framing operations within the district on any land other than land zoned Rural, Coastal, Coastal Settlement or Ohiwa Harbour under the District Plan who has been granted consent in writing by an authorised officer to slaughter stock.

10.3 Any person who does any act contrary to subclause 10.1 commits an offence notwithstanding that:

- (a) such slaughter is on any land or premises in the ownership or occupation of such person;
- (b) any meat derived from such slaughter is not sold or intended for sale;
- (c) the person is the owner of the stock.

## 11. Prevention of Nuisance

11.1 No person shall keep on or within any premises any animal which causes or is likely to cause a nuisance to any neighbour or resident in the neighbourhood, or which is or may be offensive or injurious to health.

11.2 If in the opinion of the Council or an authorised officer, an animal is causing or is likely to cause a nuisance, or is or may be offensive or injurious to health, the authorised officer may issue a notice requiring the owner of the animal or the owner or occupier of the premises, to take action to remedy the nuisance, offensive condition or injury to health.

## 12. Stock Prohibited on Roads During Hours of Darkness

12.1 Except with the written permission of the Council, no person shall drive any stock or other animal along any road during the hours of darkness. The hours of darkness means those hours half an hour after sunset and half an hour before sunrise the next day.

12.2 Clause 12.1 shall not apply:

- (a) Where an animal has escaped from a property provided such escape was not due to a wilful act on the part of the owner of the animal;
- (b) In the case of an emergency which makes it necessary for the animal to use roads to escape the consequences of the emergency;
- (c) In the case of any person riding or leading horses if exercising all reasonable care for property and persons.

12.3 No person shall ride or lead any animal on any road during the hours of darkness without suitable means of illumination and wearing safety approved high visibility clothing as defined in Garment Design Standard AS/NZS 4602:1999.

## 13. Control of Horse Riding

### 13.1 **Horse Riding**

No person shall ride a horse in a public place recklessly or in a manner which may intimidate, be dangerous or injurious or cause a nuisance to passersby.

### 13.2 **Prohibition of Horse Riding**

13.2.1 Except in accordance with a permit from Council obtained in accordance with Clause 13.3.1 and subject to any conditions as may be prescribed by Council, no person shall ride a horse in a public place in:

- (a) the section of Church Street, located between Kelly Street and Richard Street, and;
- (b) those sections of Kelly Street, Elliott Street, King Street and Richard Street, located between Church Street and St John Street

13.2.2 Following consultation with the public and interested parties, the Council may by resolution from time to time, prohibit the riding of horses in any public places additional to those specified in this Bylaw.

13.2.3 Signs shall be placed to indicate the areas where the prohibition in Clause 13.2.1 and Clause 13.2.2 is in force.

13.2.4 No person shall ride a horse in a public place where a prohibition is in force under Clause 13.2.1 and Clause 13.2.2.

### 13.3 **Permits**

13.3.1 Applications for permits under Clause 13.2.1 shall be made in writing and shall give 14 days notice and otherwise shall comply with any form or procedure which the Council may prescribe.

13.3.2 The Council may refuse or approve an application for a permit under Clause 13.3.1 and may impose any conditions it thinks fit and where a permit is obtained relating to the conduct or activity that may be undertaken only in accordance with the permit and any conditions imposed.

## 14. Driving Stock on Roads

### 14.1 **Stock Driving Ban : Opotiki Township**

14.1.1 No person shall drive or permit the driving of stock on any road within the Opotiki Ward except under the authority and in accordance with a resolution of the Council under Clause 14.1.2 of this Bylaw.

14.1.2 The Council may from time to time by resolution permit stock to be driven along prescribed roads or parts of roads within the Opotiki Ward during such times and in accordance with such conditions as the Council may prescribe; and the Council may from time to time by resolution revoke or alter any such prescription of roads or any such times or conditions.

### 14.2 **Driving Stock on Other Roads**

14.2.1 Without limiting the effect of Clause 14.1 of this Bylaw, no person shall drive stock along any road in the Opotiki District, except:

(a) Where the stock consists of cattle (including horses) or sheep (including goats) the number of any one mob shall not exceed 600 cattle or 3000 sheep and drovers shall be at the ratio of not less than one competent drover to every 300 cattle or 1500 sheep.

(b) The stock shall be kept moving so as to make progress towards the destination at an average rate of not less than 8km per day.

(c) The stock shall at all times be under the control of one or more adult persons. Where there is more than one drover there shall always be one preceding the stock.

(d) The safety of other road users shall be taken into account and provided for at all times by the person or persons having control of stock being driven on any road.

(e) No case of droving shall exceed 20km.

14.2.2 Where any person wishing to drive stock along a road is unable to comply with the conditions stated in Clause 14.2.1 that person may apply to the Council for a permit to drive stock otherwise than in compliance with such conditions.

14.2.3 This provision does not apply to dairy herds being driven along or crossing a road in compliance with Clause 15 Of this Bylaw.

## 15. Crossing Places for Dairy Herds

### 15.1 **Provisions for Dairy Herds**

15.2 No person in control of a dairy herd shall permit such dairy herd to be driven along a road or across a road as a regular part of the daily dairy farming regime except:

(a) In the case of all roads, at a crossing point in the road that has been approved by the Council as to location and route following written application to it under Clause 16, and;

- (b) In the case of sealed roads only, through a stock underpass or at a properly approved crossing place, that has been designed and constructed in accordance with Council's requirements for such facilities.

## 16. Exemption for Dairy Herds

- 16.1 The Council may, by resolution, and following written application, grant any farmer an exemption from the requirements of Clause 15.2 of this Bylaw insofar as these clauses require the construction of stock underpasses or properly approved crossing places on sealed roads.
- 16.2 An exemption under Clause 16.1 may be granted only when all of the following factors or circumstances can be shown to exist:
  - (i) It can be demonstrated that there exists physical or geographical factors that make it impossible or impractical to link the farm to the milking shed by way of an underpass or crossing place.
  - (ii) It can be demonstrated that there are no other alternative means of linking the farm with the milking shed.
  - (iii) It can be demonstrated that those same physical or geographical factors that render it impossible to create a crossing place or underpass linkage across a road existed before the Opotiki District Council Stock Bylaw 1997 came into effect.
- 16.3 Any person who is granted an exemption under Clause 16.1 of this Bylaw will also need to be successful in obtaining a permit under Clauses 5 and 17 of this Bylaw before any road can be used as a stock race.

## 17. Application for Consents and/or Permits

- 17.1 Applications for a consent or a permit under Clauses 5, 12 and 13 shall be made in writing and otherwise shall comply with any form or procedure which the Council may prescribe.
- 17.2 The Council may refuse or approve an application for a permit under Clause 17.1 and may impose any conditions it thinks fit and where a permit is obtained the conduct or activity permitted may be undertaken only in accordance with the permit and any conditions imposed.
- 17.3 Any person aggrieved by the decision of the Council on any such application may, within five (5) working days after the decision is made in writing, request the Council in writing to review the decision and the Council shall do so as soon as it is reasonably able. Pending completion of the review the permit and all conditions imposed shall remain in effect.
- 17.4 Upon any review of a permit approved under this provision the Council may confirm, cancel, or amend the permit conditions as it thinks fit with immediate effect.

## 18 Notices

- 18.1 The Council may give notices to any person in breach of this Bylaw to carry out any remedial action in order to comply with the provisions of this Bylaw and any such notice shall state the time within which the remedial action is to be carried out, and may be extended from time to time.

## 19 Dispensing Powers

- 19.1 Where in the opinion of the Council full compliance with the provisions of this Bylaw would needlessly or injuriously affect any person, or in the course or operation of any business of, or bring loss or inconvenience to any person without any corresponding benefit to the community, the Council may, on the special application of that person, dispense with the full compliance with the provisions of this Bylaw; provided that any other terms or conditions (if any) that the Council may deem fit to impose shall be complied with by that person.

## 20. Serving of Orders and Notices

- 20.1 Except as otherwise provided for in any other enactment, where any notice, order, or other document is required to be served on any person for the purposes of this Bylaw, service may be effected by delivering it personally to the person or by sending it by registered post to that person's last known residential or business address.
- 20.2 If the person is absent from New Zealand, the order, notice, or other document may be served on the person's agent in the manner referred to in 20.1.
- 20.3 If the order, notice, or other document relates to land or buildings, then the order, notice, or other document should be served on the person who owns that land or buildings. However, if that person is not known or is absent from New Zealand, or has no known agent in New Zealand, the order or notice may be:
- (a) Served on the person who is occupying the land or buildings; or
  - (b) If there is no person in occupation, put up on some conspicuous part of the land or buildings.
- It is not necessary in that notice to name the occupier or the owner of that land or buildings.
- 20.4 Where an order or notice is sent by registered post, the order or notice shall be sent so as to arrive no later than the latest time on which such order or notice is required to be served.
- 20.5 Any order or notice issued shall state the time within which the remedial action is to be carried out, and may be extended from time to time by written authority of an authorised officer.

## 21. Offences and Breaches

- 21.1 Any person commits a breach of this 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;
  - (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 provided by this Bylaw;
  - (c) Does not refrain from doing anything which under this Bylaw they are required to abstain from doing;
  - (d) Knowingly permits or suffers any condition of or things to exist contrary to any provision contained in this Bylaw;
  - (e) Refuses or neglects to comply with any notice given to that person under this Bylaw;

- (f) Obstructs or hinders any authorised officer of Council in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred upon that officer under this Bylaw;
  - (g) Fails to comply with any notice or direction given under this Bylaw.
- 21.2 Where it is suspected that any person has committed a breach of this Bylaw, that person shall, on the direction of an authorised officer, provide their full name and address.

## 22 Penalties for Breach of Bylaw

- 22.1 Every person who commits an offence against this Bylaw is liable to:
- (a) The penalty set out in the Local Government Act 2002.
  - (b) Where another enactment specifies the penalty for a breach of the Bylaw, that other penalty.
- 22.2 In accordance with the Local Government Act 2002 the Council may apply to the District Court for an injunction to restrain a person from committing a breach of this Bylaw.

This Bylaw was duly made by the Opotiki District Council by a resolution passed on the 11<sup>th</sup> day of March 2008 and was confirmed following consideration of community submissions received during a special consultative procedure by a resolution {no 461 } passed on the 17<sup>th</sup> day of June 2008.

The common Seal of the Opotiki District Council was here to affixed in the presence of

\_\_\_\_\_ Mayor

\_\_\_\_\_ Chief Executive