

New Plymouth District Council

# Fire and Smoke Nuisance Bylaw 2020



Te Kaunihera-ā-Rohe o Ngāmotu

**New Plymouth  
District Council**

**DOCUMENT HISTORY**

<b>Meeting</b>	<b>Date</b>	<b>Decision</b>	<b>Next Review</b>
Council	2 June 2020	Adopt Bylaw	

# Fire and Smoke Nuisance Bylaw 2020

## New Plymouth District Council

The purpose of this bylaw is to protect the public from nuisance caused by smoke from fires and to maintain public health and safety (other than in relation to fire safety, which is governed by the Fire and Emergency New Zealand Act 2017).

### 1 Title and commencement

1.1 This bylaw is the New Plymouth District Council Fire and Smoke Nuisance Bylaw 2020.

1.2 This bylaw comes into force on 22 June 2020.

### 2 Authority

2.1 This bylaw is made under:

- a) Section 145(a) and (b) of the Local Government Act 2002; and
- b) Section 64(1)(a) of the Health Act 1956.

### 3 Purpose

3.1 The purpose of this bylaw is to:

- a) Protect against nuisance caused by smoke from fires; and
- b) Maintain public health and safety.

### 4 Relationship to other laws

4.1 Nothing in this bylaw derogates from the Fire and Emergency New Zealand Act 2017 or any regulations made under that Act.

### 5 Interpretation

#### Definitions

5.1 In this bylaw unless the context otherwise requires:

**Barbeque** means any fixed or portable gas or solid fuel burning equipment or device designed or intended for the cooking of food in the open air.

**Brazier** means any open topped device for burning wood and designed for outdoor heating.  
*Note: to minimise the potential for smoke nuisance it is recommended that in your brazier you only burn clean, dry, untreated wood or charcoal, and add small amounts at a time. Don't move the brazier (includes a fire pit or a bowl) while you're using it.*

**Bylaw** means the New Plymouth District Council Fire and Smoke Nuisance Bylaw 2020.

**Chiminea** means a free-standing fireplace that typically has a bulbous body and chimney and is designed for outdoor cooking or heating.

**Fire** means the burning of any material (including waste material), including:

- a) in any fireplace inside any building or structure; or
- b) in the open air, either on the ground or in any form of fireplace or incinerator; or
- c) in any structure used for cooking in the open air, including a barbeque or traditional cooking fire; or
- d) in any structure used for heating in the open air, including a brazier or chiminea.

**Nuisance** means any unreasonable interference with the peace, comfort, or convenience of another person and includes a statutory nuisance as defined in section 29 of the Health Act 1956.

**Occupier** means the inhabitant of any property, and in any case where any property is unoccupied includes the owner of that property.

**Owner** means any person who would be entitled to receive the rack rent of the property if the property were let, and where any such person is absent from New Zealand includes that person's authorised lawyer or agent or any other person acting on their behalf.

**Person** means an individual, a corporation sole, a body corporate, or an unincorporated body.

**Property** means any parcel of land and/or building capable of being transferred, sold, rented, leased, or otherwise disposed of separately from any other parcel of land and/or building(s), whether or not the land and/or building is occupied.

**Smoke** includes any fumes, gases, dust, soot, grit or other matters produced in the process of combustion.

**Traditional cooking fire** means any hangi, umu or similar cooking fire located outside and used for the preparation of food by traditional cooking methods.

**Waste** has the same meaning as set out in section 5 of the Waste Minimisation Act 2008.

### **References to repealed enactments**

- 5.2 A reference in this bylaw to a repealed enactment, standard or document is a reference to an enactment, standard or document that, with or without modification, replaces, or that corresponds to, the repealed enactment, standard or document.

## **6 Nuisance or health and safety risk from smoke**

### **Smoke nuisance or health and safety risk**

- 6.1 No occupier of any property may permit smoke from a fire on such property to cause or create:
  - a) a nuisance to persons in the vicinity, including on a neighbouring property; or
  - b) a safety risk to vehicles by limiting visibility on any road or airport runway.
- 6.2 In the event of smoke causing or creating a nuisance or safety risk contrary to clause 6.1, the occupier of the property, or any other person in charge of the fire, must immediately extinguish the fire.

### **Directions from the Council**

- 6.3 If, in the opinion of the Council, a fire on any property is causing, or is likely to cause, a nuisance or a public health and safety risk (other than a fire safety risk), the Council may give directions to the occupier of the property concerned, or any other person appearing to be in charge of the fire, for the abatement of any such nuisance or risk.
- 6.4 Any person given a direction by the Council under clause 6.3 must comply with that direction without undue delay.

### **No authorisation of fires**

- 6.5 Nothing in clause 6 authorises, or may be taken to authorise, any person to light any fire.

## **7 Offences and penalties**

### **Responsibilities of the occupier of residential premises**

- 7.1 Any person who fails to comply with the requirements of this bylaw commits an offence, and may be liable to a penalty under the Local Government Act 2002 or the Health Act 1956, as the case may be.

## **8 Revocation**

- 8.1 All bylaws previously made by the Council which relate to fires or smoke nuisance or any matter dealt with in this bylaw, or which are inconsistent with this bylaw, are hereby revoked.