

Absolutely Positively
Wellington City Council
Me Heke Ki Pōneke

Fire Prevention Bylaw

Statement of Proposal
September 2018



Summary of information

Fire safety management in New Zealand has changed

The Government has changed the way that fire safety rules work. The Fire and Emergency New Zealand Act 2017 was passed by Parliament in May 2017 and has now taken effect. It establishes a new agency, Fire and Emergency New Zealand (FENZ). This new agency is responsible for fire safety, including setting fire bans and issuing fire permits when they are required. These used to be the Council's responsibilities.

The new rules, fire ban information, and how to apply for a fire permit can be found on FENZ websites: fireandemergency.nz or checkitsalright.nz or by phone 0800 658 628.

Amending the Council's Fire Prevention Bylaw

The new rules and creation of FENZ mean that the Council's Consolidated Bylaw 2008 Part 3: Fire Prevention (the Bylaw) is out of date.

The Council has reviewed the Bylaw and consider it is appropriate to continue to have a bylaw that focuses on the nuisance which can arise from fires and smoke. Key amendments the Council proposes are to:

- align the Bylaw with the new FENZ Act by removing the powers relating to fire safety and issuing fire permits which FENZ has taken over
- clarify that Council officers can take reasonable steps to reduce the nuisance caused by fire or smoke, for example by asking for a fire to be extinguished
- make it clear that the Bylaw has a narrower focus by renaming it the Consolidated Bylaw 2008 Part 3: Fire and Smoke Nuisance.

A copy of the proposed Bylaw is provided in this document. The current Bylaw is available at wellington.govt.nz/your-council/plans-policies-and-bylaws

Have your say

We welcome your views on the proposed amendments to the Fire Prevention Bylaw. To have your say on the proposed amendments you can:

- Access a submission form from wellington.govt.nz/have-your-say/consultations that you can print and post, or download, complete and email
- Post completed forms (no stamp required) to:
**Free Post Wellington City Council 2199
Fire and Smoke Nuisance Bylaw 259
Wellington City Council
PO Box 2199
Wellington 6140.**
- Email completed forms to:
policy.submissions@wcc.govt.nz

Printed copies of the proposed changes to the Fire Prevention Bylaw and submission forms are also available at our service centre at 101 Wakefield Street and at Wellington Central Library. If you would like us to send you a copy of the proposal and submission form, please phone 04 499 4444 or email policy.submissions@wcc.govt.nz

Consultation opens on Friday 28 September and closes on Friday 26 October 2018.

Next steps

Please submit your feedback by **5pm Friday 26 October 2018**.

A report on feedback will be considered by the Council's City Strategy Committee in November, and the Council will make a final decision in December.

Proposed Consolidated Bylaw 2008 - Part 3: Fire and Smoke Nuisance

Introduction

1. Purpose
2. Interpretation
3. Nuisance or health and safety risk from fires or smoke
4. Offences and cost recovery

This part of the Bylaw is made under section 145 of the Local Government Act 2002 and section 64(1)(a) of the Health Act 1956.

Nothing in this part of the Bylaw derogates from the Fire and Emergency New Zealand Act 2017 or any regulations made under that Act. To the extent that it is covered by that Act, nothing in this part of the Bylaw:

- relates to the removal of fire hazards; or
- declares prohibited or restricted fire seasons; or
- prohibits or otherwise regulates or controls the lighting of fires in open air; or
- relates to the prevention of the spread of fires involving vegetation.

These fire safety measures are now regulated by Fire and Emergency New Zealand (FENZ) following the Fire and Emergency New Zealand Act 2017. All the new rules, fire ban information, and how to apply for a fire permit can be found on the FENZ websites fireandemergency.nz and checkitsalright.nz or by contacting FENZ on 0800 658 628.

This part was adopted on 16 December 2015 amended on 12 December 2018.

1. Purpose

The purpose of this part of the Bylaw is to protect the public from the nuisance arising from fire and smoke, in regard to aspects other than fire safety.

2. Interpretation

In this part of the Bylaw, unless the context otherwise requires:

“**Authorised officer**” means an enforcement officer authorised under the Local Government Act 2002, an environmental health officer under the Health Act 1956, or any other person authorised by the Council for the purposes of administering and enforcing this bylaw.

“**Nuisance or risk**” includes potential nuisance or risk.

“**Reasonable steps**” includes but is not limited to issuing a direction to extinguish the fire and/or extinguishing the fire.

3. Nuisance or health and safety risk from fires or smoke

- 3.1 No person may light, or allow to remain lit, any fire that creates a nuisance, health risk, or safety risk to any person or property.
- 3.2 No person may permit smoke, noxious fumes or any other matter to be emitted in such a way as to create a nuisance, health risk, or safety risk to any person or property.
- 3.3 If an authorised officer is of the opinion that clause 3.1 or 3.2 has been breached, or is likely to be breached, the officer may take reasonable steps to abate, or cause to be abated, the nuisance or risk.
- 3.4 To avoid doubt, nothing in this part of the bylaw applies to a fire safety risk to which the Fire and Emergency New Zealand Act 2017, or regulations made under that Act, applies.

4. Offences and cost recovery

- 4.1. Every person commits an offence who:
- (a) breaches clause 3.1 or 3.2 of this Bylaw; or
 - (b) fails to comply with a direction of an authorised officer issued under clause 3.3.
- 4.2 The Council may recover any costs it incurs as a result of acting under this bylaw. Costs are recoverable from:
- (a) the owner of the property on or from which the nuisance or risk originated; and/or
 - (b) any person who caused the nuisance or risk.

