

Nuisances Bylaw 2017

This bylaw is made under the Local Government Act 2002 and the Health Act 1956.

1. Title

This bylaw is the **Marlborough District Council Nuisances Bylaw 2017**.

2. Commencement

This bylaw comes into force on 25 May 2017.

3. Application

This bylaw applies within the Marlborough District.

Part 1—Preliminary provisions

4. Purpose

The purpose of this bylaw is to generally protect the public from nuisances and dangers to public health and safety.

5. Interpretation

(1) In this bylaw, unless the context otherwise requires,—

enforcement officer means an officer appointed by Council for the purposes of this bylaw:

nuisance has the same meaning as in Section 29 of the Health Act 1956 and includes a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place:

public place means a place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it:

vermin includes but is not limited to —

- (a) ants, cockroaches, flies, mosquitoes, mites and other insects;
- (b) mice;
- (c) pigeons; and
- (d) rats:

waste has the same meaning as in section 5 of the Waste Minimisation Act 2008:

waterway means any natural or artificial river or stream, lake, reservoir or pond, or wetland and includes a well:

(2) Unless the context requires another meaning, a term or expression that is defined in the Act and used, but not defined, in this bylaw has the meaning given by the Local Government Act 2002 or the Health Act 1956.

Part 2—Nuisances

6. Obligation not to cause a nuisance

Every person undertaking an activity on any road or any private property or public place must ensure that they do not cause a nuisance when undertaking the activity.

7. Vermin

- (1) No person may permit to exist conditions on or in any land or premises which give rise, or are likely to give rise to the breeding of vermin.
- (2) Where the Council determines that the conditions described in bylaw 7(1) exist, Council may require the owner or occupier of the land or premises to take action to remove those conditions, including but not limited to—
 - (a) Disinfecting;
 - (b) Spraying or applying of larvicide, insecticide or pesticide;
 - (c) Cleaning;
 - (d) Screening;
 - (e) Removal or destruction of breeding grounds or places; and
 - (f) Drainage of stagnant water.

8. Deposit, storage, accumulation or burial of waste, compost, manure or offal

No person may deposit, store, accumulate or bury any waste, compost, manure or offal on any land that causes a nuisance or a danger to public health.

9. Storage of waste in vehicles

No person may park any vehicle containing manure, offal or waste on any land or in any public place where the manure, offal or waste may cause a nuisance or a danger to public health.

10. Temporary toilets

- (1) Every person, who sites a temporary toilet on any land must—
 - (a) Ensure the toilet is regularly emptied and cleaned;
 - (b) Not site the toilet within 8 metres of any waterway;
 - (c) Ensure that the toilet cannot blow over in the wind;
 - (d) Ensure the toilet does not cause a nuisance or a danger to public health.
- (2) Every person who transports a temporary toilet must ensure that the toilet does not discharge any effluent during transport.
- (3) Every person who stores a temporary toilet on any land in a residential area must ensure that it is emptied and cleaned and does not cause a nuisance or a danger to public health.

Part 3 – Administration, Enforcement & Miscellaneous matters

11. Fees

- (1) Council may, by resolution, fix fees for property inspections under these bylaws.
- (2) The fees may be reviewed from time to time.
- (3) Council may set different fees for different activities, locations or types of nuisance.

12. Offences & Penalties

It is an offence to breach these bylaws with a penalty, on conviction, of a fine not exceeding \$20,000.

13. Consequences of breach of bylaws

- (1) Council may enter any land or premises except a dwellinghouse and inspect the land or premises for compliance with these bylaws.
- (2) Council may—
 - (a) Remove or alter a work or thing that is, or has been, constructed, deposited, stored or accumulated in breach of a bylaw or is otherwise in breach of a bylaw; and
 - (b) Recover the costs of removal or alteration from the person who committed the breach or the property owner or occupier.

14. Bylaws not to limit or affect other enactments

These bylaws do not limit or affect the requirements in or under any other enactment.

Part 4—Revocation & Savings

15. Revocation

Chapter 6 of the Marlborough District Council General Bylaws 2010 is revoked.

16. Savings

Any permissions, approvals or other authorisations given under Chapter 6 of the Marlborough District Council General Bylaws 2010 continue in force in accordance with their terms.

Explanatory notes

Without limiting the meaning of the term nuisance, section 29 of the Health Act 1956 states, as at 1 July 2016, that a nuisance shall be deemed to be created in any of the following cases, that is to say:

- (a) *where any accumulation or deposit is in such a state or is so situated as to be offensive or likely to be injurious to health;*
- (b) *where any premises, including any accumulation or deposit thereon, are in such a state as to harbour or to be likely to harbour rats or other vermin;*
- (c) *where any premises are so situated, or are in such a state, as to be offensive or likely to be injurious to health;*
- (d) *where any buildings or premises used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive or likely to be injurious to health;*
- (e) *where any animal, or any carcass or part of a carcass, is so kept or allowed to remain as to be offensive or likely to be injurious to health;*

- (f) *where any noise or vibration occurs in or is emitted from any building, premises, or land (from an animal) to a degree that is likely to be injurious to health;*
- (g) *where there exists on any land or premises any condition giving rise or capable of giving rise to the breeding of flies or mosquitoes or suitable for the breeding of other insects, or of mites or ticks, which are capable of causing or transmitting disease.*