



New Plymouth District Council Bylaw 2008

Prevention of nuisance from fires & smoke, and maintenance of public health & safety

The purpose of this part of the bylaw is to reduce nuisance from fires and smoke and maintain public health and safety in regard to aspects other than fire safety.



NEW PLYMOUTH DISTRICT COUNCIL
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1. Authority

1.1 This part is made under:

- a) Sections 145 and 146 of the Local Government Act 2002; and
- b) Section 64(1)(a) of the Health Act 1956.

2. Purpose

2.1 The purpose of this part is to:

- a) Reduce nuisance from fires and smoke; and
- b) Maintain public health and safety.

3. Relationship to other laws

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

4. Interpretation

4.1 This part shall be in addition to the provisions of Part 1 Introductory and if this part is inconsistent with Part 1 Introductory then the provisions of this part shall prevail.

4.2 In this bylaw unless the context otherwise requires:

Definitions

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.

Defined urban area means an allotment located within a defined urban area (as shown in Appendix I of the Regional Air Quality Plan for Taranaki), where the allotment is less than 0.5 hectares in size, and is used primarily for residential purposes and is serviced by a weekly municipal refuse collection service.

Regional Air Quality Plan can be found at trc.govt.nz/air-plan-index/.

Enforcement officer means a person appointed by the Council under section 177 of the Local Government Act 2002 in relation to any offence against this bylaw.

Fire in the open air means has the same meaning as “fire in open air” in section 6 of the Fire and Emergency New Zealand Act 2017.

Outdoor fire means the burning of any material in the open air, including waste material, either on the ground or any form of incinerator, but does not include a fire used for cooking or heating purposes such as a barbeque, traditional cooking fire, brazier or chimineria.

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.

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

Note: This clause includes: smoke from indoor fires, fires in the open air, cooking fires such as barbecues, and outdoor heating fires such as braziers.

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| 5.1 | Nothing in this clause authorises or can be taken to authorise any person to light any fire in the open air that creates a nuisance, or health risk, or safety risk (other than fire safety) from fire to any person or property. | No fire will create a nuisance |
| 5.2 | In the event of a wind change resulting in smoke or other waste material from the fire being directed onto a neighbouring property, the fire must be immediately extinguished. | Smoke or waste nuisance from fire |
| 5.3 | If, in the opinion of an enforcement officer, a nuisance or danger from the fire may occur, the enforcement officer may give such reasonable instruction to the person appearing to be in charge of the fire for the abatement of any nuisance, or health risk, or safety risk (other than fire safety) from the fire. | Extinguishing fires |
| 5.4 | No occupier of any premises may permit smoke, noxious fumes or other matter to be emitted from any outdoor fire, chimney, fireplace, barbecue, brazier or traditional cooking fire or other device on such premises to such an extent as to:

a) Cause a nuisance to persons in the vicinity, or

b) Create a safety hazard to vehicles by limiting visibility on any road or airport runway. | Smoke nuisance |
| 5.5 | If, in the opinion of an enforcement officer, a nuisance is being caused, the enforcement officer may require the nuisance to be abated immediately. | Abatement |

Note: The Taranaki Regional Air Plan Rule 55 restricts the combustion of vegetation on production or on forested land to fires that do not:

- a) *Adversely affect people, structures or ecosystems or create offensive odours.*
- b) *Restrict visibility on public amenity areas, places of public assembly, national park or places, areas or features of special significance to tangata whenua.*
- c) *Disrupt traffic movements on land, sea or air.*
- d) *Soil property.*

6. Urban fires

- 6.1** No person may burn, or permit to or suffer to be burnt, any outdoor fire in a defined urban area for the purposes of the disposal of wastes.
- 6.2** Any person may burn, or permit to or suffer to be burnt, any outdoor fire in a defined urban area for the purposes of outdoor cooking or outdoor heating provided the fire complies with clause 5 of this bylaw.

Urban fires

Note: Rule 34 of the Regional Air Quality Plan “prevents the discharges of contaminants to air from the combustion of domestic waste products and green waste products within a defined urban area (as shown in Appendix I of the Regional Air Quality Plan), on allotments less than 0.5 hectares in size, and that are used primarily for residential purposes and are serviced by a weekly municipal refuse collection service”.

Regional Air Quality Plan can be found at trc.govt.nz/air-plan-index/.