

Proposed Keeping of Animals Bylaw 2022

September 2022



Proposed Keeping of Animals Bylaw 2022

Buller District Council

1 Title and Commencement

- 1.1 The title of this bylaw is the Buller District Council Keeping of Animals Bylaw 2022.
- 1.2 This bylaw comes into force on [.....] 2022.

2 Authority

- 2.1 This bylaw is made under:
- a) Sections 145(a) and (b) and 146(a)(v) of the Local Government Act 2002; and
 - b) Section 64(1)(a), (i), (j), and (m) of the Health Act 1956.

3 Purpose and application

- 3.1 The purpose of this bylaw is to:
- a) Regulate the keeping of animals (including pigs, poultry, bees, livestock and cats) in the district to protect, maintain and promote public health and safety and to avoid causing nuisance to any person; and
 - b) Regulate the slaughtering of animals in the district so as not to be offensive and to avoid causing nuisance to any person.
- 3.2 This bylaw shall apply to Buller District.

4 Exclusions

- 4.1 This bylaw does not apply to:
- a) Any animal kept in a zoo; or
 - b) Any dog.

5 Interpretation

- 5.1 In this bylaw unless the context otherwise requires:

Animal means any member of the animal kingdom, including any mammal, bird, finfish, shellfish, reptile, amphibian, insect or invertebrate which is kept in captivity or domesticated and includes their young or eggs, their carcasses or constituent parts of that animal, but does not include a human being or a dog.

Approval or Approved means a written approval from the Council.

Bylaw means this Buller District Council Animals Bylaw 2022.

Council means Buller District Council or any person delegated to act on its behalf.

Proposed Keeping of Animals Bylaw 2022

District means the district within the jurisdiction of Buller District Council.

Domestic animal includes any animal kept as a domestic pet, and any other animal kept by any person for recreational purposes or for the purposes of that person's occupation or employment.

Dwelling means any separately occupied household unit used in whole or in part for human habitation, and includes any building, tent, vehicle or other structure, whether permanent or temporary and whether attached to the soil or not.

Livestock includes any cattle, sheep, deer, horse, donkey, hinny, mule, goat, thar, alpaca, llama, bison, ostrich, emu, pigs or any other herd animal, regardless of age or sex.

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

- a) where any accumulation or deposit of any waste or other similar material is in such a state or so situated as to be offensive;
- b) where any buildings used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive; and
- c) where any noise emitted by an animal unreasonably interferes with the peace, comfort, and convenience of any person.

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

Owner (of any property) 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 includes an individual, a corporation sole, a body corporate, and an unincorporated body.

Poultry means any live, domesticated or farmed bird including, but not limited to, chicken, rooster, goose, duck, turkey, swan, pheasant, or peafowl.

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.

Urban area means any land identified in the plans attached in Appendix 1.

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

Zoo means a place where animals are kept for public exhibition, education, or entertainment, and includes a zoological garden.

5.2 A reference in this bylaw to any Act, Regulation or Rule, includes any amendment thereof, and any Act, Regulation or Rule in substitution therefor.

5.3 The Legislation Act 2019 applies to this bylaw.

6 Keeping of animals

- 6.1 No person shall keep or allow to be kept on any property any animal (including livestock, poultry and bees):
- a) which in the opinion of the Council causes a nuisance through noise, smell, dust or through the attraction of flies; or
 - b) in a manner that in the opinion of the Council is or is likely to become:
 - i) a nuisance, or
 - ii) offensive to the occupier of a neighbouring property or a threat to the health of any person.
- 6.2 Clause 6.1 will apply regardless of whether a person has complied with other clauses in this bylaw.
- 6.3 Any person keeping an animal (other than cats or bees) must confine the animal within the boundaries of the property where the animal is usually kept.
- 6.4 Clause 6.3 of this bylaw does not prevent a person from driving, leading or riding any animal.
- 6.5 No person shall release or abandon a domestic animal.

Note: releasing an animal that has been kept in captivity, in circumstances in which the animal is likely to suffer unreasonable or unnecessary pain or distress is an offence under the Animal Welfare Act 1999.

7 Keeping of cats in an urban area

- 7.1 No person may keep, or allow to be kept, more than four cats over the age of six months on any property in an urban area, except with the written approval of the Council.
- 7.2 Before granting any approval under clause 7.1 of this bylaw, the Council must be satisfied that:
- a) the cats will be adequately housed and that no nuisance will result; and
 - b) any other lawful requirements of the Council have been satisfied including any relevant provisions of the Operative District Plan.
- 7.3 The approval of the Council under clause 7.1 of this bylaw may include such terms and conditions as the Council considers appropriate in the circumstances, including requiring the cats to be desexed.
- 7.4 Any person to whom an approval has been given under clause 7.1 of this bylaw must comply with the terms and conditions of the approval.
- 7.5 Nothing in clause 7.1 of this bylaw applies to a lawfully established SPCA facility or other animal shelter, or a lawfully established veterinary clinic or cattery.

8 Keeping of poultry in an urban area

- 8.1 No person shall keep, or allow to be kept, any roosters, ganders or peacocks on any property in an urban area.
- 8.2 No person may keep, or allow to be kept, more than 12 head of poultry on any property in an urban area.

Proposed Keeping of Animals Bylaw 2022

- 8.3 The occupier of property in an urban area on which poultry is kept must ensure that the poultry are confined to that property by providing either:
- a) an enclosed poultry house with an attached poultry run; or
 - b) an enclosed poultry house and adequate fencing of the property;
- where the poultry house and poultry run (if any) complies with the requirements of clause 9 of this bylaw.
- 8.4 No person keeping any poultry on property in an urban area shall allow the poultry to cause a nuisance to any person, including a noise or odour nuisance.
- 8.5 If, in the opinion of the Council, any poultry on property in an urban area creates a nuisance, the Council may by written notice to the owner or occupier require the owner or occupier to abate the nuisance.
- 8.6 Any owner or occupier who receives a notice under clause 8.5 of this bylaw must, without delay, act to abate the nuisance as required by the notice.
- 8.7 Nothing in clauses 8.1 and 8.2 of this bylaw applies to a person temporarily keeping poultry in an auction room or on any property used for the killing and dressing of poultry for sale.

9 Poultry houses and poultry runs

- 9.1 Shelter for Chickens Outdoors
- a) All chickens must have access to shelter from adverse weather that is likely to cause heat or cold stress, and to reduce the risk of predation.
 - b) Openings provided for chickens to access an outside area must be wide enough to enable chickens to freely move to and from the outdoors at all times without risk of smothering or injury.
 - c) Where access to outside area is provided it must be managed to prevent the development around the poultry house of muddy, dusty or contaminated conditions to an extent that could be harmful to the chickens health.
 - d) Precautions must be taken to protect chickens from pests, including predators.
- 9.2 No poultry house or poultry run may be located:
- a) Within ten metres of any dwelling on any neighbouring land, or
 - b) Within two metres of the boundary of any neighbouring land.
- 9.3 Every poultry house and poultry run must be adequately graded and drained and must be kept clean and in good repair.
- 9.4 Effluent or discharge from a poultry house or poultry run must:
- a) not be discharged in such a manner as to cause a nuisance; and
 - b) comply with the Resource Management Act 1991; and
 - c) comply with the relevant requirements of the West Coast Regional Council.
- 9.5 If, in the opinion of the Council, a poultry house or poultry run causes a nuisance, the Council may, by written notice to the owner or occupier, require the owner or occupier to abate the nuisance.

Proposed Keeping of Animals Bylaw 2022

- 9.6 Any owner or occupier who receives a notice under clause 9.5 must, without delay, act to abate the nuisance as required by the notice.

10 Beekeeping

- 10.1 No person shall keep, or allow to be kept, bees on any property if, in the opinion of the Council, the keeping of such bees is, or is likely to become, dangerous, injurious to health, or cause a nuisance to any person.
- 10.2 A beekeeper must ensure that hives are positioned so as to ensure the primary flightpath will not impinge on a dwelling or living area on any neighbouring land.
- 10.3 If, in the opinion of the Council, bees cause a nuisance to or may be dangerous or injurious to the health of any person, the Council may:
- a) seek advice from an experienced beekeeper as nominated by a local beekeeping club, other similar recognised body and/or consensus of locally-based registered commercial beekeepers to recommend possible solutions to abate the nuisance or danger;
 - b) by written notice require the beekeeper or owner or occupier of the property to undertake one or more of the following steps to mitigate or abate the nuisance or danger:
 - i) ensure the bees are kept in accordance with the Apiculture NZ Code of Conduct and/or similar code of conduct;
 - ii) relocate the hives to another area on the property;
 - iii) develop a flight management plan and submit this to the Council for approval by the Council to ensure that the bees flightpath is diverted from or made to go a minimum of 1.8 metres high over an adjacent property, footpath, or road;
 - iv) reduce the maximum number of hives allowed on the property; and/or
 - v) remove some or all of the existing hives from the property.
- 10.4 Any beekeeper, owner, or occupier who receives a notice under clause 10.3 of this bylaw must, without delay, comply with the notice.
- 10.5 A beekeeper must register any hives located within the district in accordance with the Biosecurity Act 1993 and the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998.

Keeping of bees in an urban area

- 10.6 No person shall place, or allow to be placed, more than two hives on any land in an urban area, except with the written approval of the Council.
- 10.7 Before granting any approval under clause 10.6 of this bylaw the Council must be satisfied that:
- a) increasing the number of hives will not cause a nuisance or otherwise be injurious to the health of any person; and
 - b) the property on which the hives are located:
 - i) Is in excess of 1,500 m²; or
 - ii) located next to reserves or rural land.
- 10.8 Any approval granted by the Council under clause 10.6 may provide for the placement of up to four hives.

Proposed Keeping of Animals Bylaw 2022

- 10.9 Any approval granted by the Council under clause 10.6 of this bylaw may include such terms and conditions as the Council considers appropriate in the circumstances.
- 10.10 Any person to whom an approval has been given under clause 10.7 of this bylaw must comply with the terms and conditions of the approval.

11 Keeping of livestock in an urban area

- 11.1 No person shall keep, or allow to be kept, any livestock on property in an urban area at a distance less than two metres from a boundary of any adjoining land where, in the opinion of the Council, an annoyance or nuisance may be created by the presence of the livestock within that area.
- 11.2 No person keeping any livestock on property in an urban area shall allow the livestock to cause a nuisance to any person, including a noise or odour nuisance.
- 11.3 If, in the opinion of the Council, livestock on land in an urban area causes a nuisance, the Council may by written notice to the owner or occupier require the owner or occupier to abate the nuisance.
- 11.4 Any owner or occupier who receives a notice under clause 11.3 must, without delay, act to abate the nuisance as required by the notice.
- 11.5 Nothing in clause 11.1 of this bylaw applies to a person driving, leading, or riding any livestock.

Note: As per clause 6.3 of this bylaw, livestock must be confined within the property concerned, with the exception of the situations described by clause 11.5 of this bylaw.

12 Pig keeping

- 12.1 No person shall:
- a) keep, or allow to be kept, pigs on any property in such a manner so as to cause a nuisance, or which is otherwise likely to be injurious to the health of any person or offensive; or
 - b) keep pigs other than in compliance with the relevant provisions of the Operative District Plan; or
 - c) erect, or cause to be erected, any pigsty that does not comply with the Building Act 2004 and any other lawful requirements; or
 - d) discharge effluent from a piggery in such a manner as to cause a nuisance.
- 12.2 Any discharge from a piggery must comply with the Resource Management Act 1991, and relevant requirements of the West Coast Regional Council.
- 12.3 If, in the opinion of the Council, the keeping of pigs and/or a pigsty causes a nuisance, the Council may by written notice to the owner or occupier require the owner or occupier to abate the nuisance.
- 12.4 Any owner or occupier who receives a notice under clause 12.3 must, without delay, act to abate the nuisance as required by the notice.

Note: The Operative District Plan contains provisions on the keeping of pigs. All pig farmers must

Proposed Keeping of Animals Bylaw 2022

also comply with the provisions of the Biosecurity Act 1993, Animal Welfare Act 1999 and any other relevant regulations.

13 Slaughter of livestock

- 13.1 Any person responsible for the slaughter of any livestock must ensure:
- a) the slaughter is carried out in such a way that it cannot be seen by any other person nearby;
 - b) the processing of the slaughtered livestock (including skinning, gutting, and cutting of a carcass is carried out in such a way that it cannot be seen by any other person nearby;
 - c) the waste associated with a slaughter is disposed of in such a way that it cannot be seen by any other person nearby; and
 - d) the slaughter and the processing of the slaughtered livestock does not cause a nuisance or become offensive to any other person nearby.
- 13.2 One way of complying with the requirements in clause 13.1(a), (b), and (c) of this bylaw is to erect adequate screening around the slaughtering, processing and disposal sites that is of sufficient size to prevent the slaughtering operation from being seen.
- 13.3 Any person responsible for the slaughter of any livestock must ensure:
- a) any waste associated with the slaughter of livestock is immediately removed: and
 - b) the body or part of the body of any slaughtered livestock is disposed of in a manner that will not cause a nuisance (including producing odour), become a threat to the health of any person, or otherwise become offensive to any person nearby.
- 13.4 For the purposes of clause 13 of this bylaw:
- A person responsible for the slaughter of any livestock** includes:
- a) the owner of the livestock concerned;
 - b) any person contracted or otherwise engaged to perform the slaughter; and
 - c) any person carrying out the slaughter and associated processing and disposal.
- Any person nearby:**
- a) includes a person on a neighbouring property, whether in a dwelling on that property or not, and a person in a dwelling on the property where the slaughter is carried out; but
 - b) excludes any person responsible for the slaughter of the livestock.
- 13.5 If, in the opinion of the Council, clauses 13.1, 13.2, 13.3 are not complied with, the Council may by written notice to the person responsible for the slaughter of the livestock, as set out in 13.4, require the person responsible to abate the nuisance.
- 13.6 Any person responsible for the slaughter of livestock who receives a notice under clause 13.5 must, without delay, act to abate the nuisance as required by the notice.

Note: It is an offence under the Health Act 1956 to leave animals or animal carcasses in a state where they are offensive or injurious to health. It is an offence under the Resource Management Act 1991 to contaminate waterways with animal remains. It is an offence under the Biosecurity (Meat and Food Waste for Pigs) Regulations 2005 to feed pigs untreated meat or untreated food waste.

14 Fees

- 14.1 The Council may prescribe fees payable for any approval by the Council under this bylaw.

15 Operational policies

- 15.1 The Council may, from time to time, (by resolution) adopt operational policies related to matters regulated by this Bylaw, provided that any such policies are not inconsistent with this Bylaw.
- 15.2 Operational policies may set out, without limitation, such matters as:
- a) Guidance information
 - b) Application procedures
 - c) Administration arrangements
 - d) Terms and conditions
 - e) Definitions

16 Offences and Penalties

- 16.1 Every person who fails to comply with this bylaw commits an offence and is liable to enforcement action by the Council and the penalties set out in the Local Government Act 2002 or the Health Act 1956, as the case may be.
- 16.2 The Council may apply to the District Court for an injunction to restrain a person from committing a breach, or continuing to breach this Bylaw, as set out in the Local Government Act 2002.
- 16.3 Notwithstanding the above, nothing in this Bylaw serves to prevent the Council, where it considers it appropriate, from exercising its powers under the Health Act 1956 or Resource Management Act 1991 to abate nuisance without notice.
- 16.4 An Authorised Officer may seize or impound any Animal other than domesticated cats, bees or Poultry found at large which are causing a nuisance.
- 16.5 If an authorised officer is issued with a warrant under the Search and Surveillance Act 2012 the authorised officer may enter private property pursuant to section 165 of the Local Government Act 2002; and
- (a) seize animals and bees that are on the premises in breach of this Bylaw
 - (b) seize property other than animals and bees that is materially involved in the commission of an offence under this Bylaw.
- 16.6 In accordance with section 162 of the Local Government Act 2002, the Council may apply to the District Court for an injunction to restrain a person from committing a breach or continuing to breach a Bylaw.

17 Repair and Removal of Works

- 17.1 The Council may, under sections 163, 164, 165, 167, and 168, of the Local Government Act 2002, repair, remove, or alter, or cause to be repaired, removed, or altered, any work, material, or thing erected or done in contravention of this Bylaw, and may recover from any person responsible for the work, action, or thing, all expenses incurred by the Council in

Proposed Keeping of Animals Bylaw 2022

connection with the repair, removal, or alteration (including the cost of debt collection and legal fees incurred by the Council).

- 17.2 Any notice issued pursuant to clause 17.1 must state the work required and the time within which such action is to be carried out. The relevant time period may be extended from time to time by an Authorised Officer.
- 17.3 The exercise by the Council of its powers under this clause will not relieve any person responsible for a breach of this Bylaw from liability for any other penalty for committing a breach of this Bylaw.
- 17.4 If any breach of this Bylaw is such that public health, safety considerations, or risk of consequential damage to Council assets is such that a delay would create unacceptable results, the Council may take immediate action to rectify the breach and recover its reasonable costs as set out in clause 17.1.
- 17.5 On recovery of all Council's costs (including any storage costs) the lawful Owner may claim any work, material or thing removed under this clause.
- 17.6 If not claimed within a reasonable time the Council may dispose of any work, material or thing removed under this clause as it sees fit and apply the proceeds to meet any of its outstanding costs in relation to the matter. The lawful Owner will be entitled to claim any residual sum.

18 Revocation

- 18.1 All bylaws previously made by Council which relate to animals or any matter dealt with in this bylaw, or which are inconsistent with this bylaw, are hereby revoked.

APPENDIX ONE: URBAN AREA



Proposed Keeping of Animals Bylaw 2022







