

HUTT CITY COUNCIL PREVENTION OF NUISANCE FROM FIRES AND SMOKE BYLAW 2018

ADOPTED BY COUNCIL [insert date]

1 PURPOSE AND APPLICATION OF BYLAW

1.1 The purpose of this bylaw is to:

- (a) protect the public from nuisance related to fires and smoke; and
- (b) Protect and maintain public health and safety around fire and smoke (with regard to aspects other than fire safety).

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

1.3 Nothing in this bylaw derogates from the Fire and Emergency Act 2017 or regulations made under that Act. To the extent that it is covered by that Act, nothing this bylaw:

- (a) Relates to the removal of fire hazards; or
- (b) Declares prohibited or restricted fire seasons; or
- (c) Prohibits or otherwise regulates or controls the lighting of fires in open air; or
- (d) Relates to the prevention of the spread of fires involving vegetation.

2 INTERPRETATION

2.1 In this bylaw, unless the context otherwise requires:

- (a) “Authorised Officer” means an enforcement officer authorised under the Local Government Act 2002, an Environmental Health Officer authorised under the under the Health Act 1956, or any other person authorised by Council for the purposes of administering and enforcing this bylaw.
- (b) “Council” means Hutt City Council.
- (c) References to “nuisance or risk” include potential nuisance or risk.

3 NUISANCE OR HEALTH AND SAFETY RISK FROM FIRES OR SMOKE

3.1 No person may light, or allow to remain lit, a 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 clauses 3.1 or 3.2 of this bylaw are being breached, or have the potential to be breached, they may take reasonable steps to abate, or cause to be abated, the nuisance or risk.

3.4 For the avoidance of doubt, nothing in clause 3 of this bylaw applies to fire safety risk governed by the Fire and Emergency Act 2017 or regulations made under that Act, including the matters listed in clauses 1.3(a)-(d) of this bylaw.

4 OFFENCES AND COST RECOVERY

4.1 Every person commits an offence who:

- (a) breaches clauses 3.1 or 3.2 of this bylaw; or
- (b) interferes with or fails to comply with the reasonable direction of an Authorised Officer, acting under clause 3.3 of this bylaw.

4.2 Council may recover any costs it incurs as a result of acting under the bylaw. Costs are recoverable from:

- (a) the owner of the property on or from which the nuisance or risk originated; and/or
- (b) from any person or persons who caused the nuisance or risk.