

# Ture ā-rohe Tiaki Kararehe o Te Tairāwhiti 2023

(Tairāwhiti Keeping of Animals Bylaw 2023)

Made by Gisborne District Council

Resolution of Council dated \_\_ of \_\_\_\_\_ 202\_\_

Pursuant to sections 145 and 146 of the Local Government Act 2002, and sections 23 and 64 of the Health Act 1956, revokes and replaces the Keeping of Animals, Poultry and Bees Bylaw 2012 with the following bylaw.

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## 1. Title

This bylaw is the Tairāwhiti Keeping of Animals Bylaw 2023.

## 2. Commencement

This bylaw comes into force on **XX XXXX 2023**.

## 3. Application

This bylaw applies to the Gisborne District.

### Related information:

This bylaw should be read in conjunction with other legislation that applies to the management and regulation of animals in the district, including:

- Gisborne District Stock Control Bylaw 2017
- Gisborne Dog Control Bylaw 2010 and Dog Control Policy
- Resource Management Act 1991 (and the operative district plan - Tairāwhiti Resource Management Plan)
- Animal Welfare (Care and Procedures) Regulations 2018
- Animal Welfare Act 1999

## 4. Interpretation

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

**Animal** means any member of the animal kingdom other than human beings or dogs.

**Bylaw** means the Ture ā-rohe Tiaki Kararehe o Te Tairāwhiti 2023 -Tairāwhiti Keeping of Animals Bylaw 2023.

**Council** means the Gisborne District Council, and anyone authorised to act on its behalf.

**Dwelling** means any building that is primarily occupied as a residence; and includes any structure or outdoor living area that is accessory to, and used wholly or principally for the purposes of, the residence; but does not include the land upon which the residence is sited.

**Feral animal** means a domestic animal which is not a stray animal, and which has none of its needs provided by humans, and includes an animal that reasonably appears to be a feral animal. Feral animals generally do not live around centres of human habitation.

**Nuisance** means any unreasonable interference with the peace, comfort or convenience of another person and includes a statutory 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** means the inhabitant occupier of any property, and includes any agent, employee, or other person acting or apparently acting in the general management or control of the land.

**Owner**, in relation to any animal, means a person who has an animal in their possession or custody, or under that person's care, control, or supervision, and includes the parent or guardian of a person under the age of 16 years who –

(a) owns the animal; and

(b) is a member of the parent's or guardian's household, living with and dependant on the parent or guardian.

**Owner**, in relation to land and any buildings on the land, means any person who is entitled to the rack rent from the land, or who would be so entitled if the land were let to a tenant at a rack rent; and includes the owner of the fee simple of the land.

**Poultry** means domestic fowls of all descriptions, age and gender and includes chickens, roosters, geese, ducks, pigeons, turkeys, and peafowl.

**Prescribed form** means a form prescribed by the Council (which may include a prescribed format).

**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.

**Rural area** means the zones defined as rural in the Tairāwhiti Resource Management Plan.

**Sensitive use** means any place of assembly or community facility such as a school or church, any occupied building including dwellings and workplaces, and any place where persons remain for leisure or recreation including outdoor living areas. This definition does not include roads.

**Stock** means any herd animal regardless of age or gender, and includes horse, cattle, goat, pig, sheep, deer, emu, donkey and alpaca.

**Stray animal** means a domestic animal which is lost or abandoned, and which is living as an individual or in a group, and includes an animal that reasonably appears to be a stray animal. Stray animals normally have many of their needs indirectly supplied by humans and live around centres of human habitation.

**Urban area** means the zones defined as Residential, Commercial or Industrial by the Tairāwhiti Resource Management Plan.

- (2) Any undefined words, phrases or expressions used in this bylaw have the same meaning as in the Local Government Act 2002 unless the context plainly requires a different meaning.
- (3) The Legislation Act 2019 applies to the interpretation of this bylaw.
- (4) Any Related Information is for information purposes only. It does not form part of this bylaw and may be inserted or changed by the Council at any time without any formality.

### Related information

Rural area means the zones defined as rural in the Tairāwhiti Resource Management Plan, which are:

- Rural Residential;
- Rural Lifestyle;
- Rural General; and
- Rural Production.

Urban area means the zones defined as Residential as well as Commercial or Industrial in the Tairāwhiti Resource Management Plan. These are:

Residential:	Commercial:	Industrial:
<ul style="list-style-type: none"> <li>• General Residential</li> <li>• Inner City Residential</li> <li>• Residential Protection</li> <li>• Residential Lifestyle</li> </ul>	<ul style="list-style-type: none"> <li>• Amenity Commercial</li> <li>• Aviation Commercial</li> <li>• Fringe Commercial</li> <li>• Inner Commercial</li> </ul>	<ul style="list-style-type: none"> <li>• Outer Commercial</li> <li>• Rural Commercial</li> <li>• Suburban Commercial</li> <li>• Industrial</li> <li>• Rural Industrial A</li> <li>• Rural Industrial B</li> </ul>

Note this includes residential, commercial and industrial zones in rural townships.

## 5. Purpose

The purpose of this bylaw is to protect the public from nuisance and to protect, promote and maintain public health and safety, by controlling the keeping of certain animals, bees and poultry.

## Part 1: General Nuisance Provisions

### 6. Animal owners must control animal and their effects

(1) The owner of any animal must at all times:

- (a) ensure that animal does not cause a nuisance to any other person;
- (b) ensure that any building, shelter or enclosure used to house the animal is constructed, drained and maintained so as to ensure that it does not cause a nuisance to any other person;
- (c) ensure that the animal and any activity associated with the keeping of the animal does not cause the discharge of objectionable or offensive odours having an adverse effect beyond the boundary of the property;
- (d) provide effective fencing or other containment measures to confine and control the animals, other than bees and free-flight birds, within the site; and
- (e) ensure parasites, flies and other pests do not reach levels that may create a nuisance to neighbours or a health risk to humans or animals.

(2) The Council will determine whether an odour has an adverse effect for the purpose of clause 6(1)(c) after having regard to the frequency, intensity, duration and character of the odour, and the type of land use and nature of human activities in the vicinity of the odour source.

(3) Clause 6(1) will apply regardless of whether a person has complied with other clauses of this bylaw.

## 7. Controls to stop feral or stray animals becoming a nuisance

- (1) A person must not provide sustenance, harbourage or comfort to a feral or stray animal so as to cause the animal to become a nuisance to other persons.
- (2) The owner or occupier of a property from which a feral or stray animal is emanating, must ensure that the animal does not cause a nuisance.

### Related information:

The following steps could be taken to ensure that a feral or stray animal does not cause a nuisance:

- (a) claiming the animal as a domestic owned pet and keeping it in such a state as to abate any nuisance;
- (b) permanently removing (including disposal of) the animal so it no longer causes a nuisance to others; or
- (c) agreeing with the Council that the Council will remove the animal and the occupier will pay the Council's reasonable costs.

Where possible, Council will work proactively with the SPCA and other animal rescue organisations to ensure animal welfare requirements are met and all practicable options are explored when dealing with feral and stray animals.

Animal rescue activities in the community are allowed as long as they are not conducted in such a way as to encourage stray or feral animals to cause nuisance.

## Part 2: Animal Specific Provisions

### 8. Poultry Keeping

- (1) The owner or occupier of a property where poultry are kept must ensure that any poultry house or run is:
  - a. at least ten metres from any dwelling unit or other sensitive use; and
  - b. at least two metres from any neighbouring property boundary.
- (2) The owner or occupier of a property in an urban area must not keep more than six head of poultry, or any roosters, geese or peafowl on the property.
- (3) The owner or occupier of a property where poultry are kept must ensure that the poultry are confined to the property.
- (4) However, clauses 8(1) and (2) do not apply if the poultry house or run, or keeping of animals is in accordance with a written permit issued by the Council.

### Related information:

Poultry can be confined to the property by providing either:

- (a) an enclosed poultry house with an attached poultry run compliant with clause 8(3); or
- (b) an enclosed poultry house compliant with clause 8(3), and adequate fencing of the property.

## 9. Bee Keeping

- (1) A person must not keep more than two beehives on any property in an urban area, unless it is in accordance with a written permit issued by the Council.
- (2) A person must not keep bees in a location or manner that is, or is likely to become, noxious, dangerous, injurious to health, or a nuisance to any person.
- (3) If the Council considers the keeping of bees on a property to be in breach of clause 9(2), it may, by written notice, require the beekeeper or owner or occupier of the property to take specified action to ensure compliance or mitigate the effects of the non-compliance.
- (4) Any beekeeper, owner, or occupier who receives a notice under clause 9(3) must, without delay, comply with the notice.

### Related information:

To avoid breaching this bylaw, the number of beehives kept on any property must be appropriate to the section size, the proximity of neighbours and the layout of the property. This is also important to remember when undertaking work to split beehives, which may result in a property having more hives than it is able to maintain.

Placement of beehives is a critical factor for avoiding problems for neighbours in urban areas. When placing beehives, consider the following factors:

- Water sources: Providing and maintaining a water trough near beehives reduces nuisance caused by bees searching for water sources on other properties.
- Fence height: A solid, high fence encourages bees to fly over neighbouring properties, rather than through them, helping to reduce nuisance.
- Flight path: Placing obstructions in front of beehives or elevating them at least 2.5m above ground level helps ensure bees cross the site boundary at a height which reduces nuisance.

When undertaking hive work or manipulation, be considerate of neighbours or other potentially affected sensitive areas, by only working hives in the evenings, or at a time agreed upon between any potentially affected parties.

In terms of clause 8(2), noxious effects may include significant adverse effects on the environment even though the effects may not be dangerous to human health.

Examples of steps that the Council may specify under clause 9(3) are:

- Limiting the number of hives on the property.
- Requiring hives to be kept a specified minimum distance from any neighbouring property.
- Requiring hives to be removed or relocated.

## 10. Stock Keeping

- (1) The owner or occupier of a property in an urban area must ensure no stock is kept on the property, unless it is in accordance with a written permit issued by the Council.

## 11. Pig Keeping

- (1) The owner or occupier of a property in an urban area must ensure no pigs are kept on the property, unless it is in accordance with a written permit issued by the Council.
- (2) A person who keeps pigs on a property in a rural area must ensure the following set-back requirements are met:
  - (a) any pig shelter or enclosure, manure, swill or feed must be kept at least 10 metres from any dwelling unit on the same site; and
  - (b) if three or fewer pigs are kept, any pig, pig shelter or enclosure, manure, swill or feed must be kept at least 50 meters from any neighbouring dwelling unit or other sensitive use; and
  - (c) if four or more pigs are kept, any pig, pig shelter or enclosure, manure, swill or feed must be kept at least 100 meters from any neighbouring dwelling unit or other sensitive use.
- (3) However, the set-back requirements of this clause do not apply if the activity:
  - (a) is being undertaken either in accordance with a written permit issued by the Council; or
  - (b) was lawfully established and operated pursuant to the Resource Management Act 1991 prior to the Gisborne District Council Keeping of Animals, Poultry and Bees Bylaw 2012 coming into force, and has not lapsed.

## Part 3: Operation and Enforcement

### 12. Removal of works

- (1) The Council may—
  - (a) remove or alter a work or thing that is, or has been, constructed in breach of this bylaw; and
  - (b) recover the costs of removal or alteration from the person who has committed the breach of this bylaw.

### 13. Council may charge fees

- (1) Council may charge fees for assessing applications, issuing permits, monitoring and enforcement in respect of this bylaw.

### 14. Permits under this Bylaw

- (1) The Council may set application fees for permits under this bylaw and any application for a permit must be accompanied by the relevant application fee (if any).
- (2) An application for a permit must be in writing on the prescribed form (if any), contain all information necessary for the Council to consider issuing a permit, and be submitted in accordance with any applicable Council policy.
- (3) Any permit under this bylaw may –



- (a) include any conditions the Council considers appropriate (including the payment of ongoing fees and charges), and
  - (b) be granted or refused by the Council in its discretion.
- (4) A holder of a permit issued under this bylaw must ensure that all conditions of the permit are complied with.
- (5) In determining an application for a permit, the Council may require the applicant to provide further information, such as a site location plan or management plan.
- (6) In determining an application for a permit, the Council may consider factors before making a decision such as:
- (a) Any effects on neighbours who have not given their consent to the activity;
  - (b) whether effluent might drain into any waterway;
  - (c) whether any enclosure or fencing is adequate to contain the animals;
  - (d) previous history of the applicant;
  - (e) potential noise;
  - (f) animal management and care;
  - (g) type, number and intensity of animals; or
  - (h) any other relevant factor.
- (7) A permit expires on the earliest of the following dates:
- (a) the date specified in the permit;
  - (b) the date the permit holder ceases to own or occupy the relevant property;
  - (c) the date at which the permit holder surrenders the permit by written notice to the Council; or
  - (d) the date of revocation of the permit.
- (8) The Council may at any time review, suspend, or revoke any permit issued under this bylaw.

**Related information:**

Permits are issued to a specified person or persons in respect to a specified property. Permits are not transferable to another person or persons when the property is sold.

## **15. Statutory powers may be used to enforce this bylaw**

- (1) The Council may use its powers under the Local Government Act 2002 and the Health Act 1956 to enforce this Bylaw.

**Related information:**

Enforcement powers under the Local Government Act 2002 include court injunction (section 162), seizure and disposal of property (sections 164, 165, 168), powers of entry (sections 171, 172, 173), cost recovery for damage (sections 175, 176), and power to request name and address (section 178). Enforcement powers under the Health Act 1956 included court orders (section 33), cost recovery for council to abate nuisance (section 34), powers of entry (section 128), and power to request name and address (section 134).

## 16. Penalties

A person who fails to comply with this Bylaw commits a breach of this Bylaw and is liable to a penalty under the Local Government Act 2002 or the Health Act 1956.

A person who fails to comply with this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002 or the Health Act 1956.

Related information:

Under section 242 of the Local Government Act 2002, a person who is convicted of an offence against a bylaw is liable to a fine not exceeding \$20,000.

Under section 66 of the Health Act 1956, a person who breaches a bylaw is liable to a \$500 maximum fine and where the offence is continuing, a further \$50 maximum fine for every day it continues.

## Part 3: Savings and transitional provisions

### 17. Saving of approvals granted under previous bylaw

Any written approval or permit granted by the Council under the Gisborne District Council Keeping of Animals, Poultry and Bees Bylaw 2012 is deemed to be a permit granted under this bylaw.

### 18. Transition to new maximum permitted animal numbers

Clause 8(2) does not affect a person keeping poultry in accordance with clause 5.2(ii) of the Gisborne District Council Keeping of Animals, Poultry and Bees Bylaw 2012 until two years after this bylaw comes into force.

Clause 9(1) does not affect a person keeping bees in accordance with clause 6.1(iii) of the Gisborne District Council Keeping of Animals, Poultry and Bees Bylaw 2012 until two years after this bylaw comes into force.