



WANGANUI DISTRICT COUNCIL STREETS INFRASTRUCTURE BYLAW 2015

1. TITLE

This bylaw shall be known as the “Wanganui District Council Streets Infrastructure Bylaw 2015” (“this Bylaw”).

2. REVOCATION

This Bylaw replaces the Wanganui District Council Streets Infrastructure Bylaw 2008 which is revoked by resolution of the Council.

3. PURPOSE

3.1 The purpose of this Bylaw is to:

- a) Regulate and control activities affecting streets within the Wanganui District so that the public’s health, safety and convenience are not compromised and public assets are maintained.
- b) Regulate and manage vehicle crossing requirements to provide appropriate vehicular access to properties as well as minimising street damage associated with building and development activity.
- c) Regulate and manage building work through a bond and inspection process to protect against street and street infrastructure damage.
- d) Regulate and facilitate public health and safety, avoid nuisance situations and avoid damage to public places through control of overhanging trees, property numbering requirements, the erection of barbed wire, razor wire and electric fences; and construction in public places.

4. EXCLUSION

- 4.1 Nothing in this bylaw limits Council, its authorised officers or agents from undertaking works and services in public places, or restricts work authorised by Council in public places.
- 4.2 Nothing in this Bylaw derogates from any provision of, or the necessity for compliance with:
 - a) The Local Government Act 2002 including section 335 of the Local Government Act 1974; Building Act 2004 and Building Regulations 2004; Land Transport Act 1998; Resource Management Act 1991; or any Act passed in amendment or substitution thereof;

- b) Any other applicable Acts of Parliament, regulations or rules; and
- c) Any other Council bylaws and District Plan requirements.

5. INTERPRETATION

In this Bylaw unless the context otherwise requires or where otherwise expressly provided:

“**Act**” means the Local Government Act 2002;

“**Approved Vehicle Crossing Installer**” means a person who has met the requirements of Council and who is listed as an approved installer;

“**Authorised Officer**” means a warranted Officer of Council or a warranted Officer acting on behalf of Council and includes an Enforcement Officer;

“**Bylaw**” means the Wanganui District Council Streets Infrastructure Bylaw 2015;

“**Council**” means the Wanganui District Council or any Committee, Community Board or elected member of Council or Officer authorised to exercise the authority of Council;

“**Consent**” means a written authority from Council with or without prescribed conditions;

“**District**” means the area within the territorial boundary of the Wanganui District Council;

“**Motor Vehicle**” means a vehicle drawn or propelled by mechanical power; and includes a trailer, but does not include:

- a) A vehicle running on rails; or
- b) An invalid carriage; or
- c) A trailer (not being a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of any of Her Majesty’s Forces; or
- d) A trailer running on one wheel and designed exclusively as a speed-measuring device or for testing the air of vehicle tyres; or
- e) A vehicle designed for the amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles; or
- f) A pedestrian-controlled machine.

“**Person**” includes a natural person, a corporation sole, and a body or persons whether incorporated or not;

“**Premises**” means all land and buildings within a single rating unit;

“**Public Place**” means a place that, at any material time, is under the control of Council and is open to or being used by the public, whether free or on payment of a charge, and includes any Road whether or not it is under the control of Council;

“**Reserve**” means land vested in or administered by the Council under the provisions of the Reserves Act 1977; or any park, domain or recreational area under the control or

ownership of the Council;

“**Road**” has the same meaning as in the Land Transport (Road User) Rule 2004, or subsequent amendments;

“**Street Damage**” means damage to any road carriageway, planted or sealed berm, cycle path, footpath, lighting standards, or other Council property sustained during building or land development operations and includes the undermining of any road due to excavation on adjacent property and collapse of any adjacent property onto a road;

“**Temporary Vehicle Crossing**” means a temporary form of vehicle crossing designed to protect the road berm, footpath, and entrance to the road carriageway from damage associated with building or land development operations prior to the installation of a vehicle crossing;

“**Urban Area**” means any area of the District zoned residential, commercial or manufacturing in the Wanganui District Plan;

“**Vehicle**” means a contrivance equipped with wheels, tracks or revolving runners upon which it moves or is moved; but does not include:

- a) A perambulator or pushchair;
- b) A shopping or sporting trundle not propelled by mechanical power;
- c) A wheelbarrow or hand-trolley;
- d) A child’s toy, including a tricycle and a bicycle, provided in either case, no road wheel (including any tyre) has a diameter exceeding 355mm;
- e) A pedestrian-controlled lawnmower;
- f) Any pedestrian-controlled agricultural machinery not propelled by mechanical power;
- g) Any article of furniture;
- h) Any invalid wheel-chairs not propelled by mechanical power;
- i) Any other contrivance specified by the Minister of Transport by notice in the Gazette.

“**Vehicle Crossing**” means a vehicular entrance providing access between any premises and the carriageway of the road fronting those premises, constructed over a footpath, kerb, berm, water channel or drain;

“**Vehicle Crossing Consent**” includes the written approval of an authorised officer;

“**Vehicle Crossing Construction Standard**” means the standard that is set by resolution of Council from time to time and made publicly available.

6. VEHICLE CROSSINGS

Prohibition on Use

6.1 No person shall drive or propel any motor vehicle along or across any kerb, footpath, grass plot, flower bed, accessways, walkway, cycle track or any public place except over a vehicle crossing constructed in accordance with this Bylaw or a vehicle crossing installed prior to this Bylaw.

Damage or Interference

- 6.2 No person shall use a vehicle on a road reserve in such a manner as to cause or be likely to cause damage to the road reserve or any part thereof.
- 6.3 No person shall damage or interfere with a vehicle crossing without the written consent of an authorised officer.
- 6.4 If, in the opinion of an authorised officer, vehicles are being driven or are likely to be driven from the formed road across the road reserve to adjoining land in a manner that causes or is likely to cause damage to the road reserve, an authorised officer may, by written notice, either require the owner of the adjoining land to pay to the Council within 30 days of receipt of the notice the cost of construction of a vehicle crossing or have installed a vehicle crossing by an approved vehicle crossing installer.

Vehicle Crossing Consent

- 6.5 No person shall construct, repair, remove or widen any vehicle crossing unless:
- 6.5.1 they are an approved vehicle crossing installer; and
 - 6.5.2 the appropriate vehicle crossing consent has been obtained from the Council; and
 - 6.5.3 the prescribed fees and charges for the consent and for any vehicle crossing inspection, have been paid; and
 - 6.5.4 the vehicle crossing is installed or altered in compliance with the requirements of the vehicle crossing consent.

Temporary Vehicle Crossing for Building or Development Work

- 6.6 Every person who undertakes building or development work on any premises for which a vehicle crossing has not been installed may be required, by an authorised officer to:
- 6.6.1 obtain a consent for a temporary vehicle crossing; and
 - 6.6.2 pay the prescribed fees and charges for the consent and any vehicle crossing inspection; and
 - 6.6.3 install the temporary vehicle crossing in compliance with the requirements of the temporary vehicle crossing consent; and
 - 6.6.4 remove it or replace it with a complying vehicle crossing within six (6) months from the date of the installation of the temporary vehicle crossing.

Approved Vehicle Crossing Installer

- 6.7 Council shall maintain a list of approved vehicle crossing installers and may, at its discretion, remove installers or add new installers.

Unsafe, State of Disrepair or Not to Construction Standard

6.8 If, in the opinion of an authorised officer, a vehicle crossing is unsafe, or in a state of disrepair, or fails to meet Council's vehicle crossing construction standard an authorised officer may give written notice to the owner or occupier of the premises to which the crossing provides access:

6.8.1 to repair the vehicle crossing; or

6.8.2 to remove and reconstruct the vehicle crossing; or

6.8.3 to pay to Council such sum of money as shall be necessary to repair or remove and reconstruct the vehicle crossing.

6.9 Every owner who fails to comply with a notice, given under this section of the Bylaw, within the specified period commits an offence against this Bylaw.

7. INFRASTRUCTURE BOND

Building work requires Infrastructure Bond and Infrastructure Inspection Fees

7.1 No person shall undertake any building work requiring a building consent or a consent without having first paid to the council:

7.1.1 an Infrastructure Bond; and

7.1.2 a pre-work Infrastructure Inspection Fee; and

7.1.3 a post-work Infrastructure Inspection Fee.

Refund of Infrastructure Bond

7.2 Council shall refund every Infrastructure Bond:

7.2.1 upon completion of the building work; and

7.2.2 where appropriate, the issuing of the Code Compliance Certificate; and

7.2.3 where Council inspection has verified that no damage has occurred or that all damage has been repaired and reinstatement completed in accordance with Council's standards.

7.3 Council may deduct from the Infrastructure Bond unpaid inspection fees and unpaid costs incurred by Council, including any reasonable administrative costs, to repair any damage to the road reserve arising from any building or site work.

7.4 It is the responsibility of every owner or occupier of any premise, prior to the commencement of any building or development work on the premises to notify Council of any damage to Council's infrastructure including footpaths and roads adjacent to the premises.

7.5 In every case where a footpath, road or other Council property has been damaged in association with building or development work on any premise:

7.5.1 the owner or occupier must repair the damage and reinstate the asset in accordance with the Council's standards; or

7.5.2 when the owner or occupier fails to complete such a repair within the time specified by Council and to the required standard of Council, then Council may undertake such repair and the owner or occupier will be liable to meet the cost of the repair, less the value of any Infrastructure Bond held by Council in respect of that premise.

Waiving of Infrastructure Bond

7.6 An authorised officer may, in writing, waive the requirement for the payment of a street damage deposit charge in whole or in part, where he or she determines and confirms in writing that the building work, site work or excavation work proposed is unlikely to cause damage to the road reserve.

8. OVERHANGING TREES

8.1 No owner or occupier of any land shall allow trees, shrubs or vegetation growing thereon to overhang or encroach by their roots or branches onto any public area where it is likely to impede, obstruct, or endanger pedestrians or traffic; or cause damage to drains or pipes or impair views from a public place.

8.2 Council may partly or fully remove or trim back to the property boundary all trees or shrubs overhanging or encroaching at the discretion of the authorised officer.

9. PROPERTY NUMBERING

9.1 Council may allocate a number to any area of land or building or part of a building within its district and may change the number allocated to any such area of land or building for electoral, postal, and other purposes.

9.2 The owner or occupier of every property which has been allocated a number shall display that number so that it is clearly visible from the formed road providing emergency services with easy location of the property in an emergency.

10. BARBED/RAZOR WIRE/ELECTRIC FENCES/PROJECTIONS

10.1 No person shall, in an urban area, erect any fence composed wholly or partly of barbed or razor wire or any similar wire where the fence fronts or abuts any road, footpath, right-of-way, accessway, whether public or private, unless the barbed or razor wire is attached greater than two (2) metres above ground level.

10.2 No person shall, in an urban area, erect or use a fence containing any electrified component as a boundary fence unless the electrified component is attached greater than 2 metres above ground level and the electrified component is at least 600mm inside the boundary fence.

10.3 No person shall attach to any building or property any object or material which could cause injury to persons in a public place.

11.CONSTRUCTION IN A PUBLIC PLACE

11.1No person shall, without the appropriate Council Consent or Authority:

- 11.1.1 place or leave, or cause or permit to be placed or left in, on or under a public place any building material, rubbish, debris, soil or other thing associated with or arising from any building activity;
- 11.1.2 make or dig, or cause or permit to be made or dug, in a public place any hole or excavation; or
- 11.1.3 blast any rock, stone, earth, timber, or other such material in, on, or near a public place.

12.POWERS OF THE COUNCIL

12.1Council may, from time to time:

- 12.1.1 approve the construction standard for vehicle crossings as determined by Council's Infrastructure Services provider;
- 12.1.2 determine the location of a vehicle crossing or a temporary vehicle crossing;
- 12.1.3 determine the matters to be considered for a vehicle crossing consent when deciding whether to grant a vehicle crossing consent required by this Bylaw;
- 12.1.4 determine any conditions that may be imposed in any vehicle crossing consent.

12.2The Council may from time to time by resolution prescribe fees and charges for:

- 12.2.1 vehicle crossing consents and temporary vehicle crossing consents;
- 12.2.2 a deposit against street damage;
- 12.2.3 inspections of vehicle crossings; and
- 12.2.4 inspections of street damage.

13.OFFENCES

- 13.1 It is an offence under section 239 of the Act to breach a bylaw. Any person who fails to comply with any provision of this Bylaw commits an offence and may be liable on summary conviction to a fine up to \$20,000 under section 242(4) of the Act.
- 13.2 Every Person commits an offence under this Bylaw who obstructs or hinders an authorised officer in the performance of any duty or power conferred by this Bylaw;
- 13.3 Any person who fails to carry out any action required to be carried out by an authorised Officer, in respect of non-compliance, commits an offence and on summary conviction is liable to a fine up to \$20,000 under section 242(4) of the Act.
- 13.4 The penalties outlined in clauses 13.1 and 13.3 above are in addition to, and not in substitution of, any action Council might take pursuant to any other legislation to address

breaches of this Bylaw.

- 13.5 Where it is suspected that any Person has committed a breach of this Bylaw that Person must, on the direction of an authorised officer provide the authorised officer their full name, address and date of birth.

14.POWERS OF ENFORCEMENT

- 14.1 In accordance with section 162 of the Act, Council may apply to the District Court for an injunction to restrain a Person from committing a breach of this Bylaw.
- 14.2 In accordance with section 163 of the Act, Council or an authorised agent appointed by it, may remove or alter any work or thing that is or has been constructed in breach of this Bylaw. Council may recover the costs of removing or altering the work or thing that is in breach of this Bylaw from the person who committed the breach. This does not relieve the person of liability for the breach of this Bylaw.
- 14.3 Council may seize and impound property if it is materially involved in the commission of an offence, under and in accordance with sections 164 of the Act.
- 14.5 Council may return and may dispose of property seized and impounded in accordance with sections 167 and 168 of the Act.
- 14.6 Council may recover costs associated with a breach of this Bylaw in accordance with sections 175 and 176 of the Act.

15.NOTICES

- 15.1 Any notice issued pursuant to this Bylaw must be in writing and may be served by:
- a) Delivering it personally to the person to who it is addressed to; or
 - b) Sending it by post in a letter addressed to the intended recipient, or leaving it at his or her usual or last known place of residence.
- 15.2 If a notice is sent to the intended recipient by way of post then for the purposes of clause 15.1 the notice shall be deemed for the purposes of this Bylaw to have been received by the intended recipient at the time at which the letter would have been delivered in the ordinary course of postal delivery.
- 15.3 Every notice to which clause 15.1 applies shall:
- a) Specify:
 - a. The purpose of the notice;
 - b. Actions which authorised officers require the recipient to undertake in order to abate the nuisance;
 - c. The rights of appeal (if any) to the matters referred to in the notice; and
 - d. The name and address of the Officer to whom enquiries in respect of the notice may be made; and
 - e. If entry on land or Premises is intended, the statutory authority for the entry.

16.APPEAL PROCESS

- 16.1 Any person who is dissatisfied with a decision made by an authorised officer may appeal in writing against that decision or conditions to Council within 14 days of receiving

written notice of the decision or conditions.

- 16.2 On hearing the appeal brought under this Bylaw, Council or its delegated Committee of Council may confirm, reverse, or modify the decision or conditions made by the authorised officer and the decision of Council or its delegated Committee of Council shall be final.
- 16.3 The right of appeal is in addition to any other statutory right made available to the owner or occupier.

17.FEES

- 17.1 The Council may prescribe fees or charges payable for a certificate, authority, approval, permit, or consent from, or inspection by, the Council in respect of a matter provided for in this bylaw or under any other enactment, if the relevant provision does not authorise the Council to charge a fee or provide that the certificate, authority, approval, permit, consent, or inspection is to be given or made free of charge.
- 17.2 Such fees and charges prescribed by the Council shall be no more than the reasonable costs incurred by Council in respect of the matter for which the fees and charges are prescribed.
- 17.3 The Council must publicly notify the fees and charges so prescribed not less than 28 days prior to the fees and charges becoming effective.
- 17.4 The public notification shall specify how the fees and charges are assessed, to what matter they apply, the date when the fees and charges will come into force, and the duration of their application.
- 17.5 An authorised officer may provide for the refund, remission, or waiver of a fee or a charge in specified situations or in situations determined by the Council.
- 17.6 The fees or charges will either be prescribed by this Bylaw or following consultation in a manner that gives effect to the requirements of section 82 of the Act.

18.COMMENCEMENT

- 18.1 The Bylaw was adopted at a meeting of Wanganui District Council on the 6th day of October 2015 and through Council resolution ordered to come into force on the 12th day of October 2015.

19.REVIEW

- 19.1 The Bylaw must be reviewed before the 12th October 2020.

The Common Seal of Wanganui District Council was hereunto affixed this day of
October 2015 in the presence of:



.....
MAYOR ANNETTE MAIN



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CHIEF EXECUTIVE KEVIN ROSS

