WAIMAKARIRI DISTRICT COUNCIL

FIRE CONTROL BYLAW 2009

The Fire Control Bylaw 2009
was adopted at a Council meeting
held on 3 November 2009

WAIMAKARIRI DISTRICT COUNCIL
THE COMMON SEAL OF

Chief Executive Officer

Administration Manager

WAIMAKARIRI
DISTRICT COUNCIL

TABLE OF CONTENTS

1. TITLE 4

2. DATE OF COMMENCEMENT 4

3. APPLICATION AND PURPOSE OF BYLAW 4

4. DEFINITIONS 4

5. FIRES DURING AN OPEN FIRE SEASON 5

6. FIRES DURING A RESTRICTED FIRE SEASON 6

7. PROHIBITED FIRE SEASON 7

8. EXEMPTIONS FROM PROHIBITIONS ON LIGHTING FIRES IN THE OPEN AIR 7

9. PUBLIC NOTICE OF RESTRICTED OR PROHIBITED FIRE SEASON 8

10. REVOCATION OR SUSPENSION OF PERMITS DURING RESTRICTED OR PROHIBITED FIRE SEASON 8

11. COUNCIL OR ITS AGENT MAY EXTINGUISH FIRES 8

12. FEES FOR PERMITS 8

13. LIVE ASHES 9

14. REVOCATIONS AND ALTERATIONS 9

15. OFFENCES AND PENALTIES 9

16. REVIEW OF BYLAW 9

WAIMAKARIRI DISTRICT COUNCIL FIRE CONTROL BYLAW 2009

1. TITLE

1.1 A Bylaw of the Waimakariri District Council by way of Special Order pursuant to the provisions of the Local Government Act 2002 and the Forest and Rural Fires Act 1977, powers and authorities enabling it in that behalf to make a Bylaw to be known as the Waimakariri District Council Fire Control Bylaw 2009.

2. DATE OF COMMENCEMENT

2.1 This Bylaw comes into force on 30 November 2009.

3. APPLICATION AND PURPOSE OF BYLAW

3.1 This Bylaw applies throughout the Waimakariri District and is to be read in conjunction with the air quality rules contained in Environment Canterbury's Natural Resources Regional Plan, and nothing in this Bylaw relieves any person of any obligation to comply with that plan.

3.2 Compliance with any other Acts and other organisations regulations, including Transpower NZ Ltd.

The Fire Control Bylaw 2009 is subject to Acts and Regulations and nothing in this Bylaw derogates from any of the provisions of the Forest and Rural Fires Act 1977 and the Forest and Rural Fires Regulations 2005 or their subsequent amendments or any other relevant statutory or regulatory requirements. In the event of any inconsistency between this Bylaw and the legislation, the more stringent applies.

3.3 The purpose of this Bylaw is to:

- Regulate activities for the lighting of open air fires during 'Open', 'Restricted' and 'Prohibited Fire Seasons' across the Waimakariri District
- Set clear guidelines and provide information to the public and
- Specify the offences and penalties for breaches of the Bylaw and
- Make provision for charging for the issue of fire permits.

4. DEFINITIONS

For the purpose of this Bylaw, unless the context otherwise requires:

"Authorised Officer" means a person appointed as a Rural Fire Officer or Principal Rural Fire Officer under the Forest and Rural Fires Act 1977 or any person appointed by the Council under the Local Government Act 2002 to perform duties required under this Bylaw.

"Barbecue" means any fixed or portable gas or solid fuel (i.e. wood or charcoal) burning equipment or device designed or intended for the cooking of food in the open air.

"Brazier" means a metal receptacle used outdoors for burning wood, charcoal, or other solid fuel allowing for the provision of heat and/or light.

"Combustible Material" means a substance or material that is able to catch fire and burn.

"Council" means the Waimakariri District Council or any officer authorised to exercise the authority of the Council.

"District" means the district within the jurisdiction and under the control of the Council...

"Ethnic cooking fire" means any hangi, umu or similar fire in the open air used for the preparation of food using ethnic cooking methods.

"Fees" means the list of prices for services associated with the issuing of Fire Permits as adopted by the Council from time to time in accordance with the Local Government Act 2002.

"Fire Permit" means a written permit authorising the lighting of a fire in the open air granted in accordance with section 23 of the Forest and Rural Fires Act 1977 and with section 6.4 of this Bylaw.

"Open air" in relation to fires means any place other than within an approved fire place, incinerator, gas barbecue or other authorised receptacle.

"Open Fire Season" means a period of time, whether of fixed or indefinite duration, during which the lighting of fires in the open air is neither prohibited nor restricted under this Bylaw.

"Principal Rural Fire Officer" means a Principal Rural Fire Officer appointed pursuant to the Forest and Rural Fires Act 1977.

"Prohibited Fire Season" means a period of time, whether of fixed or indefinite duration, specified pursuant to this Bylaw, during which the lighting of fires in the open air is prohibited.

"Property" means any land or building, or part thereof.

"Restricted Fire Season" means a period of time, whether of fixed or indefinite duration, specified pursuant to this Bylaw, during which the lighting of fires in the open air is restricted and permits are therefore required for such lighting of fires.

"Special Fire Permit" means a special fire permit to light a fire in the open air during a prohibited fire season, issued pursuant to this Bylaw.

5. FIRES DURING AN OPEN FIRE SEASON

5.1 During an open fire season no person may light a fire in the open air nor allow a fire to continue burning under any of the following conditions:

(a) Where the location, wind, or other conditions, cause, or are likely to cause the fire to become:

(i) A danger to any person or property
(ii) Out of control or to spread beyond the limits of the property on which it is lit; or
(iii) A heat, smoke or ash nuisance to any person or property; or
(iv) A health hazard to any person, or
(v) A hazard to road traffic.

(b) Within 3 metres of any part of a building, tree, hedge, fence or other combustible material;

(c) Within the proximity of any high voltage transmission line;

(d) Between the hours of sunset and sunrise, except in accordance with a fire permit issued by an authorised officer;

(e) Without continuous supervision being maintained at all times;

(f) Without an appropriate means of fire suppression being immediately available to deal with any fire escape;

(g) No fires shall be lit on any foreshore, beach and adjacent land areas under the control of the Waimakariri District Council except in accordance with a fire permit issued by an authorised officer.

6. FIRES DURING A RESTRICTED FIRE SEASON

6.1 An Authorised Officer may, at any time, prescribe, vary or cancel a restricted fire season within the District or in any part of the District.

6.2 During a restricted fire season, no person may set on fire, further fuel a fire, or cause or permit to be set on fire in the open air, any combustible material including a solid fuel barbecue, brazier or ethnic cooking fire except in accordance with a fire permit.

6.3 Any person wishing to obtain a fire permit during a restricted fire season must apply to an Authorised Officer.

6.4 An Authorised Officer may issue a fire permit upon payment of the prescribed fee (if any) and may impose such conditions and restrictions in respect of the fire permit as the Authorised Officer considers reasonably necessary.

In deciding whether to issue a fire permit an Authorised Officer will consider the following:

(a) Relevant cultural requirements or practices; and

(b) The location, weather, terrain and vegetation; and

(c) The existence of buildings, structures and fuel; and

(d) Protection of the safety, health and convenience of persons on the property in respect of which the permit is issued and on adjoining land and property; and

(e) The proximity to any high voltage transmission line; and

(f) Any other issues that an Authorised Officer deems appropriate to consider.

6.5 An Authorised Officer may issue a fire permit subject to any terms and conditions that he considers to be reasonable in the public interest or may decline to issue a fire permit. For the avoidance of doubt the issuing of a permit does not authorise any fire during a prohibited fire season and any permit that has been issued shall be deemed to be suspended during a prohibited fire season.

6.6 Notwithstanding Clause 6.2 an Authorised Officer may exempt certain activities from the requirements for a fire permit.

6.7 An Authorised Officer may at any time revoke, or suspend for such periods and upon such terms and conditions as he considers to be necessary in the public interest, any fire permit.

7. PROHIBITED FIRE SEASON

7.1 An Authorised Officer may at any time, prescribe, vary, or cancel a prohibited fire season within the District or any part of the District.

7.2 In a prohibited fire season no person may set on fire, or cause or permit to be set on fire in the open air any vegetation or other combustible material unless a special fire permit is issued by an Authorised Officer in accordance with this bylaw.

7.3 An Authorised Officer may prohibit the use of gas barbecues in specified areas when, in his opinion, such prohibition is reasonably necessary in the interests of public safety.

8. EXEMPTIONS FROM PROHIBITIONS ON LIGHTING FIRES IN THE OPEN AIR

8.1 The occupier of any premises in which a process or operation is being carried out which necessitates the use of fire in the open air must apply to an Authorised Officer for an exemption from the prohibited fire season imposed by clause 7.1 of this bylaw where that process or operation will be prejudicially affected by such prohibition.

8.2 The organiser of any special occasion or event may apply in writing to an Authorised Officer for an exemption from the prohibited fire season imposed by clause 7.1 of this bylaw.

8.3 Upon receipt of any such application an Authorised Officer may grant, in writing, such exemptions subject to such conditions as it considers fit to impose or may decline such application.

9. PUBLIC NOTICE OF RESTRICTED OR PROHIBITED FIRE SEASON

9.1 Public notification of the prescription, cancellation or variation of a restricted or prohibited fire season shall be by:

(a) A notice inserted in a daily or community newspaper circulating within the District; and

(b) Broadcast by radio or any other effective means.

10. REVOCATION OR SUSPENSION OF PERMITS DURING RESTRICTED OR PROHIBITED FIRE SEASON

10.1 Every fire permit issued or any exempted activities granted pursuant to this bylaw remains in force from the date of issue until the time specified in that fire permit or activity, unless a prohibited fire season is declared or the permit or activity is revoked in accordance with clause 10.2 of this bylaw.

10.2 Notwithstanding any other provisions in this bylaw, a fire permit or special permit issued under this bylaw or any exempted activities granted may be revoked by an Authorised Officer at any time, or suspended for any period of time on such terms and conditions as an Authorised Officer considers reasonable under the circumstances.

11. COUNCIL OR ITS AGENT MAY EXTINGUISH FIRES

11.1 Where a fire has been lit or allowed to burn in breach of this bylaw, an Authorised Officer or an officer of the New Zealand Fire Service may direct the occupier of the property on which the fire is located and/or the persons who lit the fire, to extinguish the fire.

11.2 If a direction given under clause 11.1 is disregarded, the officer may authorise an agent of the Council to extinguish the fire and to take such other steps as he considers reasonably necessary in the circumstances to ensure the safety of any person or to protect any property.

11.3 Where a fire has been extinguished pursuant to clause 11.2 or otherwise the Council may recover any costs incurred in attending, containing and extinguishing the fire from the occupier of the property on which the fire was located and/or from the person who lit or fuelled the fire or otherwise allowed it to burn.

12. FEES FOR PERMITS

12.1 The Council may, from time to time, by resolution that is publicly notified, specify the fees payable in respect of the issue of any permit under this bylaw. Council will consult on, and publicly notify, its intended fees prior to making a resolution to fix such fees.

12.2 No fire permit is effective until such time as all fees, (if any), are paid in full.

13. LIVE ASHES

13.1 No person may place any live cinders, embers or ashes in or upon any premises other than:

(a) In a container made and constructed of concrete or other similarly fire resistant material capable of preventing the transmission of heat to any combustible material; or

(b) In a pit or upon any fire resistant substance in a manner that will prevent the spreading of fire or heat by the action of wind or otherwise.

(c) As part of an ethnic cooking fire.

14. REVOCATIONS AND ALTERATIONS

14.1 The Fire Prevention Bylaw Involving Vegetation 1992 is hereby revoked.

15. OFFENCES AND PENALTIES

15.1 Every person who breaches this bylaw commits an offence under section 239 of the Local Government Act 2002.

15.2 Every person who is convicted of an offence against this bylaw, shall be liable to a fine as provided for in section 242 (4) of the Local Government Act 2002 and shall in addition be liable for the costs of remedying any damage caused in the course of committing the offence.

16. REVIEW OF BYLAW

16.1 This Bylaw shall be reviewed by 3 November 2014.

16.2 This Bylaw can be reviewed at any other time before that date at the discretion of the Council.

.