

COMMERCIAL CHARITY BYLAW 2017

This Commercial Charity Bylaw 2017
was adopted at a Council meeting held on
7 March 2017



Chief Executive



Governance Manager



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WAIMAKARIRI DISTRICT COUNCIL
COMMERCIAL CHARITY BYLAW 2010

1. TITLE, AUTHORITY AND COMMENCEMENT

- 1.1 This bylaw shall be known as the Waimakariri District Council Commercial Charity Bylaw 2017.
- 1.2 This bylaw shall come into force on the 13th day of March 2017.

2. INTRODUCTION

- 2.1 This bylaw is made by the Waimakariri District Council in exercise of the powers and authority vested in the Council by Sections 145 and 146 of the Local Government Act 2002.
- 2.2 This Bylaw applies to Business Zones in the towns of Rangiora, Kaiapoi, Woodend, Pegasus and Oxford.

3. OBJECTIVES

- 3.1 The objective of this Bylaw is to regulate and licence commercial charity collectors operating in Business Zones in certain parts of the Council's district, to assist in:
 - 3.1.1 Protecting the public from nuisance.
 - 3.1.2 Protecting, promoting and maintaining public health and safety.
 - 3.1.3 Minimising the potential for offensive behaviour in public places.

4. INTERPRETATION

- 4.1 **ACT** means the Local Government Act 2002.
- 4.2 **AUTHORISED OFFICER** means any person appointed or authorised in writing by the Chief Executive or by the Council to act on its behalf and with its authority.
- 4.3 **BUSINESS ZONE** means any area zoned Business 1, 2 or 4 in the Waimakariri District Plan.
- 4.4 **BYLAW** means the Commercial Charity Bylaw 2017.
- 4.5 **COMMERCIAL CHARITY COLLECTOR** means a person who, on behalf of a registered or unregistered charitable entity, requests funds, canvasses for subscriptions, sells raffle or lottery tickets, busks or appeals for donations and by doing so, receives a personal financial reward or other direct benefit, whether

directly from the charitable entity or another body that has a contract with the charitable entity.

4.6 **COUNCIL** means the Waimakariri District Council.

4.7 **OFFENCE** includes any act or omission in relation to a bylaw.

4.8 **PERSON** includes a natural person and also a body of persons, whether corporate or unincorporated.

4.9 **PUBLIC PLACE** means a place:

- (i) that is under the control of the Waimakariri District Council; and
- (ii) that is open to, or being used by, the public, whether or not there is a charge for admission; and includes
- (iii) a road, whether or not the road is under the control of the Waimakariri District Council.

5. OFFICERS TO CONTINUE IN OFFICE

5.1 Staff appointed by the Council as Governance Manager, Environmental Services Manager, General Inspector or Environmental Health Officer, at the time this bylaw takes effect, are deemed to have been appointed as authorised officers under this bylaw.

6. SERVING OF ORDERS AND NOTICES

6.1 Except as otherwise provided for in any other enactment, where any notice, order, or other document is required to be served on any person or organisation for the purposes of this bylaw, service may be effected by delivering it personally to the person or organisation, or by sending it by post to that person or organisation's last known residential or business address.

7. COMMERCIAL CHARITY COLLECTORS

A commercial charity collector may only operate within the areas to which this bylaw applies if that person holds a licence under the terms of this bylaw.

8. LICENCES

8.1 Any person or organisation may make an application for a licence under this bylaw.

8.2 Every application for a licence must include any information required by the Council and must be accompanied by any application fee prescribed from time to time by resolution of the Council.

8.3 After considering an application for a licence an authorised officer may grant or refuse to grant the licence.

8.4 Unless provided for elsewhere in the bylaw, a licence issued to a person named in the licence is not transferable to any other person, and no such licence shall

authorise any person or organisation other than the person or organisation named therein to act in any way under its terms and conditions.

- 8.5 Licences can be issued subject to terms and conditions that could include:
- the date, time and duration for which the collection activity is scheduled
 - the location where the commercial charity collection or collections may take place
 - a requirement to seek permission from the adjacent business owner(s).
 - requirements that must be complied with so that pedestrian access will not be impeded along the pavement and into businesses.

9. SUSPENSION AND REVOCATION OF LICENCES

- 9.1 Unless this bylaw provides otherwise, should the licence holder be convicted of any offence relating to the licence holder's suitability as a licensee, the Council or an authorised officer may immediately revoke or suspend the licence for any specified time.
- 9.2 The Council may by notice in writing call upon the licence holder to write to the Council and give reasons why the licence should not be revoked or suspended, if any of the following are brought to the notice of the Council:
- (a) The licence holder –
 - (i) has acted or is acting in a manner contrary to the intent and meaning of this bylaw; or
 - (ii) has failed to comply with any of the conditions of the licence; or
 - (iii) is in any way unfit to hold a licence.
 - (b) That the bylaw is not being properly observed.
- 9.3 The Council may, if it considers the allegations are correct or if there is no correspondence from the licence holder, revoke, or suspend the licence for any specified time.

10. DISPENSING POWER

- 10.1 Where in the opinion of the Council, full compliance with any of the provisions of this bylaw would:
- a. Needlessly or injuriously affect any person, and / or
 - b. needlessly or injuriously affect the course or operation of the business of any person, and / or
 - c. bring loss or inconvenience to any person, without any corresponding benefit to the community,

the Council may dispense with full compliance with the provision of this bylaw and use its discretion to impose appropriate conditions on a licence sought. Those conditions shall be complied with by the licence holder

11. APPLICATION FEES AND CHARGES

- 11.1 The Council may prescribe fees or charges payable for the application for any licence or inspection by the Council in accordance with section 150 of the Act.

12. OFFENCES AND BREACHES

- 12.1 Any person or organisation commits a breach of this bylaw who:

- (a) Does, or causes to be done, or knowingly permits to be done, anything contrary to this bylaw;
- (b) Omits or neglects to do, or knowingly permits to remain undone, anything which according to the intent and meaning of this bylaw, ought to be done by them at the time and in the manner provided by this bylaw;
- (c) Does not refrain from doing anything which under this bylaw they are required to refrain from doing;
- (d) Knowingly permits any condition or things to exist contrary to any provision contained in this bylaw;
- (e) Refuses or neglects to comply with any notice given to that person under this bylaw;
- (f) Obstructs or hinders any authorised officer of Council in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred upon that officer by this bylaw; or
- (g) Fails to comply with any notice or direction given under this bylaw.

13. PENALTIES FOR BREACH OF BYLAWS

- 13.1 Every person or organisation who commits an offence against this bylaw is liable to the penalty set down by sections 239 and 242 of the Act.
- 13.2 In accordance with section 162 of the Act, the Council may apply to the District Court for an injunction to restrain a person from committing a breach of this bylaw.

14. REMOVAL OF WORKS EXECUTED CONTRARY TO BYLAW

- 14.1 Pursuant to Section 163 of the Local Government Act 2002, where any equipment or object is, or has been, constructed in breach of this Bylaw the Council may:
- (a) Remove or alter the any equipment or object; and
 - (b) Recover the costs of removal or alteration from the person who committed the breach.
- 14.2 The exercise of this authority by the Council does not relieve any person responsible for a breach of any Bylaw from liability for any other penalty for committing a breach of that Bylaw.

15. EXCLUSIONS FROM THE COMMERCIAL CHARITY BYLAW

- 15.1 This bylaw does not apply to collectors who do not receive any personal financial reward and who collect for charitable entities or non-profit organisations.

16. REVIEW

- 16.1 This bylaw will require its statutory review by the 13th March 2027, unless the Council, by resolution, directs an earlier date.