

Waitomo District Council

Public Health and Safety Bylaw 2023

First Adopted:	3 November 2009
Review History:	March 2014, February 2019 (Amendment), March 2023
Date of Next Review:	March 2033
Responsibility:	GM Environment and Strategy
Adopted by:	Council on 28 November 2023

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INTRODUCTION | KUPU ARATAKI

This bylaw controls a diverse range of activities to ensure that acceptable standards of public health and safety are maintained for the wellbeing and enjoyment of citizens, visitors and businesses within the district. In particular this bylaw addresses a wide range of issues that could have an adverse effect on the health and safety of the public by regulating General Public Nuisances and Specific Public Health Provisions.

The initial resolution to create this Bylaw combining existing public safety bylaws with some additions was passed by the Waitomo District Council at an ordinary meeting of the Council held on 3 August 2009. The Bylaw was adopted by Council following the special consultative procedure, by a resolution at a meeting of the Council on 3 November 2009. The Bylaw came into force on 1 December 2009.

In March 2014 the Bylaw was reviewed by special consultative procedure, there were no significant changes, and the amended Bylaw was adopted on 25 June 2014. Council resolved on 26 February 2019 to make an amendment to the Bylaw to revoke and amend sections to give effect to the changes in the Food Act 2014 and Fire and Emergency New Zealand Act 2017.

In March 2023 a review of the Bylaw commenced and updated to reflect current legislation, remove duplication with other regulatory instruments and to modernise the language. The amended Bylaw was consulted with the public through the special consultative procedure from 29 September to 29 October 2023. Council adopted the revised Bylaw on 28 November 2023.

Documents that should be referred to as relevant to this Bylaw:

- Local Government Act 2002
- Health Act 1956
- Legislation Act 2019
- Waitomo District Plan

1. TITLE | TAITARA

This Bylaw is the Waitomo District Council Public Health and Safety Bylaw 2023.

2. COMMENCEMENT | TĪMATA

- 2.1. This Bylaw will come into effect once adopted by Council with the commencement date being part of the Council resolution.

Guidance note:

This Bylaw comes into force on 18 December 2023 by order of Council.

This Bylaw remains in force until 18 December 2035, unless reviewed or repealed earlier.

3. PURPOSE AND SCOPE | TE ARONGA ME TE KORAHĪ

- 3.1. The purpose of this Bylaw is to protect the public from nuisance and to maintain public health and safety by controlling:
- a) general public nuisances
 - b) fires in open air
 - c) the keeping of animals
 - d) harbouring of stray or feral animals
 - e) body piercing (licencing)
- 3.2. This Bylaw is made pursuant to sections 145 and 146 of the Local Government Act 2002. It is also made under the relevant public health and safety sections of the Health Act 1956. This Bylaw does not repeat all relevant legislation, which should be read in conjunction with this Bylaw.

4. DEFINITIONS | NGĀ WHAKAMĀRAMATANGA

- 4.1. For the purposes of this Bylaw, unless the context otherwise requires, the following words have the meanings as specified:

Animal	means stock, poultry and any other vertebrate creature of any age or sex that is kept in a state of captivity or is dependent upon human beings for its care and sustenance.
Authorised Officer	means any person appointed or authorised by Council to act on its behalf and with its authority.
Body Piercing	means any process involving piercing, cutting and puncturing the skin or any other part of the human body, or applying a dye or other substance for the purposes of colouring part of the skin. Body piercing includes such processes as acupuncture, pedicure, epilating (hair removal), body piercing, hair restoration and tattooing.
Bylaw	means the Waitomo District Council Public Health and Safety Bylaw 2023.
Council	means Waitomo District Council or any Officer authorised to exercise the authority of the Waitomo District Council.
District	means the district within the jurisdiction and under the control of the Council.
District Plan	means the Waitomo District Plan or any subsequent amendments.
Feral Animal	means an animal that is not a stray, and none of its needs are met by humans. Feral animals tend not to be in areas of human habitation.

Licensed	means holding a licence under this Bylaw or under any statute.
Nuisance	has the meaning given by section 29 of the Health Act 1956 and its amendments and applies to a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place.
Occupier	means the inhabitant occupier of any property, and in any case where any building, house, tenement, or premises is or are unoccupied shall be deemed to include the owner as hereinafter defined.
Offence	includes any act or omission in relation to this bylaw for which any person can be punished either on indictment or by summary process.
Fire in Open Air	has the meaning given by section 6 of the Fire and Emergency New Zealand Act 2017.
Owner	means any person for the time being entitled to receive the rent of any property, or as applied to any land, building, or premises, or who would be so entitled if the same were let to a tenant at a rent, and where any such person is absent from New Zealand, shall include their attorney or agent.
Person	includes a corporation sole and also a body of persons, whether corporate or unincorporated.
Poultry	means any domesticated bird including fowl, ducks, geese, turkeys, guinea fowl, pheasants and pigeons.
Premises	means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands, buildings, and places adjoining each other and occupied together shall be deemed to be the same premises.
Public Place	means an area that is open to or used by the public, whether free or on payment of a charge which is under the control of Council. This includes: <ul style="list-style-type: none"> • Any road whether or not it is under the control of Council • Reserves • Parks • Domains • Beaches and foreshore • Recreational grounds • Camping grounds.
Road	has the meaning given in section 2 of the Land Transport Act 1998.
Stray Animal	means a domestic animal which has become lost or abandoned. Stray animals tend to live in areas of human habitation and their needs are indirectly met by humans.

Stock	includes any cow, bull, ox, heifer, steer, sheep (includes any ram, ewe, wether, lamb), goat or kid, horse, donkey, mule, calf, boar, sow, pig, llama, alpaca or deer of any kind, but excludes any animal that is under harnessed control.
Traditional tattooing	means the practice of making indelible marks in human skin or tissue by inserting pigments or dyes into punctures made in the skin or tissues using traditional tattooing practices that have recognised cultural significance, such as: ta moko undertaken by artists under tikanga-māori, Tatau, or uhi.
Urban Area	Means any of the towns situated within the District and includes any community consisting of ten or more dwellings with or without any ancillary commercial building.
Vehicle	has the meaning given in section 2 of the Land Transport Act 1998.

- 4.2. A word or expression used in this Bylaw has the same meaning as it has from time to time in the relevant legislation as covered by the Legislation Act 2019.
- 4.3. Guidance notes are for information purposes only, and do not form part of the Bylaw.

5. General Public Nuisance

5.1. General Nuisance

- 5.2. No user of a public place may cause nuisance to the general public or to the public place itself.
- 5.3. Notwithstanding clause 5.2, no person without the prior written permission of Council may:
- a) use any vehicle or be in control of an animal that damages any part of a public place.
 - b) operate any vehicle in a manner that is dangerous or inconsiderate to pedestrians or other vehicles in the public place.
 - c) cause or allow any material or thing to be deposited or dropped onto a public place.
 - d) place or leave any substance or thing in a public place that is likely to be hazardous or could injure any person, or likely to create a nuisance.
 - e) deposit in or around a public litter receptacle any household, business or trade refuse.
 - f) plant any vegetation on a Council-controlled public place.
 - g) busk, or play, or perform music, for a general public audience in a public place.
 - h) damage, interfere with, destroy or remove any sign, man-made feature, natural feature, grass plot, flower bed, tree, shrub or plant or any inscription or label relating to it in a public place.
 - i) pollute, damage, deface or disfigure, apply posters, stickers or advertising devices to, or interfere with any ornament, statue, building, footpath, kerb, road (including road berm), structure, or facilities in a public place.
 - j) cause or permit to be done any act whatsoever by which damage is caused to any public place, or any work or thing in, on, over or under the public place.
 - k) may construct or place anything on or over a public place.

5.4. Fires in open air

- 5.5. No person shall light any fire in open air where the location, wind, or other conditions cause or are likely to cause the fire to become:
- a) a smoke or ash nuisance to any person, and/or
 - b) an odour or fumes nuisance to any person.
- 5.6. Where a fire in the open air has been lit or allowed to burn that in the opinion of any authorised officer or agent of the Council creates a nuisance, the authorised officer or agent of the Council may extinguish any such fire or direct the occupier of the premises on which the fire is located, or the person who lit the fire, to extinguish such fire.
- 5.7. Where an authorised officer or agent of the Council has extinguished a fire pursuant to clause 5.6, the Council may recover any costs incurred in extinguishing the fire from the occupier of the premises on which the fire was located, or the person who lit the fire.

6. Specific Public Health Provisions

6.1. Keeping of Animals, Poultry and Bees.

- 6.2. No person shall keep any pigs in an urban area within the District.
- 6.3. Any person keeping stock in an urban area must ensure that premises where stock is kept are secure and meet such conditions as may be prescribed by an authorised officer.
- 6.4. No person shall operate a feedlot or stock standoff area that is:
- a) within 30m from the boundary with adjacent property not in the ownership of the same person on whose land such facilities are operated, and/or
 - b) within 150m from any residence on an adjoining premises.
- 6.5. No person, shall, without having first obtained the written approval of Council keep, have in their possession or control any stallion within an urban area.
- 6.6. No person, shall, without having first obtained the written approval of Council keep, have in their possession 5 or more poultry within an urban area.
- 6.7. No person may keep a rooster in an urban area.
- 6.8. Any person keeping poultry in an urban area, caged or otherwise, must house the poultry in a properly constructed poultry house covered with a rainproof roof and flooring constructed of concrete or other similar material with a surrounding nib wall, to which a poultry run may be attached. A poultry house and run must also:
- a) be enclosed to confine the poultry, and
 - b) be maintained in good a clean condition free from any offensive smell or overflow and vermin.
- 6.9. No poultry house or poultry run shall be erected or maintained, so that any part of it is within 10m from any dwelling, factory, or any other building, whether wholly or partially occupied, or within 2m of the boundary of adjoining premises.
- 6.10. No person shall keep on any premises in an urban area any noisy animal, which causes a nuisance to residents in the neighbourhood.

- 6.11. No person shall keep bees in an urban area if in the opinion of an authorised officer the keeping of bees is, or is likely to, become a nuisance or annoyance to any person or potentially dangerous to health.
- 6.12. No person may keep hives on a premises less than 1000m².
- 6.13. A maximum of 2 hives may be kept on any premises in an urban area greater than 1000m² where:
- a) the premises is not adjacent to an educational or community facility; and
 - b) the hives are located at least 5m from any boundary.

6.14. Feral or Stray Animals

- 6.15. No person shall provide sustenance, harbourage or comfort to an animal that reasonably appears to be a feral or stray animal to cause the animal to become a nuisance to other people.
- 6.16. Where an animal that is causing a nuisance reasonably appears to be a feral or stray animal, the owner or occupier of the premises from which such animals reside must abate the nuisance caused by the animal(s). Abatement may include but is not limited to:
- a) claiming the animal(s) 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 that the Council will remove the animal and the owner or occupier will pay the Council's reasonable costs.

Guidance note:

Under the Wild Animal Control Act 1977, the Department of Conservation (DOC) is responsible for managing all wild animals on DOC land. If an animal under DOC control causes a nuisance in any Council-controlled public place, Council will work collaboratively with DOC to resolve the issue.

7. Body Piercing

7.1. Application of Bylaw

- 7.2. Those persons who manage or own a premises providing services of body piercing as defined in section 4 of this Bylaw must:
- a) Obtain a licence from the Council before commencing operation; and
 - b) hold a valid licence from the council at all times that the body piercing service is offered

- 7.3. Every person defined by clause 7.2 must comply with all regulations provided in Schedule 1 of this Bylaw.

7.4. Body Piercing Licensing

- 7.5. It is the licence holder's responsibility to ensure compliance with the licence.
- 7.6. A person must only carry out body piercing on a premises licensed by Council for that purpose.

- 7.7. Council will process an application for a body piercing licence if the application is made by the owner or manager of a premises described under clause 7.6 of the Bylaw, is on the form prescribed and includes all information requested by the Council and the required licence fee.
- 7.8. A body piercing licence will be granted by Council, if and only if the Council is satisfied that the premises and the proposed body piercing service will comply with:
- a) The requirements of all relevant Acts and Regulations,
 - b) The relevant provisions of the District Plan,
 - c) Relevant New Zealand and Australian Standards including AS 4031:1992 (Non-reusable containers for the collection of sharp medical items used in health care areas), AS 2182:1998 (Sterilisers – steam - benchtop), AS 2773:2019 (Ultrasonic cleaners for health service organisations), NZS 4303:1990 (Ventilation for acceptable indoor air quality), NZS 4304:2002 (Management of Healthcare Waste), and AS/NZS 4261:1994 (Reusable containers for the collection of sharp items used in human and animal medical applications),
 - d) The Ministry of Health's current Guidelines for the Safe Piercing of Skin (1998).
- 7.9. Council may require the person applying to complete a test to show that they are familiar with these documents.

7.10. Transfer of Licensing

- 7.11. A body piercing licence may not be transferred to another person or to another premise.
- 7.12. The person holding the body piercing licence will be responsible for ensuring that the provisions of this part of the Bylaw are complied with and that all persons working on the premises of the body piercing operation are adequately trained and supervised to prevent any breach of the requirements of this Bylaw.
- 7.13. A body piercing licence must be displayed in a part of the premises to which the licence relates. The licence must be displayed in an area where the public has access to so that any member of the public or authorised officer can easily see it when visiting the premises.
- 7.14. Council will specify the date that the licence expires; this date will be recorded on the licence. The licence holder must apply for a renewal of expired licences if body piercing is to continue. Applications for renewal of licences will be assessed as if it were a new application.
- 7.15. Council may grant a licence on such terms and conditions as are deemed necessary. The person applying must comply with any terms and conditions specified in the licence in addition to the general requirements for body piercing set out in schedule 1 of the Bylaw.

7.16. Exemptions from Licensing Requirement

- 7.17. Clauses 7.1 to 7.15 of the Bylaw does not apply to body piercing carried out in the practice of medicine, dentistry, nursing, physiotherapy or podiatry by:
- a) A health practitioner registered with the relevant authority in accordance with the Health Practitioners Competence Assurance Act 2003.
 - b) An acupuncturist who is a member of a professional body that is generally recognised by acupuncturists in New Zealand as providing representation of acupuncturists and setting practice standards, such as the New Zealand Acupuncture Standards Authority or Acupuncture New Zealand.
 - c) Traditional tattooing.

- d) A person acting under the direction or supervision of any of the persons described in paragraphs (a) and (b) above.

7.18. The requirement to obtain a licence for body piercing premises does not apply if a person carries out any body piercing in any temporary structure or premises for a maximum period of five days in any 30-day period, if the person carrying out the body piercing complies with the requirements in Schedule 1 of the Bylaw.

8. Administration of Bylaw

8.1. Offences

8.2. No person shall do anything or cause any condition to exist, for which a licence or approval from Council is required under this Bylaw without first obtaining that licence or approval. Failure to do so shall constitute a breach of this Bylaw.

8.3. Any person commits an offence under this Bylaw who:

- (a) Does, or causes to be done, or permits or suffers to be done, or is concerned in doing, anything that fails to comply with the provisions of this Bylaw; or
- (b) Omits, or neglects to do, or permits, or suffers to remain undone, anything which according to the true intent and meaning of this Bylaw, ought to be done at the time and in the manner therein provided; or
- (c) Does not refrain from doing anything which under this Bylaw he or she is required to refrain from doing; or
- (d) Permits or suffers any condition of things to exist contrary to any provision contained in this Bylaw; or
- (e) Refuses or neglects to comply with any notice duly given under this Bylaw; or
- (f) Obstructs or hinders any officer of the Council in the performance of any duty to be discharged by such officer under or in the exercise of any power, conferred by this Bylaw: or
- (g) Fails to comply with any notice or direction given in this Bylaw

8.4. Penalties

8.5. The Council may use its powers under the Local Government Act 2002 and the Health Act 1956 to enforce this bylaw.

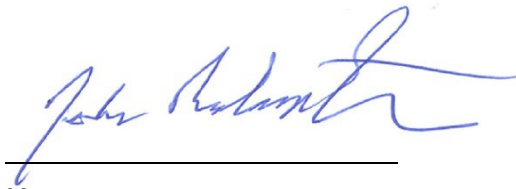
8.6. A person who fails to comply with this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002 and/or the Health Act 1956.

8.7. Fees and Charges

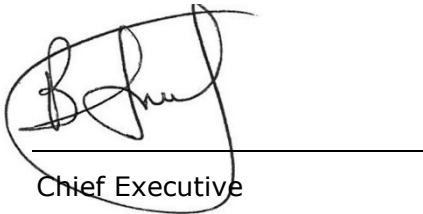
8.8. The fees for any licence, authority, approval, consent given, inspection made or service given by Council and any other matter described in this Bylaw shall be as set out in Council's Fees and Charges Schedule from time to time.

Common Seal of Waitomo District Council:

The Common Seal of the Waitomo District Council
was hereto affixed in the presence of:



Mayor



Chief Executive



SCHEDULE 1 | WAHANGA 1

1. General Requirements for Body Piercing

- 1.1 The person holding the licence must ensure all body piercing activities on the licenced premises comply with the following to the extent that they are relevant to the body piercing premises and service.
- (a) The requirements of all relevant Acts and Regulations
 - (b) The relevant provisions of the District Plan,
 - (c) Relevant New Zealand and Australian Standards including:
 - i) AS 4031:1992 (Non-reusable containers for the collection of sharp medical items used in health care areas),
 - ii) AS 2182:1998 (Sterilisers – steam - benchtop),
 - iii) AS 2773:2019 (Ultrasonic cleaners for health service organisations),
 - iv) NZS 4303:1990 (Ventilation for acceptable indoor air quality),
 - v) NZS 4304:2002 (Management of Healthcare Waste), and
 - vi) AS/NZS 4261:1994 (Reusable containers for the collection of sharp items used in human and animal medical applications),
 - (d) The Ministry of Health's current Guidelines for the Safe Piercing of Skin (1998).
- 1.2 It is the responsibility of the licence holder to ensure that no jewellery thinner than 14 gauge is used below the neck.
- 1.3 Body piercing must not be carried out on any person less than 16 years of age without the written permission of that person's parent or guardian.
- 1.4 A notice must be displayed in a prominent place within the public part of the premises asking customers to inform the licence holder if they have any communicable or infectious disease, which is likely to have an effect on body piercing.
- 1.5 If the licence holder or any other employee at the body piercing premises knows or suspects that they or any other staff member, whether paid or unpaid is suffering from or is carrying a skin infection or a communicable disease, or associated condition, body piercing must not be carried out, without first taking adequate precautions to prevent the transmission of that infection, disease or condition.
- 1.6 Before beginning body piercing on a customer, the customer must be advised of the risks associated with body piercing and the potential for infection to occur during and after the process. Written advice appropriate to the procedure to be undertaken must be given, in relation to precautions and post-piercing procedures, which should be followed by the customer.
- 1.7 Before beginning body piercing on a customer, the customer must be given the opportunity to inform the person undertaking the service if they know or suspect that they have any of the below diseases or conditions and sign a consent form as a recording the following:
- (a) Whether they have any reason to believe they have a communicable disease or skin disease.
 - (b) Whether they have a history of haemophilia (bleeding).
 - (c) Whether they are taking any medication, such as anticoagulants, which thin the blood or interfere with blood clotting.
 - (d) Whether they have a history of allergies or adverse reactions to pigments, dyes or other skin sensitivities, or a history of epilepsy or seizures.
- 1.8 The person carrying out the service may decline to carry out any body piercing based on the information provided in clause 1.7 of this schedule, or may agree to carry out

the body piercing subject to such conditions and safeguards that are considered appropriate in the circumstances, as per the advice in the Ministry of Health's current Guidelines for the Safe Piercing of Skin (1998):

In the situation where an operator decides to undertake a piercing on a client with a known infectious illness, all universal precautions should be taken as outlined in the guideline to ensure risk of disease transmission is minimised.

- 1.9 Nothing in this section of the Bylaw requires the licence holder or person carrying out the service to perform body piercing on any person.
- 1.10 The licence holder must keep records of the names, phone numbers and addresses of any person who undergoes body piercing at the premises, the date on which the body piercing was carried out, the nature of the body piercing, and the location on the body where the body piercing was undertaken. Those records must be kept for at least three years and made available to an Environmental Health Officer, Health Protection Officer or a Medical Officer of Health as defined in the Health Act 1956 who is carrying out any investigation pursuant to Part III of the Health Act 1956 or the Health (Infectious and Notifiable Diseases) Regulations 1966.
- 1.11 A copy of this Bylaw and the Ministry of Health's current Guidelines for the Safe Piercing of skin must be kept on the premises and must be freely available for reading by any person employed on the premises and by any person attending the premises for the purpose of undergoing any body piercing.
- 1.12 Where Council is satisfied that compliance with any requirement of this part of the Bylaw would be impractical or unreasonable having regard to the premises and body piercing service in question, Council may grant a written exemption from the requirement. The exemption will be granted on such terms and conditions, as are considered desirable in the interest of public health.

2. Guidelines | Aratohu

See the Ministry of Health's current Guidelines for the Safe Piercing of Skin (1998)
<https://www.health.govt.nz/system/files/documents/publications/skinp.pdf>