

**HOROWHENUA DISTRICT COUNCIL
STOCK CONTROL AND KEEPING OF POULTRY, BEES AND PIGS
BYLAW 2005**

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Horowhenua District Council
STOCK CONTROL AND KEEPING OF POULTRY, BEES AND PIGS
BYLAW 2005

INTRODUCTION

PREAMBLE

1. In pursuant, and exercise of the powers conferred upon it by the Bylaws Act 1910, the Local Government Act 2002, the Transport Act 1962, and the Stock Impounding Act 1955 and their respective amendments, and of every other power and authority in this respect so enabling it, the Horowhenua District Council hereby by Special Order makes and ordains the Bylaw set out hereunder.
2. This Bylaw will be in force throughout the whole of the District of Horowhenua, or any specific part of the District as required.

TITLE AND COMMENCEMENT DATE

3. A This Bylaw shall be known and referred to as the Horowhenua District Council Stock Control and Keeping of Poultry, Bees and Pig Bylaw 2005.
B This Bylaw shall come into force on 13 July 2005.

REPEAL

4. As from the date on which this Bylaw comes into force the Horowhenua District Council Stock Control Bylaw 1999 and the New Zealand Standard Model General Bylaw Part 13 are repealed.

PURPOSE

5. The purpose of this Bylaw is to make better provision for the control of stock, and the keeping of other animals within the Horowhenua District.

INTERPRETATIONS

6. In this Bylaw, except where inconsistent with the context the following terms shall have the legal or existing (common) understanding of the terms stated:

“Adult” a person over the age of 15 years.

“Approved Crossing” a crossing designed and constructed in compliance with the requirements of Council’s policies.

“Approved Underpass” an underpass designed and constructed in compliance with the requirements of Council’s policies.

“Boundary Fence” a fence, as defined in Section 2 of the Fencing Act 1978, which separates a road from adjoining property.

“Carriageway” that part of a road constructed or laid out for use by vehicular traffic, and includes:

- (a) Any metal shoulder edging, kerbing and channelling thereof; and

(b) A footpath as defined in Section 315 of the Local Government Act 1974.

“Control point” a position from which an adult drover can exercise effective control over stock.

“Council” the Horowhenua District Council or its lawful successor.

“Drove” the foot movement of stock

and “driven” and “droving” shall have equivalent meanings.

“Farm” any parcel or parcels of land occupied and operated as a single farming unit, irrespective of ownership.

“Gateway” any entrance in a boundary fence which allows entry to or exit from a road.

“Hours of Daylight” the period of time between half an hour before sunrise and half an hour after sunset on the same day.

“Officer”, Animal Control Officers, or any other person that is appointed by Horowhenua District Council to carry out or exercise the duties of an Inspector under the requirements of this Bylaw.

“Owner” in relation to stock, means every person who:

- (a) Owns the stock, or
- (b) Is responsible for the care and custody of the stock, whether the stock is at large or in confinement.

“Public Place”

- (a) Every thoroughfare (other than a road as defined in this Bylaw) of a public nature or open to or used by the public as of right; and
- (b) Every park, reserve, beach, riverbed, place of public resort or place to which the public has access (within the District).

“Road” a road as defined in Section 315 Local Government Act 1974 and Section 2 of the Transport Act 1962 but excluding an unformed paper road.

“Road Verge” that part of a road which is not the carriageway (this includes the term “roadway”).

“State Highway” has the meaning attributed to it by Section 2 of the Transit New Zealand Act 1989.

“Stock” any four legged hoofed animal not in a wild state.

“Stock Droving Race” land fenced and used for droving stock and includes a stock droving race laid off in whole or in part on a verge with the prior written consent of the Council, in its unfettered discretion.

“Temporary Fence” has the meaning attributed to it by Clause 13.1 of this Bylaw.

“Warranted Officer” any person who is for the time being a Warranted Officer within the meaning of the Conservation Act 1987.

OBLIGATIONS OF STOCK OWNERS

7. (1) The obligations imposed on stock owners by this Bylaw, require every owner of stock.
 - (a) To ensure that the requirements of this Bylaw are complied with.
 - (b) To ensure stock are kept under control at all times.
 - (c) To take all reasonable steps to ensure that stock do not damage or endanger any property belonging to any other person.
- (2) Nothing in this Bylaw limits the obligation of the owner of any stock to comply with the requirements of any other Act, or of any regulations or bylaws regulating the control, keeping, and treatment of stock.

ANIMAL CONTROL OFFICERS

- 8.1 The Council, may by resolution, from time to time appoint any person or persons as an Animal Control Officer to administer the provisions of:
 - (i) This Bylaw
 - (ii) The Stock Impounding Act 1955
- 8.2 The Council may also appoint such other persons to administer the provisions of this Bylaw, as may be required.

WARRANT OF AUTHORITY

9. The Council shall supply Animal Control Officers or any other person appointed to administer the provisions of this Bylaw, with a Warrant of Appointment, which shall be carried and produced as evidence of their identity.

ANIMALS WANDERING

- 10.1 Every person being the owner or having the care, custody or control of any stock shall keep and prevent the same from wandering or being at large without proper control on any public place or road.
- 10.2 In the event of stock wandering or being at large without proper control on any public place or road, the owner of such stock is responsible for all fees and costs incurred by Council, or its agents, to secure same, where responsibility can be proved.

LOITERING

11. No person shall allow stock under their control or charge to loiter in any public place.

ROADSIDE GRAZING

- 12.1 Stock may be grazed on a road verge adjoining land owned or occupied by the owner of the stock, or on a road verge adjoining land of another person with the prior consent of that person, if:
 - (a) The stock is confined within a temporary fence in accordance with the provisions of Clause 13, or

- (b) The stock are controlled by a sufficient number of adult drovers to prevent the stock from obstructing the carriageway and from wandering beyond the control points.
- 12.2 No person shall graze any stock on a road during the hours of darkness, in any urban or rural area, or in an area which is zoned residential or rural residential in the District Plan.
- 12.3 No bulls are allowed to graze on road verges.
- 12.4 No person shall tether or otherwise put or place any stock for the purpose of depasturing or grazing the same on any public place without the written permission of the Council. A Council permit will on approval be issued for this purpose.
- 12.5 An owner of stock who grazes the same on the road verge in accordance with this Bylaw does so at the owner's risk in all respects.
- 12.6 State highway grazing would require a consent for temporary fencing from Transit New Zealand, however, the requirements of temporary fencing, Clause 13.1 to 13.6 do apply.

TEMPORARY FENCING

- 13.1 For the purpose of this clause a "temporary fence" means an adequate stock proof fence erected on the road verge for grazing purposes which is constructed of:
 - (a) Securely driven or rammed posts or stakes made of fibreglass, plastic or wood or any combination of these of a size not greater than 100mm width and 50mm depth;
 - (b) Steel wire or netting or electric fence braided wire or netting or any combination of these adequately strained, battened and stayed.
 - (c) Temporary one wire electric fences are allowed to be used for grazing pastures for a duration of one (1) day or less.
- 13.2 Fence and edge of race shall be no closer than 1 metre, where appropriate, from the edge of any road, except at existing water tables which shall be avoided.
- 13.3 A temporary fence may only be erected on one side of a road at any one time. (Where different occupiers on opposite sides of the road each wish to erect a temporary fence they must make their own, compatible, arrangements.)
- 13.4 Safety reflectors, eg adhesive reflective strips visible from the left hand approach shall be fitted to both ends of the temporary fence and to posts or stakes at not more than 50 metre intervals along the length of the temporary fence.
- 13.5 If the temporary fence is electrified appropriate "live wire" warning signs shall be fitted to the fence.
- 13.6 No temporary fence can be erected without a Council Permit issued in the name of the stock owner. Any permit issued is not transferable to any other person. The permit requirement for a temporary fence is only in respect of temporary fences of the nature stated in clause 13.1 (a) and (b).

DROVING OF STOCK

- 14.1 Stock may be driven along or across a road during the hours of daylight if a person or animal is clearly visible at a distance of 100 metres, or warning given that stock are being moved.

- 14.2 No person shall drive stock along or across a road during the hours of darkness unless clear warning signs (eg hazard lights or other effective devices) are visible.
- 14.3 In the case of an emergency or escape, Clause 14.2 requirements should apply as soon as possible (in order to warn other road users).

GENERAL CONDITIONS FOR DROVING OF STOCK

- 15.1 No person shall drive stock along the State Highways without first notifying Transit New Zealand, two working days in advance, the time, date and place of the stock drive, so that Transit New Zealand or the Police may be in attendance if assistance is considered necessary.
- 15.2 Stock shall be driven so as to cause the least possible disruption to other road users. The driver shall allow any vehicle to proceed along the road and take all reasonable steps to make way for or allow such vehicle to pass.
- 15.3 At all times during driving of stock:
- a) warning signs are to be displayed indicating clearly that stock is on the road, or pilot vehicles are operated in front and behind such stock.
 - b) the stock being driven are controlled by sufficient drivers to ensure that continuous progress is made towards the destination.
 - c) stock are driven in such a manner and use only such points of exit and access to and from the road that will ensure danger to other road users and damage to the road flanks will be minimised.

Note: At all times stock must be controlled in a means that are suitable to the conditions of the road being used, and normal right of way rules apply in respect of other road users.

- 15.4 All reasonable efforts shall be made to ensure that stock are kept:
- (a) On the road way and off any adjoining property. (Gateways where fitted must be closed before stock pass.)
 - (b) Away from trees, shrubs or flower beds planted by Council on the road verge.
- 15.5 All injured or dead stock shall be removed from the carriageway immediately, and from the road verge as soon as possible thereafter but in any event on the same day.
- 15.6 Any person seeking dispensation from compliance with any of the requirements of Clause 15.1 may not less than two working days before the drive is to commence make application to the Council in writing setting out the grounds upon which a dispensation is sought.
- 15.7 Permits for driving are not required unless any part of State Highways are used.

ADDITIONAL PROVISIONS RELATING TO DROVING OF DAIRY STOCK FOR MILKING PURPOSES

- 16.1 For the purposes of this clause:
- (a) "Dairy Unit" means a farm used for milk production.

- (b) "Split Dairy Unit" means a dairy unit where parts of that unit are physically separated by a road, river, stream or other natural barrier or by land occupied by another person.
- (c) "Milking Purposes" means the movement of dairy stock to or from a shed for milking, but does not extend to the movement of dry stock or dairy stock for any other purpose.
- (d) "Existing Drove Use" means a regular practice of droving dairy stock for milking purposes established before 1 December 1992, in respect of which written notification was given to the Council prior to 1 June 1993 and which:
 - (i) Continues to utilise the same route; and
 - (ii) Is of the same or similar character intensity and scale;specified in that written notification.

16.2 Dairy stock shall not be driven for milking purposes along or across any road in circumstances where those dairy stock may be lawfully and reasonably driven to their destination over other land, owned or managed by the owner of the stock.

16.3 Except in accordance with an existing drove use, no road or any part of a road may be used for the purpose of regularly droving dairy stock for milking purposes without the prior written consent of the Council. Applications for consent shall be made in writing, set out the nature, extent and frequency of the droving.

16.4 Upon receipt of an application under Clause 16.3 the Council shall, within 20 working days of receipt of the application or within 20 working days of receiving any further information that the Council may request, either give its consent or refuse its consent.

16.5 Without limiting the generality of Clause 16.4, the Council may impose any one or more of the following conditions upon its consent:

- (a) Where dairy stock are to be driven across a road, gateways on each side of the road be sited (or resited) as near as is reasonably practicable opposite each other;
- (b) Where dairy stock are to be driven along a road, gateways be sited as near as is reasonably practicable to each other;
- (c) A stock droving race or stock droving races be constructed.
- (d) Suitable pavement and surfacing shall be constructed in the carriageway to the Council's satisfaction and approval at crossing points.
- (e) At all crossing points and gateways a well drained hard fill surface be constructed and maintained at the applicant's expense to the Council's satisfaction from the edge of the carriageway to the road boundary, for the full width of the crossing points and gateways.
- (f) Permanent warning signs complying with Transit (New Zealand) Manual of Traffic Signs and Markings and any other requirements imposed by statute or regulation be erected not less than 150 metres on either side of the crossing point, at Council's expense, recognising that this is a road safety measure.
- (g) An amber flashing light, in either case of a type and size approved by the Council be:

- (i) Located at or about the road crossing point so as to be visible to other road users approaching from either direction; and
 - (ii) Operated while the crossing is taking place.
- (h) All reasonable and practicable steps (by washing, scraping, shovelling, sweeping or any other means of cleaning for example use of cow mat) are to be taken to remove mud or faecal matter from the carriageway as soon as practicable at the end of use. Washing down will require a resource consent.
- (i) All reasonable measures be taken to ensure that, when dairy stock are driven along a road, they are confined to the road verge where possible.

16.6 Where the number of vehicles exceed 500 per day consideration will be given to the construction of a stock underpass at the applicant's expense to the Council's satisfaction.

NB: Transfund may offer a variable subsidy, but not greater than 25% of the total costs (including fees) for the construction of stock underpasses.

POWER TO RESTRICT DROVING

17. The Council may from time to time in extraordinary circumstances, and by Special Order prohibit or restrict the use of any road for the droving of stock. Any such prohibition or restriction may from time to time in like manner be altered or revoked. Council will give public notice of any restriction put in place on the use of roads for stock droving, and advise residents in the vicinity of the road in question, where practicable.

STOCK DROVING ROUTES

18.1 The Council may from time to time by Special Order declare specified roads to be stock droving routes for the purposes of droving stock. Any such declaration may from time to time in like manner be altered or revoked.

18.2 Any roads designed by Council as "stock routes" will have suitable signage erected.

DAMAGE TO ROADS

19.1 Where damage can be clearly identified as having been caused by the droving of stock to the carriageway, verge, any roadside marker post or sign, bridge railings or decking; ditches; boundary fences; gateways or mailboxes, the owner of the stock responsible for that damage shall take all reasonable steps to repair such damage to its previous standard. Should the owner default, the Council may undertake such works on the owner's behalf and recover the costs incurred from the owner.

ANIMAL HEALTH/DROVING

20 No person shall drove any stock on a road, or tether or graze any stock on a road verge in circumstances where such droving, tethering or grazing is in contravention of any statute, regulation code of practice or other lawful directive relating to animal health and/or the droving of stock.

FEES

21 The Council may from time to time by ordinary resolution fix the fees payable for infringements under this Bylaw, and for impoundment of stock.

STOCK IMPOUNDMENT

- 22 The Council has adopted all the requirements for the establishment and management of public pounds, trespassing and wandering stock, and the impounding of stock as part of this Bylaw and detailed in the Impounding Act 1955 and its respective amendments.

APPROVED CROSSINGS AND UNDERPASSES

- 23.1 Where a road intersects a farm and it is necessary for stock to cross that road, the Council may by written notice either require the person to use only such points of access and exit as are nearly as practicable opposite each other with a clear view either way, or require the person to install new points of access and/or exit in order to facilitate the crossing of the road of stock by the shortest most practicable route PROVIDED THAT the points of access and exit should be selected in a manner that ensures that the person can continue to conduct farming operations in an efficient manner.

- 23.2 Where a person uses any road for the purposes of moving stock along or across such road, the Council may, by written notice, require the installation of an approved crossing to prevent damage to the road, verges or watercourses.

Note: Current crossing routes are deemed existing use rights, however, the requirements of Clause 16.5(h) applies.

- 23.3 Where a person agrees to install an approved underpass, in lieu of crossing the road, the Council agrees to reinstate the road above the underpass, including the supply of materials, rails and fencing to the boundary, and advertisement of the road closure at no cost to the farmer.

- 23.4 A notice shall only be issued under subclauses 23.1 and 23.2 after the Council or a duly authorised officer has discussed or made reasonable attempts to discuss the matter with the person concerned in an effort to reach agreement on points of access and exit.

- 23.5 A person may, within thirty (30) days of the receipt by registered mail of a notice under subclauses 23.1 and 23.2 lodge an objection against that notice to the Council who shall convene a hearing committee which shall consist of a member nominated by Council, a member nominated by the person, and an independent chairman agreed to by both members of the committee. The objection shall be in writing, shall state the grounds of the objection, and shall be addressed to the Chief Executive Officer of the Council. The address for service of the objection shall be at the office of the Council.

- 23.6 Every party shall have the right to be heard personally or by counsel.

- 23.7 In determining the objection the Committee may uphold the objection wholly or partly and may abandon or modify the notice accordingly or may dismiss the objection.

- 23.8 Every determination on an objection shall include reasons for the decision and shall be given as soon as practicable after such objection has been determined.

- 23.9 The decision shall be final and binding on both parties.

STOCK RACES

- 24 No person shall use any road frontage as a stock race except in accordance with a permit and subject to such conditions as may be prescribed by Council by resolution from time to time.

DEAD STOCK

- 25.1 Owners of dead stock are responsible for their sanitary disposal within 24 hours of being advised, or finding the carcase(s), whichever applies, whether found on their property or not.
- 25.2 In the event that carcase(s) are not removed, Council may undertake such work on the owners behalf and recover the costs incurred from the owner.

FENCING

- 26.1 Owners of stock are responsible for all boundary fences on their property to ensure they are kept in good condition so stock are securely contained at all times.

PIG KEEPING

- 27 No pigs shall be kept in any area which has a predominantly urban character under the District Plan of Council.

POULTRY KEEPING (URBAN REQUIREMENTS)

- 28.1 No poultry caged or otherwise (which shall include geese, ducks, pigeons, turkeys, and domestic fowls of all descriptions) shall be kept in a predominantly urban area except in a properly constructed poultry house covered in with a rainproof roof and provided with a floor of concrete or other approved material with a surrounding nibwall, to which a poultry run may be attached.
- 28.2 No poultry house or poultry run shall be erected or maintained, so that any part of it is within 10 metres from any dwelling, factory, or any other building, whether wholly or partially occupied, or within 2 metres of the boundary of adjoining premises.
- 28.3 Every poultry house and poultry run shall be maintained in good repair, in a clean condition free from any offensive smell or overflow and free from vermin. The poultry run shall be enclosed to confine the poultry.

BEE KEEPING (URBAN REQUIREMENTS)

- 29.1 No person shall keep bees in an urban area without the permission of Council. Permission will only be given where it is believed that the keeping of bees is or is unlikely to become a nuisance or an annoyance to any person or potentially dangerous or injurious to health.
- 29.2 Conditions may be prescribed relating to the location and number of hives able to be kept on any premises or place.

OFFENCES

- 30.1 In the event of breach, (including an alleged breach) in respect of Clauses 12, 13 and 24 of this Bylaw, the Council may give written notice of the breach to the owner of the stock specifying the steps which the Council requires to be taken to remedy that breach and the reasonable time period within which those steps are to be taken, being in any event a period not exceeding 48 hours. An owner who fails to take the steps set out in the notice within the time period specified in the notice shall:
- (a) Commit an offence under this Bylaw; and
 - (b) As soon as practicable remove the stock and/or the temporary fence.

30.2 Every person committing any breach of this Bylaw shall be liable for prosecution under Section 694 and 695 of the Local Government Act 1974.

INDEMNITY

31 Under no circumstances will Council be held responsible for claims for damages in relation to compliance with any part of this bylaw.

Horowhenua District Council Stock Control and Keeping of Poultry, Bees and Pig Bylaw 2005

ATTESTATION

The foregoing Bylaw entitled the Horowhenua District Council Stock Control and Keeping of Poultry, Bees and Pig Bylaw 2005 was duly made by Special Order at an ordinary meeting of the Horowhenua District Council held in the Council Chambers, 17 Bath Street, Levin, on the 30th day of March 2005 (and meantime having been publicly notified), confirmed at an ordinary meeting of the said Council held on the 13th day of July 2005, and at such meeting last aforesaid ordered to come into force on the 13th day of July 2005..

The Common Seal of the)
Horowhenua District Council)
was hereunto affixed pursuant to)
a resolution of the said)
Council in the presence of)

..... His Worship the Mayor

..... Chief Executive

STOCK MOVEMENT AND RESTRICTIONS

The following restrictions on stock droving apply:

Prohibited

- Stock droving State Highway 1 Foxton south boundary to Horowhenua District southern boundary

Permitted

- Stock crossing on SH 1 Foxton south boundary to Horowhenua District southern boundary

Note: These restrictions are beyond the control of Council, however, an option exists for a direct approach by individuals to be made to Transit on this if necessary.

Rural Roads

- All rural roads in the District can be used to drive stock on.

Stock Routes

- SHANNON. The present stock route from Engles Road, along Clapham Street to Stafford Street, to Plimmer Terrace and north on Plimmer Terrace to Otaura Road (just north of the bridge)
- FOXTON. The present stock route from Hickford Road to Donnelly Road, across State Highway 1 into Victoria Street and into Bergin Road
- FOXTON. From Purcell Street into Brown Street and into Union Street (east of Brown Street).
- LEVIN. The present stock route Kawiu Road and into Lindsay Road.

NOTE

Council's permission is required for the movement of stock on any other roads other than Rural Roads or designated Stock Routes.

**Schedule B
to Horowhenua District Council Stock Control
and Keeping of Poultry, Bees and Pig Bylaw 2005**

**PROCESS PROCEDURE OPTIONS FOR MATTERS
PERTAINING TO THIS BYLAW**

This schedule is to outline in general terms, options available in respect of disputes or clarification matters, pertaining to the enforcement of the requirements of this bylaw, and in particular Clauses 23.2 and 23.4.

Process Steps

1. Enforcement/Warranted Staff of Council, then
2. Manager Animal Control, then
3. Manager of Environmental Services, then
4. Councillor, then
5. Delegated Subcommittee of Council, then
6. Hearings Committee of Council, then
7. Full Council, then
8. Dispute Hearing