



**PALMERSTON NORTH CITY**

**PALMERSTON NORTH  
URBAN FIRE CONTROL BYLAW 2016**

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# PALMERSTON NORTH URBAN FIRE CONTROL BYLAW 2016

## PART ONE - INTRODUCTION

### 1. TITLE

- 1.1 The title of this Bylaw is the Palmerston North Urban Fire Control Bylaw 2016.

### 2. PURPOSE

- 2.1 This Bylaw is made under the Local Government Act 2002. The purpose of this Bylaw is:
- (a) To allow Council to exercise control over burning in the open air in urban areas of the District and prevent smoke from fires in the open causing a nuisance;
  - (b) To prevent the spread of fires involving vegetation.

### 3. COMMENCEMENT

- 3.1 This Bylaw was adopted by the Council on 26 September 2016 and comes into force on 17 October 2016.

### 4. REPEAL

- 4.1 The Palmerston North Nuisance Bylaw 2011 is repealed at midnight 16 October 2016.

### 5. DEFINITIONS

- 5.1 For the purposes of this Bylaw the following definitions shall apply:

**Acceptable means of fire suppression** means a hose connected to a reticulated water supply or an alternative means of fire suppression approved in writing in a particular case by the authorised officer.

**Authorised Officer/Agent** means an officer or an agent appointed by the Council and given powers to perform duties, and functions under this Bylaw, and for clauses 11.1 – 11.4

	includes the New Zealand Fire Service.
<b>Barbecue</b>	means any fixed or portable gas, liquid or solid fuel burning equipment or device designed or intended for cooking food in the open air.
<b>Council</b>	means Palmerston North City Council.
<b>District</b>	means the area within the territorial boundaries of the Palmerston North City Council.
<b>Ethnic cooking fire</b>	means any hangi, umu or similar fire constructed in a pit in the ground in the open air used for the preparation of food using ethnic cooking methods.
<b>Incinerator</b>	means a container which is made of non-combustible materials, used for burning waste material.
<b>Incinerator fire</b>	means a fire within an incinerator.
<b>Open air fire</b>	means any fire lit other than in a dwelling or other enclosed building and includes incinerator fires and ethnic cooking fires and barbecues.
<b>Prohibited fire season</b>	means the period of time, whether fixed or indefinite, during which the lighting of fires in the open air is prohibited in accordance with clause 9 of this Bylaw.
<b>Urban area</b>	means the areas illustrated as Urban in the Rural and Urban Fire Districts Map contained in the Administration Manual.

## **PART TWO – GENERAL FIRE CONTROL**

### **6. GENERAL**

- 6.1 Nothing in this Bylaw shall be regarded as derogating from the provisions of the Forest and Rural Fires Act 1977 and Forest and Rural Fires Regulations 1979 or replacement legislation or regulations.

## **PART THREE – OPEN AIR FIRES**

### **7. OPEN AIR FIRES REQUIRE PERMIT**

- 7.1 No person may light an open air fire in the urban area without an open air fire permit issued by the Council, or as provided for in this Bylaw.
- 7.2 Notwithstanding clause 7.1, an area identified as “Urban but Rural Permit Required” in the Rural and Urban Fire Districts Map contained in the Administration Manual does not require a permit under this Bylaw. A rural fire permit issued under the Forest and Rural Fires Act 1977, or any replacement legislation, may be required.
- 7.3 Notwithstanding clause 7.1, a permit is not needed where the open air fire is a barbecue or an ethnic cooking fire.

### **8. CONDITIONS FOR LIGHTING FIRES IN THE OPEN AIR**

- 8.1 All open air fires, whether they require a permit or not, shall be subject to the conditions listed in Part 2 of the Administration Manual
- 8.2 An open air fire may be subject to restrictions, controls or conditions under the Manawatu-Wanganui Regional Council Regional Air Plan or Operative One Plan. Where there is any discrepancy between this Bylaw and the Regional Air Plan or the Operative One Plan regarding the lighting of open air fires, the Regional Air Plan or the Operative One Plan prevails.

### **9. PROHIBITED FIRE SEASON**

- 9.1 An authorised officer may at any time declare a prohibited fire season within the District, or in any specified part or parts thereof, and may at any time cancel or vary such declaration.
- 9.2 In a prohibited fire season, despite any permits issued under this Bylaw, no person shall light any open air fire.

9.3 Clause 9.2 does not apply to any barbecue fuelled by gas or any ethnic cooking fire unless an authorised officer considers that it is necessary in certain circumstances to prohibit their use.

**10. PUBLIC NOTICE OF PROHIBITED FIRE SEASON**

10.1 Public notice of a prohibited fire season being declared under clause 9.1, or the declaration being cancelled or varied shall be made by:

- (a) Broadcast or other similar means within the District; or
- (b) A notice inserted in both a daily and a community newspaper circulating within the District; or
- (c) Any effective means.

## **PART FOUR – ENFORCEMENT OF FIRE RESTRICTIONS**

### **11. FIRES MAY BE EXTINGUISHED OR SUPPRESSED**

- 11.1 Where a fire has been lit or allowed to burn in breach of this Bylaw or is causing a smoke or ash nuisance, any authorised officer 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 the fire.
- 11.2 Where an authorised officer has extinguished or suppressed a fire pursuant to clause 11.1, the Council may recover any costs incurred in extinguishing or otherwise suppressing the fire from the occupier of premises on which the fire was located, or the person who lit the fire.
- 11.3 Where the occupier of premises upon which an open air fire is located, or person who lit such a fire, disregards a direction by an authorised officer under clause 11.1 to extinguish the fire, the authorised officer may extinguish the fire and to take such other steps as may be reasonably necessary to ensure the safety of any person or to protect the premises, or any other property.
- 11.4 The Council may recover from the occupier of the premises, or the person who lit the fire, any costs incurred by it as a result of an authorised officer taking any action under clause 11.3.

## **PART FIVE – FIRE RISK MANAGEMENT**

### **12. LIVE ASHES**

- 12.1 No person shall place any live cinders, embers or ashes on any premises other than:
- (a) In a container made and constructed of concrete or other similarly fire resistant material to prevent the transmission of heat to any combustible material; or
  - (b) In a pit or upon any fire-resistant substance in a manner which will prevent the spreading of fire or heat by the action of wind or otherwise; or
  - (c) As part of an ethnic cooking process including hangi or umu.

### **13. STORAGE OF COMBUSTIBLE MATERIALS IN THE URBAN AREA**

- 13.1 Except as provided in 13.2 and 13.3, no occupier of any premises in the urban area shall permit the storage or stacking in the open of any combustible material, unless the distance of the stack from the property boundary other than a street boundary is at least equal to the height of the stack, but in any case not less than 1.4 metres (see figure 1 for illustration).

- 13.2 A stack may be placed closer to the boundary than the distance specified in 13.1 if a brick, stone, or concrete wall extending not less than 450 millimetres above and not less than 1.4 metres beyond the length of the stack, is situated between the stack and the boundary (see figure 2 for illustration).
- 13.3 A stack may, with the written approval of the owner or occupier of the adjoining property and of an authorised officer, be placed closer to the boundary than the distance specified in 13.1 where any of the following conditions continue to exist:
- (a) Where there is a brick, stone or concrete wall as defined in clause 13.2 without openings situated on the adjoining property and within 1.4 metres of the common boundary; or
  - (b) Where there are no buildings on the adjoining land; or
  - (c) Where there is no danger of a stack adjacent to a boundary increasing the risk of the spread of fire.

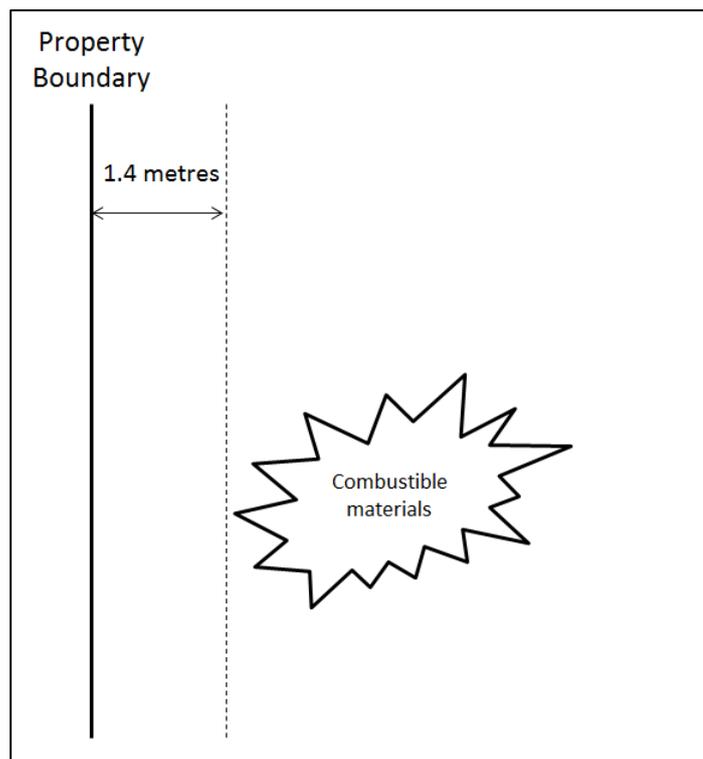


Figure 1: minimum distance permitted between stack of combustible materials and property boundary (refer clause 13.1)

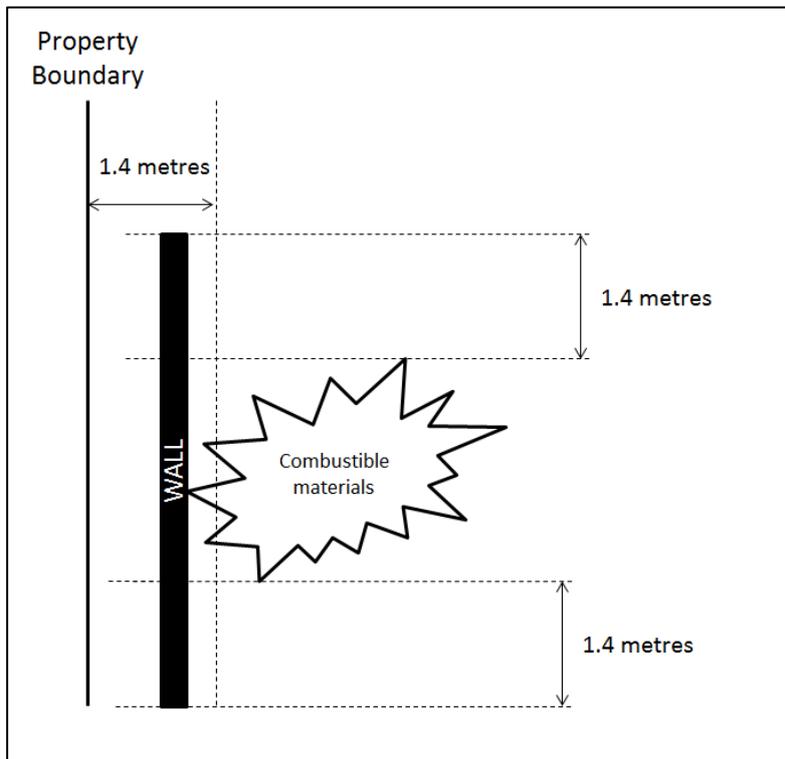


Figure 2: stack of combustible materials permitted closed than 1.4 metres to property boundary if separated by a wall, extending 1.4 metres past the edge of the stack (refer clause 13.2)

#### 14. STORAGE OF HAY OR SILAGE IN THE URBAN AREA

- 14.1 No occupier of any premises in the urban area shall permit the storage or stacking in the open of more than three cubic metres of hay, or similar material unless the distance of the stack from any building, boundary, fence, private road, public space or adjacent land is not less than six metres and the intervening space is at all times kept free from any rubbish or obstruction of any kind.
- 14.2 No occupier of any premises in the urban area shall permit the storage of more than one cubic metre of hay or similar material in any building attached to, or at a distance of less than six metres from, any other building unless the first mentioned building has a roof of approved fire-resistant material and walls constructed wholly of brick, stone or concrete or other fire resistant materials or any combination of brick, stone and concrete or other fire resistant materials and complying with the specifications mentioned in clause 13.2.
- 14.3 The provisions of clause 14.2 shall not apply in any case where agricultural produce required for the keeping of stock is kept or stored in any building used only for the purpose of or in connection with housing stock.

## **PART SIX – ADMINISTRATION**

### **15. PERMITS**

- 15.1 Where an activity under this Bylaw requires a permit from the Council, the person seeking a permit must:
- (a) Complete the required application form;
  - (b) Pay the applicable fee;
  - (c) Comply with any requirements set as conditions of that permit.
- 15.2 A permit may include, in addition to conditions incorporated by this Bylaw, conditions that the Council considers are reasonably necessary to manage the effects of the activity, achieve the objectives of this Bylaw and minimise the risk of nuisance.
- 15.3 For the avoidance of doubt, and only in exceptional circumstances, the Council may grant a permit for an activity that would otherwise contravene this Bylaw.
- 15.4 A permit is personal to the applicant and is not transferable.
- 15.5 A permit for an open air fire shall be issued for a fixed period of time not exceeding 12 months.
- 15.6 An authorised officer may revoke or suspend any permit issued under this Bylaw at any time, or suspend for such periods of time, on such terms and conditions as the authorised officer may consider appropriate in the circumstances to protect public health and safety or to minimise nuisance.
- 15.7 The Council must provide the New Zealand Fire Service Central Communications Centre with a copy of each permit issued under this Bylaw and, if its details do not appear on the permit, the property address to which the permit relates.

### **16. FEES FOR PERMITS**

- 16.1 The Council may charge a fee for considering an application and issuing a permit under this Bylaw.
- 16.2 The Council may from time to time in accordance with the Local Government Act 2002 set fees for any activity of Council prescribed in this Bylaw including issuing a permit and monitoring compliance with conditions.
- 16.3 The Council may from time to time establish policies concerning the exercise of any powers, functions or obligations under this Bylaw.

## **17. ADMINISTRATION MANUAL AND DELEGATIONS**

- 17.1 The Council has passed a resolution at the same time as making this Bylaw adopting the Administration Manual. The Administration Manual may from time to time be amended by resolution of the Council and all matters over which the Administration Manual defines, regulates, controls or prohibits related to this Bylaw, are matters that this Bylaw leaves to be addressed by resolution of Council under S151(2) of the Local Government Act 2002.
- 17.2 Before amending the Administration Manual, the Council will consult in accordance with the decision-making requirements of S82 of the Local Government Act 2002.
- 17.3 The following people are authorised delegates under this Bylaw:
- (a) The Council by resolution;
  - (b) The Chief Executive of the Council;
  - (c) The person holding the office identified in the Council's Delegations Manual as responsible for the administration of this Bylaw;
  - (d) Any other person authorised to exercise a power under this Bylaw, pursuant to the Council's Delegations Manual or resolution of the Council.
- 17.4 Authorised delegated persons may exercise any power, function or duty under this Bylaw or carry out any act in order to achieve its effective administration on behalf of the Council other than those expressly required to be by Council resolution including the following without limitation:
- (a) Specify forms and procedures for the effective administration of the Bylaw;
  - (b) Make any decision or determination required in this Bylaw in order to administer it;
  - (c) Make decisions regarding whether or not a permit should be granted, and the terms and conditions of that permit including standard conditions and variations;
  - (d) Make decision regarding suspension, withdrawal or removal of a permit.
- 17.5 All forms, specifications, conditions or methods for this Bylaw must be in writing and kept in the Administration Manual for this Bylaw called the Urban Fire Control Bylaw Administration Manual, and shall be available to the public.
- 17.6 Every exercise of a power of delegation under this clause must be publicly reported to Council at least annually if not exercised by Council by

resolution provided that failure to report does not invalidate the exercise of the delegate's power.

## **PART SEVEN – ENFORCEMENT**

### **18. OFFENCES**

18.1 Every person who acts in breach of this Bylaw commits an offence.

### **19. PENALTIES**

19.1 An offence against this Bylaw may result in the issue of a notice by the Council requiring the offender to remove or remedy the offending.

19.2 In accordance with S242 of the Local Government Act 2002, an offence against this Bylaw is liable to summary conviction and a fine not exceeding \$20,000.

19.3 An offence against this Bylaw is liable to the full range of enforcement action or remedies under the Local Government Act 2002.