

WAIMATE DISTRICT CONSOLIDATED BYLAW 2018**CHAPTER 11****11 ROADING****1100 Scope**

1100.1 The purpose of this Bylaw is to protect the roads, an important public asset, from nuisances and damage to enhance the safety of road users and to manage this asset for the well-being of the public at large.

1101 Road damage and danger

1101.1 The purpose of this part of the Bylaw is to deter damage to roads or part of any road in the Waimate District. If damage does occur this Bylaw seeks to enable Council to ensure those accountable are responsible for the costs of rectifying the damage. Damage is defined by Section 357 of the Local Government Act 1974.

1101.2 For the purposes of Clause 1101.1, “road” includes any part of the roading asset, including, but not limited to: carriageway, verge, any roadside marker post or sign, streetlights, bridges, bridge railings or decking, culverts, ditches or any other roadside drainage, or footpaths.

1102 General conditions for damage to roads

1102.1 Any damage to roads must be reported to the Council immediately.

1102.2 Where damage can be identified as having been caused to the road, Council will organise a contractor to make the necessary repairs and will recover the costs incurred from the person(s) responsible, in accordance with the Local Government Act 2002.

1102.3 Where it cannot be positively established who caused damage to any road, but it is clear that the damage is associated with an activity occurring on a certain property, that property owner will be held responsible for costs incurred by Council in repairing the road.

1102.4 Any failure to pay for the cost of repairing any damage to any road or other land under the control of the Council, constitutes an offence under this Bylaw.

1103 Danger or damage as a result of mud, animal waste products or other substance or debris

1103.1 Where there is a build-up of animal waste products, mud, or any other substance or debris on the surface of the carriageway sufficient to cause:

- Damage to the carriageway, or
- Loss of traction for vehicular traffic, or
- A nuisance to other road users;

Then in accordance with section 175 of the Local Government Act 2002, the Council has the right to recover for:

- the amount of destruction or damage caused; or
- the cost incurred by the local authority in removing the stoppage or obstruction; or
- any loss or expenses incurred by the local authority by the stoppage or obstruction or interference; from those directly responsible where unscheduled action, maintenance, or repair of the road is required, as assessed by a Council authorised officer.

1104 Danger or damage as a result of trees or vegetation

1104.1 Where trees or vegetation on road reserve are assessed by a Council authorised officer as creating damage or danger on roads, Council will approach the adjacent land owner to remove the danger or remedy the damage. Where a land owner refuses to accept responsibility Council will remove the danger or remedy the damage.

1104.2 The property owner is responsible for the costs of rectifying problems where trees or vegetation on their property is creating damage or danger on the adjacent road, as assessed by a Council authorised officer.

1104.3 Refer to clause 234, chapter 2 of this Bylaw for further information about responsibilities for tree trimming and removal.

1105 Signs to be obeyed

1105.1 No person being the driver or the person in charge of any vehicle may drive, or stop, stand, or park, or otherwise use that vehicle in a manner that is contrary to any prohibition, limitation or restriction imposed from time to time by resolution of the Council and indicated by either:

- a) The erection of a sign prescribed by the Transport Act 1962, or
- b) By any other reasonable means Council considers appropriate given the circumstances.

1106 One-way streets

1106.1 The Council being may from time to time by resolution declare any road or part of a road on which traffic must travel in one specified direction only.

1106.2 The Council may from time to time by resolution amend or revoke any resolution made under clause 1106.1

1106.3 No person may drive, ride or otherwise direct or allow any vehicle to travel on any street declared to be a one-way street other than in the direction indicated in that resolution.

1107 Restricted parking areas

- 1107.1 The Council may from time to time declare by resolution any of the following to be a Restricted Parking Area;
- a) any street, or part of any street
 - b) any land or any part of any land, either owned or leased by the Council or in which the Council has an interest
- 1107.2 Refer to the Waimate District Council Register of Restricted Parking Areas for full details of restricted areas.
- 1107.3 The Council may from time to time, impose the following conditions by resolution, in respect of any Restricted Parking Area:-
- a) The time or times during which parking restrictions have effect.
 - b) The number and situation of parking spaces within each Area.
 - c) The maximum time allowed for parking in any space within any Restricted Parking Area.
 - d) The fees payable for parking in any space within a Restricted Parking Area.
 - e) The means by which fees may be paid in respect of each restricted parking area.

1108 Method of parking

- 1108.1 In any Restricted Parking Area where individual parks are indicated by lines painted or otherwise marked, no driver or person in charge of a vehicle may:
- a) Park any vehicle other than entirely within the area marked out as a single space; or
 - b) Park any vehicle other than a motorcycle in a space marked for the use of motorcycles only; or
 - c) Park a vehicle in a marked space which is already occupied by another vehicle, provided that any number of motorcycles may occupy a marked space at the same time. However, where any parking spaces are marked for the use of motorcycles only, if the space is divided into bays for angle parking of motorcycles no motorcycle (other than a motorcycle with a sidecar attached thereto) may be parked across any line marking the edge of any bay.
 - d) Park any vehicle in a no stopping area, being defined by a yellow broken line marked on the pavement adjacent to the kerb.
 - e) Park any unauthorised vehicle in any special parking area.

1108.2 No driver or person in charge of a vehicle may place a sign on, or affix a sign to, any vehicle and/or trailer on any road where the apparent purpose of that sign is to advertise a product, service or activity, or direct people to a business or activity on a nearby property.

PROVIDED THAT, clause 1108.2 does not apply to:

- a) Signs placed on or affixed to vehicles, such as lettering, where the sign is incidental to the primary purpose of the vehicle.
- b) Banners, flags or signs temporarily placed on or beside vehicles for the purpose of advertising "open homes" associated with the selling of real estate.

1109 Parking vehicles for sale or repair

1109.1 No driver or person in charge of a vehicle may park on any road any motor vehicle, bicycle or caravan for the sole purposes of a sale, or exhibition for sale; or for the purpose of repair (other than essential running repairs carried out within a reasonable period of time, as determined by an authorised officer).

1110 Parking towed vehicles

1110.1 No driver or person in charge of a vehicle may park on any road, for a period exceeding seven (7) days, any vehicle, trailer, caravan or caravan trailer which has no effective motor power in or attached to it, or is disabled or is in a state of repair so that it cannot be safely driven or towed.

1111 Parking offences

1111.1 No person may park in a Restricted Parking Area for any time after the expiry of the period allowed, or stop or park in any no stopping area or special parking area at any time, or undertake any activity contrary to Clauses 1108.1, 1108.2, 1109 and 1110.

1111.2 Any person who breaches clause 1111.1 commits an offence against this Bylaw.

1111.3 Any person who breaches clause 1111.1, must –

- a) Be served with an infringement offence notice in accordance with the Transport Act 1962; and
- b) Pay the Council;
 - i. any fee specified in the notice referred to in (a) above; and
 - ii. sufficient monies to cover any expenses incurred by the Council in connection with the removal or proposed removal of the vehicle pursuant to the powers available to it under the Transport Act 1962; and
 - iii. within 28 days of the issue of the notice.

1111.4 Where the driver of such vehicle fails to pay Council fees and expenses referred to in Clause 1111.3 within the specified time, such fees and expenses shall be paid by the registered owner of the motor vehicle within 28 days from the date of being requested to do so by the Council in accordance with the provisions of the Transport Act 1962.

1112 Parking may be discontinued

1112.1 The Council may from time to time discontinue the use of any Restricted Parking Area for parking. The discontinuance of any such areas for parking must be notified by a suitable sign indicating that parking is no longer available in the area or in any of the particular spaces. No person may park, stand, or stop any vehicle in any such discontinued space.

1112.2 The Council may authorise temporary use of such areas by certain persons for such purposes and may impose such fee as is considered appropriate by the Council given the circumstances.

1113 Exemptions

1113.1 The driver or person in charge of any of the following vehicles are exempt from Clause 1111 of this Bylaw –

- a) Emergency vehicles for the time being used in connection with an emergency.
- b) Vehicles occupying a parking space solely for the purposes of avoiding other traffic or in compliance with the directions of an enforcement officer police officer, parking warden, traffic control sign or signal.
- c) Goods services vehicles and passenger service vehicles engaged in loading or unloading in the normal course of trade, provided that this exception applies only if the vehicle is being used with due consideration for the safety and convenience of other traffic and persons.
- d) A vehicle parked in disabled parking where it correctly displays an officially recognised disability parking card.

1113.2 Restricted Parking Areas may be occupied without charge as per the following:

- a) Monday to Thursday between the hours of 5pm and 8am
- b) Friday after 9pm
- c) Saturday and Sunday
- d) Public holidays, as defined by section 44 of the Public Holidays Act 2003.

1114 Heavy motor vehicle parking restrictions

1114.1 Unless approved by an authorised officer of the Council no person shall stop, stand or park a Heavy motor vehicle during the hours between 8 pm on one day to 6 am on the next day and all hours of Saturdays, Sundays and public holidays in any part of a road where there is adjacent residential zoned land on both sides of the road, provided however, that it shall not be an offence to stop, stand or park a heavy motor vehicle on any such road for such period as is reasonably required for the purpose of loading or unloading that vehicle and that such loading or unloading takes place.

“Heavy motor vehicle” means a motor vehicle (other than a motor car that is not used, kept or available for the carriage of passengers for hire or reward) with a gross laden weight exceeding 4,500 kilograms.

1115 Heavy motor vehicle restrictions

1115.1 Council may from time to time by resolution publicly notified, prohibit any heavy traffic on any maintained or unmaintained road or roads within the District. Schedule 2 of this chapter of the Bylaw sets out the roads on which heavy traffic is prohibited. Schedule 2 can be amended by resolution publicly notified.

1115.2 No person shall drive, or permit to be driven, any heavy motor vehicle except a bus, on or along those roads, or parts of roads listed in Schedule One of this chapter of the Bylaw, except for the purpose of:

- a) Picking up from, or delivering goods to, an address on those roads when alternative access is not available for this purpose.
- b) Loading or unloading goods or passengers at any property whose safe vehicular access is by way of the road or public place

1115.3 The prohibitions set out in 1114.1, 1115.1 and 1115.2 shall not apply to a network utility operator or its authorised agent, or contractor engaged in the provision of, or maintenance of a road or network utility operation on a road or part of a road specified in Schedule One of this chapter of the Bylaw. The expression “network utility operator” has the same meaning given to it by section 166 of the Resource Management Act 1991.

1116 Engine braking

1116.1 The use, application, or operation of braking devices of the “Jacobs Engine Brake” type or any braking device that causes or creates a similar or excessive noise is prohibited within such areas of the District as the Council shall determine by resolution.

1116.2 The areas within which the use of these engine-braking devices is prohibited are listed in Schedule Three of this chapter of the Bylaw.

1116.3 Council shall mark such roads and/or erect such signs on any road, as necessary to give effect to any resolution made pursuant to 1116.1 above.

1117 Vehicle accessways

1117.1 The purpose of this part of the Bylaw is to set the requirements for the provision of vehicle accessways within the Waimate District.

1117.2 This part of the Bylaw is made pursuant to Council's powers under the following Acts and Regulations hereunder and any other Act or authority in any way enabling it to make bylaws:

- Local Government Act 2002.
- Local Government Act 1974.
- Resource Management Act 1991.

1117.3 Requirement to construct vehicle crossings

1117.3.1 Whenever access between a maintained road and any other land requires vehicles to cross a footpath, kerb, channel, or any part of the maintained road not formed as carriageway the Council may require the owner of the land requiring access to provide a vehicle crossing in accordance with the provisions of this part of the Bylaw.

1117.3.2 Where Council undertakes any kerb and channel, or undertakes any other construction or reconstruction work, or replaces or installs any pipeline culvert resulting in damage to an existing vehicle accessway, Council shall reinstate the accessway to the level of service that existed before Council carried out the work.

1117.3.3 Property owners are required to maintain and use existing crossings in such a way that damage to the part of the road that Council or the New Zealand Transport Agency maintains does not occur.

1117.4 Design and construction requirements

1117.4.1 Design and construction of any vehicle crossing shall comply with the Waimate District Plan

1117.4.2 The Asset Manager or other authorised officer shall be authorised at all times to create, modify, and extend the Vehicle Crossing Design and Construction Standards.

1117.4.3 The construction of any vehicle crossing shall only be undertaken by a person or persons with suitable skill and experience to the satisfaction of the Asset manager.

1117.5 Requirements before commencement of work

1117.5.1 Before any vehicle crossing construction starts, the owner of the land requiring access to the carriageway shall make an application on the "Vehicle Accessway Construction" form and supply plans of the proposed work. The following process shall then be followed:

- a) The application and plans shall be approved by the Council in writing including any required amendments.

- b) The applicant either enter into a bond required by Council, representing an amount between 1.5 to 2.4 times the estimated costs of the proposed work. Alternatively the applicant will sign an agreement with the Council to have the Council arrange construction of the crossing at the applicants cost.

The Council will release the bond on satisfactory completion of the crossing or invoice the applicant for the cost of its construction.

1117.6 Construction controls

1117.6.1 If the applicant is undertaking construction rather than having the Council carry it out the applicant or the person undertaking the work shall provide the Asset Manager or any person appointed by that Asset Manager with 24 hours notification prior to commencing construction. The Asset Manager or his representative shall then have the opportunity to inspect the work as it progresses. The person carrying out an inspection may require works to be uncovered or partly removed to properly show methods and materials used in the construction if insufficient notice to inspect has been provided. .

1117.6.2 The bond money paid or guaranteed to Council may be forfeited to Council and used to complete or correcting any work considered unsatisfactory by the Council. Any surplus may be retained as a bond in respect of future work or refunded in the event of termination of the operator's approval for vehicle crossing work.

1117.7 Failure to construct crossing

1117.7.1 If the owner of any land accesses the land or permits access to the land at any point other than by way of a crossing approved by Council. Council may require the owner to construct a crossing in accordance with the provisions of the Bylaw.

1117.7.2 In the event that the owner fails to construct a crossing within one month of being so required by Council, the Council may construct the crossing and recover the actual and reasonable costs from the owner.

1118 Maintenance and repairs of vehicle accessways and crossings

1118.1 Where Council undertakes any kerb and channel, or other construction or reconstruction work, or replaces or installs any pipeline culvert resulting in damage to an existing vehicle accessway, Council shall reinstate the accessway to the level of service that existed before Council carried out the work.

1118.2 When carrying out any construction or reconstruction work Council will provide one crossing per property in a single certificate of title, at Council's expense.

1118.3 Property owners are required to maintain existing crossings in such a way that damage to the part of the road that Council or the New Zealand Transport Agency maintains does not occur.

1118.4 Property Owners are required to maintain all areas outside of Council control. Council will maintain all existing road carriageways included in Council's Road Maintenance contract.

- a) This is from seal edge to seal edge or the property side of kerb and channel where it is installed on the seal edge on sealed roads. Where crossings are sealed, the part to be maintained will be a straight line between the edges of seal either side of the crossings on straights or an arc of the same radius of the carriageway curve on bends. In rural areas an extra one metre of seal maintenance in approved situations shall apply.
- b) In unsealed areas the maintenance will be from water table to water table or the edge of the metal surface where no water table is formed. At private entrances the extent of maintenance shall be a straight line between water tables or the edge of metal on either side of the crossing on straights or an arc of the same radius of the carriageway curve on bends.

1119 Temporary crossings

1119.1 No Person shall take or drive or operate a Vehicle or permit the same to be taken or driven across any Footpath or water channel in the course of construction or other work on the adjoining property or to deliver or collect building or other materials used in connection therewith otherwise than subject to such terms and conditions as Council may impose, including the provision for crossing for temporary purposes over the Footpath or water channel.

1120 Reinforcing of footpaths

1120.1 Where any land or Premises is at any time occupied or used that, in the usual course of the business, any materials, goods, merchandise, articles, or things whatsoever are dropped or deposited upon or conveyed across any Footpath, water channel or crossing in such a manner as to be likely to damage such Footpath, water channel or crossing, Council may, by notice in writing require the Owner or Occupier of such land or Premises to provide adequate reinforcement to such Footpath, channel or crossing.

1120.2 Every such Owner or Occupier who fails to comply with any such notice within the period specified shall be guilty of an offence against this chapter of the Bylaw.

1121 Working in the road

1121.1 The purpose of this part of the Bylaw is to prescribe the conditions and specification requirements for any work in the maintained road that may interfere with the safe and efficient flow of traffic or any works, which include the excavation, trenching or opening of the road surface within any road controlled and managed by the Waimate District Council.

1121.2 This part of the Bylaw is made pursuant to Council's powers under the following Acts and Regulations hereunder and any other Act or authority in any way enabling it to make bylaws:

- Local Government Act 1974.
- Land Transport Act 1998.
- Local Government Act 2002.
- Utilities Act 2010

1121.3 All parties undertaking any work on, in or over the maintained road must comply with the New Zealand Transport Agency Code of Practice for Temporary Traffic Management (CoPTTM). They must install or arrange to have installed, temporary traffic management in accordance with a temporary traffic management plan (TMP) approved by the Council before commencing their activities (except as necessary to save lives and/or prevent serious injury).

1122 Opening the road

1122.1 This section of the Bylaw complements the provisions of the statutory requirements described in:

- Telecommunications Act 2001
- Gas Act 1992
- Electricity Act 1992
- Public Works Act 1981
- Railway Safety and Corridor Management Act 1992
- Local Government Act 1974
- Utilities Act 2010

1122.2 Without limiting the provisions of 1119.3, all parties intending to undertake any of the following activities must comply with the New Zealand Utilities Advisory Group (NZUAG) Code of Practice for Working in the Road:

- a) Any activity that will alter or cause to be altered the surface of the road including but not limited to excavating, drilling, and resurfacing.
- b) The placement of any pipe, duct, pole, cabinet or other structure below, on or above the road.

1122.3 Where there are any procedural differences or discrepancies between the aforementioned codes and the requirements of the Bylaw, the meaning of this Bylaw and any attached schedules take precedence.

1123 Restriction on use of road

- 1123.1 Council may from time to time by resolution publicly notified, prohibit the stopping standing or driving any vehicles on any road, as described in Schedule Two of this chapter of the Bylaw.
- 1123.2 Any road or roads subject to any restrictions imposed by resolution of Council may be formed or unformed. Such roads may at sometime have been formed but have become unformed and may or may not be in a fit state to take any form of traffic.
- 1123.3 Council may from time to time by resolution publicly notified impose restrictions on any bridge, culvert, or other artificial structure forming part of any road in the District or bordering the District.
- 1123.4 If Council considers a road, bridge or other artificial structure to be unsafe for any form of traffic, whether vehicular, animal or human, then it may at anytime, close that part of the road or restrict its use.

1124 Notification of restrictions

- 1125.1 Any road, part of a road or bridge which has any restriction imposed upon it by resolution shall be sign posted with a copy of the resolution made pursuant to this Bylaw or a statement of its effect conspicuously displayed before the resolution comes into force.

1125 Encroachment onto the road reserve

- 1125.1 In certain circumstances Council may allow encroachment by private property owners into the road, including unformed roads.
- 1125.2 Any individual group or organisation wishing to occupy any road shall be required to inform Council by completing a road encroachment application. This form can be obtained from any Council office.
- 1125.3 If any building, bridge, wheelchair access, staircase, fence or other structure or any part thereof shall have been erected, constructed or placed upon, under, over across any road reserve without the permission of Council, Council may by notice in writing require the owner of such building or structure or remove the same or such part thereof as specified in the notice.
- 1125.4 Any notice issued under Clause 1123.3 of this Bylaw may require such precaution to be taken as Council thinks necessary for the safety of the public and for the proper securing of such building or structure as is to remain after such removal.
- 1125.5 Council may authorise any officer thereof to pull down, remove or alter or cause to be pulled down, removed or altered any work, material or thing, erected or being in contravention of this Bylaw or section 357 of the Local Government Act 1974.
- 1125.6 Council may recover from any person responsible for the erection, or from any person permitting the continued existence, of any such work, material or thing, all expenses incurred by it in connection with such pulling down, removal or alteration.

1126 Permanent fence encroachments

- 1126.1 Council may allow private individuals and organisations to install fences within the maintained road. The following shall be considered when deciding whether or not to approve an application for a fence encroachment:
- a) All applicants must complete a road encroachment application.
 - b) Fences must be of an “adequate” standard and state of repair, as defined in the Fencing Act 1978.
 - c) Fences should not reduce lines of sight or vehicle sight distance below industry accepted safety standards.
 - d) Strainer posts and other solid objects that are potential hazards to road users and/or vehicles during accidents should be avoided, or marked with reflector tape if considered necessary.
 - e) All gates must be located on property boundaries, and not constructed within the designated road reserve.
 - f) Any property boundary fence erected on the road reserve be appropriate to the type of stock to be farmed within the adjoining property and that that fence be maintained in good order and repair for as long as the encroachment applies.
- 1126.2 The applicant is responsible for keeping the enclosed portion of road reserve tidy and free from plant pests or any plant growth that would create a visibility hazard to road users. If the applicant does not adequately maintain drainage structures, Council may enter the enclosed area as if no enclosure existed to carry out maintenance works at the occupier’s expense.
- 1126.3 The applicant must agree to maintain all surface water channels, culverts, and culvert entrances within the enclosed area in good workable condition. If the applicant does not adequately maintain drainage structures, Council may enter the enclosed area as if no enclosure existed to carry out maintenance works at the occupier’s expense.
- 1126.4 The applicant must accept all liability for any loss incurred or damage done, affecting or arising from a fence erected under the authority of the encroachment licence, unless negligence by a Council employee can be proved. Damage done to the fence by any private person or private contractor will be an issue between the applicant and other party.
- 1126.5 No permanent property boundary fence erected on the road reserve may be electrified or constructed using barbwire. This clause shall not apply with in any area zone “Rural “under the Waimate District Plan except when the fence adjoins a footpath.

1126.6 Any fence erected under the authority of the encroachment licence shall be removed within one week of a request from Council to remove the fence.

1127 Temporary fences on road reserves

1127.1 Council allow a temporary fence to be erected by the adjacent property owner, on road reserve in a rural area without obtaining the written permission of Council subject to compliance with the following conditions:

- (a) The fence is to be supported by white painted light weight standards, must not include barbed wire and must comply with any regulations governing electric fences including the provision of "Electric Fence" signs;
- (b) The fence is to be erected not less than two metres (2.0m) from the metal edge of any unsealed Road or the seal edge of sealed Roads. Such fences shall not be erected adjacent to State Highways, or in urban areas
- (c) Such fences shall not be located within 10 metres (10m) from any Road intersection;
- (d) Such fences may not be erected for a period of longer than twenty (20) days and may only enclose stock during daylight hours. At no time shall bulls be kept in a temporary fence enclosure adjacent to any road or road reserve;
- (e) Before placing any fencing standards in the road reserve, supply authorities must be contacted to ensure that no damage occurs to underground services;
- (f) No fence shall be erected so as to constitute a traffic hazard nor shall it obstruct traffic visibility;
- (g) Council may require the immediate removal of any unauthorised fence or any fence not complying with the above conditions or if the road reserve is required for other purposes.

Other fences encroaching on the road shall be subject to written application and must not be erected until formal approval is given.

The placing of the fencing is at the pleasure of Council.

1128 Gates and cattle stops across roads

1128.1 Council may allow the erection of a swing gate, cattle stop or both across any rural road where:

- In Council's opinion it is not practicable or reasonable to fence the road, or
- By agreement, the road has been taken or may be constructed through private lands and the owner or occupier requests that a gate or cattle stop or both be erected on the outer boundary at the cost

(including maintenance) of one or both of the parties as may be agreed.

1128.2 The following conditions shall apply to any gate or cattle stop across a public road:

- a) Any gate across a road shall not be locked, and must be able to be freely opened at all times.
- b) If the Council considers that there are issues of public safety Council may require or arrange for the gate to be locked.
- c) Any person who erects a gate across a road shall erect signs with the words "Public Road" painted thereon in letters not less than 75mm in height to be fixed on either side of the gate and this signage shall be at all times maintained by the person authorised to erect the gate.
- d) Council shall not be liable for damages in respect to any accident arising from the existence of the gate or cattle stop.

1129 Leaving objects on the road

No person may place or leave objects (including, but not limited to, shipping containers rubbish skips, machinery, bailage and logs) on the road unless the prior permission of council is obtained

1130 General authorities

1130.1 All approvals are at the pleasure of Council and can be revoked by Council for any reason.

FIRST SCHEDULE**Heavy Vehicle Restrictions**

SECOND SCHEDULE**Restrictions on use of the following roads**

THIRD SCHEDULE**Restrictions on use of Engine Brake type devices on the following roads**

