

## SELWYN DISTRICT COUNCIL RURAL FIRE BYLAW 2009

### 1. TITLE

- 1.1 A Bylaw of the Selwyn District Council by way of Special Order pursuant to the provisions of the Local Government Act 2002 and the Forest and Rural Fires Act 1977, powers and authorities enabling it in that behalf to make a Bylaw to be known as the Selwyn District Council Rural Fire Bylaw 2009.

### 2. DATE OF COMMENCEMENT

- 2.1 This Bylaw comes into force on 1 July 2009.

### 3. APPLICATION OF BYLAW

- 3.1 This Bylaw applies throughout Selwyn District except in residential areas.
- 3.2 Lighting of fires in the open air in urban areas is regulated under the Canterbury Regional Council's Air Quality Plan, and nothing in this Bylaw relieves any person of any obligation to comply with that Plan.
- 3.3 Compliance with other Acts

The Rural Fire Bylaw 2009 is subject to Acts and Regulations and nothing in this Bylaw derogates from any of the provisions of the Forest and Rural Fires Act 1977 and the Forest and Rural Fire Regulations 2005 and their regulations or subsequent amendments or any other relevant statutory or regulatory requirements. In the event of any inconsistency between this Bylaw and the legislation the more stringent applies.

### 4. DEFINITIONS

For the purpose of this Bylaw, unless the context otherwise requires:

**"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 an authorised officer.

**"Agricultural Crop Residue"** includes but is not limited to: plant material remaining after harvesting crops such as cereals, pulses, brassicas, grasses, clovers and other small specialist seed crops and may include leaves, stalks and roots, and also includes plant material that has been desiccated as a result of chemical application. It does not include any material that may be considered anything other than fine fuel.

**"Authorised Officer"** means a person appointed as a Rural Fire Officer or Principal Rural Fire Officer under the Forest and Rural Fires Act 1977 or any person appointed by the Council as an Enforcement Officer under the Local Government Act 2002 by the Council to perform duties required under this Bylaw.

**"Barbeque"** means any fixed or portable gas or solid fuel burning equipment or device designed or intended for the cooking of food in the open air.

**“Combustible Material”** means a substance or material that is able to catch fire and burn.

**“Council”** means the Selwyn District Council or any officer authorised to exercise the authority of the Council.

**“District”** means the Selwyn District.

**“Ethnic Cooking Fire”** means any hangi, umu or similar fire in the open air and used for the preparation of food using ethnic cooking methods.

**“Fees”** means the list of prices for services associated with the issuing of Rural Fire Permits as adopted by the Council from time to time in accordance with the Local Government Act 2002.

**“Fine Fuel”** means fuels such as straw, grass, leaves and dropped pine needles that ignite easily and are consumed rapidly by fire when dry.

**“Fire Permit”** means a permit to light a fire in the open air granted in accordance with clauses 6 and 7 of this Bylaw and has the same meaning as ‘Permit’ in the Forest and Rural Fires Act 1977.

**“Incinerator”** means a container made of non-combustible materials which has a grate and a lid or spark arrester, which is authorised by the Principal Rural Fire Officer to be used for burning waste material.

**“Incinerator Fire”** means a fire within an incinerator.

**“Open Air”** means lighting a fire out of doors other than in an approved fireplace, incinerator, barbeque or other authorised receptacle.

**“Open Fire Season”** means a period of time, whether fixed or of indefinite duration, during which lighting fires in the open air is neither prohibited nor restricted under the Forest and Rural Fires Act 1977.

**“Principal Rural Fire Officer”** means the Principal Rural Fire Officer for the Selwyn District appointed pursuant to the Forest and Rural Fires Act 1977.

**“Prohibited Fire Season”** means a period of time, whether fixed or indefinite, during which lighting fires in the open air is prohibited under this Bylaw or the Forest and Rural Fires Act 1977.

**“Public Notice”** has the same meaning as in the Local Government Act 2002.

**“Residential”** means those areas classified as Living Zones in the Selwyn District Plan.

**“Restricted Fire Season”** means a period of time, whether of fixed or indefinite duration, during which lighting fires in the open air is prohibited unless authorised by a permit issued under this Bylaw or the Forest and Rural Fires Act 1977.

**“Rural Fire District”** means the Selwyn Rural Fire district constituted under the Forest and Rural Fires Act 1977.

**“Special Fire Permit”** means a permit to light a fire in the open air granted in accordance with Clause 7 of this Bylaw and section 24 of the Forest and Rural Fires Act 1977.

**“Urban Area”** means an urban fire district constituted under the Fire Services Act 1975.

## **5. FIRES DURING THE OPEN FIRE SEASON**

5.1 During an open fire season no person may light a fire in the open air under any of the following conditions:

- (a) Where the location, wind, or other conditions cause or are likely to cause the fire to become:
  - (i) A danger to any person or property; or
  - (ii) Out of control or spread beyond the limits of the premises on which it is lit; or
  - (iii) A smoke or ash nuisance to any person.
- (b) Within 10 metres of any part of a building, tree, hedge, fence or other combustible material;
- (c) Between the hours of sunset and sunrise, except in accordance with a fire permit issued by the Council;
- (d) Without continuous supervision being maintained at all times;
- (e) Without an acceptable means of fire suppression being available.

## **6. RESTRICTED FIRE SEASON**

6.1 The Principal Rural Fire Officer may at any time prescribe, vary or cancel a restricted or prohibited fire season within the District or in any part of the District.

6.2 During a restricted fire season no person may set on fire, or cause or permit to be set on fire, in the open air any vegetation or other combustible material except in accordance with a fire permit.

6.3 Any person may apply for a fire permit during a restricted fire season.

6.4 The Principal Rural Fire Officer may issue a fire permit upon payment of the prescribed fee (if any) and may impose such conditions and restrictions in respect of the permit as the Principal Rural Fire Officer considers reasonably necessary.

In deciding whether to issue a fire permit the Principal Rural Fire Officer will consider the following:

- (a) Cultural requirements or practices; and
- (b) The location, terrain and vegetation; and

- (c) The existence of buildings, structures and fuels; and
  - (d) Protection of the safety, health and convenience of persons on the premises in respect of which the permit is issued and on adjoining land and premises and
  - (e) Any other issues that the Principal Rural Fire Officer deems appropriate to consider.
- 6.5 The Principal Rural Fire Officer may issue a fire permit subject to any terms and conditions he or she considers reasonably necessary in the public interest or may decline to issue a fire permit.
- 6.6 Notwithstanding Clause 6.2 the Principal Rural Fire Officer may exempt certain activities from the requirements for a fire permit.

## **7. PROHIBITED FIRE SEASON**

- 7.1 The Principal Rural Fire Officer may at any time prescribe, vary or cancel a prohibited fire season within the District or any part of the district.
- 7.2 In a prohibited fire season no person may set on fire, or cause or permit to be set on fire, in the open air any vegetation or other combustible material unless a special fire permit is issued by the Principal Rural Fire Officer in accordance with the Forest and Rural Fires Act 1977.
- 7.3 The Principal Rural Fire Officer may prohibit the use of gas barbecues in specified areas when, in his or her opinion, such prohibition is reasonably necessary and in the interest of public safety.

## **8. PUBLIC NOTICE OF RESTRICTED OR PROHIBITED FIRE SEASON**

- 8.1 Public notification of the prescription, cancellation or variation of a restricted or prohibited fire season shall be by:
- (a) A notice inserted in a daily or community newspaper circulating within the District; and
  - (b) By any other effective means.

## **9. REVOCATION OR SUSPENSION OF PERMITS DURING RESTRICTED OR PROHIBITED FIRE SEASON**

- 9.1 Every fire permit issued or any exempted activities granted pursuant to this Bylaw remains in force from the date of issue until the time specified in that fire permit or activity, unless a prohibited fire season is declared or the permit or activity is revoked in accordance with Clause 9.2 of this Bylaw.
- 9.2 Notwithstanding any other provisions in this Bylaw, a fire permit or special permit issued under this Bylaw or any exempted activities granted may be revoked by the Principal Rural Fire Officer at any time, or suspended for any period of time on such terms and conditions as the Principal Rural Fire Officer considers reasonable under the circumstances.

**10. FEES FOR PERMITS**

- 10.1 The Council may from time to time, by resolution publicly notified, specify the fees payable in respect of the issue of any permit under this Bylaw. Council will consult on, and publicly notify, its intended fees prior to making a resolution fixing such fees.
- 10.2 No fire permit is effective until such time as all fees are paid in full.

**11. COUNCIL OR ITS AGENT MAY EXTINGUISH FIRES**

- 11.1 Where a fire has been lit or allowed to burn in breach of these Bylaws a Rural Fire Officer of the Council or the New Zealand Fire Service may direct the occupier of the premises on which the fire is located, or the persons who lit the fire, to extinguish the fire.
- 11.2 If a direction given under clause 11.1 is disregarded, the Principal Rural Fire Officer may authorise an agent of the Council to extinguish the fire and to take such other steps as may be reasonably necessary to ensure the safety of any person or to protect any property.
- 11.3 Where a fire has been extinguished pursuant to clause 11.2 the Council may recover any costs incurred in extinguishing the fire from the occupier of the premises on which the fire was located, and/or from the person who lit the fire.

**12. LIVE ASHES**

- 12.1 No person may place any live cinders, embers or ashes in or upon any premises other than:
- (a) In a container made and constructed of concrete or other similarly fire resistant material capable of preventing the transmission of heat to any combustible material; or
  - (b) In a pit or upon any fire-resistant substance in a manner that will prevent the spreading of fire or heat by the action of wind or otherwise.

**13. OFFENCES AND PENALTIES**

- 13.1 Every person who breaches this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.00; and
- 13.2 Every person who is convicted of an offence against this Bylaw is liable for the costs of remedying any damage caused in the course of committing the offence and the cost to carry out fire suppression.

**14. REPEALS**

- 14.1 The Malvern County Council NZS 9231, 1971 Model Bylaw for Fire Prevention (including amendment 1-1973, amendment 2-1979) and the Paparua County Council Bylaw 1981 Section 10 Protection against Fire are hereby repealed.

The **COMMON SEAL** of the )  
**SELWYN DISTRICT COUNCIL** )  
was hereunto affixed, in accordance )  
with the Special Order made by the )  
Council on \_\_\_\_\_ )  
in the presence of: )

\_\_\_\_\_ **Mayor**

\_\_\_\_\_ **Chief Executive**

Draft for Consultation (25 February 2009)