

NZS 9201
Chapter 1 : 1972

NEW ZEALAND STANDARD

Model general bylaws

CHAPTER 1

INTRODUCTORY

Superseding NZS 791, Introductory

STANDARDS ASSOCIATION OF NEW ZEALAND
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AMENDMENTS

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COMMITTEE REPRESENTATION

This chapter of the model general bylaws was prepared under the supervision of the Local Government Sectional Committee (92) for the Standards Council established under the Standards Act 1965. The sectional committee consisted of representatives of the following:

- Department of Health.
- *Department of Internal Affairs.
- Fire Service Council.
- *Municipal Association of New Zealand.
- New Zealand Counties Association.
- *New Zealand Institute of County Clerks.
- *New Zealand Institute of County Engineers.
- *New Zealand Institute of Town Clerks and Municipal Treasurers.
- *New Zealand Institution of Engineers (Municipal Division).

The General Bylaws Committee (2/8/10) was responsible for the drafting of this chapter, and consisted of representatives of the organizations marked with an asterisk (*) in the foregoing list.

RELATED LEGISLATION

	Clause reference herein
Acts Interpretation Act 1924 (Reprint 1967)	Foreword
Counties Act 1956	101.1
Counties Amendment Act 1961	101.1
Health Act 1956	101.1
Municipal Corporations Act 1954	Foreword, 101.1
Transport Act 1962 (Reprint 1970)	Foreword, 101.1

FOREWORD

NZS 791 Introductory was first published in 1952. This is the first full revision, though amendments were issued in 1954, 1955, 1960 and 1969. These have been included in the standard.

This chapter contains definitions and provisions of a general nature which apply to all parts of the Model General Bylaws. Consequently the words "this Part of this bylaw" have been omitted from this chapter.

Throughout the draft references to Statutes have been updated and the definitions of "Clerk", "Engineer", "Inspector", "road", and "street" have been revised. New definitions covering "communicable disease" and "public notice" have been included in Clause 101.1, and the definition of "vehicle" has been revised to follow the wording of the definition in the Transport Act 1962.

Clause 4 has been revised to emphasize the delegation of authority, and the former clauses 8, 9, 10 and 11 have been rewritten as clause 108, largely to simplify the wording.

The former clause 10A from Amendment No. 3 is now clause 109; and clause 12, now clause 110, has been rewritten to follow the wording of section 393 of the Municipal Corporations Act 1954. Similarly clause 15, now clause 113, has been rewritten to follow the wording of section 5 of the Acts Interpretation Act 1924.

The former clauses 13 and 14 have been rewritten as clauses 111 and 112, again to simplify the wording.

NEW ZEALAND STANDARD
MODEL GENERAL BYLAWS

Chapter 1

INTRODUCTORY

101 Interpretation

101.1 In this bylaw, unless the context otherwise requires—

APPROVED means approved by the local authority or by any officer of such local authority authorized in that behalf.

BYLAW means a bylaw of the local authority for the time being in force, made under the provisions of any Act or authority enabling the local authority to make bylaws.

CATTLE includes any horse, bull, cow, ox, heifer, steer, calf, sheep, ram, ewe, wether, lamb, goat, kid, boar, sow, and pig of any kind.

CLERK means the Town Clerk, or County Clerk, as the context may require, of the local authority, and includes any person appointed specially or generally by the local authority to perform the duties of that Clerk for the time being.

COMMUNICABLE DISEASE means any communicable disease as defined in the Health Act 1956 and includes any disease for the time being specified as an "infectious disease" in section A of Part I and Part II of the First Schedule of that Act.

CUSTODIAN means any person for the time being appointed by the local authority to control or manage or to assist in the control and management of any land, building, or premises belonging to or under the jurisdiction of such local authority.

DISTRICT means the district within the jurisdiction and under the control of the local authority.

DWELLING or **DWELLINGHOUSE** includes any house, tent, vehicle or other structure, whether permanent or temporary, and whether attached to the soil or not, used in whole or in part for human habitation, and includes the land appurtenant to a dwelling.

ENGINEER means the Engineer of the local authority, and includes any person appointed specially or generally by the local authority to perform the duties of that Engineer for the time being.

HEALTH INSPECTOR means the Health Inspector appointed by the local

authority under the authority of the Health Act 1956 or any other Act.

HORSE includes any horse, mare, gelding, rig, colt, filly, ass, or mule.

INSPECTOR means any officer appointed by the local authority for the time being to carry out or exercise the duties of an inspector under this bylaw.

LICENSED means holding a licence under this bylaw or under any statute.

LOCAL AUTHORITY means the Council, Board, person, or group of persons authorized by any Act to make bylaws, and which has made this bylaw, and includes the body corporate on behalf of which any such Council, Board, person, or group acts.

MEDICAL OFFICER OF HEALTH means the Medical Officer of Health appointed under the provisions of the Health Act 1956 for the health district, which includes the district under the jurisdiction of the local authority.

MOTOR VEHICLE shall have the meaning assigned to it from time to time by the Transport Act 1962.

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 of such building, house, tenement, or premises.

OFFENCE includes any act or omission in relation to this bylaw or any part thereof for which any person can be punished either on indictment or by summary process.

OWNER of any property, or as applied to any land, building, or premises, means any person for the time being entitled to receive the rack rent of such property, land, building, or premises, or who would be so entitled if the same were let to a tenant at a rack rent; and where any such person is absent from New Zealand, shall include his attorney or agent, or any other person acting for him or on his behalf.

PERSON includes a corporation sole and also a body of persons, whether corporate or unincorporate.

PORTICO includes every awning, porch, verandah, shed, shade, or covering upon, across, or over any public footway or part of a road, street, private street, or access-way for the purpose of shade or shelter, together with any supports thereof, other than the building against which it shall be.

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 NOTICE shall have the meaning assigned to it from time to time by the Municipal Corporations Act 1954/Counties Act 1956.

PUBLIC PLACE includes every road, street, public highway, footpath, footway, court, alley, lane, accessway, and thoroughfare of a public nature or open to or used by the public as of right; and every place of public resort or place to which the public have access, so open or used; and every place of public resort for the time being.

ROAD shall have the meaning assigned to it from time to time in the Counties Act 1956, and shall where the context requires include a street.

STOCK means cattle as defined herein.

STREET, PRIVATE STREET, FOOTWAY and PRIVATE WAY shall have the respective meanings assigned to them in the Municipal Corporations Act 1954, and shall where the context requires include a road.

TRAILER shall have the meaning assigned to it from time to time by the Transport Act 1962.

VEHICLE means a contrivance equipped with wheels or revolving runners upon which it moves or is moved.

WATERWORKS includes all waterworks as defined in section 239 of the Municipal Corporations Act 1954/section 265 (1) of the Counties Act 1956 and a water race as defined in Part III of the Counties Amendment Act 1961 for the time being belonging to the local authority or under its control.

WRITING, WRITTEN or any term of like import means and includes words printed, painted, engraved, lithographed, or otherwise traced or copied, and where anything is required to be written it may be partly in writing and partly in printing.

101.2 Words importing the singular number include the plural number, and words importing the plural number include the singular number; and words importing the masculine gender include the feminine gender.

101.3 Words referring to any district, locality, place, person, office, officer, functionary, party, or thing shall be construed distributively as referring to each district, locality, place, person, office, officer, functionary, party, or thing, to whom or to which the provision is applicable.

101.4 The headings to the clauses of this bylaw shall not affect the construction thereof.

101.5 Every Schedule to this bylaw shall be deemed to form part of this bylaw.

102 Officers to continue in office

102.1 All officers appointed by the local authority under or for the purpose of any repealed bylaw, and holding office at the time of the coming into operation of this bylaw, shall be deemed to have been appointed under this bylaw.

103 Serving of orders and notices

103.1 Except where otherwise expressly provided for in any Act, in any case in which it is provided by this bylaw, that an order may be made upon or notice be given to any person requiring him to do or abstain from doing anything, or any notice is required by this bylaw to be given or sent to any person, such order or notice shall be delivered to such person, and may be delivered to him either personally or by sending the same, by messenger or by registered post, to him at his last-known place of abode or business.

103.2 If such person is absent from New Zealand the order or notice may be sent to his agent instead of to such person, in any manner mentioned in the last preceding subclause.

103.3 If such person is not known, or is absent from New Zealand, and has no known agent in New Zealand, and the order or notice relates to any land or building the order or notice, addressed to the owner or occupier of such building or land, as the case may require, may be served on the person in occupation thereof, or left with some inmate of his abode; or, if there is no person in occupation, may be put up on some conspicuous part of such building or land. It shall not be necessary in such notice to name the occupier or the owner of such land or building.

103.4 Where an order or notice is sent by registered post it shall be sent so as to arrive in the due course of post on or before the latest time on which such order or notice is required to be served.

104 Powers of delegation

104.1 In all cases where this bylaw provides for the issue of any order, notice or licence, such order notice or licence shall be deemed to be issued in compliance with this bylaw if the same be issued by any officer of the local authority authorized by the local authority for that purpose.

104.2 Where pursuant to this bylaw any powers or duties are imposed on a Clerk or Engineer, that officer may with the consent of the local authority delegate any of those powers or duties either generally or particularly to any other officer of the local authority.

105 Inspection

105.1 For any of the purposes of this bylaw any inspector or other person

duly appointed by the local authority in that behalf may at all reasonable times enter upon any land, building, or premises in order to carry out an inspection thereof.

105.2 Every person who obstructs or hinders any such inspector or other person as aforesaid in the execution of his powers hereunder shall be liable to prosecution for an offence against this bylaw.

106 Reduction of licence fees

106.1 Where an annual fee in excess of 50 cents is payable in respect of a licence that fee shall, where the licence is issued for less than 1 year, be reduced by one-twelfth thereof for every complete month by which the term of the licence is less than 1 year, but so as not in any case to be less than 50 cents:

Provided, however, that this shall not apply to the licence fee payable in respect of an itinerant trader's licence.

107 Suspension and revocation of licences

107.1 Save and except as may be otherwise expressly provided for in any particular case in this bylaw:

- (a) Should the holder of any licence, granted pursuant to this bylaw be convicted of any offence thereunder or touching his character as a licensee the local authority may immediately thereupon revoke such licence or suspend the same for as long as it may think fit.
- (b) Should it be brought to the notice of the local authority either by a report from the inspector or otherwise that the holder of any licence granted hereunder has acted or is acting in a manner contrary to the true intent and meaning of this bylaw or that in any way he is deemed to be unfit to hold such licence, then and in any of such cases the local authority may cause to be served upon such holder a notice calling upon him to appear before the local authority or a committee thereof at a time and place stated in such notice, and show cause why his licence should not be revoked or suspended, and the local authority may, if it considers the matter proved or if there be no appearance by the holder of such licence revoke such licence or suspend the same for as long as it may think fit.
- (c) Should it be brought to the notice of the local authority either by a report from the inspector or otherwise howsoever that any premises licensed under this bylaw or any part of such premises—
 - (1) Have been or are being used for any other purpose than that stated in such licence; or

- (2) Have fallen into a state of disrepair or are not being kept and maintained in the condition required by such licence; or
- (3) That in any other manner the bylaw in respect to such premises is not being observed in accordance with its true intent and meaning,— then and in any such case the local authority may cause to be served upon the owner or the occupier of such premises, being the holder of such licence, a notice similar to that provided for in subclause (b) hereof and may hear and determine the matter as provided in the said subclause (b).
- (d) Any person whose licence has been suspended as aforesaid, and any premises in respect of which the licence has been suspended as aforesaid, shall, during the period of such suspension, be deemed to be unlicensed.

108 Offences and breaches

108.1 No person shall do anything or cause any condition to exist for which a licence or approval from the local authority is required under this bylaw without first obtaining that licence or approval, and the failure to do so shall constitute a breach of this bylaw.

108.2 No application for a licence or authority from the local authority, and no payment of or receipt for any fee paid in connection with such application, licence, or authority, shall confer any right, authority, or immunity on the person making such application or payment.

108.3 Any person commits a breach of this bylaw who—

- (a) Does, or causes to be done, or knowingly permits or suffers to be done or be concerned in doing, anything whatsoever contrary to or otherwise than as provided by this bylaw; or
- (b) Omits or neglects to do, or knowingly permits or suffers to remain undone, anything which according to the true intent and meaning of this bylaw, ought to be done by him at the time and in the manner therein provided; or
- (c) Does not refrain from doing anything which under this bylaw he is required to abstain from doing; or
- (d) Knowingly 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 to him under this bylaw; or
- (f) Obstructs or hinders any officer of the local authority in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred upon him by this bylaw; or
- (g) Fails to comply with any notice or direction given under this bylaw.

108.4 Any person commits a breach of this bylaw who—

- (a) Having constructed, affixed or provided, or caused to be constructed,

affixed, or provided, any building or any part of a building, or any work, appliance, or material of any description whatsoever, contrary to, or otherwise than in accordance with the provision of this bylaw; or

- (b) Having omitted to construct, affix, or provide any work, appliance or materials as required thereby—

and who does not within a reasonable time after notice in writing has been given to him by the local authority or any officer of the local authority, carry out the remedial action specified in that notice.

108.5 The notice shall state the time within which the remedial action is to be carried out, and may be extended from time to time.

108.6 The provisions of this clause shall also apply to any building, part of a building, work, appliance, or material that has, before the coming into force of this bylaw, been constructed, affixed, or provided or omitted contrary to or otherwise than as provided by any provision of any bylaw hereby repealed, but re-enacted, or re-enacted in substance in this bylaw, and notice as aforesaid may be given and renewed in respect of any such building, part of a building, work, appliance or material.

109 Removal by the local authority of works executed contrary to the bylaw

109.1 The local authority may authorize 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 any bylaw of the local authority.

109.2 The local authority 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.

109.3 The exercise of this authority shall not relieve any such person from liability for any penalty for erecting or permitting the continued existence of any such work, material, or thing.

110 Penalties for breach of bylaws

110.1 Every person who commits a breach of this bylaw is liable to a fine not exceeding \$100 and, where the breach is a continuing one, then to a further fine not exceeding \$10 for every day or part of a day during which the breach has continued.

110.2 The local authority may, after a conviction for the continuing

breach of any bylaw, apply to any Court of competent jurisdiction for an injunction to restrain the further continuance of the breach by the person so convicted.

110.3 The continued existence of any work or thing in a state contrary to this bylaw shall be deemed a continuing offence within the meaning of this clause.

111 Dispensing power

111.1 Where in the opinion of the local authority a full compliance with any of the provisions of this bylaw, would needlessly or injuriously affect any person, or the course or operation of the business of, or be attended with loss or inconvenience to, any person without any corresponding benefit to the community, the local authority may, on the special application of that person dispense with the full compliance with the provisions of this bylaw:

Provided that any other terms or conditions (if any) that the local authority may deem fit to impose shall be complied with by such person as aforesaid.

112 Installation etc., not otherwise provided for

112.1 If, after the coming into force of this bylaw, any person desirous of installing or using in the district any article or thing which had not been introduced into the district prior to the coming into force of this bylaw and which, while not complying entirely with the provisions of this bylaw, may, in the opinion of the Engineer, be properly installed, and put into use, the Engineer may either generally or specifically authorize the installation and use of such article or thing, and he may impose such conditions as he deems necessary.

113 Forms

113.1 Wherever throughout this bylaw forms are prescribed, slight deviations therefrom, but to the same effect and not calculated to mislead, shall not vitiate them.