

## CHRISTCHURCH CITY COUNCIL GENERAL BYLAW 2008

1. Short title and commencement
2. Object of Bylaw
3. Interpretation
4. Prescribed Forms
5. Service of Notices
6. Signing of Notices
7. Revoked
8. Granting of Licences
9. Suspension and Revocation of Licences
10. Offences and Breaches
11. Removal of works executed contrary to Bylaw
12. Revoked
13. Dispensing Power
14. Revoked
15. Interpretation of bylaws
16. Amendments Included
17. Revocations and Savings

## CHRISTCHURCH CITY COUNCIL GENERAL BYLAW 2008

Pursuant to the powers vested in it by the Local Government Act 2002 the Christchurch City Council makes this bylaw.

### 1. SHORT TITLE AND COMMENCEMENT

- (1) This Bylaw is the Christchurch City Council General Bylaw 2008.
- (2) This Bylaw comes into force on the 1st day of July 2008.

### 2. OBJECT OF BYLAW

The object of this Bylaw is to make provisions which are common to and form part of all other bylaws of the Council except as may otherwise be expressly provided.

### 3. INTERPRETATION

- (1) In this Bylaw, unless the context otherwise requires

Act	has the same meaning as in the Interpretation Act 1999.
Bylaw	means a Bylaw of the Council for the time being in force, made under the provisions of any Act or authority enabling the Council to make Bylaws and includes this Bylaw.
Council	means the Christchurch City Council.
Chief Executive	means the Chief Executive, as defined in the Local Government Act 2002 of the Council.
Licence	means a licence, permit, consent or approval issued under any Bylaw.
Person	includes a corporation sole, and also a body of persons, whether corporate or unincorporated.

- (2) In any Bylaw, unless the context otherwise requires:
  - (i) Words importing the masculine gender include the feminine.
  - (ii) Words importing the singular number include the plural number, and words importing the plural number include the singular number.
  - (iii) Every Schedule to a Bylaw is deemed to be part of that Bylaw.

#### **4. PRESCRIBED FORMS**

A form is not invalid just because it contains minor differences from a form prescribed by a Bylaw as long as the form still has the same effect and is not misleading.

#### **5. SERVICE OF NOTICES**

- (1) Except as otherwise expressly provided for in any Act or Bylaw, where any notice or other document is required to be served on, or given to, any person for the purposes of any Bylaw, service may be effected by:
  - (a) Delivering it personally to the person; or
  - (b) Delivering it to the person at the person's usual or last known place of residence or business;; or
  - (c) Sending it by fax or email to the person's fax number or email address; or
  - (d) Posting it in a letter addressed to the person at the person's usual or last known place of residence or business.
- (2) If the person being served is absent from New Zealand, the notice, or other document may be served on his or her agent instead of on that person.
- (3) If the person being served has no known name or address, or is absent from New Zealand and has no known agent in New Zealand, and the notice, or other document relates to any premises, then the notice, or other document may be served on the occupier of the premises, or, if there is no occupier, may be put up on some conspicuous part of the premises. It is not necessary in any such notice, or other document to name the occupier or the owner of the premises.
- (4) If the person being served is deceased, the notice, or other document may be served on that person's personal or legal representative or executor.
- (5) Notices or other documents sent by post are deemed to have been served at the time when a letter would have been delivered in the ordinary course of post.

#### **6. SIGNING OF NOTICES**

Every notice or other document required to be sent by the Council will except as otherwise provided by any Act or Bylaw, be signed by the Chief Executive or any other person authorised by the Council to act on its behalf in that respect, and need not be under seal.

#### **7. Revoked**

## **8. GRANTING OF LICENCES**

- (1) An application for a licence must:
  - (a) be made in writing on the appropriate form provided by the Council (if any); and
  - (b) contain all the required information; and
  - (c) be lodged with the appropriate application fee (if any).
- (2) An application for a licence does not confer any right, authority or immunity on the person making the application until the application for the licence has been processed and the licence has been granted.
- (3) A licence may contain such terms and conditions as the Council sees fit.
- (4) The granting of a licence will not render the Council or any officer of the Council liable in respect of any damage caused by or arising out of any act done or omitted in pursuant of or in connection with such licence.

## **9. SUSPENSION AND REVOCATION OF LICENCES**

- (1) Except as may be otherwise provided in any particular Act or Bylaw:
  - (a) If a licensee under a particular Bylaw:
    - (i) acts in a manner contrary to that Bylaw; or
    - (ii) fails to comply with any of the terms or conditions of the licence; or
    - (iii) acts in a manner which, in the opinion of the Council, renders the licensee unfit to hold such licence; or
  - (b) If any premises licensed under a particular Bylaw:
    - (i) are no longer being used for the purpose stated in the licence; or
    - (ii) have fallen into a state of disrepair or are not being kept and maintained in the condition required by the licence; or
    - (iii) are in any other manner failing to meet the requirements of the Bylaw or applicable regulations

then the Council may, by notice served upon the licensee, require that person to appear before the Council or a committee of the Council, at a time and place stated in the notice, to show cause why the notice should not be revoked or suspended. If the Council or committee considers the acts or failures of the licensee or the circumstances of the licensed premises, so warrant or if there is no appearance by the licensee then the Council or committee may revoke the licence or suspend the licence for as long as it may think fit.

- (2) If a licensee is convicted of an offence constituting a breach of the terms or conditions of the licence, or of an offence concerning his or her character as a licensee, then the Council or a committee of the Council may revoke the licence or suspend it for as long as it may think fit.
- (3) A person whose licence has been suspended under Clauses 9(1) or 9(2) and any premises in respect of which the licence has been suspended are, during the period of such suspension, deemed to be unlicensed.

## **10. OFFENCES AND BREACHES**

- (1) Every person who commits a breach of any Bylaw commits an offence.
- (2) Every person commits a breach of a particular Bylaw who –
  - (a) Does, or causes to be done, or permits or allows to be done or be concerned in doing, anything whatsoever contrary to or otherwise than as provided by that Bylaw; or
  - (b) Omits or neglects to do, or permits or allows to remain undone, anything which according to the true intent and meaning of that Bylaw, ought to be done by that person at the time and in the manner provided in that Bylaw; or
  - (c) Does not refrain from doing anything which under that Bylaw that person is required to abstain from doing; or
  - (d) Permits or allows any condition of things to exist contrary to any provision contained in that Bylaw; or
  - (e) Refuses or neglects to comply with any notice given to that person under that Bylaw; or
  - (f) Obstructs or hinders any officer of the Council or other person duly appointed or authorised by the Council in the performance of any duty to be discharged by that officer or person under or in the exercise of any power conferred by any Bylaw; or
  - (g) Fails to comply with any notice or direction given under that Bylaw; or
  - (h) Omits, neglects or fails to pay any licence fee fixed by the Council in respect of a licence or approval granted to such person; or
  - (i) Fails to comply with any conditions contained in any licence granted by the Council; or
  - (j) Fails to obtain a licence when required to do so under any Bylaw

## **11. REMOVAL OF WORKS EXECUTED CONTRARY TO BYLAW**

- (1) Pursuant to Section 163 of the Local Government Act 2002, where any work or thing is, or has been, constructed in breach of any Bylaw the Council may:
  - (a) Remove or alter the work or thing; and
  - (b) Recover the costs of removal or alteration from the person who committed the breach.
- (2) The exercise of this authority by the Council does not relieve any person responsible for a breach of any Bylaw from liability for any other penalty for committing a breach of that Bylaw.

## **12. REVOKED**

### **13. DISPENSING POWER**

- (1) The Council may grant a dispensation from full compliance with any provision of a Bylaw in a case where the Council is of the opinion that full compliance would adversely affect any person or business, without a corresponding benefit to the public or any section of it.
- (2) Application for a dispensation must be made in writing to the Council, giving full details of the relief sought and the reasons for the application. The Council will consider the application and may either refuse it or grant it subject to such conditions as it considers appropriate.
- (3) The applicant for a dispensation may elect to appear in person or by a representative when the application is being considered.
- (4) If the Council grants a dispensation then a breach by the applicant of any condition imposed by the Council will be a breach of the relevant provision of that Bylaw.
- (5) If the Council refuses an application for a dispensation it will provide written reasons for the refusal to the applicant.

### **14. REVOKED**

### **15. INTERPRETATION OF BYLAWS**

The Interpretation Act 1999 applies to the interpretation of any of the Bylaws.

### **16. AMENDMENTS INCLUDED**

The reference in any Bylaw to any Act or Bylaw, unless the context otherwise requires, includes reference to all subsequent Acts or Bylaws that are in force and were made in amendment or substitution for the Act or Bylaw referred to.

### **17. REVOCATIONS AND SAVINGS**

- (1) The following Bylaws are revoked:
  - Banks Peninsula District Council Introductory Bylaw 1996
  - Christchurch City General Bylaw 1990
- (2) All licences or other acts of authority which originated under any of the Bylaws revoked by sub-clause (1), and all applications, and other acts of parties and generally all documents, matters, acts, and things which so originated and are continuing at the commencement of this Bylaw, continue for the purposes of this Bylaw to have full force and effect.
- (3) The revocation of any of the Bylaws under subclause (1) does not prevent any legal proceedings, criminal or civil, being taken to enforce those Bylaws and such proceedings continue to be dealt with and completed as if the Bylaws had not been revoked.

The initial resolution to make this Bylaw was passed by the Christchurch City Council at a Meeting of the Council held on 27 March 2008 and was confirmed following consideration of submissions received during the special consultative procedure, by a resolution of the Council at a subsequent Meeting of the Council held on 19 June 2008.