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**WAIMATE DISTRICT CONSOLIDATED BYLAW 2008**

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**CHAPTER 1****1 INTRODUCTORY AND MISCELLANEOUS****Scope**

The purpose of the introductory section is to identify those terms and expressions that are used throughout the Bylaw document and to clearly interpret those terms and expressions.

**101 Interpretation**

101.1 In this Bylaw, unless the context otherwise requires:

ACCEPTANCE CRITERIA means the requirements for preparation and placement of solid waste, reusable, recyclable and compostable material into approved or contractor containers. It also means the requirements for depositing solid waste at the various waste management facilities as publicly notified, updated and amended from time to time by Council.

AIR GAP SEPARATION means a minimum vertical air gap between the outlet of the water supply fitting which fills a Water Storage Tank, and the highest overflow water level of that Water Storage Tank.

ANIMAL means Stock, Poultry and any other vertebrate Animal of any age or sex that is kept in a state of captivity or is dependant upon people for its care and sustenance (includes sheep).

APARTMENT means a portion of a building or a room or suite of rooms forming part of an apartment building and which is occupied or intended or designed to be occupied by one family for living and sleeping purposes.

APARTMENT BUILDING means a building in which accommodation is provided for three or more families living independently of one another, with or without a common right to the use of cooking or laundry facilities, sanitary conveniences,

entrances, passages, stairways or open Spaces; and where necessary includes a portion of a building or a combination of two or more such buildings or parts thereof; but does not include any building comprising wholly or principally Owner-Occupier flats, or any single storey building comprising wholly or principally apartments each of which is completely self-contained and has its own separate outside entrance.

APPROVAL means approval in writing by Council.

APPROVED means approved by Council or by any Officer of Council authorised in that behalf.

APPROVED CONTAINER means any paper bag, plastic bag, biodegradable bag, mobile bin, crate or any other receptacle provided by or on behalf of Council from time to time for the purpose of Council Kerbside Collection.

APPROVED FORM means a form which has been Approved by Council for use to make application for the various services related to the Network Infrastructure Services.

APPROVED TAXI ORGANISATION shall have the meaning assigned thereto by the Transport Services Licensing Act 1989.

AUTHORISED OFFICER means any Person appointed by Council to act on its behalf and with its authority and includes contractors or any Person appointed especially or generally to enforce the provisions of this Bylaw.

BACKFLOW means a flow of water or other liquid through any Supply Pipe in a reverse direction to the normal flow.

BANNED MATERIALS means materials identified in Schedule One of chapter 14 that are prohibited from being disposed to landfill.

BARBECUE means any fixed or portable solid fuel equipment or fixed or portable gas equipment for the cooking of food.

BEAUTICIAN means the Person for the time being who carries out, or controls or manages, or assists to control or manage, any Beauty Facility and may include the Occupier and the Owner of the Premises.

BEAUTY FACILITY means a facility for the purposes of beauty treatment

BEAUTY TREATMENT includes Tattooing, permanent make-up, Skin Piercing, epilation (including electrolysis and waxing), pedicures, manicures, paraffin treatment and comedone extractions (blackhead removal).

BERM means a grassed, soil or metal area between the road carriageway and the property boundary, and includes road verges in rural areas.

BOARDER means a Person for whom any room or part thereof or rooms in a boarding-house is or are provided as a lodging or for his/her use or occupation and to whom whole or partial board is also supplied.

BOARDING-HOUSE means a residential building in which lodging alone or board and lodging is provided for a single night or longer for six or more lodgers or boarders, with or without the use of furniture, and includes; a guesthouse, rooming house, private hotel, hotel, motel, residential club, hostel and residential institution; and where necessary includes a portion of such a building or combination of two or more such buildings or part thereof: but does not include:

- (a) Any healthcare service as defined in Section 4 of the Health and Disability Services (Safety) Act 2001;
- (b) A residence established under section 364 of the Children, Young Persons, and Their Families Act 1989;
- (c) Any early childhood centre required to be licensed by regulations made under the provisions of the Education Act 1989;
- (d) Any camping ground required to be licensed under regulations made under Section 120B of the Health Act 1956.

BOUNDARY FENCE means a fence, as defined in Section 2 of the Fencing Act 1978, which separates a road from adjoining property.

**BRAZIER** means any fixed or portable solid fuel equipment or appliance used for outdoor heating.

**BULKY ITEMS** means large items that because of their size are not considered appropriate to be placed into an approved container for Council Kerbside Collection. This includes but is not necessarily limited to televisions, microwaves, furniture, tree and shrub stumps, wood, rubble, machinery parts, electrical and electronic items.

**BUSINESS AREAS** include properties identified by the boundaries on Council Solid Waste Collection Maps.

**BYLAW** means the Waimate District Consolidated Bylaw 2008 for the time being in force, made under the provisions of any Act or authority enabling Council to make Bylaws.

**CARRIAGEWAY** means that portion of the Road devoted particularly to the use of travelling vehicles, and includes the shoulders of the Carriageway.

**CERTIFICATE** means a certificate in Food Safety that meets unit standards prescribed by the New Zealand Qualifications Authority or alternatively any certificate that has been approved by Council.

**CHARACTERISTIC** means any of the physical, biological or chemical constituent parts of a discharge referred to in Schedules 1 and 2 of Chapter 14 of the Bylaw.

**COLLECTION DAY** is the day allocated to an area designated by Council for the collection of solid waste, reusable, recyclable and compostable material.

**COMMERCIAL PREMISES** means any lot of land which contains one or more buildings for the carrying out of any business, manufacture process, trade, retail or any other undertaking which is not intended for residential purposes. It does not include a business located in a residential dwelling such as but not limited to a home occupation or professional office where the primary property designation would be residential.

**COMPOSTABLE MATERIALS** are materials that are organic in origin and appropriate to be used as feedstock for composting. Compostable material may be defined by its

material components, eg. grass, leaves, food, wood, garden trimmings etc.

CONDENSING WATER means any water used in any Trade Premises in such a manner that it does not take up matter into solution or suspension.

CONDITIONAL TRADE WASTE means Trade Waste which has conditions placed upon the Consent to discharge Trade Waste imposed by Council.

CONSENT means a consent in writing given and signed by an Authorised Officer of Council to discharge to or for a Service Connection to any of the Network Infrastructure Services.

CONSENT HOLDER means the Person occupying Premises who has obtained a Consent to discharge or direct the manner of discharge from any Premises to the Network Infrastructure Services system, and includes any Person who does any act on behalf or with the express or implied consent of the Consent Holder (whether for reward or not) and any licensee of the Consent Holder.

CONSTITUENT means the sum of individual component parts of any discharge.

CONTAMINANT includes any matter, substance, energy (excluding noise) or heat, that either by itself or in combination with the same, similar or other substances, energy or heat shall:

- (a) When discharged into water, changes or is likely to change the physical, chemical, or biological condition of water; or
- (b) When discharged onto or into land or into air, changes or is likely to change the physical, chemical or biological condition of the land or air onto or into which it is discharged.

CONTRACTOR COLLECTION means collection services being provided by Licensed Solid Waste Contractors for rubbish, reusable, recyclable and compostable materials.

COOLING WATER means the same as Condensing Water.

COUNCIL means the Waimate District Council.

COUNCIL FACILITY includes any library, library/service centre, swimming Pool, aquatic centre, recreational, cultural or community centre, museum, art gallery, hall, zoo or golf course under the Ownership or control of Council.

COUNCIL KERBSIDE COLLECTION means the service being provided to properties by Council for the collection of rubbish, recyclable and compostable materials.

COUNCIL OFFICER means any officer of the Waimate District Council delegated by Council to take action in relation to any particular Bylaw, or to undertake the duties of a Council Officer under the Bylaw and any Person appointed especially or generally by Council to enforce the provisions of this Bylaw.

CUSTODIAN means any Person for the time being appointed by Council 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 Council.

CUSTOMER means a Person who uses, or has obtained the right to use or direct the manner of use of water supplied by Council to any Premises, or a Person who either discharges, or has obtained a Consent to discharge or direct the manner of discharge of from any Premises to the Sewer or Stormwater Network Infrastructures.

DEBRIS means any refuse, rubbish, animal remains, glass, metal, garbage, dirt, filth, rubble, ballast, stones, earth, hedge trimmings or waste matter, or any other thing of a like nature.

DISCONNECTION means the physical cutting and/or sealing off of any Network Infrastructure Service for use by any Person.

DISTRICT means the Waimate District as constituted by the Local Government (Canterbury Region) Reorganisation Order 1989.

DOG CONTROL OFFICER means a dog control officer appointed under section 11 of the Dog Control Act 1996.

DOG RANGER means a dog ranger appointed under section 12 of the Dog Control Act 1996 and includes an honorary dog ranger.

DROVE means to drive, or move stock in mobs or herds along or across a road, and DRIVE, DRIVEN and DROVING have equivalent meanings.

DROVER means a responsible person physically in charge of, or physically assisting in, the Droving of Stock.

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.

DOMESTIC SEWAGE means Foul Water (with or without matter in solution or suspension) discharged from Premises used solely for residential purposes, or wastes of the same character discharged from other Premises; but does not include any solids, liquids or gases that may not be lawfully discharged into the Sewer Network Infrastructure.

DRAIN means sewerage drain or stormwater drain, and drainage has a corresponding meaning.

ELIGIBLE PREMISES includes occupied and un-occupied residential dwellings, and commercial Premises that Council has determined may receive a Council Kerbside Collection Service.

ENVIRONMENTAL HEALTH OFFICER means, a Person qualified for appointment as an Environmental Health Officer, pursuant to the Health Act 1956.

EXEMPTED FOOD HANDLER means:

- (i) Any Person employed in any food Premises who is not involved in the manufacture, preparation or packing of food but does handle pre packaged foodstuffs at point of sale or in storage;
- (ii) Any Person who has a trade qualification that includes an approved safety component.

Exempted Food Handlers may include:

- (a) Supermarket checkout operators;

- (b) Persons employed exclusively in the handling of packaged goods in storage or the carriage of such goods to and from storage;
- (c) Persons employed exclusively in the delivery of packaged goods to and from food Premises;
- (d) Persons employed predominantly in the wholesale or retail sale of fruit or vegetables;
- (e) Any Person employed in a food premise where there is an operative food safety programme and to which the Food Hygiene Regulations 1974 do not apply;
- (f) Any other Person employed in a food Premises or who works in connection with any food Premises who in the opinion of the Environmental Health Officer is an exempted food handler.

FAMILY includes one Person living alone; and also includes two or more Persons whether related or not, living together but independently of other Persons living in the same building.

FARM means an area of land used for agriculture and includes multiple parcels of land under the same ownership.

FIRE BRIGADE means a fire brigade as defined in Section 2 of the Fire Service Act 1975.

FIRE DISTRICT” means a Fire District declared or constituted under Section 26 of the Fire Service Act 1975.

FIRE OFFICER means any Authorised Officer of Council or the Chief Fire Officer of a District, or the Deputy Chief Fire Officer, or, in the absence of both of them, the Person for the time being in charge of the Fire Brigade.

FOOD shall have the same meaning as it has in section 2 of the Food Act 1981.

FOOD HANDLER means any Person employed in or on any food Premises who at any time may be involved in the manufacture, preparation or packing of food.

FOOD PREMISES shall have the same meaning as in Regulation 2 of the Food Hygiene Regulations 1974 but shall

not include **occasional Food Premises** as defined in that Regulation.

FOOTPATH means as much of any Road or Public Place that is laid out or constructed by authority of Council for pedestrian use.

FOUL WATER means the discharge from any sanitary fixtures (any fixture which is intended to be used for sanitation – the term used to describe activities of washing and/or excretion carried out in a manner or condition such that the effect on health is minimised, with regard to dirt and infection) or sanitary appliance (an appliance which is intended to be used for sanitation which is not a sanitary fixture – included are machines for washing dishes and clothes).

GOODS means any product or service.

HAZARDOUS SUBSTANCE means a Hazardous Substance as defined by the Hazardous Substances and New Organisms Act 1996 and includes Dangerous Goods as defined in the Land Transport Rule: Dangerous Goods.

HEAVY MOTOR VEHICLE means a motor vehicle the gross laden weight of which exceeds 4,500 kg but it excludes vehicles used, kept, or available for the carriage of passengers for hire or reward.

HEAVY VEHICLE means any vehicle with a gross laden weight over 4,500, unless specified in any particular Bylaw.

HOURS OF DAYLIGHT means any time between half an hour before sunrise on any one day and half an hour after sunset on that day. HOURS OF DARKNESS has the opposite meaning.

ILLEGAL DUMPING means litter, as defined in the Litter Act 1979 and solid waste that is disposed of at a Public place or onto private property without the Owners consent.

INDEPENDENT ANALYST means an International Accreditation New Zealand (IANZ) accredited test laboratory appointed for the purposes of sampling and testing Water, Stormwater, Sewage or Trade Wastes.

INDIVIDUAL PARKING METER means a parking meter designed to control one metered Space.

KEEPER means the Person, whatever may be the nature or extent of his/her interest in the Premises, by whom or on whose behalf a boarding-house let in lodgings or for occupation, or by whom or on whose behalf an apartment building is let in dwelling units, or who for the time being receives or is entitled to receive the proceeds or profits arising from such letting;

KERBSIDE, FOOTPATH AND ROADSIDE means an area on the Road reserve outside a property.

LIVESTOCK/STOCK means both farmed and feral animals and poultry including (without limitation) cattle, sheep, pigs, goats, horses, deer, poultry.

LICENSED means holding a licence under this Bylaw, under any statute and includes permits or any other Council permission.

LIQUOR CONTROL means the acts prohibited by clause 402 of this Bylaw.

LOCAL AUTHORITY means Council, Person, or group of Persons authorised by any Act to make Bylaws, and which has made this Bylaw, and includes the body corporate on behalf of which any such Council, Person, or group acts.

LODGER means a Person to whom any room or part thereof or rooms in a boarding-house is or are let as a lodging for his/her use or occupation and to whom no board is supplied.

MACHINE means a mechanical device or vehicle that may not be legally used on the road.

MANAGEMENT PLAN means the plan for the management of operations on the Premises from which Sewage and Trade Waste are discharged, and may include, but is not limited to provision for waste minimisation, accidental discharge, spill contingency procedures, and any relevant industry code of practice or spill control plan.

MASS LIMIT means the total mass of any Constituent that may be discharged to the Sewer Network Infrastructure over any Council specified period.

MAXIMUM CONCENTRATION means the instantaneous peak concentration of any Constituent.

MEMORIAL PARK includes areas of cemeteries set aside for interments which shall contain headstones or plaques set on a concrete berm but not contain plots that have a concrete top, fencing, Perimeter kerbing, vaults or another monument thereon.

MILKING STOCK means and includes any animal used to produce dairy products.

MOB means a group (more than one) of livestock being moved from one place to another.

MODEL AEROPLANE means a motorised scale model of an aircraft, which may or may not be radio controlled.

MOTOR VEHICLE shall have the meaning assigned to it by the Land Transport Act 1998.

NETWORK INFRASTRUCTURE SERVICES means the services provided by the Waimate District Council in the supply of water, sewer, stormwater and trade waste services.

NUISANCE shall have the meaning assigned to it by the Health Act 1956.

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.

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.

OFFICER means any Police Constable, authorised Security or Council Officer or any other Person appointed especially or generally by Council to enforce the provisions of this Bylaw.

OPEN AIR means in relation to fires otherwise than within:

- (a) Any barbecue or brazier; as defined above; or
- (b) Traditional cooking fire as defined below.

OPEN FIRE SEASON Means a period of time whether of fixed or indefinite duration during which period the lighting of fires in the Open Air is neither prohibited nor restricted under this Bylaw.

OWNER of any property, or as applied to any land, building, or Premises, means any Person for the time being entitled to receive the rent of such property, 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 their attorney or agent.

OWNER in relation to Chapter 6 – Control of Dogs means every Person who:

- (a) Owns the dog; or
- (b) Has the dog in his or her possession, whether the dog is at large or in confinement, otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, damage, or distress, or for the sole purpose of restoring a lost dog to its Owner; or
- (c) The parent or guardian of a Person under the age of 16 years who:
  - (i) Is the Owner of the dog pursuant to paragraph (a) or paragraph (b) of this definition; and
  - (ii) Is a member of the parent or guardian's household living with and dependent on the parent or guardian;

but does not include any Person who has seized or taken custody of the dog under the Dog Control 1996 Act or the Animal Welfare Act 1999 or the National Parks Act 1980 or the Conservation Act 1987 or any order made under the Dog Control Act 1996 or the Animal Welfare Act 1999.

OWNER-OCCUPIER FLAT means a residential flat in respect of which any Person has a right of occupation under a lease or licence or other tenure held by him/her by virtue of his/her being a shareholder in a company owning the building of which the flat forms part or by virtue of his/her being the Owner of an estate or interest in the land on which that building is erected.

PARK for the purposes of Chapter 7 – Parks, Reserves, Beaches and Tracks means the standing of a Vehicle in any place for a period in excess of five minutes.

PERMIT in relation to the lighting of fires in the Open Air, means a fire control measure in accordance with which a Person may light such fires without committing an offence against Chapter 20 of this Bylaw.

PERMITTED TRADE WASTE means a Trade Waste discharge that has been approved by, or is acceptable to, Council and as long as it has the physical and chemical Characteristics which comply with the requirements of Council standard as defined in Schedule 1 of Chapter 15 – Water Services.

PERSON includes a corporation sole and also a body of Persons, whether corporate or unincorporated.

PILOT VEHICLES means and includes any motor cycles, 4 wheel farm bikes, cars, utility vehicles, tractors, or trucks operating and moving with hazard lights in operation in front of or behind the mob.

POINT OF SUPPLY is the boundary between the Water Network Infrastructure and a Private Supply Pipe.

POINT OF DISCHARGE is the boundary between the Sewer Network Infrastructure and a Private Drain.

POOL has the same meaning as that defined by New Zealand Standard 5826:2000 Pool Water Quality.

POOL MANAGER means the Person for the time being who controls or manages or assists to control and manage any Public swimming Pool or Spa and includes the Occupier and the Owner of the Premises.

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.

POULTRY means any bird (including domestic fowls, ducks, geese, turkeys, guinea-fowl, pheasants and pigeons) that is kept or raised for the purpose of sale or of producing eggs, hatching eggs or poultry products for human consumption, or for the purpose of rearing on behalf of another Person.

POTABLE means water which complies with the health criteria of the Drinking Water Standards for New Zealand.

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.

PRE-TREATMENT means processing of Trade Waste or Stormwater by any process, works, structure, equipment or machinery that is intended to vary the Characteristics of the Trade Waste or Stormwater or remove Constituent matters prior to their discharge into a Council Network Infrastructure Service.

PRIVATE DRAIN means that section of drain between the Premises and the Point of Discharge

PRIVATE SUPPLY PIPE means that section of pipe between the Point of Supply and the Premises.

PROHIBITED FIRE SEASON means a period of time, whether of fixed or indefinite duration, specified pursuant to this Bylaw during which period the lighting of fires in the Open Air is prohibited.

PROHIBITED TRADE WASTE means any Trade Waste that has Prohibited Characteristics as defined in Schedule 2 of Chapter 15 – Water Services.

PROHIBITED WASTE means materials which are unacceptable in containers and which are identified in Schedule Two of Chapter 14 – Solid Waste.

PUBLICLY NOTIFIED means published in a notice in a newspaper or newspapers circulating to the Waimate District.

PUBLIC NOTICE shall have the meaning assigned to it from time to time by the Local Government Act 2002.

PUBLIC PLACE for the purposes of Chapter 6 – Control of Dogs shall have the same meaning as that provided in section 2 of the Dog Control Act 1996

PUBLIC PLACE for the purposes of the remainder of this Bylaw means:

- (a) any place that is:
  - (i) under the control of Council; and
  - (ii) open to, or being used by, the Public, whether or not there is a charge for admission; and
- (b) includes:
  - (i) 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
- (c) does not include:
  - (i) for the purposes of Chapter 3 – Trading in Public Places any place in any building;
  - (ii) for the purposes of Chapter 3 – Trading in Public Places any place in any park or Reserve
  - (iii) for the purposes of Chapter 4 – Liquor Ban in Public Places any part of a place for which a liquor licence has been issued in accordance with the Sale of Liquor Act 1989; or
  - (iv) for the purposes of Chapter 4 – Liquor Ban in Public Places any place in any building that is owned or occupied by Council
  - (v) for the purposes of Chapter 6 – Control of Dogs any veterinary clinic

PUBLIC POOL has the same meaning as that defined by New Zealand Standard 5826:2000 Pool Water Quality and includes

every portion of any Premises used in connection with such purpose, and includes Spa Pools.

RECYCLABLE MATERIALS are materials that can be converted into other products by further processing. This includes but is not limited to the following:- paper, cardboard, glass, aluminium cans, steel cans, ferrous and non-ferrous metals, clothing, textiles, wood, or any other material Council may notify as recyclable.

REGULAR MOVEMENT OF STOCK means the movement of stock over the same route involving the road or road reserve on more than three occasions on a weekly basis.

RESERVE includes any open Space, plantation, park, beach, garden, or ground set apart for Public recreation or enjoyment which is now or hereafter may be under the management or control of Council.

RESIDENTIAL DWELLING means a building or a part of a building occupied or intended to be occupied as a sleeping place like a home or a residence by one or more Persons. Motels, Hotels and multi unit Premises used primarily for travellers accommodation are not included. Sleepouts and Homestay Rooms are considered to be part of the primary residential dwelling.

RESIDENTIAL PREMISES means Premises used exclusively for residential activities.

RESTRICTED FIRE SEASON means a period of time, whether of fixed or indefinite duration, specified pursuant to this Bylaw, during which period permits are required by this Bylaw for the lighting of fires in the Open Air.

RESTRICTOR means a device fitted to the flow control device on a restricted flow supply to regulate the flow of water to a property.

RIDE A SKATEBOARD means having either one or both feet, or any other part of the body of any Person, on the skateboard when it is moving.

REUSABLE MATERIALS are materials that can be used in their existing form or if damaged can be repaired to working

order. This includes but is not limited to the following:- clothing, textiles, furniture, household items, electronic and electrical items, crockery, kitchenware, sporting equipment, building materials etc.

ROAD has that meaning which is attributed to it by section 315 of the Local Government Act 1974.

ROAD VERGE means any margin of a road adjacent to, but not forming part of, either the carriageway or footpath (if any).

SERVICE CONNECTION means that section of pipe between a Network Infrastructure Service and the Point of Supply or Point of Discharge. This section of pipe is owned and maintained by Council and may include other fittings and equipment.

SERVICE DELIVERY VEHICLE means any Vehicle being used for the purpose of delivering goods to the Premises of any business or organisation and does not involve the sale of the goods to the general Public in any Public Place.

SERVICE OPENING means a manhole or other opening for gaining access for inspection, cleaning or maintenance, of a Network Infrastructure Service.

SEWAGE means Foul Water and may include Trade Wastes.

SEWAGE SLUDGE means the solid material settled out and removed from Sewage during the treatment process.

SEWER means the pipework drainage system that conveys Sewage.

SEWER NETWORK INFRASTRUCTURE means the systems for the collection, treatment and disposal of Sewage and Trade Wastes, and includes, but is not limited to machinery, pumps, pipes, pipe fittings and appurtenances, and any Sewage treatment works, and all associated land, buildings and other plant and equipment used for the reception, treatment and disposal of Sewage and Trade Wastes.

SIGNIFICANT BUILDING means any building; or any other structure with a floor area to, or greater than, 10 m<sup>2</sup> (ten square metres) that requires a building consent under the Building Act

2004; or that requires the use of more than 3 m<sup>3</sup> (three cubic metres) of concrete.

**SKATEBOARD** means a wheeled device controlled or propelled by gravity or by the muscular energy of the rider, including roller skates, in-line skates, or similar recreational devices. The definition does not include any wheelchair, baby or invalid carriage.

**SKIN PIERCING** means any process involving piercing, cutting or puncturing the skin of any part of the human body and includes any part of acupuncture, pedicure, epilation, ear piercing, body piercing, hair restoration, acne treatment, red vein treatment, tattooing and any other like practice.

**SOLID WASTE** is any material that is primarily not a liquid or gas that is unwanted and/or unvalued and is discarded or discharged by its Owner. Solid Waste may include material that may potentially be reused, recycled and composted. Solid Waste that is to be disposed to the landfill is called rubbish.

**SPA POOL** has the same meaning as that defined by New Zealand Standard 5826:2000 Pool Water Quality.

**SPECIAL WASTE** means any solid waste which may require alternative collection, handling, treatment or processing instead of the usual handling methods.

**SPEED LIMIT** means the same as in Land Transport Rule: Setting of Speed Limits 2003.

**STATE HIGHWAY** has the meaning attributed to it by Section 2 of the Transit New Zealand Act 1989.

**STOCK** means horses, pigs, goats, cattle, deer, sheep, alpaca and llama of any age or sex.

**STORMWATER** means surface water run-off resulting from precipitation.

**STORMWATER NETWORK INFRASTRUCTURE** means the Stormwater collection, treatment and disposal systems and includes but is not limited to land, buildings, machinery, pumps, pipes, pipe fittings and appurtenances, and any treatment works

for the purpose of collecting, treating, and disposing of Stormwater.

STREET, PRIVATE ROAD, FOOTPATH and PRIVATE WAY shall have the respective meanings assigned to them in the Local Government Act 1974 and shall where the context requires include a Road.

TANKERED WASTE means water or other liquid, including waste matter in solution or suspension, which is conveyed by Vehicle for disposal but excludes Domestic Sewage discharged directly from house buses, caravans, buses and similar type Vehicles.

TATTOOING means the process of marking the skin of any part of the human body with indelible patterns by inserting pigments into punctures of that skin.

TAXI shall have the meaning assigned thereto by the Transport Services Licensing Act 1989.

TIME RESTRICTED PARKING SPACE means a parking Space individually marked out or a portion of the area within Road markings defining the start and end of a time restricted area and controlled by a parking sign indicating the maximum time in minutes for which Parking is permitted.

WAIMATE FIRE DISTRICT means the district of Waimate as constituted by the Local Government (Canterbury Region) Reorganisation Order 1989.

TRACKS means walkways and cycle tracks, individually or combined, which are not located within a Road reserve and may include those tracks covered by the Walkways Act 1990.

TRADE PREMISES means:

- (a) Any Premises used or intended to be used for any industrial or trade purpose; or
- (b) Any Premises used for the storage, transfer, treatment, or disposal of waste materials or for other waste management purposes, or used for composting organic materials; or

- (c) Any other Premises from which a Contaminant produced in connection with any industrial or Trade Process is discharged. Does not include any Production Land; or
- (d) Any other Premises discharging other than Domestic Sewage

TRADE PROCESS includes every part of a process from the receipt of raw material to the dispatch or use in another process or disposal of any product or waste material, and includes any intervening storage of the raw material, partly processed matter, or product.

TRADE WASTE is any liquid with or without matter in suspension or solution, that is or may be discharged from a Trade Premises to the Sewer Network Services Infrastructure in the course of any trade or industrial process or operation, or in the course of any activity or operation of a like nature; and may include Condensing or Cooling Water; Stormwater which cannot be practically separated, or Domestic Sewage.

TRADITIONAL COOKING FIRE means any hangi or similar fire in the Open Air used for the preparation of food using traditional cooking methods.

URBAN TRAFFIC AREA means the same as in Land Transport Rule: Setting of Speed Limits 2003.

VEGETATION includes:

- (a) All plants and the produce thereof, live or dead, standing, fallen, windblown, cut, broken, pulverised, sawn, or harvested, natural or disturbed in use or as waste, rubbish, refuse or debris, stump, stubble or otherwise; and
- (b) Fossil fuel exposed at or lying within 20 metres of the surface of any land; and
- (c) Peat in any form - but does not include wood forming part of a structure or otherwise in processed form.

VEHICLE means a contrivance equipped with wheels, tracks, or revolving runners upon which it moves or is moved, but does not include:

- (a) A perambulator or pushchair;
- (b) A shopping or sporting trundler not propelled by mechanical power;
- (c) A wheelbarrow or hand-trolley;
- (d) A child's toy, including a tricycle and a bicycle, provided, in either case, no road wheel (including any tyre) has a diameter exceeding (335mm);
- (e) A pedestrian-controlled lawnmower;
- (f) Any pedestrian-controlled agricultural machinery not propelled by mechanical power;
- (g) Any article of furniture;
- (h) Any invalid wheel-chair;
- (i) Any hovercraft;
- (j) Any other contrivance specified by Council.

VEHICLE ACCESSWAY means the area within public road or other public land from a road carriageway to a property boundary intended for use by vehicles accessing the property.

VEHICLE CROSSING means that part of a Road from the kerb to the boundary of the land or Premises adjoining the Road that is used for the purpose of giving entry or access for Vehicles of any description, or that part of the Road between the formed carriageway and the Road boundary.

WASTE MANAGEMENT FACILITIES means sites, buildings, Premises and locations where waste is managed and includes but is not limited to landfill sites, cleanfill sites, transfer stations, composting facilities, recycling sorting and processing facilities, recycling drop-off locations and waste sorting sites.

WASTEWATER means liquid wastes, or other liquids with or without waste matter in solution or suspension, discharged into the Sewer Network Infrastructure and includes Domestic Sewage and Trade Wastes.

WATER NETWORK INFRASTRUCTURE means the water treatment and conveyance systems including but not limited to land, buildings, machinery, pipes, pipe fittings and appurtenances, and any treatment work owned, operated or maintained by Council.

WATER SERVICES means Water Supply, Wastewater and Stormwater services provided by the Network Infrastructure Services.

WATER STORAGE TANK means any tank having a free water surface under atmospheric pressure to which water is supplied across an Air Gap Separation or through an Approved Backflow prevention device.

WATER RACE shall have the same meaning as that provided in Section 5 of the Local Government Act 2002

WATER SUPPLY means the provision of drinking water to communities via the Water Network Infrastructure.

WATERWORKS includes all waterworks as defined in Section 5 of the Local Government Act 2002.

WORKING DOG Means:

- (a) any guide dog, hearing ear dog, or companion dog:
- (b) Any dog—
  - (i) Kept by the police or any constable, the Customs Department, the Ministry of Agriculture and Forestry, the Ministry of Fisheries or the Ministry of Defence, or any officer or employee of any such department of State solely or principally for the purposes of carrying out the functions, powers, and duties of the police or the department of State or that constable, officer, or employee; or
  - (ii) Kept solely or principally for the purposes of herding or driving stock; or
  - (iii) Kept by the Department of Conservation or any officer or employee of that department solely or principally for the purposes of carrying out the functions, duties, and powers of that Department; or
  - (iv) Kept solely or principally for the purposes of destroying pests or pest agents under any pest management strategy under the Biosecurity Act 1993; or
  - (iva) kept by the Department of Corrections or any officer or employee of that department solely or principally for the purposes of carrying out the functions, duties, and powers of that Department; or
  - (ivb) kept by the Aviation Security Service established under section 72B(2)(ca) of the Civil Aviation Act

- 1990, or any officer or employee of that service solely or principally for the purposes of carrying out the functions, duties, and powers of that Service; or
- (ivc) certified for use by the Director of Civil Defence Emergency Management for the purposes of carrying out the functions, duties, and powers conferred by the Civil Defence Emergency Management Act 2002; or
  - (v) Owned by a security guard as defined in section 4 of the Private Investigators and Security Guards Act 1974 and kept solely or principally for the purposes of carrying on the business of a security guard; or
  - (vi) Declared by resolution of the territorial authority to be a working dog for the purposes of this Act, or any dog of a class so declared by the authority, being a dog owned by any class of persons specified in the resolution and kept solely or principally for the purposes specified in the resolution.

WRITING, WRITTEN or any term of like import means and includes words printed, painted, engraved, lithographed, or otherwise traced or copied.

- 101.2 Words importing the singular number include the plural number, and words importing the plural number include the singular number.
- 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 and Policy Note to this Bylaw shall be deemed to form part of this Bylaw provided that any such schedule or policy note may be altered from time to time by Council resolution.

**102 Officers to continue in office**

- 102.1 All Officers appointed by Council 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 them 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 them either Personally or by sending the same, by messenger or post, to them at their 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 their agent instead of to such Person, in any manner mentioned in the last preceding sub clause.
- 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 resident of his/her 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 Council authorised by Council for that purpose.

104.2 Where pursuant to this Bylaw any powers or duties are imposed on a Council Officer that Officer may with the consent of Council delegate any of those powers or duties either generally or particularly to any other Officer of Council.

**105 Powers of entry for purposes of this Bylaw**

105.1 Council shall have for the purpose of doing anything that it is empowered to do under any Bylaw, the power to enter for the purpose of inspection, by its Officers or agents, upon:

- (a) any unoccupied land or building; or
- (b) any occupied land or building after giving to the Occupier thereof, and where practicable to the Owner if the Owner is not the Occupier, 24 hours notice of the intended entry.

105.2 Where the Occupier is not the Owner and notice has not been given to the Owner as above, notice of any entry shall be given to the Owner as soon as practicable.

105.3 In any sudden emergency causing or likely to cause loss of life, injury or damage to the property or any adjoining property, Council may for the purposes of doing anything it is empowered to do under any Bylaw, enter, by its Officers or agents, any occupied land or building without giving prior notice but shall as soon as practicable thereafter inform the Occupier, and where the Occupier is not the Owner, the Owner of the land or building.

105.4 Every Person who obstructs or hinders any such Council Officer or agent in the exercise of their powers hereunder shall be liable to prosecution for an offence against this Bylaw.

**106 Suspension and revocation of licences**

106.1 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 their character as a licensee, Council 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 Council either by a report from a Council Officer 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 they are deemed to be unfit to hold such licence, then and in any of such cases Council may cause to be served upon such holder a notice calling upon him/her to appear before Council or a committee thereof and show cause why their licence should not be revoked or suspended, and Council 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 Council either by a report from a Council Officer or otherwise howsoever that any Premises licensed under this Bylaw or any part of such Premises:
  - (i) Have been or are being used for any other purpose than that stated in such licence; or
  - (ii) Have fallen into a state of disrepair or are not being kept and maintained in the condition required by such licence; or
  - (iii) 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 Council 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 sub clause (b) hereof and may hear and determine the matter as provided in the said sub clause (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.

**107 Offences and breaches**

- 107.1 No Person shall do anything or cause any condition to exist for which a licence or approval from Council 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.
- 107.2 No application for a licence or authority from Council, 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.
- 107.3 Any Person commits a breach of this Bylaw who:
- (a) Does, or causes to be done, or knowingly permits or suffers to be done 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 them at the time and in the manner therein provided; or
  - (c) Does not refrain from doing anything which under this Bylaw they are 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/her under this Bylaw; or
  - (f) Obstructs or hinders any Officer of Council in the performance of any duty to be discharged by that Officer under or in the exercise of any power conferred upon him/her by this Bylaw; or
  - (g) Fails to comply with any notice or direction given under this Bylaw.
- 107.4 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 them by Council or any Officer of Council, carry out the remedial action specified in that notice.

107.5 The notice shall state the time within which the remedial action is to be carried out, and may be extended from time to time by written authority of a Council Officer.

107.6 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, 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.

**108 Removal by Council of works executed contrary to the Bylaw**

108.1 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 any Bylaw of Council.

108.2 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 Council, in connection with such pulling down, removal or alteration.

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

**109 Penalties for breach of Bylaws**

- 109.1 Every Person who commits a breach of this Bylaw is liable to a fine as specified in Section 242 of the Local Government Act 2002.
- 109.2 Council 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 and/or the provisions of the Local Government Act 2002.

**111 Dispensing power**

- 111.1 Where in the opinion of Council 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, Council 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 Council 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 Council be properly installed, and put into use, Council may either generally or specifically authorise the installation and use of such article or thing, and they may impose such conditions as they deem 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 invalidate them.

**114 Fees and charges**

- 114.1 Council may at any time by resolution passed after consultation as part of the Long Term Council Community Plan or the Annual Plan prescribe fees that may be charged in respect of any licence, certificate, authority, approval, consent given, inspection made or service given by Council under the provisions of the Local Government Act 2002 or any other enactment where that enactment contains a provision for authorising Council to charge a fee.
- 114.2 Where any inspection or service for which a fee has been paid (under the provisions of clause 114.1 hereof) has not been given or made, Council may refund any such fee or portion thereof as it may determine.