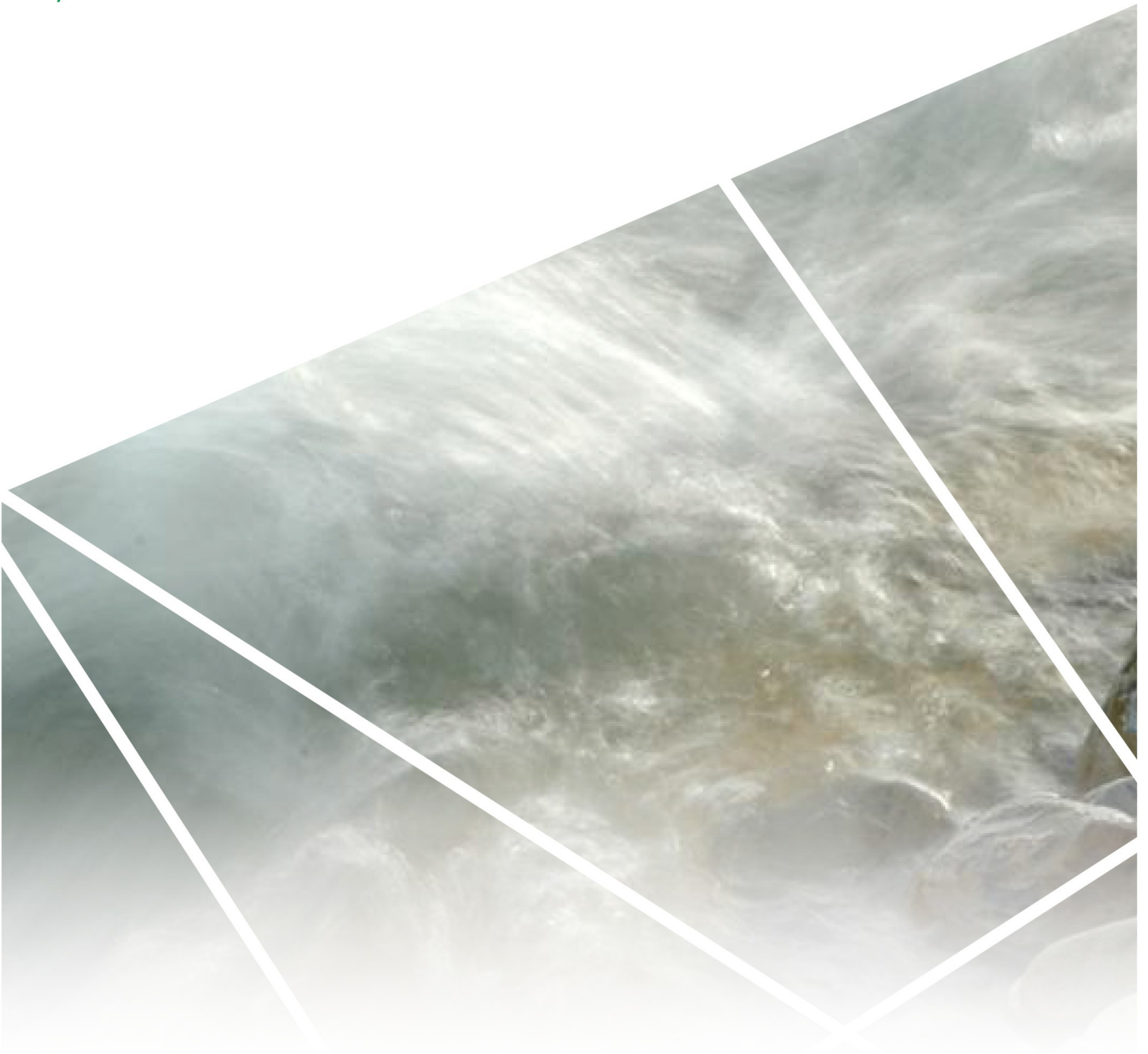


# Prevention of Nuisance from Fires and Smoke Bylaw 2026



## **Upper Hutt City Council**

# **Prevention of Nuisance from Fires and Smoke Bylaw 2026**

### **EXPLANATORY NOTE**

This Bylaw is called the Prevention of Nuisance from Fires and Smoke Bylaw and was made pursuant to section 145 of the Local Government Act 2002 and section 64(1)(a) of the Health Act 1956.

Adopted by Council on 20 May 2026

## **1. Purpose and Application of Bylaw**

- 1.1. The purpose of this bylaw is to:
- (a) protect the public from nuisance related to fires and smoke; and
  - (b) protect and maintain public health and safety around fires and smoke (other than those aspects controlled by the Fire and Emergency New Zealand Act 2017).
- 1.2. This bylaw is made under section 145 of the Local Government Act 2002 and section 64(1)(a) of the Health Act.
- 1.3. Nothing in this bylaw derogates from the Fire and Emergency Act 2017 or regulations made under that Act. To the extent that it is covered by that Act, nothing in this bylaw:
- (a) Relates to the removal of fire hazards; or
  - (b) Declares prohibited or restricted fire seasons; or
  - (c) Prohibits or otherwise regulates or controls the lighting of fires in open air; or
  - (d) Relates to the prevention of the spread of fires involving vegetation.

## **2. Commencement**

- 2.1. This bylaw came into force on 1 June 2026.

## **3. Interpretation**

- 3.1. In this bylaw, unless the context otherwise requires:

**“Authorised Officer”** means an enforcement officer authorised under the Local Government Act 2002, or any other person authorised by Council for the purposes of administering and enforcing this bylaw.

**“Council”** means the Upper Hutt City Council.

**“Environmental Health Officer”** means an Environmental Health Officer authorised under the Health Act 1956.

**“Public Place”** means any place that at any material time is under the control of the Council and is open to or being used by the public whether free or in payment of a charge and includes any road that is not under the control of the New Zealand Transport Agency, and also includes every park and Akatarawa Cemetery.

**“Nuisance”** has the same meaning as set out in section 29 of the Health Act 1956 which includes but is not limited to subsections (m) and (n) of the Health Act 1956.

(m) where any chimney, including the funnel of any ship and the chimney of a private dwellinghouse, send out smoke in such quantity, or of such nature, in such manner, as to be offensive or likely to be injurious to health, or in any manner contrary to any regulation or Act of Parliament

(n) where the burning of any waste material, rubbish, or refuse in conjunction with any trade, business, manufacture, or other undertaking produces smoke in such manner, as to be offensive or likely to injurious to health.

References to “nuisance or risk” include potential nuisance or risk.

#### **4. Nuisance or Health and Safety Risk from Fires or Smoke**

- 4.1. No person may light, or allow to remain lit, a fire that creates a nuisance, health risk, or safety risk to any person or property.
- 4.2. No person may permit smoke, fumes or any other matter to be emitted in such a way as to create a nuisance, health risk, or safety risk to any person or property.
- 4.3. If an Authorised Officer is of the opinion that clauses 4.1 or 4.2 of this bylaw are breached, or have the potential to be breached on a Public Place, or private property other than a dwellinghouse, they may take reasonable steps in accordance with sections 163 and 164 of the Local Government Act 2002 to abate, or cause to be abated, the nuisance or risk including the removal of the fire.
- 4.4. If an Environmental Health Officer is of the opinion that clauses 4.1 or 4.2 of this bylaw are breached or have the potential to be breached on private land and that the immediate abatement of the nuisance is necessary, the Environmental Health Officer may without notice enter the land and abate the nuisance.
- 4.5. For the avoidance of doubt, nothing in clause 4 of this bylaw applies to fire safety risk governed by the Fire and Emergency NZ Act 2017 or regulations made under that Act, including the matters listed in clauses 1.3 (a) – (d) of this bylaw.

#### **5. Offences and Cost Recovery**

- 5.1. Every person commits an offence who:
  - (a) breaches clauses 4.1 or 4.2 of this bylaw; or
  - (b) interferes with or fails to comply with the reasonable direction of an Authorised Officer, acting under clause 4.3 or an Environmental Health Officer acting under clause 4.4 of this bylaw.
- 5.2. Council may recover any costs it incurs as a result of acting under the bylaw. Costs are recoverable from:
  - (a) the owner of the land on or from which the nuisance or risk originated; and/or
  - (b) from any person or persons who caused the nuisance of risk.

#### **6. Penalties**

- 6.1. A person who breaches this bylaw may be liable on conviction for a fine of up to \$20,000 under Section 242(4) of the Local Government Act 2002.