

CARTERTON DISTRICT COUNCIL SILAGE BYLAW 2011



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1. Explanatory Note

This Silage Bylaw has been formulated in response to potential adverse affects on the environment and public health within the Carterton District

2. Referenced Documents

Reference is made in this document to the following:

New Zealand Legislation

- Health Act 1956
- Local Government Act 2002
- Resource Management Act 1991

Other Publications

- The Wairarapa Combined District Plan

3. Delegated Powers

This Bylaw does not provide for the delegation of powers to officers of Council.

Any delegation necessary to enforce aspects of this Bylaw are effected by the Mayor & Chief Executive Officer by issuing warrants under delegation to officers as provided for in the Local Government Act 2002 (section 174).

4. Title

A Bylaw of the Carterton District Council by way of Special Order pursuant to the provisions of the Local Government Act 2002 and all other Acts, powers and authorities enabling it in that behalf to make a Bylaw to be known as the **Carterton District Council Silage Bylaw 2011.**

5. COMMENCEMENT

This Bylaw shall come into force on the 12th day of September 2011.

6. REPEAL

As from the day this Bylaw comes into force, any previous silage bylaw or parts of any silage bylaw and their amendments in force in the Carterton District (including the former local authorities that now comprise the Carterton District Council) shall be repealed.

7. APPLICATION OF BYLAW

This Bylaw shall apply to the Carterton District.

8. SCOPE

This Bylaw is made under the authority of the Local Government Act 2002.

9. INTERPRETATION

When interpreting this Bylaw use the definitions set out in Section 10 unless the context requires otherwise. For the purpose of this Bylaw, the word 'shall' refers to practices that are mandatory for compliance with this Bylaw, while the word 'should' refers to practices that are advised or recommended.

10. DEFINITIONS

For the purpose of this Bylaw, unless inconsistent with the context, the following definitions apply:

Act – means the Local Government Act 2002

Approval - means approved in writing either by resolution of the Council or by any authorised officer of Council.

Certificate of Title - means a certificate registering the freehold ownership of land available to any owner(s) under the Land Transfer Act 1952.

Council - means the Carterton District Council

Enforcement Officer – means a person appointed by the Council to exercise the powers of enforcement in relation to offences against the infringement offences under the Act, and for the purposes of this bylaw shall include sworn officers of the New Zealand Police.

Occupier - the person who occupies the premises/property. This may be the owner of the premises, lessee, squatter or any other person on or using the premises.

Owner - the person who owns the premises/property.

Person - includes a corporation sole and also a body of persons whether corporate or incorporate.

Premises - means either:

(a) A property or allotment which is held under a separate certificate of title or for which a separate certificate of title may be issued and in respect to which a building consent has been or may be issued; or

(b) A building that has been defined as an individual residential unit held under a separate certificate of title, by a cross-lease, unit title or company lease and for which a certificate of title is available; or

(c) Land held in public ownership (e.g. reserve) for a particular purpose.

Public Notice - as defined in the Local Government Act 2002.

Residential Unit – A place of residence.

Silage – Silage is any plant material harvested while green for fodder and kept succulent by partial fermentation, in a stored form (e.g. stored in a purpose built pit or structure or covered stacks).

Territorial Authority (TA) means a city council or district council

11. Adverse Effects caused by inappropriate siting of silage

The Wairarapa Combined District Plan allows “Primary Production” as a permitted activity within the Rural zone of the Carterton District which includes farming activities that may produce the use of silage. However inappropriate siting and poor construction of silage pits or stacks, as well as poor management of silage pits or stacks can result in adverse effects on the environment and public health. These effects can include:

1. Poor coverage and sealing of silage stacks
2. Objectionable or offensive odour
3. Attraction and accumulation of insects (e.g. flies and mosquito’s), and vermin

12. Best Management Practices to avoid Adverse Effects

1. Good silage production
2. Siting and construction of silage pit
3. Careful covering and sealing of stack

The Resource Management Act (1991), which promotes sustainable management of natural and physical resources, requires that every person has a duty to avoid, remedy or mitigate any adverse effects on the environment arising from any activity.

13. Siting of Silage Pits and Stacks.

The siting of Silage Pits and Stacks shall comply with the following setback distances:

1. At least 100 metres from any neighbouring residential unit where the neighbouring property is held under a separate certificate of title and is in separate ownership AND
2. At least 5 metres from any boundary with a neighbouring property where the neighbouring property is held under a separate certificate of title and is in separate ownership.

In addition, the feeding out of silage shall be restricted to at least 5 metres from any adjoining boundary where the neighbouring property is held under a separate certificate of title and in separate ownership.

14. Council Consent.

Any person may apply in writing to the Council for consent to waive any activity that would be in breach under this bylaw. Any application requesting waiver of any part of the above setbacks relating to property boundaries and distances from residential units shall be accompanied by written consent from the owner and occupier of the adjoining and separately owned property.

15. Offences and Enforcement

Any person who contravenes any provisions of this bylaw commits an offence under section 239 of the Act and is liable upon summary conviction to the penalty prescribed in section 242 of the Act.

For the avoidance of doubt it is an offence under this bylaw to:

- (a) obstruct or hinder any Council officer or a sworn police officer in the performance of any duty to be discharged by that officer under or in exercise of any power conferred by this bylaw;
 - (b) fail to comply with any lawful notice or direction given under this bylaw.
- The Council may apply to a District Court for an injunction restraining a person from committing a breach of the bylaw pursuant to section 162 of the Act.

16. Penalties for Offences

A person who is convicted of an offence against a bylaw made under Part 8 (other than a bylaw made under Part 8 referred to in subsection (5)) is liable to a fine not exceeding \$20,000.

17. Summary Proceedings

In addition to enforcement of infringements of this Bylaw, the Act provides for prosecutions by way of summary proceeding as another means of enforcing the requirements of the Act. Council can lay an information (a summons) under the Summary Proceedings Act 1957 to initiate a prosecution against someone in the criminal courts for a breach of the Act.

Council may also follow proceedings under provisions of the:

- Local Government Act 1974
- Local Government (Rating) Act 2002
- Health Act 1956
- Resource Management Act 1991

18. Bylaw Approval Date

The Common Seal of the Carterton District Council was attached, under Resolution (*Reference - Carterton District Council Silage Bylaw 2011*) passed at a meeting of the Carterton District Council held on 10th August 2011

DATE CONFIRMED : ____/____/____

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