1. **Scope and Purpose**

1.1 The purpose of this Bylaw is to protect and maintain public health and safety from the start or spread of fire, by regulating the use of Outdoor Fires and other fire hazards.

1.2 For the avoidance of doubt, nothing in this Bylaw prevents Council from exercising its functions as the Rural Fire Authority under the Forest and Rural Fires Act 1977.

1.3 Nothing in this Bylaw derogates from any prohibition or restriction in respect of the lighting of fires in the Open Air under the provisions of the Forest and Rural Fires Act 1977 and the Forest and Rural Fires Regulations 2005, or from any duty, power, or responsibility arising from any other Act, Regulation, Bylaw or Rule.

*Explanatory note: This Bylaw complements the Tauranga City Council Beaches Bylaw 2007 and Street Use and Public Places Bylaw 2013 and should be read in conjunction with those Bylaws or any subsequent amendments.*

2. **Interpretation**

2.1 In this Bylaw, unless the context otherwise requires:

- **Barbeque** means a fixed or portable electric or gas fired appliance or device, designed or intended for the cooking of food in the Open Air.

- **Combustible material** means a substance or material that is able to catch fire and burn and may include overgrown vegetation, hay, timber and sawdust.

- **Council** means the governing body of the Tauranga City Council or any person delegated or authorised to act on its behalf.

- **District** means the district of the Tauranga City Council.

- **Fire hazard** means the danger of potential harm and degree of exposure arising from:
  (a) the start and spread of fire; and
  (b) the smoke and gases that are generated by the start and spread of fire.

- **Fireworks** has the same meaning as the Hazardous Substances (Fireworks) Regulations 2001.
**Fire Officer** means any person authorised by Council to act as a Fire Officer or who is a member of the New Zealand Fire Service in accordance with the Fire Service Act 1975.

**Non-combustible Receptacle** means a receptacle made of fire resistant materials to contain combustion or the burning of fuel.

**Occupier** means in relation to any Premises, any owner, tenant, agent, manager, foreperson or other person who appears to Council to be acting in the general management or control of the Premises.

**Open Air** means in the outdoors whether on or above ground level.

**Outdoor Fire** means any activity that uses fire to ignite and burn fuel or combustible material in the outdoors and includes Barbeques, Fireworks, flying lanterns, flares and other types of explosive materials.

**Premises** means both land and buildings and any part thereof.

**Public Place** means a place under the control of Council that, at any time, is open to or is being used by the public, whether free or for payment of a charge and includes every road, street, footpath, court, alley, pedestrian mall, cycle track, lane, accessway and thoroughfare, reserve, park, domain, beach, foreshore, and any other place of public recreation or resort.

**Private Land** means any place that is not a Public Place.

**Traditional Cooking Fire** means a hangi or similar outdoor fire in the Open Air used for the preparation of food using traditional cooking methods.

**Urban Fire Ban** means a prohibition on the lighting of Outdoor Fires within all or any part of the Urban Fire District and for any period of time determined under this Bylaw.

**Urban Fire District** means any land that lies within the Tauranga City Council district that is included in an Urban Fire District constituted under the Fire Service Act 1975.

2.2 This Bylaw applies to the whole of the Tauranga City Council district, unless expressly provided otherwise.

2.3 The term ‘includes’ or ‘including’ (or any similar expression) is deemed to be followed by the words ‘without limitation’.

2.4 References to the singular include the plural and vice versa.

2.5 References to any legislative or bylaw provision include any legislative or bylaw provision that amends or replaces it.

2.6 The explanatory notes and the Schedules to this Bylaw are for information purposes and do not form part of this Bylaw. They may be made, amended and revoked without formal process.

### 3. Urban Fire Bans

3.1 Council may, at any time when it considers it necessary due to a fire risk, prohibit the lighting of Outdoor Fires, including Fireworks, flying lanterns, flares or any
explosive material, for any specified period of time, within all or any parts of the Urban Fire District.

3.2 Council shall give public notice of any prohibition made under Clause 3.1.

3.3 Upon giving public notice, Council may, at any time, vary or cancel any prohibition made under Clause 3.1.

3.4 No person may light any Outdoor Fire at any time within any place specified in an Urban Fire Ban determined under Clause 3.1 and no Occupier, shall cause, permit or suffer any such fire to be lit, or to continue to burn. This clause shall not apply to any person who has been granted an exemption under Clause 3.5 or any person using a Barbeque or a Traditional Cooking Fire in accordance with Clause 3.6.

3.5 Council may issue to any person, an exemption from a prohibition imposed under clause 3.1 where it is satisfied that:

(a) the fire is urgently required to prevent, reduce or overcome any hazard to life, health, property or the environment; and

(b) the use of fire is the most efficient and effective means to reduce any risk of hazard to life, health, property or the environment.

Any exemption issued under this clause shall be in the form of a written approval issued under Clause 8.

3.6 A Barbeque or a Traditional Cooking Fire may be used within the Urban Fire District during a period of prohibition determined under Clause 3.1 if all of the following conditions are met:

(a) The Barbeque or Traditional Cooking Fire must not cause, or be likely to cause, a danger to any person or property;

(b) There is a pressurised water supply connected to a hose which is in sufficient proximity to be able to provide water supply to extinguish the Barbeque or Traditional Cooking Fire;

(c) The Barbeque or Traditional Cooking Fire is supervised at all times while it is burning.

4. **Fires in Public Places**

4.1 No person may light any Outdoor Fire in any Public Place within the Urban Fire District without first obtaining approval from Council.

4.2 Clause 4.1 shall not apply to:

(a) The use of Barbeques; or

(b) Any fire that is permitted under the Tauranga City Council Beaches Bylaw 2007 or any subsequent amendments to that Bylaw; or

(c) Fireworks; or

(d) Emergency Flares.

*Explanatory note: Clauses 5.1 (a) – (d) also apply to Outdoor Fires in a Public Place that have been approved by Council.*
5. **Conditions for lighting Outdoor Fires at all times**

5.1 No person may light or allow to be lit, any Outdoor Fire in the Urban Fire District in any of the following circumstances:

(a) Where the location, wind, or other conditions, cause, or are likely to cause the Outdoor Fire to become:
   (i) a danger to any person or property; or
   (ii) out of control or to spread beyond the limits of the property on which it is lit; or
   (iii) a smoke or ash nuisance to any person or property; or
   (iv) a hazard to road traffic.

(b) Within three metres of any part of a building, tree, hedge, fence, or other combustible material that may cause or is likely to cause a fire hazard, unless the fire is contained within a Barbeque or a non-combustible receptacle or appliance fuelled by gas;

(c) Without adequate supervision being maintained at all times;

(d) Without an appropriate means of fire suppression being available to control or extinguish the Outdoor Fire;

(e) Between the hours of sunset and sunrise, no person may light or allow to be lit, any Outdoor Fire on any Private Land unless the fire is:
   (i) an Outdoor Fire approved by Council; or
   (ii) contained within a non-combustible receptacle or appliance designed to be used in the outdoors for cooking, heating or amenity; or
   (iii) Fireworks.

*Explanatory note: Clause 5.1(e) applies to Outdoor Fires on Private Land located within the Urban Fire District. Outdoor Fires on Public Land require prior approval from Council under Clause 4, unless they fall within one of the exemptions in Clause 4.2.*

5.2 Every person who lights an Outdoor Fire must ensure the Outdoor Fire is properly extinguished on completion of the activity.

6. **Storage of combustible materials**

6.1 Every Occupier of any premises must store combustible materials in a manner that prevents or minimises fire hazard as far as practicable.

6.2 Where storage of combustible materials on any premises is likely to create a fire hazard, Council may require the Occupier to eliminate or minimise that fire hazard.

6.3 The Occupier must comply with the requirements and timeframes specified by Council to eliminate or minimise that fire hazard.

*Explanatory note: This clause applies to any premises located with the Tauranga City boundaries. Council has further powers under section 183 of the Local Government Act 2002 for the removal of growth or matter that is likely to become a fire hazard.*
7. Council powers to extinguish fires

7.1 Where an Outdoor Fire has been lit or allowed to burn in breach of any part of this Bylaw, Council may direct the Occupier of the property where the Outdoor Fire is located and/or the person(s) who lit the Outdoor Fire, to immediately extinguish the fire.

7.2 If a direction given under Clause 7.1 is not complied with to the satisfaction of Council, a Fire Officer may extinguish the Outdoor Fire and take other steps as considered reasonably necessary, to prevent the spread of fire.

7.3 Where an Outdoor Fire has been extinguished pursuant to Clause 7.2, Council may recover any costs incurred in attending, containing and/or extinguishing the fire from the Occupier of the property on which the Outdoor Fire was located and/or from any person who lit, fuelled or allowed the fire to burn.

8. Approvals

8.1 Council may determine controls and procedures for the following matters with respect to any approval required under this Bylaw:

(a) applications for approval, including forms and information;
(b) assessing an application;
(c) inspecting any premises;
(d) granting or declining approval;
(e) the conditions that may be imposed on an approval, including duration of approval;
(f) reviewing an approval or its conditions;
(g) extending or renewing an approval; and
(h) suspending or cancelling an approval.

8.2 Council may, at its discretion and having regard to any controls or procedures made under Clause 8.1, decline or grant approvals subject to conditions.

8.3 An approval is personal to the holder and property and is not transferable.

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

8.5 Council may suspend any approval granted under this Bylaw by giving written notice to the approval holder, for the purpose of protecting the public from nuisance, or for protecting, promoting or maintaining public health and safety, or to prevent the spread of fire involving vegetation.

9. Fees

9.1 Council may in accordance with section 150 of the Local Government Act 2002 prescribe fees or charges payable for any certificate, licence, approval, permit or consent form or inspection made by Council under this Bylaw.
10. **Notices**

10.1 Council may give notice to any person in breach of this Bylaw to carry out any remedial action in order to comply with the Bylaw and every such notice shall state the time within which the remedial action is to be carried out, and may be extended from time to time.

11. **Dispensing Powers**

11.1 Council may waive full compliance with any provision of this Bylaw in a case where Council is of the opinion that full compliance would needlessly cause harm, loss or inconvenience to any person or business without any corresponding benefit to the community. Council may in its discretion impose conditions of any such waiver.

12. **Serving of Notices and Documents**

12.1 Except as otherwise expressly provided for in any Act, where any notice, order, or other document is required to be served on any person for the purposes of this Bylaw, Council may serve notice by:

(a) delivering it personally;
(b) sending it by courier; or
(c) sending it by registered post to the person’s last known place of residence or business.

12.2 If that person is absent from New Zealand, the notice may be sent to his or her agent instead of to that person.

12.3 If that person has no known name or address or is absent from New Zealand and has no known agent, and the notice relates to any land or building, the notice may be served on the Occupier, or if there is no Occupier the notice may be put on some conspicuous part of the land or building without the notice naming the owner or Occupier.

12.4 If that person has died, the notice may be served on his or her personal or legal representative or executor.

12.5 Where a notice is sent by registered post it will be sent to arrive in the normal course no later than the notice is required to be served and will be deemed to have been served at the time when the registered letter would be delivered in the ordinary course of post.

13. **Offences and Penalties**

13.1 A person who fails to comply with any part of this Bylaw commits a breach of this Bylaw and is liable to a penalty under the Local Government Act 2002.
14. Commencement

This Bylaw comes into force on 28 September 2015.
Schedule 1: Maps - Tauranga Urban Fire Districts

1. Tauranga Urban Area of the Tauranga/Kawerau Urban Fire District

2. Papamoa Urban Fire District
Schedule 2: Map – Pumicelands Rural Fire District