

STRATFORD DISTRICT COUNCIL

SECTION: PLANNING	
<u>POLICY: RESOURCE MANAGEMENT ACT (INFRINGEMENT NOTICES) REGULATIONS 1999</u>	
RESPONSIBILITY: Planning & Regulatory Manager	REVIEW DATE: February 2008
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PURPOSE OF POLICY

The purpose of this policy is to:

- Outline the scope of the Resource Management (Infringement Offences) Regulations 1999.
- Propose a policy framework for the implementation of the Regulations.
- Propose a delegation(s) for the Resource Management (Infringement Offences) Regulations 1999.

INTRODUCTION

RMA (INFRINGEMENT OFFENCES) REGULATIONS 1998

- The Resource Management (Infringement Offences) Regulations 1999 come into force on 1 February 2000.
- Essentially they allow a territorial authority/Regional Council to issue infringement offence notices in regard to offences. These being breaches of the Resource Management Act 1991 and/or rules in Planning documents created under the Resource Management Act 1991.
- Where an offence occurs an Officer of a Territorial Authority/Regional Council can issue an infringement offence notice and in doing so require payment of an infringement fee.
- Appendix 1 sets out the Regulations. Schedule 1 in the Regulations details the range of offences and fees. The following subset of Schedule 1 infringement offences and fees would pertain to the Stratford District Council's functions:

Offence specified as Infringement Offence	General Description of Offence	Infringement Fee for Offence \$
Section 338 (1) (a)	Contravention of Section 9 (restrictions on use of land)	300.00
Section 338 (1) (c)	Contravention of an abatement notice (other than a notice under Section 322 (1) (c))	750.00
Section 338 (2) (c)	Contravention of Section 22 (failure to provide certain information to an enforcement officer)	300.00
Section 338 (2) (a)	Contravention of an excessive noise direction under Section 327	500.00
Section 338 (2) (d)	Contravention of an abatement notice for unreasonable noise under Section 322 (1) (c)	750.00

The balance of offences being specific to a Regional Council.

POLICY FRAMEWORK FOR THE IMPLEMENTATION OF THE REGULATIONS

This section of the report details: an offence specified as an infringement offence; a general description of an offence; the infringement fee for that offence; and proposes the policy to be adopted in regard to each offence. Reasons are also given for the policy position proposed.

Offence(s) specified as Infringement Offence(s)	General Description of Offence(s)	Infringement Fee for Offence(s) \$
Section 338 (1) (a)	Contravention of Section 9 (restrictions on use of land)	300.00

Policy Statement - Contravention of Section 9, Resource Management Act 1991

- Infringement notice issues for offence.
- Procedures and defences in Schedule 2 of the Resource Management (Infringement Offences) Regulations 1999 apply.
- An additional defence is available provided:
 - A written notice is delivered to the enforcement agency within seven days after receipt of an infringement notice establishing a case that:
 - This is a first offence under the Resource Management (Infringement Offence) Regulations 1999; and
 - No adverse environmental effects were generated; and
 - Progress has been made to obtain a resource consent (ie. lodgement of preliminary documents has occurred) or all activities have or will cease in respect of those activities for which an infringement notice issued.

Reason:

For activities which have not adversely impacted on the environment, and where it is a first offence it is considered that further leniency should be given beyond the defences in the Regulations. It is possible for Council to broaden the defences as the agency implementing and giving effect to the Regulations.

Offences Specified as Infringement Offences	General Description of Offences	Infringement fee for Offences \$
Section 338 (1) (c)	Contravention of an abatement notice (other than a notice under Section 322 (1) (c))	750.00
Section 338 (2) (c)	Contravention of an excessive noise direction under Section 327	500.00
Section 338 (2) (d)	Contravention of an abatement notice for unreasonable noise under Section 322 (1) (c)	750.00

Policy Statement - Contravention's under Sections 322 (1) (c), 327 and 322 (1) (c), Resource Management Act 1991

- Infringement notice issues for an offence.
- Procedures and defences in Schedule 2 of the Resource Management (Infringement Offence) Regulations 1999 apply.

Reason:

In these cases written notice has been given of what is required of a person/entity and if this is not adhered to an infringement notice should issue with a limited range of defences available. In such instances the infringement notice would be an incentive to promote compliance.

Offence(s) Specified as Infringement Offence(s)	General Description of Offence(s)	Infringement fee for Offence(s) \$
Section 338 (2) (a)	Contravention of Section 22 (failure to provide certain information to an enforcement officer)	300.00

Policy - Contravention of Section 22, Resource Management Act 1991

- Where a verbal or written request for information is declined; and a following warning is issued verbally or in writing that failure to supply information is an offence pursuant to the Resource Management (Infringement Offence) Regulations 1999 which could result in an infringement notice being issued, and the request for information is still declined an infringement notice shall issue for an offence so committed.
- Procedures and defences in Schedule 2 of the Resource Management (Infringement Offence) Regulations 1999 apply.

Reason:

Where information requested is withheld despite a warning that an infringement notice could issue, it is appropriate that a limited range of defences be available.