

Public Places Bylaw

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INTERPRETATION

“Council” means Hutt City Council

“District” means Lower Hutt.

“Hawker(s)” means any person(s) who, in any public place, sells any goods, but does not include any person who operates a vehicle as a mobile shop.

“Keeper” in relation to any mobile shop, or stall, means the person by whom or on whose behalf any business is carried on by means of that mobile or travelling shop.

“Mobile Shop” means a vehicle, whether self-propelled or not, from which goods or services are offered or exposed for sale, or from which goods or services may be ordered (whether or not in pursuance of any invitation to call) but does not include any vehicle used for the purpose of transporting goods pursuant to a prior order placed for the delivery of the goods.

“Permit” means a permit issued by the Council under this bylaw.

“Person” includes a corporation sole, and also a body of persons, whether corporate or unincorporated.

“Projection” means any part of a building, structure, or attachment that extends beyond the external face of a building and over, into, or across a public place, whether temporarily or permanently.

“Public Place” means any place that, at any material time, is open to or is being used by the public, whether for free or on payment of a charge but does not include any place where any owner or occupier, other than the Council, is lawfully entitled to control access to or from that place.

“Stall” includes any stand or table capable of being moved, road vehicle, vessel or similar structure on or at or from which goods are sold or exposed for sale.

1. OPENING SURFACES

- 1.1 No person may:
 - a. blast or use explosives in, on or near a public place; or
 - b. open a drain or sewer on, or disturb or remove the surface of, a public place: without the prior written permission of the Council.
- 1.2 Any person doing an activity under clause 1.1 must comply with any conditions imposed by the Council on its written permission.

2. FLAMMABLES AND FIREWORKS

- 2.1 No person may leave flammable materials in a public place without the prior written permission of the Council.
- 2.2 No person may light fireworks in a Public Place without prior written permission from Council or in accordance with a public notification of Council.
- 2.3 Any person doing an activity under clause 2.1 and 2.2 must comply with any conditions imposed by the Council on its written permission.

3. DAMAGE TO COUNCIL PROPERTY

- 3.1 No person may, in a public place, wilfully or maliciously damage, destroy or interfere with:
 - a. any tree, shrub or other plant of any kind belonging to the Council;
 - b. a pump, watercourse, water race, stormwater drain, water trough or drinking fountain;
 - c. a building, foundation, structure or other property belonging to the Council;
 - d. a street light, or lamp post; or
 - e. a warning light, sign or barricade placed by the Council to warn the public of danger.

4. DEAD ANIMALS

- 4.1 No person may:
 - a. throw or leave a dead animal or animal remains, upon a public place, or in a river, creek, stream, water race or other water; or
 - b. fail to safely and appropriately dispose of the remains of an animal belonging to them or in their charge, that may have been killed or died while straying or being driven on a public place.

5. OBSTRUCTIONS ON PUBLIC PLACES

- 5.1 No person may, unless permitted by another bylaw:

- a. place an obstruction in or on a public place, watercourse, channel or river where it may cause a danger to people;
 - b. obstruct the free flow of water in a river, creek, stream, water race or other water;
 - c. leave any article standing or lying in a public place in a way that causes an obstruction;
 - d. carry or convey a load to the danger or obstruction of any person using a footpath or cycle track;
 - e. pack or unpack any goods on a public place without the prior written permission of the Council; or
 - f. expose an article for sale or display on a footpath, outside a shop, shop window, or doorway abutting a public place in any way that causes an obstruction, without the prior written permission of the Council.
- 5.2 Any person doing an activity under clause 5.1(e) or (f) must comply with any conditions imposed by Council on its written permission.

6. RESTRICTIONS ON THE USE OF BARBED WIRE AND RAZOR WIRE

- 6.1 No person may erect barbed wire or razor wire within one metre of a public place, unless the wire is at a height of two metres or more from the level of the ground of the public place.
- 6.2 No person may renew, or repair, an existing fence with barbed wire or razor wire within one metre of a public place.
- 6.3 Every person who receives a notice in writing from the Council alerting that person that the person is in breach of clauses 6.1 or 6.2 must comply with 6.1 and 6.2 within the time stated in the notice.

7. REPAIR OF FENCES

- 7.1 When a fence abutting a public place is so out of repair that, in the Council's opinion, it is dangerous to the public, the Council may, by notice in writing, require the owner of the fence to:
- a. repair the fence;
 - b. remove the fence; or
 - c. remove the fence and erect in its place a new fence.

- 7.2 Any fence repaired or erected under clause 7.1(a) or (c) must be reasonably satisfactory for the purpose that it services or is intended to serve in respect of its nature, condition and state of repair.
- 7.3 The owner of the fence who is served with a notice in accordance with clause 7.1 must comply with the notice and any conditions in the notice imposed by the Council.

8. CROSSINGS

- 8.1 No person may construct a crossing across a footpath or water channel, or repair, construct, renew, or do any work in connection with an existing crossing, without the prior written permission of the Council.
- 8.2 If a person seeks permission from the Council to undertake the activity in clause 8.1, the Council may:
- a. upon receipt of any reasonable sum of money that the Council requires as payment for the work applied for, carry out and execute the work as soon as practicable;
 - b. upon the receipt of any reasonable sum of money that the Council requires as a deposit and an inspection fee, permit the person to carry out the work subject to any conditions the Council considers appropriate; or
 - c. refuse to carry out the work or to permit the work to be carried out if, in the Council's opinion, the existence of a crossing causes or is likely to cause danger or obstruction in a public place.
- 8.3 If work is completed under clause 8.2(b) to the satisfaction of the Council, the Council will refund the deposit paid.
- 8.4 No person may drive, ride or wheel a motor vehicle, or lead cattle or sheep, across a footpath or water channel in a public place other than by means of a properly constructed crossing.

9. TEMPORARY CROSSINGS

- 9.1 No person may construct a temporary crossing for the purpose of driving, riding or wheeling a motor vehicle across a footpath or water channel in constructing a building or delivering or collecting building materials, without the prior written permission of the Council.
- 9.2 Any person doing an activity under clause 9.1 must comply with any conditions imposed by Council on its written permission.

- 9.3 Any person in control of a temporary crossing must take reasonable steps to ensure the temporary crossing and the street channels are left clear of obstacles at all times.

10. REINFORCING FOOTPATHS

- 10.1 Where any land or premises is occupied or used in a way that:
- a. in the usual course of business carried on at the land or premises, any materials are dropped or deposited upon or conveyed across a footpath, water channel or crossing in a public place; and
 - b. the activity in paragraph (a) is carried out in a way that is likely to damage the footpath, water channel or crossing.

The Council may, by notice in writing, require the owner or occupier of the land or premises to provide adequate reinforcement (as required by the Council in the notice) to the footpath, water channel or crossing, or to remedy any damage that has been caused.

- 10.2 Any person who is issued with a notice under clause 10.1 must comply with the notice.

- 10.3 The owner or occupier of the land or premises may request Council in writing to execute the work or may carry out the work him or herself. The Council may:
- a. upon receipt of any reasonable sum of money the Council requires as payment for the work required, execute the work as soon as practicable; or
 - b. upon the receipt of any reasonable sum of money that the Council requires as a deposit and an inspection fee, permit the person to carry out the work subject to any conditions the Council considers appropriate.

- 10.4 If work is completed under clause 10.3(b) to the satisfaction of the Council, the Council will refund the deposit paid.

11. NAMING OF STREETS AND NUMBERING OF BUILDINGS

- 11.1 No person may give a name to, or display a name, on a street, private street, or public place without the prior written permission of the Council.

- 11.2 Any person doing an activity under clause 11.1 must comply with any conditions imposed by Council on its written permission.
- 11.3 The owner or occupier of every building must, in accordance with clause 11.4, mark the building with any numbers the Council directs or approves, and must renew the numbers of the buildings as often as they are obliterated or defaced or as often as the Council orders or directs.
- 11.4 Every number displayed must be a minimum of 50 millimetres high and must be placed upon a building so that it is readily visible from any street fronted by the building or, if no such position is available, the number must be placed upon a post, fence or gate near or adjacent to, and readily visible from the street.

12. DISTURBANCE OF NEIGHBOURHOOD

- 12.1 No person may, in a public place, make or cause loud sounds so that the peace and quiet of persons residing in the neighbourhood is disturbed, or so that a congregation or meeting is disturbed, without the prior written permission of the Council.
- 12.2 Any person doing an activity under clause 12.1 must comply with any conditions imposed by Council on its written permission.
- 12.3 Clause 12.1 does not prevent:
 - a. the reasonable use of sound-amplified equipment by a candidate or their authorised representative for the purpose of campaigning for a general election or by-election within the meaning of the Electoral Act 1993, or for a local authority election or by-election, during the period of one month before the date of the election or by-election; or
 - b. the reproduction in reasonable volume of recorded music or radio programmes from an authorised broadcasting station.

13. DISPLAY AND ADVERTISING IN PUBLIC PLACES

- 13.1 No person may:
 - a. place a placard, poster, or other document on, or write on, or otherwise disfigure or deface any thing on or abutting a public place;
 - b. stamp, paint, write, or post an advertisement or notice on a public place;
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- c. display or carry a sign, placard, board, flag, screen, or frame, by way of advertisement upon or over a carriageway or footpath of a public place; or
- d. display advertising material on a motor vehicle or trailer on a public place, other than advertising sign-writing or bumper stickers on a vehicle;

without the prior written permission of the Council.

- 13.2 Any person doing an activity under clause 13.1 must comply with any conditions imposed by Council on its written permission.

14. CONGREGATIONS AND PROCESSIONS

- 14.1 No person may:
- a. deliberately cause or induce people to congregate or to engage in a procession in a way that obstructs a public place for traffic or pedestrian use; or
 - b. take part in a congregation or procession that obstructs a public place for traffic or pedestrian use;

without the prior written permission of the Council.

- 14.2 Any person doing an activity under clause 14.1 must comply with any conditions imposed by Council on its written permission.

Nothing in this Bylaw shall be interpreted to restrict any person's rights to freedom of expression or peaceful assembly as protected by the NZ Bill of Rights Act 1990, provided such activities do not unreasonably obstruct access, create a safety risk, or otherwise breach this Bylaw.

15. CONDUCTING STREET COLLECTIONS

- 15.1 No person may organise or conduct a street collection in a public place without the prior written permission of the Council.
- 15.2 Any person doing an activity under clause 15.1 must comply with any conditions imposed by Council on its written permission.
- 15.3 In this clause 15, "street collection" means asking for or seeking from passers-by a subscription, collection or donation in a public place.

16. CATTLE AND SHEEP IN PUBLIC PLACES

- 16.1 Every person who owns, or has the care, custody, or control of cattle or sheep, must prevent the cattle or sheep from being on a public place unless in accordance with this clause 16.
- 16.2 A person may tether or put cattle or sheep on a public place for the purpose of depasturing or grazing, provided the person has prior written permission from the Council and is acting in accordance with any conditions.
- 16.3 A person may drive cattle or sheep in a public place continuously at a reasonable speed towards a definite destination without deviation from the most direct route, or the route directed by the Council.
- 16.4 A person may drive cattle or sheep along streets within a rural area (under an operative or proposed District Plan prepared by the Council) from one paddock or farm to another, if both paddocks or farms are the property of one owner, provided that:
- a. the total distance along the streets is not greater than 3.2 kilometres; and
 - b. no more than 20 cattle or 1000 sheep are driven at any one time.
- 16.5 Subject to clauses 16.3 and 16.4, a person may drive unharnessed cattle or sheep on a public place, provided the person has prior written permission from the Council and is acting in accordance with any conditions.
- 16.6 The Council may by resolution declare certain roads to be stock routes and prohibit or restrict the use of other roads for the driving of cattle or sheep. Any such declaration, prohibition or restriction may be altered or revoked by resolution.

17. NO BUILDING TO BE ERECTED ON A PUBLIC PLACE

- 17.1 No person may:
- a. construct or place any part of a building or structure under, upon, over, or across a public place
- without the prior written permission of the Council.
- 17.2 Any person doing an activity under clause 17.1 must comply with any conditions imposed by Council on its written permission.

18. VERANDAS

- 18.1 Verandas that are installed on the front of buildings abutting a public place must be:
- a. suspended or cantilevered from the building;
 - b. a minimum height of 2.7 metres above the footpath;
 - c. provided with a stormwater drainage system that complies with the Building Code and any relevant Council engineering standards;
 - d. a minimum width of 450 millimetres back from the front line of the kerb;
 - e. framed in steel or other approved material; and
 - f. where adjoining another building, constructed so that there is no intervening space between the buildings and the junction is watertight.
- 18.2 Signs placed under verandas must extend no lower than 2.4 metres above the highest part of the footpath.
- 18.3 Any veranda constructed over a public place shall be maintained to a reasonable standard, including in a waterproof condition and in a state of good repair.

19. SECURING FOUNDATIONS

- 19.1 No person may omit or neglect to secure and maintain the foundations of a building, wall or fence on or abutting a public place.

20. DOORS, GATES TO SWINGS INWARDS

- 20.1 No person may hang a door or gate abutting a public place in a way that renders it capable of being swung over or across the public place, unless a door is required to open across a public place by legislation.
- 20.2 A door required by legislation to open across a public place must be constructed in such a way that it does not open past the line of a building.
- 20.3 Roller shutter doors used as security devices must be installed in such a way that the roller does not extend over a public place.

21. PROJECTIONS ON PUBLIC PLACES NOT PERMITTED

- 21.1 No person may attach an obstruction or projection of any kind to a building in a position that interferes with or obstructs the free passage of pedestrians or traffic upon a public place.

22. AWNINGS AND BLINDS

- 22.1 No person may erect or maintain an awning over a public place, or hang an awning, blind or screen from a portico on a public place, without the prior written permission of the Council.
- 22.2 Any person doing an activity under clause 22.1 must comply with any conditions imposed by Council on its written permission.

23. DRIPPING FROM EAVES

- 23.1 No person may cause or permit the drippings from the eaves or other projections of a building or structure to fall upon a public place.

24. ENCROACHMENT TO BE REMOVED UPON NOTICE

- 24.1 If any part of a building or structure has been constructed on or placed across a public place, the Council may by notice in writing require the owner of the building or structure to:
- remove the part of the building or structure that has been constructed on or placed across that public place; and
 - remedy any damage to the public place caused by the building or structure.
- 24.2 If a tree, shrub or hedge:
- overhangs or encroaches on a public place, whether above or below the surface of the soil; or
 - in the Council's opinion, is otherwise likely to cause danger to traffic or any person on a public place;
 - the Council may, by notice in writing, require the owner or occupier of the land to remove, lower, trim or top the tree, shrub or hedge.

- 24.3 Any person who is issued with a notice under clause 24.1 or 24.2 must comply with the notice and any conditions in the notice imposed by the Council.
- 24.4 Clause 24.2 does not apply to trees protected in an operative or proposed District Plan prepared by Council.

25. STREET MUSICIANS / BUSKERS

- 25.1 No person may sing or play an instrument in a public place for gain unless the person is the holder of a street musician licence from the Council and is acting in accordance with any conditions.
- 25.2 The Council may require each application for a street musician licence to be accompanied by a fee set by the Council.

26. Trading in Public Places

RESTRICTIONS ON HAWKING, MOBILE SHOPS, AND STALLS

- 26.1 No keeper of a mobile shop may use it or permit it to be used for business purposes within a public place in the District unless he, she, or it:
- a. has a valid mobile shop permit from the Council; and
 - b. is complying with all terms and conditions of the permit.
- 26.2 No keeper of a stall may use it or permit it to be used for business purposes within a public place in the District unless he, she, or it:
- a. has a valid stall permit from the Council; and
 - b. is complying with all terms and conditions of the permit.
- 26.3 No hawker shall conduct business within a public place in the District unless he, she, or it:
- a. has a valid hawker permit from Council; and
 - b. is complying with all terms and conditions of the permit.

COUNCIL MAY GRANT MOBILE SHOP, HAWKER AND STALL PERMITS SUBJECT TO TERMS AND CONDITIONS

- 26.4 Any person may apply to the Council for a mobile shop, hawker or stall permit to conduct activities that would otherwise be in breach of clause 26.1.
- 26.5 Any applications under clause 26.4 must be made in writing using the Council approved application form and be accompanied by the required fee.
- 26.6 The Council may grant a mobile shop, hawker or stall permit on such terms and conditions as the Council considers appropriate in each case.

EXPIRY OF PERMIT AND PERMIT RENEWAL PROCESS

- 26.7 A permit shall be valid for a period of 12 months from the date of issue, unless otherwise stated on the permit
- 26.8 A permit will automatically expire where a company or business holding the permit is sold.
- 26.9 Provided the permit holder has complied with the terms and conditions of their permit Council may renew the permit for a period of up to 12 months upon receipt of an application in writing on a Council approved form and the required fee, and upon such terms and conditions as the Council considers appropriate.

PERMIT NOT TRANSFERABLE

- 26.10 No permit issued under this bylaw shall be transferable.

27. OFFENCES AND PENALTIES

- 27.1 A person who fails to comply with this bylaw commits a breach of bylaw and may be liable on conviction to a penalty of up to \$20,000 under the Local Government Act 2002 and/or the Health Act 1956.
- 27.2 A person who commits a breach of this bylaw that is an offence under the Litter Act 1979 is liable to a penalty under that Act.

COMMENTARY

The following comments do not form part of the bylaw. They are provided to alert readers to relevant law and information that relate to the bylaw.

Crossover with Resource Management Act 1991

If a person breaches a bylaw, but relevant enforcement provisions in the Resource Management Act 1991 apply, the Council may choose not to prosecute under the Local Government Act 2002 and may choose to use the enforcement provisions in the Resource Management Act 1991 instead.

District Plan

Compliance with this bylaw does not remove the need to comply with the requirements of the District Plan. Some activities covered by this bylaw may also require resource consent or other approval under the District Plan. Before undertaking any work or activity, you should check with the Council's planning team to confirm whether additional approvals are required.

Building Code

All building work, whether or not it requires a building consent, must comply with the New Zealand Building Code in accordance with the Building Act 2004. Some work may require a building consent, and you should consult the Council before starting any building work to confirm consent and compliance requirements.

Homelessness

The provisions in this Bylaw relating to obstructions, nuisance and safe behaviour are directed at protecting the safe and equitable use of public places. Council recognises that homelessness is a social and housing issue, and that people sleeping rough are among the most vulnerable users of public places.

Where these provisions are applied to a person who is sleeping rough or otherwise vulnerable, the Council will have regard to that person's vulnerability and safety and to their access to support services and will use enforcement only where it is necessary and proportionate to address a genuine risk to safety or a significant obstruction of public space.

Council's Homelessness Strategy outlines priorities and principles to support the prevention of homelessness; improve accommodation and support for people experiencing homelessness; and improving the understanding of homelessness in

Lower Hutt. Council will, where necessary, work alongside the providers of homeless services to support homeless to access these support services.

Getting written permission from the Council

If you want written permission from the Council in relation to this bylaw, you should contact the Council Call Centre on 04 570 6666 and they will then direct you to the appropriate person. There may be an application form you will need to fill in. Council officers will be able to assist you in seeking permission or completing an application form if you have any queries.

Statutory authority

This Bylaw is made pursuant to the Council's bylaw-making powers in the Local Government Act 2002.