

UPPER HUTT CITY COUNCIL

PUBLIC PLACES BYLAW 2005

EXPLANATORY NOTE

This bylaw is called the Public Places Bylaw 2005 and was made pursuant to Sections 145 and 146 of the Local Government Act 2002.

The purpose of this bylaw is to regulate and control a diverse range of activities that can be carried out in public places to ensure that acceptable standards of convenience, safety, visual amenity and civic values are maintained for the wellbeing and enjoyment of the community.

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1.0 APPLICATION OF BYLAW

1.1 This bylaw applies within the district of the Upper Hutt City Council.

2.0 COMMENCEMENT

2.1 This bylaw came into force on 11 November 2005.

3.0 INTERPRETATION

3.1 In this bylaw, unless the context otherwise requires:

“Animal” means stock, poultry and any other vertebrate animal of any age or sex that is kept in a state of captivity or is dependent upon human beings for its care and sustenance.

“Authorised Officer” means any person appointed or authorised by the Council to act on its behalf and with its authority.

“Council” means the Upper Hutt City Council and any authorised officer.

“Dwelling or Dwelling House” includes any house, tent, caravan, vehicle or other structure whether permanent or temporary, and whether attached to the soil or not, used in whole or in part for human habitation and includes the land appurtenant to a dwelling.

“Material or Thing” means any material of whatever kind and includes jumbo bins and other containers for waste material, but excludes vehicles.

“Motor Vehicle” and “Vehicle” has the meanings given to them by the Traffic Regulations 1976.

“Nuisance” has the meaning given to it by Section 29 of the Health Act 1956.

“Occupier” means the inhabitant, occupier of any property, and in any case where any building, house, tenement, or premises is or are unoccupied shall be deemed to include the owner.

“Owner” of any property or as applied to any land, building, or premises means any person for the time being entitled to receive the rent of such property or who would be so entitled if the same were let to a tenant at a rack rent and where any such person is absent from New Zealand shall include their attorney or agent.

“Premises” means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same or enclosed space separately occupied and all lands, buildings, and places adjoining each other and occupied together shall be deemed to be the same premises.

“Park” includes all parks, reserves, recreation grounds, gardens and open space under the control of the Council.

“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, whether or not it is under the control of the Council and also includes every park.

"Road" has the meaning given in Section 315 of the Local Government Act 1974 and includes all land lying between the boundaries of a road including footpaths or berms.

PART 1 – PUBLIC SAFETY COVENIENCE AND AMENITY

4.0 PUBLIC SAFETY

- 4.1 Except with the prior permission of the Council a person shall not on any public place:
- (a) Place or leave litter or any materials or thing or substance that is likely to be hazardous or injurious to any person, or likely to create a nuisance;
 - (b) Deposit in or around a public litter receptacle any household or trade refuse;
 - (c) Interfere with any refuse that is awaiting collection by an authorised collector;
 - (d) Drive any vehicle except on a formed road, or drive in a manner that is dangerous or inconsiderate to pedestrians or other vehicles in the public place;
 - (e) Cause or allow any material or thing to be deposited onto a public place or road;
 - (f) Leave any work, hole or excavation in a public place in a manner that could be a danger to anyone entering or using that public place;
 - (g) Solicit any subscription, collection or donation, preach or undertake any busking;
 - (h) Distribute any printed or written material advertising any product, service or entertainment;
 - (i) Fly from or land any aeroplane including model aeroplanes, a hot air balloon or hang glider, parachutes or similar except in an emergency;
 - (j) Consume, inject or inhale any mind-altering substances or offer or sell such substances to any person;
 - (k) Play any game or use any object including skateboards, roller blades, roller skates, bicycles or motorised scooters, recklessly or in a manner which may intimidate, be dangerous or injurious or cause a nuisance to persons in the public place, or damage the public place;
 - (l) Erect or place any structure on, over or under the public place except in compliance with any other Part of this bylaw.
- 4.2 Where any fence, wall, retaining wall or land adjacent to a public place is in a condition or state of disrepair which in the opinion of the Council could cause damage or injury to persons passing, the Council may give notice requiring the owner or occupier to repair or remove the fence, wall or retaining wall, or make the land safe.
- 4.3 Notwithstanding the requirements of any other clause of this bylaw a person shall not in any public place:
- (a) Light any fire except at fireplaces specially provided, or in an appliance designed for outdoor cooking, subject to any restriction imposed by Council on the lighting of fires;
 - (b) Camp in an area not set aside for the purpose. In this context camping shall include the use of any vehicle for sleeping whether or not it is specially set out for sleeping.

5.0 OBSTRUCTING PUBLIC PLACES

5.1 A person shall not:

- (a) Obstruct the entrances to or exits from a public place;
- (b) Place or leave any material or thing, including signage, on a public place that could obstruct the public right of passage, without the permission of the Council and then only in accordance with such conditions as may be imposed.
- (c) Allow any gate or door on property abutting a public place, to swing over or across the public place or any part thereof;
- (d) Carry out any work on any motor vehicle in a public place, except in the case of any accident or emergency when repairs are necessary to allow the vehicle to be removed.

6.0 DAMAGE TO PUBLIC PLACES

6.1 Except with the permission of the Council a person shall not in any public place:

- (a) Damage, interfere with, destroy or remove any grass plot, flower bed, tree, shrub or plant or any inscription or label relating to it;
- (b) Pollute, damage, deface or disfigure, apply graffiti, posters or advertising devices to, or interfere with any ornament, statue, building, structure, or facilities;

Nothing in this sub clause shall prevent the Council from supplying or approving the installation of display boards in any public place for the purpose of allowing posters to be displayed announcing forthcoming functions or events;

- (c) Cause or permit to be done any act whatsoever by which damage is caused to any public place, or any work or thing in, over or under the public place;
- (d) Damage or interfere with any natural feature, animal or plant;
- (e) Use any vehicle or be in control of an animal in any manner so that it damages any part of a public place;
- (f) Drive or park any vehicle in a public place except in an area set aside for the driving or parking of vehicles;
- (g) Remove any sand, soil or other naturally occurring material found in a public place;
- (h) Open any drain or sewer on, or disturb or remove the surface of, any public place.

6.2 Any person carrying out authorised works on a public place shall provide reinstatement of the work to a standard approved by the Council.

7.0 PLACING OF ARTICLES ON AND DAMAGE TO PUBLIC PLACES

7.1 A person shall not place or leave on or cause or permit to be placed or left any material or thing, including signage, amusement devices or items for sale or hire, on any public place unless:

- (a) Such action has first been approved by the Council and then only in accordance with such conditions as may be imposed; or
- (b) Such action is taken for the purpose of regular refuse or other collections authorised by the Council or is otherwise authorised by law; or

(c) Such action is permitted pursuant to any other bylaw.

7.2 A person shall not do, cause or permit to be done any act whatsoever by which damage is caused to any public place, or any work or thing in, on, over or under the public place.

8.0 EXPOSING ARTICLES FOR SALE

8.1 Except as provided for by any other bylaw no person shall expose for sale any article whatsoever on any footpath, or outside of any shop, shop window, or doorway abutting on any public place, so as to encroach on or over that public place, without the prior permission of Council, and then only in accordance with such conditions as Council may think fit to impose.

9.0 VEHICLE CROSSINGS

9.1 Any person wishing to construct, repair, remove or widen any vehicle crossing shall ensure that such work is done so that when completed the vehicle crossing complies with the Council's Standard (available on request from the Council).

9.2 No person shall drive, ride, propel, or wheel any motor vehicle across any footpath or water channel in any public place otherwise than upon a crossing properly constructed under the provisions of this clause 9.0.

9.3 If in the opinion of the Council any crossing is in a bad or unsafe state of repair, the Council may by notice in writing, require the owner of the land which the crossing provides access to, to repair, reconstruct, or renew such crossing to the satisfaction of the Council. Every such owner or occupier who fails to comply with any such notice within the period specified shall commit an offence against this bylaw.

10.0 ASSEMBLY

10.1 A person shall not, without the prior consent of the Council:

- (a) Participate in any assembly or associate with other persons in a public place in such a way as to impede pedestrians or vehicular traffic or to prevent or hinder ready access to shops or premises facing onto the public place;
- (b) Organise or conduct any meeting, gathering, demonstration, parade, procession or competition in a public place.

11.0 AWNINGS AND BLINDS

11.1 No person shall erect or maintain, or cause to be erected or maintained, any awning over any public place, or hang any awning, blind, or screen from any portico on any public place except with the permission of the Council. In granting such permission the Council may set such conditions as is deemed appropriate. Any such permission may be revoked at any time by the Council.

12.0 PROJECTIONS ON PUBLIC PLACES NOT PERMITTED

- 12.1 Except where permitted by any other bylaw or with the consent of the Council, no person shall put any portico, projecting window, balcony, wall, lamp, door step, cellar door, lamp post, signboard, window shutter, gate post, or other obstruction or projection of any kind whatsoever in, on, over or under a public place or in such a position as to interfere with or obstruct in any way the free passage of pedestrians or traffic upon any public place.

This restriction shall not apply to any verandah or awning erected pursuant to a requirement of the Council's District Plan.

- 12.2 If any such projection or obstruction as aforesaid has been placed against or in front of any building before the coming into operation of this bylaw and which is contrary to any bylaw in force, the Council may give notice to the owner or occupier of such building to remove, or to alter such projection or obstruction, and such owner or occupier shall, within the time stated in such notice, remove, or alter such projection or obstruction.
- 12.3 No person shall stand on any verandah erected over a public place except for the purpose of inspection, maintenance or egress in the case of fire.

13.0 RESTRICTIONS ON USE OF BARBED WIRE AND ELECTRIFIED FENCES

- 13.1 Except with the permission of the Council, no person shall erect or permit to be erected any electrified fencing or barbed wire along, or within one metre of any boundary line between any land or building on the one side, and any public place on the other side.
- 13.2 Provided that clause 13.1 shall not:
- [a] prohibit the placing of such barbed wire at a height of not less than 2 metres or electrified fencing not less than 3 metres from the level of the ground of any such public place; or
 - [b] apply within any area which has a predominantly rural character except when the fence abuts or adjoins a footpath.

The Council may from time to time specify conditions that will apply to temporary electric fences.

14.0 ROAD AND BUILDING IDENTIFICATION

- 14.1 The Council shall have the exclusive right to cause to be painted or affixed on a conspicuous part of a building, the name of the road, private road or public place to which it has frontage.
- 14.2 Notwithstanding that a building or property is identified by other means, the owner or occupier of every building or group of buildings forming part of a complex or of the property shall mark such building or complex with numbers. Numbers shall be allocated or approved by the Council and shall be displayed so as to be readily visible from the road to which it has frontage.
- 14.3 Numbers required by clause 14.2 shall be maintained by the owner or occupier in such a manner as to readily identify the building or property at all times.

- 14.4 The Council shall have power at any time to alter the number of any building or property where in the Council's opinion it may be necessary or advisable to do so.

15.0 ANIMALS AND STOCK IN PUBLIC PLACES

- 15.1 No person shall take or allow any animal under their care or control onto any public place if the Council has by resolution publicly notified, prohibited entry of that type of animal to that public place.

Any person having control of stock in any public place shall ensure that:

- [a] The stock is kept under proper control, with consideration for other persons using the public place.
- [b] The stock is driven in such a manner and by such points of access to an exit from the road as to ensure that damage is not caused to the public place.
- [c] Excrement, urine or other matter deposited upon the public place from such stock is removed, and disposed of in an appropriate manner.

- 15.3 Any person being the owner or, or having control or any horse in a public place shall immediately remove any faeces deposited by that horse from any public place.
- 15.4 Every person being the owner of or having the care, custody, or control of any animal shall keep and prevent the same from wandering or being at large without proper guidance in any public place.

16.0 OVERHANGING VEGETATION LIABLE TO OBSTRUCT

- 16.1 No person shall permit or allow vegetation to encroach on to or over any public place so as to obstruct or interfere with the free movement of persons using that public place.

PART 2 - NUISANCE

17.0 DEPOST OF REFUSE, ETC

- 17.1 No person shall deposit, or permit or suffer to be deposited, or to accumulate any refuse or litter as defined in the Litter Act 1968 or rubbish of any description including sawdust, plastics materials, waste paper, shavings, filth, tins, glass, rags, straw, garden refuse, tree cuttings, iron, or steel on any land not being a place set apart for such purpose by the Council unless in doing so he takes sufficient precautions to prevent the creation of a nuisance or anything offensive or likely to be injurious to health.

18.0 DEAD ANIMAL ON PRIVATE PREMISES

- 18.1 No person shall throw or leave, or permit or suffer to remain, any dead animal or vermin on any private property, land, or premises.

19.0 AGAINST BURNING SO AS TO CREATE NUISANCE

- 19.1 No person shall burn, or permit or suffer to be burnt, any matter or thing in such a manner as to be offensive.

20.0 DISCHARGE OF CHEMICALS ETC INTO ANY STREAM

20.1 No person shall deposit in, or discharge into, any stream, watercourse, gutter, or channel any refuse, chemicals, waste matter or any other matter or thing which may pollute or be likely to pollute such stream or watercourse or cause any such stream or watercourse to be or become a nuisance.

21.0 POLLUTION OF STREAM

21.1 No person shall throw, cast, or deposit any night soil, carcass, carrion or offensive matter, or any animal into any stream, watercourse, pond, lagoon or open drain.

PART 3 - PENALTY FOR BREACH OF BYLAW

22.0 PENALTY

22.1 The maximum penalty for an offence against any provision of this bylaw is a fine not exceeding \$500.