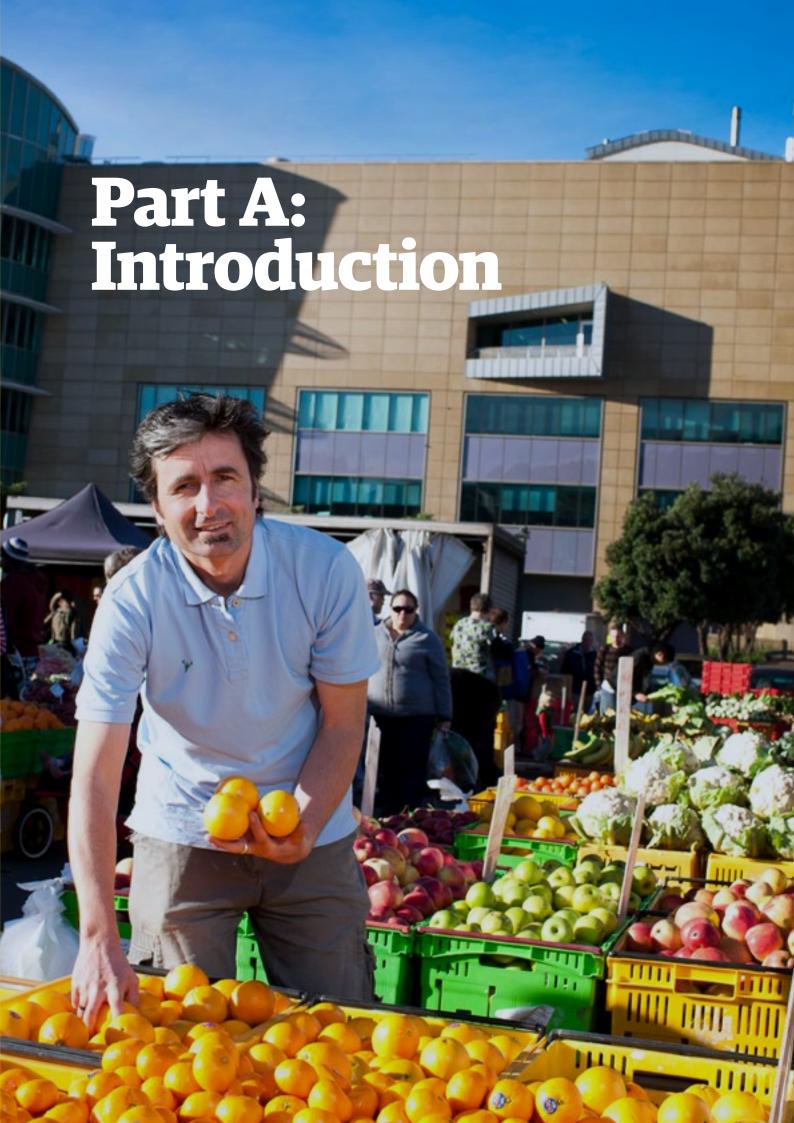
Wellington City Council Public Places Bylaw 2022



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1. Preamble

2. Commencement

- 1.1 The title of this Bylaw is the "Wellington City Council Public Places Bylaw 2022". This Bylaw is consistent with the New Zealand Bill of Rights Act 1990 and does not affect iwi customary rights. The Council is committed to protecting fundamental rights and freedoms such as the right to freedom of expression and freedom of peaceful assembly.
- 1.2 This Bylaw is made under sections 145 and 146 of the Local Government Act 2002 and the following Acts:
 - a) Clause 11 is made under section 12 of the Prostitution Reform Act 2003.
 - b) Clause 13 is made under section 11 of the Freedom Camping Act 2011.
 - c) Clauses 17, 18 and 23.3 (o) are made under section 22AB of the Land Transport Act 1998.
 - d) Clause 23.3 (q) is made under section 12 of the Litter Act 1979.
 - e) Clauses 23.3 (j, p, r, s, v, x) are made under section 106 of the Reserves Act 1977.

This Bylaw comes into force on 25 August 2022.

3. Revocation and savings

- 3.1 This Bylaw consolidates, repeals and replaces Part 5 (Public Places) and Part 10 (Structures in Public Places Verandahs) of the Wellington City Council Consolidated Bylaw 2008.
- 3.2 Any resolution made under the Wellington City Consolidated Bylaw 2008 continues in force until altered or revoked by further resolution.
- 3.3 All approvals issued under any revoked bylaw shall, after the coming into force of this Bylaw, be deemed to have been issued under this Bylaw and be subject to the provisions of this Bylaw.
- 3.4 All fees and charges fixed by resolution of the Council in regard to any goods, services, inspections or approvals provided for in any revoked bylaw shall apply under the corresponding provisions of this Bylaw until altered by further resolution of Council.

4. Purpose

This Bylaw regulates a diverse range of activities. It seeks to protect the public from nuisance, minimise the potential for offensive behaviour, maintain public health and safety, and manage land under the control of the Council to enhance the public's well-being and enjoyment of public places.

5. Interpretation

In this Bylaw, unless the context otherwise requires -

Approval means a permission issued by the Council and includes:

- a) licence;
- b) lease;
- c) permit;
- d) landowner approval;
- e) concession; or
- f) booking.

Beach means the foreshore (including the intertidal zone above the mean low water spring) and any area above mean high water springs that can reasonably be considered the beach environment including areas of sand, pebbles, shingle, dunes or coastal vegetation typically found in a marine environment.

Bulk bin means any receptacle used for the collection and/or eventual disposal of waste products. These may include (but are not limited to) metal skip bins, plastic wheel bins, flexi bins, and other similar objects.

Cable Car Lane means the public place connecting Lambton Quay to the Cable Car terminal (excluding the balcony extending at 6 Cable Car Lane).

Cemetery means any land held or otherwise set aside for the burial of the dead that is vested in or under the control of the Council from time to time.

Commercial sex premises means premises used or intended to be used primarily for exposing, selling or hiring goods or services related to sexual behaviour. To avoid any doubt this includes strip clubs, strip bars, peep shows, lap dancing bars, escort agencies, adult bookshops, adult video shops, adult cinemas, sex shops; but does not include hospitals, health care services, chemists, community welfare facilities, or premises where therapeutic massage is offered and which are not brothels in terms of the Prostitution Reform Act 2003.

Council means the Wellington City Council.

Enforcement officer means a person appointed under the Local Government Act 2002, the Land Transport Act 1992, the Reserves Act 1977, the Freedom Camping Act 2011, and the Litter Act 1979 to exercise the powers of an enforcement officer, including enforcement of this Bylaw.

Event means an organised temporary activity that takes place on one or more days including, without limitation to, an organised gathering, demonstration, competition, parade or procession, wedding, private function (which is independent of premises), festival, concert, celebration, multi-venue sports event of a significant scale, fun run, marathon, duathlon, or triathlon.

Freedom camp means to camp (other than at a camping ground) within 200 metres of an area accessible by a motor vehicle or within 200 metres of the mean low-water springs line of any sea or harbour, or on or within 200 metres of a formed road or a Great Walks Track, using either or both of the following:

- a) a tent or other temporary structure;
- b) a motor vehicle.

Freedom camping does not include the following activities:

- a) temporary and short-term parking of a motor vehicle;
- b) recreational activities commonly known as day-trip excursions; and/or
- c) resting or sleeping at the roadside in a caravan or motor vehicle to avoid driver fatigue.

A person is not freedom camping if the person is unable to live in appropriate residential accommodation.

Good repair, for the purposes of the verandah clauses, means it has been maintained to a reasonable standard, including the absence of visible rust; holed, rotted or otherwise damaged materials or elements; loose, visible or exposed electrical wires; and/or projections or other features that pose a danger to persons using a public place.

Iwi customary rights mean the use of land and/ or buildings for traditional Māori activities and include making and/or creating customary goods, textiles and art, medicinal gathering, waka ama, Kingitanga events (Poukai), management and activities that recognise and provide for the special relationship between tangata whenua and places of customary importance. They also include harvesting of indigenous vegetation by mana whenua in accordance with tikanga for traditional uses.

Micromobility device means transportation using small, lightweight vehicles such as bicycles, skateboards, or scooters.

Nuisance has the same meaning as section 29 of the Health Act 1956 and includes a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place.

Number includes any alphabetic symbol attached to the number allocated by the Council.

Public place means any area of a public nature that is open to or used by the public, whether free or requiring payment, which is owned, managed, maintained or controlled by the Council or Council Controlled Organisation. To avoid doubt, it includes any road, street, footpath, court, alley, lane or accessway, park, recreation ground, sports field or facility, reserve, beach, Wellington Town Belt, Waterfront, pool, pedestrian mall, wharf, breakwater, boat ramp, pontoon, public open space, community facility, cycle track, bridleway, public garden, berm, grass verge, public square, cemetery, foreshore and dune, accessway, square, and carpark, and any part of the public place. Public place does not cover private roads, state highways or other roads under the control of the New Zealand Transport Agency, except where responsibility has been delegated to the Council.

Reserves management plan has the same meaning as "management plan" found in section 41 of the Reserves Act 1977.

Road has the same meaning as the Land Transport Act 1998.

Self-contained has the same meaning set out in section 4 of the Freedom Camping Act 2011.

Sign means a board, including any frame or other support device such as a notice board, for displaying posters or notices announcing future events or advertising for election purposes.

Street appeal means a coordinated and organised event by organisations who ask for, or seek, any subscription, collection or donation from members of the public, and usually involves more than one collection person operating at the same time.

Street performance means a musical, dramatic or other performance involving musical, theatrical or circus performance skills, including busking, playing musical instruments, dancing, singing, clowning or juggling, pavement art, poetry or doing other acts of a similar nature.

Trading means the act of selling or trading, or offering to sell or trade goods or services, with or without use of a vehicle.

Vehicle access means any section of legal road that facilitates the access of vehicles from private property to the formed carriageway and includes that part of a driveway on private property that impacts on the point of entry onto or from legal road.

Verandah means a roofed space extending from a building and includes any structure, assembly, machinery or equipment erected on, or attached to the side or underside of, a verandah. For clarification, a verandah does not include a balcony which is a platform enclosed by a wall or balustrade on the outside of a building, with access from an upper-floor window or door.



6. Council may set conditions

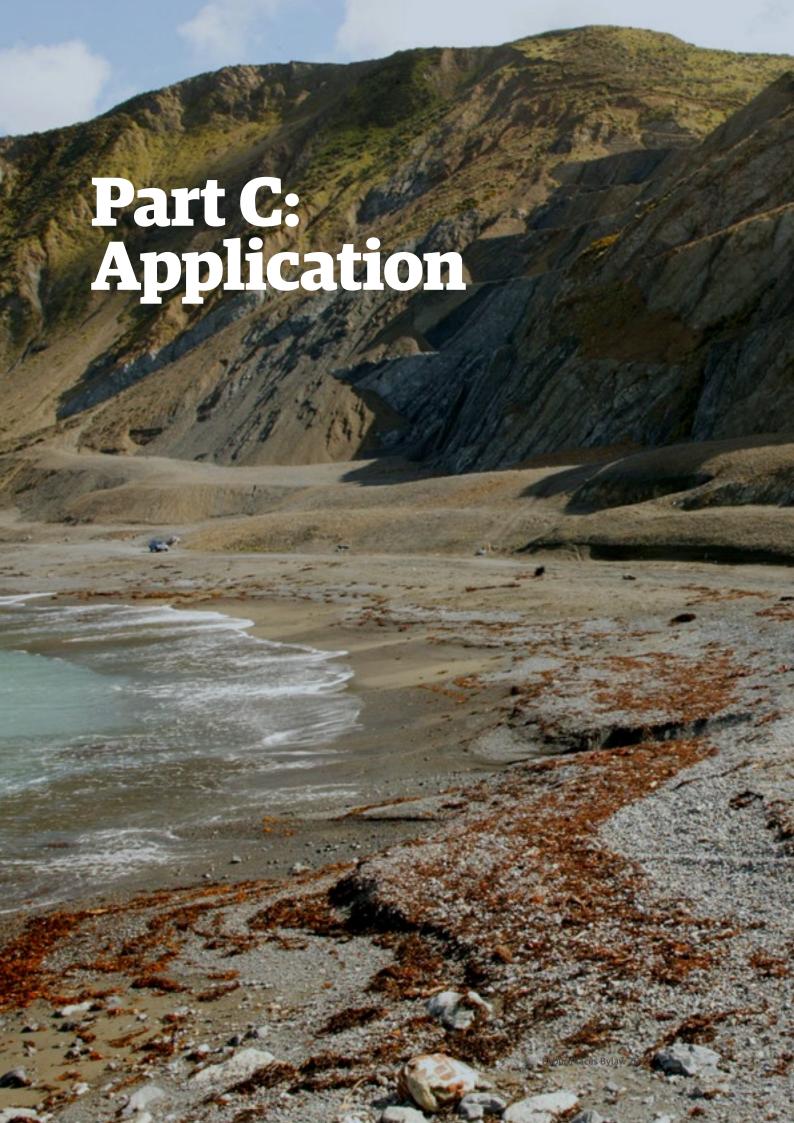
- 6.1 The Council may prescribe conditions for access to or use of any public place.
- 6.2 The Council may revoke any approval previously given at any time.
- 6.3 The Council may prescribe the form of, and process to be followed for, any application, certificate, approval or other document, which is required under this Bylaw. These forms and processes may be altered or amended at any time.

7. Restrictions affecting public access

- 7.1 The Council may restrict any activity being undertaken in a public place in order to prevent material damage to the place or a nuisance or harm to any person.
- 7.2 The Council may close any public place at any time for the purpose of maintaining or improving it, or for holding sports matches or any other performances, or for any other purpose that the Council considers necessary.
- 7.3 Any enforcement officer under this Bylaw may exclude or remove any person from a public place:
 - a) who has acted in a manner that is contrary to conditions of use set by the Council;
 - b) who is not bona fide using the place for its normal intended purposes;
 - c) who has contravened any of the provisions of this Bylaw; or
 - d) for any good and sufficient reason relating to the efficient, reasonable, and fair management of the place.

8. Fees and charges

- 8.1 The Council may set fees and charges, either temporarily or permanently, where payment is a condition for access to, or use or continued use of any public place.
- 8.2 The Council may refund, remit or waive any fee prescribed by this Bylaw or charge payable for a certificate or approval from, or inspection by, the Council, for any reason it thinks fit.



9. Trading and event activities

- 9.1 Written approval must be obtained from the Council to undertake a trading or event activity on public land as set out in the Trading and Events in Public Places Policy 2022.
- 9.2 To enable the Council to protect these fundamental rights and to minimise disruption to pedestrians and other users, the organiser of any event, demonstration, competition, parade or procession that is likely to interfere with traffic or pedestrian thoroughfare in a public place shall notify the Council as soon as reasonably practicable prior to the event.

10. Signage

- 10.1 Written approval is required for all signage in public places. Approval may be subject to Council setting conditions including placement, fees and the duration a sign may be erected.
- 10.2 Any sign erected without approval must be removed within 1 hour of being instructed to do so, or as otherwise specified by the Council.
- 10.3 Posters or notices displayed on notice boards shall be covered or removed within 24 hours of the end of the event, or such other time as approved by the Council.
- 10.4 Responsibility for compliance with this Bylaw lies with the person who displayed the poster or notice, or the organiser, promoter or person in charge of the advertised good, service or event or, in the case of an election, the candidate or a delegate of that candidate.

11. Advertising for commercial sex premises and services

- 11.1 Written approval is required from the Council for signage that advertises any commercial sex premise or commercial sex service that will be visible from any road or public place.
- 11.2 The following criteria may be considered when assessing an application for approval:
 - a) the extent to which the signage depicts or implies sexual activity;
 - b) the extent to and manner in which the sign depicts nudity (the depiction of nudity is not encouraged);
 - c) the size, number, other effects and cumulative effects of the signage; and
 - d) the extent to which words and/ or images could be offensive. (The Council will decline applications for signage that are found to be offensive.)

12. Sports and games

- 12.1 The organiser of any game, sporting activity or group activity (excluding informal or casual play) proposed to take place in any part of a public place must notify the Council as soon as reasonably practicable prior to commencing the activity.
- 12.2 The Council may set conditions for use of the public place such as to manage the potential for any damage caused by the activity and minimise conflict between users.

13. Freedom Camping

Overall freedom camping rules

- 13.1 A person must not freedom camp in an area in which freedom camping is prohibited, as identified in Schedule

 One: Restricted and Prohibited Areas for Camping unless they have prior written approval from the Council.
- 13.2 Camping is prohibited on all land managed under the Reserves Act 1977 and Wellington Town Belt Act 2016 unless allowed in a reserve management plan or the Wellington Town Belt Management Plan 2018.
- 13.3 Freedom camping is restricted in all other Wellington areas. The restrictions that apply to freedom camping in all areas are:
 - a) A vehicle must be a certified selfcontained vehicle to freedom camp.
 The statutory provision for technical requirements and transition period for self-containment will be followed.
 - b) A vehicle or a tent or other temporary structure must not stay in any one area for more than four consecutive nights in any calendar month.
 A vehicle or a tent or other temporary structure must not freedom camp within 500 metres of an area in which it has already been freedom camping for four nights in any calendar month.
 - Freedom camping is further restricted in the areas identified in Schedule One of this Bylaw.

Prior written approval from the Council

- 13.4 Written applications will be considered for camping in public places for special purposes. Approval may be granted at the Council's sole discretion, with or without conditions.
- 13.5 Applications to camp in accordance with clause 13.1 above must be made in writing two weeks in advance of the planned date for approval to camp in the respective prohibited or restricted area. A written application must provide the following information:
 - a) the location;
 - b) the duration of occupation;
 - c) the number of people;
 - d) the provisions to ensure that there is no damage or effects to the public place; and
 - e) the reason why the camping is proposed.

14. Life-saving equipment

The Council may at its discretion authorise on any beach any volunteer life-saving club to provide and use life-saving appliances and boats, and erect and remove any danger notices as necessary.

15. Cemeteries

- 15.1 The purchaser of a plot or their representative must keep all fences, enclosures, tombstones, vaults, headstones and other monuments on any plot in proper order and repair.
- 15.2 The Council may from time to time set specifications for memorial hardware and structures that may be installed on plots.
- 15.3 The Council may remove, at any time, any memorial items, hardware or structures that do not comply with the Council's specifications that have fallen into a state of decay, become broken or pose a hazard.
- 15.4 Written approval must be obtained before installing a fence, tombstone, vault or other monument on any plot; prior to any interment or disinterment and carrying out any work in a cemetery.

16. Road and property identification

- 16.1 The Council may require the name of a road, private road, or public place to which a building has frontage, to be painted or affixed onto that building.
- 16.2 The owner of a property, building or group of buildings forming part of a complex must mark the property with the number allocated by the Council, regardless of any other identification a property or building may have. The marking shall be:
 - a) at least 50mm in height;
 - b) of a colour in contrast to its background;

- c) easily visible from the road to which it has frontage; and
- d) maintained by the owner in a way that easily identifies the property at all times.
- 16.3 Clauses 16.1 and 16.2 do not apply to property without buildings, and property not allocated a number by the Council.
- 16.4 When the Council advises the owner of a property that an address needs to be displayed or changed, the owner must arrange to do so within 15 working days, or as otherwise instructed.

17. Traffic

- 17.1 The Council may under the provisions of this Bylaw or under the Traffic and Parking Bylaw 2021 impose any controls relating to vehicles in a public place to allow the proper use and enjoyment of the place.
- 17.2 If instructed to do so by an enforcement officer, any person must move a vehicle in or from any public place where that vehicle may be impacting upon the safety, convenience and enjoyment of the public using that place.
- 17.3 Any vehicle, whether attended or not, in breach of this Bylaw may be removed by the Council in accordance with the Vehicle Removal provisions in the Traffic and Parking Bylaw 2021.

18. Vehicle access

- 18.1 Prior written approval must be obtained before any person may construct, repair, remove, widen or narrow any vehicle access way.
- 18.2 When considering an application for vehicle access, the Council will take into account what is reasonably necessary to ensure the safe and convenient use of the road by pedestrians and vehicles, and protect the grass berm from damage.
- 18.3 Conditions may be set by way of licence or written approval for the construction of a vehicle crossing, and may include:
 - a) use of materials and dimensions;
 - b) timeframe for completion;
 - c) a requirement that the applicant pay a cash deposit or bond of up to 150% of the estimated cost of work as a guarantee the work is completed to the satisfaction of the Council and/ or against any damage to Council's property;
 - d) a requirement that the applicant arranges the construction work to meet the approved conditions and pays all associated costs; and/or
 - e) a requirement that all construction work be carried out in compliance with the Wellington City Council Code of Practice for Working on the Road and/ or with specific regard to any relevant NZTA guidelines in force within the Council's jurisdiction.

- 18.4 The Council may by notice require the property owner with the vehicle crossing access to repair, reconstruct, renew or remove such access to the satisfaction of the Council.
- 18.5 The Council may remove or alter any work located on the road constructed without prior written approval or contrary to the terms of written approval. Costs may be recovered from the person who undertook the work, or the property owner serviced by the vehicle access.

19. Encroachments

- 19.1 A property owner ('the encroacher') may be authorised by the Council to occupy a public place controlled by the Council ('an encroachment'). The Council may at its discretion authorise an encroachment by granting landowner consent, and if required, an encroachment licence to the applicant in accordance with any relevant Council policy.
- 19.2 The Council may consider whether the proposed encroachment will compromise the primary use of the road to facilitate free pedestrian and traffic movement, and/or unreasonably interfere with a property owner's right of access to any road across the frontage between the road and the private property.
- 19.3 An encroachment licence may authorise the occupation of the encroachment area for parking, boundary marking, airspace, subsoil or access structures, for the maintenance or beautification of the encroachment area, or any other purposes the Council considers appropriate.

- 19.4 An encroachment licence issued by the Council shall be subject to such conditions that the Council considers appropriate, at the sole discretion of the Council.
- 19.5 The encroacher must own the land adjoining or in the vicinity of the encroachment area that benefits from the encroachment and continue to own this land for the period of the encroachment.
- 19.6 Any subsequent encroacher must complete a new encroachment licence with the Council in order to continue the occupation of the encroachment area.

20. Building work and excavations

- 20.1 Prior written approval of the Council is required before any person carries out building work or excavations on a public place.
- 20.2 Council approval may be subject to conditions, including a requirement that the applicant pay a cash deposit or bond of up to 150% of the estimated cost of work as a guarantee the work is completed to the satisfaction of the Council and/or against any damage to the Council's property. The estimated cost of work shall be approved by the Council.
- 20.3 The Council may remove or alter any building or excavation work undertaken without prior written approval or contrary to the terms of written approval. Costs may be recovered from the person who undertook the work, or the person for whom the work was being done.
- 20.4 If any damage occurs to the place, the Council may require it to be reinstated.

21. Fences, walls and stability of land

- 21.1 The Council may require the owner of any land which has no fence, wall or retaining wall adjacent to a public place to erect a fence, wall or retaining wall if the Council considers that this is necessary for safety or other reasons relating to the use or administration of the public place.
- 21.2 Where any fence, wall, retaining wall or land adjacent to a public place is in a condition or state of disrepair which could cause injury to persons or damage to a public place, the Council may give notice requiring the owner to repair, remove or replace the fence, wall or retaining wall, or make the land safe.

22. Verandahs

- 22.1 The Wellington City District Plan requires buildings to have verandahs in designated zones.
- 22.2 Despite clause 22.1, no person, without prior written approval of the Council, may:
 - a) construct a new verandah over a public place;
 - b) demolish an existing verandah over a public place; or
 - c) enlarge, extend, or add to an existing verandah over a public place.
- 22.3 Any verandah constructed over a public place shall be maintained to a reasonable standard, including in a waterproof condition and in a state of good repair.
- 22.4 If the Council considers that a verandah constructed over a public place is not to a reasonable standard, the Council may serve a written notice on the owner of the building to which the verandah is attached, requiring the owner to repair and maintain the verandah so that it complies with this Bylaw.
- 22.5 If the Council considers that the alteration of a verandah constructed over a public place is required for roading purposes, asset protection and/or public safety, the Council may serve a written notice on the owner of the building to which the verandah is attached, requiring the owner to alter the verandah, as stated in the notice. The Council must consult with the building owner before notice is served.

- 22.6 Any action required by a notice served on an owner under clause 22.4 or clause 22.5 must be carried out by the date stated in the notice.
- 22.7 If an owner fails to carry out any action required by a notice served under 22.4 or clause 22.5 by the date stated in the notice, the Council may authorise the alteration, repair and maintenance, or removal of the verandah and recover the costs from the owner.
- 22.8 No person shall use or otherwise occupy any verandah constructed over a public place, except for the purpose of inspection, cleaning, maintenance, repair, alteration, emergency egress, or carrying out work in accordance with this Bylaw.



23. Offences

- 23.1 Every person commits an offence against this Bylaw who damages, destroys or defaces (or has in their possession without authority from the Council) any property, article or thing belonging to the Council or under its control.
- 23.2 Every person commits an offence against this Bylaw who does not comply with any requirement or condition of their approval, or acts contrary to any prohibition or resolution made in this Bylaw.
- 23.3 Under this Bylaw no person may:
 - a) in any public place wilfully obstruct, disturb, annoy or interfere with any person in their use or enjoyment of a public place;
 - use any public place in contravention of the conditions set by the Council regulating the use of that place;
 - c) use a public place after closing hours;
 - d) ride a micromobility device in a manner which causes a nuisance or damage to a public place, or use a device where not permitted or where signage prohibits it;
 - e) verbally advertise on behalf of, or distribute in any public place any handbills, writings or pictures of which the primary purpose, whether explicitly or implicitly, is to advertise, identify or inform the public of any commercial sex premise or commercial sex service;

- f) place posters on any Council ornament, statue, structure, building or facility in a public place without the Council's prior approval;
- g) smoke in close proximity to hazardous substances in any public place;
- h) smoke in Cable Car Lane;
- i) install a fence, tombstone, vault or other monument on any plot, or carry out any interments, disinterments or other work in a cemetery without the prior written approval from Council;
- j) hunt game in a public place;
- k) carry or discharge a firearm or any other weapon in a public place;
- l) discharge a firework in a public place;
- m) obstruct any member of a life-saving club carrying out life-saving activities;
- use, move or damage any appliance or signal provided by the Council or by any volunteer life-saving club, at any beach, except for the purpose of saving life or with the approval of the Council or the club:
- o) operate or drive a vehicle on a beach;
- p) gather food or firewood in a public place without prior approval from the Council;
- q) clean or prepare any fish in a public place;

- r) play a sport or game in a public place, if contrary to any notice, or if expressly forbidden to do so by an enforcement officer; or enter in or remain on any part of a public place marked out as a playing area for a sport or game while the sport or game is in progress;
- s) disturb, damage or remove from a public place any soil, sand, gravel, rock, plants, fish, animals (including eels), or any naturally occurring thing without having obtained prior written approval from the Council. This prohibition does not include the act of sea fishing (unless in a prohibited area or marine reserve);
- disturb or damage land in a manner which is injurious or causes a nuisance to any person or causes material damage to land or Council property without having obtained prior written approval from the Council;
- u) drive, stop, stand or park any vehicle in any public place other than on any roadway or in any car park provided for the purpose, and then only in accordance with any controls or restrictions imposed by the Council;
- v) drive, stop, stand, park or leave any vehicle, bulk bin, container or other object in a public place in such a manner as to obstruct the normal or safe entry to, or exit from, or movement of other vehicles or pedestrians within a public place;

- w) fail to maintain the verandah as required under clause 22.3; or
- x) put up, alter, or demolish any structure of any kind or undertake an excavation in a public place without prior written approval of the Council.

24. Penalties

25. Exemptions

- 24.1 A person in breach of clause 13 of this
 Bylaw commits an offence under the
 Freedom Camping Act 2011 and is liable to
 a fine not exceeding \$400.
- 24.2 A person in breach of clause 23.3 (q) of this Bylaw commits an offence under the Litter Act 1979 and is liable to a fine not exceeding \$400.
- 24.3 A person in breach of clauses 17, 18 and Clause 23.3 (o) of this Bylaw is liable to a fine under the Land Transport Act 1998 not exceeding \$1,000.
- 24.4 A person in breach of Clauses 23.3 (j, p, r, s, v, x) of this Bylaw is liable to a fine under the Reserves Act 1977 not exceeding \$1,600.
- 24.5 A person who is convicted of an offence under this Bylaw is liable to a fine not exceeding \$20,000 under the Local Government Act 2002.

- 25.1 The prohibitions and restrictions contained in this part of the Bylaw do not apply to any Council agent or officer when engaged in the performance of their regular duties.
- 25.2 Iwi customary rights are not affected by this Bylaw.

Schedule One: Restricted and Prohibited Areas for Camping

Camping in Wellington is restricted or prohibited as illustrated and described within the following aerial photographs.

