

APPENDIX 2

Wellington Consolidated Bylaw 1991 Part 17 – Public Places

This part of the bylaw regulates a diverse range of activities. It seeks to maintain standards of public health and safety, protect the public from nuisances, minimise the potential for offensive behaviour and to manage various types of land associated with or under the control of the Wellington City Council for the well-being and enjoyment of the public in public places.

1 Definitions

In this Part:

“beach” means any beach which is from time to time vested in the Council or under its management or control.

“camping” means living or carrying out any other residential activity, whether temporary or permanent.

“cemetery” means any cemetery vested in or under the control of the Council from time to time.

“commercial sex premises”:

- a) “means premises used or intended to be used primarily for exposing, selling, or hiring goods or services related to sexual behaviour; and
- b) to avoid any doubt includes strip clubs, strip bars, rap parlours, peep shows, lap dancing bars, escort agencies, adult bookshops, adult video shops, adult cinemas, sex shops; but
- c) does not include hospitals, healthcare 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.

“commercial sex services” has the same meaning as in section 4 of the Prostitution Reform Act 2003.

“hoarding” means a board, including any frame or other supporting device, for displaying posters or notices announcing future events or for advertising or election purposes, but excludes sandwich boards.

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

“public place” means a place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place; and includes any aircraft, hovercraft, ship or ferry or

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other vessel, train, or vehicle carrying or available to carry passengers for reward.

“refuse bin” includes skips, mini skips, wheelie bins, wheelie carts and any kerbside refuse and recycling containers.

“reserves plan” or “reserves management plan” has the same meaning as found in section 41 of the Reserves Act 1977.

“residential area” includes areas identified as residential in the Wellington City Council District Plan.

“street appeals” are coordinated and organised events by organisations who ask for, or seek, any subscription, collection or donation from members of the public. A street appeal will usually involve more than one collection person operating at the same time.

“street performance” is musical, dramatic or other performance (including busking) involving musical, theatrical or circus performance skills including playing musical instruments, dancing, singing, clowning or juggling, pavement art, poetry or doing other acts of a similar nature in public places.

“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.

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Subpart 1 – Public Access

2. Council may set conditions

*Bylaw Reference
(Part, Clause)*

- 2.1 Subject to the provisions of this Bylaw, any other Act and any Instrument, all public places shall be open for use by the public at such times and at such charges and upon such conditions as the Council may prescribe or vary from time to time. *16.3*
- 2.2 The Council may set or vary conditions for use of a public place by resolution, or by licence with any person.
- 2.3 A person shall not use the public place in contravention of the conditions set by the Council regulating the use of the public place. *16.3.1
16.4.1*
- 2.4 A person shall not use a public place after closing hours. *5.10.1 (f)*

3. Restrictions affecting public access

- 3.1 The Council shall have the right to prevent any game being played or any other activity whatsoever being undertaken that is likely to damage the place or harm a person or which is otherwise undesirable, disorderly, or dangerous. *16.5.1*
- 3.2 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 or proper. *16.5.2*
- 3.3 The Council or a member of the police requested by the Council, may exclude or remove any person: *16.5.3*
- a. who has acted in a manner that is contrary to conditions of use set by the Council, or
 - b. who is not bona fide using the place for its normal intended purposes, or
 - 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.

4. Fees and charges

- 4.1 The Council may set fees and charges, either temporarily or permanently, as a condition for access to, or use of, any public place. Payment of such fees shall be a condition for access to or use of that place. *5.20.1, 11.6.1,
11.11.1, 16.7.2,
16.7.3, 16.7.4,
17.5.2 (e)*

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Subpart 2 - General Provisions - Public Places

6. Assembly

- 6.1 To minimise disruption to pedestrians and other users, the organiser of an 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. 17.3.1
- 6.2 After receiving notification, the Council will provide relevant traffic management information to the organiser and/or Police. 17.3.2

7. Activities requiring written approval

- 7.1 Written approval from the Council is required for the following activities: 17.2
1. Street appeals and charity fundraisers
 2. Street performances and busking

The Council's Footpath Management Policy provides information on how to obtain approval for these activities in the road corridor.

8. Display of articles and trading

- 8.1 To minimise disruption to other users and enable the Council to manage public places written approval is required for the following: 17.5
1. Retails displays, kiosks and stalls 16.4.1. (m)
 2. Promotional signage
 3. Outdoor area special licences
 4. Trading
 5. Open air markets
 6. Private seating, furniture etc associated with trading activities.

Note: The Council's Footpath Management Policy and/or its Trading in Public Places Policy provides information on how to obtain approval for these activities in public places.

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9. Hoardings, posters and notices

- 9.1 Council approval is required for hoardings in public places. *17.4*
- 9.2 The approval of hoarding sites under this clause may be subject to conditions, including:
1. placement
 2. fees
 3. dates a hoarding may be erected
 4. approval of the hoarding design.
- 9.3 Hoardings erected without approval must be removed within 1 hour of being instructed to do so, or as otherwise specified by the Council.
- 9.4 Posters or notices displayed on hoardings shall be covered after the event and removed within 24 hours of the end of the event, or such other time as approved by the Council.
- 9.5 With the exception of approved hoardings under this clause, no one shall affix or place a poster or notice to any Council ornament, statue, structure, building, or facilities in a public place without the Council's prior approval. *16.4.1 g*
- 9.6 Responsibility for compliance with this part of the 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.

10. Advertising for commercial sex premises and services

- 10.1 Application must be made to the Council to place signage that advertises any commercial sex premise or commercial sex service so as to be visible from any road or public place. *17A.3.1*
- 10.2 In exercising its discretion to grant permission, the Council may have regard to the following criteria:
1. the extent to which the signage depicts or implies sexual activity
 2. the extent to and manner in which the sign depicts nudity (the depiction of nudity is not encouraged)
 3. the size, number and cumulative effects of the signage
 4. the extent to which words and/or images could be offensive.
(The Council will decline applications for signage that are found to be offensive)
- 10.3 No person in a public place may tout for business or otherwise verbally advertise on behalf of any commercial sex premise or commercial sex service. *17A.5.1*
- 10.4 No person may 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. *17A.4.1*

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11. Management of adverse effects

11.1 The following activities are prohibited in public places unless Council approval has been granted:

- | | |
|---|------------------------|
| 1. Hunting game | 16.4.1 (o) |
| 2. Gathering food | 16.4.1 (o) |
| 3. Gathering firewood | New |
| 4. Operating/driving a vehicle on a beach | 11.13.1 |
| 5. Carrying or discharging a firework, firearm, catapult or other weapon. | 11.5.1 g
16.4.1 (r) |

Note that these activities may be approved in a Reserve Management Plan.

12. Camping

12.1 A person must not camp in any public place except where a place has been set aside by the Council for the purpose of camping, or where the Council has issued written approval to camp, whether using a vehicle or not. 17.7

12.2 Applications will be considered for camping in public places for special purposes. Applications to the Council for prior written approval will be subject to the criteria outlined in this clause. The Council has a full discretion to determine whether approval should be granted for camping. Matters to be considered for camping applications:

1. the duration of occupation
2. the location (unless provided for in an applicable Management Plan, no camping is allowed in the Town Belt, parks and reserves, except for special purposes)
3. the number of people
4. the provisions to ensure that there is no damage or effects to the public place and
5. the reason why the camping is proposed.

Note: The purpose of this clause is to address adverse effects of camping on public places. Specific issues relating to homelessness are addressed in the Wellington City Council Homeless Strategy.

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13. Road and property identification

- 13.1 The Council shall have the right to cause to be painted or affixed on a building, the name of the road, private road or public place to which it has frontage. 17.8
- 13.2 The owner of every property, building or group of buildings forming part of a complex shall mark such property, building or complex with the number allocated by the Council, regardless of any other identification a property or building may have. The marking shall be:
1. at least 50mm in height and
 2. of a colour in contrast to its background and
 3. easily visible from the road to which it has frontage and
 4. maintained by the owner in a way that easily identifies the property at all times.
- 13.3 The requirement in this bylaw for an owner to mark a property, building or complex with the allocated number does not apply to:
1. property without buildings and
 2. property not allocated a number by the Council.
- 13.4 The owner of a newly subdivided property must inform a subsequent purchaser of the address allocated by the Council.
- 13.5 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.

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14. Traffic

- 14.1 The Council may under the provisions in this bylaw or under part 18 (Traffic) impose any controls relating to vehicles in a public place to give effect to the proper use and enjoyment of the place. *5.12*
5.10.1 (g)
11.5.1 (g)
11.5.1 (h)
- 14.2 If a member of the police or an authorised Council officer believes it to be in the interest of safety or for the convenience or in the interest of the public or for the use and enjoyment, protection and preservation of the public place, he or she may direct the driver or person in charge of any vehicle in or on any public place to:
- remove the vehicle from any specified place, or
 - cease parking it in any specified or general place, or
 - drive it in any area.
- 11.13.1*
16.4.1 (a)
16.4.1 (b)
16.6
17.13.1 (b)
17.13.1 (h)
17.13.1 (l)
- 14.3 No person shall 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.
- 14.4 No person shall drive, stop, stand, park or leave any vehicle 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.
- 14.5 Any vehicle, whether attended or not, in breach of this bylaw or controls made under this bylaw may be removed by the Council in accordance with the Vehicle Removal provisions in Part 18 (Traffic) of the Consolidated Bylaw. *18.9*

15. Skateboards and skates

- 15.1 Use of a skateboard, roller-skates or inline-skates in a public place is allowed, except in areas with signs stating otherwise. *17.6*
- 15.2 Every one who uses a skateboard, roller-skates or in-line skates shall ensure no damage is caused to Council property and shall show reasonable consideration for other persons using the public place.

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16. Vehicle access

- 16.1 The prior written approval of the Council will be required before any person constructs, repairs, removes, widens or narrows any vehicle access. 17.9
- 16.2 Before granting approval, the Council will consider what is reasonably necessary to:
1. ensure the safe and convenient use of the road by pedestrians and vehicles and
 2. protect the road (including any footpath or berm) adjacent to the vehicle access.
- 16.3 Approval granted by Council may be subject to conditions, including:
1. use of materials and dimensions
 2. timeframe for completion
 3. 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
 4. a requirement that the applicant is responsible for arranging the construction work to meet the approved conditions, and shall pay the costs
 5. a requirement that all construction work be carried out in compliance with the Wellington City Council Code of Practice for Working on the Road.
- 16.4 In setting conditions, the Council will have specific regard to the criteria in any codes of practice, Land Transport Safety Authority Guidelines or other standards that are currently in force within the Council's jurisdiction.
- 16.5 If the Council decides any vehicle access is in a bad or unsafe state of repair or there has been a significant deterioration or change in vehicle access use, the Council may by notice in writing, require the owner of the land which the crossing provides access to, to repair, reconstruct, renew or remove such access to the satisfaction of the Council.
- 16.6 It is the owner's responsibility to carry out any work required in the notice, and pay all costs.
- 16.7 If any vehicle access is constructed without the Council's prior written approval, or contrary to the terms of the Council's prior written approval, the Council may remove or alter that work located on the road. The Council's costs may be recovered from the person who undertook the work or the person(s) serviced by the vehicle access.

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17. Encroachments

- 17.1 No person shall put up any structure of any kind or undertake an excavation in a public place without prior written approval of the Council, and then only in compliance with any condition under which such approval may be granted. *17.12
16.4.1. (1)
5.8*
- 17.2 Any property owner ('the encroacher') may be authorised by the Council to occupy a public place controlled by the Council ('an encroachment'). The Council has discretion whether to authorise an encroachment by granting land owner consent and if required an encroachment licence to the applicant in accordance with any relevant Council policy. Relevant legal factors for the Council to consider when considering an application for an encroachment licence include whether the encroachment will: *17.10*
1. compromise the primary use of legal road to facilitate free pedestrian and traffic movement
 2. unreasonably interfere with a property owners' right of access to any road across the frontage between the road and private property.
- 17.3 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 desirable.
- 17.4 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.
- 17.5 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.
- 17.6 Any subsequent encroacher must complete a new encroachment licence with the Council in order to continue the occupation of the encroachment area.

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18. Building work and excavations

- 18.1 The prior written approval of the Council will be required before any person carries out building work or excavations on a public place. In setting conditions, the Council will have specific regard to the criteria in any codes of practice, Land Transport Safety Authority Guidelines or other standards that are currently in force within the Council's jurisdiction. *17.12*
- 18.2 Approval granted by the Council 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.
- 18.3 If any building or excavation work is carried out on a public place without the Council's prior written approval, or contrary to the terms of the Council's prior written approval, the Council may remove or alter that work. The Council's costs may be recovered from the person who undertook the work, or the person for whom the work was being done.
- 18.4 If any damage occurs to the place, the Council may require the place to be reinstated.

19. Fences, walls and stability of land

- 19.1 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. *17.11*
- 19.2 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.

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20. Animals

- 20.1 No person shall take any animal into a public place, except as provided in Part 3 of this Bylaw (Animals). 16.4 (f)
5.10.2
- 20.2 No person shall ride or lead any horse or other animal in a manner likely to endanger any person. 11.5.1 (d)
11.5.1 (e)

21. Litter and refuse

- 21.1 **Refuse collection services** 17.13.1 (g)
No person shall collect or service refuse bins between 10pm and 7 am from a residential area or from sites that adjoin a residential area or face a residential area across a road.
- 21.2 **Cleaning of fish** 11.5.1 (i)
No person shall, on any part of any public place clean or otherwise prepare any fish.

22. Sports and games

- 22.1 The organiser of any planned team games and sporting activities, marching drill, musical or other group activity in any part of a public place shall notify the Council as soon as reasonably practicable prior to commencing the activity. 16.4.1 (p)
- 22.2 The Council may require the organiser to agree to conditions for use of the public place.
- 22.3 A person must not, if contrary to any notice, or if expressly forbidden to do so by an authorised officer; 16.4.1 (u)
1. play a sport or game in a public place
 2. 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.

Note: The purpose of this clause is to minimise conflict between users, ensure that a particular site is suitable for the proposed activity and enable the Council to manage any environmental impacts of the activity.

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23. Remove sand, soil or other matter

- 23.1 No person may remove from a public place any soil, sand, gravel, rock, flora, fish, fauna, or any naturally occurring thing not previously left by that person without having obtained the prior approval from the Council. *11.5.1 (j)*
16.4.1 (k)
16.4.1 (o)
5.10.1 (c)
17.13.1 (j)

24. Smoking

- 24.1 Smoking is prohibited in the following locations:
1. In proximity to dangerous goods in any public place, *11.13.6 (a)*
 2. Cable Car Lane (except for the balcony extending from 284 Lambton Quay). *11.13.6 (b)*
17B

Sub part 3 – Beaches

25. Life-saving equipment

- 25.1 The Council may, at its discretion, authorise, on any beach, any volunteer life-saving club to: *11.10*
1. provide and use life-saving appliances and boats;
 2. use any such appliances and boats provided by the Council; and
 3. erect and, as may from time to time be necessary, remove from any place 'Danger' notices.

26. Protection of life-saving equipment

- 26.1 No person shall 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. *11.9*
- 26.2 No person shall obstruct any member of a life-saving club in the conduct of their life-saving activities.

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Sub part 4 - Cemeteries

27. Preparation or maintenance of graves

- 27.1 All fences, enclosures, tombstones, vaults, headstones and other monuments on any plot shall be kept in proper order and repair by the purchaser of that plot or their representative. *5.7.1, 5.10.1 (b)*
- 27.2 The Council may from time to time set the specifications for memorial hardware and structures that can be installed on plots.
- 27.3 Any memorial items, hardware or structures that do not comply with the Council's specifications or that have fallen into a state of decay or become broken or pose a hazard may, at any time, be removed from the cemetery by the Council.

28. Conduct in cemeteries

- 28.1 The following activities require Council approval. Council approval may be subject to such conditions as it deems necessary: *5.4, 5.7.3, 5.7.4, 5.8.1, 5.10.1 (a)*
1. Interments and disinterments
 2. Installing a fence, tombstone, vault or other monument on a plot
 3. Working in a cemetery.

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Subpart 5 - Enforcement

29. Offensive behaviour

- 29.1 No person, in any public place, shall wilfully obstruct, disturb, annoy or interfere with any Council agent or officer in their work or any person in the use or enjoyment of any public place.
- 16.4.1 (n)*
5.10.1 (d)
11.4.1 (f)
11.4.1 (g)
11.5.1 (a)
11.5.1 (b)

30. Offences

- 30.1 Every person who does not comply with any requirement or condition, or acts contrary to any prohibition, made in this bylaw, or made by resolution, commits an offence against the bylaw.

31. Exemptions

- 31.1 The prohibitions and restrictions contained in this part of the bylaw shall not apply to any Council agent or officer when engaged in the performance of their regular duties.
- 31.2 An Iwi's customary rights are not affected by this bylaw.