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**ORDINARY MEETING**

**OF**

**CITY STRATEGY COMMITTEE**

**MINUTE ITEM ATTACHMENTS**

**Time:** 9:30 am  
**Date:** Thursday, 5 October 2017  
**Venue:** Committee Room 1  
Ground Floor, Council Offices  
101 Wakefield Street  
Wellington

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**Business**

**Page No.**

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**2.1 Public Places Bylaw Review**

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## Proposed Wellington City Council Public Places Bylaw 2017

### Wahi ā-iwi 2017

*The Public Places Bylaw is consistent with the NZ 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. Purpose

This part of the consolidated 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.

This bylaw is made under sections 145 and 146 of the Local Government Act 2002 and the following Acts:

- 1) section 10 of this bylaw is made under section 12 of the Prostitution Reform Act 2003;
- 2) section 12 of this bylaw is made under section 11 of the Freedom Camping Act 2011;
- 3) sections 17, 18 and clause 22(o) are made under section 22AB of the Land Transport Act 1998; and
- 4) clauses 22.3 (q) and (r) are made under section 12 of the Litter Act 1979.

#### 2. Definitions

**Beach** means the foreshore (including the inter-tidal 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.

**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.

**Certified self-contained vehicle** (CSC vehicle) has the same meaning as defined by NZS 5465.

**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, rap parlours, 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.

**Freedom camp** means to camp (other than at a camping ground) within 200m of a motor vehicle accessible area or the mean low-water springs line of any sea or harbour, or on or within 200m of a formed road or a Great Walks Track, using 1 or more of the following:

- (a) a tent or other temporary structure;
- (b) a caravan; and
- (c) a car, campervan, house truck, or other 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
- (c) resting or sleeping at the roadside in a caravan or motor vehicle to avoid driver fatigue.
- (d) Freedom camping provisions will not be used against the homeless.

**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, but excludes sandwich boards.

**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 and 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 and hovercraft, ship or ferry or other vessel, train or vehicle carrying or available to carry passengers for reward.

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

**Street appeals** means coordinated and organised events 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.

### **Section One: Public Places**

#### **3. Council may set conditions**

**3.1** The Council may, from time to time and subject to the provisions of this bylaw, prescribe conditions by resolution, by way of licence or otherwise) for access to any public place.

**3.2** The Council may by resolution, or by way of a licence set conditions for the use of a public place.

#### **4. Restrictions affecting public access**

**4.1** 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.

**4.2** 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.

**4.3** Any authorised 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;  
or
- 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.

#### **5. Fees and charges**

**5.1** The Council may set fees and charges, either temporarily or permanently, where payment is a condition for access to, or use of any public place.

#### **6. Assembly**

**6.1** 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 so that the Council may arrange any necessary traffic management.

#### **7. Activities requiring written approval**

**7.1** Written approval from the Council is required for street appeals, charity fundraisers, street performances and busking. The Footpath Management Policy provides information on how to obtain approval for these activities.

#### **8. Display of articles and trading**

**8.1** Written approval from the Council is required for retail displays, kiosks and stalls.

**8.2** Council may consider and grant at its discretion licences for:

- a. open air markets;
- b. outdoor dining;
- c. trading in a public places;
- d. any seating and furniture; and
- e. any promotional signage associated with trading activities.

**8.3** The Council may prescribe conditions for any licence and revoke any licence at any time.

#### **9. Signage**

**9.1** Written approval is required for signage in public places. Approval may be subject to Council setting conditions including placement, fees and the duration a sign may be erected.

**9.2** Any sign erected without approval must be removed within 1 hour of being instructed to do so, or as otherwise specified by the Council.

**9.3** 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.

**9.4** 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.

#### **10. Advertising for commercial sex premises and services**

**10.1** 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.

**10.2** The following criteria may be considered when assessing an application for permission:

- 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 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.)

#### **Section Two: Beaches, Cemeteries, Parks and Reserves**

##### **11. Sports and games**

**11.1** 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.

**11.2** 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.

##### **12. Freedom Camping**

###### **Restricted and prohibited areas as outlined in Schedule One**

**12.1** A person must not camp in an area in which freedom camping is prohibited, as identified in Schedule One: Restricted and Prohibited Areas for freedom camping in Wellington, unless they have prior written consent from the Council.

**12.2** A person may camp in an area in which freedom camping is restricted, as identified in Schedule One: Restricted and Prohibited Areas for freedom camping, but must comply with the specific restrictions listed for that site unless they have prior written consent from the Council that waives these restrictions.

###### **Areas where camping is permitted**

**12.3** Freedom camping is permitted in any local authority area in Wellington City, unless it is restricted or prohibited in an area under this bylaw or any other enactment.

**12.4** Camping is prohibited on all land managed under the Reserves Act 1977 and Wellington Town Belt unless allowed in a reserve management plan. Campers are advised to camp in the restricted areas identified in Schedule One of this bylaw. For clarity, the Freedom Camping Act's non-site-specific offences do apply to Council reserves, and any site-specific restrictions or prohibitions on Council reserves to be administered under this bylaw must be included in Schedule One of this bylaw.

#### **Prior written consent from the Council**

**12.5** A written application is required two weeks in advance of the planned date for consent to camp in a prohibited area.

**12.6** A written application is required two weeks in advance of the planned date for consent to camp in a restricted area.

**12.7** Freedom camping in Wellington is restricted or prohibited as illustrated and described within the following aerial photographs: [Maps - Schedule 1: Restricted and Prohibited Areas for Camping](#) (11MB PDF)

#### **Approval process**

**12.8** Written applications will be considered for camping in public places for special purposes. Consent may be granted at the Council's sole discretion, with or without conditions. Applications to camp in accordance with clauses 12.1 and 12.2 above must be made in writing and 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.

#### **13. Life-saving equipment**

**13.1** 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.

#### **Cemeteries**

**14.1** 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.

**14.2** The Council may from time to time set specifications for memorial hardware and structures that may be installed on plots.

**14.3** 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 may, at any time, be removed from the cemetery by the Council.

#### **15. Conduct in cemeteries**

**15.1** Written permission 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.

#### **Section Three: Property and Access**

#### **16. Road and property identification**

**16.1** The Council may require from time to time numbering to be painted or affixed on a building, the name of the road, private road or public place to which it has frontage.

**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 and
- b. of a colour in contrast to its background and
- 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 in this bylaw or under the Traffic Bylaw impose any controls relating to vehicles in a public place to give effect to the proper use and enjoyment of the place.

**17.2** If instructed to do so by an authorised 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 Part 7: Traffic of the Consolidated Bylaw.

**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 protect the grass berm from damage and ensure the safe and convenient use of the road by pedestrians and vehicles.

**18.3** Conditions may be set by way of licence or written permission for the construction of a vehicle crossing which 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
- 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 which the vehicle crossing provides access to, 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** Any 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 land owner 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 work 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. Offences**

**22.1** 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 this bylaw.

### **Public places**

**22.2** 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;
- b. 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 skateboard in a manner which causes a nuisance or damage to a public place. (Skateboards and roller-skates may be used in a public place except 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; or
- h. smoke in Cable Car Lane.

### **Beaches, Cemeteries, Parks and Reserves**

**22.3** No person may:

- 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, catapult 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;
- n. 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 permission from the Council;
- q. clean or prepare any fish in a public place;
- r. deposit a cigarette butt outside of any provided receptacle in any public place;
- s. play a sport or game in a public place, if contrary to any notice, or if expressly forbidden to do so by an authorised 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;
- t. 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; or
- u. 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.

### **Property and Access**

#### **22.4 No person may:**

- v. 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;
- w. 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; and
- x. 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.

### **23. Penalties**

#### **23.1 Freedom Camping**

A person in breach of section 12 of this bylaw commits an offence under the Freedom Camping Act 2011 and is liable to a fine not exceeding \$200.

#### **23.2 Litter**

A person in breach of clause 22(q) of this bylaw commits an offence under the Litter Act 1979 and is liable to a fine not exceeding \$400.

#### **23.3 Land Transport**

A person in breach of sections 17,18 and clause 22 (o) of this bylaw is liable to the fine in the Land Transport Act not exceeding \$500.

**23.4 Local Government Act**

A person who is convicted of an offence under this bylaw is liable to a fine not exceeding \$20,000.

**23. Exemptions**

**23.1** 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.

**23.2** An Iwi's customary rights are not affected by this bylaw.