

PROPOSED WAIKATO DISTRICT COUNCIL PUBLIC PLACES BYLAW 2023

WAIKATO DISTRICT COUNCIL in exercise of its powers under the Local Government Act 2002 and its respective amendments, and all other relevant powers, hereby makes the following bylaw.

PART I – INTRODUCTION

I SHORT TITLE, COMMENCEMENT AND APPLICATION

- 1.1 This Bylaw shall be known as the ‘Waikato District Council Public Places Bylaw 2023’.
- 1.2 This Bylaw shall come into force on Date, Month, 2023.
- 1.3 This Bylaw applies to all property owned by, or under the control and management of the Waikato District Council.

2 REVOCATIONS

- 2.1 The following Bylaw is revoked the day this new Bylaw come into force:
 - a) The Waikato District Council Public Places Bylaw 2016

3 PURPOSE OF THIS BYLAW

The purpose of this Bylaw is to protect the public from nuisance and protect, promote, and maintain public health and safety while using property owned by or under the management of Council.

4 INTERPRETATION

- 4.1 In this Bylaw, the following definitions shall apply, unless inconsistent with the context,

<i>Authorised Officer</i>	means an employee or a contractor of the Waikato District Council appointed or authorised to carry out general or specific duties arising from any of the provisions of this Bylaw, unless stated otherwise in this Bylaw.
<i>Beach</i>	means the area of sand between high and low water level.

Chief Executive	means the Chief Executive of the Waikato District Council.
Council	means the Waikato District Council and includes any person authorised by the Council to act on its behalf.
Election Advertisement	has the same meaning as Section 3A of the Electoral Act 1993.
Footpath	means a path or way principally designed for and used by pedestrians and includes any footbridge or grass berm.
Goods	means any product or service
Grass berm	means any area of footpath or road which is laid out in grass.
Item	includes but is not limited to any vehicle, sign, merchandise, merchandise stand, household furnishings, appliances, fixtures or fittings, building materials, scaffolding, skip bins, and produce.
Loading Zone	means an area of marked roadway designated solely for the purpose of loading or unloading goods or passengers.
Nuisance	has the same meaning as contained in 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.
Ornamental Verge or Plot	includes every flowerbed, grass berm or plot, shrubbery or planted area which has been constructed as such and which is separated from the roadway by kerbing or other well-defined edging.
Owner	<p>(in relation to a motor vehicle) means the person lawfully entitled to possession thereof, except where:</p> <ul style="list-style-type: none"> a) The motor vehicle is subject to a bailment that is for a period not exceeding 28 days; or b) The motor vehicle is let on hire pursuant to the terms of a rental-service licence – in which case ‘owner’ means the person who, but for the

bailment or letting on hire, would be lawfully entitled to possession of the motor vehicle; and 'owned' and 'ownership' have corresponding meanings.

Person	includes an individual, a corporation sole, and also a body of persons, whether incorporated or unincorporated.
Public Place	means every road (including unformed roads), footpath, court, land, access way, mall, thoroughfare and walkway of a public nature, that is open to or used by the public as of right or not and with or without payment of any fee. Every park, reserve, beach, place of public resort or place the public have access with or without the payment of fee.
Reserve	includes every reserve under the Reserves Act 1977 and any open space, plantation, park, garden or grounds set apart for public recreation or enjoyment which is now or hereafter may be under the management of the Council.
Road	Has the same meaning as contained in s2 of the Land Transport Act 1998.
Sign	is any material or device used for the purposes of advertising or to disseminate information, or any other similar purpose. These may include, but are not limited to any poster, placard, handbill, flags, banners, writing, picture, or device for advertising or other purposes that is displayed in, on or over any public place, including placed on a footpath.
Structure	Has the same meaning as contained in s2 of the Resource Management Act 1991.
Unformed Road or 'Paper Road'	Means a legally recognised road that is not formed and which may not be identifiable on the ground but will be recorded on survey plans.
Urban Areas	Means any part of the Waikato District with a speed limit of 70Km/h.
Vehicle	has the same meaning as contained in s2 in the Land Transport Act 1998.

PART 2 – ACTIVITIES IN PUBLIC PLACES

5. NUISANCE

- 5.1 Except with the prior written consent of Council, no person shall in or on any public place:
- a) Interfere with any refuse which is awaiting collection by an authorised collector;
 - b) Drive any vehicle in a manner that is dangerous or inconsiderate to pedestrians or other vehicles in the public place;
 - c) Cause or allow any material or thing to be deposited onto a public place or road (excluding domestic refuse and recycling bins as collected on a regular basis);
 - d) Create and/or leave any work, hole or excavation in a public place in a manner that could be a danger or nuisance to anyone entering or using that public place;
 - e) Fly from or land any glider or powered aircraft (including model aeroplanes), hot air balloon, hang glider, parachute or similar except in the case of emergency, or attendance at an emergency;
 - f) Play any game or use any object including recreational devices, skateboards, roller blades, roller skates, bicycles or motorised scooters, recklessly or in a manner which may be dangerous or injurious or cause a nuisance to persons in the public place, or damage the public place;
 - g) Erect or place any structure on, over or under the public place except in compliance with any other Bylaw or legislation.
- 5.2 A person must not use a public place to consume, inject or inhale or distribute or offer for sale any mind-altering substance (excluding alcohol).
- 5.3 Where any fence, wall, retaining wall or land adjacent to a public place is in a conditioner state of disrepair which, in the opinion of an Authorised Officer, could cause damage or injury to persons passing, the Authorised Officer may give notice requiring the owner or occupier to repair or remove the fence, wall or retaining wall, or make the land adjacent to the public place safe.
- 5.4 No person shall permit vegetation to encroach onto or over any public place that may obstruct or interfere with the free movement of persons using that public place.
- 5.5 Notwithstanding any other clause of this Bylaw and subject to any restriction imposed by Council in relation to the lighting of fires, no person shall in any public place light any fire except at fireplaces specially provided or in an appliance designed for outdoor cooking.

6. OBSTRUCTION OR ENCROACHMENT IN PUBLIC PLACES

- 6.1 No person shall, without prior written consent of Council:
- a) Obstruct the entrances to or exits from a public place;

- b) Place or leave any material or item, including signage, on a public place that could obstruct the public right of passage, without the written permission of an Authorised Officer 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;

7. DAMAGE TO PUBLIC PLACES

7.1 Except with the prior written permission of Council, no person shall, 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 otherwise interfere with any ornament, statue, building, structure, facilities, or display boards;
- 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, on, over or under the public place;
- d) Damage or interfere with any natural feature, animal or plant;
- e) Use any vehicle so that it damages any part of a public place;
- f) Allow any animal under their control to damage any part of a public place;
- 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;
- i) Cause or permit the dripping or flowing of water from the roof, eaves or guttering system of any building or structure onto any public place.

7.2 Any person carrying out authorised works on a public place shall provide reinstatement of the works to a standard approved by an Authorised Officer.

8. HORSES

8.1 No person shall ride, drive, lead, or take any horse across or along any footpath or berm within Waikato District urban areas, except:

- a) at an authorised vehicle crossing; or
- b) with the prior written consent of Council.

9. PLACING OF ARTICLES ON PUBLIC PLACES

- 9.1 No person shall place, leave or permit to be placed or left any material or thing, scaffolding, hoardings, signage, amusement devices, items for sale or hire, on any footpath, grass berm or public place unless:
- a) Such action has first been approved in writing by Council, and then only in accordance with any conditions attached to that approval.
 - b) Such action is taken for the purpose of regular refuse or other collections authorised by Council or is otherwise authorised by law; or
 - c) Such action is permitted pursuant to any other Bylaw.

10. APPROVED USE OF FOOTPATHS, BERMS

10.1 Merchandise, Merchandise Stands or Advertising Signs

Notwithstanding the provisions of Clause 9.1, items in the form of merchandise, or advertising signs may be displayed on footpaths or public places fronting the merchandise or sign owner's retail or service establishment, provided that:

- a) At least 2/3 or 1.5m, whichever is the greater, of the footpath width remains clear of obstruction for pedestrians and mobility devices at all times; and
- b) Merchandise stands and/or advertising signs are not permanently fixed to the footpath space; and
- c) The merchandise, stands and/or footpath signs are removed from the footpath whenever the retail or service establishment is closed for business; and
- d) The advertising signs are presented and maintained to a professional standard at all times; and
- e) Kerb and channel crossings for pedestrians or other access to footpaths remain unobstructed; and
- f) No person is prevented or restricted from exiting their vehicle from any identified parking space.

10.2 Dining Tables on Footpaths

Notwithstanding the provisions of Clause 9.1, small dining tables and chairs may be set up on footpaths fronting the food outlet's establishment provided that:

- a) No less than 2/3 or 1.5m, whichever is the greater, of the footpath width remains clear of obstruction for pedestrians at all times; and

- b) Kerb and channel crossings for pedestrians or other access to footpaths remain unobstructed; and
- c) The tables and chairs are not permanently fixed to the footpath space; and
- d) The tables and chairs are removed from the footpath whenever the retail or service establishment is closed for business; and
- e) The tables and the footpath area frontage are presented and maintained to a clean and tidy standard at all times; and
- f) No person is prevented or restricted from exiting their vehicle from any identified parking space.

11. SKATEBOARDS, ROLLER SKATES, INLINE SKATES AND WHEELED RECREATIONAL DEVICES

- 11.1 No person shall ride or use any skateboard, roller skates, inline skates or wheeled recreational device on any road or footpath, on any footbridge, or in any public place within the prohibited areas specified in Schedule 1 attached.
- 11.2 Nothing in this clause shall restrict or prevent the use of any wheelchair, pushchair, pram, trolley, cart or invalid carriage or other similar device constructed for and used for the purpose of the transportation of disabled persons, young persons or personal effects, on any such footpath.
- 11.3 A Police Officer or an Authorised Officer may impound at the offices of the Council or at any Police Station, any skateboard used in breach of this Bylaw by a person who has been personally requested to refrain from using the skateboard in breach of the Bylaw and has been advised of this power to impound the skateboard.
- 11.4 A skateboard impounded in accordance with Clause 22.4 may be recovered after the expiry of five days after the day of impounding upon payment of any costs associated with the impounding, but not exceeding \$100.00.

PART 3 – TRADING IN PUBLIC PLACES

12. LICENCE REQUIRED

- 12.1 Unless exempted by Clause 19 of this Bylaw, no person in any public place shall engage in the sale of goods and services of any description whatsoever without first having obtained a licence from Council.

13. RESTRICTED TRADING ACTIVITIES

- 13.1 No person shall wash or clean the windows of any vehicle for payment or donation within 100 metres of any road intersection.

14. APPLICATION FOR LICENCE

14.1 Every person who wishes to sell goods in a public place shall make written application to Council to obtain a licence. The information to be supplied by the applicant shall include but not be limited to any of the following:

- a) name and address of the applicant;
- b) name and address of the person(s) selling the goods;
- c) the location of where the goods will be sold;
- d) the telephone number of the applicant;
- e) the type of goods for sale;
- f) the time sought for selling;
- g) the type of vehicle(s) and registration numbers if applicable;
- h) evidence of good character.

15. LICENCE DETAILS

15.1 Council, in granting any licence, may impose conditions on that licence. The conditions imposed may include, but not be limited to, any of the following:

- a) time and place of where goods will be sold;
- b) duration of the licence;
- c) location;
- d) types of goods for sale;
- e) area available for sale;
- f) persons entitled to sell;
- g) safety and hygiene requirements;
- h) use of signage;
- i) use of music or other audible devices for attracting customers;
- j) litter, cleanliness, management;
- k) name and address of licence holder to be conspicuously displayed;
- l) site rental.

16. LICENCE FEES

16.1 Licence fees are contained in the Fees and Charges section of the Waikato District Council Long Term Plan. Changes to these fees may be made by resolution of Council. Fees may differ for any class of licence as prescribed.

17. PRODUCTION OF LICENCE

- 17.1 Every licence holder when engaged in the sale of goods shall at all times carry a licence and show the licence to any authorised officer when requested.
- 17.2 Every licence holder shall, notwithstanding the conditions of the licence, comply with any request or requirement of an authorised officer.

18. LICENCE NOT TRANSFERABLE

- 18.1 No licence issued under this Bylaw shall be transferable to any other person.

19. EXEMPTIONS

- 19.1 The exemptions allowed under Part 3 of the Bylaw are as follows:
- a) Selling by commercial fishermen of limited quantity of fish in the vicinity of a fishing vessel as specified in section 191 of the Fisheries Act 1996;
 - b) Service delivery vehicles including milk vendors;
 - c) Any market, stall or stand which has a current approval under any other bylaw, legislation, resource consent or specific resolution of Council;
 - d) Any market, stall or stand which has been initiated by Council for the benefit of the community;
 - e) Any motor vehicle advertising any business or service;
 - f) Buskers and street entertainers provided that no sale of any items is involved and provided that permission is first obtained from the owners or occupiers of any business premises outside which they intend to perform.

PART 4 CONTROL OF SIGNAGE AND ELECTORAL ADVERTISING

20. RESTRICTIONS APPLYING TO ELECTORAL ADVERTISING

- 20.1 No election sign shall be placed on any reserve or public place without prior written approval of Council;
- 20.2 Any person who displays an election sign must comply with the following:
- a) Election signs must be removed before midnight on the day before election day;
 - b) Election signs for elections under the Electoral Act 1993 must not be displayed on election day;
 - c) Election signs must not exceed 3 square metres in area;
 - d) Election signs and their supporting structures must be securely braced and anchored, and constructed, fixed or displayed in a manner so that they will not come

loose under normal weather conditions.

20.3 No sign shall be placed or be allowed to remain where in the opinion of Council (or New Zealand Land Transport Authority) that sign would:

- a) Obstruct or be likely to obstruct the view of any corner, bend, intersection, vehicle crossing, traffic sign or traffic signal;
- b) Distract unduly or be likely to distract unduly the attention of road users;
- c) Resemble or likely to be confused with any traffic sign or signal;
- d) Give rise to excessive levels of glare, use flashing or revolving lights or use reflective material that may interfere with a road user's vision;
- e) Constitute or be likely to constitute in any way a danger to road users.

20.4 Nothing in this Bylaw purports to authorise any matters which are prohibited or otherwise controlled by legislation governing an election or referendum.

PART 5 – EXEMPTIONS, OFFENCES AND PENALTIES

21. EXEMPTIONS TO THIS BYLAW

21.1 The driver or person in charge of an 'emergency vehicle' attending an emergency or other call-out, or of a vehicle being used for the emergency repair of any public or network utility, shall be exempt from the provisions of this Bylaw.

21.2 The Chief Executive may, on application from any person or organisation, grant that person or organisation an exemption from any provisions of this Bylaw. Any such exemption shall be in writing, signed by the Chief Executive and shall specify:

- a) which provisions of the Bylaw the exemption applies to; and
- b) name of the person or organisation in whose favour the exemption has been granted; and
- c) the road or land or portion thereof to which the exemption applies; and
- d) the dates on which the exemption will apply.

22. NOTICES

22.1 Any notice, order or document issued under this Bylaw by the Council may be delivered to the recipient either personally or by sending the same, by messenger, post, fax or email, to the recipient at their last-known place of residence or business.

22.2 If such person is absent from New Zealand the order or notice may be sent to their agent in any manner mentioned in Clause 22.1 of this Bylaw.

22.3 If the recipient is not known or is absent from New Zealand and has no known agent in New Zealand, and the order or notice relates to any land or building, the order or notice addressed to the owner or occupier of such building or land may be served on the person in occupation thereof, or left with some inmate of his/her abode; or, if there is no person in occupation, may be put up on some conspicuous part of such building or land. It shall not be necessary in such notice to name the occupier or the owner of such land or building.

23. OBSTRUCTION OF AUTHORISED OFFICER

23.1 No person shall obstruct any Authorised Officer in the course of his or her duties.

24. OFFENCES

24.1 Every person commits an offence against this Bylaw who:

- a) does or omits, or causes to be done or omitted any act, matter, or thing, or who causes or knowingly permits or allows any circumstances to exist contrary to any provision contained in this Bylaw;
- b) does anything or causes any circumstances to exist for which a licence or approval from the Council is required under this Bylaw, without first obtaining that licence or approval; or
- c) fails to comply with any conditions imposed in respect of a licence or approval under this Bylaw; or fails to comply with any notice or direction given under this Bylaw.

25. PENALTIES

25.1 Every person who commits a breach of any of the provisions of this Bylaw shall be liable on conviction, to a penalty not exceeding twenty thousand dollars (\$20,000).

25.2 Where damage occurs to any road, footpath, berm, reserve or public place as a result of a breach of the provisions of this Bylaw, the cost of repairing the road, footpath, berm, reserve or public place may be recovered from the owner or person in charge of the vehicle, horse or item causing the damage.

26. ENFORCEMENT POWERS

26.1 The Council may, under section 163 of the Local Government Act 2002, remove or alter a work or thing that has been constructed in breach of this Bylaw and may recover any costs of removal or alteration from the person who committed the breach.

27. POWER TO AMEND SCHEDULES BY RESOLUTION

27.1 Council may from time to time by resolution, substitute or make additions or alterations to any schedule of this Bylaw.

This Bylaw was made pursuant to a resolution passed by the Waikato District Council on
Date, Month 2023.

THE COMMON SEAL of WAIKATO DISTRICT COUNCIL was hereto affixed in the presence
of:

Mayor

Chief Executive

SCHEDULE I

AREAS WHERE SKATEBOARDS ARE PROHIBITED

Pursuant to the Land Transport Act 1998 and the Local Government Act 2002 **Council Hereby Declares** the following areas to be no riding areas at all times.

The following portions of roads are hereby constituted restricted and no person may ride or use any Skateboard, Scooter or Roller Blades in the following areas except with the written consent of the Council:

Huntly	<p>Main Street on both sides including Garden Place and carparks or open spaces connected to Main Street from its intersection with Great South Road in the North to the Railway Overbridge in the South.</p> <p>The access to Venna Fry Lane from Main Street between the Civic Centre and the Waikato District Library.</p> <p>The Riverside carpark.</p> <p>On the Railway footbridge across the Waikato River connecting Main Street with Bridge Street, Huntly West.</p> <p>Bridge Street, Huntly West on both sides from its intersection with Harris Street to the railway footbridge.</p>
Ngaruawahia	<p>Great South Road on the eastern side from its intersection with Martin Street to its intersection with Market Street.</p> <p>Jesmond Street on its northern side from its intersection with Market Street to its intersection with Great South Road.</p> <p>Jesmond Street on its southern side from its intersection with Waikato Esplanade to its intersection with Great South Road.</p> <p>Galileo Street on both sides from its intersection with Martin Street to its intersection with Jesmond Street.</p>
Raglan	<p>Bow Street on its northern side from its intersection with James Street to its intersection with Wallis Street.</p> <p>Bow Street on its southern side from its intersection with Bankart Street to its intersection with Wi Neera Street.</p> <p>Wainui Road on both sides from its intersection with Bow Street to its intersection with Stewart Street.</p> <p>The footpath connecting Bow Street with the footbridge over the Oporu Inlet and on the footbridge over the Oporu Inlet.</p>
Te Kauwhata	<p>Main Road on both sides from its intersection with Baird Avenue to its intersection with Saleyards Road.</p>
Tuakau	<p>That part of George Street between Liverpool Street and Henderson Avenue.</p>