

KAPITI COAST DISTRICT COUNCIL 2017 PUBLIC PLACES BYLAW

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1 Title, Commencement and Application

- 1.1 This Bylaw may be cited as the Kapiti Coast District Council Public Places Bylaw 2017 and comes into force on [12 July 2017.].
- 1.2 This Bylaw is made pursuant to sections 145 and 146 of the Local Government Act 2002 and any other Act or Authority enabling the Council in that behalf.
- 1.3 This Bylaw applies to the Kapiti Coast District.
- 1.4 This Bylaw replaces the Kapiti Coast District Council Public Places Bylaw 2010.

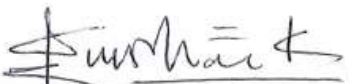
2 Kapiti Coast District Council Public Places Bylaw 2017 Validation

- 2.1 The Kapiti Coast District Council Public Places Bylaw 2017 was approved at a meeting of the Kapiti Coast District Council held on 29 June 2017 after completion of the Special Consultative Procedure.

DATED this 12 day of July 2017

THE COMMON SEAL of THE
KAPITI COAST DISTRICT COUNCIL
was affixed in the presence of:





Mayor of Kapiti Coast District



Chief Executive



ANGELA JEWELL
Councillor of Kapiti Coast District

3 Objective

3.1 This bylaw enables the management of public places in order to contribute to a thriving economy and a vibrant and diverse community by:

- a) Protecting the public from nuisance;
- b) Maintaining standards of public health and safety;
- c) Minimising the potential for offensive behaviour in public places; and
- d) Regulating trading in public places.

3.2 Nothing in this Bylaw derogates from any provision of, or the necessity for compliance with:

- a) the Summary Offences Act 1981 or any Act passed in amendment or substitution of the Summary Offences Act 1981;
- b) any other applicable Acts, regulations or rules;
- c) any other Council bylaws, District Plan requirements;
- d) any other requirements imposed by either Greater Wellington Regional Council or Department of Conservation; and
- e) any customary rights.

4 Interpretation

4.1 In this Bylaw, the following terms are used¹:

Air Exchange Device	includes heating, ventilation and air conditioning systems.
Animal	means— any mammal (excluding human beings), any bird, reptile, amphibian, fish or invertebrate organism of any kind.
Appeals	means— any co-ordinated and organised events by an organisation who asks for, or seeks, any subscription, collection or donation from members of the public, and may involve more than one collection person operating at one time.
Authorised Officer	means— any person authorised by the Council to carry out any of the duties provided for under this bylaw or any Council bylaw; and (a) includes any Council Enforcement Officer; and (b) includes any agent licensed by Council to carry out a duty or operate a public place on Council's behalf
Berm	means— the grass or planted strip beside the road.
Gas Equipment	means— gas bottles, the gas bottle cage and any other pipes and related equipment used to store and transfer natural gas.

¹ In this Bylaw, the interpretations of the General Bylaw 2010 and its amendments are also implied into and form part of this Bylaw unless the context requires otherwise.

Hoardings	means— a board, including any frame or other supporting device whether fixed to the ground or attached to a vehicle or trailer, for displaying posters or notices announcing future events or for advertising or election purposes. This includes flags, banners and sandwich boards.
Licensed Agent	any contractor licensed to operate a public place on Council's behalf.
Mobility device	means— (a) a vehicle that— (i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and (ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or (b) a vehicle that the New Zealand Transport Agency has declared under section 68A(1) of the Land Transport Act 1998 to be a mobility device.
Motor Vehicle	has the same meaning as in the Land Transport Act 1998 - (a) Means a vehicle drawn or propelled by mechanical power; and (b) Includes a trailer; (c) but does not include— I. A vehicle running on rails; or II. A trailer (other than a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of the New Zealand Defence Force; or III. A trailer running on 1 wheel and designed exclusively as a speed measuring device or for testing the wear of vehicle tyres; or IV. A vehicle designed for amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles; or V. A pedestrian-controlled machine ; or VI. A vehicle that the NZ Transport Agency has declared under section 168A is not a motor vehicle; or VII. A mobility device. VIII.
Performance	means— any musical, dramatic or other activity, examples include but are not limited to: dancing, singing, clowning or juggling, pavement art, poetry or busking.
Person	includes a corporation sole, and also a body of persons, whether corporate or unincorporated.
Public car park	includes a road, street or area designated for car parking (including a building) that is under the control of the Council and to which the public has access, whether free or on payment of a charge, where a person can park a vehicle.

Public Place	<p>means—</p> <p>an area that is open to or used by the public which:</p> <ul style="list-style-type: none"> (a) is owned by Kapiti Coast District Council or vested in or under the care, control and management of the Kapiti Coast District Council; and (b) Includes roads, streets, footpaths, courts, alleys, pedestrian malls, cycle tracks, lanes, access-ways, walkways, bridle-ways, thoroughfares, squares, reserves, parks, pools, community halls, libraries, cemeteries, beaches, and recreational grounds.
Skating Devices	<p>means—</p> <p>roller skates, roller blade, inline skates, skateboards, scooter or other similar wheeled device whether motorised or not. This definition does not include mobility scooters.</p>
Temporary Event	<p>has the same meaning as the Kapiti Coast District Council District Plan 1999 or any of its future amendments:</p> <p><i>a temporary event must be of an intermittent nature and can include entertainment, cultural or sporting events. A temporary event includes structures associated with the event. This definition excludes permanently licensed premises.</i></p>
Trading	<p>means—</p> <p>the selling, displaying or promotion of any goods and services whatsoever, whether for commercial or not-for-profit purposes, in, on, or over a public place. Trading applies to permanent, temporary and mobile (i.e. vehicle) traders and includes but is not limited to the following activities in or on a public place under the control of council:</p> <ul style="list-style-type: none"> (a) the sale, display or dispensing of goods, including food, drink, newspapers, fuel and lubricant; (b) the provision of commercial services on a public place including shoe shining services; taking photographs, and the hire of recreational equipment; (c) the provision of outdoor dining facilities for the consumption of food and drinks, including those offered by a liquor licensed premises; (d) open air markets and street stalls selling, displaying or dispensing goods or services; (e) the giving away of goods on a public place, including newspapers and magazines, to advertise any product, service or entertainment; (f) the soliciting or collection of any subscription or donation; (g) soliciting sales or orders for sales of any goods, not in pursuance of any invitation to call, or of any previous order or request for such goods (this is also known as hawking).
Vehicle	<p>means—</p> <ul style="list-style-type: none"> (a) means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and (b) includes a hovercraft, a skateboard, in-line skates, and roller skates; but (c) does not include— <ul style="list-style-type: none"> (i) a perambulator or pushchair:

- (ii) a shopping or sporting trundler not propelled by mechanical power:
- (iii) a wheelbarrow or hand-trolley:
- (iv) a pedestrian-controlled lawnmower:
- (v) a pedestrian-controlled agricultural machine not propelled by mechanical power:
- (vi) an article of furniture:
- (vii) a wheelchair not propelled by mechanical power:
- (viii) any other contrivance specified by the rules not to be a vehicle for the purposes of this definition:
- (ix) any rail vehicle

5 Council May Set Conditions

- 5.1 Subject to the provisions of this Bylaw, or any Act of Parliament, 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.
- 5.2 The Council may set or vary conditions for use of a public place by resolution, or by licence with any person.
- 5.3 Where appropriate, conditions regulating the use of a public place will be displayed at the entrance to, or in visible areas within, the public place.
- 5.4 A person shall not use the public place in contravention of the conditions set by the Council regulating the use of the public place.
- 5.5 Unless prior permission has been obtained from the Council, a person shall not use a public place after closing hours (where closing hours are specified).

6 Restrictions Affecting Public Places

- 6.1 The Council shall have the right to prevent any temporary event or other activity whatsoever being undertaken that is likely to damage the place, harm a person, unreasonably impede public access or which is otherwise undesirable, disorderly or dangerous.
- 6.2 The Council may close any public place at any time for the purpose of maintaining or improving it, or for any other purposes that the Council considers necessary or proper².
- 6.3 Any Authorised Officer may request any person to leave a public place:
- 6.4 who has acted in a manner that is contrary to the conditions of use set by the Council, or
- 6.5 who has contravened any of the provisions of this Bylaw.

7 Performances and Appeals in Public Places

- 7.1 If in the opinion of an authorised officer a performance or appeal is causing nuisance to the general public, the performer/s or person/s carrying out the

² The closure of a public place for a short period may include but is not limited to: re-sowing of grass, weed spraying, tree maintenance, a temporary event or performance requiring a tariff for entry.

appeal must cease activities immediately and obtain written approval from the Council before recommencing.

8 Trading in Public Places³

NOTE: in some circumstances, resource consent may be required. Please contact the duty planner on 04 296 4700 or resource.consents@kapiticoast.govt.nz for guidance and information.

- 8.1 To minimise disruption to other users and enable the Council to manage public places, a licence from the Council will be required before trading in a public place unless the applicant has obtained a resource consent pursuant to the District Plan, provided that the resource consent includes conditions which address the criteria in this Bylaw.
- 8.2 To obtain a licence under 8.1, all applicants must comply with the information requirements and guidelines listed in the Kapiti Coast District Council Trading in Public Places Policy 2017.

9 Hoardings, Posters, Notices and Sandwich boards

NOTE: In some circumstances, resource consent may be required. Please contact the duty planner on 04 296 4700 or resource.consents@kapiticoast.govt.nz for guidance and information.

- 9.1 A person must obtain written approval from the Council before he or she erects any hoarding in a public place, unless the hoarding is erected in a permitted area already approved by the Council for hoardings⁴.
- 9.2 A person must obtain written approval from the Council before he or she places a sandwich board on the footpath immediately outside their premises, unless the sandwich board complies with the guidelines in Appendix 1 of the Trading in Public Places Policy 2017.
- 9.3 The approval of a hoarding and new hoarding sites may be subject to conditions, including:
 - (a) placement;
 - (b) fees;
 - (c) dates a display board may be erected;
 - (d) the display board design; and
 - (e) compliance with any District Plan requirements.
- 9.4 Hoardings erected outside permitted areas without approval from the Council must be removed within 1 hour of being instructed to do so, or as otherwise specified by the Council.
- 9.5 No person may erect any poster or notice containing material which a reasonable person would deem offensive.

³ The Council's Trading in Public Places Policy provides information on how to obtain approval for activities such as outdoor dining, open air markets, events, footpath stalls and sandwich boards.

⁴ Contact the Council's Compliance Team (04 296 4700) for a list of approved signage locations.

- 9.6 Posters or notices displayed on hoardings and advertising any event shall be removed within 24 hours of the end of the event, or such other time as approved by the Council.
- 9.7 With the exception of approved hoardings under this clause, no one shall affix or place a poster or notice to any Council ornament, statue, sculpture, structure, building, post, tree or facilities in a public place without the Council's prior approval.
- 9.8 Responsibility for compliance with this clause lies with the person who erects the hoarding or displays the poster or notice, or the organiser, promoter or person in charge of the advertised good, service or temporary event or, in the case of an election, the candidate or the candidate's agent.

10 Temporary Event Management

NOTE: Other approvals may be required to run an event including resource consent, building consent and food licences.

- 10.1 A person must notify the Council prior⁵ to a temporary event being held in a public place, and depending on the nature of the event may be required to obtain written approval from the Council.
- 10.2 Unless with prior written approval of Council, the person or persons responsible for any temporary event must ensure that any equipment associated with the temporary event is removed and the location used for the temporary event is restored back to its original state within 24 hours of the temporary event ending.
- 10.3 A damage deposit set by Council shall be included with a resource consent fee or written approval fee, where damage is likely to occur to any existing facilities during a temporary event.

11 Motor Vehicles in Public Places

- 11.1 No person shall take, ride or drive any motor vehicle into or on any public place:
- (a) except in areas where motor vehicles are allowed, such as roads, driveways and public car parking areas; or
 - (b) unless permission has been granted by an Authorised Officer or a licence from the Council.
- 11.2 No person may park any motor vehicle in any reserve except in a public carpark or area set aside by the Council for the parking of motor vehicles, or with the approval of an Authorised Officer.

12 Vehicles (excluding mobility devices)

- 12.1 No person may use or ride a vehicle in a prohibited area as defined in Schedule One of this Bylaw.
- 12.2 No person may use any material or thing (including a vehicle, bicycle, motorised scooter, model aircraft, skateboard, roller skates or roller blades, shopping trolley

⁵ Written notice must be given to the Council a minimum of 40 days before the planned event.

or similar object) recklessly or in a manner which may intimidate, be dangerous, be injurious to or cause a nuisance to any person in a public place.

13 Overhanging Trees or Shrubs

13.1 No owner or occupier of land shall:

- (a) allow any tree or shrub growing from their property to impede public access into, on or over a public place;
- (b) allow any tree or shrub growing from their property to impede public views along a road or footpath - to the extent that it presents a safety hazard to the public using the roads or footpath; or
- (c) allow any tree or shrub growing from their property to encroach by their roots into any public area and cause damage to drains, pipes or other public utilities.

13.2 The Council reserves the right to work with owners and occupiers to mitigate any encroachment issues caused by trees and shrubs from private property. The Council will provide the option for the owner or occupier to fix the encroachment issue themselves or the Council can carry out the remedial work at the owner and occupier's expense.

14 Public Swimming Pools, Libraries and other Public Buildings

14.1 Council or an Authorised Officer may cause to be displayed at the main entrance to any public swimming pool, library or other public building, a list of rules regulating the use of such facilities by members of the public. Any Authorised Officer, including any agent licensed by the Council, may request any person acting in breach of these conditions to leave the public place.

15 Other Specific Restrictions

15.1 Except for an emergency, or with written approval from an authorised officer, no person shall, in, on or over any public place:

- (a) repair or work on any motor vehicle;
- (b) launch or land an aircraft, hot air balloon, parachute, hang glider or paraglider in any public area;
- (c) launch or land any boat in any public area not designated an authorised boat launching area⁶.

15.2 All persons wishing to freedom camp in the Kapiti Coast District must abide by the conditions for freedom camping as set out in the Kapiti Coast District Freedom Camping Policy 2010.

15.3 Without the prior approval of the Council, no person shall, in, on or over any public place:

- (a) place or use loud speakers or other devices amplifying and emitting sound for advertising any trade or business;

⁶ See the 2009 Beach Bylaw for more information.

- (b) use or permit the use of a vehicle for the purpose of operating a loud speaker or an amplifier in a way that causes nuisance, or any similar device except for the purpose of campaigning for an election under the Electoral Act 1993, or for a local authority election under the Local Electoral Act 2001.

16 Naming of Streets

- 16.1 No person shall give any name to or affix, set up or paint any name on any street, private street or public place without the prior permission in writing of Council.

17 Numbering of Buildings

- 17.1 The owner or occupier of every building shall number such building in accordance with the New Zealand Standard AS/NZS 4819. Building owners shall renew the numbers as often as they are obliterated or defaced or as Council shall order or direct but no longer than one month from the date of such order.

18 Damage to public places

- 18.1 No person shall do or cause to permit to be done in relation to any public place, any of the following acts without prior permission of an Authorised Officer:
 - (a) bury or disturb anything in a public place;
 - (b) damage, plant, prune or remove any tree or shrub or sow or scatter the seed of any tree, shrub, or plant of any kind, or introduce any substance that may be injurious to people, animals or plant life; or
 - (c) walk on any landscaped areas or amenity planting where walking is prohibited by a notice to that effect; or
 - (d) bolt, drill or place any fixture, plaque or sign; or
 - (e) release any animal other than those animals specifically permitted in that reserve area by any Council Bylaw or Act; or
 - (f) dispose or place any waste or garden material on any public place including bush and coastal dune areas; or
 - (g) construct or place any permanent structure, accessway or track of any kind in a public place; or
 - (h) play or practice golf on any public place; or
 - (i) by any means whatsoever destroy, shoot, snare, injure, interfere with or take any animal, fish, reptile, lizard, gecko, eel (native or otherwise), bird, bird's nest, or bird's egg, or any native flora or attempt so to do, in or from any reserve. Provided that in the case of any animal or bird protected by the Wild Life Act 1953 no such permission shall be granted unless and until the provisions of that Act have been complied with; or
 - (j) restrict or prohibit access or safe use of any public place including a cycleway, walkway or bridleway, park or reserve; or
 - (k) graze any animal in a public place and that in such an event the Council may seek reparation for any damage caused to public assets; or
 - (l) damage, destroy or interfere with a pump, watercourse, water race, stormwater drain, water trough or drinking fountain; or
 - (m) damage, destroy or interfere with a building, foundation, structure or other property belonging to the Council; or
 - (n) damage, destroy or interfere with a street light, or lamp post; or
 - (o) damage, destroy or interfere with a warning light, sign or barricade placed by the Council to warn the public of danger.

19 Parks and Reserves

- 19.1 Every person using a reserve must comply with the conditions of use displayed on any signage in or on that reserve which has been authorised by the Council.
- 19.2 The Council may prescribe opening times for any reserve, and no person shall enter or be in such a reserve at any other time without permission from the Council.
- 19.3 The Council may, at any time, by public notice or by notice displayed at the entrances to any reserve, declare that reserve to be closed.
- 19.4 An Authorised Officer may prevent any sport or other recreation activity being played on any reserve if in the Authorised Officers opinion that sport or activity is liable to damage the reserve or any article within the reserve or be a danger to any user of the reserve.
- 19.5 The Council may fix charges for the entry to any reserve or portion of reserve in accordance with the Reserves Act 1977. Where a person has entered any reserve, or a portion thereof set aside for a particular purpose, before the commencement of an event for which an entrance fee will be charged, they must either leave the reserve or that portion or pay the entrance fee.

20 Building Work and Excavations

- 20.1 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 the District Plan, any codes of practice, the Land Transport Safety Authority Guidelines or other standards that are currently in force within the Council's jurisdiction.
- 20.2 Approval under clause 17.1 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 If any building work 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 the 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.
- 20.4 If any damage occurs to the public place, the Council may require the public place to be reinstated.

21 Damage Deposit

- 21.1 A damage deposit set by Council shall be included with a building consent fee, where damage is likely to occur to any existing footpath, berm or kerbing, during building operations.

22 Fences, Walls and Stability of Land

- 22.1 In accordance with the Fencing Act 1978 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.
- 22.2 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.
- 22.3 No person being the owner or occupier of any land within an urban zone of the District shall erect or cause, or allow to be erected, or to remain erected, any fence composed wholly or partly of barbed wire upon or near the boundary of such land with any street, reserve or other public place, where such fence is in a position or at a height to be accessible to the public.

23 Licences⁷ Issued under this Bylaw

- 23.1 Any person with a licence issued under this Bylaw must display or carry a copy of that licence prominently for the view of members of the public, if the licence indicates that it must be displayed, or have it available to be inspected by any Authorised Officer.
- 23.2 A licence issued under this Bylaw is not transferable to any other person.
- 23.3 The Council, on giving reasonable notice to the licence holder, may alter the terms and conditions of the licence in the event of a material change to any circumstances or the licence holder, or the public place.
- 23.4 The Council may suspend or cancel any licence issued under this Bylaw in the following cases:
- (a) without notice if:
- (i) urgent action is required to protect the public from unhygienic, unsafe or hazardous conditions in the public place where the licence applies;
 - (ii) urgent works are required in the public place where the licence applies;
 - (iii) any terms and conditions of the licence are breached, where the period covered by the licence is 3 days or less.
- (b) on the giving of 48 hours notice to the person who holds the licence if:
- (i) the activity will interfere with intended road works or a special event;
 - (ii) any terms or conditions of the permit are breached where the period covered by the licence is more than 3 days.

⁷ Under clause 4 of the Kapiti Coast District Council General Bylaw 2010, a licence means a licence, permit, written consent or approval issued under any Bylaw.

24 Operational policies

- 24.1 The Council may, from time to time, as the Council sees fit, adopt operational policies related to matters regulated by this bylaw.
- 24.2 Operational policies may set out, without limitation, such matters as:
- I. guidance information
 - II. application procedures
 - III. administrative arrangements
 - IV. terms and conditions
 - V. definitions.

25 Revocations and Savings

- 25.1 The Kapiti Coast District Council 2010 Public Places Bylaw is revoked.
- 25.2 All licences or other acts of authority which originated under the Bylaw revoked by clause 25.1, and all applications, and other acts of parties and generally all documents, matters, acts, and things which so originated and are continuing at the commencement of this Bylaw, continue for the purposes of this Bylaw to have full force and effect.
- 25.3 The revocation of any of the Bylaw under clause 25.1 does not prevent any legal proceedings, criminal or civil, being taken to enforce that Bylaw and such proceedings continue to be dealt with and completed as if the Bylaw had not been revoked.

26 Fees and Charges

- 26.1 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.
- 26.2 A voluntary organisation, school or community group, where the profits from any trading are retained wholly for charitable or community purposes may be exempt from the payment of fees at the Council's discretion.


27 Offence and Penalty

- 27.1 The Council will seek to recover costs in relation to fixing or repairing any damage caused to Council property as a result of a breach to this Bylaw.
- 27.2 Every person who breaches this bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000, as set out in the Local Government Act 2002.

28 Kapiti Coast District Council General Bylaw

- 28.1 The provisions of the Kapiti Coast General Bylaw 2010 and any bylaw passed in amendment or substitution are implied into and form part of this bylaw.

SCHEDULE ONE: Prohibited Areas for Vehicles

<p>Paraparaumu</p>	<p>The pedestrian underpass beneath State Highway One linking the railway station and the west side of State Highway One (Coastlands carpark).</p>	
<p>Waikanae</p>	<p>All public areas within Mahara Place, Waikanae.</p>	