

**Mayor and Councillors**  
COUNCIL

29 JUNE 2017

Meeting Status: **Public**

Purpose of Report: For Decision

**ADOPTION OF THE 2017 PUBLIC PLACES BYLAW AND 2017 TRADING IN PUBLIC PLACES POLICY**

**PURPOSE OF REPORT**

- 1 The purpose of this report is to provide the Council with the draft 2017 Public Places Bylaw and the draft 2017 Trading in Public Places Policy in order that it can adopt both the Bylaw and the Policy.

**DELEGATION**

- 2 Under section B1 of the Governance Structure and Delegations for the 2016-2019 Triennium, the Strategy and Policy Committee is responsible for the development and/or review of strategies, plans, policies and bylaws. However the responsibility for adopting a bylaw lies with Council.

**BACKGROUND**

- 3 The Council is required by the Local Government Act 2002 to undertake regular reviews of its bylaws. The 2010 Trading in Public Places Policy supports the Bylaw and was therefore reviewed at the same time.
- 4 The 2010 Public Places Bylaw expires on 15 July 2017 so a review of that Bylaw has been carried out. The Strategy and Policy Committee has completed the review and is recommending that the Council adopt the draft 2017 Bylaw and draft 2017 Policy.
- 5 Copies of the draft 2017 Bylaw and the draft 2017 Policy are attached to this report as Appendices 1 and 2 respectively. A copy of the report that the Strategy and Policy Committee considered on 8 June 2017 [CS-17-220] is also attached as background information.
- 6 On 8 June 2017, the Strategy and Policy Committee passed the following recommendations:
  - 1) that no further changes need to be made to the draft 2017 Public Places Bylaw and Trading in Public Places Policy following consultation;
  - 2) that the draft 2017 Public Places Bylaw and draft 2017 Trading in Public Places Policy (attached to report CS-17-220) be recommended to the Council for adoption;
  - 3) that a bylaw is the most appropriate way to address the need for managing the safety and nuisance issues that can occur on public places;
  - 4) that the Draft Kāpiti Coast District Council 2017 Public Places Bylaw (Appendix 2 to report CS-17-220) is the most appropriate form of bylaw and that there is no inconsistency with the New Zealand Bill of Rights Act 1990;

- 5) that staff will undertake a review of the current lack of a Freedom Camping Bylaw and provide advice to Council on the preparation and potential adoption of such a Bylaw.

## **ISSUES AND OPTIONS**

### **Issues**

- 7 The review considered the social, economic, and cultural interests of people and communities as it progressed. No further issues have arisen.

## **CONSIDERATIONS**

### **Policy considerations**

- 8 A revised draft 2017 Trading in Public Places Policy has been prepared as part of the bylaw review. Please see Appendix 2 for the draft policy.
- 9 The 2010 Bylaw also links to a number of other policies:
  - Food Stall Approvals at Markets, Events and Other Sites Policy 2009
  - Road Naming and Street Numbering Policy 2011
  - Reserves, structures and commemorative places naming policy 2011
  - Freedom Camping Policy 2012.
- 10 No changes have been made to these policies as a result of the review, though they have been taken into account as part of the review.

### **Legal considerations**

- 11 The Local Government Act 2002 sets out a detailed process for reviewing bylaws. Project planning has taken these requirements into account. Council's Legal Counsel have been involved at all stages of the review to ensure compliance with legislative requirements.

### **Financial considerations**

- 12 The review has been funded from existing budgets as will implementation of the Bylaw and Policy.

### **Tāngata whenua considerations**

- 13 Consultation with Te Whakaminenga o Kāpiti has been ongoing. Te Whakaminenga o Kāpiti was briefed about the bylaw and policy review on 22 January 2017. No formal submission from Te Whakaminenga o Kāpiti was received.

## **SIGNIFICANCE AND ENGAGEMENT**

### **Degree of significance**

- 14 This matter has a high level of significance under Council policy.

## Consultation already undertaken

- 15 Input has been sought directly from a number of organisations:
  - Community Boards
  - Chamber of Commerce
  - The Youth Council
  - The Older Persons Council
  - Emergency services such as the Police and Fire Service
  - The Accessibility Advisory Group
  - The Cycleways, Walkways and Bridleways Advisory Group
- 16 An on-line questionnaire was run during December and January on the public places bylaw. This survey was not designed to be statistically representative rather it was aimed at finding out what issues or activities in public places are causing concern. The aim was to use this information to inform the review of the Bylaw and Policy.
- 17 The special consultative procedure was used to seek public input and this resulted in eleven submissions being received.

## Engagement planning

- 18 Engagement was planned in three phases:
  - Discussions with key stakeholders about what activities should or should not be regulated in public places (November – December 2016)
  - Informing the community about the review - webpage and survey (December 2016 – January 2017)
  - Call for submissions (late February and March 2017)
- 19 Engagement included a range of communication channels to inform key stakeholders and audiences such as:
 

**Targeted:** face-to-face engagement with stakeholders, identifying and alerting key community influencers before draft bylaw is prepared, alerting stakeholder groups to specific areas of bylaw that may be of interest to them.

**Digital:** an on-line survey, Council webpages, social media updates.

**Media:** releases and/or advisories, media briefings (if appropriate), Mayor's column, public advertisements/notices.

## Publicity

- 20 There will need to be some publicity should the Council adopt the 2017 Bylaw and Policy to ensure the community is aware of the new bylaw and policy. This will involve ensuring Council's website covers the relevant information and is easy for people to navigate. Other publicity will appear on Council's existing channels such as newsletters, Facebook and so forth.
- 21 Responses will be sent to all submitters advising the outcome of the Bylaw review.

## RECOMMENDATIONS

22 It is recommended that the Kapiti Coast District Council:

- a) Revokes the Kapiti Coast District Council Public Places Bylaw 2010 and the Kapiti Coast District Council Trading in Public Places Policy 2010; and
- b) Adopts the draft 2017 Public Places Bylaw and draft 2017 Trading in Public Places Policy (attached to this report CS-17-233 as Appendices 1 and 2 respectively) as recommended by the Strategy and Policy Committee.

<b>Report prepared by</b>	<b>Approved for submission</b>	<b>Approved for submission</b>	<b>Approved for submission</b>
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## ATTACHMENTS

- Appendix 1 Draft 2017 Public Places Bylaw
- Appendix 2 Draft 2017 Trading in Public Places Policy
- Appendix 3 Report CS-17-220: Public Places Bylaw and the Policy on Trading in Public Places – Decisions on Submissions

# DRAFT 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 [date].
- 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 [date] after completion of the Special Consultative Procedure.

**DATED** this                      day of                      2017

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

\_\_\_\_\_  
**Mayor of Kapiti Coast District**

\_\_\_\_\_  
**Chief Executive**

\_\_\_\_\_  
**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 used<sup>1</sup>:

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.

<sup>1</sup> 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 [[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.
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"> <li>(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</li> <li>(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.</li> </ul>
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"> <li>(a) the sale, display or dispensing of goods, including food, drink, newspapers, fuel and lubricant;</li> <li>(b) the provision of commercial services on a public place including shoe shining services; taking photographs, and the hire of recreational equipment;</li> <li>(c) the provision of outdoor dining facilities for the consumption of food and drinks, including those offered by a liquor licensed premises;</li> <li>(d) open air markets and street stalls selling, displaying or dispensing goods or services;</li> <li>(e) the giving away of goods on a public place, including newspapers and magazines, to advertise any product, service or entertainment;</li> <li>(f) the soliciting or collection of any subscription or donation;</li> <li>(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).</li> </ul>
Vehicle	<p>means—</p> <ul style="list-style-type: none"> <li>(a) means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and</li> <li>(b) includes a hovercraft, a skateboard, in-line skates, and roller skates; but</li> <li>(c) <b>does not include—</b> <ul style="list-style-type: none"> <li>(i) a perambulator or pushchair:</li> </ul> </li> </ul>

- (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 proper<sup>2</sup>.
- 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

<sup>2</sup> 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 Places<sup>3</sup>**

**NOTE:** in some circumstances, resource consent may be required. Please contact the duty planner on [add contact details] 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 [date].

## **9 Hoardings, Posters, Notices and Sandwich boards**

**NOTE:** In some circumstances, resource consent may be required. Please contact the duty planner on [add contact details] 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 hoardings<sup>4</sup>.
- 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 [date].
- 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.

<sup>3</sup> 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.

<sup>4</sup> 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 prior<sup>5</sup> 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

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<sup>5</sup> 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 area<sup>6</sup>.

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;

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<sup>6</sup> 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 Licences<sup>7</sup> 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.

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<sup>7</sup> 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**

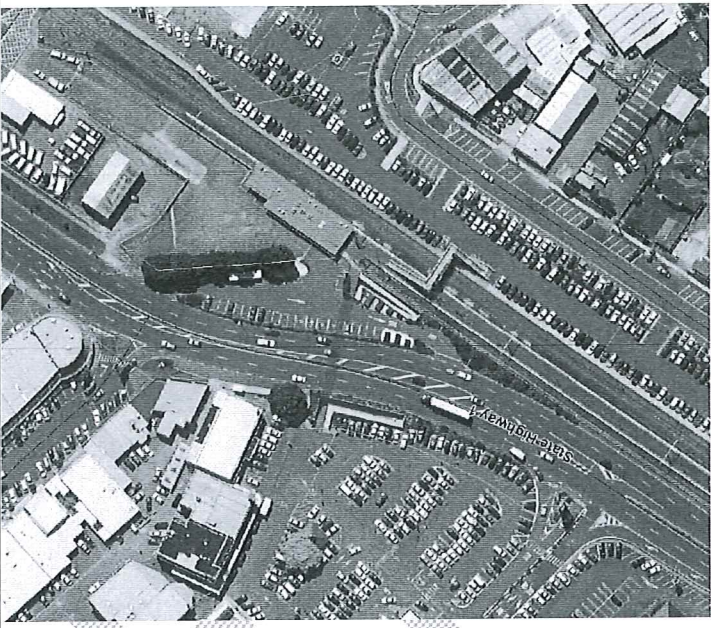
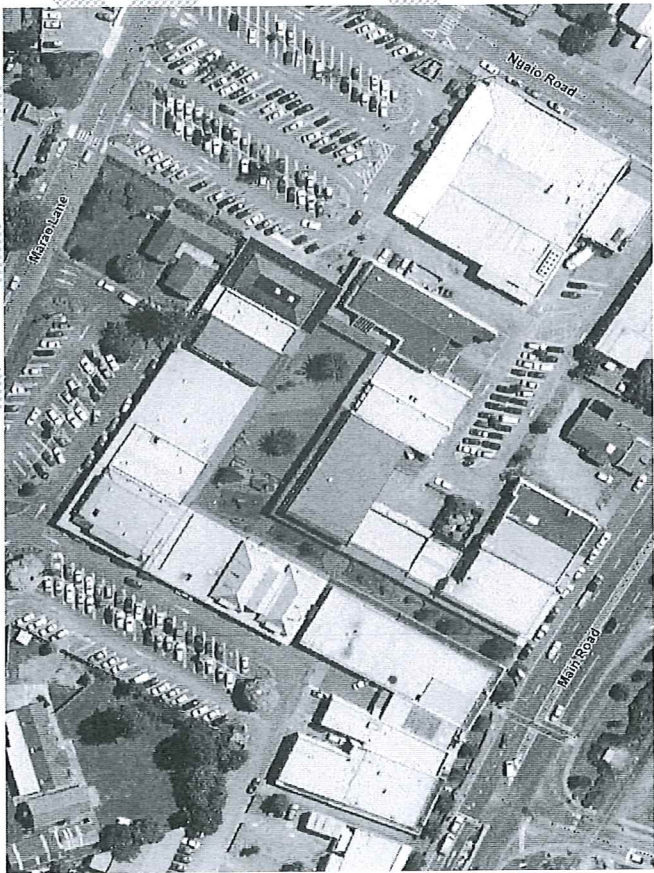
27.1 The Council will seek to recover costs in relation to fixing or repairing any damage caused to Council property as a result of a breach to this Bylaw.

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

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

## KAPITI COAST DISTRICT COUNCIL TRADING IN PUBLIC PLACES POLICY

14 June 2017

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## 1. INTRODUCTION

In keeping with the vision in the *Future Kāpiti Long Term Plan 2015-35 - Kāpiti – Vibrant, diverse and thriving* and the Outcome ‘*Thriving economy, vibrant culture, diverse community*’, the Council is committed to encouraging trading in public places while managing any adverse effects from these activities.

The vision and goals of the Kāpiti District Economic Development Strategy 2015-18 have also been taken into account as the policy has been developed, in particular:

a) The development pathway *Foster a productive business environment*:

We want our businesses to:

- enjoy the ease of doing business with no unnecessary impediments to growth;
- be able to network with likeminded businesses;
- *find it easy to navigate through regulatory processes*;
- have access to mentors, support, talent, investment, capital and markets.

The Council's focus on *Open for Business* includes developing *customer focused regulatory functions*. Council is committed to helping applicants to understand and obtain the regulatory approvals they may need for their trading activities.

The Councils' [date] Public Places Bylaw which came into effect on [date] regulates trading activities in public places to ensure appropriate standards of public health, safety, pedestrian priority and visual amenity are maintained. The [date] Trading in Public Places Policy (the Policy) has been developed in order to support the implementation of the [date] Public Places Bylaw in respect of these activities.

**Please note:** this Policy applies to public places only. Trading activities taking place on private property must comply with the District Plan.

### 1.1. Policy Objective

The aim of this Policy is to ensure that trading activities in public places on the Kāpiti Coast can occur while public health, traffic safety and efficiency, pedestrian priority and visual amenity standards are maintained.

This Policy guides:

- the granting of licences for trading in public places;
- the types of trading that are allowed; and
- the conditions that may be imposed for managing:
  - public health and safety;
  - waste management;
  - pedestrian access;
  - impacts on established businesses; and
  - traffic flow.

The Council cannot restrict trading for anti-competitive reasons or in a way that is contrary to the intent of the Commerce Act 1986.

## 1.2. Scope of Activities

This Policy provides guidelines for the following trading or trading related activities on streets and public places:

- open air markets;
- temporary events;
- mobile shop trading;
- outdoor dining, foot path stalls, sandwich boards; and
- any other trading activity.

**Please note:** In some circumstances, these activities may also require resource consent. Please contact the duty planner on [insert contacts] for guidance and information.

## 1.3. Interpretation

In this Policy, unless the context requires otherwise:

Authorised Officer	means any person authorised by the Council to carry out any of the duties provided for under this Policy and includes any Council Enforcement Officer <sup>1</sup> .
Temporary event	has the same meaning as the definition for Temporary event in the Kapiti Coast District Council District Plan 1999 or any of its future amendments. The current definition is as follows:  a temporary event must of an intermittent nature and can include entertainment, cultural or sporting temporary events. A temporary event includes structures associated with the temporary event. This definition excludes permanently licensed premises.
Licence	means a licence, permit, registration, written consent or approval issued as per the requirements of any Act of Parliament, Council Bylaw or Policy.
Mobile shop (also known as a 'travelling shop' or mobile vendor)	means a mobile unit, whether self-propelled or not, located on a road or other public place offering or exposing goods and / or services for sale (for example, flower carts, coffee carts and food trucks). It does not include mobile libraries.
Open Air Market	means any outdoor public place that is accessible to the public, where goods or service are offered for sale, and usually consists of several merchandise stalls grouped together. These markets occur on a regular basis generally operating on one particular day each month or week throughout the year.

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<sup>1</sup> See the Kapiti Coast District Council General Bylaw 2010 for the definition of Enforcement Officer.

Non Profit Organisations	means an individual or group (including sports groups, school groups, charitable and community groups) who are fundraising and 100% of the profit goes to the named community or charitable organisation.
Public Place	means an area that is open to or used by the public which: <ul style="list-style-type: none"> <li>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</li> <li>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.</li> </ul>
Recreation Equipment	means any equipment used for recreational purposes such as kayaks, canoes, boats, surf boards, bicycles, roller blades, or scooters.
Retail Stalls	means any stand, stall, tent, mobile shop, vehicle, vessel or other setup from which goods and/or food are sold.
The Council	means the Kāpiti Coast District Council or any committee, community board, or an enforcement officer authorised to exercise the authority of the Council.
Trading	means 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 shop (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: <ul style="list-style-type: none"> <li>a) the sale, display or dispensing of goods, including food, drink, newspapers, fuel and lubricant;</li> <li>b) the provision of commercial services on a public place including shoe shining services, taking photographs, and the hire of recreational equipment;</li> <li>c) the provision of outdoor dining facilities for the consumption of food and drinks, including those offered by a alcohol licensed premises;</li> <li>d) open air markets, street stalls and busking selling, displaying or dispensing goods or services;</li> <li>e) the giving away of goods on a public place, including newspapers and magazines, to advertise any product, service or entertainment;</li> <li>f) the soliciting or collection of any subscription or donation; and</li> <li>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).</li> </ul>

## 1.4. Other requirements

The Council reserves the right to grant **licences** for all other trading activities in public places throughout the District.

The Council will charge a fee for a licence. Non Profit Organisations may not be required to pay a licence fee.

Licences are non-transferable and can be revoked in accordance with the Kapiti Coast District Council Public Places Bylaw 2017.

Any person with a license issued under the Kapiti Coast District Council Public Places Bylaw 2017 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 an Authorised Officer or sworn member of the Police.

A licence for trading activities will not be required for trading in a public place if the applicant has already obtained a resource consent pursuant to the District Plan, provided that the resource consent includes conditions which address the assessment criteria in this Bylaw (Clause 8.1 of the 2017 Public Places Bylaw).

## 2. ASSESSING APPLICATIONS

Applicants are encouraged to contact Council early on because Council officers will be able to help them understand and navigate through the relevant regulatory requirements of the 2017 Public Places Bylaw and other statutes such as the Resource Management Act 1991 and the Building Act 2004.

### 2.1. Written approval

Unless otherwise stated, Council approval will be required for any trading activities or event in a public place.

### 2.2. Principles

The following principles will apply when considering trading activities in public places:

Principles	Explanation
Quality and amenity	Trading in public places should contribute to a thriving economy, vibrant culture and a diverse community on the Kāpiti Coast.  Maintaining a high quality street / park / public place environment that contributes to this vision.
Accessible and safe public places	Ensuring that safe and unobstructed pedestrian and vehicle access is provided and maintained for all users of public places.
Appropriate locations	In determining where an activity can be located, consideration will be given to the impact on the local environment, whether appropriate standards of health and safety, pedestrian and vehicle access and visual amenity can be maintained.

Diversity and suitability of activities	Encouraging diversity of trading activities and ones with a point of difference, so that they have the ability to attract people.
Non-privatisation of public place	Trading activities must not be perceived as privatising public places and the space should be maintained for the purpose of a shared public and commercial space  Public places should provide opportunities for the public to participate in the public environment – leisure, retail, recreation and entertainment.
Minimising impacts of activities	Ensuring that any activities avoid inconvenience and nuisance and that any impacts (noise, traffic, obstructions) are appropriately mitigated.  Ensuring that public places are not damaged by trading activities so that the public can continue to enjoy them.  Ensuring the effects on parking, traffic movement and existing businesses will be taken into account.
Transparency and efficiency	Improving transparency in decision making and, administration efficiency, i.e., open for business.

Businesses, groups and individuals licenced to use public places for trading activities are responsible for managing those activities in accordance with the [date] Public Places Bylaw.

### 2.3. Assessment Criteria

The Council will consider (but not be limited to) the following matters when assessing an application for a trading licence under this Policy including:

Criteria	Explanation
Activity	What type of goods and services are being sold?  Does the activity comply with other relevant regulatory requirements such as the District Plan?  Does the operator have management measures in place to manage high standards of public health and safety?
Location	Is the location suitable for the planned activity?  Is it easily accessible?  Will it cause nuisance or pose a risk to public safety?  Applications for approvals will be assessed against their suitability using criteria such as past experiences, impacts on the surrounding environment and whether the activity is consistent with other council policies and plans.

Quality and design	<p>Does the quality, style and design of the market, mobile shop, sign or stall make a positive contribution to the surrounding environment?</p> <p>The layout and orientation should be selected based on the size of the available space.</p>
Food management	Do operators have an approved food hygiene qualification (where appropriate)?
Hours of operation	Are the hours and days of operation such that it does not permanently occupy the public space?
Public liability insurance	Does the operator have appropriate public liability insurance?
Traffic management	<p>Are appropriate traffic management measures in place to avoid adverse effects on the safety and flow of pedestrians and vehicles?</p> <p>This may include the constraints on the capacity of available parking in the area, pedestrian access and safety, and any other traffic safety issues. Under the Traffic Bylaw 2010, no person shall sell or offer any goods or services of any kind for payment or donation (including the washing and cleaning of windows of any vehicle) or solicit any subscription or collection on any road intersection (excluding the footpath) or within 100 metres of the intersection (excluding the footpath) on any of its approaches.</p>
Barriers, canopies, awnings, signage and screens	<p>Are barriers, canopies, awnings, signage and screens associated with the trading activity kept to a minimum?</p> <p>Are they appropriately designed and fixed or weighted so they do not have adverse effects on traffic and pedestrians?</p>
Landowner approvals	Does the landowner (the Council) require any particular conditions?
Waste management	Are appropriate waste management and disposal measures in place?
Adverse effects	<p>Are any other businesses adversely affected (for example, physical access is blocked)? Note: trade competition cannot be considered.</p> <p>Is the local community adversely affected (for example, by excessive noise or offensive odours)?</p>

## 2.4. Conditions

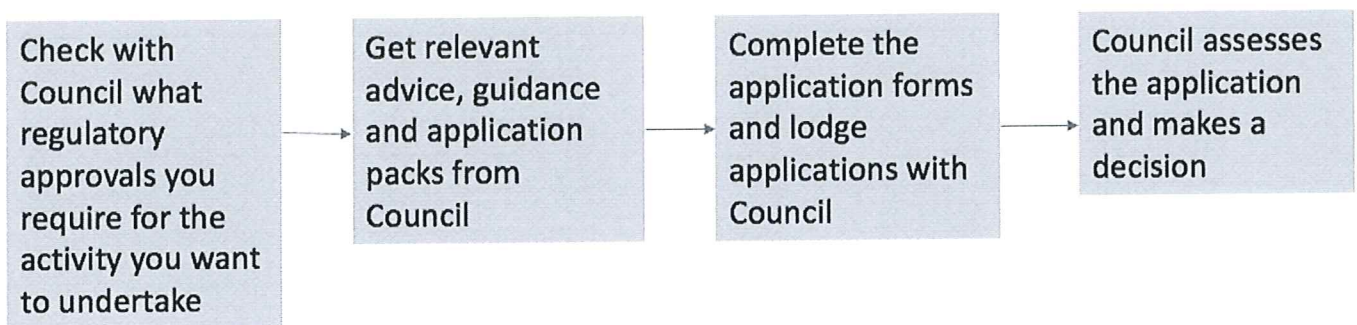
The Council may impose conditions concerning the following matters:

- a) details of the approval holder
- b) the type of activity covered by the approval
- c) time / designated hours of operation
- d) duration of the approval ( i.e. approval period and expiry date)
- e) location / site to be occupied
- f) approval date and approving officer's details

- g) safety and hygiene requirements
- h) use of signage
- i) use of musical chimes or other audible devices for attracting customer beyond a certain time (for instance, no later than 5pm in winter and 7pm in summer time)
- j) litter, cleanliness (adequate waste management and minimisation plans)
- k) presentation and standards of stalls, mobile shops, markets
- l) type of goods or products
- m) ensuring that there are no obstructions to pedestrian access;
- n) public liability insurance.

### 3. APPLICATION PROCESS

All applications to undertake trading activities or street performances will be considered on a case by case basis. The typical process for applying for an approval is:



### 4. GUIDELINES

#### 4.1. Trading at temporary events

Any group or individual interested in holding a temporary event in a public place must make an application<sup>2</sup> to the Council.

The following guidelines outline the conditions of approval for temporary events in public places (these guidelines are in addition to the requirements listed in section 2 of this Policy).

The Council will approve temporary events in public places on a case-by-case basis, taking into account the matters set out in this section and section 2 above.

This completed application must be submitted to the Council **a minimum of 40 days** before the planned temporary event or market, **or earlier if a resource consent is required**.

**Please note:** Depending on the nature of the temporary event, other consents or licences may be required as well, for example, a resource consent pursuant to the Resource Management Act 1991 or a building consent pursuant to the Building Act 2004. Please contact the Council [add contact details] for guidance and information.

<sup>2</sup> Application forms are available from the Council's Compliance Team, Ph: 04 296 4700 [ website]

## 4.2. Trading at open air markets

Any group or individual interested in establishing an open air market in a public place must make an application<sup>3</sup> for an open air market licence<sup>4</sup> to the Council.

The following guidelines outline the conditions of approval for open air markets in public places (these guidelines are in addition to the requirements listed in **section 2** of this Policy).

The Council will consider applications for the establishment of open air markets in public places on a case-by-case basis, taking into account the following matters

- whether adequate clear footpath is available for pedestrians around the market and its market stalls. As a minimum, the Council will expect a 1.8 metre width from the edge of any stall or associated display to the nearest kerb edge or obstruction;
- whether the hours and days of operation of the market is such that it does not permanently occupy the public space
- whether appropriate traffic management measures are in place to avoid adverse effects on the safety and flow of pedestrians and vehicles
- whether barriers, signage and screens associated with the market are kept to a minimum and are appropriately designed and fixed or weighted so as to not give rise to adverse effects on traffic and pedestrians
- whether the individual stall holders have approved food hygiene qualifications, where food is to be sold, and the market and stalls have appropriate food storage and preparation facilities to meet food hygiene regulations
- whether adequate access to public toilets has been provided.

The completed application must be submitted to the Council **a minimum of 20 days** before the planned market.

**Please note:** Depending on the nature of the open air market, other regulatory approvals may be required as well, for example, a licence to occupy a public place, a resource consent or a building consent. Please contact the Council [add contact details] for guidance and information.

## 4.3. Mobile shops

Any group or individual interested in operating a mobile shop in a public place must make an application<sup>5</sup> to the Council.

The following guidelines outline the conditions of approval for mobile shops in public spaces (these guidelines are in addition to the requirements listed in **section 2** of this Policy).

There are two different types of mobile shop traders:

1. Those that can be considered 'roaming' as they move onto another location after a certain time period (for example, 20 minutes). As a general principle,

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<sup>3</sup> Application forms are available from the Council's Compliance Team, Ph: 04 296 4700 [ website]

<sup>4</sup> Application forms are available from the Council's Compliance Team, Ph: 04 296 4700 [ website]

<sup>5</sup> Application forms are available from the Council's Compliance Team, Ph: 04 296 4700 [ website]

- 'roaming' approvals will only be issued to operators selling prepared food or drink (for example, Mr Whippy); and
2. Those that park up in one fixed location to solicit business. As a general principle, this type of trading is not allowed in road reserves unless the site has a formal parking area (such as a rest area).

The Council will consider applications for mobile trader licences in public places on a case-by-case basis, taking into account the nature of the public place, the potential effects on the general public and nearby businesses, and the factors identified in **Section 2** above.

The Council may impose the following (but not limited to) conditions on an approval for mobile shops:

- the exact location(s) and duration of occupation of the mobile shop or stall and any associated signage (limited to two) and displays
- that the design and construction of stalls and mobile shops will be of a good standard and should be appropriate for the local surroundings
- a requirement to operate and park/position the vehicle in a safe manner which is not likely to cause a hazard to pedestrians or other traffic
- the use of chimes or other audio devices other than when the mobile shop is moving and is not in the vicinity of a church or hospital or causing a nuisance to residents
- a limitation on the duration of the approval
- a limitation that the approval applies only to the applicant and may not be transferred.

**Please note:** depending on where they operate, mobile shops may often require a resource consent as well. Please contact the duty planner on [add contact details] for guidance and information.

#### **4.4. Outdoor dining, footpath stalls and sandwich boards**

Any group or individual interested in operating outdoor dining or having footpath stalls or sandwich boards in a public place must make an application<sup>6</sup> to the Council.

This section guides the prioritisation of footpath space for pedestrian activity, conditions for the licensing of non-pedestrian activities on footpaths and the use of temporary footpath obstructions such as dining furniture, footpath stalls and sandwich boards. The primary purpose and priority use for footpaths is safe and efficient pedestrian movement. The Council requires that a minimum continuous unobstructed footpath width of **1.2 metres** is maintained to ensure pedestrian movement.

On occasion the available footpath space is such that the designated width is unachievable because of the large variation in footpath widths that exist throughout the Kapiti District. To account for this, an Authorised Officer may make minor discretionary modifications to the ideal minimum unobstructed footpath width as appropriate. Where in the opinion of an Authorised Officer, any dining furniture, footpath stall, sandwich board or other obstruction becomes an unacceptable barrier to the use of the

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<sup>6</sup> Application forms are available from the Council's Compliance, Monitoring and Enforcement Team, Ph: 04 296 4700 [ website]

footpath or hinders the flow of pedestrians, the Licence holder or person acting on his or her behalf will be required to remove, or reposition, the offending obstruction immediately.

A Licence is required before outdoor dining or footpath stalls are permitted on any public footpath. If a sandwich board does not comply with Appendix 1 of this policy, a licence will be required.

Applicants must provide the following when submitting an application for a Licence:

- a) A scaled site plan of existing conditions that accurately show:
- the width of the footpath from the building façade to the kerb edge;
  - the proposed location and size of the temporary dining furniture, sandwich board, footpath stall or other obstruction in relation to existing features, including the kerb edge, neighbouring properties, street trees, rubbish bins, street light poles, signs, pillars, street furniture, fire hydrants, parking meters, telephone boxes, mail boxes or any other significant features on the footpath;
  - there is a clear continuous width of 1.2 metres of unobstructed pedestrian thoroughfare in relation to the temporary obstruction;
  - the location of doorways and service openings.

## **Outdoor Dining**

The following guidelines outline the conditions of approval for outdoor seating areas on footpaths and other public spaces (these guidelines are in addition to the information requirements listed in section 2 of this Policy).

- The outdoor seating area must be immediately outside of the applicant's premises.
- Tables and chairs are to be high quality, durable, waterproof and weather resistant, designed for outdoor use, be well maintained and must comply with NZS 4121: Design for Access and Mobility.
- The outdoor seating area must not interfere with safe and efficient pedestrian movement and the minimum unobstructed footpath width of 1.2 metres.
- The outdoor seating area must allow for unobstructed access to and from the premises.
- The layout and orientation of furniture in the proposed seating area must allow for at least 0.6 metres of unobstructed space between the seating and the kerb line, in addition to the 1.2 metre unobstructed footpath width.
- Adequate space is to be provided within the area to allow for easy movement and chair use.
- Toilet accommodation on the premises must be sufficient to for the increased number of persons using the outdoor seating area.
- Outdoor seating areas will not be permitted on street corners with pedestrian crossings or near entry points of designated crossings.
- Full details of any heating devices, their planned location, and safety measures taken to ensure they are stable and secure, are to be provided with the application.
- Private trading activities that introduce changes to paving or street furniture for amenity purposes require specific approval.
- Evidence of public liability insurance, to the satisfaction of the Council that covers any proposed outdoor seating area.

- Disclosure of whether alcohol is to be supplied/served/consumed in any proposed outdoor seating area<sup>7</sup>.
- All temporary obstructions, including seating, tables, umbrellas and heating devices must be removed from the footpath outside of the business trading hours and stored away from the public area so that they do not impede public access.
- The licence holder is responsible for ensuring that patrons keep the outdoor seating within the approved boundaries of the outdoor seating area
- Temporary or permanent barriers in outdoor seating areas must have separate approval by Council. If approved they are to be located within the designated outdoor seating area.
- Outdoor seating areas may be required to be marked as stipulated by the Council. To assist in the detection of approved outdoor seating areas and temporary obstructions by people with visual impairments, tactile or solid barriers may be required as part of the design. The cost of installing, maintaining and removing outdoor seating markers will be met by the licence holder.
- The licence holder is required to regularly clean the approved seating area including tables, chairs, and immediate footpath surrounds. Where smoking is allowed ashtrays or other suitable devices must be provided and maintained.
- The Licence and approved site plan must be made available to an Authorised Officer on request.

### **Footpath Stalls**

The following guidelines outline the conditions of approval for footpath stalls on footpaths and other public spaces (these guidelines are in addition to the requirements listed in section 2 of this Policy).

- A retailer may place a stall outside the frontage of their premises at any time during trading hours, however the stall is only to be in place for the display and sale of merchandise related to the retailing activity
- The stall is to be placed as close as practicable to the shop frontage and not interfere with safe pedestrian movement and the minimum unobstructed footpath width of 1.2 metres.
- All goods displayed in, on or at a stall are to be free from sharp edges or projections which may cause injury to pedestrians and be free from any form of nuisance and not hazardous to the public at large. All goods must be secure from falls and wind gusts.

Non-profit groups operating fundraising stalls must also apply for a licence from the Council<sup>8</sup>.

### **Sandwich Boards**

If the guidelines in Appendix 1 are met, you are permitted to place a sandwich board (without the need for a licence) on the footpath immediately outside your premises.

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<sup>7</sup> Any person who intends to sell alcohol from an outdoor dining area is required to apply for a re-definition of their liquor licensed area. Please contact the Kapiti Coast District Council Liquor Licensing inspector 04 296 4700.

<sup>8</sup> The Council has identified a number of sites throughout the District for community groups to sell goods. See the Kapiti Coast District Council Customer Services 04 296 4700 for details.

The Council reserves the right to inspect the board at any time and may set additional conditions as it sees fit.

Sandwich boards need to be placed so that they do not impede pedestrian access or the minimum 1.2 metre unobstructed footpath width. Only one sandwich board is permitted per premises.

Where there are several organisations wanting to use a sandwich board at the same premises (e.g. outside shopping malls) the Council will work with the affected people and the property owner to develop a compliant solution, such as shared signage on one sandwich board or a directory.

## **5. FEES**

The Council reserves the right to set fees for licences issued under the 2017 Public Places Bylaw. It also reserves the right to charge an occupancy fee for the use of public places in addition to the standard licence fee. A bond may also be required depending on the nature of the activity and the location.

The licence applicant must pay the full licence fee and have all the required permits before the licence will be issued.

## **6. MONITORING AND ENFORCEMENT**

The Council will monitor trading activities in public places regularly to ensure that traders are complying with their licence conditions and that no unauthorised trading is occurring in public places. Individuals or groups that trade on footpaths or other public spaces without a required licence will be asked to remove their material and cease with the trading activity immediately.

The Enforcement Policy 2014 provides general guidance on how compliance, enforcement and prosecution matters are dealt with by the Council.<sup>9</sup>

## **7. MAKING A COMPLAINT**

If a trading activity is causing a nuisance, please contact:

- the Council and, if possible, provide the following information:
  - the name / type of trading activity and operator;
  - location and time of trading activity;
  - nature of the complaint (i.e. what is causing the nuisance).
- If the trading operator is violent, disorderly, behaving offensively, or causing a general nuisance in a way that may impact on public safety, please call the Police.

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<sup>9</sup> <http://www.kapiticoast.govt.nz/Your-Council/Forms-Documents/Policy-and-Strategy/Council-Policies>

## APPENDIX 1: SANDWICH BOARDS

Use this flow chart to determine whether you require a sandwich board licence.

Questions about your location	Options	Reasons for rules
Will the sandwich board be placed on the public footpath? <b>Yes</b>	<b>No</b>	Sandwich boards placed on private property don't require a licence but may require permission from the property manager (e.g. for malls). They should be placed safely and not in doorways or access paths.
Will your sandwich board placed in line with other obstructions, is the remaining clear unobstructed footpath width outside your premises at least 1.2 metres wide? <b>Yes</b>	<b>No</b>	You'll need to consider an alternative to having a sandwich board. Options could include a smaller board, a shared directory sign mounted on an existing pole, a sign suspended from the awning – or you may not be able to use a sign.
Is there a bus stop, taxi stand, disability park or pedestrian crossing directly outside your premises? <b>No</b>	<b>Yes</b>	You shouldn't use a sandwich board until you have discussed options with the Council. Please contact 296 4700 and ask to speak to the Council compliance team
Will your sandwich board be the only sandwich board placed outside your premises? <b>Yes</b>	<b>No</b>	Locations where pedestrians frequently cross the kerb or have accessibility needs should be kept clear of obstructions for safety reasons. Excess boards at a location can create obstacles for pedestrians trying to cross the road or access car parks and give the street an untidy, cluttered appearance.
Questions about your board	Options	Reasons for rules
Is the total height of the board, including base, equal to or less than 900mm? <b>Yes</b>	<b>No</b>	You'll need to modify or replace the board so that it fits the required dimensions
Is the width of your sandwich board, measured at any location including the base, equal to or less than 600mm? <b>Yes</b>	<b>No</b>	The streetscape is limited in width and in the event of an emergency the Council may need to remove sandwich boards. Oversize boards are difficult to move and could cause problems such as visibility issues for traffic (e.g. driver may not see small children waiting to cross the road).
Is the board weighted so that it can't easily be moved by wind or people? <b>Yes</b>	<b>No</b>	Additional weight could be attached.
Is the base a substantially different colour from the pavement? <b>Yes</b>	<b>No</b>	A highlighting strip could be attached.
For folding boards, does it lock in the open position? <b>Yes or N/A</b>	<b>No</b>	A locking clasp must be attached.
Is the board free from sharp edges, protrusions or moving parts? <b>Yes</b>	<b>No</b>	People with sight impairments may trip over the base if it's not clearly visible. Folding boards may collapse in strong winds and create a hazard.
<b>You are eligible to place a sandwich board on the footpath</b>		

If you have an item that doesn't fit the description of a sandwich board but you still wish to put some form of advertisement on a public footpath, please contact the Kapiti Coast District Council Compliance Team; and

- follow the flow chart above to determine what aspects of your advertisement do not comply with this Policy;
- prepare additional information in support of your proposal specifically addressing the aspects that don't comply with the policy and highlighting how the proposed items fits the principles of the policy, i.e. to prioritise footpath space for safe and efficient pedestrian movement while contributing to the character and vibrancy of our public places; and
- contact the Council on 296 4700 to discuss your proposal.

**Chairperson and Committee Members**  
STRATEGY AND POLICY COMMITTEE

8 JUNE 2017

Meeting Status: **Public**

Purpose of Report: For Decision

## **PUBLIC PLACES BYLAW AND THE POLICY ON TRADING IN PUBLIC PLACES - DECISIONS ON SUBMISSIONS**

### **PURPOSE OF REPORT**

1. This report seeks the Committee's approval for:
  - a) Decisions on submissions received on the 2017 Public Places Bylaw and 2017 Trading in Public Places Policy; and
  - b) forwarding the revised Bylaw and Policy to the Council recommending that the Council adopt the draft Bylaw and Policy.

### **DELEGATION**

2. Under B1 of the Governance Structure and Delegations for the 2016-2019 Triennium, the Strategy and Policy Committee is responsible for the development and/or review of strategies, plans, policies and bylaws. The Council is responsible for adopting bylaws.

### **BACKGROUND**

3. On 2 February 2017 the Committee considered report CS-16-080 Review of the 2010 Public Places Bylaw and the 2010 Trading in Public Places Bylaw and moved the following resolutions.
4. That the Strategy and Policy Committee:
  - a) determines that a bylaw is the most appropriate way to address the need for managing the safety and nuisance issues that can occur on public places;
  - b) determines, subject to consultation, that the Draft Kapiti Coast District Council 2017 Public Places Bylaw (Appendix 3 to report CS-16-080) is the most appropriate form of bylaw and that there is no inconsistency with the New Zealand Bill of Rights Act 1990;
  - c) adopts for consultation the Draft 2017 Trading in Public Places Policy (Appendix 6 to report CS-16-080);
  - d) adopts for consultation the Statement of Proposal to adopt the Kāpiti Coast District Council 2017 Public Places Bylaw and the Draft 2017 Trading in Public Places Policy (Appendix 7 to report CS-16-080); and
  - e) agrees that the Statement of Proposal to adopt the Kāpiti Coast District Council 2017 Public Places Bylaw and the Draft 2017 Trading in Public

Places Policy (Appendix 7 to report CS-16-080) is made publicly available as part of a special consultative procedure under sections 83 and 86 of the Local Government Act 2002.

5. The Committee also considered the following motion but voted against it:

*That the Strategy and Policy Committee amend the Draft Public Places Bylaw for consultation by inserting the relevant clauses of the Freedom Camping Policy.*

## Responses to submissions on the draft bylaw and policy

6. Eleven submissions were received. Please see Appendix One for a summary of issues raised and proposed draft responses to the issues.
7. With reference to Appendix One, no changes are proposed to be made to the draft Bylaw and Policy. This is largely because the issues raised can be dealt with by some other means, (for example, any changes to monitoring and enforcement do not need a change to the draft bylaw but rather would be a change in operations) or because the Committee has made previous decisions on the issues, for example, freedom camping.

## CONSIDERATIONS

### Policy considerations

8. This review includes the preparation of a revised Trading in Public Places Policy.
9. The 2010 Bylaw also links to a number of other policies:
  - Food Stall Approvals at Markets, Events and Other Sites Policy 2009.
  - Road Naming and Street Numbering Policy 2011.
  - Reserves, structures and commemorative places naming policy 2011.
  - Freedom Camping Policy 2012.
10. There is not expected to be any impact on these policies but they were taken into account during the review.

### Legal considerations

11. The process for reviewing and adopting a new bylaw is prescribed by the Local Government Act 2002. Council's Legal Counsel has been involved in all stages of the review.

### Financial considerations

12. The review has been carried out within existing budgets as will implementation.

### Tāngata whenua considerations

13. Consultation with Te Whakaminenga o Kāpiti has occurred to ensure that tāngata whenua values and aspirations are provided for within this Bylaw. No submission was received from Te Whakaminenga o Kāpiti.

## SIGNIFICANCE AND ENGAGEMENT

### Degree of significance

14. This matter has a high degree of significance under Council policy.

### Consultation

15. Input has been sought from a number of organisations:
- Community Boards
  - Chamber of Commerce
  - The Youth Council
  - The Older Persons Council
  - Emergency services such as the Police and Fire Service
  - The Accessibility Advisory Group
  - The Cycleways, Walkways and Bridleways Advisory Group
16. Statutory consultation was carried out in February and March 2017 using the special consultative procedure. Council received eleven submissions. Five submitters spoke to the Committee at a hearing held on 25 May 2017.

### Community engagement

17. Engagement has been carried out in three phases:
- discussions with key stakeholders about what activities should or should not be regulated in public places (November – December 2016);
  - informing the community about the review through information on Council's website and seeking informal feedback through an on-line survey (December to January 2017); and
  - call for submissions (February to March 2017).
18. A range of communication channels have been used to inform key stakeholders and audiences such as:

**Targeted:** face-to-face engagement with stakeholders, identifying and alerting key community influencers before a draft 2017 bylaw is prepared, alerting stakeholder groups to specific areas of the 2010 bylaw that may be of interest them.

**Digital:** an on-line survey, *Objective*, Council webpages, social media updates.

**Media:** releases and/or advisories, media briefings (if appropriate), Mayor's column, public ads/notices.

### Publicity

19. Should Council adopt the revised 2017 Bylaw and Policy, Council's regular communication channels will be used to ensure that people are aware of the revised Bylaw and Policy. This will include revisions for the Council's website.

**RECOMMENDATIONS**

20. That the Strategy and Policy Committee determines:
- a) that no further changes need to be made to the draft 2017 Public Places Bylaw and Trading in Public Places Policy following consultation;
  - b) that the draft 2017 Public Places Bylaw and draft 2017 Trading in Public Places Policy (attached to report CS 17-220) be recommended to the Council for adoption;
  - c) that a bylaw is the most appropriate way to address the need for managing the safety and nuisance issues that can occur on public places;
  - d) that the Draft Kāpiti Coast District Council 2017 Public Places Bylaw (Appendix 2 to report CS-17-220) is the most appropriate form of bylaw and that there is no inconsistency with the New Zealand Bill of Rights Act 1990.

<b>Report prepared by</b>	<b>Approved for submission</b>	<b>Approved for submission</b>
Philippa Richardson	Kevin Currie	Crispin Mylne
<b>Project Manager</b>	<b>Group Manager Regulatory Services</b>	<b>Acting Group Manager Community Services</b>

**ATTACHMENTS**

- 1 Analysis of submissions received
- 2 Draft 2017 Public Places Bylaw
- 3 Draft 2017 Trading in Public Places Policy

## Appendix One

Submitter Name	Support Bylaw (Y/N)	Support Policy (Y/N)	Speak to Cttee (Y/N)	Issues	Wants	Proposed Response
Paul Dunmore	Unclear	Unclear	N	Trading/car sales on side of road	Clarity on whether selling cars on the side of the road are covered by the bylaw and inclusion of this activity in the definitions.	<b>No change to Bylaw or Policy required</b> This matter is more appropriately dealt with in the Traffic Bylaw.
Neil Hobson	Y	Unclear	Y	Freedom camping	More detail in the bylaw and powers of enforcement.	<b>No changes to Bylaw or Policy required</b> At its February meeting, the Committee decided not to incorporate the provisions of the freedom camping policy into the draft 2017 Public Places Bylaw. Additionally, if the Committee wants to make a significant change to the draft bylaw about freedom camping, the bylaw would need to go out for consultation again. Given that the current bylaw expires on 15 July, there is not enough time to get through the special consultative procedure again before the Bylaw expires. There is debate over whether or not a policy is the right tool to manage freedom camping or whether it should be covered by a freedom camping bylaw. If the Council wishes to deal with

Submitter Name	Support Bylaw (Y/N)	Support Policy (Y/N)	Speak to Ctte (Y/N)	Issues	Wants	Proposed Response
						the concerns people are raising about freedom camping in a more enforceable manner, then the appropriate way to achieve this is to develop a separate bylaw under the Freedom Camping Act. Enforcement team to send out requested information to submitter.
Gaynor Bradbury	Unclear	N		Cycling on footpaths	Suggestions about rules to reduce conflict between pedestrians and cyclists including cyclists calling out to warn pedestrians as they go by; favours pedestrian priority - no cycle riding in shopping centres	<b>No changes to Bylaw or Policy required</b> There are already laws about cycling on a footpath and the New Zealand Code for Cyclists sets out how cyclist should behave around pedestrians. It also explains how to use shared paths. There is no need to duplicate these requirements and guidance in the draft 2017 Bylaw
	Unclear		N		Convert the Raumati Pool into a skating rink.	<b>No changes to Bylaw or Policy required</b> The future of the former Raumati Pool building will be subject of community consultation during 2017/18.
Gerald Twiss		Unclear		Questions - whether animals and pets come under this bylaw?		<b>No changes to Bylaw or Policy required</b> Refer submitter to dog control and animal control bylaws noting the dog

Submitter Name	Support Bylaw (Y/N)	Support Policy (Y/N)	Speak to Ctte (Y/N)	Issues	Wants	Proposed Response
						control bylaw is the next bylaw to be reviewed by Council.
		Unclear		Could rural RAPID numbers be included in this bylaw?		<b>No changes to Bylaw or Policy required</b> There is an existing process in place for managing RAPID numbers and there is no need to duplicate that process in a bylaw.
<b>Pene Burton-Bell</b>	Y	Unclear		Drones - disruptive to a picnic and to birds - near Waikanae River estuary.	Wants drones to be covered in the bylaw - Clause 12.	<b>No changes to Bylaw or Policy required</b> The Bylaw review concluded that, given that drones are regulated by the CAA, duplicating that regulation in a bylaw was not necessary. The Council (as the landowner) already has authority to prohibit the flying of drones over public places without the need for this to be incorporated in the bylaw. Improved information on Council's website about what the rules are and where to go for approvals would also be useful.
<b>Accessibility Advisory Group</b>	Y	Y		No changes sought.		<b>No changes to Bylaw or Policy required</b>

Submitter Name	Support Bylaw (Y/N)	Support Policy (Y/N)	Speak to Ctte (Y/N)	Issues	Wants	Proposed Response
Jill Stansfield		Yes but with some changes.		Events- safety issues.	Closing cycleways etc to other users while the event is on.	<b>No changes to Bylaw or Policy required</b> Accept point and add it to the development of the new event management process rather than as changes to the bylaw. Noting that it may not be possible to close cycleways in all situations.
Compass Health / Josette McAllister	Y	Y	N	Supports the public health standards focus	Wants a definition of 'harm' added to the bylaw and one that prevents the sale of high sugar food and drinks around areas used for healthy activities.	<b>No changes to Bylaw or Policy required</b> Note that shops are likely to be on private property and therefore outside the scope of this bylaw. Additionally a general health issue such as this does not sit comfortably within this bylaw.
				Supports resource consents for hoardings, sandwich boards etc because they can be a hazard for elderly people if not placed in a suitable location. Essential to ensure public	Wants decisions on these matters to be guided by health promoting guidelines.	<b>No changes to Bylaw or Policy required</b> If the activities identified require resource consents, the application will be assessed against relevant matters identified in the District Plan. Pass the information to the Manger Resource Consents

Submitter Name	Support Bylaw (Y/N)	Support Policy (Y/N)	Speak to Ctte (Y/N)	Issues	Wants	Proposed Response
				safety.		
Jocelyn Pravanov, Waikanae Community Board	Unclear	Unclear	Y	Freedom camping - WCB supports the 2012 freedom camping policy. Wants it incorporated into the PP bylaw. Want a policy that is enforceable.	Residents have complained about freedom camping and the policy implementation (or lack hereof). Notes that the problems may be caused by people in unself-contained vehicles.	<b>No changes to Bylaw or Policy required</b> Please see comments earlier in the report relating to freedom camping.
Roger Marchant	Y		Y	Freedom camping at Waimanu Lagoons Reserve.	Advocating physical changes to the reserve areas to manage the impacts of freedom campers on the reserve.	<b>No changes to Bylaw or Policy required</b> Please see comments earlier in the report relating to freedom camping. Some physical changes to this freedom camping area are already underway.
Clive Brugh	Y		Y	Freedom camping - enforcement issues and managing and penalising people who don't comply with the policy.	Considers Council's contractors do not do a good job of enforcing the freedom camping policy.	<b>No changes to Bylaw or Policy required</b> Enforcement issues are being separately considered.