



# **Public Places Bylaw**

**2009**



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## 1.0 SCOPE

- 1.1 The Local Government Act 2002 confers general bylaw making powers on Council. The Local Government Act 1974 specifically gives authority to the Council to adopt bylaws to regulate activities which can be carried out in roads, public places and reserves. This bylaw controls a diverse range of activities to ensure that acceptable standards of convenience, safety, visual amenity and civic values are maintained for the wellbeing and enjoyment of citizens, visitors and businesses within the district. In particular this bylaw addresses damage to public facilities such as roads, grass verges, garden places and reserves which may have an adverse effect on other users of these facilities.
- 1.2 Section 145, 146 of the Local Government Act 2002 and Section 684 of the Local Government Act 1974 and other relevant Act e.g. Reserves Act 1977, Health Act 1956, outline some of the powers and requirements of the Council in regard to streets, public places and reserves. Areas of control so prescribed by this legislation are not necessarily repeated within this bylaw, and therefore the relevant sections of the Local Government Act, 1974 and 2002 should be read in conjunction with it.

## 2.0 INTERPRETATION

- 2.1 For the purposes of this bylaw the following definitions shall apply:

**AMUSEMENT DEVICE** means an appliance to which the motion of a prime mover is transmitted and which is used, or designed or intended to be used, for the amusement, recreation, or entertainment of persons being carried, raised, lowered, or moved by the appliance, or any part thereof while it is in motion; and includes the prime mover, transmission machinery, supporting structure, and any equipment used or intended to be used in connection therewith:

**AUTHORISED OFFICER** means any person appointed or authorised by Council to act on its behalf and with its authority including a Police Officer.

**BUSINESS SIGN** means any sign displayed on a premises, the sole purpose of which is to indicate the business name of the occupier and the type of business undertaken.

**BUSKER** means any transient street entertainer, performing for donations.

**COUNCIL** means the Waitomo District Council or duly authorised officer of Council.

**DROVER** means any person in charge of stock being moved along a road.

**HAWKER** means any person who carries or takes about any goods, wares or merchandise for sale not in pursuance of any invitation to call with, or of any previous order or request for, such goods and includes a pedlar and any person who exposes for sale any goods, wares or merchandise carried or taken about by him or solicits the custom of any other person; and whether any such person shall cry any such goods, wares or merchandise or not, but does not include any person who uses any vehicle as a mobile or travelling shop.

**ITINERANT TRADER** includes any person who, not having been continuously resident in the district under the jurisdiction of the local authority for a period of at least 6 calendar months immediately preceding, or not owning, or not having entered into a binding lease in writing of his business in such district for a period of at least 6 calendar months, carries on or engages in any business in such district involving the sale or exposure for sale in any premises in the said district, and whether by himself or by any other person employed by him, or any goods, wares or merchandise; but shall not include any hawker as above defined or any keeper of a mobile or travelling shop or any bona fide commercial traveller who deals only with or solicits orders only from persons, firms or companies carrying on business within the district aforesaid, as retailers of, or as manufacturers for sale of, articles manufactured from goods, wares and merchandise similar to those sold by the commercial traveller, or by him on behalf of his employer or employers.

**KEEPER** in relation to any mobile or travelling shop, means the person by whom or on whose behalf any business is carried on by means of that mobile or travelling shop.

**LICENSED PREMISES** means premises licensed for the sale or consumption of liquor under the Sale of Liquor Act 1989.

**LIQUOR** has the meaning given to it by the Sale of Liquor Act 1989.

**MATERIAL** or **THING** means any material of whatever kind and includes jumbo bins and other containers for waste material, but excludes vehicles.

**MIND ALTERING SUBSTANCE** means a substance whether synthetic or naturally occurring which may alter consciousness, mood or emotions, or which might intoxicate or induce pleasurable sensations. It includes what is commonly known as glue sniffing, but does not include:

- a) Medically prescribed substances ingested by the person for whom they were prescribed.
- b) Substances purchased from a pharmacy without a medical prescription;
- c) Nicotine;
- d) Alcohol as defined in the Sale of Liquor Act 1989.

**MOBILE OR TRAVELLING SHOP** means a vehicle, whether self-propelled or not, from which goods, wares or merchandise are offered or exposed for sale in the street, or from which goods, wares or merchandise may be ordered (whether or not in pursuance of any invitation to call with the goods, wares or merchandise) or from which services are offered for sale in the street; but does not include any vehicle on or from which food is sold for consumption in or at the vehicle, or any vehicle used for the purpose of transporting and delivering goods, wares or merchandise pursuant to a prior order placed for the delivery of goods, wares or merchandise.

**NAME-PLATE** means any plate of metal, wood, glass, plastics, or other material fixed to a wall surface or in a sign-case near the entrance to premises to denote the name, business, designation, and agencies of an occupier of such premises.

**PUBLIC PLACE** means every road, footpath and thoroughfare of a public nature or open to or used by the public as of right, reserve, park, domain, walkway, walking track, beach, foreshore, river esplanade and recreational ground under the control of Council.

**RIDE A SKATEBOARD** means having either one or both feet, or any other part of the body or person, on the skateboard when it is moving.

**ROAD** has the meaning provided in Section 315 of the Local Government Act 1974, which includes every berm, bridge, culvert, drain, ford, gate, building or other thing belonging thereto or lying upon the line or within the limits thereof.

**SIGN** includes every advertising device or advertising matter of whatever kind whether consisting of a specially constructed device, structure, erection, or apparatus, or painted, printed, written, carved, inscribed, endorsed, projected onto, placed, or otherwise fixed to or upon any premises, wall, fence, rock, stone, structure, stationary vehicle, or erection of any kind whatsoever if such advertising device or matter is visible from any public place

**SIGN-CASE** means any case, panel, board, or other device attached to any premises to which name-plates are affixed, or for the display of the names, business designations, agencies and addressees of the occupiers of the premises to which it is attached.

**SKATEBOARD** means a wheeled device controlled or propelled by gravity or by the muscular energy of the rider, including roller skates, in-line skates, or similar recreational devices. The definition does not include any wheelchair baby or invalid carriage or bicycles.

**SPECIFIED PUBLIC PLACE** means any public place that is within the area described in Schedule C to this Bylaw.

**STOCK** means and includes any cow, bull, ox, heifer, steer, sheep (includes any ram ewe, wether, lamb, goat, or kid), horse, donkey, mule, calf, boar, sow, pig, llama, alpaca or deer of any kind, but excludes any animal that is under harnessed control.

**STREET APPEAL** means coordinated and organised events by organisations that ask for, or seek, any subscription, collection or donation from members of the public.

**STREET PERFORMANCE** means a musical, dramatic or other performance (including busking) involving musical, theatrical or circus performance skills including playing musical instruments, dancing, singing, clowning or juggling, pavement art, poetry or doing other acts of a similar nature in Public Places.

**TEMPORARY SIGN** means a sign to announce or advertise an event, function, sale, or product, erected or displayed on any public place or private premises, and displayed only for such limited period of time as is approved in writing by the duly authorised officer.

**TRADING** means the act of selling or trading or offering to sell or trade goods or services, with or without a vehicle.

**WINDOW-SIGN** means any sign displayed in or painted, printed, written, carved, inscribed, endorsed, or otherwise fixed to or upon any window.

## **3.0 OFFENCES AND PENALTIES**

### **3.1 Offences**

- 3.1.1 No person shall do anything or cause any condition to exist for which a licence or approval from Council is required under this Bylaw without first obtaining that licence or approval and the failure to do so shall constitute a breach of this Bylaw.
- 3.1.2 No application for a licence or authority from Council and no payment of or receipt for any fee paid in connection with such application, licence or authority, shall confer any right, authority or immunity on the person making such application or payment.
- 3.1.3 Everyone commits an offence against this Bylaw who:
- (a) Does, or causes to be done, or permits or suffers to be done, or is concerned in doing, anything whatsoever contrary to or otherwise than as provided by this Bylaw; or
  - (b) Omits, or neglects to do, or permits, or suffers to remain undone, anything which according to the true intent and meaning of this Bylaw, ought to be done at the time and in the manner therein provided; or
  - (c) Does not refrain from doing anything which under this Bylaw he or she is required to refrain from doing; or
  - (d) Permits or suffers any condition of things to exist contrary to any provision contained in this Bylaw; or
  - (e) Refuses or neglects to comply with any notice duly given under this Bylaw; or
  - (f) Obstructs or hinders any officer of the Council in the performance of any duty to be discharged by such officer under or in the exercise of any power, conferred by this Bylaw; or
  - (g) Fails to comply with any notice or direction given in this Bylaw.

### **3.2 Penalties**

- 3.2.1 Every person convicted of an offence against this Bylaw shall be liable to the penalties as set out in Section 242 (4) of the Local Government Act 2002 and further if the offence is one to which Section 243 of the Local Government Act 2002 applies (and is therefore an infringement offence) shall be liable to infringement fees as prescribed by Regulations made under Section 259 (b) of the Local Government Act 2002, or where any person is alleged to have committed an offence against this Bylaw; be proceeded against pursuant to any other enactment so empowering Council.
- 3.2.2 The continued existence of any work, building, land, premises or thing in such a state or form as to be in contravention of any provision of this Bylaw, shall be deemed to be a continuing offence under this Bylaw.

## **4.0 PUBLIC NUISANCES**

- 4.1 Except with the prior permission of Council or an authorised officer a person shall not on any public place:
- a) Drive any vehicle except on a formed road, or drive in a manner that is dangerous or inconsiderate to pedestrians or other vehicles in the public place;
  - b) Cause or allow any material or thing to be deposited onto a public place or road.
  - c) Leave any work, hole or excavation in a public place in a manner that could be a danger to anyone entering or using that public place;
  - d) Solicit any subscription, collection or donation, preach or undertake any busking;
  - e) Distribute any printed or written material advertising any product, service or entertainment;
  - f) Fly from or land any aeroplane including model aeroplanes, a hot air balloon or hang glider, parachutes or similar except in an emergency;
  - g) Consume, inject or inhale any mind-altering substances or offer or sell such substances to any person;
  - h) Play any game or use any object including skateboards, roller blades, roller skates, bicycles or motorised or human propelled scooters, recklessly or in a manner which may intimidate, be dangerous or injurious or cause a nuisance to persons in the public place, or damage the public place.
  - i) Erect or place any structure on, over or under the public place except in compliance with this bylaw.
- 4.2 Where any fence, wall, retaining wall or land adjacent to a public place is in a condition or state of disrepair which in the opinion of an authorised officer could cause damage or injury to persons passing, the authorised officer may give notice requiring the owner or occupier to repair or remove the fence, wall or retaining wall, or make the land safe.
- 4.3 Notwithstanding the requirement of any other clause of this bylaw a person shall not in any public place:
- a) Light any fire except at fireplaces specially provided, or in an appliance designed for outdoor cooking; subject to any restriction imposed by Council on the lighting of fires;
  - b) Camp in an area not set aside for the purpose. In this context camping shall include the use of any vehicles for sleeping whether or not it is specially set out for sleeping.

## **5.0 OBSTRUCTING PUBLIC PLACES**

- 5.1 A Person shall not:
- a) Obstruct the entrances to or exits from any public place;
  - b) Place or leave any material or thing, including signage, on a public place that could obstruct the public right of passage, without the permission of an authorised officer and then only in accordance with such conditions as may be imposed;
  - c) Allow any gate or door on property abutting a public place, to swing over or across the public place or any part thereof;
  - d) Carry out any work on any motor vehicle in a public place, except in the case of any accident or emergency when repairs are necessary to allow the vehicle to be removed;

- 5.2 No person shall permit or allow vegetation to encroach onto or over any public place so as to obstruct or interfere with the free movement of persons using that public place.

## **6.0 DAMAGE TO PUBLIC PLACES**

- 6.1 Except with the permission of the Council or an authorised officer a person shall not in any public place:
- a) Damage, interfere with, destroy or remove any grass plot, flower bed, tree, shrub or plant or any inscription or label relating to it;
  - b) Pollute, damage, deface or disfigure, apply graffiti, posters or advertising devices to, or interfere with any ornament, statue, building, structure, or facilities;
  - c) Nothing in clause 6.1(b) shall prevent the Council from supplying or approving the installation of display boards in any public place for the purpose of allowing posters to be displayed announcing forthcoming functions or events or any other use approved by Council;
  - d) Cause or permit to be done any act whatsoever by which damage is caused to any public place, or any work or thing in, on, over or under the public place;
  - e) Damage or interfere with any natural feature, animal or plant;
  - f) Use any vehicle or be in control of an animal in any manner so that it damages any part of a public place;
  - g) Drive or park any vehicle in a public place except in an area set aside for the driving or parking of vehicles;
  - h) Remove any sand, soil or other naturally occurring material found in a public place;
  - i) Open any drain or sewer on, or disturb or remove the surface of, any public place.
- 6.2 Any person carrying out authorised works on a public place shall provide reinstatement of the works to a standard approved by an authorised officer.
- 6.3 Any person wishing to gain access to a beach shall use a designated access where this is available.
- 6.4 A person shall not do, cause or permit to be done any act whatsoever by which damage is caused to any public place, or any work or thing in, on, over or under the public place.

## **7.0 PLACING OF ARTICLES ON PUBLIC PLACES**

- 7.1 A person shall not place or leave or cause or permit to be placed or left any material or thing, including signage, amusement devices or items for sale or hire, on any public place unless:
- a) Such action has first been approved by Council or an authorised officer, and then only in accordance with such conditions as he or she may impose; or
  - b) Such action is taken for the purpose of regular refuse or other collections authorised by the Council or is otherwise authorised by law; or
  - c) Such action is permitted pursuant to any other part of this bylaw.

## **8.0 ADVERTISING SIGNS**

### **8.1 General Requirement for Siting of Signs**

- 8.1.1 No person shall display or erect or cause to be displayed or erected any sign except in conformity with this bylaw and with the provisions set out in the District Plan in force within the District under the Resource Management Act 1991 and Council's Policy adopted under the Gambling Act 2003.
- 8.1.2 No person shall display, erect, or maintain or cause or permit to be displayed, erected, or maintained any sign so close to any part of a road, motorway, or to any corner, bend, safety-zone, traffic signs, traffic signal, or intersection as in the opinion of the Engineer would:
- a) Obstruct or be likely to obstruct the view of traffic; or
  - b) Distract unduly or be likely to distract unduly the attention of road users; or
  - c) Constitute or be likely to constitute in any way a danger to the public.
- 8.1.3 No person shall place, display, or permit or suffer to be placed or displayed, or to remain any sign containing any reflective material which tends to reflect vehicle lights, or contains any material dependent for illumination upon the lights of traffic in such a position as in the opinion of the Council would distract or be likely to distract the attention of the driver of any motor vehicle.
- 8.1.4 No person shall place, display, cause, or permit to be placed or displayed on or upon or against any public place, public building, bridge or other structure, any post, pole, or other upright for whatever use including those for the guidance and control of traffic, or any tree or other vegetation, traffic sign, traffic signal, or pavement any sign for advertising of any other purpose unless the prior permission in writing of the appropriate officer of Council has been obtained.
- 8.1.5 No person shall cause or permit any sign other than a name-plate or sign-case to be erected over any public place unless every part of such sign is at least 2.5m above the footpath or 5.5m above the carriage way, and then only with the prior permission in writing of the appropriate officer of Council.
- 8.1.6 No person shall erect any sign-case in such a position as to project over any road, private street, or public place unless the prior permission in writing of the appropriate officer of Council has been obtained.
- 8.1.7 No person shall leave or place, or cause to be left or placed, any advertising sign, notice or placard on or over a road or other public place without the express approval, in writing of the appropriate officer of Council. This part of the bylaw shall extend to include all areas of State Highways over which control of signs has been specifically delegated to the Council by the New Zealand Transport Agency.
- 8.1.8 No person shall leave any vehicle on a road in circumstances where it is used or may be reasonably be assumed to be used, for the purpose of drawing attention to any advertising sign, notice or placard carried upon or affixed to that vehicle. This part of the bylaw shall extend to include all areas of State Highways over which control of signs has been specifically delegated to Council by the New Zealand Transport Agency.

### **8.2 General Requirements for Construction and Maintenance of Signs**

- 8.2.1 No sign shall be made, erected, or constructed otherwise than in a good and workmanlike manner of materials approved by Council.
- 8.2.2 Every such sign shall at all times be maintained in good repair and condition to the satisfaction of Council.
- 8.2.3 If any sign shall at any time not be in good order and condition, or if it shall at any time be unsightly or dangerous, the appropriate officer of Council may, by notice in writing signed by him and addressed to the owner or lessee to repair or secure or otherwise put in order or remove such sign within a period stated in such notice, and if such owner or lessee shall fail to

comply with the requirements of such notice within the time therein specified he shall be liable to prosecution for an offence against this bylaw.

### **8.3 Removal of Offending Signs**

8.3.1 If any sign, fails to conform to all the provisions of this bylaw, it shall be the duty of the occupier for the time being of the premises on which such sign shall have been displayed or erected, after being served with a notice in writing under the hand of the appropriate officer of Council requiring him so to do, to take down and remove such sign or so much thereof as does not conform to the provisions of this bylaw within the period of time specified in such notice. In the event of failure to comply with such notice, the Council shall be empowered to take whatever steps are necessary for the removal of any such sign. The cost incurred by Council shall be charged to the occupier.

8.3.2 If the person on whom such notice has been served fails to comply with the terms of such notice within the time stated therein he shall be liable to prosecution for an offence against this bylaw.

## **9.0 CONTROL OF SKATEBOARDS**

9.1 No person shall ride a skateboard in any area defined in Schedule A attached to this Part of the bylaw.

9.2 No person shall ride a skateboard on any footpath outside areas defined in Schedule A, without due care to ensure no damage is caused to any property or without reasonable consideration for other persons using the footpath.

9.3 The Council may from time to time by resolution publicly notified, amend Schedule A, to add, delete or amend the areas to which the provisions of this bylaw shall apply.

9.4 A Police Officer, Council Enforcement Officer or other authorised Officer may enforce the provisions of this Bylaw. Persons in breach of this Bylaw may risk impounding of any skateboard and be required to supply details necessary for infringement registration purposes. The owner of an impounded skateboard may retrieve it from the Council Offices or the Police Station during normal business hours, after the expiry of 10 working days from the date of impounding. A fine not exceeding that detailed in Council's Fees and Charges Manual will apply per impoundment.

## **10.0 AMUSEMENT DEVICES**

No person shall use any land or building or any part of any land or building, structure, or enclosure, or any part of any public place as a site for an amusement device to which the public have admission or access by payment or otherwise, until he/she has obtained from the Council a permit under the Amusement Devices Regulations 1978 to operate such a device. The term of any such permit shall not exceed one year.

### **10.1 Fees**

10.1.1 The fee payable for the issue of a permit shall be such sum as is prescribed in the Amusement Devices Regulations 1978 from time to time.

### **10.2 Safety Precautions**

10.2.1 In addition to regulations contained in the Amusement Devices Regulations 1978, the proprietor of an amusement device shall, for the prevention of danger from such device:

- a) Cause such amusement device to be so placed as to have about it a clear space from the outermost point covered or which may be overhung by such device, to the satisfaction of Council.
- b) Cause such amusement device to be erected in a proper manner, and sited on ground able to support the device under full operating conditions without risk of subsidence and to the satisfaction of an authorised officer to inspect such device. Compliance with the authorised officer's directions (if any) in this case will not absolve the proprietor from

the prime responsibility for ensuring that the requirements of this sub clause are carried out.

- c) Cause every part of such amusement device and of the apparatus for driving the same to be maintained at all times in good repair and condition, and to be under proper management and control.
- d) Cause the apparatus for driving such amusement device to be tended and regulated by a competent person responsible for the care and management of such appliance.
- e) Cause such amusement device, if in motion and if any person riding in or upon such device be ill or be desirous of alighting wherefrom, to be stopped as quickly as may be practicable for the purpose of allowing such person to alight or be removed from such device.

### **10.3 Reasonable and Proper Care**

- 10.3.1 The proprietor or any other person for the time being having the management or control of any amusement device or of the apparatus for driving the same, or any part of such device or apparatus, shall, in the exercise of such management or control, take all reasonable and proper care so as to prevent danger to any person or property.

### **10.4 Speed**

- 10.4.1 Such proprietor or other person shall not cause or suffer such amusement device to be driven at any greater speed than shall be consistent with the safety of any person riding in or upon such device and with all other circumstances attending or affecting the use thereof.

### **10.5 Overloading**

- 10.5.1 Such proprietor or other person shall not allow any person to enter or mount upon such amusement device at any time when such device shall be already occupied by the full number of persons for whose accommodation such device shall be constructed or intended or adapted to be used.

## **11.0 AMUSEMENT GALLERIES**

Every amusement gallery shall be located and operated in accordance with the requirements of the District plan and no amusement gallery shall be occupied or used for the purposes of any amusement unless licensed under this part of this Bylaw.

### **11.1 Licence Required**

- 11.1.1 Every amusement gallery premises shall have either an individual licence or be specified on a "multiple site licence" held by a franchise operator, such licence to be in the form approved by Council from time to time.
- 11.1.2 A multiple site licence shall include the name and address of the premises managers and the premises covered by the licence.

### **11.2 Application for Licence**

- 11.2.1 Every application for a licence shall be in writing by the proposed manager of the amusement gallery and shall set forth the name, address and occupation of the applicant, the address of the building sought to be licensed and the type or types of amusements proposed to be engaged in.

### **11.3 Fee**

- 11.3.1 No licence shall be granted except on payment of such fee as may from time to time be prescribed by resolution of the Council.

## **11.4 Character References**

11.4.1 Prior to the issue of any licence or the renewal or transfer of any licence, the Council shall be satisfied as to the character of the applicant for such licence renewal or transfer and may call upon the applicant to provide two references from responsible Persons vouching for the applicant's good character and for a police report as to the applicant's suitability.

## **11.5 Duration of Licence**

11.5.1 Every such licence shall remain in force from the date of issue until the 30th day of June following and shall be renewed annually. The annual fee for each licence shall be such sum as may from time to time be prescribed by resolution of Council.

## **11.6 Cancellation or Suspension of Licence**

11.6.1 The Council may at any time cancel or suspend the licence granted in respect of any amusement gallery if the manager shall be convicted of any Offence against this Bylaw or of any offence touching his or her character or conduct as such manager or if council shall be satisfied that the manager is acting or has acted in a manner contrary to the true intent and meaning of this Part Bylaw. During the period of suspension the amusement gallery shall be deemed to be unlicensed, and shall cease to operate.

## **11.7 Display of Licence**

11.7.1 The manager of any amusement gallery shall display a copy of the licence in a suitable and conspicuous position in such room at all times.

## **11.8 Shooting Gallery**

11.8.1 In any amusement gallery in which gallery shooting is carried on, the manager shall provide complete protection, to the satisfaction of Council, against danger to every person in or about or outside such amusement gallery. At all times while firearms may be loaded in such gallery the firearms shall be kept directed towards a target and no person shall while firearms may be loaded, remove or permit to be removed, any firearm from such gallery.

## **11.9 No Council Liability**

11.9.1 Council shall accept no liability for any injury or damage arising from activities in any amusement gallery licensed under this Bylaw.

## **11.10 Manager's Duty**

11.10.1 The manager shall at all times:

- a) Provide sufficient toilets in accordance with the New Zealand Building Code for use by staff and persons using the amusement gallery except where expressly provided by the licence.
- b) Keep the amusement gallery and conveniences in good repair, in clean condition, and well ventilated, to the satisfaction of Council.

## **11.11 Temporary Premises**

11.11.1 Premises equipped with amusements and operated for a period not greater than 14 days shall be regarded as Temporary Premises and shall not require a licence. However Temporary Premises shall comply with all other relevant clauses of this Bylaw.

## **11.12 Contrary to True Intent**

11.12.1 Where, in the opinion of the Council, the conduct of an amusement gallery is considered contrary to the true intent and meaning of the Bylaw, the Council may require removal of any amusements or take such other action as is deemed appropriate.

### **11.13 Behaviour Controls**

11.13.1 From and after the issue of any licence issues pursuant to this Bylaw and while he or she shall be the manager of the amusement gallery, the manager shall be personally responsible for the proper conduct of such amusement gallery and shall personally see that all the provisions or requirements of this Bylaw are duly carried out and observed.

### **11.14 Intoxicated Persons**

11.14.1 The manager of any amusement gallery shall not allow any intoxicated person or person under the influence of alcohol or mid altering substance to enter or remain in such amusement gallery nor shall the manager allow any person to use obscene or improper language, or behave in a noisy or improper manner.

### **11.15 Sale of Food**

11.15.1 If any food or drink is to be sold or intended to be sold in any amusement gallery, the approval of Council must be obtained before any licence is granted, renewed or transferred and the manager shall comply with all Statutes, regulations and Bylaws relating to premises in which food or drink are sold.

### **11.16 Right of Appeal**

11.16.1 Any manager or proprietor of any amusement device or amusement gallery who disagrees with any decision, order or direction given by Council shall have the right of Appeal to the Council. On hearing the Appeal, the Council committee may revoke, confirm or modify any such decision, order or direction.

## **12.0 LIQUOR CONTROL**

### **12.1 Acts Prohibited in Specified Public Places within the Waitomo District**

12.1.1 Subject to clauses, 12.2, 12.3 and 12.4 the following acts are prohibited at all times:

- a) The consumption of liquor in or at any Specified Public Place
- b) The bringing of liquor into any Specified Public Place
- c) The possession of liquor in or at any Specified Public Place
- d) In conjunction with any of the above prohibited acts, the presence or use of a vehicle in a public place, or other devices for the purposes of carrying liquor.

12.1.2 Specified Public Places are listed in Schedule B.

### **12.2 Exceptions to Prohibition for Residents and their Visitors**

12.2.1 Clause 12.1 does not apply to liquor in an unopened container for the purpose of the transport of that liquor from outside a Specified Public Place to premises that adjoin a Specified Public Place:

- a) By, or for delivery to, a resident of those premises or by his or her bona fide visitors or
- b) From those premises to a place outside the Specified Public Place by a resident of those premises or his or her bona fide visitors, provided the liquor is promptly removed from the Specified Public Place

### **12.3 Exceptions to Prohibition for Licensed Premises**

12.3.1 Clause 12.1 does not apply:

- a) In the case of liquor in an unopened container, to the transport of that liquor from premises adjoin a Specified Public Place during any period when under the Sale of Liquor Act 1989 it is lawful to sell liquor on those premises provided the liquor is promptly removed from the Specified Public Place.

- b) In the case of in an unopened container, to the transport of that liquor from outside a Specified Public Place for delivery to premises that adjoin the Specified Public Place provided the premises are licensed for the sale of liquor under the Sale of Liquor Act 1989.
- c) To the possession and or consumption of liquor at any premises within the Specified Public Place in compliance with a licence for the sale and or consumption of liquor under the Sale of Liquor Act 1989 including any footpath area that is defined under the appropriate liquor licence.

## **12.4 Exceptions for Special Licences**

- 12.4.1 Clause 12.1 does not apply to any part of the Specified Public Place in respect of which a Special Licence under the Sale of Liquor Act 1989 has been granted for any occasion or event described in the licences.

## **12.5 Offence**

- 12.5.1 Any person who acts in breach of this Bylaw commits an offence and is liable upon summary conviction to a fine as provided for in the Local Government Act 2002 which specifies a fine not exceeding \$20,000.

## **12.6 Police Powers**

- 12.6.1 Police powers of arrest, search and seizure under this Bylaw are outlined in sections 169 and 170 of the Local Government Act 2002. In summary, where a person is found to be in breach of this Bylaw, liquor is subject to seizure and forfeit to the Crown, if the person is convicted of breaching the Bylaw. A person may be arrested if found to be committing an offence under this Bylaw, or refusing to leave the area or refusing to surrender the liquor.
- 12.6.2 No warrant is required for the police to conduct a search to ascertain if liquor is present in a container or vehicle that is in or entering a Specified Public Place. However prior to exercising the power of search, a person must be informed that they have the opportunity to promptly remove the suspected container or vehicle from the Specified Public Place, and be given a reasonable opportunity to do so.

# **13.0 EXPOSING ARTICLES FOR SALE**

- 13.1 Except as provided for elsewhere in this bylaw no person shall expose for sale any article whatsoever on any footpath, or outside of any shop, shop window, or doorway abutting on any public place, so as to encroach on or over that public place, without the prior permission of Council, and then only in accordance with such conditions as Council may think fit to impose.

# **14.0 HAWKERS AND KEEPERS OF MOBILE OR TRAVELLING SHOPS**

## **14.1 Licence Required**

- 14.1.1 No person, whether acting on his/her own account, or as the servant of another person, shall engage in the trade of calling on, or carrying on business in any manner or to any extent as a hawker or keeper of a mobile or travelling shop with respect to goods or articles of any description whatsoever (except as provided in clause 12 and 13 of this part of the Bylaw), without having first obtained a licence from the Council to do so.

## **14.2 Application**

- 14.2.1 Every person desirous of obtaining a hawker's or keeper's licence shall make application to the Council on the standard application form for licences and permits in use at that time, and shall with such application furnish such evidence of good character as the Council may require, and in the case of an application for a keeper's licence shall state the number of vehicles to be used.

### **14.3 Sale of Food for Human Consumption**

- 14.3.1 Every application under the last preceding clause shall also state whether the applicant is desirous of hawking or selling from a mobile or travelling shop articles of food for human consumption and whether with or without other goods, wares or merchandise and in any case where a motor vehicle is to be used, shall specify the registered number of that vehicle.
- 14.3.2 If the applicant is desirous of hawking or selling articles of food for human consumption such application shall be accompanied by all licences which the applicant may be required to obtain under the provision of any Act, regulation or bylaw relating to the licensing and regulation of certain trades and businesses.
- 14.3.3 Before issuing any licence for a hawker or keeper of a mobile or travelling shop the Council shall satisfy itself that any motor vehicle to be used in connection with hawking or selling food for human consumption and that any premises to be used for the storage of such food, are suitable for the purpose.

### **14.4 Fees and Expiry of Licence**

- 14.4.1 The Council may issue licences to trade and carry on business as hawkers or keepers of mobile or travelling shops and every such licence, at whatever time of the year the same may be issued, shall terminate on a day and month then next ensuing as may be prescribed by resolution by the local authority, and for every such licence there shall be paid to Council such fee as the Council may by resolution from time to time prescribe for that particular class of licence.
- 14.4.2 The Council may at its discretion issue temporary licences upon payment of such fee whether per day or otherwise, and subject to such conditions as the local authority may impose.

### **14.5 Form of Licence**

- 14.5.1 Every hawker's or keeper's licence shall be in the format in use at the time of issuing and shall take effect according to the tenor thereof.

### **14.6 Production of Licence**

- 14.6.1 Every licensed hawker or keeper of a mobile or travelling shop shall at all times when hawking, or selling from his mobile or travelling shop carry his licence with him and shall show the licence to any constable or authorised officer of the local authority who shall demand production of the licence.

### **14.7 Name to Appear on Vehicle**

- 14.7.1 Every licensed hawker or keeper of a mobile or travelling shop whilst hawking or selling from his mobile or travelling shop or exercising or carrying on his business, trade or calling of hawker or keeper of a mobile or travelling shop in some conspicuous place on the exterior of any vehicle or container in which he takes or carries his goods or wares have his name legibly painted thereon in letters not less than 25mm in height.

### **14.8 Moving On**

- 14.8.1 No hawker or keeper of a mobile shop shall stand or remain stationary in any street save for such reasonable time as is required for the transaction of his business with any one customer.
- 14.8.2 Every licensed hawker or keeper of a mobile or travelling shop shall upon being requested so to do by any any Police officer or authorised officer of the Council and as often as so requested, alter his position and remove from the place in any street or public place where such hawker or keeper of a mobile or travelling shop may for the time being be hawking his goods or selling from his mobile or travelling shop to any other part or parts of such street or place or to any other street or public place indicated by such Police officer or authorised officer of the local authority.
- 14.8.3 Any person who fails to comply with any request made by any Police officer or authorised officer of the Council shall be guilty of an offence under this bylaw.

## **14.9 Council May Prescribe Conditions**

14.9.1 The Council may, either upon the issue of any licence to any hawker or keeper of a mobile or travelling shop or at any time by notice in writing served on any licensed hawker or keeper of a mobile or travelling shop:

- a) Prescribe any condition or conditions in compliance with which such hawker or keeper of a mobile or travelling shop must carry on his trade or business and any hawker or keeper of a mobile or travelling shop who shall fail to comply in all respects with any such requirements within any period specified for compliance shall be guilty of an offence against this part of this bylaw; or
- b) Require such hawker or keeper of a mobile or travelling shop to discontinue the use of any vehicle so employed by him.

14.9.2 It shall be a condition of the licence where a vehicle is to be used for the sale of food for human consumption that no vehicle other than that specified in that licence shall be used for the purpose without the approval of the Environmental Health Officer of the Council.

## **14.10 Licence not Transferable**

14.10.1 No licence issued under this part of this bylaw shall be transferable to any other person and no such licence shall authorise any person other than the person named therein to carry on the trade or business of a hawker or to keep a mobile or travelling shop.

## **14.11 Cleanliness of Vehicle**

14.11.1 Every licensed hawker or keeper of a mobile or travelling shop or any person operating on behalf of such hawker or keeper who takes or carries about any article of food for sale shall keep and maintain every vehicle, box, basket, pack or other container used or connected therewith in a thoroughly clean and sanitary condition to the satisfaction of the Council's Environmental Health Officer.

## **14.12 Exemptions**

14.12.1 The provisions of this part of this bylaw shall not apply:

- a) to the owner of a fishing boat registered under the fisheries Act 1983 and in respect of which a boat-fishing permit is for the time being in force, where he or a person appointed by him in that behalf sells fresh fish or fresh shellfish (being fresh fish or fresh shellfish taken from that boat in accordance with the conditions of the permit) from that boat at the place where it is moored, berthed or beached or from a stall (including a vessel used as a stall) within 450m of that place; or
- b) To the sellers of printed books, pamphlets, magazines or newspapers.

## **14.13 State Highways**

14.13.1 In the case of a state highway, with the prior consent of the New Zealand Transport Agency, Council may prohibit hawkers, pedlars, keepers of stalls (including vehicles used as stalls), and keepers of mobile or travelling shops to occupy stands:

- a) In specified roads or state highways or parts of specified roads or state highways; or
- b) Where the presence of the stall or stand is likely to cause an obstruction or a danger to traffic, in any public place adjoining specified roads or state highways or parts of specified roads or state highways.

## **15.0 ITINERANT TRADERS**

### **15.1 Licence Required**

- 15.1.1 No itinerant trader shall sell or offer to expose for sale any goods, wares or merchandise whatsoever without having first obtained a licence from the Council authorising him to do so.
- 15.1.2 Such application shall be on the standard application form for licences and permits in use at that time, and the applicant shall with his application furnish such evidence of good character as the Council may require.
- 15.1.3 Every itinerant trader's licence shall be in the format in use at the time of issuing and shall remain in force for the term of 1 year from the day of issue thereof and no longer.

### **15.2 Licence Fee**

- 15.2.1 For every such licence there shall be paid to the Council before the issue of such licence such amount by way of licence fee as is prescribed from time to time by resolution of the Council.

### **15.3 Refund of Licence Fee**

- 15.3.1 If during the continuance of any such licence the licensee named therein shall remain continuously in business in the district aforesaid for a period of not less than 6 months, the licence fee paid by him as aforesaid in respect of the licence in force during such period shall be refunded.

## **16.0 STANDS AND STALLS**

### **16.1 Permit Required**

- 16.1.1 No person shall without having first obtained a permit from the Council so to do:
- a) Stand in or occupy any portion of any public place with, or place or maintain on any portion of any public place, any stall, structure or contrivance for the purpose of distributing or selling any food or refreshments, newspapers, lottery tickets, textiles, hardware; or
  - b) Stand in or occupy any portion of any public place with, or place or maintain on any portion of any public place any weighing, knife-grinding, automatic vending or slot entertainment machine or any other similar structure, apparatus or contrivance.

### **16.2 Application**

- 16.2.1 Every application for a permit shall be on the standard application form for licences and permits in use at that time.

### **16.3 Conditions of Permit**

- 16.3.1 Every permit shall be issued by the Council and shall be subject to such conditions as the Council may impose and shall state therein the term of expiry thereof, the portion of any public place on which the applicant is permitted to stand, the hours during which he may so stand, the class of article or goods he proposed and is permitted to sell, and no person shall stand or sell except in conformity with the terms of such permit.

### **16.4 Permit Fee**

- 16.4.1 For every such permit there shall be payable to the Council such fee as the Council may by resolution from time to time prescribe.

## **16.5 Transfer**

16.5.1 No person shall transfer his permit to any other person neither stand nor sell either under the authority of a permit issued to any other person or at a place not mentioned in his permit or directed by the Council.

## **16.6 State Highways**

16.6.1 In the case of a state highway, with the prior consent of the New Zealand Transport Agency, Council may prohibit hawkers, pedlars, keepers of stalls (including vehicles used as stalls), and keepers of mobile or travelling shops to occupy stands:

- a) In specified roads or state highways or parts of specified roads or state highways; or
- b) Where the presence of the stall or stand is likely to cause an obstruction or a danger to traffic, in any public place adjoining specified roads or state highways or parts of specified roads or state highways.

## **17.0 AWNINGS AND BLINDS**

17.1 No person shall erect or maintain, or cause to be erected or maintained, any awning over any public place, or hang any awning, blind, or screen from any portico on any public place except with the permission of an authorised officer. In granting such permission an authorised officer may set such conditions as is deemed appropriate. Any such permission may be revoked at any time by an authorised officer.

## **18.0 PROJECTIONS ON PUBLIC PLACES NOT PERMITTED**

18.1 Except where permitted by this bylaw or by Council consent no person shall put any portico, projecting window, balcony, wall, lamp, door step, cellar door, lamp post, signboard, window shutter, gate post, or other obstruction or projection of any kind whatsoever in, on, over or under a public place or in such a position as to interfere with or obstruct in any way the free passage of pedestrians or traffic upon any public place.

18.2 This restriction shall not apply to any veranda or awning erected pursuant to a requirement of a District Plan.

18.3 In any such projection or obstruction as aforesaid has been placed against or in front of any building before the coming into operation of this bylaw and which is contrary to any bylaw in force, Council may give notice to the owner or occupier of such building to remove, or to alter such projection or obstruction, and such owner or occupier shall, within the time stated in such notice, remove, or alter such projection or obstruction.

18.4 No person shall stand on any veranda erected over a public place except for the purpose of inspection, maintenance or egress in the case of fire.

## **19.0 ROAD AND BUILDING IDENTIFICATION**

19.1 The Council shall have the exclusive right to cause to be painted or affixed on a conspicuous part of the building, the name of the road, private road or public place to which it has frontage.

19.2 Notwithstanding that a building or property is identified by other means, the owner or occupier of every building or group of buildings forming part of a complex or of the property shall mark such building or complex with numbers no less than 50 mm in height for residential buildings and not less than 150mm in height for all other buildings. Numbers shall be as allocated or approved by an authorised officer and displayed in a position so as to be readily visible from the road to which it has frontage. Numbers required by shall be maintained by the owner or occupier in such a manner as to readily identify the property at all times.

- 19.3 Council shall have power at any time to alter the number of any building where in the Council's opinion it may be necessary or advisable to do so.

## **20.0 VEHICULAR CROSSINGS**

- 20.1 Any person wishing to construct, repair, remove or widen any vehicular crossing over any public place shall first obtain a permit from the Council.
- 20.2 A permit issued by the Council may be subject to such conditions concerning dimensions and materials as the Council may consider reasonably necessary to protect the road (including any footpath or berm) adjacent to the vehicular crossing, and to ensure safe and convenient use of the road by pedestrians and vehicles.
- 20.3 No person shall drive, ride, propel, or wheel any motor vehicle across any footpath or water channel in any public place otherwise than upon a crossing properly constructed under the provisions of this bylaw.
- 20.4 If in the opinion of the Council any crossing is in a bad or unsafe state of repair, Council may by notice in writing, require the owner of the land which the crossing provides access to, to repair, reconstruct, or renew such crossing to the satisfaction of Council. Every such owner or occupier who fails to comply with any such notice within the period specified shall commit an offence against their Part of this bylaw.

## **21.0 RESTRICTIONS ON USE OF BARBED WIRE AND ELECTRIFIED FENCES**

- 21.1 Except with the permission of an authorised officer:
- a) No person shall erect or permit to be erected any electrical fencing or barbed wire along, or within 1 metre of any boundary line between any land or building on the one side, and any public place on the other side:
- Provided that this sub-clause shall not prohibit the placing of such barbed wire at a height if not less than 2 metres or electrified fencing not less than 3 metres from the level of the ground of any such public place.
  - Further provided that this Sub-clause shall not apply within any area which has a predominantly rural character under the District Plan prepared by Council, except when the fence abuts or adjoins a footpath; provided that Council may from time to time by resolution specify conditions that will apply to temporary electric fences.

## **22.0 ANIMALS AND STOCK IN PUBLIC PLACES**

### **22.1 Public Places**

- 22.1.1 No person shall take or allow any animal under their control onto any public place if the Council has by resolution or public notice prohibited entry of that type of animal to that public place.
- 22.1.2 Any person having control of stock or any public place shall ensure that the stock is kept under proper control, with consideration for other persons using the public place.
- 22.1.3 No person shall drive any stock on any road during the periods between half an hour after sunset and half an hour before sunrise unless sufficient warning is provided and maintained by such person by the use of lights or other effective device or means to ensure that other persons using such road shall have adequate notice of the presence of such animals on the road.

22.1.4 No person shall:

- a) Permit stock to be moved across or along any public place unless an alternative route is not reasonably available;
- b) Permit any stock to be on a reserve, beach or other area designated as an areas prohibited to stock without the prior consent of an authorised officer;
- c) The grazing of stock on road reserves in predominantly rural areas is permitted subject to the animals being contained in adequate temporary fences.
- d) Graze stock in any other public place except in accordance with Council policy.

22.1.5 Any person having control of stock in any public place shall ensure that the stock are moved in such a manner and by such points of access to an exit from the road as to ensure that damage is not caused to the public place.

22.1.6 Any person having control of stock being moved on any public place in an urban area shall ensure that excrement; urine or other matter deposited upon the public place from such work is removed, and disposed of in an appropriate manner.

22.1.7 Any person being the owner of, or having control of any horse in a public place in an urban area shall immediately remove any faeces deposited by that horse from the public place.

22.1.8 Subject to the requirements of this section every person being the owner or having the care, custody, or control of any animal shall keep and prevent the same from wandering or being at large without proper guidance on any public place.

## **SCHEDULE A: SKATEBOARDS**

Areas where riding of skateboards is prohibited on footpaths and other public places are as follows:

- Rora Street, Te Kuiti (between Alexandra Street and Lawrence Street)
- King Street East and Sheridan Street, Te Kuiti (between Rora Street and Taupiri Street) and Moa Street, Piopio (from Kea Street North to Tui Street).

## **SCHEDULE B: LIQUOR CONTROL**

Specified Public Places:

The part of this Bylaw dealing with Liquor Control applies to the following locations:

- Redwood Park, Te Kuiti
- Rora Street, Te Kuiti
- Lawrence Street, Te Kuiti – between Rora Street and the Esplanade
- Sheridan Street, Te Kuiti - between Rora Street and the Esplanade
- King Street East, Te Kuiti- between Rora Street and Jennings Street
- Alexandra Street, Te Kuiti
- Taupiri Street, Te Kuiti - between Lawrence Street and Alexandra Street
- Both banks of the Mangaokewa River, Te Kuiti between Redwood Park and the Te Kuiti Bowling Club
- RSA Memorial Park, Te Kuiti

Public Places include, but are not limited to, Streets, Service Lanes, Lanes, Footpaths, Carparks and Reserves.

This schedule may be amended from time to time by public notice made by the Waitomo District Council. Such notices shall be made in the public notice section of newspapers as Waitomo District Council sees fit and be made no less than fourteen (14) days before the change is to apply.