

Kaipara District Council

Consolidated

General Bylaw

2020

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Kaipara te Oranganui

**KAIPARA
DISTRICT**

Two Oceans Two Harbours

Consolidated General Bylaw 2020

Part 2 – Public Places

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1. Purpose

1.1 The purpose of this Part of the Bylaw is to regulate a diverse range of activities for the well-being and enjoyment of the public in public places. Communities need to feel safe and maintain high confidence in their ability to visit and conduct business in public places.

Part 2 seeks to:

- a. protect the public from nuisances
- b. protect and maintain public health and safety
- c. minimise the potential for offensive behaviour
- d. manage public land under the control of the Council.

The Bylaw does not duplicate statutory provisions. It seeks to complement existing statutory provisions that may also affect public places such as under the Local Government Act 1974 and 2002, the Resource Management Act 1991 and the Building Act 2004, by addressing specific needs assessed in the community from time to time.

Council shall accept no liability for any damage arising from the activities in any public place and permitted under this Bylaw.

2. Interpretation

2.1 In this Bylaw, unless the context otherwise requires:

<i>Advertising devices</i>	means a structure or device, which conveys information or directions of any kind and is intended for advertising purposes that is external to a building and visible from a public place, or inside a building and visible from a road.
<i>Amusement devices</i>	includes any land-borne inflatable devices, fairground rides and any other mechanically-powered unit that is used for rider entertainment.
<i>Busking</i>	means any transient street entertainer performing for donations.
<i>Infrequent</i>	means no more than once a week on an unsealed road and no more than once a fortnight on a sealed road.
<i>Psychoactive substance</i>	Has the meaning in section 9 of the Psychoactive Substance Act 2013.
<i>Stall</i>	means any structure or thing controlled by an organisation or a person occupying any portion of any public place for the purpose of advertising and/or selling any food or refreshments, newspapers, lottery tickets, textiles, hardware or merchandise.
<i>Vehicle crossing</i>	means a formed vehicle access from the carriageway of any road to a property adjacent to the road and includes any culvert, bridge or kerbing.
<i>Vaping</i>	Is the use of electronic cigarettes and the use of heated tobacco products (HTPs), and vape has the equivalent meaning.

Wheeled recreation device has the meaning in the Land Transport (Road User) Rule 2004.

3. Public safety and nuisances

- 3.1 Except with the prior written permission of Council or an Authorised Officer and in accordance with any conditions that may be required, a person shall not on any public place:
- a. place or leave litter or any material, thing or substance that is likely to be hazardous or cause injury to any person, or likely to create a nuisance
 - b. cause or allow any material or thing to be deposited onto a public place or road
 - c. dispose of, the body or part of the body of any animal into a public place or into any water body or onto any bank thereof
 - d. deposit, discharge or leave any offensive or dangerous matter or cause pollution of any river, stream, pond, lake, watercourse, or open drain
 - e. 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
 - f. cause a nuisance by flying from or land any aeroplane including model aeroplanes, helicopter, drones, hot air balloons or hang-gliders except in an emergency
 - g. consume, inject or inhale any psychoactive substances or offer or sell such substances to any person
 - h. play any game, use or ride any object including but not limited, to skating devices or similar, bicycles or motorised scooters, recklessly or in a manner which may intimidate, be dangerous or cause injury or cause a nuisance to persons in any public place, or damage the public place
 - i. erect or place any structure on, over or under any public place except in compliance with any other Part of this Bylaw
 - j. light any fireworks or explosive material near or on any public place as to endanger, annoy or frighten passers-by or cause distress to animals and wildlife.
- 3.2 An Authorised Officer may give written notice to an owner or occupier requiring them to repair or remove any fence, wall, retaining wall or any other structure encroaching on a public place or posing some danger, if in the Authorised Officer's opinion the said fence, wall, retaining wall, or adjacent land is in a condition that could cause damage or injury to a person.

4. Wheeled recreation devices

- 4.1 Council may by resolution publicly notified:
- a. designate areas in which the use of all or specified wheeled recreational devices is prohibited
 - b. add to, amend, or remove areas designated under a.
- 4.2 Except with the prior permission of Council or an Authorised Officer, a person shall not use a wheeled recreational device:
- a. in an area contrary to a prohibition made under clause 4.1

- b. in any public place, in a manner that may cause damage to any property or is inconsiderate or harmful to others.

Explanatory Note: A list of the areas which are subject to a resolution made under clause 4.1a. is maintained together with this Bylaw.

5. Obstructing public places

- 5.1 No person without the express prior written permission of an Authorised Officer and in accordance with any conditions that are imposed shall in a public place:
 - a. obstruct the entrances to or exits from a public place
 - b. place, carry or leave any material or thing, that could obstruct the public right of passage
 - c. allow any gate or door on property abutting or next to a public place, to swing over or across a public place or any part of it
 - d. carry out any work on any motor vehicle, unless the work is essential to move the vehicle after an accident or in an emergency.
- 5.2 Council may require the alteration or removal of any material, building or thing placed on, over or under a public place in contravention of this Bylaw, by giving notice to the owner. The owner shall comply with any notice within the time stated in the notice.

6. Encroachment to be removed upon notice

- 6.1 No person shall construct or place any work or thing, including any material, part of a building or structure on, under, over or across any public place without first obtaining the prior written approval of Council.
- 6.2 Council may by written notice require the owner to remove any work or thing that has been constructed or placed upon, under, over or across any public place.
- 6.3 Any notice issued under clause 6.2 may require such precautions to be taken as Council thinks fit for the safety of the public and for the proper securing of such work or thing that may remain after such removal.

7. Removal of works

- 7.1 Where a notice served under clause 6.2 has not been complied with in the timeframe specified in the notice, an Authorised Officer may remove or alter any work or thing constructed or placed under, over or across any public place in contravention of this Bylaw.
- 7.2 Council may recover costs from any person responsible for the construction or permitting the continued existence of any such work or thing, all costs incurred in connection with any removal or alteration. This includes the cost of debt collection and legal fees.
- 7.3 The exercise of this authority under clause 6.2 shall not release any such person of any penalty for erecting or permitting the continued existence of any such work or thing.
- 7.4 Council may take immediate action and recover all reasonable costs of doing so, if the Council considers that the breach causes a public health or safety concern or there is a risk of consequential damage to Council assets.

- 7.5 Subject to clause 7.6 on payment of all Council's costs, including storage where applicable, the lawful owner may claim any work or thing removed under clause 7.1 or 7.3.
- 7.6 If not claimed within 6 months, Council may notify the owner pursuant to section 168(2) of the Local Government Act 2002 that it intends to dispose of the work or thing. If not claimed within the time period specified in the notice, Council may dispose of any work or thing as it sees fit and apply any proceeds to meet any outstanding costs. The lawful owner shall be entitled to claim any remaining amount.

Explanatory note: The powers to remove, seize and dispose of works under this clause are subject to sections 163 to 168 of the Local Government Act 2002.

8. Damage to public places

- 8.1 Except with the prior approval of Council or an Authorised Officer, and in accordance with any conditions in such approval, a person in a public place shall not:
- a. damage, interfere with, destroy or remove any grass plot, flowerbed, tree, shrub or plant growing there 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 facility
 - c. cause or permit to be done any act whatsoever by which damage is caused to any public place, or any work or thing in, on, over or under the public place
 - d. damage or interfere with any natural feature, animal or plant
 - e. use any vehicle, any object, or be in control of an animal in any manner so that it damages any part of a public place
 - f. drive or park any vehicle in a public place, including footpaths, except in an area set aside for the driving or parking of vehicles
 - g. remove any sand, soil or other naturally occurring material found in a public place
 - h. remove any metal or gravel placed in a public place by Council or agent of Council
 - i. open, damage or obstruct any culvert, drain or sewer on any public place
 - j. disturb or remove the surface of, any public place.
- 8.2 Any person carrying out authorised works on a public place shall provide reinstatement of the works to a standard approved by an Authorised Officer.

9. Placing of articles on public places

- 9.1 No person shall place or leave any material or thing, amusement devices or items for sale or hire, on any public place except:
- a. if they have written approval by Council or an Authorised Officer and subject to any such conditions as may be imposed
 - b. for the purpose of waste or other collections from the public place authorised by Council
 - c. if they have approval given under any other Part of this Bylaw or any other bylaw.

10. Exposing articles for sale

- 10.1 Except in accordance with any licence having first been obtained from Council or an Authorised Officer and in accordance with any conditions that may be required, a person shall not on any public place:
- a. expose for sale any article whatsoever on any footpath, or outside any shop or other business premises, or doorway connected to any public place, so as to encroach onto any public place, or hang or suspend any article over such public place, (refer to Part 3 of this Bylaw in relation to Trading in Public Places, and trading as a Hawker, Mobile shop or itinerant trader)
 - b. place any table, trestle, chair, seating, display stand, stall or otherwise display, advertise or sell any goods or services, (refer to Part 3 of this Bylaw in relation to Trading in Public Places, and trading as a Hawker, Mobile shop or itinerant trader)
 - c. park a vehicle or trailer displaying advertising or sales material on any public place including any parking place or transport station. This restriction includes vehicles and trailers that are for sale and mobile billboards.

11. Vehicle crossings

Any person wishing to construct, repair, remove, reconstruct or widen any vehicle crossing shall apply to an Authorised Officer for permission and pay such fees as

- 11.1 prescribed in Council's Fees and Charges.
- No person shall construct, repair, remove, reconstruct, relocate or widen any vehicle crossing without first having obtained a permit from an Authorised Officer.
- 11.2 A permit issued by Council under clause 11.2 may be subject to such conditions and standards the Authorised Officer considers reasonably necessary to ensure protection of the road adjacent to the vehicle crossing, and to ensure safe and convenient use of the
- 11.3 road by pedestrians and vehicles.
- A permit for the construction, repair, removal, reconstruction, relocation or widening of a vehicle crossing, and is not subject to a resource consent, shall be valid for six (6) months,
- 11.4 during which time the work shall have been completed, to the satisfaction of an Authorised Officer.
- If construction, repair, removal, reconstruction, relocation or widening of a vehicle crossing has not been completed within six months of the date of issue of the permit, the
- 11.5 permit shall be deemed to have expired and the permit holder shall be required to apply for a fresh permit and pay a further fee before construction, repair, removal, reconstruction, relocation or widening can begin or be continued.
- 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 vehicle crossing properly
- 11.6 constructed under the provisions of this Bylaw. This does not include driving across a water channel along a beach within the district.
- If in the opinion of an Authorised Officer any vehicle crossing is in a bad or unsafe state of repair, an Authorised Officer may by notice in writing, require the owner of the land to
- 11.7

which the vehicle crossing provides access, to repair, reconstruct, or renew such crossing to the satisfaction of an Authorised Officer. Every such owner or occupier who fails to comply with any such notice within the period specified shall be guilty of an offence against this part of this Bylaw.

- 11.8 Where a vehicle crossing is required and has not been constructed or has not been correctly constructed an Authorised Officer may by notice in writing, require the owner of the land to which the vehicle crossing is required to provide access, to obtain a vehicle crossing permit in accordance with this Part of the Bylaw and to construct the vehicle crossing in accordance with that permit. Every such owner or occupier who fails to comply with any such notice within the period specified shall be guilty of an offence against this Part of this Bylaw.

12. Assembly

- 12.1 No person shall, without the prior written consent of an Authorised Officer, participate in any assembly or associate with other persons on a public place in such a way as to impede pedestrian or vehicular traffic or to prevent or hinder ready access to shops or premises facing onto the public place.

13. Awnings and blinds

- 13.1 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 are considered appropriate. Any such permission may be revoked at any time by an Authorised Officer.

14. Projections on public places not permitted

- 14.1 Except where permitted by any other Part of this Bylaw or by Council consent, no person shall put any portico, projecting window, balcony, wall, lamp, doorstep, cellar door, lamp post, window shutter, gatepost, or other obstruction or projection of anything 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.

15. Restrictions on use of barbed wire and electrified fences

- 15.1 Except with the written permission of an Authorised Officer:
- a. no person shall erect or permit to be erected any electrified fencing or barbed wire along, or within one metre of any boundary line between any land or building on the one side, and any public place on the other side
 - b. no person shall renew or repair or join, in whole or in part, any existing or future fence, along, or within one metre of any such boundary line as said above, with barbed wire, or electrified wire.
- 15.2 clause 15.1a. shall not apply within any Rural Area, except when the fence borders on or adjoins a footpath.

16. Road and building identification

- 16.1 Council shall have the exclusive right to paint or affix on a clearly visible part of a building, the name of the road, private road or public place to which it has frontage.
- 16.2 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 50mm in height for residential buildings and at least 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.
- 16.3 Numbers required by clause 16.2 shall be maintained by the owner or occupier in such a manner as to readily identify the property at all times.
- 16.4 Council shall have the power at any time to alter the number of any building where it may be in Council's opinion necessary or desirable to do so.

17. Animals and stock on public places

- 17.1 No person shall take or allow any animal under their care or 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.
- 17.2 See also Council's Policy on Dogs and Dog Management Bylaw and Part 6 Keeping of Animals, Poultry, Stock and Bees.
- 17.3 No person shall take or allow stock under their care or control onto a public place except as provided in other statutes, regulations and bylaws.
- 17.4 Any person having control of stock on any public place shall ensure that the stock are kept under proper control, with consideration for other persons using the public place.
- 17.5 No person shall drive any stock on any road including a beach during the period 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 devices or means to ensure that other persons using such road shall have adequate notice of the presence of such stock on the road.
- 17.6 No person shall drive any stock along any road including a beach within the district except:
- a. in the case of escape or emergency
 - b. for the infrequent movement of stock up to five kilometres but not in an urban area
 - c. with the prior written permission of an Authorised Officer.
- 17.7 No person shall move stock along or across a road where they may reasonably move the cattle along private land instead. Where it is not reasonable to move cattle on private land those cattle shall not be moved on a public place unless it is with the prior written consent of an Authorised Officer who may set such conditions as the Authorised Officer considers necessary.
- 17.8 Council may by resolution publicly notify certain roads to be stock routes and prohibit or restrict the use of any public place or urban area for the driving of stock. Any public notification of a route, prohibition or restriction may be altered or revoked by a further

Council resolution publicly notified. This shall not apply to any person who rides or leads a horse under proper control on a road.

- 17.9 Subject to the requirements of clauses 17.1 to 17.8 every person being the owner or having the care, custody, or control of any animal shall keep and prevent the animal from wandering or being at large without proper control on any public place.

Explanatory Note: See also Council's Policy on Dogs and Dog Management Bylaw.

18. Vegetation liable to obstruct

- 18.1 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.

19. Additional requirements for reserves

- 19.1 Subject to the provisions of this Part of this Bylaw every reserve shall be open to the public at all times except during such hours as Council or an Authorised Officer may determine that any reserve shall be closed to the public.
- 19.2 An Authorised Officer may set aside areas of a reserve, for the exclusive use of particular groups or for particular kinds of recreational activities to take place there for such periods as they think fit. An Authorised Officer may set conditions upon such approvals and Council may charge for the right to have exclusive use of a reserve.
- 19.3 Council may fix charges for the entry to a reserve or part of it, and it shall be an offence against this Part of the Bylaw to enter a reserve or part of it without having paid the proper charge for entry if a charge is payable.
- 19.4 An Authorised Officer may close or restrict entry to all of, or any portion of, a reserve at such times as are considered necessary to prevent damage to, or allow maintenance of, the reserve, or for safety reasons. Any closure shall be advertised by signs at the entrance(s) to the reserve. It shall be an offence against this Part of the Bylaw to be found on a reserve at any time when the reserve is closed to public entry.
- 19.5 Apart from the requirements of any other clause of this Part of the Bylaw a person shall not on any reserve:
- 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 of camping. In this context camping shall include the use of any vehicle for sleeping whether or not it is specially set out for sleeping.
- 19.6 The exercise of any powers in clause 19 is subject to the Reserves Act 1977.