

WAITAKERE CITY COUNCIL

DRAFT PUBLIC PLACES BYLAW 2010

EXPLANATORY NOTE

- The Local Government Act 2002 gives authority to territorial authorities to protect the public from nuisance, protect, promote and maintain public health and safety and minimise the potential for anti-social behaviour in public places under the control of council. It also allows territorial authorities to make bylaws to manage and regulate activities carried out in public places under the control of council and to protect public places from loss, damage and misuse.
- This [Draft] Public Places 2010 bylaw seeks to regulate and manage a diverse range of activities in public places under the control of Waitakere City Council that may cause damage, create public nuisance, and compromise public safety.
- Public places under the control of Waitakere City Council include roads, footpaths and public squares, grass verges, berms, public gardens, reserves and parks, beaches, wharves, breakwaters, ramps and pontoons, foreshores and dunes, access ways, cemeteries, recreational grounds and sports fields. Part 5 of the bylaw regulates the use of these places.
- The bylaw covers activities in public places include commercial activity such as trading and promotion of goods and services, street performance and busking, and entertainment activities and demonstrations, and events. The bylaw also provides for the requirements of building identification and numbering of premises. Part 6 of the bylaw regulates the use public places for these activities.
- The bylaw also seeks to regulate and manage activity in public places under the control of council that may compromise Waitakere City Council's ability to maintain appropriate standards of convenience, safety and amenity for the well-being and enjoyment of citizens, visitors and businesses with the city. Parts 7 and 8 regulate the land adjoining public places and such matters as vehicle crossings, street damage bonds, and numbering of buildings.
- The council also has powers under the Reserves Act 1977, Health Act 1956, Litter Act 1979, and other legislation concerning activities in public places. The powers within these Acts and Regulations are not repeated in this bylaw.
- The [draft] Use of Roads and Parking Bylaw 2010 regulates parking and other vehicular activities on roads and public places.

CONTENTS

Part 1	Introduction and interpretation
Part 2	Obstruction, Nuisance, Threat to Public Health and Safety and Offensive Behaviour
Part 3	Damage
Part 4 (a)	Specific Public Places
(b)	Parks and Reserves
(c)	Beaches and Waters
	Cemeteries and Crematoria
Part 5	Trading in Public Places
Part 6	Land Adjoining a Public Place
Part 7	Street Numbering
Part 8	Enforcement and Penalties

PART 1:
INTRODUCTION AND INTERPRETATION

1 Citation

This bylaw may be cited as the Waitakere City Council Public Places Bylaw 2010.

2 Commencement

This bylaw comes into force on [*proposed date of 13 September 2010*] (“the commencement date”).

3 Revocations

3.1 The following bylaws shall be revoked with effect from the commencement date:

- (a) Bylaw No 4 Chapter 2 – Public Places (1990)
- (b) Bylaw No 4 Chapter 4 – Mobile or Travelling Shops and Hawkers (1990)
- (c) Bylaw No 4 Chapter 17 – Parks and Reserves (1990)
- (d) Bylaw No 7 – Traffic (1991)
- (e) Bylaw No 8 – Barbed Wire Fences (1990)
- (f) Bylaw No 9 – Beaches and Waters (1990)
- (g) Bylaw No 18 – Cemeteries and Crematoria (1990)
- (h) Bylaw No 22 – Use of Public Roads (1990)

4 Purpose

4.1 This bylaw is made under sections 145 (a) – (c) of the Local Government Act 2002 and 146(b)(v) and (vi).

4.2 Its purpose is to regulate and control a range of activities in and on public places which includes but is not limited to roads, reserves, parks, beaches, and other places under the control of the Council or a council controlled organisation in order to:

- (a) Protect the public from nuisance in a public place;
- (b) Protect, promote and maintain public health and safety in public places;
- (c) Minimise the potential for offensive behaviour in public places;
- (d) Regulate trading in public places;
- (e) Protect assets, structures and infrastructure in and on public places from damage, misuse or loss.

5 This bylaw is subject to the [draft] General Administration bylaw.

6 Interpretation

In this bylaw unless the context otherwise requires or where otherwise expressly provided:

- (a) “**Act**” means the Local Government Act 2002
- (b) “**Animal**” means any member of the animal kingdom including any mammal, bird, finfish, shellfish, reptile, amphibian, insect, or invertebrate and includes the carcass of constituent parts but does not include dogs and human beings.
- (c) “**Authorised Officer**” means any person authorised by the Council to carry out any of the duties provided for in this bylaw.
- (d) “**Busker**” means any person(s) who play(s), act(s), sing(s), dance(s) or otherwise performs or entertains in a public place for reward or for voluntary or otherwise.
- (e) “**Busking**” means any street performance for voluntary donations
- (f) “**Cemetery Manager**” means any person appointed by the Council to control or manage or assist in the control and management of any cemetery or crematorium under the jurisdiction of the Council and to carry out burials and cremations as provided in this bylaw.
- (g) “**Council**” means the Waitakere City Council or any successor to it.
- (h) “**Council controlled organisation**” has the same meaning as in section 6 of the Local Government Act 2002.
- (i) “**Council organisation**” has the same meaning as in section 6 of the Local Government Act 2002.
- (j) “**Deposit**” means:
 - i. casting, placing, leaving, throwing, allowing to escape or dropping of litter or any other materials, substances, items or things in a public place; and
 - ii. includes allowing without reasonable excuse any materials, substances, items or things to escape into or be deposited in a public place.
- (k) “**Footpath**” includes the means that part of the road as is laid out or constructed for use by pedestrians, and includes a grass verge or berm, kerbing, and channelling but does not include the carriageway.
- (l) “**Foreshore**” as used in this bylaw means that part of the seaward boundary situated between the existing seaward boundary and the line of the low water springs.
- (m) “**Market**” means a place where private, commercial or charitable stalls occupied by traders, gather together to offer goods for sale or exchange or service for reward, on a temporary basis and includes a street market, craft market or other similar market.
- (n) “**Hawker**” means a person or group of persons who carries or takes about any goods, wares or merchandise for sale, or displays or offers any goods, wares or merchandise carried or taken about, other than pursuant to any invitation to call

with, or any previous order or request for such goods, wares or merchandise. It does not include a mobile shop, a stall, or a busker.

- (o) **“Mobile or travelling shop”** means a vehicle, whether self-propelled or not from which goods, wares, or merchandise are offered or exposed for sale, or from which goods, or services may be ordered (whether or not in pursuance of any invitation to call with the goods, wares, or merchandise), in a public place and does not remain stationary at the same location for greater than 30 minutes but does not include:
 - i. any vehicle used for the purpose of transporting and delivering goods pursuant to a prior order placed for the delivery of goods, or.
 - ii. a mobile library
- (p) **“Nuisance”** has the same meaning as Section 29 of the Health Act 1956 and includes a person, animal, thing or circumstance causing distress or annoyance or unreasonable interference with the peace, comfort or convenience of another person;
- (q) **“Outdoor café”** means an outdoor seating area established in a public place, with the consent of the Council where food and drink may be consumed.
- (r) **“Public Place”** means a place that open to, or being used by the public, whether or not there is a charge for admission and includes a road, whether or not the road is under the control of the Council.
- (s) **“Reserve”** includes any land set aside for public purpose under the management or control of the Council and includes open spaces, parks, gardens and grounds set apart for public recreation, including national and regional parks;
- (t) **“Road”** has the same meaning as in section 315(1) Local Government Act 1974 and includes roads in cemeteries and all land within the legal boundaries of the road irrespective of whether it has been formed as carriageway, footpath or grass verge.
- (u) **“Stall”** means a stall, stand, tent, barrow, awning, table, trestle, structure, contrivance, or, temporary structure or place on, at or from which goods, wares merchandise or services may be purchased or ordered and may include a mobile shop.
- (v) **“Vehicle”** has the same meaning as in Section 2 of the Land Transport Act 1998 and means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved and includes a vehicle drawn or propelled by mechanical power.
- (w) **“Weapon”** means any article capable of being used for causing bodily injury.

PART 2:

OBSTRUCTION, NUISANCE, THREAT TO PUBLIC HEALTH AND SAFETY AND OFFENSIVE BEHAVIOUR

7 Restrictions on use of public places:

- 7.1 In order to protect public property, safety and amenity, no person shall in any public place behave in such a way as to cause any obstruction or nuisance to the enjoyment of public places or threaten public health and safety or be offensive, including but not limited to:
- (a) Place or leave any material or thing, including any sign that could cause an obstruction or permit any obstruction to remain, in or upon any public place including any water course or channel;
 - (b) Carry out any activity where a sign indicates that the activity is prohibited, or is otherwise regulated or a an Authorised Officer instructs the person not to undertake that activity because the Authorised Officer is of the opinion that the activity is a threat to public safety, is causing a nuisance, or may to damage of property;
 - (c) Carry out any work on any 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;
 - (d) Deposit or discharge or leave any offensive, inflammable, hazardous or dangerous substance or pollute any stream, pond, water supply or body of water;
 - (e) Unless otherwise authorised use any object including but not limited to skateboards, roller blades, roller skates, bicycles, or vehicles in a manner which may:
 - i. intimidate other persons in the public place, or
 - ii. be dangerous or injurious in the public place, or
 - iii. cause a nuisance or annoyance to persons or damage the public place;
 - (f) Unless otherwise authorised, play any game which includes the use of, but is not limited to the use of skateboards, roller blades, roller skates, bicycles, or vehicles in a manner which may:
 - i. intimidate other persons in the public place, or
 - ii. be dangerous or injurious in the public place, or
 - iii. cause a nuisance or annoyance to persons or damage the public place
 - (g) Light any fire except in a council-provided barbeque or fireplace (subject to any restriction imposed by the council from time to time), or light a signal flare except in emergency or set fire to any vegetation or let off any fireworks;
 - (h) Camp or reside in an area not set aside for that purpose, whether in a vehicle or otherwise;
 - (i) Cause or allow any oil or harmful liquid to escape onto sealed or paved road surfaces which creates, or is likely to create a danger or nuisance to other users;
 - (j) Use or carry any firearm, axe, sword, spear, airgun, bow and arrow or other weapon;

- (k) Drive a vehicle so as to be a danger to any persons, or in a manner that causes damage to the road surface or other parts of the public place;
- (l) Allow any dog, horse or other animal under his/her control to cause a nuisance, inconvenience or danger;
- (m) Expose to view, distribute or offer for sale in a public place any placard, handbill, print or other document of an offensive or indecent nature;
- (n) Without prior authorisation beg or solicit donations or distribute pamphlets, flyers, books, newspapers or other materials in a manner that has the potential for being offensive or a nuisance;
- (o) Store, load or unload, pack or unpack, any goods, articles or things upon any public place;
- (p) Use any road intersection, whether controlled or not, for the purposes of the washing or cleaning of windows of any vehicle.

8 Activities Requiring Approval

8.1 No person shall, without the prior approval of the Council and then only in compliance with any conditions attached to that approval:

- (a) Erect or place any structure including but not limited to a stall, tent, awning, blind or screen on, or over a public place;
- (b) Keep, place or park vehicles for sale, exhibition, demonstration, storage or otherwise in a public place;
- (c) Organise, hold, or conduct, or attempt to conduct any assembly of any kind, or any public meeting, march, gathering, fair, fete, procession or demonstration so as to in any way impede persons or traffic in a public place;
- (d) Fly from, or land any aeroplane including model aeroplanes, a hot air balloon, hand glider, parachute, helicopter or similar, except in an emergency in a public place;
- (e) Put up, display or leave any sign in a public place.

8.2 Application for approval of activities in a public place

- (a) Every application for approval must be in writing setting out full details of the proposal, the date, time and place of the proposed use of a public place and the full name and residential address of the applicant.
- (b) Every application must be accompanied with satisfactory evidence establishing the identity of the applicant and their residential address.
- (c) Applications for approval must be received by the Council at least ten (10) working days before the date of the proposed use of a public place.
- (d) Upon payment to the Council of such fee as the Council may by resolution determine, the Council may issue written approval.
- (e) Approval may be subject to conditions including but not restricted to duration, time, location, the delineation of the area that may be used, safety requirements,

use of signage, playing of music, litter and site rental, and failure to comply with such conditions constitutes a breach of this bylaw.

- (f) Approval may be revoked by the Council at any time upon written notice.

PART 3: DAMAGE TO PUBLIC PROPERTY

9 Damage to public property

- 9.1 No person shall cause damage, or deface or interfere with any council property in a public place. Damage includes but is not limited to:
- (a) Depositing or removing any material on or from any land, building, structure, surface or vegetation;
 - (b) Defacing any surface or structure by writing or otherwise and by any means or use of any implement.
 - (c) Affixing any poster, placard or sign to any surface or structure, other than a council facility provided for the purpose of allowing posters to be displayed announcing forthcoming events and functions;
 - (d) Open any road, drain or sewer or make any opening in any public place or disturb or remove the surface of any public place;
 - (e) Bring in, leave, or plant any vegetation or sow or scatter the seed of any tree shrub or plant of any kind.

PART 4: SPECIFIC PUBLIC PLACES

- 10 In addition to the general requirements above applying to all public places the following clauses apply to the specific public places regulated below.

11 Parks and Reserves

11.1 No person shall:

- (a) Enter or exit any park or reserve except through the openings, gateways, entrances or exits provided by the Council in the hours indicated by the Council by signage or other means;
- (b) Permit or allow any animal, or poultry to wander or graze within a park or reserve or ride or lead any horse or any other animal except in areas set aside for such purpose;
- (c) Play any game, practice activity or sport except on those portions of the park or reserve set apart for that purpose. Games, practice activity or sport must stop if:
- (d) Park users are requested to leave by an Authorised Officer; or
- (e) A notice indicates that the ground or reserve is closed;

- (f) Where no speed limit is indicated by sign or on the road, no vehicles is permitted to be driven above 20 kilometres per hour;
- (g) Allow vehicles to remain in the park or reserve when the park or the reserve is closed.
- (h) Drive or park any vehicle in a park or reserve except where a road has been provided for that purpose, or where vehicle access has been expressly authorised by Council permit or agreement.

12 Beaches and Waters

12.1 No person shall:

- (a) Obstruct, hinder or interfere with the carrying out of any lifesaving operation.
- (b) Park or leave a boat or trailer except in places provided for such purposes by the Council.
- (c) Drive or park a vehicle on the beach except:
 - i. Emergency vehicles;
 - ii. For the purpose of launching/hauling a boat.
 - iii. In the case of (ii) above, where the Council has set aside areas of the beach for launching and hauling boats as indicated by signs, vehicular access is restricted to those areas.

13 Cemeteries and Crematoria

13.1 Registers and Plans

- (a) The Council shall keep a plan of each cemetery and a register to record burials and the number of each plot in which an exclusive right of burial has been purchased.
- (b) The register will contain the name of the purchaser of an exclusive right of burial and the date of purchase. The plans and register shall be available for public inspection at the Cemetery Office at Waikumete during office hours.
- (c) A separate register, containing the name of the purchaser of an exclusive right of burial and the date of purchase will be kept at the Waikumete Cemetery Office in respect of the Swanson Cemetery.

13.2 The Council may from time to time by resolution, publicly-notified, adopt a policy for the control, management and operation of cemeteries and crematoria within its district.

13.3 Use of the Cemetery

- (a) In addition to all general requirements relating to public places provided for in this bylaw and other bylaws and laws of New Zealand, every person entering or present in a cemetery must:

- (b) Behave in a manner that does not cause a nuisance, annoyance or is offensive to any other person,
- (c) Not bring in or exhibit in the cemetery any article that is a nuisance or is offensive to any other person;
- (d) Not bring any animal (other than dogs on leashes) into the cemetery without the prior approval of the Council or the Cemetery Manager;
- (e) Not damage, remove, deface or interfere with any property in the cemetery including but not limited to monuments, burial places, decorations, or the property of another person without the written permission of the Council or Cemetery Manager and the affected person;
- (f) Not disturb or remove a body without a licence to do so.

13.4 Every person driving or in charge of any vehicle in a cemetery must:

- (a) Drive only on a marked road within the cemetery
- (b) Park in a designated parking area only;
- (c) Drive only in the direction indicated by any traffic sign at a speed not exceeding that indicated on the road or if no speed is indicated, not exceeding 20 kilometres per hour;
- (d) Yield unconditional right of way to any funeral procession;
- (e) Remove any vehicle from the cemetery during the hours the cemetery is open; and
- (f) Comply with all Cemetery traffic management rules and instructions of the Cemetery Manager and cemetery staff who shall be Authorised Officers.

13.5 Burial Rights

- (a) Council may sell an exclusive right of burial on terms and conditions determined by Council from time to time. Such terms and conditions may include the term of the exclusive right and resale or transference of the exclusive right of burial.
- (b) The price of exclusive rights of burial shall be fixed by Council from time to time by resolution pursuant to the Act.

13.6 Disinterment

- (a) Disinterment is subject to the payment of such fees as fixed by council from time to time by resolution publicly-notified.
- (b) If a grave is rendered empty by disinterment and where there is no valid exclusive right of burial, that plot will revert back to council and council will not be liable to make any refund for the burial plot.
- (c) Disinterment must be conducted in accordance with any cemetery policy in place at any one time as well as in compliance with other relevant statutes and regulations, with the prior written approval of council. Subject to other legal requirements, disinterment must take place only in the presence of:

- i. At least one authorised officer, or
 - ii. A funeral director, or
 - iii. An officer of the Ministry of Health or Health Protection Officer designated under the Health Act 1956, or
 - iv. Any other person with prior approval of the council or ministry of health;
- (d) No person, other than cemetery staff who are authorised officers or any other person who has been authorised by the cemetery manager or council may enter any grave for any purpose.

13.7 Physical works

- (a) No person shall undertake physical works in a cemetery without the prior approval of the Council.
- (b) No physical works may commence prior to any approvals under an policy or plan being obtained first, including consents under the Act, the Resource Management Act 1991, or the Building Act 2004 or any other consents or permissions being obtained prior to any physical works commencing.

13.8 Maintenance of plots

- (a) Where adornments and/or monuments, tablets, or other structures are permitted by the Council, the holder of the exclusive right of burial or their assignee is responsible for the maintenance of every adornment, monument, tablets and physical works associated with their plot and must:
 - i. Secure all adornments;
 - ii. Maintain all monuments, tablets and adornments so that they do not fall into a state of decay, disrepair or create a risk to the health of any other person, and do not generate adverse effects on the environment are more than minor; and
 - iii. Ensure that the adornments do not detract from or inhibit the proper maintenance of the cemetery and do not encroach on other graves.

13.9 Removal of adornments

- (a) Where in the opinion of Council:
 - i. Any monument, tablet, adornment or other object or structure is a danger to persons visiting or working in the cemetery, Council shall make that object or structure safe and may alter it or remove it; or
 - ii. Any monument, tablet, adornment or other object or structure, or the plot itself is unkempt, untidy or in a state of disrepair, Council may alter or remove any offending object or structure and tidy the plot; or
 - iii. Any monument, tablet, adornment or other object or structure has been erected on any plot without the prior approval of Council, Council may remove the object or structure and recover any associated costs for the

removal from the person who committed the breach or the person entitled to maintain the object or structure.

- (b) Prior to undertaking any physical works on any plot in accordance with sub-clause 12.7 above, Council shall give the last-known person entitled to maintain the monument, tablet, adornment or other object or structure 14 working days written notice requiring repairs to be made or the removal of any monument, tablet, adornment or other object or structure. Where in the opinion of Council there is a risk of physical injury unless works are undertaken without delay, prior written notice will not be given and the Council will exercise its statutory rights as set out in Part 9 of this bylaw.
- (c) When physical works are undertaken by Council as provided in above, Council shall:
 - i. Store all objects or structures removed from the plot for 3 months; and
 - ii. Make a photographic record of the plot and objects and structures and file that photographic record with the cemetery records; and
 - iii. Seek to recover the costs incurred from the person who committed the breach or the person entitled to maintain the object or structure as set out in Part 9 of this bylaw.

13.10 Cremations

- (a) Council may permit cremations on terms and conditions determined by Council from time to time by resolution made by the Council or Council Committee with delegated authority.
- (b) Terms and conditions may include the nature and construction of coffins and caskets, and items that may be placed therein and shall be the subject of agreement with the Cemetery Manager.
- (c) No coffin or casket may include toxic, or readily-combustible material or metal linings or other items in addition to the remains without the specific approval of the Cemetery Manager and all items must be declared in advance by an applicant for a cremation. Failure to comply with this provision may result in the Cemetery Manager revoking the agreement for cremation.
- (d) Council shall recover any costs associated with the repair of the cremator or parent machines from the applicant for cremation or person who committed the breach where there is a reasonable likelihood that items that are not permitted or have not been approved by the Council or Cemetery Manager have caused damage to Crematoria property in accordance with Part 8 of this bylaw.

PART 5:

TRADING IN PUBLIC PLACES

14 Interpretation

- 14.1 For the purpose of this part of the bylaw, “trading” means the act of offering for sale or exchange for reward or otherwise in a public place any good or service.

15 Activities Requiring Approval

15.1 Without the prior written approval of the Council or Authorised Officer and then only in compliance with the conditions of that consent and the terms of any Street Trading Policy in place at the time of the approval, no person shall in any public place:

- (a) Display for sale or exchange any goods, wares, vending machine, amusement device, or merchandise or any other good or service, outside any shop or other business premises so as to encroach upon or hang over any public place; or
- (b) Wash or clean the windows of any vehicle or vehicles in anticipation of reward; or
- (c) Solicit any donation, subscription or other monetary contribution; or
- (d) Conduct any appeal, fundraising activity, raffle or lottery; or
- (e) Perform as a busker

15.2 Approval requirements

- (a) Applications must be received by Council not less than 10 working days before the date of the proposed use.
- (b) Every application must be in writing setting out full details of the proposal, the date, time and place of the proposed use and the full name and residential address of the applicant.
- (c) Every application must be accompanied with satisfactory evidence establishing the identity of the applicant and their residential address.
- (d) Upon payment of such fees as the Council may by resolution determine from time to time, Council may issue written consent.
- (e) The approval may be subject to conditions including but not limited to duration, location, time, safety requirements, and use of signage.
- (f) The approval may require the applicant to obtain consents under any other bylaw or act of Parliament that may be relevant to the operation of the activity. As such, the Council may impose a commencement condition on the approval under this bylaw requiring that those other consents are obtained prior to an approval under this bylaw being able to be exercised.
- (g) Failure to comply with such conditions of approval constitutes a breach of this bylaw.

15.3 Activities Requiring a Licence

- (a) Unless a licence has been issued by Council or an Authorised Officer for an activity regulated by this bylaw and then only in compliance with any conditions attached to that licence and any Policy made by Council in place at the time of the approval, no person shall in any public place:

- i. Occupy any part of a public place or footpath for the purposes of operating an outdoor café area; or
- ii. Sell, or offer for sale any goods, wares, merchandise or food; or
- iii. Be the keeper of a mobile shop; or
- iv. Organise, or permit a market; or
- v. Perform or offer to perform a service; or
- vi. Be the keeper of a stall; or
- vii. Undertake the activity of a hawker

15.4 Licence Requirements

- (a) Every application for a licence shall state the full name and residential address of the applicant and clearly describe the nature of the activity proposed.
- (b) Every application must be accompanied with satisfactory evidence establishing the identity of the applicant and their residential address.
- (c) Council may attach such conditions as it considers appropriate to any licence in accordance with any Street Trading Policy or Outdoor Dining Policy made by the Council and in operation at the time of the licence.
- (d) The licence may require the applicant to obtain consents under any other bylaw or act of Parliament that may be relevant to the operation of the activity. As such, the Council may impose a commencement condition on the licence under this bylaw requiring that those other consents are obtained prior to the licence being given effect.
- (e) No licence is transferable.
- (f) No licence authorises a person other than the person named in the licence to carry on the trade or business specified on the licence in a public place.
- (g) The Council shall keep a register of the names and address for service of all persons to whom licences are issued. If the address for services is a residential property, then the licence holder is entitled to request that the address is not publicly disclosed on a public register.
- (h) Any register maintained by the Council shall be able to be inspected by any person during the Council's normal office hours. Where the address for service is requested by any person is a private address, the licence holder shall be contacted prior to the address being disclosed to any person.
- (i) Every application shall be received by Council no less than 10 working days before the proposed use.
- (j) Any approval or licence granted to an applicant under this part of the bylaw is subject to Part 8 of this bylaw.

PART 6:
LAND ADJOINING A PUBLIC PLACE

15.5 Adjacent Structures

- (a) Where in the opinion of Council any structure, fence, wall, or land adjacent to a public place is made of such material or is in such a state of disrepair that it could cause damage or injury to persons on the public place, or is in such a position as to impede pedestrian or vehicular traffic, Council may give written notice to the owner or occupier requiring appropriate action to be taken to remove the danger.
- (b) Failure to comply with such written notice shall constitute a breach of this bylaw.

15.6 Fences Constructed with barbed wire, razor wire or electrified wire

- (a) No person shall erect or cause to be erected on any property defined as Living Environment or Residential in the District Plan, any fence comprised either partly or wholly of barbed wire, razor wire, or an electrified wire, or any fence that is designed or constructed so as to be likely to inflict injury to any person or animal that may come into contact with the fence.
- (b) Any fence constructed wholly or in part of barbed wire, razor wire or electrified wire or any fence, that is designed or constructed so as to be likely to inflict injury to any person or animal that may come into contact with the fence, must be at least 2 metres above ground level. Where it is not possible for there to be a 2 metre clearance from the ground, the fence must be made safe by other means so as not to cause injury to any person or animal.
- (c) Where any fence is erected for stock control purposes in an area of a predominantly rural nature, that fence shall not cause injury to any person or animal that comes into contact with that fence.

15.7 Gates and Doors

- (a) No gate or door on any private property abutting a public place shall swing over the public place so as to obstruct access to that public place.

15.8 Dripping from Eaves

- (a) No person shall cause, permit or suffer dripping from the eaves or other projections of any house or structure onto any public place.

15.9 A breach of this Part of the bylaw is subject to Part 8 of the bylaw.

Part 7: Street Numbering of Buildings

15.10 Every building shall at all times be marked with the number allocated to that building by the Council.

- 15.11 If at any time the Council alters the number of a building, the marking must be altered to comply with that change within one calendar month of written notification of the change being given by the Council to the owner or occupier of the building.
- 15.12 Building markings shall be comprised of characters which are affixed or placed in a position which is readily visible from the street to which the building has frontage and either:
- (a) Upon a post, fence, gate or letterbox located immediately adjacent to the street boundary, or
 - (b) If there is no such post, fence, gate or letterbox, upon the building itself, whether on a wall or a window.
- 15.13 Building markings shall comply with the following:
- (a) Residential buildings shall be marked with characters which are :
 - i. Not less than 75 mm in height and 40 mm in overall width (except for the number '1' or the letter 'l')
 - ii. Made out of lines not less than 3mm in width
 - (b) All other buildings shall be marked with characters which are:
 - i. Not less than 75mm in height and 40 mm in overall width (except for the number '1' or the letter 'l')
 - ii. Made out of lines not less than 5 mm in width.
- 15.14 Building markings shall be maintained in good legible and visible condition at all times.
- (a) Any marking which is covered up or obscured shall be immediately uncovered.
 - (b) Any marking which is obliterated or defaced shall be immediately replaced.
- 15.15 Responsibility for compliance with this clause lies with the owner and occupier for the time being of any building but the fact that the owner of a building is not the occupier of that building shall not be a defence to a conviction for an offence against this bylaw.
- 15.16 Any person who neglects for one calendar month after written notice to mark a building in accordance with this part of the bylaw commits an offence.
- 15.17 The Council shall have the exclusive right to cause to be painted or affixed to a conspicuous part of a building, the number allocated to that building by Council, in accordance with clauses X and X.
- 15.18 A breach of this part of the bylaw is subject to Part 8 of the bylaw.

Part 8: Enforcement and Penalties

16 Offences

16.1 Every person commits a breach of this Bylaw who:

- (a) Does anything or causes any condition to exist for which a licence, certificate or approval from the Council is required under this bylaw and operates without first obtaining that licence, certificate or approval. No application for a licence, certificate or approval from the Council, and no payment or receipt for any fee paid in connection with such application, licence, or approval shall confer any right, authority or immunity on the person making such application or payment;
- (b) Fails to comply in all respects with any condition attached to any licence, consent, or approval;
- (c) Fails to obey a lawful instruction on being requested to do so by an authorised officer;
- (d) Is party to, or incites to be done, anything that is a breach of this bylaw;
- (e) Knowingly permits or allows anything to be done that is a breach of this bylaw;
or
- (f) Obstructs or hinders any authorised officer of the Council in the performance of his or her duties under this Bylaw.

17 Penalties

- 17.1 Pursuant to section 239 of the Act, every person who breaches a bylaw, commits an offence and is liable on summary conviction to the penalties set out in section 242 of the Act.
- 17.2 Pursuant to section 162 of the Act, the Council may apply to the District Court for an injunction restraining a person from committing a breach of this bylaw.
- 17.3 The Council may remove or alter a work or thing which has been constructed in breach of a bylaw whether or not that thing is on private land in accordance with sections 164 and 165 of the Local Government Act 2002.
- 17.4 In accordance with section 167 of the Act, where any property is seized under sections 164 or 165 of the Act, the property will be returned upon request to the person from whom it was seized from subject to the payment of any costs incurred by the Council in the seizing of the property.
- 17.5 Where the property is not claimed within 6 months from the date of being seized the Council may dispose of the property in accordance with section 168 of the Act subsequent to giving the owner 14 working day's notice of its decision.
- 17.6 Any costs incurred by the Council, including the costs of storage and legal fees, incurred in the removal or alteration of the property is recoverable from the person who committed the breach in accordance with section 163 of the Act.

17.7 Where an infringement regime is introduced under Subpart 3 of Part 9 of the Act and bylaws are deemed to infringement offences, an offence against this bylaw is an infringement offence.

17.8 For the avoidance of doubt it is offence under this bylaw to:

- (a) Obstruct or hinder any Council officer or other authorised officer in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred by this bylaw;
- (b) Fail to comply with any lawful notice or direction given under this bylaw.

17.9 The Council may revoke any approval or licence granted under this bylaw where the terms of the licence or approval have not been complied with.

18 Dispensing Power

18.1 The Council may, on an application in writing for dispensation seek for dispensation from complying with this bylaw (in whole or in part), subject to any other terms or conditions (if any) that the Council may choose to impose, where in the opinion of the Council, full compliance with any of the provisions of this bylaw causes injurious affection to:

- (a) any person, or
- (b) the operation of any business, or
- (c) causes inconvenience to any person without any corresponding benefit to the community

Adopted at a meeting of the Wiatkere City Council on [XXXXXX] 2010 by resolution [xxxxxxxxxx]