

## **DRAFT WAITAKERE CITY COUNCIL USE OF ROADS AND PARKING BYLAW 2010**

### *Explanatory Note*

- This bylaw regulates parking and other vehicular activities on roads. For the regulation of other matters, please refer to the [draft] Public Places Bylaw 2010 in respect of use of roads and trading on roads.
- Speed is regulated by the [draft] Speed Limits Bylaw 2010.

### **1 Citation**

This Bylaw may be cited as the Waitakere City Council Traffic Bylaw 2010.

### **2 Commencement**

This Bylaw comes into force on the date on [16 September 2010] (“the commencement date”)

### **3 Revocation**

The Waitakere City Council Bylaw No.7 (1991) – Traffic is revoked with effect from the commencement date.

### **4 Purpose**

- 4.1 This Bylaw is made pursuant to the powers contained under Part 21 of the Local Government Act 1974, section 145(b) of the Local Government Act 2002, and the Transport Act 1962 so as to regulate the use of roads for parking and other vehicular activities.
- 4.2 Restrictions imposed under this bylaw are able to be enforced by any entity that succeeds the Council as a road controlling authority.

### **5 Interpretation**

- (a) “**Act**” means the Local Government Act 2002.
- (b) “**1974 Act**” means the Local Government Act 1974.
- (c) “**Council**” means the Waitakere City Council and its successor organisations that may control roads.
- (d) “**Council controlled organisation**” has the same meaning as in section 6 of the Local Government Act 2002.
- (e) “**Council organisation**” has the same meaning as in section 6 of the Local Government Act 2002.

- (f) **“Cycle Path”** has the same meaning as in clause 1.6 of the Land Transport (Road User) Rule 2004, namely:
- i. part of the road that is physically separated from the roadway that is intended for the use of cyclists, but which may be used also by pedestrians; and
  - ii. includes a cycle track formed under section 332 of the Local Government Act 1974.
- (g) **“Emergency Vehicle”** has the same meaning as in clause 1.6 of the Land Transport (Road User) Rule 2004, namely, a vehicle used for attendance at emergencies and operated -
- i. by an enforcement officer
  - ii. by an ambulance service
  - iii. as a fire service vehicle
  - iv. as a civil defence emergency vehicle
  - v. as a defence force emergency vehicle.
- (h) **“Goods Service”** has the same meaning as in section 2 of the Land Transport Act 1998, namely, the carriage of goods on any road, by means of a motor vehicle whose gross laden weight is 6,000 kg or more.
- (i) **“Goods Vehicle”** has the same meaning as in clause 1.6 of the Land Transport (Road User) Rule 2004, namely, a motor vehicle that is:
- i. designed exclusively or principally for the carriage of goods; or
  - ii. used for the collection or delivery of goods in the course of trade.
- (j) **“Large Passenger Service Vehicle”** has the same meaning as in section 2 of the Land Transport Act 1998, namely, any passenger service vehicle that is designed or adapted to carry more than 12 persons (including the driver).
- (k) **“Motor Vehicle”** has the same meaning as in section 2 of the Land Transport Act 1998, namely, a vehicle drawn or propelled by mechanical power; and includes a trailer.
- (l) **“Parking”** has the same meaning as in clause 1.6 of the Land Transport (Road User) Rule 2004, namely:
- i. in relation to a portion of a road where parking is for the time being governed by the location of parking meters or parking vending machines placed under the authority of a bylaw of a local authority or council controlled organisation, the stopping or standing of a vehicle on that portion of the road for any period exceeding 5 minutes
  - ii. in relation to any other portion of a road, the stopping or standing of a vehicle on that portion of the road.
- (m) **“Passenger Service”** has the same meaning as in section 2 of the Land Transport Act 1998, namely, the carriage of passengers on any road for hire or reward by means of a motor vehicle.

- (n) **“Road”** has the same meaning as in clause 1.6 of the Land Transport (Road User) Rule 2004 and includes
- i. a street; and
  - ii. a motorway; and
  - iii. a beach; and
  - iv. a place to which the public have access, whether as of right or not; and
  - v. all bridges, culverts, ferries and fords forming part of a road or street or motorway, or a place in (d); and
  - vi. all sites at which vehicles may be weighed for the purposes of the Land Transport Act 1998 or any other enactment.
- (o) **“Use”** has the same meaning as in clause 1.6 of the Land Transport (Road User) Rule 2004, namely, in relation to a vehicle, includes -
- i. driving, drawing, or propelling on a road by means of another vehicle; and
  - ii. permitting to be on a road.

## 6 Traffic Control

The Council may by resolution fix or vary the charges authorised to be made by this Bylaw in respect of traffic in the District.

## 7 One Way Roads

No person shall drive any vehicle or ride a bicycle on any road or portions thereof except in conformity with a notice erected or exhibited by the Council at the entrances to or exits from any such road indicating in which direction traffic shall proceed, which the Council from time to time by resolution declares shall be used by traffic proceeding in only one direction.

## 8 No Stopping of Vehicles

- 8.1 No person being the driver or in charge of any vehicle shall park the vehicle in any part of any road, public place or private road in contravention of any prohibition, limitation or restriction imposed from time to time by resolution of the Council and evidenced by signs authorised by the Land Transport Rule: Traffic Control Devices 2004 erected or marked on the place affected.
- 8.2 Any such resolution of Council may apply to any specified road, public place or private road or to any specified part or parts thereof or to any specified class or classes of vehicles and may operate at any time of any specified time or times.
- 8.3 Except where otherwise specified, the said prohibitions, limitations and restrictions shall not apply on public holidays, as defined by section 44(1) of the Holidays Act 2003 or on any other day before 8:00am and after 6:00pm.

## 9 Loading Zones

- 9.1 The Council may at any time and from time to time by resolution determine that any part of a road which shall be defined in such resolution shall be a "loading zone" for the purposes of this Bylaw.
- 9.2 The Council may at any time by resolution prohibit, limit or restrict the stopping, standing or parking of vehicles other than goods vehicles in any loading zone.
- 9.3 The Council may further and in like manner prohibit the parking of any vehicles in any loading zone in excess of a period fixed by such resolution.
- 9.4 The Council shall maintain in or on the road a notice, traffic sign or marking indicating a loading zone and the nature of such prohibition, limitation or restriction and the purposes so determined.
- 9.5 No person or driver in charge of any vehicle shall stop, stand or park the vehicle whether attended or unattended in any such zone where such a notice, traffic sign or marking on the road is maintained except in conformity with the terms of such prohibition, limitation or restriction or for the purposes so determined.

## **10 Heavy Vehicle Restrictions**

- 10.1 No person shall on any road or portion of road to which a notice pursuant to section 70AA of the Transport Act 1962 applies drive or park any kind of heavy vehicle traffic specified in such notice in such a manner as to breach that notice.

## **11 Heavy Vehicle Restriction – Scenic Drive**

- 11.1 No person shall drive or operate or cause or permit to be driven or operated on along or over the portion of Scenic Drive, Titirangi, between its junction with Woodlands Park Road and its junction with Shaw Road –
- 11.2 Any vehicle which has a forward distance (as defined by the Land Transport Rule: Vehicle Dimensions and Mass 2002) of more than 7.4 metres;
- 11.3 Any combination of vehicles containing one or more heavy vehicles.

## **12 Stands – Exclusive Rights**

- 12.1 The Council may by resolution, appoint, provide, reserve and mark out any part of the road within the District as a stopping place for any particular class of vehicles engaged in a passenger service and may in like manner from time to time abolish any stopping place so appointed or enlarge or diminish the limits of the same.

### **12.2 Parking Places – Parking Buildings – Transport Stations**

(a) The Council may from time to time by resolution:

- (i) Declare any piece of land or any road or any part of a road or any building or any part of a building owned or occupied by the Council to be a parking place or a transport station within the meaning of Section 591 of the Local Government Act 1974. The provisions of this Bylaw shall henceforth apply to all parking places established by the Council.
- (ii) Define the times, manner and conditions for parking of vehicles in any such parking place or transport station.

- (iii) Define the vehicles or classes of vehicles that may be entitled to use any such parking place or transport station, and the conditions upon and subject to which such parking place or transport station may be used.
  - (iv) Limit any parking place or transport station which has been appointed for the use of vehicles engaged in a passenger or goods service or for the use of any specified kind of such vehicles, or for the use of vehicles used for any specified public purposes, or any specified part thereof to vehicles belonging to or used by particular persons or to vehicles used for particular public purposes.
  - (v) Fix the charge or charges payable for the parking of vehicles including penalty fees in any such parking place or transport station.
  - (vi) Make provision for the efficient management and control of any such parking place or transport station.
  - (vii) Fix the number of spaces in a parking area in each of which a vehicle may be parked.
  - (viii) Fix the charge or charges on the payment of which the driver or person in charge of a vehicle may leave it in a space not reserved for the use of any other person in terms of this bylaw.
  - (ix) Define the hours during which any of the limitations provided for in paragraph (iv) apply.
  - (x) Fix the charge or charges to be paid by the owner of a vehicle in return for the privilege referred to in clause X hereof.
  - (xi) Except as provided in paragraphs (iii) and (iv) hereof, no part of a road may be appointed as a parking place available only to a specified person or to a specific class of persons or to vehicles owned or operated by a specified person or by specified classes of person.
- (b) No driver or persons in charge of any vehicle shall cause, allow, permit or suffer such vehicle to be parked in any such parking place except as permitted by such resolution.
  - (c) Any vehicle parked otherwise than in accordance with the provisions of this Bylaw or any resolution may be removed by the Council or its agent to a place of safety at the expense of the owner(s).
  - (d) Any such resolution may from time to time be amended or rescinded by a further resolution of the Council.
  - (e) Payment of the charge or charges referred to in clause x above shall entitle the owner of a vehicle in respect of which application has been made or his/her duly authorised agent to have the sole right to park such vehicle in the space allotted to him during the period that such privilege is conferred.
  - (f) The Council shall erect and cause to be clearly displayed on each reserved area a notice or notices as follows:
    - (i) Specifying the class or classes of vehicles that shall be permitted to park therein.

12.3 Stating the hours during which parking spaces are reserved for exclusive use of persons who have paid for the privilege.

(ii) Indicating which particular space or spaces are reserved as aforesaid.

(iii) Stating the hours which drivers of the specified class or classes of vehicles may park the same in any spaces whether or not the same is reserved for exclusive use at other times.

(g) No person shall leave a vehicle in:

12.4 A parking space that is not in the class or classes permitted to use it.

12.5 In any space in a parking area during the time that the space is reserved by the Council for the use of any other person.

12.6 In a parking area except in a parking space.

(h) A parking space as described herein may only be used for the purpose of parking a vehicle and payment of the prescribed fees shall not entitle any person to use the space for any other purpose.

### 13 Cycle paths

13.1 The Council may, in accordance with the provisions of this Bylaw, on any road or part thereof or on any land vested in or under the control of the Council, form a public cycle path.

13.2 The Council may from time to time by resolution fix the length, route and siting of a public cycle path on any such road or land, and, by the same means, it may alter its length, route or siting.

13.3 Signs indicating the existence of a cycle path shall be displayed in appropriate positions, whether it be laid out on a footpath or on the carriageway or on any other land vested in or under the control of the Council.

- Where a cycle path is laid out on the carriageway it shall be a special vehicle lane with its use governed by clause 2.3 of the Land Transport (Road User) Rule 2004.
- Where a cycle path is located on a shared path its use shall be governed by clause 11.1A of the Land Transport (Road User) Rule 2004.

### 14 Special Parking

14.1 Notwithstanding clause x or clause x of this bylaw the Council or any officer of the Council authorised by the Council for that purpose may authorise the driver of any vehicle to park contrary to the parking times and conditions specified in any resolution made pursuant to this bylaw in the circumstances that it would be unreasonable to require the vehicle to be parked elsewhere and the safety and convenience of other road users is not unreasonably affected and the vehicle at all times displays in a conspicuous position a sign provided by the Council for this purpose.

14.2 The Council may by resolution from time to time fix a charge payable for the parking of vehicles in return for the privilege conferred in clause x hereof.

## 15 Bus Priority Lanes

- 15.1 The Council may at any time and from time to time by resolution determine that any part of a road which shall be defined in such resolution shall be a “bus priority lane” for the purposes of this Bylaw.
- 15.2 The Council may at any time by resolution prohibit, limit or restrict all classes of vehicle from using any “bus priority lane” except for large passenger service vehicles, bicycles, emergency vehicles, traffic enforcement vehicles, and by any vehicle for a distance of not more than 50 metres for the purpose of turning into or out of side roads and properties.
- 15.3 The Council may further and in like manner prohibit the parking of any vehicles in any bus priority lane in excess of a period fixed by such resolution.
- The Council shall maintain in or on the road a notice, traffic sign or marking indicating a bus priority lane and the nature of such prohibition, limitation or restriction and purposes so determined.
  - No person or driver in charge of any vehicle shall stop, stand or park the vehicle whether attended or unattended in any such lane where such a notice, traffic sign, marking or sign on the road is maintained except in conformity with the terms of such prohibition, limitation or restriction or for the purposes so determined.

## 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.

### 16.2 Penalties

- (a) 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.

- (b) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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.
- (h) For the avoidance of doubt it is offence under this bylaw to:
  - i. 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;
  - ii. Fail to comply with any lawful notice or direction given under this bylaw.
- (i) 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.

### **16.3 Dispensing Power**

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:

- i. any person, or
- ii. the operation of any business, or
- iii. 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]**