

# WAITAKERE CITY COUNCIL

## 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 the Council. It also allows territorial authorities to make bylaws to manage and regulate activities carried out in public places under the control of the Council and to protect public places from loss, damage and misuse.*
- *This 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 4 of the bylaw regulates the use of these places.*
- *The bylaw covers activities in public places including commercial activity such as trading and promotion of goods and services, street performance and busking, entertainment activities, demonstrations and events. Part 5 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 the 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 within the city. Parts 6 and 7 regulate the land adjoining public places and such matters as vehicle crossings 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 Use of Roads and Parking Bylaw 2010 regulates parking and other vehicular activities on roads and public places.*

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**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 18 October 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, 146(a)(vi) and 146(b)(v) and (vi) of the Local Government Act 2002.

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 Interpretation**

5.1 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 appointed or authorised by the Council to carry out or exercise the duties of an Authorised Officer under this bylaw.
- (d) **“Busker”** means any person(s) who plays, acts, sings, dances or otherwise performs or entertains in a public place for reward or for voluntary or otherwise, and **“busking”** has a corresponding meaning.
- (e) **“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.
- (f) **“Council”** means the Waitakere City Council or a Committee of the Council or Officer authorised to exercise the authority of the Council.
- (g) **“Council controlled organisation”** has the same meaning as in section 6 of the Local Government Act 2002.
- (h) **“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.
- (i) **“Footpath”** 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.
- (j) **“Foreshore”** means the land between the mean high water springs and the mean low water springs.
- (k) **“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.
- (l) **“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.

- (m) **“Mobile 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.
- (n) **“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.
- (o) **“Outdoor café”** means an outdoor seating area established in a public place under licence issued by the Council where food and drink may be consumed.
- (p) **“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.
- (q) **“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.
- (r) **“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.
- (s) **“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.
- (s) **“Vehicle”** has the same meaning as in Section 2 of the Land Transport Act 1998.
- (t) **“Weapon”** means any article capable of being used for causing bodily injury.

5.2 The provisions of the Waitakere City Council General Administration Bylaw 2010 apply to this bylaw.

## **PART 2: OBSTRUCTION, NUISANCE, THREAT TO PUBLIC HEALTH AND SAFETY AND OFFENSIVE BEHAVIOUR**

### **6 Restrictions on the Use of Public Places:**

- 6.1 No person shall behave in any public place 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. Without limiting the generality of the foregoing no person shall, in any public place:
- (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; or
  - (b) Carry out any activity where a sign indicates that the activity is prohibited, or is otherwise regulated; or
  - (c) Carry on an activity after being instructed by an Authorised Officer to cease that activity because, in the opinion of the Authorised Officer, the activity is a threat to public safety, is causing a nuisance, or may cause damage of property; or
  - (d) 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; or
  - (e) Deposit, discharge or leave any offensive, inflammable, hazardous or dangerous substance in or about a public place; or
  - (f) Use any object including, without limitation, 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; or
  - (g) Play any game which includes the use of, without limitation, 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; or
  - (h) Light any fire except in a Council-provided barbeque or fireplace (subject to any restriction imposed by the Council from time to time), light a signal flare (except in an emergency), set fire to any vegetation, or let off any fireworks without the express authorisation of the Council; or
  - (i) Camp or reside in an area not set aside for that purpose, whether in a vehicle or otherwise; or
  - (j) Cause or permit any oil or harmful liquid to spill or escape onto sealed or paved surfaces on a road or other public place in a quantity which creates, or is likely to create, a danger or nuisance to other users of the road or public space; or
  - (k) Use or carry any firearm, axe, sword, spear, airgun, bow and arrow or other weapon; or
  - (l) 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 a public place; or

- (m) Allow any dog, horse or other animal under his/her control to cause a nuisance, inconvenience or danger; or
- (n) Expose to view, distribute or offer for sale in a public place any placard, handbill, print other document of an offensive or indecent nature; or
- (o) Solicit any donation, subscription or other monetary contribution; or
- (p) Conduct any appeal, fundraising activity, raffle or lottery; or
- (q) Without prior authorisation of the Council, beg or solicit donations; or
- (r) Distribute pamphlets, flyers, books, newspapers or other materials in a manner that has the potential for being offensive or a nuisance; or
- (s) Store, load or unload, pack or unpack, any goods, articles or things upon any public place.

## **7 Activities Requiring Approval**

7.1 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 in, a public place any aircraft, including model aircraft, hot air balloon, hand glider, parachute or helicopter, except in an emergency.
- (e) Put up, display or leave any sign in a public place.

7.2 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 thirty (30) working days before the date of the proposed use of a public place or such lesser period as the Council may in its discretion think fit.
- (b) Upon payment to the Council of such fee as the Council may by resolution determine, the Council may issue written approval.

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

**PART 3:**  
**DAMAGE TO PUBLIC PROPERTY**

**8 Damage to Public Property**

- 8.1 No person shall cause damage, or deface or interfere with any Council property in a public place.
- 8.2 No person shall without an approval:
  - (a) Affix any poster, placard or sign to any surface or structure in a public place, other than upon a facility provided for that purpose;
  - (b) Open any road, drain or sewer or make any opening in any public place or disturb or remove the surface of any public place;
  - (a) Bring in, leave, or plant any vegetation or sow or scatter the seed of any tree shrub or plant of any kind in a public place without the approval of Council.

**PART 4:**  
**SPECIFIC PUBLIC PLACES**

- 9** Without limiting the generality of Parts 2 and 3 of this bylaw the following clauses apply to the particular public places specified below.

**10 Parks and Reserves**

- 10.1 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;
  - (d) Remain in a park or reserve when requested to leave by an Authorised Officer;
  - (e) Remain in a park or reserve if a notice indicates that the ground or reserve is closed;
  - (f) Where no speed limit is indicated by sign, drive a vehicle in a park or reserve at a speed in excess of 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 authorised by Council in writing.

## 11 **Beaches and Waters**

### 11.1 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 or hauling a boat within an area set aside for launching and hauling boats.

## 12 **Cemeteries and Crematoria**

### 12.1 No person shall:

- (a) Behave in a manner that causes a nuisance, annoyance or is offensive to any other person;
- (b) Bring in or exhibit in the cemetery any article that is a nuisance or is offensive to any other person;
- (c) Bring any animal (other than dogs on leashes) into the cemetery without prior written approval of Council;
- (e) Damage, remove, deface or interfere with any property in the cemetery including, without limitation, monuments, burial places, decorations, or the property of another person;
- (f) Disturb or remove a body without a licence to do so.

### 12.2 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) Comply with all cemetery traffic management rules and instructions of the Cemetery Manager and cemetery staff who shall be Authorised Officers.

### 12.3 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 transfer 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.

### 12.4 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 may enter any grave for any purpose.

### 12.5 Physical works

- (a) No person shall undertake a disinterment or other physical works in a cemetery without a prior approval.
- (b) No disinterment or other 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.

### 12.6 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.

## 12.7 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 holder of the exclusive right of burial.
- (b) Prior to undertaking any physical works on any plot in accordance with sub-clause 13.7(a) above, Council shall give the last-known holder of the exclusive right of burial 14 working days written notice requiring either 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.
- (c) When physical works are undertaken by Council as provided in clause 13.7(b) 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.

## 12.8 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.
- (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**

### **13 Interpretation**

13.1 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.

### **14 Activities Requiring Approval**

14.1 Without the prior written approval of the Council or Authorised Officer and then only in compliance with the conditions of that approval and payment of the prescribed fee, 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 for reward or in anticipation of reward; or
- (c) Perform as a busker.

14.2 Approval requirements

- (a) Applications must be received by Council not less than thirty (30) working days before the date of the proposed trading or such lesser period as the Council may in its discretion think fit;
- (b) Every application must be in writing setting out full details of the proposal, the date, time and place of the proposed trading;
- (c) Every application must be accompanied with satisfactory evidence establishing the identity and residential address of the applicant and an address for service.
- (d) The approval may require the applicant to obtain consents under any other bylaw or Act of Parliament that may be relevant to the proposed trading before any trading commences.
- (e) Failure to comply with such conditions of approval constitutes a breach of this bylaw.

14.3 Activities requiring a licence

- (a) Unless a licence has been issued by Council for an activity regulated by this bylaw, and then only in compliance with any conditions of that licence, 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.

#### 14.4 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 proposed trading.
- (b) Every application must be accompanied with satisfactory evidence establishing the identity and residential address of the applicant and an address for service.
- (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 force 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 proposed trading before any trading commences.
- (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 in the licence in a public place.
- (f) 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 disclosed on a public register.
- (g) Any register maintained by the Council shall be able to be inspected by any person during the Council's normal office hours.
- (h) Every application shall be received by Council no less than thirty (30) working days before the proposed use or such lesser period as the Council may in its discretion think fit.

### **PART 6:**

#### **LAND ADJOINING A PUBLIC PLACE**

##### 15.1 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.

#### 15.2 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 the elements of the fence which are likely to inflict injury 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 must not cause injury to any person or animal that comes into contact with that fence.

#### 15.3 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.

#### 15.4 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.

### **PART 7:**

#### **STREET NUMBERING OF BUILDINGS**

- 16.1 Every building shall at all times be marked with the number allocated to that building by the Council.
- 16.2 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.
- 16.3 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.

- 16.4 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.
- 16.5 Building markings shall be maintained in good legible and visible condition at all times, and:
- (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.
- 16.6 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.
- 16.7 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.
- 16.8 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 this part of the bylaw.

## **PART 8: ENFORCEMENT AND PENALTIES**

### **17 Offences**

- 17.1 Every person commits a breach of this bylaw who:
- (a) Knowingly permits or allows anything to be done that is a breach of this bylaw; or
  - (b) Is party to, or incites to be done, anything that is a breach of this bylaw; or
  - (c) Does anything or causes any condition to exist for which a licence, consent or approval from the Council is required under this bylaw and operates without first obtaining that licence, consent or approval. No application for a licence, consent or approval from the Council, and no payment or receipt for any fee paid in connection with such application, licence, consent or approval shall confer any right, authority or immunity on the person making such application or payment; or

- (d) Fails to comply in all respects with any condition attached to any licence, consent, or approval; or
- (e) Fails to obey a lawful instruction of an Authorised Officer; or
- (f) Obstructs or hinders any Authorised Officer of the Council in the performance of his or her duties under this bylaw.

## **18 Penalties**

- 18.1 Pursuant to section 239 of the Act, every person who breaches this bylaw, commits an offence and is liable on summary conviction to the penalties set out in section 242 of the Act.
- 18.2 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.
- 18.2 The Council may exercise the powers under section 163 of the Act in respect of any work or anything constructed in breach of this bylaw.
- 18.3 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.

## **19 Dispensing Power**

- 19.1 The Council may, on an application in writing, grant 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 any person, or the operation of any business, or causes inconvenience to any person in either case without any corresponding benefit to the community.

**Adopted at a meeting of the Waitakere City Council on 6 October 2010 by resolution 1451/2010**