

PUBLIC PLACES BYLAW 2016

PREAMBLE

The Horowhenua District Council, in pursuance of the powers vested in it under sections 145 and 146 (a)(vi) of the Local Government Act 2002, the Land Transport Act 1988, and any other authority enabling the Council to make bylaws and regulate activities in Public Places, makes this Bylaw. This Bylaw will be in force throughout the whole of the District of Horowhenua.

1. SHORT TITLE AND COMMENCEMENT

This Bylaw will be known and referred to as 'The Horowhenua District Council Public Places Bylaw 2016' and will come into effect on 6 May 2016.

2. PURPOSE

2.1 The purpose of this Bylaw is to:

- (a) protect the public from nuisance which may arise from activities undertaken in public places;
- (b) ensure public health and safety is maintained; and
- (c) regulate and manage occupation and use of those public places for trading, entertainment and other activities for the well-being and enjoyment of the public.

3. APPLICATION

3.1 This Bylaw applies to all of the Horowhenua district.

3.2 This Bylaw does not apply to:

- (a) traffic, direction, information and naming signs erected by or with the approval of the Council;
- (b) signs indicating hazardous substances used at a hazardous facility;
- (c) remote advertising signage;
- (d) signs erected pursuant to any statute, regulation, or in accordance with resource consent under the District Plan.
- (e) health and safety and asset identification signs of network utilities in the Road Reserve.

Explanatory note: Compliance with this Bylaw does not remove the need to comply with other applicable Acts, regulations, standards, Bylaws, regional plan rules, the District Plan and any conditions attaching to a resource consent, or any other controls specified under this Bylaw from time to time.

4. INTERPRETATION

In this Bylaw, unless the context requires otherwise -

Act	means the Local Government Act 2002.
Animal	means any living member of the animal kingdom, except for a person.
Approval	means a licence, permit, written permission or other form of approval granted under this Bylaw and includes all conditions to which the approval is subject.
Beach	means the foreshore (including the inter-tidal zone above the mean low water spring) and any adjacent area that can reasonably be considered part of the beach environment including areas of sand, pebbles, shingle, dunes or coastal vegetation and includes the adjacent coastal marine area.
Busker	means any person(s) performing or entertaining on or in a public place who solicits or accepts a donation or monetary reward, including but not limited to playing an instrument, singing, dancing, mime, puppetry, performance art, recitation, undertaking artworks or performing other theatrical or visual acts.
Council	means the Horowhenua District Council.
Daylight Hours	means one half hour before sunrise and one half hour after sunset.
District Plan	means the operative Horowhenua District Plan.
Election Sign	means a sign or any part of a sign for a public referendum, election or by-election that appears to encourage or persuade voters to vote for a party or a person standing as a candidate. For the purposes of this bylaw, it does not include Parliamentary Electioneering signage.
Enforcement Officer	means a person appointed by Council under the Act to carry out duties and exercise powers under its bylaws.
Footpath	means a path or way designated primarily for pedestrian use and includes the edging, kerbing and channelling thereof as well as any footbridge.
General Election	means an election that takes place after the dissolution or expiration of Parliament.
Hawker	means any person who attempts to sell goods or services to any person on public or private property without invitation, any request for such service or prior orders, but does not include any person who operates a mobile shop. Hawking has a corresponding meaning.
Mind altering substance	means a substance whether synthetic or naturally occurring which may alter consciousness, mood or emotions, or which

might intoxicate or induce pleasurable sensations. It includes what is commonly known as glue sniffing, but does not include:

- (a) medically prescribed substances ingested by the person for whom they have been prescribed;
- (b) substances purchased from a pharmacy without a medical prescription;
- (c) nicotine;
- (d) alcohol as defined by the Sale and Supply of Alcohol Act 2012.

Mobile Food Stall

means any portable container, tent, moveable stand or table, mobile food shop, trailer, caravan road vehicle, fishing vessel, or similar structure, vehicle, or vessel, on or from which food is sold.

Mobile Shop

means a vehicle, whether self-propelled or not, from which goods or services are offered or exposed for sale on a road or public place, or from which goods or services may be ordered but does not include any vehicle used for the purpose of transporting goods pursuant to a prior order placed for the delivery of goods.

Mobile Trading

means the sale of goods or services in a public places from premises which are not fixed to the public place and includes, without limitation, hawking, a mobile shop, and a mobile food stall.

Nuisance

has the same meaning as section 29 of the Health Act 1956 and without limiting that statutory meaning, includes a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort and convenience of another person whether or not that person is in a public place.

Outdoor Dining

means the provision of outdoor dining facilities for the consumption of food and drinks, including those offered by liquor licensed premises.

Parking

means:

- (i) In relation to any metered zone the stopping or standing of a vehicle on that metered zone for any period exceeding five minutes;
- (ii) In relation to any other portion of any land or building, the stopping or standing of a vehicle on that portion of land or building.

Park and parked have corresponding meanings.

Person(s)

means not only a natural person but also includes a corporation sole and a body of persons whether incorporated or not.

Polling Day

means the day on which the voting period for an election or poll ends.

Premises	means any separately occupied land, building, or part of the same.
Psychoactive Substance	means the definition in section 9 of the Psychoactive Substances Act 2013.
Public Place	means any place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place. It includes, without limitation, any road, footpath, grass verge, berm, public gardens, reserves and parks, beaches, wharves, breakwaters, ramps, foreshore and dunes, access ways, recreational grounds and sports fields.
Remote Advertising Signage	has the meaning given to it in the District Plan from time to time.
Road	means any road under the control of the Council and includes every street, service lane, mall, any place to which the public have access whether as of right or not and includes all bridges, culverts and fords forming part of any such place.
Road Reserve	has the meaning given to it by section 111 Reserves Act 1977.
Sign	means any display or device whether or not placed on land or affixed to a building, stationary vehicle or structure, intended to attract attention for the purposes of directing, identifying, and informing, or advertising and which is visible from a public place. This includes all parts, portions, units and materials composing the same, together with the frame, background, structure, and support anchorage (including sandwich type board signs placed on the ground).
Skating Device	means a wheeled device controlled or propelled by gravity or by the energy of the rider, including skateboards, roller skates, scooters, rollerblades and in-line skates. It does not include bicycles, wheelchairs or baby or mobility devices.
Stall	includes a tent, table, chairs, framework or structure of any description which is established in any public place where the purpose is to sell any goods or display any goods for sale or offer any services.
Trading Hours	means the hours of 8.30 am to 8.30 pm, 7 days per week.
Vehicle	has the same meaning as in the Land Transport Act 1998.

4.2 Unless the context requires another meaning, a term or expression that is defined in the Act or the Land Transport Act 1988 and used in this Bylaw, but not defined, has the meaning given by that Act.

4.3 Any explanatory notes and attachments are for information purposes, do not form part of this Bylaw, and may be made, amended and revoked without formality.

5. OBSTRUCTIONS IN PUBLIC PLACES

5.1 A person must not obstruct:

- (a) A footpath;
- (b) The entrance to or exit from a public place.

Explanatory Note: "obstruct" for the purpose of this clause means to impede, interfere with, or block pedestrian or vehicular traffic or access on, to or from a footpath or public place.

5.2 Except where otherwise provided in this Bylaw, a person must not place or leave any material or thing, including a sign, in a public place without the written permission of the Council and only then in accordance with any conditions imposed by the Council.

5.3 Without the prior written approval of Council, a person must not participate in any assembly or associate with other persons in such a way as to impede pedestrian or vehicular traffic or to prevent or hinder ready access to premises from the public place.

6. NUISANCES, SAFETY AND BEHAVIOUR IN ANY PUBLIC PLACE

6.1 A person must not use a public place to:

- (a) wilfully obstruct, disturb or interfere with any other person in their use or enjoyment of that public place;
- (b) create a nuisance through the use or playing of any instrument (musical or otherwise), any type of public address system or any type of amplified sound system, or from making any excessive sound or noise;
- (c) use any material or thing (including but not limited to a vehicle, bicycle, model aircraft, skating device, shopping trolley or similar object) recklessly or in a manner which may intimidate, be dangerous, be injurious to or cause a nuisance to any person;
- (d) install or maintain a fence (including but not limited to a razor-wire and electric fence) in a manner that may cause an injury or nuisance to any person;
- (e) consume, inject or inhale or distribute or offer for sale any mind-altering substance;
- (f) beg, in a manner that may intimidate or cause a nuisance to any person;
- (g) wash or offer to wash a vehicle or any part thereof, in a manner that may be unsafe or intimidate or cause a nuisance to any person, or cause an obstruction to traffic;
- (h) cause or allow material or thing or substance to be deposited or dropped on a public place.

6.2 A person must not cause or permit to be done any act whatsoever by which damage is caused to any public place, or to any work or thing in, on, over or under the public place, with the exception of drawing on the footpath with chalk.

6.3 Nothing in clauses 7 to 11 (inclusive) below limits the generality of this clause.

7. BUSKING AND TRADING IN PUBLIC PLACES

7.1 A person must hold a permit issued by the Council before mobile trading or busking in a public place.

7.2 Hawking is not permitted in any area zoned Commercial in the District Plan.

Application for Permit

7.3 An application for a permit required under this Bylaw must be submitted to Council on the prescribed form and must be accompanied by the fee set by Council from time to time.

7.4 Council may require such further information as it considers necessary to determine the application in the circumstances.

7.5 A permit will be granted at the discretion of the Council and subject to any terms, conditions or restrictions it considers appropriate, including but not limited to matters relating to:

- (a) duration of the permit;
- (b) the time and place in which the activity may take place, including its proximity to other commercial activities;
- (c) the classes or types of goods or services that may be sold;
- (d) the person(s) entitled to sell the goods or undertake the specified activities;
- (e) use of stalls, vehicles and structures, including parking arrangements and the need to avoid obstructions to footpaths and public places;
- (f) signage for the activity, including any displays;
- (g) restrictions or other requirements on the use of amplified sound and music;
- (h) any health and safety requirements that may be required;
- (i) the control of litter or cleanliness and hygiene during and after the activity;
- (j) any requirements in respect of rental for the site;
- (k) whether an applicant is a member of a registered organisation, association or charity;
- (l) where food is for sale, requirements regarding compliance with licensing and food safety legislation; and
- (m) proximity to other premises selling similar goods.

Explanatory note: Conditions imposed in accordance with clause 7.5(m) of the Bylaw will not apply to supermarket outlets given the diversity of products carried.

7.6 The Council will notify an applicant of the grounds for any refusal of an application.

7.7 A permit holder must comply with any terms and conditions of the permit.

General requirements

7.7 A permit holder must carry their permit at all times and be able to produce it on request by an enforcement officer.

7.8 A permit holder must only undertake the authorised activity in the area stipulated in the permit, with the exception of where an authorised activity is to occur in a fixed location, in which case a permit holder must move to another location on the request of an Enforcement Officer. In that event, they must do so immediately.

7.8 When carrying out the authorised activity, a permit holder must:

- (a) give due regard to the flow of pedestrians to ensure they are not in any way impeded or inconvenienced by the activity;

- (b) not enter any premises unless authorised by a person having control of the premises;
and
- (c) remove any litter which is generated by the authorised activity.

8. STALLS, DISPLAY OF GOODS, SIDEWALK DINING

Stalls

- 8.1 A business may place a stall outside the frontage of their premises at any time during trading hours; however the stall must:
 - (a) only display and/or sell merchandise related to the retailing activity of the business;
 - (b) be placed as close as practicable to the premises frontage;
 - (c) be kept clean and in good order and repair; and
 - (d) not obstruct the flow of pedestrians on the footpath or access to the premises.
- 8.2 In the event clause 8.1 is not satisfied, a permit must be obtained from the Council prior to use of the stall outside the business premises.

Display of Goods

- 8.3 Except as provided in clause 8.1 of this Bylaw, a person must not display goods for sale or advertising purposes on a footpath, grass verge or road without first obtaining a permit from Council.

Community Group Stalls

- 8.4 Without first obtaining a permit from the Council, a person must not operate a stall(s) for the selling of goods or raffles on behalf of community groups, or for any other purpose, in any area zoned Commercial in the District Plan.

Outdoor Dining

- 8.5 No operator of a food business shall provide outdoor dining facilities on the footpath without first obtaining a permit from Council.
- 8.6 In addition to any of the conditions imposed on a permit for outdoor dining under clause 7.6 of this Bylaw, the Council can impose conditions relating to:
 - (a) the location and number of tables and chairs on the footpath;
 - (b) the delineation of the outdoor dining area;
 - (c) the cleanliness and repair of the dining furniture; and
 - (d) placement of the dining furniture so as not to obstruct the visibility or passage of pedestrians and access to the premises and any other public place.

Donations

- 8.7 A permit must be obtained from Council before any organisations or groups request donations for charitable purposes in a public place.

9. SIGNAGE

Free-standing Signs

- 9.1 A business operating from fixed premises is permitted to place one free-standing sign on the footpath to advertise goods and services or the activity of the business to which it relates.
- 9.2 Any free-standing sign must:
- (a) be located adjacent to the business it relates to and as close as practicable to the kerbside;
 - (b) be no larger than 600mm wide by 1,800mm high;
 - (c) not resemble a warning sign or road traffic sign;
 - (d) must not have sharp edges or moving projections which may be a hazard;
 - (e) be constructed or adequately secured so as to be secure against wind gusts;
 - (f) be removed during the period the premises are closed;
 - (g) have no reflective materials or internal or external illumination; and
 - (h) not be displayed in a way which endangers public safety.
- 9.3 All free-standing signs must be placed so as not to obstruct the view of traffic.
- 9.4 Free-standing signs are not permitted on roadways, medians, traffic islands, roundabouts, planted areas or grass berms.

Real Estate Signs

- 9.5 One sign per property is permitted for an "open home" or real estate promotion irrespective of the number of real estate agencies marketing the property.

Explanatory note: for the avoidance of doubt, this clause only applies where the property is exclusively listed with one real estate agent or company.

- 9.6 A person may place "Open House" directional signs at the entrances to the street in which the "open home" promotion is occurring but only for a period of 30 minutes prior to and 30 minutes after the house is open for general inspection.

Signs on Vehicles

- 9.7 No person shall display signs on or connected to a moving or parked vehicle or trailer to advertise products or services without prior written approval from the Council.
- 9.8 Clause 9.7 does not apply to vehicles with signwriting (where the signwriting includes the logo and/or name of a business), unless, in the opinion of an Enforcement Officer, the sign written vehicle is causing a road or safety hazard.

General

- 9.9 The owner, occupier, or manager of any premises on which a sign is displayed must maintain the signage in such a condition that it does not become a nuisance, unsafe, structurally unsound, or create a risk to public health or safety.
- 9.10 The person who owns or is in control of a sign will be liable for the costs associated with any damage caused to property or any person by the sign.

Explanatory note: Council will bear no liability for damages caused to property or any person.

10. ELECTION SIGNAGE

- 10.1 Electoral signage may be displayed up to two months, prior to an election, and is to be removed by the close of day before polling day.
- 10.2 If practicable signs are to be displayed at right angles to any road, and no reflective material or illumination of signs is permitted on the signage.
- 10.3 Signs cannot be located within Road Reserve area or on unauthorised Council owned property.

Explanatory note: details of authorised areas for the display of election signs are maintained by Council's Planning Department.

- 10.4 If in the opinion of Council or Transit New Zealand, a sign is located where it is considered to be a traffic hazard (including signs which are visible from the road or a public place), it is to be moved and relocated at the expense of the person it relates to.

Explanatory note: nothing in this bylaw applies to election signs regulated by Government for general elections.

11. SKATING DEVICES

- 11.1 No person shall ride or use a skating device in any public place in such a manner as to be dangerous, cause a nuisance or cause damage to any property.
- 11.2 No person shall ride or use a skating device on any road, footpath or public place within any area defined in Schedule 1 of this Bylaw.
- 11.3 Council may from time to time by resolution, amend Schedule 1 of this Bylaw to add, delete or amend the areas to which the provisions of this Bylaw shall apply.

12. APPROVALS

- 12.1 Clauses 7.4 to 7.8 inclusive will apply to the granting and implementation of approvals under this Bylaw.
- 12.2 If an Enforcement Officer reasonably believes the holder of a permit or any other approval has breached any terms or conditions of the permit or approval or has breached any part of this Bylaw, they may issue a written warning and provide opportunity for the permit or approval holder to rectify the breach within 7 days.
- 12.3 In the event the breach identified under clause 12.2 is not rectified to the satisfaction of an Enforcement Officer or there are continuing breaches, then the Council may immediately revoke, suspend or vary the permit or approval granted under this Bylaw.
- 12.4 Notwithstanding clauses 12.2 and 12.3, an Enforcement Officer may immediately suspend or cancel any permit or approval granted under this Bylaw where it is necessary to avoid imminent danger to any person or the permit holder has failed to comply with the reasonable directions of an Enforcement Officer.
- 12.5 A person who has had a permit revoked by the Council may request a review of the decision. The Council may uphold or reverse the decision on conclusion of the review, and must give written reasons for its determination.

13. FEES

- 13.1 Council may, in accordance with section 150 of the Act prescribe fees or charges payable for any certificate, licence, approval, permit or consent form or inspection made by Council under this Bylaw.

14. BREACH OF BYLAW

- 14.1 Every person who fails to comply with this Bylaw is in breach of this Bylaw. For the avoidance of doubt, it will among other things be a breach of this Bylaw if a person:
- (a) Permits or allows any condition to exist or continue to exist contrary to this Bylaw;
 - (b) Fails to comply with any lawful notice of direction given under this Bylaw;
 - (c) Where required, fails to obtain written approval or having obtained written approval fails to abide by the conditions (if any);
 - (d) Obstructs or hinders any Enforcement Officer in the performance of any duty to be discharged by that Enforcement Officer under or in exercise of any power conferred by this Bylaw.

15. EXCLUSIONS FROM PUBLIC PLACES

- 15.1 Any person who breaches this bylaw must immediately, upon the request of an enforcement officer:
- (a) Cease an activity;
 - (b) Leave the public place concerned; and
 - (c) Remove any sign, structure, stall, equipment, tables and chairs, object or other work from any public place.

16. OFFENCES AND PENALTIES

- 16.1 Every person who breaches this Bylaw commits an offence and may be liable to pay the maximum fine set out in the Act or any other penalty set out in another enactment for the breach of the Bylaw.
- 16.2 The continued existence of any work or object in a state contrary to this Bylaw will be deemed a continuing offence within the meaning of the Act.
- 16.3 Where there is a breach of this bylaw, the Council may take any of the enforcement action provided for in the Act and any other enactment under which the Council has powers in the event this Bylaw is breached
- 16.4 Without limiting the generality of clause 16.3, the Council may:
- (a) apply for an injunction restraining a person from committing a breach of this bylaw or an offence against the Act; and
 - (b) recover the costs of remedying any damage caused in the course of committing an offence against this bylaw.
17. Breaches of Bylaws shall be Infringement Offences as may be prescribed in any enactment under which the Bylaw was made or under regulations made pursuant to the Act.

18. REPEAL AND SAVINGS

- 18.1 This Bylaw repeals the Public Places Bylaw 2006 and the Skateboards Bylaw 2007 from 6 May 2016.
- 18.2 Any consent, permit or licence issued under the Public Places Bylaw 2006 that was in force immediately before the commencement of this Bylaw continues in force as if it is a consent, permit or licence of that kind issued under this Bylaw, but:
- (a) Expires on the date specified in such consent, permit or licence; or
 - (b) Where no expiry date is specified, expires 12 months from the commencement of this Bylaw; and
 - (c) May be renewed only by application made and considered in accordance with this Bylaw.
- 18.3 Any resolution or other decision made under the Public Places Bylaw 2006 and the Skateboards Bylaw 2007 remains in force in the area to which it applied until revoked or replaced by an equivalent resolution or decision made by the Council under this Bylaw.

19. ATTESTATION

The foregoing Bylaw entitled the **Horowhenua District Council Public Places Bylaw 2016** was duly made at an ordinary meeting of the Horowhenua District on the 4th day of November 2015 and following use of the Special Consultative Procedure as required by the Local Government Act 2002 and meantime, having been publicly notified, was confirmed at an ordinary meeting of Council held on the 4th day of May 2016.

The Common Seal of the
HOROWHENUA DISTRICT COUNCIL
was hereunto affixed pursuant to a
resolution of the said Council
in the presence of:)
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)
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B. P. Duff His Worship the Mayor
PM Clapperton Chief Executive

SCHEDULE 1

Skating Devices – Areas where riding is banned

LEVIN

Oxford Street - Exeter Street to Mako Mako Road
Queen Street - Salisbury Street to Cambridge Street
Bath Street - Weraroa Road to Cambridge Street
Chamberlain Street and Service Lane Extensions
Regent Service Lane
Mall Car Park
Salisbury Street - Exeter Street to Durham Street
Durham Street - Oxford Street to Salisbury Street
Bristol Street - Queen Street to Stanley Street
Cambridge Street (West Side) - Queen Street to Bath Street
Central Service Lane - Bath Street to Queen Street
Stanley Street - Salisbury Street to Oxford Street
Levin Public Gardens - Remembrance Park, Cenotaph area

FOXTON

Main Street - Entire length
Clyde Street - Main Street to Harbour Street
Wharf Street - Main Street to Harbour Street
Whyte Street - Main Street to Hall Street
Avenue Road - Main Street to Hall Street

SHANNON

Plimmer Terrace - Ballance Street to Grey Street
Ballance Street - Plimmer Terrace to Venn Street

FOXTON BEACH

Foxton Beach Shopping Centre parking area in Seabury Avenue, as defined by footpath markings
Seabury Avenue south side from Dawick Street due east, and as defined by footpath markings.