

Public Places Bylaw 2023



For Consultation - As at 16-05-2023

1 Title

(1) This Bylaw shall be known as the “Whanganui District Council Public Places, Parks and Reserves Bylaw 2023”.

2 Commencement

(1) This Bylaw should be read in conjunction with the Reserves Act 1977.

(2) This Bylaw comes into force on _____ 2023.

3 Purpose

(1) The purpose of this Bylaw is to:

- a. Regulate activities that can be carried out in Public Places, Parks and Reserves, in order to look after the environment and ensure Public Places, Parks and Reserves are safe and accessible;
- b. Manage activities within Public Places, Parks and Reserves which may have an adverse effect on the environment, assets or users;

(2) Nothing in this Bylaw detracts from any provision of, or the necessity for compliance with any:

- a. Act of Parliament;
- b. Other Council bylaws, including the Freedom Camping Bylaw;
- c. Whanganui District Plan requirements; and
- d. Additional requirement imposed by the Horizons Regional Council or the Department of Conservation.

4 Interpretation

(1) In this Bylaw unless the context otherwise requires or where otherwise expressly provided:

Descriptor	Definition
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Act	Local Government Act 2002 or any substitute legislation.
Animal	Has the meaning given to it by section 2 of the Animal Welfare Act 1999 but does not include a human being.
Authorised Officer	Means any person appointed by Council to act on its behalf and with its authority, and may include a police officer.
Bylaw	Whanganui District Council Public Places, Parks and Reserves Bylaw 2023.
Council	Whanganui District Council, any Authorised Officer, or any officer.
District	The area within the territorial boundary of the Whanganui District.
Event	Any organised temporary activity including but not limited to any commercial event, concert, exhibition, festival, film-shoot, fun run, sports event, organised gathering, parade, protest, private event in a Public Place, or public meeting.
Food	Has the meaning given to it by section 9 of the Food Act 2014.
Motor Vehicle	Has the meaning given to it by section 2(1) of the Land Transport Act 1998 and means: "A vehicle drawn or propelled by mechanical power and includes a trailer, but does not include: <ul style="list-style-type: none"> i. A vehicle running on rails; or ii. A trailer (other than a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of the New Zealand Defence Force; or iii. A trailer running on one wheel and designed exclusively as a speed-measuring device or for testing the wear of vehicle tyres; or iv. A vehicle designed for amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles; or v. A pedestrian-controlled machine; or vi. A vehicle that the New Zealand Transport Agency has declared under s168A of the Land Transport Act 1998 is not a motor vehicle; or vii. A mobility device."
Nuisance	Has the same meaning as in Section 29 of the Health Act 1956 and includes a Person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another Person whether or not that Person is in a Public Place.
Park	Any park, domain or recreational area that is under the control of Council but not classified as a Reserves Act 1997 reserve.
Permit	A permit issued under the Bylaw by Council.
Person	Includes a natural person, a corporation sole, and a body of Persons whether incorporated or not.
Premises	All land and buildings within a single rating unit.
Public Place	A place that, at any material time, is under the control of Council and is open to or being used by the public, whether free or on payment of a charge, and includes any road whether or not it is under the control of Council.
Reserve	Land vested in or administered by the Council under the provisions of the Reserves Act 1977.
Road	Has the meaning given to it by section 2(1) of the Land Transport Act 1998 and includes: <ul style="list-style-type: none"> a. a street; and

	<ul style="list-style-type: none"> b. a motorway; and c. a beach; and d. a place to which the public have access, whether as of right or not; and e. all bridges, culverts, ferries, and fords forming part of a road or street or motorway, or a place referred to in paragraph (d); and f. all sites at which vehicles may be weighed for the purposes of the Bylaw or any other enactment.
Sign	Any boards, flag signs, placards, hoardings, banners or other similar devices or advertising matter, whether consisting of a specially constructed free standing device, structure, erection or apparatus, or painted, printed, written, carved, inscribed, endorsed, projected on to, placed or otherwise fixed to or displayed upon any land, building, wall, fence, rock, tree or other structure or object (including parked vehicles or trailers where such a Vehicle or trailer is parked specifically for the purpose of attracting attention), with or without illumination.
Signage Policy	The Signage Policy 2018 or any subsequent corresponding policy adopted by Council resolution.
Sale or Sell	The exchange of goods or services for an amount of money or its equivalent; the act of selling.
Vehicle	<p>Has the meaning given to it by section 2(1) 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 hovercraft, a skateboard, in-line skates, and roller skates; but does not include -</p> <ul style="list-style-type: none"> i. A perambulator or pushchair; ii. A shopping or sporting trundler not propelled by mechanical power; iii. A wheelbarrow or hand-trolley; iv. A pedestrian-controlled lawnmower; v. Any pedestrian-controlled agricultural machinery not propelled by mechanical power; vi. Any article of furniture; vii. A wheelchair not propelled by mechanical power; viii. Any other contrivance specified by the rules not to be a vehicle for the purposes of this definition; ix. Any rail vehicle.

5 Prohibited Activities

(1) A Person shall not do the following in a Public Place, Park or Reserve:

- a. Allow any boundary fence to be in a condition likely to cause injury;
- b. Create a Nuisance through the use of any instrument (musical or otherwise), any type of public address system or amplified sound system;
- c. Create a Nuisance from making excessive sound or noise;
- d. Intimidate or cause Nuisance to any Person;
- e. Drive, ride, propel, park or wheel any Vehicle in a manner that causes Nuisance or danger to other Persons or in contravention to any Sign or control Council puts in place;
- f. Release or lose control of any Animal under that Person's control;

- g. Ride or control any Animal in such a manner to cause damage to the Public Place, Park or Reserve, create Nuisance or danger to other Persons or in contravention to any Sign or control Council puts in place;
- h. Place or leave any greenwaste, or household or trade refuse in a public litter receptacle;
- i. Dispose of greenwaste, or household or trade refuse in a Public Place;
- j. Use any material or thing (including but not limited to a Vehicle or Motor Vehicle) recklessly or in a manner which may intimidate, be dangerous to, or cause a Nuisance to any Person; or
- k. Permit wastage of water.

6 Restricted Activities

(1) A Person shall not do the following in a Public Place, Park or Reserve, unless permitted by an Authorised Officer:

- a. Place or leave any materials or substances likely to be hazardous or injurious to any Person, Animal or the environment;
- b. Light any fire except at the places specially provided, or in an appliance designed for outdoor cooking, subject to any restriction lawfully imposed by Council on the lighting of fires;
- c. Obstruct or impede lawful access to Premises facing on to the Public Place, Park or Reserve;
- d. Damage, interfere with, destroy or remove any grass, soil, plot, flower bed, tree, shrub or plant or any inscription or label relating to it;
- e. Kill, injure or interfere with or take any Animal, bird's nest or bird's egg;
- f. Solicit any subscription or donation;
- g. Erect or allow to remain a structure of any kind including but not limited to any stall, booth, tent, swing or amusement device;
- h. Conduct aircraft operations of any kind, including but not restricted to drone operations, hot air ballooning, hang gliding, and parachuting;
- i. Participate in any assembly or associate with other Persons in a way that impedes pedestrian or vehicular access to Premises facing on to the Public Place, Park or Reserve;
- j. Allow any gate or door to swing over or across the Public Place, Park or Reserve;
- k. Enter or leave except through the openings, gateways, entrances or exits where provided;
- l. Drive, ride, propel or wheel any Vehicle except on places specified by Council for the driving, riding, propelling or wheeling of Vehicles and subject to any controls that Council puts in place.

7 Signs

(1) No person may erect or display a Sign in such a position as to be on, or projected over any Public Place, except as authorised by or approved under the Signage Policy.

8 Enforcement

(1) If an Authorised Officer believes on reasonable grounds that a Person is committing or has committed an offence under this Bylaw, the Authorised Officer may direct the Person to give:

- a. Their name or address; and
- b. The name and address and whereabouts of any other Person connected in any way with the alleged offence.

(2) Every Person commits an offence under the Bylaw who intentionally:

- a. Breaches this Bylaw;
- b. Prevents an Authorised Officer from carrying out their functions or duties under this Bylaw;
- c. Obstructs or impedes an Authorised Officer from carrying out the provisions of this Bylaw;
- d. Refuses to give information when directed to do so by an Authorised Officer under clause 8(1) of the Bylaw, or knowingly misstates information; or
- e. Incites any other Person to do any act referred to in the above clauses.

(3) An Authorised Officer may seize property that has been materially involved in a breach of the Bylaw if it is reasonable to do so and the person committing the breach has been provided a reasonable opportunity to stop committing the offence.

(4) If any work or thing has been constructed in breach of the Bylaw, an Authorised Officer may:

- a. Remove or alter the work or thing;
- b. Recover the costs of removal or alteration of the work or thing from the person who committed the breach; and

payment of the costs of removal or alteration do not relieve the person who committed the breach of any other liability under this or any other Bylaw or regulation.

9 Appeals

(1) Any Person who is dissatisfied with a decision made by an Authorised Officer may file a written objection against that decision.

(2) The written objection must be submitted to the Chief Executive within 14 days of receiving notice of the decision.

(3) On hearing the objection, Council may uphold, rescind, or modify the decision made by the Authorised Officer. The decision of Council shall be final.

(4) Where an appeal is being made against the decisions of an Authorised Officer, the decision on the appeal should not be made by the same Authorised Officer.

(5) The right of objection is in addition to any other statutory right made available to that person.

10 Conditions of Use

(1) Council may, from time to time:

- a. Establish conditions for the use of any Public Place or Park;
- b. Establish conditions for the use of any Reserve, subject to the provisions of the Reserves Act 1977 and any associated reserve management plans;
- c. Restrict or close access to a Public Place or Park, including for private use or a private function;
- d. Restrict or close access to a Reserve, subject to the provisions of the Reserves Act 1977 and any associated reserve management plans.

11 Permits

(1) Council may grant a Permit to any person to occupy any Public Place or Park on such terms and conditions as the Council shall determine, and subject to the Reserves Act 1997 and any associated reserve management plan where applicable.

Explanatory note: Reserves have their own usage rules depending on the designation of the Reserve and the Reserve's management plan among other things.

(2) As part of granting a Permit, Council may restrict public access to any Public Place, Park or Reserve for any purpose specified by Council (including for private use).

(3) Where any activity under the Bylaw requires a Permit from Council, any person seeking a Permit must:

- a. Complete an application form provided by Council;
- b. Pay any application fee specified for the Public Place, Park or Reserve and/or the specific activity (if any); and
- c. Comply with all conditions of the Permit.

(4) Every person relying on a Permit must comply with all conditions of that Permit.

Explanatory note: Conditions may include, but are not limited to, the duration of the permit and/or the activity/event, the location where the activity/event is permitted, the type of activity/event, who may conduct the activity/event, and details of arrangements that must be made to manage the effects of the activity/event. Details of arrangements to be made may be anything reasonably necessary to achieve the objectives of the Bylaw, or to minimise the risk of Nuisance or danger.

(5) Permits are personal to the applicant and are not transferable.

(6) An Authorised Officer may revoke a Permit at any time.

(7) An Authorised Officer may revoke a Permit for:

- a. A breach of the Bylaw;
- b. A breach of any condition of the Permit; or
- c. Any change of circumstances relating to the Public Place, Park or Reserve, the Permit holder, and/or the permitted activity/event.

(8) Council may waive any application under the Bylaw if an approval is granted through another mechanism including, but not limited to, another Council bylaw or a resource consent.

12 Fees

(1) Council may prescribe fees or charges payable for a Permit issued by the Council under this Bylaw.

(2) Council may provide for the refund, remission, or waiver of a fee in specified situations.

13 Review

(1) This Bylaw must be reviewed before _____ 2028.

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