

Approved By: Council	Date Adopted: 22 October 2020
Date in Force: 22 October 2020	Review Date: 22 October 2030

HAMILTON SAFETY IN PUBLIC PLACES BYLAW 2020

This Bylaw is made by the Hamilton City Council under the powers given to it by the Local Government Act 2002.

1. PURPOSE

1.1. The purposes of this bylaw are:

- a) protecting the public from nuisance;
- b) protecting, promoting, and maintaining public health and safety; and
- c) minimising the potential for offensive behaviour in public places.

2. APPLICATION

2.1. This Bylaw applies to public places in Hamilton.

3. DEFINITIONS

3.1. The following definitions apply to this Bylaw, except where inconsistent with the context:

Authorised Officer	A person appointed by Hamilton City Council for the purposes of ensuring compliance with the Bylaw, as defined as an Enforcement Officer in the Local Government Act 2002 section 177.
Council	Hamilton City Council
General Manager	the Council General Manager responsible for the administration and enforcement of this Bylaw
Nuisance behaviour	Nuisance behaviour includes: <ol style="list-style-type: none"> a) Begging in a public place in a manner that is likely to cause harassment, alarm, or distress to any reasonable person, or causes an unreasonable interference with the peace, comfort or convenience of any person. b) Sleeping in a public place in such a way as to cause an obstruction. c) Urinating or defecating in a public place other than a toilet. d) Consuming, injecting, inhaling or ingesting a mind-altering substance in a public place. e) Any conduct in a public place that is likely to cause unreasonable interference with the peace, comfort or convenience of a reasonable person in the circumstances in which it occurs, whether or not that person is in a public place, to the extent that it disturbs public order and is more than those subjected to it should have to tolerate.
Offensive behaviour	Behaviour in a public place that is capable of arousing real anger, resentment, disgust or outrage in the mind of a reasonable person, objectively assessed, to the extent that it disturbs public order and is more than those subjected to it should have to tolerate.
Psychoactive substance	Means the definition in s 9 of the Psychoactive Substances Act 2013, except that it does include a controlled drug specified in Schedule 1, 2 or 3 of the Misuse of Drugs Act 1975.
Public Place	Public place includes any place or space that is not private property, and which is open to the public.

Note: This bylaw is required to comply with the New Zealand Bill of Rights Act 1990, which protects freedom of expression among other rights. The mere fact of participating in a public protest will not, on its own, constitute offensive or nuisance behaviour. Public order is sufficiently disturbed if the behaviour causes offence of such a kind or to such an extent that those affected are substantially inhibited in carrying out the purpose of their presence at that place.

4. TEMPORARY RESTRICTIONS TO PROTECT PUBLIC HEALTH AND SAFETY

- 4.1. Any person intending to hold an event or undertake an activity may apply to the General Manager requesting that Council impose temporary restrictions in order to protect the health and safety of attendees or the public. The General Manager may impose the following temporary restrictions:
- a) Prohibiting the use of bicycles, skateboards, scooters, or other wheeled transportation (including electrically-powered versions) from entering a defined area during a defined period.
 - b) Excluding non-attendees or the public generally from a defined area during a defined period.
- Temporary restrictions must not be imposed unreasonably.

- 4.2. Council must, so far as practicable, put up notices at each entrance and along each boundary of the defined area(s) setting out the nature of the temporary restrictions, the defined area and duration.

5. BREACH OF BYLAW

- 5.1. The following conduct is an offence under this bylaw:

- a) Nuisance behaviour;
- b) Behaviour in a public place that poses a threat to public safety;
- c) Offensive behaviour;
- d) Failing to comply with any lawful notice or direction given under this bylaw;
- e) Obstructing or hindering any authorised officer in performing any duty or power conferred by this bylaw.
- f) failure to comply with a temporary restriction imposed under clause 4.

6. PENALTIES AND POWERS

- 6.1. Under section 242 of the Local Government Act 2002, any person who breaches this bylaw, commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.
- 6.2. Under section 163 of the Local Government Act 2002 the Council or an authorised officer may remove or alter any work or thing that is or has been constructed in breach of this Bylaw and may recover the costs of doing so from the person who committed the breach. This does not affect that person's liability for the breach.
- 6.3. Under section 162 of the Local Government Act 2002 the Council may apply to the District Court for an injunction restraining a person from committing a breach of this Bylaw.
- 6.4. The Council or an authorised officer may seize and impound property materially involved in committing an offence, under sections 164 and 165 of the Local Government Act 2002.
- 6.5. The Council will return or may dispose of property seized and impounded in accordance with sections 167 and 168 of the Local Government Act 2002.
- 6.6. Under section 176 of the Local Government Act 2002 any person who has been convicted of an offence under this bylaw is liable to pay the Council the costs of remedying any damage caused in the course of committing the offence.

The COMMON SEAL of the HAMILTON CITY COUNCIL was hereunto affixed in the presence of:

Hamilton City Council

BYLAWS



Councillor: _____

Councillor: _____

Chief Executive: _____

Explanatory Note:

This note is for information purposes and does not form part of this Bylaw. For guidance on how all other nuisance behaviours are covered by other Council Bylaws and Policies please refer to the Nuisance Behaviour and Policy and Bylaws table.

Offensive behaviour	The definition of offensive behaviour is taken from the decision of the Supreme Court in <i>Morse v Police</i> [2011] NZSC 45; (2011) 25 CRNZ 174.
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