

PUBLIC PLACES BYLAW 2019

PART 1 INTRODUCTION

1. TITLE

This bylaw is the Porirua City Council Public Places Bylaw 2019.

2. COMMENCEMENT

This bylaw comes into force on 19th June 2019.

3. PURPOSE

3.1 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.

4. DEFINITIONS

4.1 An undefined term or expression used in this bylaw has the meaning given in the relevant legislation. For the purposes of this bylaw the following definitions shall apply unless context requires otherwise:

Act means the Local Government Act 2002.

Approval means Council permission to carry out an activity. May require a permit and may be subject to conditions.

Authorised officer means an officer or person appointed by the Council to perform duties required under this part, irrespective of the designation given to that officer or person.

Bylaw means the Porirua City Council Public Places Bylaw 2019.

Camping means living or residing, whether temporary or permanent in a public place.

Charity means a non-profit organisation that raises funds for the benefit of the needy, a community group, an environmental cause, or the benefit of the public.

Commercial services means selling or hiring any goods or services which are offered or provided in a public place in exchange for payment, reward or otherwise. This includes, but is not limited to, the production and sale of personal portraits, hiring recreational equipment or any other service of any kind whatsoever.

Council means the Porirua City Council or any person delegated or authorised to act on its behalf.

Event means an organised temporary activity that brings people together for the primary purpose of participating in an uplifting community, cultural, commemorative, recreational, sport, art, educational, or entertainment experience and includes an organised gathering, outdoor market, political meeting, parade, protest, festival, filming, concert, celebration, or sporting event of a significant scale.

Encroachment means any public place where a person other than Council is using or occupying an area for private benefit (exclusive or otherwise).

Fence is as defined in the Fencing Act 1987.

Footpath means a path or way principally designed for, and used by, pedestrians; and includes a footbridge.

Freedom camp means to camp (other than at a camping ground) within 200m of a motor vehicle accessible area or the mean low-water springs line of any sea or harbour, or on or within 200m of a formed road or a Great Walks Track, using 1 or more of the following:

- a. a tent or other temporary structure
- b. a caravan
- c. a car, campervan, housetruck, or other motor vehicle.

Freedom camping does not include the following activities:

- a. temporary and short-term parking of a motor vehicle
 - b. recreational activities commonly known as day-trip excursions
 - c. resting or sleeping at the roadside in a caravan or motor vehicle to avoid driver fatigue.
- (See section 5, Freedom Camping Act 2011)

Market means the whole of the place and the whole of the activity, where more than one stall at a common location where goods and/or services are offered for sale or hire, whether for commercial or charitable purposes.

Mobility device means a vehicle that:

- a. (i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
(ii) is powered solely by a motor that has a maximum power output not exceeding 1500W; or
- b. a vehicle that the New Zealand Transport Authority (the Agency) has declared under section 168A(1) of the Land Transport Act 1998 to be a mobility device.

(See section 2, Land Transport Act 1998 and Rule 1.6, Land Transport (Road User) Rule 2004)

Mobile shop means a vehicle standing on a road or other public place and from which:

- a. goods are offered or exposed/displayed for sale; or
- b. goods may be ordered; or
- c. services are offered for sale; but
- d. does not include any vehicle used for the purpose of transporting and delivering goods pursuant to a prior order being placed; or a mobile library.

Motor vehicle trader is as defined in the Motor Vehicle Sales Act 2003.

Nuisance means 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.

Obstruct means to impede, interfere with or block pedestrian or vehicular traffic or access on, to or from a public place.

Outdoor goods display means the display of goods in a road or other public place adjacent to business premises, and includes any display structure.

Outdoor dining means a road or other public place used by an adjacent business premises for the purpose of providing food or drink.

Permit means a written approval from Council with or without prescribed conditions and charges.

Person includes an individual, a corporation, a body corporate, and an unincorporated body.

Property means any parcel of land and/or building capable of being transferred, sold, rented, leased, or otherwise disposed of separately from any other parcel of land and/or building(s).

Premises means any separately occupied land, building, or part of the same.

Public place means any place that, at any material time, is owned, managed, maintained or controlled by the council or a council-controlled organisation and is open to or is being used by the public, whether free or on payment of a charge.

Reserve means any land which is vested in or under the control of the Council and which is set aside for public enjoyment as a reserve, park, garden or greenspace area.

Ride a skateboard means having either one or both feet, or any other part of the body of any person, on the skateboard when it is moving.

Road has the meaning assigned to that term under section 2(1) of the Land Transport Act 1998 and its amendments.

Street appeals means coordinated and organised events by organisations who ask for, or seek, any subscription, collection or donation from members of the public, and usually involves more than one collection person operating at the same time.

Stall means any stand, stall, structure, vehicle, awning, table or temporary structure from which goods and / or services are offered for distribution or sale and which is erected, placed or maintained in or on a public place

Street performances means entertainment on or in a public place, and includes a musical, dramatic or other performance involving musical, theatrical or circus performance skills including busking, playing musical instruments, dancing, singing, clowning or juggling, pavement art, poetry or doing other acts of a similar nature.

Trading in a public place means an activity undertaken by any person or organisation involving the sale of goods in a public place or the offering of a commercial service for payment, reward or otherwise, including but not limited to:

- a. markets and stalls,
- b. mobile shops,
- c. fundraising for a charitable cause, soliciting of any subscription or collection of any one-off or on-going donation,
- d. offering commercial services in a public place,
- e. hawking,
- f. distribution of promotional goods and materials.

Vehicle means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and includes a trailer.

Wheeled recreational device (including E-Scooters) means:

- a. a vehicle that is a wheeled conveyance (other than a cycle that has a wheel diameter exceeding 355 mm) and that is propelled by human power or gravity; and

- b. includes a conveyance to which are attached 1 or more auxiliary propulsion motors that have a combined maximum power output not exceeding 300 W.

E-scooters are classified by the New Zealand Transport Agency (NZTA) as a low-powered vehicle. In order to meet the requirements for a low-powered vehicle, the:

- wheels must not exceed 355mm; and
- the motor must have a maximum power output not exceeding 300W.

(See Rule 1.6, Land Transport (Road User) Rule 2004)

5. APPLICATION

5.1 This Bylaw is made under the Local Government Act 2002. Relevant Acts that should be read in conjunction with this Bylaw include, but are not limited to, the Land Transport Act 1998, Health Act 1956, Civil Aviation Rules, and the Summary Offences Act 1981; including amendments to any Act, Rule or Regulation or any Act, Rule or Regulation passed in substitution for it.

5.2 This Bylaw applies to public places in Porirua and includes, but is not limited to:

- a. Council owned property;
- b. footpaths;
- c. roads (does not include state highway road reserve).

5.3 This Bylaw does not apply to:

- a. activities permitted under the District Plan;
- b. activities controlled by other Porirua City Council bylaws;
- c. any Council reserve controlled by the Porirua City Council Reserves Management Plan;
- d. customary rights of Iwi;
- e. network utility operators legally required to undertake work, provided all otherwise necessary authorisation is obtained.

PART 2 GENERAL REQUIREMENTS

6. PUBLIC BEHAVIOUR, SAFETY AND NUISANCES

6.1 All persons occupying or using public places should take all reasonable steps to:

- a. protect the public from nuisance;
- b. protect, promote, and maintain public health and safety;
- c. minimise the potential for offensive behaviour in public places.

6.2 A person must not:

- a. cause a nuisance to any other person in their use or enjoyment of a public place;
- b. install or maintain a fence (including a razor-wire, barbed wire and electric fence) in a manner that may cause an injury or nuisance to any person;
- c. light a fire in a public place, except in an appliance designed for outdoor cooking (subject to any restriction imposed by Fire and Emergency NZ);
- d. cause a smoke or ash nuisance to any person or property;
- e. carry out building work or excavations on a public place without first obtaining a permit from Council.

7. CAMPING (INCLUDING FREEDOM CAMPING)

7.1 No person shall camp or reside in an area in a public place not set aside for that purpose. In this context camping or residing shall include the use of any vehicle for sleeping whether or not it is specially set out for sleeping.

7.2 A person must not camp in an area in which freedom camping is prohibited unless they have prior written consent from the Council.

Section 7 must be read in conjunction with Part 9 – Reserves 9.9 Bylaw and Appendix 5 of the Reserves Management Plan (Overnight Campervan Parking)

8. OBSTRUCTION OF PUBLIC PLACES

8.1 A person must not:

- a. place or leave any material, object, thing or structure in or on a public place so as to obstruct the public,
- b. organise any event that is likely to obstruct the public whether that event is on public property or not,
- c. store or pack goods on a public place.

8.2 A person may have an outdoor goods display, or outdoor dining furniture, if they are in accordance with relevant Council policies.

9 TRADING AND EVENTS

9.1 A permit is required for:

- a. trading in a public place,
- b. street appeals, charity fundraisers, street performances (including busking),
- c. events,
- d. commercial e-scooters or similar device.

9.2 Permits may be subject to fees and charges prescribed by Council.

9.3 The organiser of any event, demonstration, competition, parade or procession that is likely to interfere with traffic or pedestrian thoroughfare in a public place shall notify the Council, as soon as reasonably practicable, prior to the event to arrange any necessary traffic management.

9.4 A motor vehicle trader must not display on a road or public place any vehicle for sale, lease or hire. This does not apply to private vehicle sales.

10. NOISE

10.1 No person shall in a public place, make or cause loud noise so that the peace and quiet of persons within and/or neighbouring the public place is disturbed, or so that a congregation or meeting is disturbed, without the prior written permission of the Council.

11. SIGNS

11.1 A permit is required for signage in public places. Approval may be subject to Council setting conditions including placement, fees and the duration a sign may be erected.

Note section 11 must be read in conjunction with Part 15 – Signs Bylaw.

12. PERMITS

12.1 In addition to conditions incorporated by this Bylaw, a permit may include conditions that the Council considers are necessary to manage the effects of the activity, achieve the objectives of this Bylaw and minimise the risk of nuisance.

12.2 A permit may be issued by an Authorised Officer upon payment of the prescribed fee (if any) and subject to such terms, conditions and restrictions as the Authorised Officer may specify, including but not limited to the following matters:

- a. The time and place in which the activity may take place,
- b. The types of goods or services that may be sold,
- c. The person(s) entitled to sell the goods or undertake the specified activities,
- d. Any safety and hygiene requirements that may be required,

- f. Any requirements in respect of signage for the activity,
- g. Any restrictions or requirements concerning the use of music or other noise sources,
- h. Any requirements in respect of litter control or cleanliness during and after the activity,
- i. Any requirements in respect of rental for the site, and
- j. Such other conditions as an Authorised Officer may impose.

12.3 A permit is personal to the applicant and is not transferable.

13. FEES

13.1 Fees for permits which may be issued under the provisions of this bylaw will be prescribed from time to time under section 150(3) of the Local Government Act 2002, using the special consultative procedure set out in Section 83 of the Local Government Act 2002.

14. VEHICLE CROSSINGS

14.1 Prior written approval must be obtained from Council before constructing, repairing, removing, widening or narrowing any vehicle access way.

14.2 Conditions may be set by way of permit for the construction of a vehicle crossing.

14.3 The Council may require the property owner which the vehicle crossing provides access to, to repair, reconstruct, renew or remove such access to the satisfaction of the Council.

14.4 The Council may remove or alter any work located on the road constructed without a permit or contrary to the terms of a permit.

14.5 Costs may be recovered from the person who undertook the work, or the property owner serviced by the vehicle access.

15. CONTROL OF SKATEBOARDS, SCOOTERS AND SIMILAR DEVICES

15.1 No person shall ride a skateboard or similar device in any area defined in the First Schedule attached to the bylaw.

15.2 Commercial operators of e-scooters will require a permit/licence to trade in a public place which will be subject to prohibitions and restrictions imposed by the permit/licence.

15.3 No person shall ride a skateboard, roller skates, roller blades, scooter or similar devices in any public place (which is outside the areas defined in the First Schedule) without due care to ensure no damage is caused to any property, or recklessly in a manner which may intimidate, be dangerous or injurious or cause a nuisance to people in the public places.

15.4 In accordance with section 156 of the Local Government Act 2002, the Council may, from time-to-time by publicly notified resolution and where the changes are minor or to correct errors in the bylaw, amend the First Schedule to add, delete or amend the areas to which the provisions of this bylaw shall apply.

16. IMPOUNDING SKATEBOARDS AND SIMILAR DEVICES

16.1 Every person who commits an offence against this bylaw is liable to have the skateboard, scooter, e-scooter or similar device impounded by any Authorised Officer and, subject to clause 16.2 below, held by the Council.

16.2 Any person reclaiming a skateboard, scooter, e-scooter or similar device which has been impounded by the Council shall:

- a. satisfy the Council or an Authorised Officer that he or she is the owner or otherwise entitled (for example commercial hireage) to the custody and control of the skateboard, scooter, e-scooter or similar device; and

b. pay a fee to the Council that Council may determine by resolution.

16.3 The Council shall keep a register and enter details of every skateboard, scooter, e-scooter or similar device impounded and every person claiming one under this bylaw.

16.4 The Council may, from time to time by publicly notified resolution, alter the fee payable under clause 13.1 of this bylaw.

17. ANIMALS AND STOCK ON PUBLIC PLACES

17.1 No person shall take or allow any animal under their care or control onto any public place if the Council has prohibited entry of that type of animal to that public place.

17.2 Any person having control of stock on any public place shall ensure that the stock is kept under proper control, with consideration for other persons using the public place.

17.3 No person shall drive any stock on any road during the period between half an hour after sunset and half an hour before sunrise unless sufficient warning is provided and maintained by such person by the use of lights or other effective devices or means to ensure that other persons using such road shall have adequate notice of the presence of such animals on the road.

17.4 No person shall:

- a. permit stock to be driven across or along any public place unless an alternative route is not reasonably available,
- b. permit any stock to be on a reserve, beach or other area designated as an area prohibited to stock without the prior consent of an Authorised Officer,
- c. graze stock in any public place except in accordance with Council policy.

17.5 Any person having control of stock in any public place shall ensure that the stock do not cause damage to the public place.

17.6 Council may from time to time by special order publicly notified declare certain roads to be stock routes and prohibit or restrict the use of any other roads, public places or urban areas for the driving of stock. Any such declaration, prohibition or restriction may from time to time in like manner be altered or revoked. This requirement shall not apply to any person who rides or leads a horse under proper control on a road.

17.7 Any person having control of stock being driven on any public place shall ensure that faeces, urine or other matter deposited upon the public place from such stock is removed, and disposed of in an appropriate manner.

17.8 Any person being the owner of, or having control of any horse in a public place shall immediately remove any faeces deposited by that horse from any public place.

18. Smokefree

18.1 Public places are to be smokefree subject to Council Smokefree Policy.

**PART 3
COMPLIANCE**

19. ENCROACHMENTS

19.1 Any property owner may be authorised by the Council to occupy a public place controlled by the Council ('an encroachment'). The Council may issue an encroachment licence to the applicant in accordance with any relevant Council policy. Encroachment licences are subject to fees and charges.

19.2 Any subsequent encroacher must complete a new encroachment licence with the Council in order to continue the occupation of the encroachment area.

20. EXEMPTIONS

20.1 A person may apply in writing to the Council for an exemption to the requirements of this bylaw.

20.2 An application for an exemption permit will only be approved if the Council is satisfied that it will not significantly diminish the purpose of this bylaw.

20.3 Exemption permits may be subject to fees and charges.

Note: Exemptions and encroachments may require approval from several different Council groups.

21. ENFORCEMENT

21.1 Where there is non-compliance, the Council may use its powers under section 239 of the Local Government Act 2002 to enforce this bylaw and a person is liable to a fine under section 242 of the Local Government Act.

21.2 Costs incurred as a result of enforcement may be recovered from the person responsible for the non-compliance.

22. TRANSITIONAL PROVISIONS

22.1 Any consent, permit, exemption, permission or other form of approval made under the Porirua City Council General Bylaw 1991 Part 11 (Public Places) continues in force but:

- a. expires on the date specified in that approval; or
- b. if no expiry date is specified, expires 12 months from commencement of this bylaw; and
- c. may be renewed by application made and considered in accordance with this bylaw.

FIRST SCHEDULE

Public Places upon which no person shall ride a skateboard or similar devices

The riding of skateboard or similar devices is prohibited on footpaths and other public places in the following areas:

- 1.1 The Porirua City Centre boundary within and including Hagley Street, Lyttelton Avenue, Walton Leigh Road and Titahi Bay Road (part). (Map 1)
- 1.2 Titahi Bay Shopping Centre including the paved mall area between Whitehouse Road and Te Pene Avenue. (Map 2)
- 1.3 Cannons Creek Shopping Centre bounded within and including Bedford Street (part), Mungavin Avenue (part), Warspite Avenue (part) and the boundary of the Belmont Regional Park. (Map3)

Commercial E-Scooters

The prohibited and/or restricted areas for the riding of commercial e-scooters will be set out as conditions in the permit/licence.

Map 1 - Porirua City Centre



Map 2 - Titahi Bay Shopping Centre



Map 3 - Cannons Creek Shopping Centre

