



Nelson City Council

te kaunihera o whakatu

City Amenity Bylaw (No. 226)

September 2017

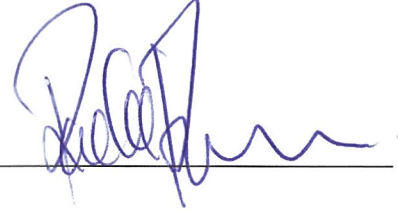
A handwritten signature in blue ink, consisting of stylized initials and a surname.

The COMMON SEAL of the
NELSON CITY COUNCIL

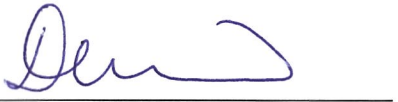
Was hereto affixed in

The presence of:





Her Worship the Mayor



Chief Executive

This 30th of AUGUST 2017.

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CITY AMENITY BYLAW

PART ONE - ADMINISTRATION

1. Title

1.1. The title of this bylaw is the "City Amenity Bylaw 2017".

2. Commencement and Review Date

2.1. The bylaw came into effect on 11 September 2017 and will be reviewed by 11 September 2022.

3. Purpose

3.1. This bylaw has one or more of the following purposes:

- i. To protect, promote and maintain public health and safety in the city centres;
- ii. To maintain and enhance the amenity and security of the city centres;
- iii. To protect the public from activities that may constitute, or have the potential to constitute, a nuisance;
- iv. To minimise activities that cause an obstruction on footpaths and roads;
- v. To minimise disorder or offensive behaviour within the city centres;
- vi. To require organisers of events, that might impede pedestrian or pedestrian activity, within the city centres to notify Council;
- vii. Restrict sleeping on roads or footpaths in the city centres.

Explanatory note: The provisions in this bylaw are in addition to provisions found in the Urban Environments Bylaw affecting the city centres and in particular Chapter Four "Urban Amenity" and Chapter Five "Trading in Public Places".

4. Exemption

4.1. Nothing in this bylaw shall prevent or restrict lwi from carrying out activities which are provided for in the legislation enacting their individual Deeds of Settlement.

5. Breach of Bylaw

5.1. Any person who breaches this Bylaw must, on verbal or written request by an Enforcement Officer, immediately stop the activity.

5.2. Any person failing to promptly comply with a request under clause 5.1 commits a further offence against this Bylaw.

Explanatory note: Powers and penalties available to Council if a bylaw is breached: Section 242 of the Local Government Act 2002 (LGA) provides for fines of up to \$20,000. Section 163 of the LGA allows removal or alteration of works or things in breach of a bylaw. Section 162 allows Councils to apply for an injunction. Sections 164-168 provide for the Council to seize and impound property (which may be subsequently returned or disposed of). Section 176 covers cost recovery.



PART TWO - DEFINITIONS

- **Authorised officer** means any member of the staff of the Council, a Police Officer or any other person appointed by the Council to act on its behalf and within its authority;
- **City centres** means that area of the City which is zoned “Inner City” and the “City Fringe” and including the Suburban Commercial Zone under the Nelson Resource Management Plan (NRMP) or any other resource management plans which replace the NRMP after this Bylaw is adopted;
- **City** means the territory contained within the City of Nelson as defined by Schedule 2 of the Local Government Act 2002;
- **Commercial Premises** means any premises that solicits patronage for, or provision of, any service which is offered or provided, on payment of a fee, charge or other valuable consideration, either on a casual basis to passers-by or any other service of any kind whatsoever;
- **Council** means the Nelson City Council as constituted by the Local Government Act 2002;
- **Enforcement Officer** means a person appointed by the Council pursuant to section 177 of the Local Government Act 2002 to exercise the powers of an enforcement officer in relation to offences against this Bylaw;
- **Event** is something that is organised to take place in a public place for a particular purpose and includes a protest whether that protest is organised by a group or the protest of one person;

Exclusions from this definition:

- Events organised by the New Zealand Defence Force;
- Events that are street markets, street stalls or busking are excluded from this Bylaw and are covered by the Urban Environments Bylaw;

Explanatory note: Section 319, section 342 and Schedule 10 of the Local Government Act 1974 allows the Council to temporarily close a road for public functions provided that, amongst other things, the closure is publicly notified and the aggregate of closures for public functions does not exceed 31 days per annum.

- **Footpath** means so much of any road as is laid out or constructed by authority of the Council primarily for pedestrians, and includes the edging, kerbing and channelling thereof, and includes any area of land owned or controlled by the Council which is set aside for the convenience of pedestrians generally, as a square, place, plaza, pedestrian precinct or public accessway, and includes any structure fixed to the footpath;
- **Nuisance** has the same meaning as section 29 of the Health Act 1956;

- **Public Place** means any public place within the city centres and includes all roads, streets, footpaths and public carparks owned or controlled by the Council, and all parks and gardens and reserves within the city centres;
- **Reserve** means any land which is owned by or under the control of the Council and which is set aside for public enjoyment as a reserve, park, garden, open space. It does not include a road reserve;
- **Retail** means any shop that provides goods for sale to the public;
- **Road or Street** means the whole of any land which has been laid out by or vested in the Council for the purposes of a road, footpath or street and includes every place, square, accessway, or service lane that is vested in the control of the Council intended for use by vehicles, and includes any structure fixed to the road;
- **Signage** means any structure, board, writing or other thing which has as its purpose the disseminating of a message, providing directions to or attracting the attention of passers-by to a site, building, event, available goods or services, or any combination thereof;
- **Window display** is a window frontage of any retail or commercial premises where goods are displayed to attract the attention of passers-by and to advertise the goods or services available in those premises.

Explanatory note: Koha is not included in the definition of commercial or retail premises. Inland Revenue regard koha as a gift that is given without expectation of receiving services or goods in return.

PART THREE - AMENITY OF THE CITY CENTRES

6. All persons using public places must take reasonable steps to:
 - 6.1. Protect the public from nuisance,
 - 6.2. Protect, promote, and maintain public health and safety, and
 - 6.3. Minimise the potential for offensive behaviour in public places.
7. The owner of any building in the city centres with frontage abutting a public place must ensure the property frontage is clean, well maintained and kept clear of weeds, rubbish, accumulated dirt or materials.

8. Use of Public Amenities

8.1. Except with the prior permission of an authorised officer no person shall:

- a. Cause or allow to be done any act whatsoever by which damage is caused to any public place, or any work or thing in, on, over or under the public place;
- b. Damage or interfere with any natural feature, animal or plant in a public place;
- c. Pollute, damage, deface or disfigure, apply graffiti, posters or advertising devices to or interfere with any ornament, statue, building, structure or facilities in a public place except in accordance with clauses 5.19 – 5.23 of the Urban Environments Bylaw;
- d. Use any vehicle or be in control of an animal in any manner so that it damages any part of a public place;
- e. Damage, interfere with, destroy or remove any grass plot, flower bed, tree, shrub, or plant in a public place or any inscription or label relating to it;
- f. Drive or park any vehicle in a public place except in an area set aside for the driving or parking of vehicles;
- g. Open any drain or sewer on, or disturb or remove the surface of, any public place.

8.2. Any person carrying out authorised works on a public place shall reinstate the works to a standard approved by an authorised officer.

8.3. Notwithstanding any other provisions of this bylaw and subject to the prior permission of an authorised officer no person shall use a footpath or part of the footpath in the city centres unless:

- a. At least 1.5 metres width of the footpath is available for pedestrians to pass and repass; and
- b. Emergency services have access to the road or footpath or adequate, safe and alternative temporary forms of access are provided.

8.4. Except with the prior permission of an authorised officer no person shall on any public place in the city centres:

- a. Place or leave or cause or allow to be placed or left any material or thing or item on any public place; or
- b. Cause or allow any material or thing to be deposited onto a public place or road; or
- c. Erect or place any structure on, under or over any public place; or
- d. Place any other items on, under or over any public place except in compliance with this or any other bylaw and in accordance with the following provisions; and

- e. Not-for-profit organisations undertaking public fundraising or education activities are exempt from requiring permission if:
 - i. The not-for-profit organisation has obtained the prior consent of any retail or commercial premises to undertake such activities outside or adjacent to those premises; and
 - ii. The not-for-profit organisation remains in compliance with the provisions of clause 8.3.

9. Veranda Lighting

9.1. The Council may install and maintain under veranda lighting in the city centres at its cost to provide security for retail and commercial premises and users of the footpath and surrounding areas.

9.2. Installation of under veranda lighting will be notified to the owners and tenants of retailer and commercial premises giving at least 7 days' notice that such work will be undertaken.

9.3. Any such work shall not affect access into or exit from retail and commercial premises or prevent pedestrians from passing and repassing along the footpath in the work area.

10. Window Displays

10.1. Except with prior permission of an authorised officer, no person shall:

10.1.1 Obstruct the ability of the public to view signage or window displays of retail and commercial premises in the city centres unless that person is a not-for-profit organisation acting in accordance with clause 8.4.(e) of this Bylaw.

10.1.2 Place items on the footpath within 600mm of the frontage of retail or commercial premises in the city centres.

10.2. An authorised officer may give permission for the temporary obstruction of a window display taking into account safety, health, the duration of the proposed obstruction and any other relevant matters, provided that window cleaning or any work affecting the site that has been granted consent under the Building Act 2004 and/or the Resource Management Act 1991 are exempt from this provision.

Explanatory note: retailers and commercial premises expect that pedestrians can stop to easily survey the items they have placed in window displays and/or signage. The city centres are designed to attract retail and commercial activity and ensure that the public can easily use the services provided. Use of retail and commercial services includes the information and enjoyment created by signage and window displays.



11. Permissions

11.1. Any use of the road or footpath allowed by this bylaw that does not require permission shall:

- a. Allow members of the public to use any public place, road or footpath without hindrance in accordance with clause 8 of this bylaw,

11.2. Where a permission is required under this bylaw, upon application, an authorised officer shall consider the application and determine reasonable conditions after taking into account:

- i. The duration of the proposed activity,
- ii. The location of the proposed activity,
- iii. Whether the activity is compatible with any other approved activities taking place at the same time on the same location,
- iv. Any reasonable safety considerations,
- v. The impact of the proposed activity emitting noise, odour or other offensive emission,
- vi. Likelihood of damage to public places and public property,
- vii. The impact of the activity on retail or commercial premises, and
- viii. That the activity is consistent with bylaw provisions.

11.3. If permission is not granted reasons must be provided to the applicant.

11.4. For the purposes of clarity, events are not subject to this clause.

PART FOUR – EVENTS AND SLEEPING

12. Events

12.1. To minimise disruption to pedestrians and other users of public places in the city centres, the organiser of any event 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 commencing.

12.2. After receiving notification, the Council will provide relevant traffic management information to the organiser and/or Police.

Explanatory Note: see Part 2 Definitions for the definition of events. It is recommended that event organisers contact the Council at an early stage in their planning so that the Council can assist as required.



13. Sleeping in the city centres

13.1. No person shall sleep or otherwise occupy a footpath or road in the city centres, unless permitted to do so by an authorised officer, during the hours of darkness (being a period of time between half an hour after sunset in one day and half an hour before sunrise in the next day) for a period of two or more continuous hours.

Explanatory Note: any future enforcement policy will include a provision that, where a person is homeless and sleeping in the city centres rather than sleeping as a form of protest, Council officers will work with social agencies to try and find solutions for those persons as a first response.

Explanatory Note: for further information about camping in Nelson see the website nelson.govt.nz

