

THE HAMILTON CITY PUBLIC PLACES BYLAW 2009

Hamilton City Council makes this Bylaw under the Local Government Act 1974 and the Local Government Act 2002 ("the Act").

This Bylaw may be referred to as the Hamilton City Public Places Bylaw 2009 and applies to the whole of the district of Hamilton City Council.

1.0 Short title

1.1 This bylaw may be cited as the Hamilton City Public Places Bylaw 2009.

2.0 Revocation

2.1 This bylaw revokes and replaces the Hamilton City Trading in Public Places Bylaw 1999 and the Hamilton City Public Places and Signs Bylaw 1996.

3.0 Purposes

3.1 This Bylaw is made for the purposes of:

- a. Protecting the public from nuisance.
- b. Protecting, promoting, and maintaining public health and safety.
- c. Minimise the potential for offensive behaviour in public places.
- d. Regulating trading in public places.
- e. Regulating, controlling, or prohibiting signs.

4.0 Interpretation

4.1 In this bylaw, unless inconsistent with the context:

Enforcement Officer means a person appointed by Council to exercise the powers of an enforcement officer in relation to offences against, and infringement offences under, the Local Government Act 2002, including enforcement of the bylaws of Council

Council means Hamilton City Council

District	means the area controlled by Hamilton City Council
Designated	means specified by Council by resolution
General Manager	means the Council General Manager responsible for administration and enforcement of this Bylaw
Person	includes a natural person, incorporated company and a body of persons whether incorporated or not
Public Place	means a place that is: <ul style="list-style-type: none"> a. under the control of Council; and b. open to, or being used by, the public, whether or not there is a charge for admission; and includes: c. a road, whether or not the road is under the control of Council; and d. any part of a public place; but e. excludes reserves which are regulated by the Parks, Domains and Reserves Bylaw 2007
Road	includes: <ul style="list-style-type: none"> a. a. Every road, street or public highway under Council's control; b. Any land that is vested in Council for the purpose of a road as shown on a deposited survey plan; c. Any land that is vested in Council as a road or street pursuant to any other enactment; d. Any access way or service lane; e. Every square or place intended for use of the public generally; f. Every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof; g. But, except as provided in the Transit New Zealand Act 1989 or in any regulations under that Act, does not include a motorway within the meaning of that Act.
Sign	includes: <ul style="list-style-type: none"> a. any poster, placard, handbill, writing, picture, or device for advertising or other purposes; and b. that is displayed, or to be displayed upon or over any public building or bridge, building, wall, fence, post, tree, pavement, or hoarding, situated in or upon or adjoining any land or road that is either: <ul style="list-style-type: none"> i. the property of Council; or ii. under the control of the Council
Trade or trading	includes but is not limited to the exchange, purchase, or sale of goods; the provision of entertainment activities in return for donations; keeping a mobile shop; busking; hawking; locating and operating a stall; displaying merchandise; setting out street furniture

5.0 Intent

5.1 The intent of this Bylaw is to encourage the public to use public places while also allowing occupation and use of those public places for trading activities.

6.0 Public Places

6.1 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.

7.0 Fees

7.1 Council may charge a fee for any permit issued under this Bylaw.

7.2 Council may refund, remit, or waive any fee in situations determined by Council and set out in Council policy.

8.0 Permits for trading in a public place

8.1 Any person intending to trade in a public place must apply in writing to Council for the relevant permit and must pay the associated fee.

8.2 Council may issue permits on the basis of its current relevant policies.

8.3 Council may revoke a permit if the permit holder fails to comply with the conditions of the permit, and may refuse to issue that person with a new permit.

8.4 Permits are personal to the permit holder and are not transferable.

8.5 A permit holder may surrender a current permit.

9.0 Activities that may cause a nuisance

9.1 Any person intending to undertake an activity in a public place which is not specified in Council's Public Places Policy and which may cause a nuisance to the public in that public place must obtain permission from the General Manager before undertaking the activity.

9.2 The General Manager will not unreasonably withhold permission, and may impose conditions to protect the public from nuisance.

10.0 Activities that may have an adverse effect on public health or safety

10.1 Any person intending to undertake an activity in a public place which is not specified in Council's Public Places Policy and which may affect public health or safety in that public place must obtain permission from the General Manager before undertaking the activity.

10.2 The General Manager will not unreasonably withhold permission, and may impose conditions to protect, promote, or maintain public health and safety.

11.0 Permits for signs

11.1 Any person intending to display or continue to display any sign in upon or over public buildings or bridges, or upon or over buildings, walls, fences, posts, trees, pavements, or hoardings situated:

a. In or upon or adjoining any land or road the property of or under the control of the Council; or

b. In any manner so that it shall be visible from any such road or public place;

Must apply in writing to Council for a permit and must pay the relevant fee.

11.2 Council may issue permits on the basis of its current relevant policies.

11.3 Council may revoke a permit if the permit holder fails to comply with the conditions of the permit, and may refuse to issue that person with a new permit.

11.4 Permits are personal to the permit holder and are not transferable.

11.5 A permit holder may surrender a current permit.

11.6 Council may waive any application under this part of this Bylaw if the sign is permitted by the District Plan Rules or under a current valid resource consent.

NOTE: Resource Consent may be required for signs that are not covered by this Bylaw.

12.0 Existing signs

12.1 Council may remove any sign in a public place that:

a. Does not comply with the requirements for issue of a permit under this Bylaw set out in Council policy; and

b. Has not been used for advertising purposes for the six months preceding the making of this Bylaw.

12.2 Any sign that was lawfully displayed at the date this Bylaw is made that does not comply with the requirements for a permit may:

a. Remain in place; and

b. Be repaired, altered or maintained if such works will not increase the extent of its non-compliance with this bylaw.

13.0 Offences

13.1 The following are offences against this Bylaw:

- a. Obstructing emergency vehicles from gaining access to or egress from a public place.
- b. Obstructing service vehicles from gaining access to or egress from a public place.
- c. Trading in a public place without a valid permit issued under this Bylaw.
- d. Failure to produce a permit issued under this Bylaw to an authorised officer upon request.
- e. Failure to comply with the conditions of a permit issued under this Bylaw.
- f. Causing a nuisance in a public place, without permission from the General Manager, or in breach of a condition imposed by the General Manager.
- g. Affecting public health or safety in a public place, without permission from the General Manager, or in breach of a condition imposed by the General Manager.
- h. Displaying or continuing to display any sign that requires a permit under this Bylaw without a permit.

14.0 Penalties

- 14.1 Every person who breaches this Bylaw commits an offence and may be liable on summary conviction to a fine:
 - a. Of not more than \$500 in respect of an offence relating to a sign; or
 - b. Not exceeding \$20,000 for any other offence.

The foregoing Bylaw was duly made by the Hamilton City Council by a resolution passed on the 25th day of February 2009 following consideration of submissions received during the special consultative procedure. The Hamilton City Public Places Bylaw 2009 was ordered to come into force on the 1st day of July 2009.

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

Councillor _____

Chief Executive _____