



THE OPOTIKI DISTRICT COUNCIL CONTROL OF SIGNS BYLAW 2008

EXPLANATORY NOTE

The Opotiki District Council Control of Signs Bylaw 2008 was made in accordance with the Local Government Act 2002. The purpose of the Opotiki District Council Control of Signs Bylaw 2008 is to ensure that signs are erected, maintained and displayed in such a manner that they do not present a hazard or a danger to public safety. The Bylaw shall be read in conjunction with the Operative Opotiki District Council District Plan. This Bylaw does not affect any conditions placed on signs under a resource consent. Transit New Zealand as a road controlling authority has its own Bylaws for the control of signs on State Highways. This Bylaw does not apply to traffic, directions, information and naming signs erected by or with the approval of Council, signs indicating hazardous substances used at a hazardous facility, signs erected pursuant to any statute or regulation or signs which require a Resource Consent.

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The Opotiki District Council

Control of Signs Bylaw 2008

This Bylaw was made in accordance with the Local Government Act 2002.

1. Title

This Bylaw shall be known as "The Opotiki District Control of Signs Bylaw 2008."

2. Commencement

This Bylaw shall come into force on the 1st day of July 2008.

3. Repeals

As from the date that this Bylaw comes into force the Opotiki District Council Bylaw 1990 Chapter 8 Control of Advertising signs shall be repealed.

4. Interpretations

For the purposes of this Bylaw the following Interpretations shall apply:

"Authorised Officer" means any person warranted by Council in accordance with the Local Government Act 2002 to enforce this Bylaw.

"Banner" means any sign made of flexible material suspended in the air and supported on more than one side by poles or cables.

"Balloon or Blimp" means any sign made of flexible material, inflated by air, or inflated by a gas lighter than air.

"Building" has the same meaning as in the Building Act 2004.

"Chief Executive" means the Chief Executive of the Opotiki District Council or such officer of the Council as he/she delegates to act on his/her behalf

"Class 4 Venue" has the same meaning as in the Gambling Act 2003.

"Council" means the Opotiki District Council.

"District Plan" means the Opotiki District Council Operative District Plan.

"Flag" means any bunting or other flexible material attached to one end to a staff or halyard/halliard and includes pennants.

"Ladder Board" means a sign constructed with two vertical uprights between which are displayed at least two advertising signs belonging to separate businesses.

"Owner or Occupier" in relation to any land includes the registered proprietor of any freehold or leasehold interest in that land, and any mortgagee in possession of that land, and any person occupying all or part of that land.

"Poster" means any sign including a placard or leaflet which is affixed to street furniture, utilities, traffic signage, or placed on any car windscreen, wall or building.

“ **Public Place**” means the term assigned to it in section 147(1) of the Local Government Act 2002

“**Sandwich Board**” means any portable sign, placed on a public place advertising a place, goods, services or an event.

“**Sign**” means a visual message or notice conveyed to the public and visible from a public place displayed to advertise, identify a product, business, or service, inform or warn the public, and any frame, supporting device and associated ancillary equipment. It includes but is not limited to any mural, message or notice painted on, affixed to or otherwise incorporated with a building, structure, or site, banner, flag, poster, billboard, sandwich board, wind sock, blimp or projection of light to create an advertising image. A bunting that has symbols or messages on it shall also be considered a sign for the purposes of this Bylaw.

“**Street Verandah**” means any verandah, portico, balcony or awning over a public place.

“**Temporary Sign**” means any sign advertising:

- i. A parliamentary or local authority election, or candidates for any such election; or
- ii. Construction or development works on a building site or demolition site; or
- iii. An auction or the intention to sell or lease any land or premises; or
- iv. Any exhibition or entertainment event.

“**Trailer**” means a vehicle without motive power that is capable of being drawn or propelled by a motor vehicle from which it is readily detached.

5. General Requirements for the Siting of Signs

5.1 No person shall.

- (a) Display or erect any sign in, on, over or visible from a public place that does not comply with this Bylaw or with any provisions set out in the District Plan, except where:
 - (i) A resource consent has been granted for that sign; or
 - (ii) An exemption to the requirements of this Bylaw has been granted by the Chief Executive or an authorised officer; or
 - (iii) The sign is exempted by Clause 17 of this Bylaw;
- (b) Place any poster on any building or structure without the permission of the owner or occupier of that building, or structure unless it is a designated poster board;
- (c) Attach any sign to any tree;
- (d) Erect any sign identified in this Bylaw as requiring a building consent before that building consent is issued;
- (e) Place, or allow to remain in place, any sign which explicitly or implicitly:
 - (i) Is discriminatory or advocates discrimination based on one or more of the prohibited grounds of discrimination set out in the Human Rights Act 1993;
 - (ii) Is objectionable within the meaning of the Films, Videos and Publications Classification Act 1993;
 - (iii) Is offensive, threatening or insulting;
 - (iv) Incites or counsels any persons to commit any offence; or
 - (v) Is in breach of any Opotiki District Council Bylaw

5.2 the Council may prescribe fees for the assessment of any sign that is required to, but does not, comply with this Bylaw.

6. Signs On or Over Roads, Footpaths and Public Places

6.1 Except as otherwise provided by this Bylaw, no person shall place any sign in such a position as to be on, or

project over any road, private street, or public place unless the prior permission of the Chief Executive or an authorised officer (or Transit New Zealand in the case of State Highways) has been obtained.

- 6.2 All signs located on verandas over roads or public places on any land zoned Town Centre in the District Plan shall be in accordance with the provisions of the District Plan and:
- (a) Be no closer than 2.4 metres to the footpath measured from beneath the sign;
 - (b) If below the veranda, be set back at least 600mm from an imaginary vertical line from the veranda fascia to the footpath below.
 - (c) Advertise only the business, services and products located on the same site as the sign.

7. Signs Affecting Traffic Safety

- 7.1 All signs must be in accordance with the provisions of the Operative District Plan controlling advertising signs visible from State Highways
- 7.2 No sign shall be placed or allowed to remain where, in the opinion of the Chief Executive or an authorised officer (or Transit New Zealand in the case of State Highways), that sign would:
- (a) Obstruct or be likely to obstruct or impair the view of any corner, bend, intersection, vehicle crossing, Traffic sign or traffic signal;
 - (b) Distract unduly or be likely to distract unduly the attention of road users;
 - (c) Resemble or be likely to be confused with any traffic sign or signal;
 - (d) Use reflective materials that may interfere with a road user's vision;
 - (e) Give rise to excessive levels of glare, or use flashing or revolving lights;
 - (f) Invite drivers to turn to close to a turning point that there is no time to signal and turn safely or
 - (g) Constitute or be likely to constitute in a way a danger to road users.

8. General Requirements for Construction and Maintenance of Signs

- 8.1 All signs and their supporting structures shall be constructed, fixed, placed and maintained in such a manner that they do not pose a danger to property or the public. This shall be the responsibility of the sign owner and the owner of the land or building on which the sign is placed.
- 8.2 The following signs and their supporting structures may require a building consent prior to their erection: Free standing signs where the maximum height is 3 metres or more above ground level, or where the sign area exceeds 2 square metres:
- (a) Signs suspended clear of any building where the total weight of the sign and supports exceeds 50 kilograms, or where the sign area exceeds 2 square metres;
 - (b) Signs attached to the face of any building where the total weight of sign and supports exceeds 50 kilograms;
 - (c) Veranda signs where the total weight of sign and supports exceeds 50 kilograms;
 - (d) All banners with a surface area exceeding 12 square metres; and
 - (e) All flags with a surface area exceeding 4.5 square metres.

9. Lighting of Signs

- 9.1 Subject to sub-clauses (2) and (3) below, no illuminated sign shall produce more than 1000 cds/m² for signage areas less than 10 square metres and not more than 800 cds/m² for signage areas equal to or greater than 10 square metres (cds/m² = candelas per square metre).
- 9.2 No illuminated sign located in a rural environment shall produce more than 600 cds/m² for signage areas less than 10 square metres, and 400 cds/m² for signage areas equal to or greater than 10 square metres.
- 9.3 Any sign the face of which is at a 90° axis to the road or within 20 metres of a road and 20° of either side of a driver's line of sight, or at road intersections, shall conform to the lower luminance levels as required for rural areas.
- 9.4 With the exception of neon signs, the lighting filament used to light any sign shall not be visible from ground level except where approved by an authorised officer.

10. Banners over Public Places

- 10.1 The maximum area of any banner flown over a public place shall not exceed 21 square metres. Any banner shall be placed at least 5 metres above ground level, at least 6 metres from any intersection and 10 metres from any pedestrian crossing when it extends over a road, and shall meet the following requirements:
- (a) The banner shall have reinforced corners with appropriate eyelets to allow the fixing of ropes or cables;
 - (b) The safe working load (pullout load) for any banner fixing points certified by a Registered Engineer's calculations shall be a minimum of 1 tonne;
 - (c) For banners 1.0 metres and over in depth, vertical stays shall be sown into the banner at a minimum of 3.0 metre intervals to prevent bowing under wind loads;
 - (d) All rope connections other than strainer and catch ropes shall be made with eye over steel thimble connections properly shackled to at least 10 millimetres galvanised steel rope.
 - (e) For banners under 10 square metres in area, the banner must be made of sufficient design strength to be fit for the purpose and where over 1.5 metres in depth, vertical stays shall be sown into the banner at a minimum of 3 metre intervals to prevent bowing under wind loads.
- 10.2 Except with the permission of the Chief Executive or an authorised officer, no banner spanning across a road shall be displayed for more than 14 days before and 48 hours after the event that is being advertised.

11. Signs Pertaining to Class 4 Gambling Venues

- 11.1 Signs advertising any Class 4 venue or electronic gaming machines must not:
- (a) Be sandwich boards;
 - (b) Exceed 1 metre by 0.3 metres (or equivalent surface area) in size;
 - (c) Be illuminated by flashing lights or contain neon;
 - (d) Be visible from any residential zone as defined in the District Plan.
 - (e) Advertise themselves using the word "casino"
- 11.2 Signs advertising prize money must not be visible from the exterior of any Class 4 venue.

12. Election Signs

- 12.1 The maximum size for Election signs is 1.8m.
- 12.2 Election signs will only be permitted on private land and the owners consent is required

- 12.3 Election signs will not be permitted on Council owned or Council controlled lands or roads
- 12.4 Election Signs shall be sited so that they do not cause any obstruction to or restrict the vision of vehicle operators
- 12.5 No Election sign shall be erected within 6m of an intersection or on a roundabout
- 12.6 The Opotiki District Council retains the right to require the position of any Election sign to be moved, or the sign to be removed due to Condition 12.4 above
- 12.7 Election signs shall not be erected more than one (1) calendar month prior to Election Day.
- 12.8 Election signs shall be removed the day before polling day.

13. Signs on Vehicles and Trailers

Except with the permission of the Chief Executive or an authorised officer, no person shall display any sign on a vehicle or trailer, whether stationary or moving on a road, where the primary function of that vehicle or trailer is to display advertising material.

14. Temporary Signs

General

- 14.1 Except with the permission of the Chief Executive or an authorised officer, temporary signs advertising a forthcoming sporting, community or cultural event shall be restricted to one sign with a maximum area of 1.8 square metres located on the site of the forthcoming event.
- 14.2 Except with permission of the Chief Executive or an authorised officer, temporary signs shall not be attached in any way to poles, fences, street furniture or other public utilities on any public place.
- 14.3 No person shall, on any land or premises, commence or continue to display, fix, erect, re-erect or alter the construction of, or permit, suffer or allow any other person to commence or continue to display, fix, erect, re-erect or alter the construction of:
 - (a) Any temporary sign for a period greater than 3 months in any 12 month period; and
 - (b) Any temporary sign (other than a sign advertising land or premises for sale, auction or lease) for more than 2 days following completion of the event to which the sign relates.
- 14.4 The Chief Executive or an authorized officer may grant an extension to the time limits specified by sub-clause 14.3 above.

Real Estate Signs

- 14.5 Temporary signs advertising the sale of land or premises on which the sign is situated shall be restricted to one sign for each real estate agency involved in the sale with a maximum area of 1 square metre per sign, or 2 square metres if there is a sole agency, which must be located on the site to be sold.
- 14.6 No person shall, on any land or premises, commence or continue to display, fix, erect, re-erect or alter the construction of, or permit, suffer or allow any other person to commence or continue to display, fix, erect, re-erect or alter the construction of any temporary sign advertising land or premises for sale, auction or lease after the date upon which the purchaser or lessee takes possession of that land or premises, or the date of settlement, whichever is the earlier.

Blimps and Balloons

- 14.7 Advertising blimps or balloons shall not be flown:

- (a) More than 40 metres above the ground;
- (b) Within a 5 kilometre radius of any aerodrome;
- (c) Outside of daylight hours;
- (d) When wind speeds exceed 25 kmh;
- (e) Above or immediately adjacent to any state highway

15. Sandwich Boards

- 15.1 All sandwich board signs shall be registered with the Council annually.
- 15.2 The maximum size for sandwich board signs shall be 600mm wide and 1000mm high.
- 15.3 The sandwich board design shall comply with Council's standard design or similar design.
- 15.4 Only one sandwich board sign be allowed per business. However, the Council will consider written applications from a business owner for an additional sandwich board sign having regard to the length or street frontage occupied by the business.
- 15.5 Each business shall place their sign in front of the premises and that sign shall be as close to the front of the footpath as possible.
- 15.6 The annual licence fee for sandwich board signs be in accordance with Council's schedule of fees and charges.
- 15.7 All sandwich boards must be maintained in a structurally sound state and kept in good repair by the owner to the satisfaction of the Council or an authorised officer. In assessing whether signs are maintained in good repair a visual assessment shall be undertaken by an authorised officer to include but not limited to such matters as fading due to age or weathering and chipping of the edge of the sign.
- 15.8 If in the opinion of the Council any sign is:
 - (a) Dangerous in its location,
 - OR
 - (b) Dangerous due to lack of maintenance – The business owner must immediately on the advice of the danger:
 - (c) Move the sign to a safer location as indicated by an authorised Officer of the Council,
 - OR
 - (d) Remove the sign from the public place.
- 15.9 If any person or business fails to comply with a request from an authorised officer of the Council to relocate, repair or remove a sign, the officer can impound the sign.
- 15.10 Any sign impounded by Council shall be released to the business on receipt of payment in accordance with Council's Schedule of Fees and Charges.
- 15.11 Each business is responsible for the sign used by them; and that Council will not be held liable for any damage or injury caused by any sign used by any business.
- 15.12 The Council must be notified in writing within seven (7) days of a change in ownership of the business so that ownership of the sign can be transferred.

16. Ladder Boards

The Chief Executive or an authorised officer may approve the placement of permanent ladder boards on the public footpath containing advertising for two or more separate businesses in replacement of sandwich boards. If a ladder board is available then sandwich boards shall not be used. The maximum size of ladder

boards shall be 1500 millimetres high by 600 millimetres wide unless otherwise approved by the Chief Executive or an authorised officer.

17. Exemptions

- 17.1 Where a sign lawfully existed prior to the coming in to force of this Bylaw, but does not comply with the requirements of this Bylaw, it may remain in place and be repaired, altered or maintained, provided that such work does not increase its physical size or the extent of its non-compliance with this Bylaw. Every sign shall be removed at the expiry time set as a consent condition.
- 17.2 A sign that does not comply with the requirements of this Bylaw and is not a sign referred to in sub-clause (1) above shall be removed or otherwise made to comply within 6 months of the adoption of this Bylaw.
- 17.3 Where the Council or an authorised officer is satisfied that compliance with any requirements of this Bylaw would be unreasonable or impracticable, having regards to the circumstances of the case, a dispensation may be granted in whole or in part, with such modifications or conditions as are appropriate in the circumstances.

18. Repair and Alteration or Removal of Signs

- 18.1 In the event that any sign does not comply with the provisions of this Bylaw, the Chief Executive or an authorised officer may, by notice in writing, require the owner of the sign or the owner, occupier or lessee of any land on which the sign located, to repair alter or remove the sign within a period stated in the notice.
- 18.2 Where any person has been requested to repair alter or remove any sign, the repairer, altered or any replacement sign must comply with this Bylaw.
- 18.3 Where any person fails to comply with any notice given under sub-clause 18 (1) above, an authorised officer may have the sign repaired , altered or removed. The cost incurred in repairing, altering or removing the sign shall be recoverable as a debt against the owner of the sign or the owner of the land on or over which the sign was placed.
- 18.4 Any sign located on land owned or controlled by the Council, that does not comply with the provisions of this Bylaw, may be removed by an authorised officer without notice to the owner of the sign.
- 18.5 Any sign removed by an authorised officer shall be released to the owner of the sign upon payment of the costs incurred in its removal and storage.
- 18.6 Any sign that remains unclaimed for a period exceeding one month or is not released for a period exceeding one month may be sold or otherwise disposed of by the Council.

19. Serving of Orders and Notices

- 19.1 Except as otherwise provided for in any other enactment, where any notice, order, or other document is required to be served on any person for the purposes of this Bylaw, service may be effected by delivering it personally to the person or by sending it by registered post to that person's last known residential or business address.
- 19.2 If the person is absent from New Zealand, the order, notice, or other document may be served on the person's agent in the manner referred to in 19.1.

- 19.3 If the order, notice, or other document relates to land or buildings, then the order, notice, or other document should be served on the person who owns that land or buildings. However, if that person is not known or is absent from New Zealand, or has no known agent in New Zealand, the order or notice may be:
- (a) Served on the person who is occupying the land or buildings; or
 - (b) If there is no person in occupation, put up on some conspicuous part of the land or buildings.
- It is not necessary in that notice to name the occupier or the owner of that land or buildings.
- 19.4 Where an order or notice is sent by registered post, the order or notice shall be sent so as to arrive no later than the latest time on which such order or notice is required to be served.
- 19.5 Any order or notice issued shall state the time within which the remedial action is to be carried out, and may be extended from time to time by written authority of an authorised officer.

20. Offences and Breaches

- 20.1 Any person commits a breach of this Bylaw who:
- (a) Does, or causes to be done, or knowingly permits or suffers to be done anything whatsoever contrary to or otherwise than as provided by this Bylaw;
 - (b) Omits or neglects to do, or knowingly permits or suffers to remain undone, anything which according to the true intent and meaning of this Bylaw, ought to be done by that person at the time and in the manner provided by this Bylaw;
 - (c) Does not refrain from doing anything which under this Bylaw they are required to abstain from doing;
 - (d) Knowingly permits or suffers any condition of or things to exist contrary to any provision contained in this Bylaw;
 - (e) Refuses or neglects to comply with any notice given to that person under this Bylaw;
 - (f) Obstructs or hinders any authorised officer of Council in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred upon that officer under this Bylaw; or
 - (g) Fails to comply with any notice or direction given under this Bylaw.
- 20.2 Where it is suspected that any person has committed a breach of this Bylaw, that person shall, on the direction of an authorised officer, provide their full name and address.

21 Penalties for Breach of Bylaw

- 21.1 Every person who commits an offence against this Bylaw is liable to:
- (a) The penalty set out in the Local Government Act 2002.
 - (b) Where another enactment specifies the penalty for a breach of the Bylaw, that other penalty.
- 21.2 In accordance with the Local Government Act 2002 the Council may apply to the District Court for an injunction to restrain a person from committing a breach of this Bylaw.

22 Notices

- 22.1 The Council may give notice to any person in breach of this Bylaw to carry out any remedial action in order to comply with the Bylaw and every such notice shall state the time within which the remedial action is to be carried out, and may be extended from time to time.

This Bylaw was duly made by the Opotiki District Council by a resolution passed on the 11th day of March 2008 and was confirmed following consideration of community submissions received during a special consultative procedure by a resolution {No 461 } passed on the 17th day of June 2008.

The common Seal of the Opotiki District Council was here to affixed in the presence of

Mayor

Chief Executive

