



THE OPOTIKI DISTRICT COUNCIL PUBLIC PLACES BYLAW 2008

EXPLANATORY NOTE

The Opotiki District Council Public Places Bylaw 2008 was made in accordance with the Local Government Act 2002. The purpose of the Opotiki District Council Public Places Bylaw 2008 is to ensure that acceptable standards of convenience, safety, visual amenity and civic values are maintained for the wellbeing and enjoyment of all persons. The Bylaw controls a diverse range of activity including damage to public facilities such as reserves, grass verges, gardens and activity within public places which may have an adverse effect on other users of facilities.

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The Opotiki District Council Public Places Bylaw 2008

This Bylaw is made in accordance with the Local Government Act 2002

1. Title

This Bylaw shall be known as "The Opotiki District Council Public Places 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As from the date that this Bylaw comes into force the following Bylaws shall be repealed

- Opotiki District Council Bylaw 1990 Chapter 2 Public Places
- Opotiki District Council Bylaw 1990 Chapter 9 Scaffolding and Deposit of Building Material
- Opotiki District Council Bylaw 1990 Chapter 17 Parks and Reserves
- Opotiki District Council Skateboard Bylaw 1997
- Opotiki District Council Reserves Bylaw 1999

4. Interpretations

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

- **Animal** means any member of the animal kingdom including any mammal, bird, finfish, shellfish, reptile, amphibian, insect or invertebrate and includes the carcass or constituent parts thereof but does not include human beings or dogs.
- **Authorised Officer** means any person appointed or authorised in writing by the Chief Executive or by the Council to act on its behalf and with its authority to enforce this Bylaw and includes a member of the police.
- **Chief Executive** means the chief executive of the Opotiki District Council or a person acting under a delegated authority on behalf of the Chief Executive and includes any person for the time being appointed by the Council to perform the duties or a particular duty of the Chief Executive.
- **Council** means the Opotiki District Council or any officer authorised to exercise the authority of Council.
- **Deposit, Depositing and Deposited** means and include the casting, placing, heaving, throwing or dropping of litter, refuse or any material, substance item or thing in a public place and includes allowing, without reasonable excuse any material substance item or things to escape into or be deposited in a public place.
- **District** means the Opotiki District.
- **District Plan** means the Operative Opotiki District Council District Plan.

- **Infringement Offence** means an offence for which any person can be punished on indictment, by summary process or by infringement process
- **Livestock** includes any age or sex of any cattle sheep, deer, donkey, hinny, mule, pig, goat, thar, alpaca, llama, bison or any other herd animal and any horse which is not ridden, led by its reins or harnesses to a vehicle.
- **Material** or **thing** means any material of whatever kind and includes jumbo bins and other containers for waste material but excludes vehicles.
- **Nuisance** has the meaning assigned to the term in section 29 of the Health Act 1956.
- **Occupier** means the inhabitant or occupier of any property, and in any case where any building, house, tenement, or premises that is or are unoccupied by a person or people and by any person, shall be deemed to include the owner as hereinafter defined.
- **Owner** of any property, or as applied to any land, building, or premises, means any person for the time being entitled to receive the rent of such property, or who would be so entitled if the same were let to a tenant at a rack rent; and where any such person is absent from New Zealand, shall include their attorney or agent.
- **Person** means a natural person and also a body of persons, whether incorporated or unincorporated.
- **Portico** includes every awning, porch, veranda, shed, shade, or covering upon, across or over any public footway or part of a road, street, private street, or access-way for the purpose of shade or shelter, together with any supports thereof, other than the building against which it shall be attached.
- **Poultry** means any bird domesticated or farmed bird including but not limited to domestic fowls, ducks, geese, turkeys, parrots, canary, ostrich, guinea-fowl, pheasants, pigeons and emu.
- **Premises** means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands, buildings, and places adjoining each other and occupied together shall be deemed to be the same premises.
- **Public place** means any place that, at any material time, is under the control of Council and is open to or being used by the public, whether free or on payment of a charge, and includes any road whether or not it is under the control of Council. It also includes a reserve.
- **Reserve** means any land set aside for any public purpose and shall have the same meaning as in the Reserves Act 1977 and includes any open space, plantation, park, garden, ground, camping ground, track or land set apart for public recreations, enjoyment, conservation, beautification, education, research or other values and under the management or control of the Opotiki District Council, whether or not dedicated as a reserve under the provisions of the Reserves Act 1977, and also includes the buildings, amenities, assets, vegetation and memorials therein.
- **Road** has the meaning assigned to it under the Land Transport Act 1998. It also means all land lying between the boundaries of a road including footpaths and berms.
- **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.
- **Rural area** means rural, coastal, coastal settlement, Ohiwa Harbour zones as defined in the Operative Opotiki District Council District Plan.

- **Skateboard** means a wheeled device controlled or propelled by gravity or by the muscular energy of the rider, including roller skates, in-line skates, or similar recreational devices. The definition does include any wheelchair, baby or invalid carriage or bicycles.
- **Vehicle** has the same meaning as in Section 2 of the Land Transport Act 1998.
- **Vehicle Crossing** means a properly formed and constructed access for vehicles to enter or leave private property from, or onto a road.

5. Public Safety and Nuisances

5.1 Except with the prior permission of the Council or an authorised officer, and in accordance with any conditions that may be required, a person shall not:

- (a) Leave any work, hole or excavation in or adjacent to a public place in a manner that could be a danger to any person using that public place;
- (b) Leave any flammable materials or matter on any public place;
- (c) Omit when opening up any street to take all such precautions for guarding against injury to persons using the street as may be necessary or as may be directed by the Council or an authorised officer;
- (d) Play any game or use any object including trolleys, kites or other projectile recklessly or in a manner which may intimidate, be dangerous or injurious or cause a nuisance to persons in the public place or damage the public place;
- (e) Ride or use a skateboard, roller skates, roller blades, scooter or bicycle or similar recreational device in such a way as to be intimidating, be dangerous or injurious or cause a nuisance or damage the public place;
- (f) No person shall ride a skateboard, roller skate, or rollerblade or other similar recreational device on a public place in any area defined in the First Schedule to this Bylaw.
- (g) The Council may by resolution publicly notified, amend the First Schedule, to add, delete or amend the areas to which the provisions of this Bylaw applies.
- (h) Signs shall be erected by the Council to indicate the areas where the prohibition in clause 5.1(f) and 5.1(g) is in force.
- (i) No person shall ride a skateboard, roller skates or roller blades or other similar recreational device on a public place where a prohibition is in force under clauses 5.1(f) and 5.1(g)
- (j) Set off any fireworks or explosive material in or on any public place without the permission of the Council, or so near to any such public place as to endanger, annoy or frighten passers-by along such public place;

5.2 Refuse and Offensive Material

- (a) Place or leave litter or any other materials, thing or substance which are likely to be hazardous or injurious to any person, or likely to create a nuisance;
- (b) Deposit in or around a public litter receptacle any household, business or trade refuse;
- (c) Cause or allow any material or thing to be deposited or dropped onto a public place.
- (d) Fail to dispose of in a proper manner the body or part of the body of any animal in their possession into a public place or into any water body or onto any bank thereof;
- (e) Deposit, discharge or leave any offensive or dangerous matter or cause pollution of any river, stream, pond, lake, watercourse, or open drain.

5.3 Soliciting, Advertising and Busking

- (a) Solicit any subscription, collection or donation;
- (b) Create a public nuisance by preaching, lecturing, singing, busking, or playing a musical instrument;
- (c) Create a public nuisance by using any loud speaker or other broadcast system or similar device;
- (d) Distribute any printed or written material advertising any product, service or entertainment.

5.4 Camping and Lighting of Fires

- (a) No person shall in any public place camp in an area not set aside for the purpose. In this Context camping shall include the use of any vehicle for sleeping whether or not it is specially fitted out for sleeping.
- (b) No person shall light any fire in any public place

6. Obstructing Public Places

6.1 Except with the prior permission of the Council or an authorised officer, and in accordance with any conditions that may be required, a person shall not:

- (a) Obstruct the entrances to or exits from a public place;
- (b) Place or leave any material or thing, including signage, on a public place that could obstruct the public right of passage;
- (c) Pack or unpack any goods on any public place;
- (d) Carry out any work on any vehicle in or on any public place, except in the case of an accident or emergency when immediate repairs are necessary to allow the vehicle to be removed;
- (e) Allow any gate or door on property abutting a public place to swing over or across the public place;
- (f) Loiter in or remain in or on any public place after being directed to move on by an authorised officer.

6.2 Parking on Grass Verge or Berms

- (a) Stop, stand or park a vehicle on the grass verge or berm, flower bed or shrubbery laid out on any road or on land vested in or under the control of Council, or on a median strip or traffic island;
- (b) Park any machinery, equipment, materials or waste disposal bins on any road or public place;
- (c) Erect, place or use any stationery engine, concrete mixer, air compressor, crane, hoist or any other machinery in or on any public place,
- (d) Carry or convey any thing, including any building, structure, timber or any other material on skids or trolleys, that may obstruct any person using any public place;
- (e) Drive or park any vehicle in a public place, except in an area that is specifically set aside for the driving and parking vehicles.

6.3 Overhanging Vegetation

- (a) No owner or occupier of land shall allow vegetation growing over any public place to overhang

or encroach by their roots or branches on, above, under or across any public area so as to obstruct, interfere with, cause damage or injury to any person or traffic in that place.

- (b) At the discretion of an authorised officer, any vegetation referred to in clause 6.3(a) may be partly or fully removed, or trimmed back to the property boundary.

7. Damage To Public Places

7.1 Except with the prior permission of the Council or an authorised officer, and in accordance with any conditions that may be required, a person shall not

- (a) Blast or remove any rock, stone, earth, timber, or any other naturally occurring material found in a public place;
- (b) Open any drain or sewer on, or disturb or remove the surface of, any public place;
- (c) Damage, interfere with, destroy or remove any grass plot, flower bed, tree, shrub, or plant or any inscription or label relating to it

Graffiti

- (d) Pollute, damage, deface or disfigure, apply graffiti, posters or advertising to, or interfere with any ornament, statue, building, structure or facilities or anything in or constructed on or standing on or abutting any public place;
- (e) Cause or permit to be done any act whatsoever which causes damage to any public place, or any work or thing in, on, over or under the public place;
- (f) Damage or interfere with any natural feature, animal or plant in or on any public place;
- (g) Use any vehicle in any manner so that it damages any part of a public place;
- (h) Be in control of any animal so that it damages any part of a public place.

8. Placing Of Articles On And Damage To Public Places

8.1 No person shall place or leave or cause or permit to be placed or leave any material or thing, including signage, amusement devices or items for sale or hire, on any public place unless:

- (a) The Council or an authorised officer has approved such action, in accordance with any such conditions as he or she may impose; or
- (b) Such action is taken for the purpose of regular refuse or recyclable or other collections authorised by the Council; or
- (c) Such action is permitted by any other Part of this Bylaw or any other Bylaw.

9. Exposing Articles For Sale

9.1 Except in accordance with the prior permission of Council or an authorised officer or under any other Bylaw and in accordance with any conditions that may be required, a person shall not on any public place:

- (a) Expose for sale any article whatsoever on any footpath, or outside any shop or other business premises, or doorway abutting on any public place, so as to encroach on to any public place, or hang or suspend any article over such public place.
- (b) Place any table, trestle, chair, seating, display stand, stall or otherwise display, advertise or sell any goods or services.

- (c) Place or carry any placard, board, flag, screen, frame or other device by way of advertisement or any other sign, including any traffic sign.
 - (d) Park a vehicle or trailer displaying advertising or sales material on any public place including any parking place or transportation station. This restriction includes vehicles and trailers displaying for sale and mobile billboards.
- 9.2 All applications for permission referred to in Clause 9.1 shall be in writing and shall be subject to any fees as prescribed by the Council.
- 9.3 No permit issued under Clause 9.1 shall be transferable without the consent of the Council or an authorised officer.
- 9.4 The Council may suspend or revoke any permit issued under Clause 9.1 if any of the conditions of the permit are breached.
- 9.5 No person shall expose to view or distribute or offer for sale in any public place, any handbill, print, or other document whatsoever of offensive or indecent character.
- 9.6 The Council or an authorised officer may require the removal of any offensive or indecent material.
- 9.7 The person(s) responsible for the placement of the offensive or indecent material shall be responsible for the cost of its removal.

10. Parades And Assembly

- 10.1 Except with the prior written permission of the Council, and in accordance with any conditions that may be required, a person shall not on any public place:
- (a) Take part in any assembly or combine with other persons in such a way as to impede pedestrian or vehicular traffic to or along any public place or to any shops or premises facing onto any public place;
 - (b) Organise or attempt to organise any public meeting, gathering or demonstration or gather together a crowd, in such a way as to impede pedestrian or vehicular traffic, access to or along any public place or to any shops or premises facing onto any public place;
 - (c) Hold, organise, or take part in any parade or procession whether in vehicles or on foot on or in any public place in such a way as to impede pedestrian or vehicular traffic access to or along any public place or to any shops or premises facing onto any public place;
- 10.2 The written Permission referred to in clause 10.1 will not be unreasonable withheld. The Council will give reasons where permission is refused. Permission may be refused in circumstances where the Council reasonably believes the activity will or is likely to:
- (a) Cause a public nuisance;
 - (b) Endanger public health and safety (including traffic safety).

11. Posters and Display Boards

- 11.1 The Council may erect or approve display boards in any public place for the purpose of allowing posters to be displayed announcing forthcoming events.
- 11.2 Posters displayed shall be removed from display boards as soon as is reasonable practicable after the event.

- 11.3 The person(s) responsible for ensuring compliance with clause 11.2 or for removing any poster displayed in a public place elsewhere than on a display board erected by the Council, shall be the person who displayed the poster and also the organiser or person in charge of the function or event to which it relates.
- 11.4 Should any of the persons referred to in clause 11.3 fail to do so, any authorised officer of the Council may remove the poster and all expenses incurred by the Council in connection with its removal shall be recoverable from those persons as the Council may determine.

12. Buildings and Structures

- 12.1 Except with the prior permission of the Council or an authorised officer or where provided for in the District Plan or permitted by any other Part of this Bylaw, a person shall not:
- (a) Erect or place any structure on, over or under any public place;
 - (b) Put any portico, projecting window, balcony, wall, lamp, doorstep, cellar door, signboard, window shutter, gate post, or other obstruction or projection of any kind whatsoever in, on, over or under a public place or in such a position as to interfere with the free passage of pedestrians or traffic upon on or in any public place;
 - (c) Erect or maintain or cause to be erected or maintained any awning over any public place, or hang any awning, blind or screen from any portico on any public place;
 - (d) Cause or allow the drippings from the eaves or other projections of any building or other structure to fall upon any public place;
 - (e) Omit or neglect to secure and maintain the foundations of any building or any wall or fence, or cause or permit any encroachment by any building, wall, or fence abutting on any public place in a way that the public may be harmed or obstructed;
 - (f) Mix concrete or carry out any other work upon any public place so as to deface or obstruct such public place;
 - (g) Fail to keep in good repair any rail, gate, fence or cover over any area or entrance or lighting place to any cellar, or any other place opening into or on or over any public place, or keep open for more than a reasonable time for the taking in and out of articles, any entrance to any such area, cellar, or other place, or omit to protect such entrance when open for use;
 - (h) Use any dwelling or any vehicle for the purpose of temporary or permanent living accommodation on any portion of any public place.
- 12.2 If any structure or any part thereof is erected, constructed or placed upon, under, over or across any public place, the Council may, by written notice, require the owner of such structure to remove the structure or part thereof.
- 12.3 The notice referred to in clause 12.2 may require such precautions to be taken as the Council determines necessary to ensure public safety.

13. Building and Excavation Work

- 13.1 The prior written permission of the Council is required before any person carries out building work or excavations on or in a public place or where any public place may be interfered with or damaged as a result of the works.
- 13.2 No permit issued under clause 13.1 shall be transferable to any other person without the consent of the Council or an authorised officer.
- 13.3 If any building or excavation work is carried out on a public place, or adversely affects a public place, without the Council's prior written permission, the Council may remove or alter that work. The Council's costs may be recovered from the person who undertook the work, or the property owner for whom the work was being done.
- 13.4 In all cases where building or excavation work is being carried out, the applicant for the requisite consents shall also make any necessary application for the permit for the scaffolding, gantry, hoarding, or barricade to be erected in connection with such building, alterations, repairs or excavations.
- 13.5 The person(s) responsible for any works permitted under this Part of the Bylaw shall take all precautions for guarding against injury to passers-by as may be necessary, including the provision of adequate lighting where the danger remains during the hours of darkness, to the satisfaction of the Council or an authorised officer.
- 13.6 Nothing in this Part of the Bylaw relieves any person from responsibility for compliance with all of the provisions of this Part of the Bylaw, any other Part of the Bylaw, or any relevant or applicable legislation or regulation.

14 Fencing

- 14.1 The Council may give notice in writing to require the owner or occupier of any land which has no fence, wall or retaining wall, adjacent to a public place to erect a fence, wall or retaining wall if the Council considers that this is necessary for safety or other reasons relating to the use and administration of the public place.
- 14.2 Where any fence, wall or retaining wall abutting on a public place is in a condition or state of disrepair which in the opinion of the authorised officer could cause damage or injury to persons passing, the authorised officer may give notice in writing to require the owner or occupier to repair or remove such fence, wall or retaining wall, or make the land safe.

15. Restrictions on use of Barbed Wire and Electrified Fencing

- 15.1 Except with the permission of the Council or an authorised officer, a person shall not erect, repair or permit to be erected or repaired any barbed wire along or within 1 metre of any boundary line between any land or building on the one side and any public place on the other side.
- 15.2 Clause 15.1 shall not prohibit the placing of barbed wire at a height of not less than 2 metres from the level of the ground of any such public place.
- 15.3 A person shall not erect, repair or permit to be erected or repaired any electrified fencing on a boundary adjoining any public place in any area zoned residential under the Operative District Plan prepared by the Council.

- 15.4 Clause 15.1, 15.2 and 15.3 shall not apply within any area zoned Rural, Coastal, Coastal Settlement or Ohiwa Harbour under the Operative District Plan prepared by the Council, except when the fence abuts or adjoins the footpath. .

16. Vehicular Crossings

- 16.1 The prior written permission of the Council is required before any person constructs, repairs, removes, widens or narrows any vehicle access..
- 16.2 Before granting permission, the Council will consider what is reasonably necessary to:
- (a) Ensure the safe and convenient use of the road by pedestrians and vehicles; and
 - (b) Protect the road (including any footpath or berm) adjacent to the vehicle access; and
 - (c) Comply with any Council Policy or District Plan Rule in force at the time.
- 16.3 Following approval of the application and after the applicant has paid to the Council the fees required, the work shall be carried out by the applicant or their agent in accordance with the specifications and policy set by the Council and at the full cost of the applicant
- 16.4 The authorised work shall be carried out as soon as reasonably practicable.
- 16.5 If in the opinion of the Council or an authorised officer, any vehicle crossing is in a bad or unsafe state of repair, the Council or an authorised officer may by written notice require the owner or occupier of the land which the crossing provides access to repair, reconstruct or renew such crossing to the satisfaction of the Council or an authorised officer, or to pay such sum of money as shall be necessary in the opinion of the authorised officer to repair, reconstruct, or renew such crossing.
- 16.6 Where a permanent vehicle crossing is not required, but access to a construction site or for any other purpose is required, a temporary vehicle crossing is necessary.
- 16.7 No person shall use any temporary vehicle crossing without first obtaining written permission from the Council, which shall be subject to such fees and conditions as considered necessary.

17. Naming of Streets

- 17.1 No person shall give any name to or affix, set up, or paint any name on any street, private street, or public place without the prior written permission of the Council.
- 17.2 The Council may cause to be painted or affixed on a conspicuous part of some house or building the name of the road, private road or public place to which it has frontage.

18. Numbering of Properties and Buildings

- 18.1 Notwithstanding that building or property is identified by other means, the owner or occupier of every property or building shall mark such building or property with numbers not less than 50mm in height for residential buildings and not less than 150mm in height for all other buildings.
- 18.2 Numbers shall be allocated as approved by an authorised officer and displayed in a position so as to be readily visible from the road to which the building or property has frontage.
- 18.3 Numbers required by clause 18.1 shall be maintained by the owner or occupier in such a manner as to readily identify the property at all times.
- 18.4 The Council shall have power at any time to alter the number of any property or building where it may be in the Council's opinion necessary or advisable to do so.

- 18.5 In the case of rural properties numbers shall be allocated as approved by an authorised officer of the Council and on payment of any prescribed fee. The number standards approved by Council are:
- | | |
|--------------------------|------------------------------|
| Size of character: | 80mm on 110 mm backing plate |
| Colour of character: | Reflective red |
| Colour of backing plate: | Non-reflective white |
- 18.6 Rural numbers shall be installed by the property owner and shall be continuously maintained and displayed and be in a position so as to be readily visible from the road to which the building or property has frontage.
- 18.7 Notwithstanding the foregoing provisions, the Council may at any time affix or apply a number to any premise in such manner and position as it thinks fit.
- 18.8 Every person shall be guilty of an offence against this Bylaw who wilfully or maliciously destroys, pulls down, obliterates, or defaces the name of any street, or the number of any property or building, or paints, affixes or sets up any name of any street or any number to any building, contrary to the provisions of this Part of this Bylaw.

19. Reserves

19.1 Council May Make Rules For Council Reserves

- 19.1.1 Council may from time to time, by resolution, make rules for the following areas that shall apply to one or more Council reserves:
- For the control, management and use of the Council reserve;
 - For determining the hours during which the Council reserve and any specified parts thereof shall be open and the holidays, days, and times upon which it will be closed;
 - For maintaining good order and conduct whilst persons are in or on a Council reserve.
 - For fees and charges payable for entry to, or use of a Council reserve;
 - For the closure of that facility or part thereof or for setting aside of part or all of that reserve for the exclusive use of individuals or groups.
- 19.1.2 Where practicable, Council shall post the rules that apply to any member of the public using that reserve, in a visible place as near as is reasonably practical to the entrance to that reserve.

19.2 Prohibited Activities

No person, in any reserve, shall -

- 19.2.1
- Enter or leave any enclosed reserve except through the openings, gateways, entrances or exits provided for that purpose and all gates shall be left open or closed as they are found; or
 - Enter or remain on any reserve if the reserve has been closed by the Council; or
 - Ride, lead, or take any animal, (except a dog being exercised in accordance the Opotiki District Control of Dogs Bylaw), on any part of any reserve except upon parts of which have been clearly set aside for such purposes; or
 - Cause or permit wastage of any water supply on any reserve or permit any tap or shower on any reserve to run for any longer period than reasonably required; or
 - In any manner pollute any water on any reserve; or
 - Wilfully obstruct, disturb, annoy or interfere with any other person in the use or enjoyment of the reserve, or behave in a sexually inappropriate manner causing alarm to another person, or

use any abusive or obscene language, or be intoxicated or under the influence of drugs, or noisy or riotous, or in any way misbehave; or

- (g) Place or leave any rubbish or litter of any description, except in any receptacle provided; or
- (h) Throw sticks, stones or other missiles in a way likely to be injurious to any person or likely to damage property; or
- (i) Play musical instruments or sound reproduction equipment to the annoyance of others; or
- (j) Abandon any vehicle on a reserve; or
- (k) Dispose of grey water or sewage except in a designated disposal point (such as those provided at camping ground on reserves).

19.3 Restricted Activities

19.3.1 The activities listed below in Clause 19.3.2 are prohibited on all reserves unless either:

- (a) The Council has resolved that the activities shall be permitted on all reserves or on any particular reserve; or
- (b) The person or persons engaging in the activity have the written permission of the Council or an authorised officer or have made a booking, to undertake the activity. Written permission may be limited by conditions. Conditions can cover but are not limited to the charging of fees, the time of the activity, and location of the activity.

19.3.2 The restricted activities referred to above in Clause 19.3.1 are:

- (a) Taking on to any reserve, and the use on any reserve of any firearm, air gun, bow and arrow, catapult, animal trap, or other weapon or device of a dangerous character; or
- (b) The flying of model aircraft; or
- (c) The playing or practice of golf; or
- (d) The erection of fences, stalls, tents, swings, amusement devices or structure of any kind; or
- (e) Any trading other than in accordance with a Trading Licence specifically permitting trading in the reserve; or
- (f) The posting or distributing of notices and the erection of signs; or
- (g) Disturbing any soil, uprooting any plant or taking any cutting or interfering with, picking or removing any flowers, fruits, seeds, pods, cones, ferns, greenery or other foliage; or
- (h) Collection of organisms or other objects for scientific, educational or other purposes, disturbance of the environment for the purpose of collecting such objects; or
- (i) Doing anything that causes any damage to any part of a reserve including the ground surface of the reserve, any plants in the reserve and any building, structure or fixtures thereon; or
- (j) Holding or conducting or taking part in, any public meeting, or assembly of any kind within any reserve that causes damage to the reserve or unduly restricts other people's use of the reserve; or
- (k) Encroaching into any reserve in a manner that could create an impression that the area is not part of the reserve, including access, gardens, buildings, fences and structures; or
- (l) Driving or riding any vehicle (including bicycles) on any part of any reserve except upon parts which have been clearly set aside for such purposes; or
- (m) Parking or driving a motorised vehicle on a reserve in an area other than in a recognised car park or roadway, or in a way that causes damage to the reserve, inhibits proper use of the

reserve, restricts access to the reserve or facilities, or obstruct normal and safe movement of other vehicles or pedestrians; or

- (n) Parking or storing a vehicle, boat, or vessel, on a reserve on a regular, periodic, or continuous basis; or
- (o) Camping on any reserve, unless set aside for that purpose; or
- (p) Using of power tools, parking a vehicle or trailer, or using equipment, for removing or cutting vegetation on a reserve; or
- (q) Lighting or cause to remain alight, any fire within any reserve except within a barbecue provided by the Council for that purpose; or
- (r) Depositing or storing any refuse, trade waste materials, garden refuse, rubble, wood, or debris on a reserve; or
- (s) Grazing of any horse or livestock.
- (t) Setting of any fireworks

19.4 Conditions of Use

19.4.1 Any person using any reserve is required to obey all lawful or safety directions, signs and conditions of permission, given any person authorised in that regard by the Council.

19.4.2 Organised sport may take place only on reserves or part of reserves set aside for that purpose or as directed or permitted by the Council with a booking and upon payment of any fee fixed by the Council.

19.4.3 In areas set aside for use by motorised vehicles, the Council may, by resolution, prescribe a speed limit to such parts and make other rules for the orderly conduct of traffic and parking. Where no speed limit has been fixed by resolution the driving of any vehicle on that part of the reserve at a speed in excess of 20 kilometres per hour is prohibited. Vehicles must be driven in a manner that does not compromise the safety of other reserve users.

19.5 Additional Requirements for Reserves

19.5.1 Subject to the provisions of this Part of this Bylaw every reserve shall be open to the public at all times except during such hours as the Council or an authorised officer may determine that any reserve shall be closed to the public.

19.5.2 An authorised officer may from time to time and for such periods as he or she thinks fit, set aside areas of a reserve, for the exclusive use of particular groups or for particular kinds of recreational activities thereon. Council may charge for the right to have exclusive use of a reserve.

19.5.3 An authorised officer may close or restrict entry to all of, or any portion of, a reserve at such times as are considered necessary to prevent damage to, or allow maintenance of the reserve. Such closure shall be advertised by signs at the entrances to the reserve. It shall be an offence against this part of the Bylaw to be found on a reserve at any time when the reserve is closed to public entry.

19.5.4 Every person committing a breach of the provisions of this Part of the Bylaw shall, upon request by an authorised officer, immediately leave the reserve, and shall be prohibited from appearing on the reserve for such period as the authorised officer deems fit. Any person so ordered to leave shall still be liable to be prosecuted for the breach of the Bylaws, and any person failing to leave with reasonable haste or diligence, to comply with a request to leave, shall commit a further offence.

19.6 Expulsion of Offenders

19.6.1 Council may require any person behaving in a disorderly manner in or on a Council reserve, or any person who is not bona fide using the reserve for the purpose for which it is intended, to leave the

reserve, and any refusal on the part of the person to do so will constitute an offence against this part of this Bylaw.

- 19.6.2 Where in the opinion of an authorised officer any person has contravened any of the provisions of this Bylaw or any rules made by the Council relating to the use of a Council reserve, or has otherwise acted in an unlawful manner in or on a reserve, the authorised officer may exclude that person from the Council reserve, until notice is given for the person to return.

19.7 Enforcement

- 19.7.1 Any vehicle, whether attended or not, in breach of this Bylaw may be removed by any Police or authorised Council officer and impounded at the expense of the driver or owner.
- 19.7.2 The Council may remove or alter work or thing that is, or has been, constructed in breach of this Bylaw, and may recover costs of removal or alteration from the person who committed the breach.
- 19.7.3 It is not a defence to any charge that an offence has been committed against part of this Bylaw (other than where compliance with a sign, notice or road marking is an ingredient of the offence) if no sign, notice or road marking was in place at the time such offence was alleged to have been committed.

20 Serving of Orders and Notices

- 20.1 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.
- 20.2 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 20.1.
- 20.3 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.
- 20.4 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.
- 20.5 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.

21. Offences and Breaches

- 21.1 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.
- 21.2 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.

22 Removal of Works

- 22.1 Where the notice served under Section 24 has not been complied with, the Council or any authorised officer or agent of the Council, may pull down, remove or alter any work, material or thing erected or being erected in contravention of this Bylaw.
- 22.2 The Council may recover from any person responsible for the breach of any part of this Bylaw, all expenses incurred by it in connection with such pulling down, removal or alteration. This includes the cost of debt collecting and legal fees.
- 22.3 The exercise of this authority does not relieve any such person from liability for any penalty for erecting or permitting the continued existence of any such work, material or thing.
- 22.4 If however the breach is such that public health, or safety considerations or risk of consequential damage to Council assets is such that delay would create unacceptable results, the Council may take immediate action to rectify the defect and recover all reasonable costs (as set out in 22.2).
- 22.5 On payment of all Council's costs, including storage where applicable, the lawful owner may claim any object, material or thing removed under 22.1.
- 22.6 If not claimed within 21 days, the Council may dispose of any object, material or thing it as it sees fit and apply the proceeds to meet any outstanding costs. The lawful owner shall be entitled to claim any residual sum.

23 Penalties for Breach of Bylaw

- 23.1 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.
- 23.2 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.

24 Notices

- 24.1 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 provisions of this Bylaw and every such notice shall state the time within which the remedial action is to be carried out, and which time may be extended from time to time.

25. Dispensing Powers

- 25.1 Where in the opinion of the Council full compliance with the provisions of this Bylaw would needlessly or injuriously affect any person, or the course or operation of the business of, or bring loss or inconvenience to any person without any corresponding benefit to the community, the Council may, on the special application of that person, dispense with the full compliance with the provisions of the Bylaw; provided that any other terms and conditions (if any) that the Council may deem to impose shall be complied with by that person.

26. First Schedule

- (a) Skateboarding Prohibited Areas

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

THE OPOTIKI DISTRICT COUNCIL PUBLIC PLACES BYLAW 2008

First Schedule Skateboarding Prohibited Areas

1. That section of Church Street, Opotiki, located between Kelly Street and Richard Street, Opotiki.