



Urban Environments Bylaw (No. 225)

June 2015

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1. PART ONE - INRODUCTION

Title

1.1 The title of this bylaw is the 'Urban Environments Bylaw 2015'.

Commencement and Review Date

1.2 The bylaw came into effect on 2 June 2015 and will be reviewed by June 2020.

Purpose

1.3 This bylaw has one or more of the following purposes:

- (i) To protect, promote and maintain public health and safety in Nelson's urban environments
- (ii) To maintain and enhance the amenity of Nelson's urban environments and to protect the public from activities that may constitute, or have the potential to constitute, a nuisance, including the keeping of animals, bees and poultry
- (iii) To minimise the potential for disorder or offensive behaviour within Nelson's urban environments, including controlling the bringing of alcohol into specified public places and the consumption and possession of alcohol in those public places
- (iv) To regulate trading in public places, including soliciting donations, busking and begging
- (v) To manage activities within Nelson's parks and reserves, including Nelson's cemeteries
- (vi) To promote the display of street numbers on buildings
- (vii) To regulate the use of public rubbish bins.

Exemption

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

Breach of Bylaw

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

1.6 Any person failing to promptly comply with a request under clause 1.5 commits a further offence against this Bylaw.

Penalties and Powers

1.7 Under section 242 of the Local Government Act 2002, any person who breaches this Bylaw, commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.

1.8 Under section 163 of the Local Government Act 2002 the Council or an authorised officer may remove or alter any work or thing that is or has been constructed in breach of this Bylaw and may recover the costs of doing so from the person who committed the breach. This does not affect that person's liability for the breach.

- 1.9 Under section 162 of the Local Government Act 2002 the Council may apply to the District Court for an injunction restraining a person from committing a breach of this Bylaw.
- 1.10 The Council or an authorised officer may seize and impound property materially involved in committing an offence, under sections 164 and 165 of the Local Government Act 2002.
- 1.11 The Council will return or may dispose of property seized and impounded in accordance with sections 167 and 168 of the Local Government Act 2002.
- 1.12 Under s 176 of the Local Government Act 2002 any person who has been convicted of an offence under this bylaw is liable to pay the Council the costs of remedying any damage caused in the course of committing the offence.

Fees and Charges

- 1.13 Council may at any time by resolution (after consultation as part of the Long Term Plan or the Annual Plan) prescribe fees that may be charged in respect of any licence, certificate, authority, approval, consent given, inspection made or service given by Council under the provisions of the Local Government Act 2002 or any other enactment where that enactment contains a provision for authorising Council to charge a fee.

Revoked Bylaws

- 1.14 On the coming into effect of this bylaw, the following Nelson City Council bylaws are revoked:
- Miscellaneous Matters Bylaw 2008 (No. 215);
 - Numbering of Buildings Bylaw 2009 (No. 219);
 - Trading in Public Places Bylaw 2007 (No. 213);
 - Advertising of Commercial Sexual Services Bylaw 2011 (No. 208);
 - Control of Drinking in Public Places Bylaw 2009 (No. 206);
 - Reserves Bylaw 2014 (No. 222);
 - Burial and Cremation Bylaw (No.216).
- 1.15 All bylaws revoked shall remain in full force and effect so far as they relate to anything done or any offence committed, penalty incurred, prosecution or proceeding commenced, right or liability accrued, licence issued, notice given, or order made, under or against any of the provisions of that bylaw before the coming into force of this Bylaw.
- 1.16 All licences issued under any revoked bylaw shall, after the coming into force of this Bylaw, be deemed to have been issued under this Bylaw and be subject to the provisions of this Bylaw.
- 1.17 All Inspectors and other officers appointed by the Council under or for the purpose of any revoked Bylaw, and holding office at the time of the coming into operation of this Bylaw, shall be deemed to have been appointed under this Bylaw.

- 1.18 All fees and charges fixed by resolution of Council in regard to any goods, services, inspections or licences provided for in any revoked bylaw shall apply under the corresponding provisions of this Bylaw until altered by further resolution of Council.

2. PART TWO - DEFINITIONS

- **Advertisement** means any banner, placard, poster, or other material bearing any writing or pictorial representation which advertises a product or service, disseminates news or any other information, or is a decoration or personal promotion;
- **Alcohol** has the meaning given to it in the Sale and Supply of Alcohol Act 2012;
- **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;
- **Begging** means soliciting donations or goods of any kind for private benefit;
- **Busker** means any itinerant musician, actor, entertainer or other person who performs in an outdoor setting for the benefit of the public generally, whether such performance is free, for a fixed payment, or for contributions from the audience;
- **Caravan** means a wheeled vehicle or device, whether self-propelled or not, which has the purpose of providing sleeping accommodation, and includes any vehicle commonly described as a campervan, or mobile or motor home;
- **Chief Executive** means the person for the time being exercising the functions of the Chief Executive of the Council;
- **City** means the territory contained within the City of Nelson as defined in Schedule 2 to the Local Government Act 2002;
- **Commercial Services** means the soliciting of patronage for, or provision of, any service which is offered or provided, on payment of a fee, charge or other valuable consideration, including an invitation to make a gratuitous contribution, either on a casual basis to passers-by or door to door, and includes the taking and selling of photographs, the production and sale of personal portraits, the telling of fortunes, the soliciting of commercial sexual services, and any other service of any kind whatsoever;
- **Commercial Sexual Services** means sexual services that:
 - involve physical participation by a person in sexual acts with, and for the gratification of, another person; and
 - are provided for payment or other reward (irrespective of whether the reward is given to the person providing the services or another person).
- **Council** means Nelson City Council;
- **Council** (as the term applies to the **Burial and Cremation** bylaw provisions in this Bylaw) means Nelson City Council or any person or officer delegated the authority to exercise any powers pursuant to this Bylaw;

- **Designated Commercial Area** means those areas of the City which are zoned "Inner City Centre;" or zoned "Suburban Commercial" at Victory Square, Tahunanui, or Stoke, under the Nelson Resource Management Plan (NRMP), or any other resource management plans which replace the NRMP after this Bylaw is adopted;
- **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;
- **Footpath** means so much of any street 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 or public accessway;
- **Grave** means an occupied plot;
- **Holder** (as the term applies to the **Burial and Cremation** provisions in this Bylaw) means the purchaser of the exclusive right of burial and any person to whom such right might be transferred under this Bylaw, and in respect of any grave includes the personal representative or family of the deceased;
- **Hours of Darkness** means any period of time between half an hour after sunset on one day and half an hour before sunrise on the next day;
- **Household Refuse** means ashes, sweepings, dust, bones, waste, food, cans, cartons, or other food containers or any other rubbish or refuse arising or resulting from domestic housekeeping activities or operations;
- **Itinerant Trader** means any person who carries or takes about any goods, wares or merchandise for speculative sale to any person, whether or not that sale is intended to be conducted on public or private property, but excluding the following:
 - Any person who in response to an invitation by the owner or occupier of any private property to call, conducts a sale of any goods, wares or merchandise on private property;
 - Any person who operates a mobile shop.
- **Low risk activity** (as the term applies to the **Control of Alcohol** provisions in this Bylaw) means consumption of alcohol where it is ancillary to a wedding, funeral or other function.
- **Mobile Shop** means a vehicle, whether self propelled or not, from which goods, wares or merchandise (including food) are offered or exposed for sale, or from which such goods, wares or merchandise may be ordered; while such vehicle is in any public place;

BUT does not include any vehicle used for the purpose of transporting and delivering goods, wares or merchandise pursuant to a prior order placed for the delivery of such goods, wares or merchandise;

- **Motor vehicle** has the same meaning as in the Land Transport Act 1998;
- **Natural burial** means chemical free interment (without embalming and using rapidly biodegradable caskets) in a separate area which is subsequently planted to form a native bush or forest area and does not have a traditional headstone or memorial on the grave. Burial sites are recorded digitally;
- **Network utility** has the same meaning as in the Resource Management Act 1991;
- **Nuisance** has the same meaning as section 29 of the Health Act 1956 and includes 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;
- **Offence** (as the term applies to the **Control of Alcohol** provisions in this Bylaw) means an offence under sections 147, 239A, 242, 245, or 246 of the Local Government Act 2002 that is a breach of this Bylaw;
- **Pet Animals** means animals normally kept as domestic pets, and includes aviary birds, poultry, aquarium specimens, guinea pigs, and all the animals specified in the Fifth Schedule to the Wildlife Act 1953;
- **Plot** means an area of land within a cemetery set aside for the future burial of the holder of the exclusive right of burial or anybody permitted by the holder to be buried in such plot;
- **Poster Tower** means any structure, wall or other erection set aside by the Council specifically for use by the public for the display of posters or other advertisements giving notice of coming events;
- **Poultry** includes turkeys, geese, ducks, and domestic fowls of all descriptions;
- **Public Place** (as the term applies to the **Keeping of Animals** and **Urban Amenity** provisions in this Bylaw) means all streets, footpaths, pedestrian precincts, and public car parks within the City owned or controlled by the Council, and all parks and gardens and reserves within the City;
- **Public Place** (as the term applies to the **Trading in Public Places** provisions in this Bylaw) means all streets and public carparks within the City owned or controlled by the Council, and all parks and gardens and reserves within the City;
- **Public Place** (as the term applies to the **Control of Alcohol** provisions in this Bylaw, and as defined in section 147 of the Local Government Act 2002)
 - a) means a place that is open or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it; but
 - b) does not include licensed premises.

- **Public Place** (as the term applies to the **Advertising of Commercial Sexual Services** provisions in this Bylaw) means a place that is open to, or being used by, the public, whether admission is free or on payment of a charge and whether any owner or occupier of the place is lawfully entitled to exclude or eject a person from that place; and includes any aircraft, hovercraft, ship, ferry, or other vessel, train, or vehicle carrying or available to carry passengers for reward;
- **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 or open space. It does not include road reserve;
- **Residential Property** (as the term applies to the **Advertising of Commercial Sexual Services** provisions in this Bylaw) means any land zoned Residential within the Nelson Resource Management Plan, which is used or able to be used for residential activity;
- **Residential Unit** means the self-contained residence of a single household;
- **Sandwich Board** means any signboard or other advertising device, whether rigid or flexible, including “floppy” signs, flags, banners, “A” frame boards and the like designed to be free standing, and which are designed and used for the purpose of advertising any commercial operation or service or product provided by any commercial operation and which stand on any footpath or protrude onto any footpath in a position less than 2.2 metres above such footpath.
For the avoidance of doubt the term “sandwich board” does not include any advertising board or flyer or poster holder which is fastened to or otherwise set against and displayed parallel to, the front wall of the business concerned.
- **Schedule A Public Place** means a public place described in Schedule A of this Bylaw;
- **Sign** (as the term applies to the **Advertising of Commercial Sexual Services** provisions in this Bylaw) means any structure, board 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, forthcoming event, or available goods and or services; or any combination thereof, and includes any advertising leaflet or flyer;
- **Stock** includes any horse, cattle, deer, ass, mule, sheep, pig, or goat of any description;
- **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, every accessway or service lane under the control of the Council and every square or place intended for use by vehicles;

- **Street Stall** means any vehicle, table, or other construction or erection which pursuant to a licence to occupy issued by the Council is authorised to occupy a dedicated site within the City, and includes an outdoor dining area established with the authority of the Council on any footpath or other public place;
- **Trade Refuse** means any scrap or waste material resulting from the carrying on of any business manufacture, process, trade, market or other undertaking;
- **Urban Zone** means any area of the City carrying a “Residential”, “Inner City”, “Suburban Commercial” or “Industrial” zoning in the Nelson Resource Management Plan (NRMP), or any other resource management plans which replace the NRMP after this bylaw is adopted;

3. PART THREE - KEEPING OF ANIMALS

Scope

3.1 This part of the Bylaw regulates the keeping of animals in the City.

Keeping of animals

3.2 Every person keeping or having control of any stock, poultry or pet animals on any land or premises within the City shall ensure that any building or other structure or yard in which they are kept is maintained in a clean and sanitary condition to the satisfaction of the Council, and that noise or odours associated with the animal(s) is as far as practicable confined within the land or premises concerned.

Poultry and roosters

3.3 No person shall keep or allow to be kept or to remain on any land within the City, any poultry except in a poultry house or otherwise confined within the owner's property.

3.4 No person shall keep more than 12 poultry except with the written permission of the Council and subject to such conditions as the Council may impose.

3.5 Poultry houses must be at least five metres from dwellings on neighbouring properties. This excludes garages, and other buildings used for storage.

3.6 No person shall keep, or allow to be kept, a rooster on any land or premises within an urban zone of the City.

Stock

3.7 No person shall keep stock on any properties within an urban zone of the City, except pursuant to a Council permit and subject to such conditions as the Council may see fit to impose.

3.8 Every person keeping any stock anywhere in the City shall ensure such stock is effectively confined on that property on which the stock is kept, except at such time when it is under the direct and continual control of the owner.

3.9 All fencing used to confine stock must meet the requirements of the Fencing Act 1978.

4. PART FOUR - URBAN AMENITY

Scope

- 4.1 This part of the Bylaw regulates a range of activities that have the potential to affect the amenity of residential and inner city environments, and public health and safety.

Caravans for residential purposes

- 4.2 No person being the owner or occupier of land within the City shall use, or permit to be used, any caravan for the time being located on such land for the purposes of a separate or part of an existing residential unit without a Council permit.
- 4.3 Exception: On any property containing a residential unit a registered caravan having a current warrant of fitness may be occupied by any member or members of the family, of the owner or occupier of the property as a temporary sleeping place if:
- The occupants of such caravan use the toilet and cooking facilities of the residential unit exclusively for those purposes; and
 - The caravan is not parked in the front yard of the site as defined in the Nelson Resource Management plan in relation to accessory buildings; and
 - No part of the caravan is nearer than 1.5 metres to any boundary of the site;
 - The caravan is not used for such purpose for more than 50 days in any calendar year without the specific consent of the Council and then only in accordance with any conditions which might be imposed on such consent.
- 4.4 Note: This bylaw provision does not apply to any caravan located within a campground subject to a current certificate of registration under the Camping Ground Regulations 1985, and which is utilised as a "temporary living place" pursuant to those regulations.

Barbed Wire and Electric Fences

- 4.5 Neither electric fences nor barbed or razor wire on fences is permitted near or on the boundary of land in the Urban Zone which is adjacent to any street, reserve or other public place, where the fence is in a position or at a height to be accessible to the public.

Slaughter of animals

- 4.6 No person shall slaughter any stock or poultry on any property where such is visible from any public place or neighbouring property, and stock may only be slaughtered on farmland used for grazing purposes (except in such case as may be necessary arising out of accident or any other urgent reason).

Storage of carcasses

- 4.7 No person shall hang or otherwise store any animal carcass in such a position as to be visible from any public place or neighbouring property.

Public rubbish bins

- 4.8 No person shall deposit or cause or permit to be deposited in any rubbish bin located within any public place:
- any explosive, hot ashes, or other burning material;
 - any highly flammable material or acid or other corrosive material;
 - any Household Refuse;
 - any Trade Refuse.

Numbering of buildings

- 4.9 Where the Council has allocated a number to any area of land on which a building is located, or to any building or separately occupied part of any building within the City, the owner or occupier shall display the number allocated in a position where it is visible from the road.
- 4.10 Where any person fails to display the allocated street number, and continues this failure after being advised by the Council of the requirements of this bylaw, the Council may take such steps as it deems appropriate and necessary to cause the number to be displayed and shall recover any costs incurred in doing so as a debt from the owner or occupier of the property concerned.

5. PART FIVE - TRADING IN PUBLIC PLACES

Scope

- 5.1 This part of the Bylaw regulates use of public places within the City for trading and ancillary activities.

Itinerant Traders and Mobile Shops

- 5.2 No person shall carry on business in Nelson as an itinerant trader, or as an operator of a mobile shop, without a Council permit, except in the case of an itinerant trader or a mobile shop participating in a Council approved street market or street stall.

Permit conditions

- 5.2.1 Permits are issued for a maximum period of 12 months, and failure to comply with any of the permit conditions is an offence against this Bylaw. Applications to renew permits may be made prior to the expiry of a permit. Approval will be subject to the applicant's compliance with the permit conditions and payment of the permit fee.
- 5.2.2 Permits are not transferable and do not authorise any person other than the person named in the permit to carry on the trade or business of mobile salesperson or operator of a mobile shop.
- 5.2.3 Every permit holder shall make the permit available to any Police or Enforcement Officer who requests it. The operator of a mobile shop shall ensure his or her permit is prominently displayed at all times when the mobile shop is being used or operated.
- 5.2.4 Every itinerant trader or operator of a mobile shop shall move from a public place to any other public place, if requested to do so by any Police or Enforcement Officer. Any person who fails to comply with any such request commits an offence against this Bylaw.
- 5.2.5 No itinerant trader, or operator of a mobile shop, shall stand or remain stationary in any public place within the City, for any period longer than 15 minutes in the case of an itinerant trader and one hour in the case of any mobile shop.
- 5.2.6 No itinerant trader or operator of a mobile shop shall carry out their commercial activity on any footpath or other public place within the Designated Commercial Areas.
- 5.2.7 The Council may require any itinerant trader or operator of a mobile shop to discontinue the use of any vehicle used in carrying out their business.
- 5.2.8 The Council may suspend or revoke any permit issued to any itinerant trader or operator of a mobile shop where it is satisfied that there has been a breach of the permit conditions, or in any case where the permit holder has been convicted of an offence related to the business for which the permit was granted. This action shall be in addition to and not in substitution for any other enforcement action provided for in this Bylaw.

Additional restrictions

5.2.9 In addition to the restrictions listed above for itinerant traders and operators of mobile shops, the Council may by resolution:

- prohibit these businesses from operating in any specified public place within the City;
- limit or restrict the classes or types of goods that these businesses may offer for sale;
- limit the hours or days during which such businesses may operate.

Commercial Services

5.3 No person shall use any public place for the purpose of providing a commercial service, without a Council permit.

5.4 Permits are not transferable and do not authorise any person other than the person named in the permit to carry on the commercial service.

5.5 Every permit holder shall make the permit available to any Police or Enforcement Officer who requests it.

5.6 The Council or the Police may at any time withdraw a permit for reasons of public health or safety. They may also require that the services cease in a particular public place for such period as the Council or Police deem necessary.

Soliciting of Donations and Selling Lottery Tickets

5.7 No person shall occupy any public place for the purpose of soliciting donations, or other contributions, without a Council permit.

5.8 No person shall occupy any public place for the purpose of selling tickets in any lottery (as defined within the Gambling Act 2003) without a Council permit.

5.9 A Council permit to undertake the soliciting of donations or selling of lottery tickets may be granted where the Council is satisfied that the activity is by or on behalf of a local school, community group, or a local or nationally recognised and registered charity.

5.10 Every person engaged in these activities shall hold a copy of the permit, and make it available to any Police or Enforcement Officer who requests it.

Begging

5.11 Begging is prohibited anywhere within the boundaries of the City.

5.12 A Police or Enforcement Officer may require any person to cease begging and may seize equipment used for this activity (after a verbal warning).

Busking

5.13 No person shall perform as a busker in any public place without having first provided their name and contact details to the Council and having obtained a copy of the rules related to this activity, outlined below.

Busking Rules

5.13.1 No person shall while performing as a busker in any public place:

- Occupy any footpath adjacent to any retail or other commercial premises without the consent of the owner or Manager of such premises.
- Occupy any footpath or pedestrian way in such a way as to obstruct or impede the free movement of pedestrians along the footpath, or way or through the public place.
- Allow the persons forming the audience to obstruct or impede the free movement of pedestrians along the footpath or way or through the public place.
- Use language or behaviour which is abusive, insulting, threatening or offensive.
- Undertake or perform any busking activity which generates any noise which in the opinion of any Police or Enforcement Officer unreasonably interferes with the peace, comfort and/or convenience of any person or persons.
- Continue to occupy any place or site on a footpath or in any public place for longer than one hour continuously in any two hour period.

5.13.2 A Police or Enforcement Officer may require any busker to cease busking who has not advised the Council of their intention to busk, or who is not complying with the rules outlined in this Bylaw, or who is otherwise causing a nuisance or obstructing the free passage of pedestrians by the busking, and/or spectators.

5.13.3 If, after a verbal warning, a person continues to busk in a way that is in breach of the Bylaw provisions, a Police or Enforcement Officer may seize and impound property materially involved in the activity.

Additional restrictions

5.13.4 The Council may, by resolution, specify particular types of busking activities which will require a Council permit, and may determine, as part of that resolution, the terms and conditions of that permit.

5.13.5 Where any specific busking activity has been resolved by the Council to require a permit, it is an offence against this Bylaw for any person to carry on any such busking activity without first obtaining and holding a valid permit.

Sandwich Boards on Footpaths

5.14 No person shall display or cause to be displayed on the footpath adjacent to any retail or other business premises any sandwich board which does not relate directly to the business or promote or display the products or services specific to the business carried on within such premises;

5.14.1 AND no person in respect of any business premise within a Designated Commercial Area shall display or cause to be displayed more than one such sandwich board;

5.14.2 Provided that where any such business has frontage to more than one street or public place one sandwich board may be displayed at each frontage;

- 5.14.3 AND no person shall display or continue to display on any footpath any sandwich board which due to its design or location on the footpath constitutes a hazard for pedestrians or which reduces the width of the footpath available to pedestrians to less than two metres;
- 5.15 Any sandwich board displayed shall be located immediately adjacent to the business to which it relates and shall be sited so as to extend no further onto the footpath than 600mm from the frontage of the said business.
- 5.15.1 Provided that where the business is situated on other than the ground floor, or is situated within a lane or Mall in such a way that the frontage to the footpath consists of no more than an entrance or doorway, the sandwich board may be sited adjacent to the kerb, directly in front of the said entrance, and extending no more than 600mm onto the footpath from the kerb.
- 5.16 For the avoidance of doubt the term "sandwich board" does not include any advertising board or flyer or poster holder which is fastened to or otherwise set against and displayed parallel to, the front wall of the business concerned.

Retail Displays on Footpaths

- 5.17 No operator of a business within a Designated Commercial Area, shall place, erect, or establish any display on the footpath adjacent to their business without a Council permit, except in conjunction with, and as part of any general promotion or other like event within the Designated Commercial Area.
- 5.18 A permit will not be granted for retail displays if their design or location on the footpath is a hazard for pedestrians or if it reduces the width of the footpath available to pedestrians to less than two metres.

Advertising

- 5.19 No person shall place an advertisement on any street or any other public place, or any tree or structure which is under the control of the Council other than a dedicated "poster tower" without a Council permit which specifically authorises such advertising.
- 5.20 No person may write, paint, chalk, spray or etch on, or otherwise mark, any street, footpath, or any tree or structure which is under the control of the Council, without a Council permit.
- 5.21 A permit will only be granted where the Council is satisfied that the advertisement is for an identifiable public or community purpose, will cause no detraction from the amenities of the City, will not inhibit or interfere with the use of the immediate area by the public, and will not cause harm to or otherwise damage the thing on which the advertisement is to be fixed or made.

Advertising of Commercial Sexual Services

- 5.22 No person may use a sign which is visible from any public place or residential property to advertise any Commercial Sexual Service, if the sign could be deemed to be likely to cause a nuisance or serious offence to any ordinary member of the public, or be incompatible with the existing character of the area.

- 5.23 The decision as to whether any sign is permissible under Clause 5.22 will be made by the Chief Executive.

Washing of vehicles

- 5.24 A person must not use a public place to wash, or offer to wash, a vehicle or any part thereof, in a manner that may be unsafe or intimidate or cause a nuisance to any person, or cause an obstruction to traffic.

6. PART SIX - CONTROL OF ALCOHOL IN PUBLIC PLACES

Scope

- 6.1 This part of the Bylaw controls the bringing of alcohol into specified public places and controls the consumption and possession of alcohol in those public places.
- 6.2 The Local Government (Alcohol Reform) Amendment Act 2012 defines a public place as a place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it, but does not include any licensed premises.
- 6.3 This definition enables the Council to consider whether there is any privately owned land which is accessed by the public (such as a car park) for which there are good reasons to restrict the drinking of alcohol. The control of alcohol bylaw provisions do not apply to private residential properties.

Prohibited Activities

- 6.4 No person shall:
- bring alcohol into;
 - possess alcohol in; or
 - consume alcohol
- in any place listed in Schedule A during the period specified for that place.

Addition or deletion of places where alcohol is prohibited

- 6.5 The Council may from time to time pass a resolution to amend the places listed in Schedule A to which this Bylaw applies, or amend the period during which drinking alcohol is prohibited in a specified place.
- 6.6 Every resolution made to change Schedule A shall be publicly notified at least 14 days before it shall take effect.

Exceptions

Transport of Alcohol

- 6.7 The Bylaw does not prohibit, in the case of alcohol in an unopened bottle or other unopened container:
- The transport of that alcohol from premises that adjoin a public place during any period when, under the Sale and Supply of Alcohol Act 2012, it is lawful to sell alcohol on those premises for consumption off the premises, provided the alcohol is promptly removed from the public place.
 - The transport of that alcohol from outside a public place for delivery to premises that adjoin the public place, provided the premises are licensed for the sale of alcohol under the Sale and Supply of Alcohol Act 2012.
 - The transport of alcohol from outside a public place to premises that adjoin a public place:

- by, or for delivery to, a resident of those premises or by his or her visitors; or
- from those premises to a place outside the public place by a resident of those premises, provided the alcohol is promptly removed from the public place.

Licensed Premises

- 6.8 The bylaw does not prohibit the possession of, or consumption of, alcohol in any public place, or part of a public place, where this is authorised by a licence issued under the Sale and Supply of Alcohol Act 2012, or where BYO alcohol is permitted by the organiser of any Council-approved function or event making use of the public place.

Council Permission

- 6.10 Any person may apply to the Council for a permit for any low risk activity involving a limited amount of alcohol that would be in breach of any prohibition under section 6.4 of this Bylaw.
- 6.11 A Council permit for this activity may be granted by Council, the Chief Executive of Council, or any Licensing Inspector appointed under section 197(1) of the Sale and Supply of Alcohol Act 2012.
- 6.12 A permit granted in accordance with this section of the Bylaw may include conditions related to the following matters to ensure that the activity remains low risk with respect to minimising alcohol related harm:
- (i) the date and time the exemption applies;
 - (ii) the person or number of persons that are required for running the activity during the period the exemption applies;
 - (iii) the nature of the activity associated with the exemption;
 - (iv) the numbers of persons that may attend the event while the exemption applies;
 - (v) what controls may be required to ensure anyone under the age of 18 will not have access to alcohol at the activity;
 - (vi) how much alcohol will be available;
 - (vii) what host responsibility provisions will apply, including provision of food, low or non-alcoholic drinks, and alternative transport options.

Powers of arrest, search and seizure

Powers of the Police

- 6.13 Where a prohibition on the possession or consumption of alcohol is in effect in respect of any public place, pursuant to the foregoing provisions, a member of the police may, without warrant:
- for the purpose of ascertaining whether alcohol is present, search
 - a container (for example, a parcel, package, bag, or case) in the possession of a person who is in, or entering, the public place;
 - a vehicle that is in, or is entering, the public place;
 - seize and remove alcohol and its container if the liquor is in the public place in breach of that prohibition;
 - arrest a person whom the member of the police finds committing an offence against that prohibition;
 - arrest a person who has refused to comply with a request by a member of the police:
 - to leave the public place; or
 - to surrender to a member of the police the alcohol that, in breach of that prohibition, is in that person's possession.

Warning by the Police

- 6.14 Before exercising the power of search in relation to a container or a vehicle, a member of the police must:
- inform the person in possession of the container or the vehicle, as the case may be, that he or she has the opportunity of removing the container or the vehicle from the public place; and
 - provide the person with a reasonable opportunity to remove the alcohol or the vehicle, as the case may be, from the public place.

Specific events

- 6.15 Where the Council considers it appropriate for the safe and effectual holding in any public place or part of a public place of any public event, function or gathering, it may make a publicly notified resolution no less than 14 days before the event to:
- Prohibit the consumption of alcohol in the specified public place during that period or periods, the bringing of alcohol into the specified public place during that period or periods, and the possession of alcohol in the specified public place during that period or periods;
 - Prohibit the presence or use of any vehicle in that public place at that time.

Powers of search, confiscation and arrest

- 6.16 Where the Council has resolved to prohibit vehicles and/or the consumption or possession of alcohol in any specified public place, on the occasion of the holding of any public event, function or gathering, any member of the Police may:
- immediately and without further notice, for the purpose of ascertaining whether alcohol is present, search any container (for example parcel, bag or case) in the possession of any person who is in or entering the specified public place or search any vehicle that is in or entering the specified public place;
 - Seize and remove liquor and its container if the alcohol is in the public place in breach of this prohibition;
 - Arrest a person whom the member of the police finds committing an offence against this prohibition;
 - Arrest a person who has refused to comply with a request by a member of the Police:
 - to leave the public place; or
 - to surrender to a member of the police the alcohol that, in breach of this prohibition, is in that person's possession.

Power to request name and address

- 6.17 If an Enforcement Officer or member of the Police believes on reasonable grounds that a person is committing or has committed an offence against this bylaw, either of them may direct the person to give:
- his or her name and address; and
 - the name and address and whereabouts of any other person connected in any way with the alleged offence.

Obstruction of Enforcement Officer

- 6.18 Every person who intentionally refuses to give their name and address when requested to do so by an Enforcement Officer or member of the Police, or knowingly misstates or provides false information, commits an offence against section 229 of the Local Government Act 2002 and is liable on summary conviction to the penalty specified in section 242(2) of the Act.

Breach of alcohol-related bylaw provisions and penalty

- 6.19 Any person who acts in breach of any provision within this part of the Urban Environments Bylaw commits an infringement offence and is liable to be proceeded against pursuant to section 239A of the Local Government Act 2002.

7. PART SEVEN - RESERVES

Scope

7.1 This part of the bylaw manages activities within Nelson's parks and reserves.

Motor vehicle use

7.2 No person shall, without the prior written permission of an authorised officer, drive a motor vehicle in excess of 20km/h in a reserve.

7.3 No person shall drive, ride or park any motor vehicle on any area of any reserve except:

- on those areas developed and/or set aside specifically for that purpose, or
- where signs or markings indicate that motor vehicles are permitted, or
- at the direction or with the permission of any authorised officer.

Hazard of damage

7.4 No person is permitted to undertake any activity in any reserve which causes, or is likely to cause, a hazard to users of the reserve or damage to any part of the reserve or any structure on a reserve.

Golf

7.5 No person shall practice or play golf on any area of any reserve other than on the Waahi Taakaro Golf Course and the designated area in Neale Park.

Activities requiring permission

7.6 Permission to undertake the following activities in reserves can be granted, but they do require a Council permit:

- use of chainsaws or other tree felling implements;
- taking of rocks, minerals and sand;
- possession of firearms of any kind or the killing of any animals, including shooting of game birds and control of animal pests. This includes the use of traps and toxins;
- planting, spraying or removal of vegetation;
- grazing of livestock;
- landing of recreational motorised aircraft;
- placing or erection of memorials including plaques.

7.7 Any permission given under this Bylaw may be subject to such terms and conditions as Council sees fit, and may be revoked at any time where those terms and conditions are not complied with.

Respect for other reserve users

7.8 No user of any reserve shall impact on the safety and legitimate enjoyment of the reserve by others.

Public access to reserves

- 7.9 No person shall enter or remain in any reserve during any time that the Council has determined that the reserve should be closed to the public. Reasons for access restrictions include fire risk, health and safety, and ecological restoration.

Exemptions

- 7.10 Nothing in this part of the Bylaw shall prevent authorised officers from carrying out activities in reserves.
- 7.11 Nothing in this part of the Bylaw shall prevent Iwi from carrying out activities in reserves which are provided for in any legislation enacting Deeds of Settlement between Iwi and the Crown.
- 7.12 Nothing in this part of the Bylaw shall prevent the operation, maintenance, development, and upgrading of network utilities where this is otherwise permitted or approved by the Council or other legislation.
- 7.13 Ambulances and other emergency services are exempt from the motor vehicle provisions in this part of the Bylaw.

8. PART EIGHT - BURIAL AND CREMATION

Scope

- 8.1 This part of the Bylaw manages activities within Nelson’s cemeteries, including burial and cremation.

Purchase of exclusive right of burial

- 8.2 Any person making application on the appropriate form and paying the requisite fee may at any time purchase the exclusive right of burial in any available plot on the terms and conditions from time to time set by the Council.
- 8.3 Where no prior purchase of an exclusive right of burial has been made by, or on behalf of, the deceased at the time an application is made for an Interment Warrant, the exclusive right of burial shall be purchased at the same time as the Interment Warrant.
- 8.4 Where any person of insufficient means has been interred in any cemetery any friend or relative of such person may, within such time as the Council might allow, purchase the exclusive right of burial in relation to the grave subject to the terms and conditions applying in respect of the purchase of such right.

Burials

- 8.5 No person shall undertake any burial, including the burial of ashes, in any cemetery within the City without first obtaining an Interment Warrant from the Council.
- 8.6 Applications for an Interment Warrant shall be made on the appropriate form and be accompanied by the fee set by the Council for the warrant.
- 8.7 Any application for an Interment Warrant in respect of a deceased person of insufficient means shall be accompanied by a certificate duly signed by the applicant certifying that the deceased has not left sufficient funds to meet the cost of either or both, the Interment Warrant or the exclusive right of burial, and that there are no friends or family willing or able to meet these charges.
- 8.8 All burials shall be undertaken in accordance with the conditions from time to time set by the Council and as outlined on the Interment Warrant.

Cremations

- 8.9 No cremation shall take place in any crematorium provided by the Council unless the provisions of the applicable regulations have been complied with and the requisite fees have been paid.
- 8.10 All necessary applications, certificates and approvals shall be made or obtained or deposited with the Council as the case might require prior to the cremation taking place.

Headstones and monuments

- 8.11 No person shall erect any headstone, plaque, fence or other structure on or about any plot or grave unless they hold the exclusive right of burial in respect of that plot or grave and have obtained a permit from the Council for the work.

- 8.12 No person shall erect any headstone, plaque, fence or other structure on or about any plot or grave in any cemetery except in accordance with the Council standards relating to the erection of memorials, headstones or other structures.
- 8.13 The Council may from time to time by resolution add to or amend the standards relating to the erection of memorials, headstones or other structures.

Undertaking work

- 8.14 No person erecting or repairing any headstone, monument, fence or other work in, on, or around any plot or grave in any cemetery, shall make use of any footpath or other part of the cemetery for placing or depositing thereon any tools or material in connection with the work for a longer time than is reasonably necessary for the purpose of completing such work.
- 8.15 Any person who, after service upon them of a notice in writing from the Council requesting the removal of any tools or materials within a time specified in such notice, neglects or refuses to remove any such tools or material from the cemetery, commits an offence against this Bylaw.
- 8.16 No person shall make use of any footpath or roadway in the cemetery for the purpose of mixing cement or mortar otherwise than upon a proper mixing board or in other approved manner.

Wreaths, flowers and vegetation

- 8.17 No tree shall be planted in any cemetery by any person without permission first being obtained from the Council. Shrubs planted in any portion of the cemetery may at any time be trimmed, removed, or cut down by the Council. Reasonable attempts will be made to contact the person who undertook the planting or their representative prior to such work being undertaken so as to enable such plantings to be removed.
- 8.18 No person shall plant anything on any plot or grave, in other than a natural burial cemetery. During a period of two (2) weeks following interment, or such longer time as may be agreed with the family of the deceased, a wreath or wreathes or other tributes may be placed on a grave, but shall be removed at the expiration of the agreed period.
- 8.19 After the two week period referred to in clause 8.21 has expired no person shall place on any grave more than two tributes being either flowers and foliage placed in receptacles of an approved type inset into the base on which the memorial is placed, or other appropriate items.
- 8.20 In the case of any lawn cemetery two receptacles may be installed adjoining and at the same level as any tablet or plaque.
- 8.21 The Sexton of the Cemetery may at any time remove damaged receptacles or dead flowers or foliage, or inappropriate tributes, and at the expiration of the 2 week period or of any other period agreed with the family in accordance with Clause 8.21, may remove any tributes not removed within the period permitted under Clause 8.21.

Hours of opening

- 8.22 No person shall enter or remain in any cemetery between the hours of sunset and sunrise.

Vehicles

- 8.23 No person shall drive any vehicle on any part of any cemetery except the roads open for vehicular traffic.
- 8.24 No person shall drive or park any vehicle in any cemetery other than in accordance with the traffic signs or markings therein.

Removal of kerbs, headstones or monuments

- 8.25 No person shall, without the authority of the Council, or the holder of the exclusive right of burial in respect of any grave, remove or take from such grave, any vase, wreath, plant, flower, or any kerb, headstone or monument or any other thing. The Council may cause to be removed any neglected or broken material of this nature subject to reasonable attempts being made to contact the holder of the exclusive right or their representative prior to such removal.

Misconduct

- 8.26 No person shall, in any part of any cemetery, by any disruptive, noisy, violent or improper behaviour, prevent, interrupt, or delay any funeral service.
- 8.27 No person shall on any monument, tombstone, memorial or any other structure whatsoever, place or allow to be placed any epitaph, inscription, writing or lettering or any words, marks or characters or any picture or thing or object which is offensive or objectionable.

Damage to monuments

- 8.28 No person shall interfere with, disturb, remove, displace, deface, disfigure, damage, injure or destroy any building, monument, tombstone, plaque, memorial, fence, sign, noticeboard or any fitting or implement of any kind within or enclosing the whole or any portion of any cemetery.
- 8.29 No person shall, without authority from the Council, take, deposit, remove or disturb any soil or uproot any plant, or injure any shrub, tree, hedge, or other growth within any cemetery.

Commercial operations

- 8.30 No person shall advertise or solicit any order or custom for any work whatsoever in any cemetery without a Council permit.
- 8.31 No commercial photographer shall, without the consent of the family concerned, attend any funeral at a cemetery for the purpose of taking photographs.

Fees

- 8.32 Council may from time to time by resolution publicly notified, amend the fees or charges payable by any person in respect of any permission, certificate or service provided by the Council.

Change of conditions

- 8.33 The Council may from time to time by resolution add to or amend any forms to be used or any condition to be complied with pursuant to this bylaw.

Offences and penalties

- 8.34 Any person who acts contrary to any provision of this part of the bylaw or to any direction given by any Sexton or Council Officer in relation to the use of any cemetery, commits an offence against this Bylaw and on summary conviction is liable to a fine not exceeding \$500, and where the offence is a continuing one, to an additional fine not exceeding \$50 for every day or part of a day during which the 'offence' continues.

SCHEDULE A – PROHIBITION OF ALCOHOL IN PUBLIC PLACES

1. In the following areas the period of prohibition is 24 hours 7 days a week.
 - i) Any public place within the area bounded by and including Halifax Street, Collingwood Street, Nile Street, Trafalgar Square (Church Hill) and Rutherford Street.
 - ii) Pioneers Park
 - iii) Anzac Park
 - iv) The Maitai River walkways and reserves from Queen Elizabeth II Drive to Nile Street
 - v) Queens Gardens
 - vi) Rutherford Park (excluding the Trafalgar Centre)
 - vii) The central islands of Haven Road between its intersections with Halifax Street and Queen Elizabeth II Drive
 - viii) The Lions Playground - Tahunanui Reserve
 - ix) That area of Stoke Commercial Centre bounded by and including Main Road Stoke, Songer Street, Neale Avenue and Poorman Valley Stream.
 - x) Extension of the Nelson Business District westwards to include the area bounded by Kerr Street, Gloucester Street, Pioneers Park, ANZAC Park, and Halifax Street
 - xi) Kerr-Wellington Street Walkway
 - xii) Konini Street Gardens
 - Eastern Side of Konini Street
 - xiii) Wigzell Park
 - xiv) Victory Reserve
 - Both sides of the street in the square around Victory Reserve
 - The shops and private car parks behind shops on Emano Street and St Vincent Street
 - Victory Reserve
2. In the following areas the period of Prohibition is from 9.00 pm on any day to 7.00 am on the following day:
 - i) The area of the inner city bounded by Riverside Drive, Collingwood Street, Hardy Street and Tasman Street.
 - ii) The Maitai Walkway and reserves (including Branford Park) from the Nile Street Bridge to the western boundary of the Waahi Takaaro Golf Course;
 - iii) Tahunanui Reserve (excluding the Lions Playground);
 - iv) Miyazu Gardens;
 - v) Fairfield Park;

- vi) Trafalgar Park (excluding the Trafalgar Pavilion);
- vii) Saxton Field Reserve;
- viii) Isel Park;
- ix) Broadgreen Gardens;
- x) Marsden Reserve;
- xi) The Botanics Reserve;
- xii) Paddy's Knob;
- xiii) Green Meadows;
- xiv) Abel Tasman Statue car park;
- xv) Neale Park/Guppy Park;
- xvi) Railway Reserve (Tahunanui Drive to Saxton Road);
- xvii) QEII Walkway/Cycleway and surrounds (Trafalgar Street to the eastern end of Neale Park).

SCHEDULE B – PERMITS, WRITTEN AUTHORITIES AND LICENCES

Information about the application process and the conditions that apply to permits, written authorities and fees related to this bylaw are available on the Council website, at the Customer Service Centre, and on request.

Keeping of animals

Poultry (permit required for more than 12)

Commercial Activities in Public Places

Itinerant traders and mobile shops (permit required)

Commercial services (permit required)

Soliciting of donations (permit required)

Selling lottery tickets (permit required)

Busking (permit sometimes required)

Advertising in public places (permit required, if not on a dedicated poster tower)

Control of Alcohol in Public Places

Low risk activity involving a limited amount of alcohol that would be in breach of clause 6.4 of the Control of Alcohol bylaw provisions (permit required).

Reserves

Permit required for these activities:

- Use of chainsaws or other tree felling implements;
- Taking of rocks, minerals and sand;
- Possession of firearms of any kind or the killing of any animals, including shooting of game birds and control of animal pests. This includes the use of traps and toxins;
- Planting, spraying or removal of vegetation;
- Grazing of livestock;
- Landing of recreational motorised aircraft;
- Placing or erection of memorials including plaques.

Burials and Cremations

Exclusive right of burial in a plot (purchase required)

Interment warrant (purchase required)

Cremations (cremation fee required)

Headstones and monuments (permit required)

Plantings in cemeteries (permission from Council required)

Commercial operations in cemeteries (Council permit required)

SCHEDULE C – STANDARD

The following standard is available on the Council website, and on request from the Customer Service Centre:

Burial and Cremation

- Council standards for the erection of memorials, headstones or other structures.