

**Auckland Transport Public Safety and
Nuisance Bylaw 2013**
Te Ture ā-Rohe Marutau ā-Iwi me te Whakapōrearea 2013

26 May 2014

**Governing Body of Auckland Transport
Resolution**

21 November 2013

Explanatory Note

Pursuant to section 145 of the Local Government Act 2002 and section 22AB of the Land Transport Act 1998, the Governing Body of Auckland Transport revokes and replaces bylaws about nuisance and public safety with the following bylaw.

This explanatory note is for information purposes only and does not form part of this bylaw.



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1 Title

This bylaw is the Auckland Transport Public Safety and Nuisance Bylaw 2013.

2 Commencement

This bylaw comes into force on 26 May 2014.

3 Application

This bylaw applies to roads and public transport infrastructure under the care, control or management of Auckland Transport.

**Part 1
Preliminary Provisions**

4 Purpose

- (1) The purpose of this bylaw is to:
- (a) protect the public from nuisance, promote and maintain public health and safety and minimise the potential for offensive behaviour in public places;
 - (b) manage and protect from damage or misuse land, structures, property and assets owned, managed or under the control of Auckland Transport;
 - (c) regulate the display of street names and the identification and numbers of premises.

5 Interpretation

- (1) In this bylaw, unless the context otherwise requires,—

Aircraft means a fixed wing aircraft, helicopter, glider, dirigible, hot air balloon, parachute, hang glider, para glider, kite or model aircraft, whether powered or not powered.

Mind altering substance means a substance whether synthetic or naturally occurring which may alter consciousness, mood or emotions, or which might intoxicate or induce pleasurable sensations. It includes what is commonly known as glue sniffing, but does not include:

- (a) medically prescribed substances ingested by the person for whom they were prescribed;
- (b) substances purchased from a pharmacy without a medical prescription;
- (c) nicotine;
- (d) alcohol as defined in the Sale and Supply of Alcohol Act 2012.

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.

Explanatory note: section 29 states: Without limiting the meaning of the term nuisance, a nuisance shall be deemed to be created in any of the following cases, that is to say:

- (a) *where any pool, ditch, gutter, watercourse, sanitary convenience, cesspool, drain, or vent pipe is in such a state or is so situated as to be offensive or likely to be injurious to health:*
- (b) *where any accumulation or deposit is in such a state or is so situated as to be offensive or likely to be injurious to health:*
- (c) *where any premises, including any accumulation or deposit thereon, are in such a state as to harbour or to be likely to harbour rats or other vermin:*
- (d) *where any premises are so situated, or are in such a state, as to be offensive or likely to be injurious to health:*
- (e) *[Repealed]*
- (f) *where any building or part of a building is so overcrowded as to be likely to be injurious to the health of the occupants, or does not, as regards air space, floor space, lighting, or ventilation, conform with the requirements of this or any other Act, or of any regulation or bylaw under this or any other Act:*
- (g) *where any factory, workroom, shop, office, warehouse, or other place of trade or business is not kept in a clean state, and free from any smell or leakage from any drain or sanitary convenience:*
- (h) *where any factory, workroom, shop, office, warehouse, or other place of trade or business is not provided with appliances so as to carry off in a harmless and inoffensive manner any fumes, gases, vapours, dust, or impurities generated therein:*
- (i) *where any factory, workroom, shop, office, warehouse, or other place of trade or business is so overcrowded while work is carried on therein, or is so badly lighted or ventilated, as to be likely to be injurious to the health of the persons employed therein:*
- (j) *where any buildings or premises used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive or likely to be injurious to health:*
- (k) *where any animal, or any carcass or part of a carcass, is so kept or allowed to remain as to be offensive or likely to be injurious to health:*
- (ka) *where any noise or vibration occurs in or is emitted from any building, premises, or land to a degree that is likely to be injurious to health:*
- (l) *where any trade, business, manufacture, or other undertaking is so carried on as to be unnecessarily offensive or likely to be injurious to health:*
- (m) *where any chimney, including the funnel of any ship and the chimney of a private dwellinghouse, sends out smoke in such quantity, or of such nature, or in such manner, as to be offensive or likely to be injurious to health, or in any manner contrary to any regulation or Act of Parliament:*
- (n) *where the burning of any waste material, rubbish, or refuse in connection with any trade, business, manufacture, or other undertaking produces smoke in such quantity, or of such nature, or in such manner, as to be offensive or likely to be injurious to health:*
- (o) *where any street, road, right of way, passage, yard, premises, or land is in such a state as to be offensive or likely to be injurious to health:*
- (p) *where any well or other source of water supply, or any cistern or other receptacle for water which is used or is likely to be used for domestic purposes or in the preparation of food, is so placed or constructed, or is in such a condition, as to render the water therein offensive, or liable to contamination, or likely to be injurious to health:*
- (q) *where there exists on any land or premises any condition giving rise or capable of giving rise to the breeding of flies or mosquitoes or suitable for the breeding of other insects, or of mites or ticks, which are capable of causing or transmitting disease.*

Person includes a corporation sole, a body corporate, and an unincorporated body.

Premises means any separately occupied land, building, or part of the same.

Public place—

- (a) means a place covered by this bylaw that, at any material time, 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 that place; and
- (b) includes any hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward.

Public transport infrastructure means premises, buildings, structures, vehicles and equipment that are directly or indirectly associated with the provision of public transport services and includes, but is not limited to bus stations, bus shelters, train stations, ferry wharves, park'n'ride, carparks, ticket gates, real time passenger information boards.

Road has the same meaning as section 315 of the Local Government Act 1974.

Explanatory note: section 315 states: Road means the whole of any land which is within a district, and which—

- (a) *immediately before the commencement of this Part was a road or street or public highway; or*
- (b) *immediately before the inclusion of any area in the district was a public highway within that area; or*
- (c) *is laid out by the council as a road or street after the commencement of this Part; or*
- (d) *is vested in the council for the purpose of a road as shown on a deposited survey plan; or*
- (e) *is vested in the council as a road or street pursuant to any other enactment;—*

and includes—

- (f) *except where elsewhere provided in this Part, any access way or service lane which before the commencement of this Part was under the control of any council or is laid out or constructed by or vested in any council as an access way or service lane or is declared by the Minister of Works and Development as an access way or service lane after the commencement of this Part or is declared by the Minister of Lands as an access way or service lane on or after 1 April 1988;*
- (g) *every square or place intended for use of the public generally, and every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;—*

but, except as provided in the Public Works Act 1981 or in any regulations under that Act, does not include a motorway within the meaning of that Act or the Government Roading Powers Act 1989

Vehicle has the meaning as section 2(1) of the Land Transport Act 1998.

Explanatory note: section 2(1) states: Vehicle-

- (a) *means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and*
- (b) *includes a hovercraft, a skateboard, in-line skates, and roller skates; but*
- (c) *does not include-*
 - (i) *a perambulator or pushchair;*
 - (ii) *a shopping or sporting trundler not propelled by mechanical power;*
 - (iii) *a wheelbarrow or hand-trolley;*
 - (iv) *a pedestrian-controlled lawnmower;*
 - (v) *a pedestrian-controlled agricultural machine not propelled by mechanical power;*
 - (vi) *an article of furniture;*
 - (vii) *a wheelchair not propelled by mechanical power;*

- (viii) *any other contrivance specified by the rules not to be a vehicle for the purposes of this definition;*
- (ix) *any rail vehicle.*

Waahi tapu means a place sacred to Maori.

- (2) To avoid doubt, compliance with this bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws, and rules of law.
- (3) Unless the context requires another meaning, a term or expression that is defined in the Local Government Act 2002 or the Land Transport Act 1998 and used in this bylaw, but not defined, has the meaning given by the Act.
- (4) Any explanatory notes and attachments are for information purposes, do not form part of this bylaw, and may be made, amended and revoked without formality.
- (5) The Interpretation Act 1999 applies to this bylaw.

Part 2

Public Safety, Nuisance, General Behaviour and Street Naming and Numbering

6 Nuisances, safety and behaviour in any public place

- (1) A person must not use a public place to:
 - (a) wilfully obstruct, disturb or interfere with any other person in their use or enjoyment of that public place;
 - (b) create a nuisance through the use or playing of any instrument (musical or otherwise), any type of public address system or any type of amplified sound system, or from making any excessive sound or noise;
 - (c) use any material or thing (including a vehicle, bicycle, motorised scooter, model aircraft, skateboard, roller skates or roller blades, shopping trolley or similar object) recklessly or in a manner which may intimidate, be dangerous, be injurious to or cause a nuisance to any person;
 - (d) install or maintain a fence (including a razor-wire and electric fence) in a manner that may cause an injury or nuisance to any person;
 - (e) consume, inject or inhale or distribute or offer for sale any mind-altering substance;
 - (f) beg in a manner that may intimidate or cause a nuisance to any person;
 - (g) 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.

- (2) Except at a facility or site specifically provided, or with the prior written approval of Auckland Transport a person must not use a public place to:
 - (a) display or fix any graffiti, posters, signs or advertising devices on any property that is under the control of Auckland Transport;
 - (b) light a fire (except in an appliance designed for outdoor cooking subject to any restriction imposed by Auckland Transport on the lighting of fires).
- (3) A person must not set off fireworks, flares or any other explosive material:
 - (a) in a public place, except with the prior written approval of Auckland Transport; and
 - (b) in any other place in a way that does or is likely to create a nuisance or endanger any person, property, dog or other animal in a public place.

7 Damage in any public place

- (1) Except with the prior written approval of Auckland Transport, a person must not cause damage on a public place including but not limited to:
 - (a) damaging, removing, disturbing or interfering with any property that is under the control of Auckland Transport, including:
 - (i) any archaeological, heritage, historic or waahi tapu site; and
 - (ii) any structure, street furniture, artefact, surface, natural feature, grass plot, flowerbed, tree, shrub or plant; and
 - (iii) any furnishing, fitting or equipment in a building accessible by the public.
 - (b) polluting, damaging, placing any obstruction in, or interfering with any water course or stormwater drain or channel;
 - (c) placing a structure, opening a drain or disturbing a surface that is likely to be injurious to or cause a nuisance to any person or to cause damage to that public place;
 - (d) depositing, moving or removing rock, shingle, sand, vegetation, or any material or artefact; or
 - (e) removing or damaging any tree, shrub or plant of any kind or part thereof or planting, sowing or scattering the seed of any tree, shrub or plant of any kind.
- (2) This clause does not prevent any person from maintaining the grass verge on any road adjacent to their premises.

- (3) Clause 7(1) does not apply to work by a network utility operator that it is entitled by statute to undertake in a public place and provided all otherwise necessary authorisation is obtained.

8 Obstructions in any public place

- (1) Except with the prior written approval of Auckland Transport, a person must not:
- (a) place or leave any material, object, thing or structure in a public place;
 - (b) erect, construct, or place a building, structure, tent or projection of a building, structure or any part thereof, on, under, over or across a public place;
 - (c) allow vegetation to encroach over a public place in a manner that may cause a nuisance to any person or an obstruction to traffic;
 - (d) hang a door or gate on any premises capable of being swung over or across or otherwise encroaching on a public place;
 - (e) store or pack goods on a public place.

9 Additional controls for public transport infrastructure and roads

- (1) Auckland Transport may restrict or close entry to all or any portion of any public transport infrastructure during such times as are considered necessary to prevent damage to, ensure public safety in or around, or allow maintenance of that infrastructure.
- (2) Auckland Transport may temporarily set aside the whole or part of any public transport infrastructure not needed for the provision of public transport services for the exclusive use of particular groups or for specified activities during set times and may charge for the exclusive use of any or part of any public transport infrastructure.
- (3) In addition to any other control that applies to a public place, a person must not:
- (a) enter any public transport infrastructure that is closed to the public;
 - (b) carry any firearm, airgun, or restricted weapon (as defined in section 2 of the Arms Act 1983) that is loaded with a bullet, cartridge, missile, or projectile, whether in its breech, barrel, chamber, or magazine in any public transport infrastructure;
 - (c) possess any item of a dangerous nature in any public transport infrastructure;
 - (d) misuse or interfere with any safety equipment or warning device or notice on or within public transport infrastructure except with the prior written approval of Auckland Transport;

- (e) except in the case of an emergency, as part of an emergency services operation or with the prior written approval of Auckland Transport:
 - (i) land or take off in an aircraft from a road or public transport infrastructure;
 - (ii) use an aircraft to set down, pick up, or recover any person, animal, carcass, or article of any description on or from a road or public transport infrastructure.
- (f) leave any gate in a different position from that which that person finds it. Gates found open must be left open and gates found closed must be left closed;
- (g) clean or leave any fish or fish offal on a road or public transport infrastructure.

10 Street naming and numbering on buildings

- (1) For the avoidance of doubt, no person except Auckland Transport may paint, erect or affix a name on a road.
- (2) For the avoidance of doubt, Auckland Transport has the exclusive right to paint, erect or affix on a conspicuous part of a building, the name of the road to which it has frontage.
- (3) No person may wilfully or maliciously destroy, pull down, obliterate, or deface the name of a road or public place or the number of any premises.
- (4) Every allotment of land issued with a computer register under the Land Transfer Act 1952 that is occupied by a person or building must be marked by the owner, manager or occupier with a street number approved by the council.
- (5) The following exceptions apply to subclause (4):
 - (a) for any unit pursuant to the Unit Titles Act 2010, at least one street number must mark the land comprising all the units and common property within the unit plan deposited under the Land Transfer Act 1952;
 - (b) for any contiguous allotments of land under single management for a common purpose including an educational institution, industrial complex, or shopping mall, at least one street number must mark the contiguous allotments and must be accompanied by the name of the institution, complex or other such common purpose.
- (6) Every number and name under this clause must be:
 - (a) legible and clearly visible from the public place to which the premises has frontage;
 - (b) in characters not less than 75 millimetres in height for residential buildings and not less than 150 millimetres in height for all other buildings;

- (7) Numbers of premises must be maintained by the owner, manager or occupier in a manner that clearly identifies the premises.

Part 3 Enforcement Powers

11 Compliance with the bylaw

- (1) Auckland Transport may use its powers under the Local Government Act 2002 and the Land Transport Act 1998 to enforce this bylaw.

12 Removal of material or things

- (1) In addition to the powers conferred on it by any other enactment, Auckland Transport may remove or cause to be removed from any public place any material or thing using that public place in breach of the bylaw.
- (2) Auckland Transport may recover from the person who committed the breach of this bylaw the appropriate costs in connection with the removal of the material or thing.

13 Removal of construction

- (1) Auckland Transport may, pursuant to section 163 of the Local Government Act 2002, remove or alter a work or thing that has been constructed in breach of this bylaw and may recover any costs of removal or alteration from the person who committed the breach.

Part 4 Offences and Penalties

14 Bylaw breaches

- (1) A person who fails to comply with Part 2 of this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002 and/or the Land Transport Act 1998.

Part 5 Savings, Transitional Provisions and Revocation

15 Savings and transitional provisions

- (1) This clause applies to:
- (a) Auckland City Council No 20 - Public Places Bylaw (2008);

- (b) Franklin District Council Public Places Bylaw 2007;
 - (c) Chapter 9 (General Nuisance, Safety and Behaviour in Parks and Public Places) of the Manukau City Consolidated Bylaw 2008;
 - (d) Chapter 17 (Street Names and Numbering of Premises) of the Manukau City Consolidated Bylaw 2008;
 - (e) Part 2 (Public Places) of the North Shore City Council Bylaw 2000;
 - (f) Papakura District Council Public Places Bylaw 2008;
 - (g) Chapter 8 (Public Places) of the Rodney District Council General Bylaw 1998;
 - (h) Chapter 9 (Road Crossings and Numbering of Premises) of the Rodney District Council General Bylaw 1998;
 - (i) Waitakere City Council Public Places Bylaw 2010.
- (2) Any resolution or other decision made under the bylaws referred to in clause 16(1) remains in force in the area to which it applied until revoked or replaced by an equivalent resolution or decision made by Auckland Transport under this bylaw.
- (3) Any licence, consent, permit, dispensation, permission or other form of approval made under the bylaws referred to in clause 16(1) continues in force but:
- (a) expires on the date specified in that approval; or
 - (b) if no expiry date is specified, expires 12 months from the date that this bylaw becomes effective; and
 - (c) can be renewed only by application made and determined under this bylaw.
- (4) Any application for a licence, consent, permit, dispensation, permission or other form of approval made under a bylaw referred to in clause 16(1) that was filed before the day on which this bylaw commences must be dealt with by Auckland Transport as if it had been made under this bylaw.

16 Revocation

- (1) Provisions of the following bylaws that apply to the roads and public transport infrastructure under the care, control, or management of Auckland Transport are revoked to the extent that the matters covered by those provisions are covered by corresponding provisions in this bylaw:
- (a) Auckland City Council No 20 - Public Places Bylaw (2008);
 - (b) Franklin District Council Public Places Bylaw 2007;
 - (c) Chapter 9 (General Nuisance, Safety and Behaviour in Parks and Public Places) of the Manukau City Consolidated Bylaw 2008;

- (d) Chapter 17 (Street Names and Numbering of Premises) of the Manukau City Consolidated Bylaw 2008;
- (e) Part 2 (Public Places) of the North Shore City Council Bylaw 2000;
- (f) Papakura District Council Public Places Bylaw 2008;
- (g) Chapter 8 (Public Places) of the Rodney District Council General Bylaw 1998;
- (h) Chapter 9 (Road Crossings and Numbering of Premises) of the Rodney District Council General Bylaw 1998;
- (i) Waitakere City Council Public Places Bylaw 2010.