

# MANUKAU CITY CONSOLIDATED BYLAW 2008

## CHAPTER 9

### GENERAL NUISANCE, SAFETY AND BEHAVIOUR IN PARKS AND PUBLIC PLACES

#### EXPLANATORY NOTE

<i>Bylaw made using powers of Local Government Act 2002</i>			
<b>Description</b>	<b>Date Made</b>	<b>Council Minute</b>	<b>Commencement</b>
<i>Bylaw first adopted by Council with updated chapter and bylaw references.</i>	<i>26 Jun 2008</i>	<i>CL/JUN/737/08 CL/JUN/740/08 CL/JUN/745/08</i>	<i>01 Oct 2008</i>
<i>Minor corrections</i>	<i>28 Aug 2008</i>	<i>CL/AUG/962/08</i>	<i>01 Oct 2008</i>

*The purpose of this Bylaw is to provide for the control of public places and reserves in Manukau City, to enable people to use and undertake activities within these places, while ensuring public health and safety is maintained, obstructions are managed, inappropriate behaviour is avoided, and damage and mis-use of Council controlled land, structures and infrastructure is prevented.*

*The Bylaw includes clauses on –*

- (a) appropriate behaviour in public places, including clauses on safety and nuisance, and specific clauses on appropriate behaviour on reserves and beaches;*
- (b) residential occupation of public places;*
- (c) the prevention of damage to public places and assets, including reserves and vegetation;*
- (d) avoiding obstructions in public places that may endanger pedestrian and traffic safety;*

*This Bylaw should be read in conjunction with the entire Manukau City Consolidated Bylaw 2008 and other regulations affecting public places, parks and reserves not necessarily repeated within this Bylaw, including (but not limited to) the Resource Management Act 1991, the Building Act 2004, the Reserves Act 1977, District Plan, and Regional Plans including the Auckland Regional Plan: Coastal.*

*This Explanatory Note is for information purposes only and does not form part of this Bylaw. Council resolutions made for this Bylaw are attached also for information purposes only and do not form part of this Bylaw.*

#### CONTENTS

1.	Interpretation .....	2
2.	Exemptions .....	2
3.	Nuisances, Safety and Behaviour in any Public Place .....	2
4.	Residential Occupation of any Public Place by Vehicles, Tents and Caravans .....	3
5.	Damage in any Public Place .....	3
6.	Obstructions in any Public Place .....	4
7.	Additional Controls for Reserves and Beaches.....	4
8.	Powers of Council .....	5

## 1 Interpretation

1.1 In this chapter, unless inconsistent with the context:

**CLOTHING RECYCLING BIN** means any bin for which a permit has been obtained under this bylaw for the collection of clothing and bric-a-brac.

**FORESHORE** means any land covered and uncovered by the ebb and flow of the tide between mean low water springs and mean high water springs and includes the coastline and tidal inlets.

**INGEST** means to take into the body, whether by mouth, injection or inhalation.

**PROSCRIBED SUBSTANCE** means a mind altering substance, whether synthetic or naturally occurring which substance might alter consciousness, mood or emotions, or which might intoxicate or induce pleasurable sensations, but excludes:

- (a) medically prescribed substances ingested by the person for whom they were prescribed;
- (b) substances purchased from a pharmacy without medical prescription;
- (c) alcohol as defined in the Sale of Liquor Act 1989 and where Chapter 11 Liquor Control does not apply;
- (d) nicotine.

**PUBLIC PLACE** means a place that is owned by or under the control of the Manukau City Council and that is open to, or being used by, the public. It includes Council controlled reserves, parks, civic areas, beaches and roads (including footpaths and carriageways).

**RESERVE** means:

- (a) land vested in or administered by the Council under the provisions of the Reserves Act 1977; or
- (b) Any park, domain or recreational area under the control or ownership of the Council.

**UNOBSTRUCTED FOOTPATH** means the area of public footpath that is completely clear of objects that could obstruct the public right of passage, including (but not limited to) parking meters, signs, power poles, trees, tables, chairs, clothing racks, trestles, planters and any other fixtures or goods. For the purposes of this definition, the "footpath" means the paved area measured in a parallel line between the nearest permanent or temporary obstructions.

## 2. Exemptions

2.1 Nothing in this bylaw limits the Council, its authorised officers or agents from undertaking works and services in public places, or restricts work authorised by the Council in public places.

## 3. Nuisances, Safety and Behaviour in any Public Place

3.1 No person may in any public place:

- (a) wilfully obstruct, disturb or interfere with any other person in their use or enjoyment of that public place;
- (b) create a nuisance from 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 sound or noise;
- (c) use any object recklessly or in a manner which may intimidate, be dangerous, injurious or to cause a nuisance to any person in that public place, including (but not limited to) a bicycle, motorised scooter, skateboard, roller skates or roller blades or similar object;

- (d) deposit or leave any litter other than in a receptacle provided for that purpose by the Council;
- (e) deposit in a litter receptacle offensive matter or household, shop, office, or trade refuse;
- (f) place or leave materials or substances that are likely to be hazardous or injurious to any person;
- (g) set off any fireworks or any other explosive material in a public place, unless they hold a permit issued for that purpose by the Council;
- (h) light a fire except in accordance with clause 7 concerning fires in reserves;
- (i) ingest any proscribed substance as defined in this bylaw;
- (j) beg so as to create nuisance or be likely to create a nuisance.
- (k) place any item or any packaging on the ground around a clothing recycling bin. All recyclable clothing items must be placed in the clothing recycling bin.

#### **4. Residential Occupation of any Public Place by Vehicles, Tents and Caravans**

- 4.1 No person may occupy or permit to be occupied for the purpose of human habitation, any vehicle, tent, caravan or structure of any kind that is situated in or on a public place, except—
- (a) in a place set aside by the Council for the purpose of camping or overnight parking for a self-contained motor caravan;
  - (b) upon payment of the fees specified by the Council; and
  - (c) in tents, gazebos or similar structures, for the purposes of providing shade during daylight hours only, provided that they comply with any relevant requirements and standards made by the Council from time to time by resolution.

#### **5. Damage in any Public Place**

- 5.1 No person may:
- (a) damage, deface, destroy, pollute or cause or permit any act that damages, defaces, destroys or pollutes any public place or buildings, structures, street furniture, surfaces or other Council property in a public place;
  - (b) remove or cause or permit to be removed any Council property from a public place, including any natural feature, grass plot, flowerbed, tree, shrub or plant;
  - (c) pollute, damage, deface or interfere with any watercourse in a public place;
  - (d) move or place a building or a structure, open a drain or disturb a surface so as to obstruct or cause damage to a public place;
  - (e) fail or neglect to secure and maintain the foundations of a building, wall or fence, or cause or permit encroachment by a building, wall, or fence abutting on a public place, whereby that public place is or may be damaged or obstructed;
  - (f) remove sand, shingle, soil, rocks or similar matter from a beach;

- (g) place or fix any poster or advertising device on any structure, building or facility in a public place, except as may be provided for in Chapter 19 Temporary Signs;
- (h) interfere with a placard, bill, poster or notice lawfully erected or placed in a public place;
- (i) drive, ride, propel, or wheel a vehicle across a footpath, berm, kerb, water channel or drain in or on a public place otherwise than upon and by means of a crossing constructed or authorised by the Council;
- (j) paint, etch, draw or mark in the nature of graffiti or with an indecent or obscene representation, figure or word any public place or Council property in any public place.

## **6. Obstructions in any Public Place**

6.1 Except as provided for in clause 3 of Chapter 7 Events and Trading in Parks and Public Places of this Bylaw, no person may:

- (a) impede or obstruct vehicles or persons in a public place, cause or permit or place an obstruction in a public place so as to impede or obstruct the movement of vehicles or persons or cause danger to any person;
- (b) erect, construct, or place a building or other structure, or projection of a building or structure or any part thereof, on, under, over or across a public place;
- (c) hang, or cause or permit to be hung a door or gate capable of being swung over or across or otherwise encroaching on a public place;
- (d) carry out any work on, or dismantle a motor vehicle, or leave any motor vehicle parts in or on a public place, except in case of accident or emergency necessitating repairs to allow the vehicle to be removed;
- (e) store or pack goods in a public place;
- (f) cause or permit or place an obstruction in a water course or stormwater drain or channel;
- (g) place or permit a shipping container to be placed in a public place except in accordance with the specific requirements and standards made by the Council from time to time by resolution.

6.2 A person must hold a permit issued by the Council to place a clothing recycling bin in any public place.

## **7. Additional Controls for Reserves and Beaches**

7.1 In addition to any other control that applies to a public place, no person may in or on a reserve or beach:

- (a) enter a reserve closed to the public;
- (b) leave any gate in a different position from that which they find it. Gates found open must be left open and gates found closed must be left closed;
- (c) except in the case of an emergency:
  - (i) land an aircraft;
  - (ii) take off in an aircraft;
  - (iii) parachute into;
  - (iv) use or operate a hang glider; or

- (v) use an aircraft to set down, pick up, or recover any person, livestock, carcass, or article of any description.  
In this clause, aircraft includes helicopters, gliders and balloons.
- (d) light a fire except in a fireplace provided by the Council and provided the person who lit the fire attends the fire until it is completely extinguished or arranges for a responsible person to attend the fire until it is completely extinguished;
- (e) play at or engage in any sport or game if expressly forbidden to do so by the Council;
- (f) enter in or remain on any part of a reserve or beach marked out as a playing area for a sport or game while that sport or game is in progress unless that person is a competitor, participant or official taking part in the game or sport;
- (g) drive or ride any vehicle except on places set aside by the Council for the driving or riding of vehicles;
- (h) park any vehicle except in a place set aside by the Council for parking. In this clause, "park", in relation to a vehicle, means to stand the vehicle for a period exceeding 5 minutes and "vehicle" does not include a bicycle;
- (i) stop or stand a vehicle or leave a bicycle in such a place that it causes or is likely to cause obstructions to any entrance, thoroughfare, path or track;
- (j) leave or park a boat, trailer except in a place set aside by the Council for parking or storage of boats or trailers (such as dinghy racks);
- (k) clean or leave any fish or fish offal, including in the inter-tidal zone above the mean low water spring;
- (l) use or interfere with any lifesaving equipment or warning device or notice unless authorised to do so;
- (m) obstruct access to boat ramps or boat launching facilities;
- (n) stay overnight in any boat for more than 3 consecutive days in any 3 month period in the inter-tidal zone above the mean low water spring and any boat used for this purpose must be fitted with suitable sewage holding tank facilities.

## **8. Powers of the Council**

8.1 The Council may, from time to time, by resolution make the following:

- (a) requirements, guidelines and standards on the matters stated in clauses 4.1(c), 6.1(g) and 6.2;
- (b) matters to be considered when deciding whether to grant a permit required by this bylaw, including for fireworks or any other explosive material and the placement of a clothing bin in a public place;
- (c) any conditions that may be imposed in permits;
- (d) fees and charges, including for any permit application, for occupation of a public place, and for the on-going monitoring and administration of a permit.

**ATTACHMENTS TO CHAPTER 9 GENERAL NUISANCE, SAFETY AND  
BEHAVIOUR IN PARKS AND PUBLIC PLACES**

**OF THE MANUKAU CITY COUNCIL CONSOLIDATED BYLAW 2008**

**FOR INFORMATION PURPOSES ONLY**

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**HISTORY OF THE ATTACHMENT**

Description	Date Made	Council Minute	Commencement
Attachment first adopted under 2008 consolidated bylaw	25 Sep 2008	CL/SEP/1083/08	01 Oct 2008
Clause 3 of Attachment D amended	29 Jul 2010	CL/JUL/748/10	29 Jul 2010
Clause 3 of Attachment D amended, Manurewa library car park removed from General Site Criteria	30 Sep 2010	CL/SEP/1026/10	30 Sep 2010

**INTRODUCTION**

Chapter 9 General Nuisance, Safety and Behaviour in Parks and Public Places of the Manukau City Consolidated Bylaw 2008 allows the Council by resolution to determine:

- (a) requirements and standards on the matters stated in clause 4.1(c) and 6.1(g);
- (b) matters to be considered when deciding whether to grant a permit required by this bylaw, including for fireworks or any other explosive material, the use of shipping containers, and the use of tents, gazebos and similar structures in a public place;
- (c) any conditions that may be imposed in any permit;
- (d) fees and charges, including for any permit application, any occupation of a public place, and for the on-going monitoring and administration of a permit.

Chapter 1 Interpretation, Licences, Offences of the Manukau City Consolidated Bylaw 2008 contains general provisions in relation to permits. This document consolidates, for information purposes only, matters associated with trading in public places to assist Council officers, persons wishing to apply for a permit, and the general public.

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**CONTENTS**

**Attachment A Interpretation**

1. Interpretation ..... 2

**Attachment B Specific Requirements and Standards for Shipping Containers**

1. Requirements and Standards ..... 2

**Attachment C Tents, Gazebos and Similar Structures in Public Places, Reserves and Beaches**

1. Requirements and Standards ..... 3

**Attachment D Permits for Clothing Bins in Public Places**

1. Clothing Bins in Public Places ..... 3
2. Application form, Information to be Supplied and Application Fee ..... 3
3. Assessment of Applications ..... 4
4. Decision on Applications and Permit Conditions ..... 4

## ATTACHMENT A Interpretation

### 1. Interpretation

The following definitions are quoted from clause 1.1 of Chapter 9 General Nuisance, Safety and Behaviour in Parks and Public Places of the Manukau City Consolidated Bylaw 2008:

**BEACH** means the foreshore and any adjacent area which can reasonably be considered part of the beach environment including areas of sand, pebbles, shingle, dunes or coastal vegetation.

**FORESHORE** means any land covered and uncovered by the ebb and flow of the tide between mean low water springs and mean high water springs and includes the coastline and tidal inlets.

**INGEST** means to take into the body, whether by mouth, injection or inhalation.

**PROSCRIBED SUBSTANCE** means a mind altering substance, whether synthetic or naturally occurring which substance might alter consciousness, mood or emotions, or which might intoxicate or induce pleasurable sensations, but excludes:

- (a) medically prescribed substances ingested by the person for whom they were prescribed;
- (b) substances purchased from a pharmacy without medical prescription;
- (c) alcohol as defined in the Sale of Liquor Act 1989 and where Chapter 11 Liquor Control does not apply;
- (d) nicotine.

**PUBLIC PLACE** means a place that is owned by or under the control of the Manukau City Council and that is open to, or being used by, the public. It includes Council controlled reserves, parks, civic areas, beaches and roads (including footpaths and carriageways).

**RESERVE** means:

- (a) land vested in or administered by the Council under the provisions of the Reserves Act 1977; or
- (b) Any park, domain or recreational area under the control or ownership of the Council.

## ATTACHMENT B Specific Requirements and Standards for Shipping Containers

### 1. Requirements and Standards

No person may place or permit a shipping container to be placed in a public place except for the purposes of loading and unloading goods from a household unit for a period not exceeding 72 hours; and providing:

- (a) That a notice is placed on that container for the duration of its occupation of the public place, stating who has placed the container, the name, address and telephone number of that person and the address of the property to which it relates; and
- (b) Accessible and safe pedestrian access is maintained on the same side of the road as the shipping container.

**ATTACHMENT C**  
**Tents, Gazebos and Similar Structures in**  
**Public Places, Reserves and Beaches**

**1. Requirements and Standards**

Tents, gazebos and similar structures, for the purposes of providing shade during daylight hours may be used in a public place provided that:

- (a) the structure is no more than 3 metres by 3 metres in size and that any structures (including ropes and pegs) are not erected within 2 metres of any other structures (including ropes and pegs); and
- (b) the structure consists of a cloth, nylon, canvas, or similar roof and supports only. Where the structure consists of a cloth, nylon, canvas, or similar sides, then no more than two sides may be rolled down at any one time (that is, at least two sides must be kept open), except where any side or sides of the structure consists of transparent material, in which case there is no restriction on the number of sides which may be rolled down.
- (c) the structure and any supporting fixtures (including ropes and pegs) do not impede or obstruct the movement of vehicles or persons or cause a danger to any person.

**ATTACHMENT D**  
**Permits for Clothing Bins in Public Places**

**1. Clothing Bins in Public Places**

*Clause 6.2 of Chapter 9 General Nuisance, Safety and Behaviour in Parks and Public Places requires a person to hold a permit from the Council to place a clothing recycling bin in any public place.*

**2. Application form, Information to be Supplied and Application Fee**

*A fee and application form for this permit application is yet to be specified.*

*Any application for a permit to place a clothing recycling bin in a public place must contain the following information and any further information requested by Council:*

- 1. The proposed location of the clothing recycling bin, including a site plan.*
- 2. The dimensions, capacity and a photograph of the proposed clothing recycling bin to be used.*
- 3. The frequency, dates and times of collection of clothing from the proposed clothing recycling bin.*
- 4. The types of vehicles and equipment proposed to be used for the collection of clothing from the proposed clothing recycling bin.*
- 5. Any other matters requested by the Council*

*Council resolution (Minute No. CL/JUN/740/08) to Clause 6.2 of General Nuisance, Safety and Behaviour in Parks and Public Places bylaw*

### 3. Assessment of Applications

Any application for a permit to place a clothing recycling bin in a public place will be assessed by the Council having regard to the following matters:

1. Whether the clothing recycling bin is proposed to be located in accordance with the following general site criteria:

General Site Criteria	No. of Operators per Site	No. of Bins per Operator	Maximum No. of bins per site
Fencible Drive, Howick	5	2	10
Vincent Street, Howick	4	2	8
Pakuranga Shopping Centre	5	2	10
Papatoetoe Library car park	5	1	5
Caspar Road car park Papatoetoe	6	1	6
Whitford Park Road (infront of Whitford Community Hall, 1 Whitford Maraetai Road, Whitford)	3	2	6
Trelawn Place (infront of Cockle Bay School)	1	1	1

Note: Compliance with the General Site Criteria does not automatically mean a permit will be granted. The application must also be considered in relation to the following criteria.

2. Any other matters Council considers relevant, including (but not limited to):
  - (a) Where the application does not comply with the general site criteria, the views of directly affected persons and the relevant Community Board.
  - (b) Whether the proposed location is appropriate, including whether the location will result in the loss of public assets such as car parking spaces, vegetation, or obstruct pedestrian access.
  - (c) Whether conditions can be placed on a permit to address problems related to rubbish and visual amenity.

*Council resolution (Minute No. CL/JUN/740/08 and CL/JUL/748/10) to Clause 6.2 of General Nuisance, Safety and Behaviour in Parks and Public Places bylaw*

### 4. Decision on Applications and Permit Conditions

*The Council may grant or refuse an application.*

If the Council grants an application for a permit for a waste disposal facility, it may impose the following conditions:

1. That the area within a 15 metre radius of the clothing recycling bin be kept clean and tidy at all times.
2. That the company or trading name and 24 hour contact telephone number be clearly displayed on each clothing recycling bin.
3. That the name of the charity or non-profit organisation supported by the company be shown on each clothing recycling bin.
4. That each clothing recycling bin must:
  - not be damaged
  - be structurally safe
  - be painted in a single colour
  - be kept clean of graffiti
  - be kept clean of posters
5. That the clothing recycling bin be emptied at least once per week, or more frequently if required.
6. That graffiti or posters be cleaned off and/or painted out with the same colour as the clothing recycling bin within 2 working days of being advised by Manukau City Council or the collection day, whichever occurs first.

7. That any rubbish be removed on within 24 hours of being advised by Manukau City Council or the collection day, whichever occurs first.
8. That any evidence (name and address) from the illegal dumping of rubbish be provided to Manukau City Council within 24 hours of discovery.
9. Any condition related to the matters raised in the information required to be contained in the application or assessment of applications.
10. Any other conditions Council considers relevant.

*Council resolution (Minute No. CL/JUN/740/08) to Clause 6.2 of General Nuisance, Safety and Behaviour in Parks and Public Places bylaw*