Franklin District Council Public Places Bylaw 2007

1. Introduction and Scope

Section 145 of the Local Government Act 2002 gives Council the authority to adopt bylaws to regulate activities which can be carried out on roads, public places and reserves. This Bylaw controls a diverse range of activities to ensure that acceptable standards of convenience, safety, visual amenity and civic values are maintained for the wellbeing and enjoyment of citizens, visitors and businesses within the Franklin District. This Bylaw addresses damage to public property and activities within public places and reserves which may have an adverse effect on other users of these facilities.

Section 684 of the Local Government Act 1974, the Local Government Act 2002 and other relevant Acts e.g. the Reserves Act 1977, Health Act 1956 and Litter Act 1979, outline some of the powers and requirements of the Council in regard to streets, public places and reserves. Areas of control so prescribed by this legislation are not necessarily repeated within this Bylaw, and therefore the relevant sections of the Local Government Act 1974, Local Government Act 2002 and other Acts should be read in conjunction with it.

2. Title, Commencement and Application

(1) This Bylaw may be cited as the Franklin District Council Public Places Bylaw 2007 and shall come into force on 1 April 2007.

(2) This Bylaw applies to Public Places in the Franklin District.

(3) This Bylaw revokes those parts of the Franklin District Council General Bylaw 1997 comprising the Standards New Zealand Model General Bylaws 9201:2:1972 Public Places and 9201:17:1972 Parks and Reserves (as amended).

3. Public Places Bylaw Validation

(1) The Franklin District Council Public Places Bylaw 2007 was duly made at a meeting of the Franklin District Council held on 22 March 2007 after completion of the Special Consultative Procedure under section 86 of the Local Government Act 2002.

(2) The Common Seal of the Franklin District Council was affixed hereto, pursuant to a resolution of Council, on 22 March 2007 in the presence of:

……
Mark Ball
Mayor

……
Phillippa Wilson
Chief Executive Officer

……
Date

4. Definitions and Interpretation

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

Authorised Officer means any person warranted by Council in accordance with section 177 of the Local Government Act 2002 to enforce this Bylaw.

Chief Executive means the Chief Executive of the Franklin District Council or a person acting under a delegated authority on behalf of the Chief Executive.

Council means the Franklin District Council.

Council facility includes any swimming pool, aquatic centre, recreational, cultural or community centre, museum, art gallery, hall, zoo or golf course under the ownership and control of Council.

District means the Franklin District.

District Plan means the Operative Franklin District Council District Plan.

Livestock includes any age or sex of any cattle, sheep, deer, donkey, hinny, mule, pig, goat, thar, alpaca, llama, bison or other herd animal not specifically mentioned, and any horse which is not ridden, led by its reins or harnessed to a vehicle.

Material or **thing** means any material of whatever kind and includes jumbo bins and other containers for waste materials, but excludes vehicles.

Occupier means the inhabitant occupier of any property, and in any case where any building, house, tenement, or premises is or are unoccupied, shall be deemed to include the owner as hereinafter defined.

Owner of any property, or as applied to any land, building, or premises, means any person for the time being entitled to receive the rent of such property, or who would be so entitled if the same were let to a tenant at a rack rent; and where any such person is absent from New Zealand, shall include their attorney or agent.

Person includes a corporation sole and also a body of persons, whether incorporated or not.

Portico includes every awning, porch, veranda, shed, shade, or covering upon, across or over any public footway or part of a road, street, private street, or access-way for the purpose of shade or shelter, together with any supports thereof, other than the building against which it shall be.

Poultry means any bird including domestic fowls, ducks, geese, turkeys, guinea-fowl, pheasants and pigeons.

Premises means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands, buildings, and places adjoining each other and occupied together shall be deemed to be the same premises.

Public place means any place that, at any material time, is under the control of Council and is open to or being used by the public, whether free or on payment of a charge, and includes any road whether or not it is under the control of Council. It also includes every reserve, park, domain, beach, foreshore and recreational ground within the Franklin District.

Reserve means any land set aside for any public purpose and shall have the same meaning as in the Reserves Act 1977.

Road has the same meaning as in section 315(1) of the Local Government Act 1974 and shall, where the context requires, include a street. It also means all land lying between the boundaries of a road including footpaths and berms.

Ride a skateboard means having either one or both feet, or any other part of the body of any person, on the skateboard when it is moving.

Rural area means rural, coastal, rural-residential and village countryside living zones as defined in the District Plan.

Skateboard means a wheeled device controlled or propelled by gravity or by the muscular energy of the rider, including roller skates, in-line skates, or similar recreational devices. The definition does not include any wheelchair, baby or invalid carriage or bicycles.

Vehicle has the same meaning as in the Land Transport Act 1998.

5. Public Safety and Nuisances

(1) Except with the prior permission of the Chief Executive or an authorised officer, no person shall on any public place:

(a) Place or leave litter or any material or thing or substance that is or is likely to be hazardous or injurious to any person, or is likely to create a nuisance;

(b) Deposit in or around a public litter receptacle any household or trade refuse;

(c) Interfere with any refuse which is awaiting collection by an authorised collector;

(d) Drive any vehicle except on a formed road, or drive in a manner that is dangerous or inconsiderate to pedestrians or other vehicles in the public place;

(e) Cause or allow any material or thing to be deposited onto a public place or road (excluding domestic refuse and recycling bins as collected on a regular basis);

(f) Create and or leave any work, hole or excavation in a public place in a manner that could be a danger to anyone entering or using that public place;

(g) Solicit any subscription, collection or donation, preach or undertake any busking in a manner that creates or is likely to create a nuisance;

(h) Distribute any printed or written material advertising any product, service or entertainment;

(i) Fly from or land any glider or powered aircraft (including model aeroplanes), hot air balloon, hang glider, parachute or similar except in the case of emergency, or attendance at an emergency;

(j) Play any game or use any object including recreational devices, skateboards, roller blades, roller skates, bicycles or motorised scooters, recklessly or in a manner which may intimidate, be dangerous or injurious or cause a nuisance to persons in the public place, or damage the public place;

(k) Erect or place any structure on, over or under the public place except in compliance with any other Bylaw.

(2) No person being in a state of intoxication or under the influence of drugs shall be or remain on any part of a public place.

(3) Where any fence, wall, retaining wall or land adjacent to a public place is in a condition or state of disrepair which, in the opinion of an authorised officer, could cause damage or injury to persons passing, the authorised officer may give notice requiring the owner or occupier to repair or remove the fence, wall or retaining wall, or make the land safe.

(4) No person shall permit or allow vegetation to encroach onto or over any public place so as to obstruct or interfere with the free movement of persons using that public place.

(5) Notwithstanding the requirements of any other clause of this Bylaw, no person shall in any public place:

(a) Light any fire except at fireplaces specially provided, or in an appliance designed for outdoor cooking; subject to any restriction imposed by Council on the lighting of fires;

(b) Camp in any area not set aside for the purpose. In this context, camping shall include the use of any vehicle for sleeping, whether or not it is specially set out for sleeping. Areas so set aside, and subject to any conditions therein, are listed in the First Schedule to this Bylaw. The First Schedule to this Bylaw may be amended, from time to time, by Council resolution publicly notified.

6. Obstructing Public Places

No person shall:

(a) Obstruct the entrances to or exits from a public place;

(b) Place or leave any material or thing, including signage, on a public place that could obstruct the public right of passage, without the permission of an authorised officer and then only in accordance with such conditions as may be imposed;

(c) Allow any gate or door on property abutting a public place, to swing over or across the public place or any part thereof;

(d) Carry out any work on any motor vehicle in a public place, except in the case of any accident or emergency when repairs are necessary to allow the vehicle to be removed.

7. Damage to Public Places

(1) Except with the permission of the Chief Executive or an authorised officer, no person shall in any public place:

(a) Damage, interfere with, destroy or remove any grass plot, flower bed, tree, shrub or plant or any inscription or label relating to it;

(b) Pollute, damage, deface or disfigure, apply graffiti, posters or advertising devices to, or interfere with any ornament, statue, building, structure, facilities, or display boards;

(c) Cause or permit to be done any act whatsoever by which damage is caused to any public place, or any work or thing in, on, over or under the public place;

(d) Damage or interfere with any natural feature, animal or plant;

(e) Use any vehicle or be in control of an animal in any manner so that it damages any part of a public place;

(f) Drive or park any vehicle in a public place except in an area set aside for the driving or parking of vehicles;

(g) Remove any sand, soil or other naturally occurring material found in a public place;

(h) Open any drain or sewer on, or disturb or remove the surface of, any public place;

(i) Cause or permit the dripping or flowing of water from the roof, eaves or guttering system of any building or structure onto any public place.

(2) Any person carrying out authorised works on a public place shall provide reinstatement of the works to a standard approved by an authorised officer.

8. Placing of Articles on Public Places

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

(a) Such action has first been approved by the Chief Executive or an authorised officer, and then only in accordance with any conditions attached to that approval, including the payment of any licence or fee; or

(b) Such action is taken for the purpose of regular refuse or other collections authorised by Council or is otherwise authorised by law; or

(c) Such action is permitted pursuant to any other Bylaw.

9. Exposing Articles for Sale

Except as provided for by any other Bylaw, no person shall expose for sale any article whatsoever on any footpath, or outside of any shop, shop window, or doorway abutting on any public place, so as to encroach on or over that public place, without the prior permission of the Chief Executive, and then only in accordance with any conditions attached to that permission, including the payment of any licence or fee.

10. Control of Skateboards and Recreational Devices

(1) No person shall ride a skateboard or other recreational device in any area defined in the Second Schedule to this Bylaw.

(2) No person shall ride a skateboard or other recreational device on any footpath or other public place outside areas defined in the Second Schedule to this Bylaw, without due care to ensure no damage is caused to any property or without reasonable consideration for other persons using the footpath or public place.

(3) The Council may from time to time, by resolution publicly notified, amend the Second Schedule to this Bylaw to add, delete or amend the areas to which the provisions of this Bylaw shall apply.

11. Vehicular Crossings

(1) Any person wishing to construct, repair, remove or widen any vehicular crossing shall first obtain a permit from Council. A fee will be applicable for the processing of applications for permits under this clause of the Bylaw. The amount of the fee will be set by the Franklin District Council from time to time, pursuant to section 150 of the Local Government Act 2002.

(2) A permit issued by Council under sub-clause (1) may be subject to such conditions concerning dimensions and materials as the Council may consider reasonably necessary to protect the road (including any footpath or berm) adjacent to the vehicular crossing, and to ensure safe and convenient use of the road by pedestrians and vehicles.

(3) No person shall drive, ride, propel, or wheel any motor vehicle across any footpath or water channel in any public place otherwise than upon a crossing properly constructed under the provisions of this Bylaw.

(4) If, in the opinion of Council, any crossing is in a bad or unsafe state of repair, Council may by notice in writing, require the owner of the land which the crossing provides access to, to repair, reconstruct, or renew such crossing to the satisfaction of Council. Every such

owner or occupier who fails to comply with such notice within the period specified shall commit an offence against this Bylaw.

12. Assembly

No person shall, without the prior consent of the Chief Executive or an authorised officer:

(a) Participate in any assembly or associate with other persons in a public place in such a way as to impede pedestrian or vehicular traffic or to prevent or hinder ready access to shops or premises facing onto the public place;

(b) Organise or conduct any meeting, gathering, demonstration, parade, procession or competition in a public place.

13. Awnings and Blinds

No person shall erect or maintain, or cause to be erected or maintained, any awning over any public place, or hang any awning, blind, or screen from any portico on any public place except with the permission of the Chief Executive or an authorised officer. In granting such permission the Chief Executive or authorised officer may set such conditions as is deemed appropriate. Any such permission may be revoked at any time by the Chief Executive or an authorised officer.

14. Projections on Public Places Not Permitted

(1) Except where permitted by any other Bylaw or by Council consent, no person shall put any portico, projecting window, balcony, wall, lamp, door step, cellar door, lamp post, signboard, window shutter, gate post, or other obstruction or projection of any kind whatsoever in, on, over or under a public place or in such a position as to interfere with or obstruct in any way the free passage of pedestrians or traffic upon any public place. This restriction shall not apply to any veranda or awning erected pursuant to a requirement of a District Plan.

(2) If any such projection or obstruction described in sub-clause (1) above has been placed against or in front of any building before the coming into operation of this Bylaw and which is contrary to any Bylaw if force, Council may give notice to the owner or occupier of such building to remove, or to alter such projection or obstruction, and such owner or occupier shall, within the time stated in such notice, remove, or later such projection or obstruction.

(3) No person shall stand on any veranda erected over a public place except for the purpose of inspection, maintenance or egress in the case of fire.

15. Restrictions on Use of Barbed and Razor Wire and Electrified Fences

(1) Except with the permission of the Chief Executive or an authorised officer, no person shall erect or permit to be erected any electrified fencing, barbed wire or razor wire along, or within one metre of any boundary line between any land or building on the one side, and any public place on the other side. Provided that this sub-clause shall not prohibit the placing of barbed or razor wire at a height of not less than two metres or electrified fencing not less than three metres from the level of the ground of any such public place.

(2) Sub-clause (1) shall not apply within any rural area, except where the fence abuts or adjoins a footpath.

(3) Council may, from time to time by resolution, specify conditions that will apply to temporary electric fences.

16. Road and Building Identification

(1) The Council shall have the exclusive right to cause to be painted or affixed on a conspicuous part of a building, the name of the road, private road or public place to which it has frontage.

(2) Notwithstanding that a building or property is identified by other means, the owner or occupier of every building or group of buildings forming part of a complex or of the property shall mark such building or complex with numbers. Numbers shall be as allocated or approved by an authorised officer and displayed in a position so as to be readily visible from the road to which it has frontage.

(3) Numbers required by sub-clause (2) shall be maintained by the owner or occupier in such a manner as to readily identify the property at all times.

(4) Council shall have power at any time to alter the number of any building where in the Council's opinion it may be necessary or advisable to do so.

17. Animals on Public Places

(1) No person shall take any dog or allow any dog in his/her custody to be on any public place except in accordance with the current Franklin District Council Dog Control Bylaw.

(2) No person shall move or drove any livestock by road except in accordance with the current Franklin District Council Livestock on Roads Bylaw.

(3) Unless otherwise provided for in sub-clauses (1) and (2), except with the prior permission of the Chief Executive or an authorised officer, and subject to any conditions attached to that permission, no person shall take or allow any livestock or poultry under their care or control onto any public place.

(4) Where any horse defecates on any public place or road, the person having custody of that horse shall dispose of those droppings in a way that does not cause a nuisance or offence.

18. Additional Requirements for Reserves

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

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

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

(4) Any person who, in the opinion of an authorised officer, commits a breach of this clause shall, if requested by the officer, supply his/her full name and address.

(5) Any person committing a breach of the provisions of this clause shall, upon request by an authorised officer, immediately leave the reserve, and may be further prohibited from appearing on the reserve for a period of 24 hours. That person shall nevertheless be liable to be prosecuted for breaching this Bylaw, and the failure to leave or remain away from the reserve as directed by an authorised officer shall constitute a further offence against this Bylaw.

19. Cultural and Recreational Facilities

The manager responsible for any Council facility may require any person behaving in a disruptive, disorderly or unsafe manner in or on that facility, or in any manner which causes a nuisance, or any person who is not using that facility for the purpose for which it was intended, to immediately leave the Council facility. The manager may further prohibit that person from returning to the Council facility for a period of 24 hours. Any refusal on the part of that person to do so will constitute an offence against this Bylaw.

20. Offences and Penalties

Any person who fails to comply with the requirements of this Bylaw commits an offence and shall be liable on summary conviction to the penalty set out in section 242(2) of the Local Government Act 2002, being a fine not exceeding $20,000.

FIRST SCHEDULE (as amended by Council Resolution 2008/2/36 on 28 February 2008)

AREAS SET ASIDE UNDER CLAUSE 5(5)(b)

Camping is only permitted in the areas listed hereunder, and subject to specified conditions, by vehicles holding and displaying current NZS 5465:2001 certification:

Area set aside:	**Conditions:**
Rays Rest, off East Coast Road, within the signposted area	• Permitted camping hours between 6pm at night and 10am the next morning • Maximum stay of two nights • All rubbish and other materials to be removed when vacating the area • Dogs are prohibited on the beach and adjoining reserve at all times under the Franklin District Council Dog Control Bylaw 2004.
Te Toro Reserve within the signposted area	• Permitted camping hours between 6pm at night and 10am the next morning • Maximum stay of two nights • All rubbish and other materials to be removed when vacating the area • Under the Franklin District Council Dog Control Bylaw 2004, dogs are allowed off leash on the reserve and adjoining beach between the permitted camping hours of 6pm and 10am. However, dogs must remain on a leash in these areas between 10am and 6pm on weekends, public holidays and school holidays from the beginning of Labour Weekend to the end of March in the following year.
Hamiltons Gap	• Permitted camping hours between 6pm at night and 10am the next morning • Maximum stay of two nights • All rubbish and other materials to be removed when vacating the area • Under the Franklin District Council Dog Control Bylaw 2004, dogs are allowed off leash on the reserve and adjoining beach between the permitted camping hours of 6pm and 10am. However, dogs must remain on a leash on the reserve and on that part of the beach within 250m either side of the creek mouth at the end of West Coast Road between 10am and 6pm on weekends, public holidays and school holidays from the beginning of Labour Weekend to the end of March in the following year.
Rosa Birch car park off Beresford Street, Pukekohe, within the signposted area	• Permitted camping hours between 6pm at night and 10am the next morning • Maximum stay of two nights • All rubbish and other materials to be removed when vacating the area • Dogs must remain on a leash at all times as required under the Franklin District Council Dog Control Bylaw 2004.
St. Stephens car park, Tuakau, within the signposted area	• Permitted camping hours between 6pm at night and 10am the next morning • Maximum stay of two nights • All rubbish and other materials to be removed when vacating the area • Dogs must remain on a leash at all times as required under the Franklin District Council Dog Control Bylaw 2004.
Western side of Waiuku Service Centre car park, Waiuku, within the signposted area	• Permitted camping hours between 6pm at night and 10am the next morning • Maximum stay of two nights • All rubbish and other materials to be removed when vacating the area • Dogs must remain on a leash at all times as required under the Franklin District Council Dog Control Bylaw 2004.

SECOND SCHEDULE

PROHIBITED AREAS FOR SKATEBOARDING

Areas and roads where the riding of skateboards is prohibited on adjacent footpaths and other public places are as follows:

Pukekohe
All that area contained within and enclosed by, but not including, the roads known as the Ring Road, comprising Wesley, Seddon, Tobin, King, Edinburgh and Hall Streets and Massey Avenue.

Tuakau
That part of George Street between Liverpool Street and Henderson Avenue.

Waiuku
That part of Kitchener Road from King Street to Queen Street, that part of Queen Street from King Street to Court Street, all of Court Street, that part of Martyn Street from Court Street to Bowen Street, and all of Bowen Street.