



Parks and Reserves **BYLAW**

2021



NAPIER
CITY COUNCIL
Te Kaunihera o Ahuriri

www.napier.govt.nz

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Napier City Parks and Reserves Bylaw 2021

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1. Scope

- 1.1** 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 well-being and enjoyment of citizens, residents, visitors and businesses within the district. In particular, the bylaw addresses behaviour in public facilities such as Parks, Reserves and Beaches. It also addresses activities within these areas which may have an adverse effect on other users of these facilities.
- 1.2** Some of the powers and requirements of the Council in regard to public places such as Parks and Reserves are outlined in part 8 subpart 1 of the Local Government Act 2002 and other relevant Acts, such as the Reserves Act 1977, the Conservation Act 1987, the Health Act 1956, the Litter Act 1979, the Wildlife Act 1953, the Biosecurity Act 1993, the National Parks Act 1980 and the Resource Management Act 1991, which should be referred to for further information.
- 1.3** This bylaw comes into force on 21st December 2021.
- 1.4** So far as they are applicable, and are not contrary to the provisions of this bylaw, the provisions of the Napier City Introductory Bylaw 2021 are incorporated into and form part of this bylaw.
- 1.5.** All Licences or Permits issued under the Napier City Parks and Reserves Bylaw 2014, after the coming into force of this bylaw, are deemed to have been issued under this bylaw and are subject to the provisions of this bylaw.
- 1.6** All matters and proceedings commenced under the Napier City Parks and Reserves Bylaw 2014 pending or in progress on the coming into operation of this bylaw may be continued, completed or enforced under this bylaw.

2. Definitions

For the purposes of this bylaw the following definitions apply:

BEACH means any land in the Council's district adjacent to any seacoast or lakeside which is part of the foreshore or is land contiguous to and used in connection with the foreshore, and to which the public has a right of access. For the purposes of this bylaw, the Beach includes the foreshore which is the parts of the bed, shore or banks of tidal water between mean high water springs and mean low water springs.

CONSERVATION means the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

FORESHORE means the marine area that is bounded on the landward side by the line of mean high water springs and on the seaward side by the line of mean low water springs. It includes the beds of rivers that are part of the coastal marine area (within the meaning of the Resource Management Act 1991) and includes the air space, the water space and the subsoil, bedrock, and other matters above and below this area.

LICENCE TO OCCUPY means the Licence issued by the Council to allow the occupation of any Reserve land.

RESERVE means land within the meaning of reserve in section 2(1) of the Reserves Act 1977 that is under management or control of the Council.

RESERVED AREA means an area set aside for specific recreation, historic or conservation purposes.

3. Opening and Closing of Reserves

3.1 Subject to the provisions of this bylaw and the Reserves Act 1977, every Reserve will be open to the public daily, except during such times as the Council or an Authorised Officer, determines.

3.2 An Authorised Officer may from time to time and for such periods as deemed 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.

The Council may fix charges for the entry to a Reserve in accordance with the Reserves Act 1977, and it will be an offence against this bylaw to enter a Reserve without having paid the proper charge for entry if a charge is applicable.

3.3 An Authorised Officer may close or restrict entry to a Reserve or any part of a Reserve at such times as are considered necessary to prevent damage to or allow maintenance of the Reserve, or to ensure public safety. Such closure will be advertised by signs at the entrances to the Reserve. It will be an offence against this bylaw to be found on a Reserve at any time when the Reserve is closed to public entry.

Every Person committing a breach of the provisions of this bylaw must, upon request by an Authorised Officer, immediately leave the Reserve and will be prohibited from appearing on the Reserve for such period as the Authorised Officer deems fit. Any Person so ordered to leave will be liable to be prosecuted for breach of the bylaw, and any Person failing to leave with reasonable speed or to comply with a request to leave commits a further offence.

3.4 If in the opinion of an Authorised Officer any Reserve is being used or is likely to be used for any purpose which may result or be likely to result in riotous conduct or in civil disorder, the Authorised Officer may declare such a Reserve to be closed for such period as deemed advisable.

3.5 No Person must enter or remain in such a Reserve during such period of closing without the prior permission of an Authorised Officer of the Council.

3.6 The Council may from time to time enclose any part or parts of a Reserve for the purpose of holding any organised event and may fix a charge for admission to such enclosed part or parts. The total number of days in any one year on which the enclosures are made will not exceed that determined by an Authorised Officer.

4. Use of Reserves

Assemblies and Events

- 4.1** No Person must organise, hold or conduct, or attempt to organise, hold or conduct, an event of any kind; including sports, public meeting, gathering, fair or fete, or demonstration, parade, procession or competition, or make any public address, or attempt to collect a crowd within the limits of any Reserve, except with the prior permission of an Authorised Officer.
- 4.2** No Person must participate in any assembly or associate with other Persons in any Reserve 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 Reserve, without prior consent of an Authorised Officer.

Sports and Games

- 4.3** The Authorised Officer of the Council in charge of Reserves may prevent any game being played in any Reserve which, in the opinion of the Authorised Officer, is liable to damage the said Reserve or anything therein or is otherwise undesirable.
- 4.4** Every Person who, upon the request of an Authorised Officer, fails to desist from playing or taking part in any such game commits an offence against this bylaw.
- 4.5** No Person must play any game in any Reserve that may cause damage to the Reserve or anything therein except in designated areas set apart for that purpose or as an Authorised Officer directs.
- 4.6** No Person must play, engage in, or practice activities or sports on any playing ground on any Reserve after being requested by an Authorised Officer to leave such playing ground or Reserve or as directed by any notice.
- 4.7** No Person must play or practise golf on any Reserve.
- 4.8** No Person must play any game which may be likely to interfere with the safety, comfort or convenience of the public on any Reserve, and any Person playing such a game must at once desist when called upon by an Authorised Officer.

Unaccompanied Children

- 4.9** No child under the age of 5 years must be allowed to enter or remain in any Reserve unless such child is accompanied by an adult.

Use of Amplifiers, Musical Instruments, etc.

- 4.10** No Person must, if forbidden to do so by any Person authorised by the Council (either generally or in any particular case), use or play any instrument (musical or otherwise), any type of public address system, or any type of amplified sound system, in any Reserve, or cause in any way any sound or noise that disturbs or annoys, or is likely to disturb or annoy, other occupiers or users of the Reserve.

Bathing

- 4.11** No Person must bathe from any wharf or pier other than a wharf or pier that is provided for that purpose.
- 4.12** No Person must remain in any place open to the public view and/or in the vicinity thereof, unless such Person is wearing proper clothing to ensure the due observance of decency, except in specially designated areas.
- 4.13** The Council may prohibit bathing on any Beach or any portion thereof under its control and may for this purpose cause to be erected in prominent positions noticeboards defining the limits within which bathing will be confined. Any Person bathing on such Beach, other than within such limits or within the limits defined by any surf lifesaving club as not being dangerous, commits an offence against this bylaw.

Model Aeroplanes

- 4.14** No Person must, from or in the air space above any Reserve, fly any form of model aeroplane except with the prior permission of an Authorised Officer and then only in compliance with every condition under which such permission is granted.

Use of Boats

- 4.15** No Person must bring, have, use, or keep for hire any boat or launch on any pond, lake, stream or river situated in any Reserve without having first obtained permission from the Council, except in areas designated for that purpose.

Placing of Structures

- 4.16** No Person must place any equipment, stall, fence, barrier, or other temporary or permanent structure on any Reserve or Sportsground without the written permission of the Council.

5. Conduct

Behaviour

- 5.1** No Person must in any Reserve:
- obstruct, disturb, annoy, or interfere with any other Person's use or enjoyment of any Reserve;
 - use any foul, abusive, indecent, offensive, or obscene language;
 - carry out any foul, abusive, indecent, offensive, or obscene act;
 - use any improper, excessively noisy, or disorderly behaviour;
 - be intoxicated or under the influence of drugs; or
 - be noisy, riotous, or in any way misbehave.

Entrances

- 5.2** No Person must leave any gate in a different position from that in which it is found. Gates found open must be left open, and gates found closed must be closed immediately after use.
- 5.3** No Person must obstruct any of the approaches, entrances, exits, thoroughfares or walkways of any Reserve, and (where gates are provided) no Person must enter any Reserve except where the Reserve is open for the admission of the public.

Litter

- 5.4** No Person must in any Reserve break or cause to be broken, throw, deposit, cast or leave (whether broken or not) any glass, crockery, tins, bottles, paper, paper wrappings, plastic bags, plastic sheet, litter, rubbish, remnants of food or other articles or things likely to cause any nuisance or danger to public health or safety.
- 5.5** No Person must scale, clean or gut any fish or throw, cast, leave or deposit any fish, or any portion of a fish, or a carcass of any dead animal, or fowl or any vegetable matter likely to cause a nuisance, injury or danger to public health or safety, nor must any Person

leave offensive matter in any vessel in any Reserve.

Water

- 5.6** No Person must permit or cause wastage of water or permit any water tap to flow for a longer period than is reasonably required.

Pollution

- 5.7** No Person must in any Reserve, including any stream, dam, pond, or fountain within the limits of any Reserve:
- Deposit, discharge or leave any deleterious, offensive, or dangerous matter or cause pollution therein;
 - Place or leave litter or any materials or substances which are likely to be hazardous or injurious to any Person or likely to create a nuisance;
 - Deposit in or around a public litter receptacle any waste;
 - Pollute, damage, deface, disfigure, apply graffiti, post advertising devices to, or otherwise interfere with any sign, ornament, statue, building, structure or facilities; or
 - In any manner pollute, or otherwise render unfit for use for human consumption or otherwise, any water supply.

Lighting Fires

- 5.8** Lighting fires in the open air is controlled by the Napier City Fire Control Bylaw.
- 5.9** Subject to the provisions in the Napier City Fire Control Bylaw no Person may light any fire or set fire to any vegetation in any Reserve, except in a place specially provided by the Council for that purpose.
- 5.10** Subject to the provisions in the Napier City Fire Control Bylaw no Person may light any fire or continue burning the same in a Reserve after sunset without the consent of an Authorised Officer.
- 5.11** Any Person who lights or uses a fire in a place specially provided by the Council for that purpose commits an offence if that fire is not totally extinguished before that Person leaves the Reserve.

Advice Note: In addition to Council's authorisation, a fire permit (issued by

Fire and Emergency New Zealand) may be required. To check whether a fire permit is necessary, visit www.checkitsalright.nz.

Children's Apparatus

- 5.12** No Person over the age of 14 years must use or occupy any children's play apparatus installed or provided for the use of children in any Reserve.

Destruction of Wildlife

- 5.13** No Person must by any means whatsoever destroy, disturb, shoot, capture, snare, injure, interfere with, take, or attempt to do so, any animal, fish, bird, bird's nest or bird's egg in any Reserve without the prior consent of an Authorised Officer of the Council.

In the case of any animal or bird protected by the Wildlife Act 1953 no such permission will be granted unless and until the provisions of that Act have been complied with.

Buildings

- 5.14** No male other than a boy under the age of 5 years must enter or use any place, room, or building in any Reserve set apart for the use of females, nor must a female over the age of 5 years enter or use any place, room, or building in any Reserve set apart for the use of males, except for the purpose of rendering assistance in the case of an accident or other emergency.
- 5.15** No Person must play games or loiter in any dressing shed, use any dressing shed except for dressing or undressing, or bring or deposit any litter, filth or rubbish in any dressing shed.
- 5.16** No Person must damage, disfigure, apply graffiti or write in or upon any dressing shed or other property.

Surfing and Life Saving

- 5.17** No Person must use any surfboard, surfski, or other object for surfing or surf-riding in a manner that may unduly endanger the safety of other Persons in the water.
- 5.18** No Person other than a Person using a surfboard must enter a surfboard area or bathe or swim in the water of a surfboard area.
- 5.19** No Person must fish in the water of a surfboard area or allow a line or lure to enter

a surfboard area.

- 5.20** No Person must propel, navigate, anchor, or otherwise use any vessel in a surfboard area.
- 5.21** Nothing in this bylaw will preclude any member or members of a surf lifesaving club authorised by the Council to operate on the Beach from launching or landing any surfski, surfboard or other craft for the purpose of rescue.
- 5.22** No Person must obstruct any lifesaving operation or drill or interfere with, remove, displace, destroy or damage any lifebuoy, lifesaving apparatus or warning device erected, maintained or otherwise authorised by the Council on any wharf, jetty, landing place or foreshore to which this bylaw applies.
- 5.23** The Council may from time to time by public notice and upon such terms and conditions and for such period or periods deemed necessary reserve any specified area for the use of surfboards.

Buoyant Apparatus

- 5.24** No Person must in any Reserve use any buoyant apparatus or appliance for use in the water so as to create or be likely to create a danger or an inconvenience to any user of any Reserve.

Cycling

- 5.25** No Person must, on any part of the area to which this bylaw applies, ride any cycle at a speed or in a manner which is or might be dangerous, or which causes or might cause inconvenience to any Person enjoying the use of the area.
- 5.26** No Person must construct or attempt to construct any track, jump, obstacle or other similar structure for the purpose of mountain biking, unless the area is designated for such purpose.

6. Damage and Interference

- 6.1** In any Reserve, no Person must:
- interrupt or interfere with any Person lawfully working therein;

- b) interfere with, disturb, remove, displace, deface, disfigure, damage, or destroy any inscription or any labels attached to or connected with any article, tree, shrub or other plant, or any noticeboard, sign, label or tablet used to indicate or exhibit any notice, name or regulation;
- c) interfere with, remove, disturb, deface, damage or destroy, or attempt to remove, disturb, deface, damage or destroy, any post, barrier, railing, seat (fixed or movable), gate, bridge, building, structure, wall, children’s play equipment, object of art or natural object, fence, hedge, grass, embankment, turf, or any prepared surface whether natural or artificial, or any fitting or implement of any kind;
- d) take, deposit, remove, or disturb any soil, stone, shingle, sand, silt, mud, shell or other material, uproot or injure any shrub, tree, or other growth, take any cutting or interfere with, pick, or pluck or otherwise remove any fruit, flowers, ferns or greenery, without written authority from an Authorised Officer;
- e) enter any of the enclosures or places set apart for the cultivation of plants, or walk, drive, ride, trespass, trample or in any other way cause damage to such enclosures or places;
- f) deface by writing or in any other manner damage the walls of or anything adjoining or relating to any building;
- g) enter, exit or climb up or down any terrace or embankment, except by the paths, tracks, steps, entrances or exits provided for the purpose;
- h) climb or get over or upon any tree or fence or any other structure;
- i) interfere with or remove any portion of any protection works, fences, groynes or other structure erected for the control of sand or shingle or for the prevention of erosion;
- j) post or interfere with any placard, billboard, sign, or noticeboard without the prior permission of an Authorised Officer;
- k) distribute any handbill or notice, including at any of the entrances to a Reserve, without the prior permission of an Authorised Officer;

- l) bathe or wade in any water except in any bath, swimming pool, paddling pool, or boating lake provided for that purpose; or
- m) interfere with or disturb any organised activity or event authorised to be undertaken on any Reserve or Sportsgrounds.

7. Dogs

- 7.1** No Person must bring any dog in any Reserve unless such dog:
- a) Is kept under continuous control by an effective lead, container or other means; or
 - b) Is being carried in a Vehicle.
- 7.2** Anyone who does not observe the requirements of the Napier City Council Dog Control Bylaw for any dog under their control in prohibited, controlled or designated dog exercise areas commits an offence against this bylaw.
- 7.3** Subject to the provisions of the Napier City Council Dog Control Bylaw, no Person must take or allow any dog in the custody, charge, or under the control of that Person to go within the limits of any Reserve, unless such dog is held on a leash (except in designated dog exercise areas). The owner or Person for the time being in charge of any dog found in any Reserve without being so secured commits an offence against this bylaw.
- 7.4** No dog, even if on a leash, must be taken or be allowed to go within 7 metres of any pen containing any animal or bird, nor within a distance of 30 metres from the boundaries of any areas under the control of the Council set aside and patently prepared for organised games or sports.
- 7.5** Any Person who, while having in his care or control any dog which fouls any part of any Reserve with faecal matter, fails to immediately remove such faecal matter, or otherwise satisfactorily abate such nuisance, commits an offence against this bylaw.
- 7.6** No dog must enter any water or disturb, chase or kill the inhabitants of any waterway within any Reserve.
- 7.7** An Authorised Officer may seize and impound any dog found on any Reserve not controlled in accordance with this bylaw.

8. Animals

- 8.1** No Person must turn in or allow any cattle or other animal or poultry to wander or graze within the limits of any Reserve without the prior permission of an Authorised Officer.
- 8.2** No Person must drive, ride, swim, or lead any horse or other animal on any area of any Reserve except on those areas set aside specially for such purpose.
- 8.3** No Person must drive or ride any animal within any Reserve in such a manner as to cause damage to the surface or to any part of such Reserve or other land.

9. Vehicles and Vessels

- 9.1** Except in areas designated or provided for that purpose, no Person must on any part of any Reserve, including water ways within Reserves:
- a) park, ride or drive any Vehicle or cart, motorcycle, power cycle or cycle of any kind;
 - b) ride any Vehicle or navigate any vessel at a speed or in a manner which is or might be dangerous, and which causes or might cause inconvenience to any Person using the area;
 - c) use, drive or manoeuvre any Vehicle for the purpose of launching any boat or vessel;
 - d) drive any Vehicle or motorcycle or power cycle at a speed in excess of 20 km per hour;
 - e) drive any Vehicle or cart or ride any motorcycle, power cycle, bicycle or horse or other animal without due care and attention or without reasonable consideration for other Persons;
 - f) drive any Vehicle (whether propelled by mechanical power or not) in such a manner as to cause damage to the surface or to any part of such Reserve or other land; or
 - g) leave any Trailer (other than in a designated area).

10. Landing of Aircraft

- 10.1** No Person must land or take off in or attempt to land or take off in any aircraft,

helicopter, glider, hang-glider or hot air balloon on a Reserve (except in the case of an emergency) without the written permission of the Council.

A helicopter may only be landed in a designated location in a Reserve with the prior written permission of the Chief Executive and only in accordance with any required conditions.

- 10.2** No Person must land on any Reserve by parachute, except in the case of an emergency.

11. Camping

- 11.1** Camping in Parks and Reserves is managed under the Council's Freedom Camping Bylaw which can be found on the Napier City Council website.

12. Commercial Activities

- 12.1** No Person may hawk or trade any goods in any Reserve without a licence for permitted trading issued under the Napier City Trading in Public Places Bylaw.
- 12.2** No Person may sell or hire or expose for sale or hire any article or service on any Reserve without a licence for permitted trading and an occupation permit issued under the Napier City Trading in Public Places Bylaw.
- 12.3** No Person may sell or hire or expose for sale or hire any buoyant apparatus or appliance for use in the water on any Reserve, except with the permission of the Council.

13. Trading, and Intoxicating Liquors

- 13.1** No Person may sell or offer for sale any article of food, merchandise, liquor, or any kind of drink or refreshment, or carry on any trade, pursuit, or calling within any Reserve without the licence of Council or written permission of an Authorised Officer and then only in compliance with every condition under which such permission is granted.

This section must be read in conjunction with the Napier City Public Places Liquor Control Bylaw.

13.2 No Person must:

- a) Without the Licence of Council or permission of any Authorised Officer under the Sale and Supply of Alcohol Act 2012, take or assist in taking, or cause or procure to be taken into any Reserve any intoxicating liquor.
- b) Use or consume in any Reserve any intoxicating liquor taken there without the Licence or permission of the Council or an Authorised Officer.
- c) Accept or receive from any other Person in any Reserve any intoxicating liquor taken there without the Licence and permission of the Council or an Authorised Officer.
- d) Resort to or remain in any Reserve for the purpose of using or consuming any intoxicating liquor there.

13.3 Any attempt on the part of any Person to commit any act prohibited by clauses (a), (b), (c) or (d) above will be deemed to be an offence against this bylaw.

13.4 An Authorised Officer will not be liable for any claim arising from taking and retaining possession of any intoxicating liquor from any Person in a Reserve.

13.5 No Person must be in a state of intoxication or under the influence of illegal drugs in any Reserve.

14. Firearms and weapons

14.1 No person must:

- a) carry any firearm (whether loaded or not) or use or discharge any such firearm;
- b) take, use, or carry any axe or other weapon or other instrument of a dangerous character, or any airgun or bow and arrow, trap or net; or
- c) throw stones or other projectiles or missiles either by hand or by means of an appliance
in any Reserve without the prior permission of an Authorised Officer.

14.2 An Authorised Officer will not be liable for any claim arising from taking and retaining possession of any of the articles referred to in (a), (b) or (c) above from any Person in a Reserve.

15. Fireworks

15.1 No Person must let off any fireworks except with the written permission of an Authorised Officer and then only in a designated area and in accordance with any conditions.

Advice Note: In addition to Council's authorisation, a fire permit (issued by Fire and Emergency New Zealand) may be required. To check whether a fire permit is necessary, visit www.checkitsalright.nz.

16. Other Agencies

16.1 Control of foreshore structures in the Coastal Marine Area is covered by the Resource Management Act 1991 under the control of the Hawke's Bay Regional Council.

16.2 The operation and maintenance and upgrading of the existing National Grid infrastructure is controlled under the Resource Management (National Environmental Standard for Electricity Transmission Activities) Regulations 2009. It is expected that, where practicable, all activities will be communicated to Council ahead of time.

17. Offences and Penalties

17.1 Any Person commits a breach of this bylaw who:

- a) Does, or causes to be done, or knowingly permits to be done anything whatsoever contrary to or otherwise than as provided by this bylaw;
- b) Attempts to do anything contrary to or otherwise in breach of this bylaw;
- c) Omits or neglects to do or knowingly permits to remain undone anything which according to the true intent and meaning of this bylaw ought to be done by them at the time and in the manner therein provided;
- d) Does not refrain from doing anything which under this bylaw they are required to refrain from doing;
- e) Knowingly permits any condition or things to exist contrary to any provision contained in this bylaw;

- f) Refuses or neglects to comply with any notice duly given under this bylaw;
- g) Obstructs or hinders any Authorised Officer of Council in the performance of any duty to be discharged by that Authorised Officer under or in the exercise of any power conferred upon them by this bylaw; or
- h) Fails to comply with any notice or direction given under this bylaw.

17.2 Any Person who, in the opinion of an Authorised Officer, commits a breach of any of the provisions of this bylaw must, if so requested by an Authorised Officer, supply their full name and address. Failure to do so when requested or the giving of a false name or address constitutes an offence under this bylaw.

17.3 Every Person committing any breach of the provisions of this bylaw must, upon request by an Authorised Officer, immediately leave the Reserve or Beach and may be prohibited from appearing on the Reserve or Beach for such period as the Authorised Officer deems fit but will nevertheless be liable to be prosecuted for such breach, and any Person failing with all reasonable speed to comply with such request commits a further offence.

17.4 In any case considered necessary for the protection of life or property or to prevent inconvenience being caused to other Persons, any Authorised Officer may direct or require any Person to move away from any portion of a Reserve. Any Person failing immediately to comply with such direction or request commits an offence.

17.5 Every Person who fails to comply with any part of this bylaw commits an offence and will be subject to the penalty provisions outlined in the offences, penalties, infringement offences, and legal proceedings provisions of the Act. Specific offences and penalty provisions are also provided under other legislation described in 1.2.

17.6 Pursuant to the offences, penalties, infringement offences, and legal proceedings provisions of the Act, for the continuing breach of any bylaw the Council may apply to any Court of competent jurisdiction for an injunction to restrain any further continuance of the breach.

18. Date Bylaw Made

This bylaw was made by the Napier City Council at a meeting of the Council on 21st December 2021.

Sealed with the Common Seal of the Napier City Council in the presence of:

Mayor:

Chief Executive:

Date: **21st December 2021**

