

Otorohanga District

Structures and Works in Public Places
Bylaw 2015



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OTOROHANGA DISTRICT STRUCTURES AND WORKS IN PUBLIC PLACES BYLAW

In pursuance and exercise of the powers vested in it by Part 8 of the Local Government Act 2002, the Local Government Act 1974, the Bylaws Act 1910, and any other Act or Authority thereto enabling it, the Otorohanga District Council **MAKES THE OTOROHANGA DISTRICT STRUCTURES AND WORKS IN PUBLIC PLACES BYLAW 2015:**

A Bylaw to:

Address issues related to the construction, maintenance and demolition of structures in or adjacent to public places in the Otorohanga District that are not addressed by the Building Act, Building Regulations, other legislation or the Otorohanga District Plan. Provisions of the Bylaw include:

- Establishing placement and minimum height requirements for verandahs, balconies and awnings extending over public places and allowing council to remove such structures if they do not comply with this bylaw. Provisions also allow the council to request building owners to temporarily remove verandahs, balconies and awnings to enable construction work to occur beneath or near to them.
- Requirements for verandahs, balconies and awnings over public places to be adequately maintained by the owner of the building to which they are attached.
- Establishing conditions on the use of public places during construction, excavation and demolition activities in order to protect public safety.
- Provisions for street damage deposit charges.

Notes in italics are not parts of this bylaw, but are intended to explain the contents of the bylaw or give further information on matters within the bylaw.

1. SHORT TITLE

This Bylaw shall be cited and referred to as “The Otorohanga District Structures and Works in Public Places Bylaw 2015”.

2. INTERPRETATION

In this Bylaw, except where inconsistent with the context:

Authorised Officer means any officer of the Otorohanga District Council authorised to carry out or exercise the duties of an officer under this bylaw.

Applicant in relation to any street damage deposit means any person who pays a street damage deposit.

Architectural Feature means any part of a building or any attachment to a building extending out from the external building line over land owned, under the control or managed by the council.

Awning means a lightweight structure with either a permanent covering material or a moveable canvas, plastic or similar material that may be erected in situations where district plan rules do not require verandahs.

Balcony means a platform enclosed by a railing or balustrade projecting from or recessed into the face of a wall of a building or structure and constructed to take all loads imposed upon it.

Building work means the same as in section 7 of the Building Act 2004.

Council means the Otorohanga District Council

Otorohanga District means the area known as the Otorohanga District comprising the area delineated on SO Plan 58012 deposited with the Chief Surveyor of the South Auckland Land District and as may be amended from time to time by due legal process;

Public place -

- a. means a place with the Otorohanga District -
 - i. that is under the control of the council; and
 - ii. that is open to, or being used by, the public, whether or not there is a charge for admission; and
- b. includes-
 - i. road, whether or not the road is under the control of the council; and
 - ii. any part of a public place.

Vehicle crossing means a formed access for vehicles to enter or leave private land from or to a road.

Verandah includes a porch, portico, shade, or covering (but does not include an awning) over any public place for the purpose of shade or shelter, together with any supports therefore.

Structurally sound means in a sufficiently sound state so as to not be assessed as meeting the definition of being a 'Dangerous Building' as defined in the Building Act when that assessment is made in accordance with relevant Council policies and procedures.

3 VERANDAHS, BALCONIES AND AWNINGS

Requirements for Verandahs

- 3.1 The Otorohanga District District Plan may require owners to build verandahs over the footpath as part of the construction or modification of buildings in various parts of urban areas. A resource consent as well as a building consent may be required for any verandah, balcony or awning attached to a building especially if this protrudes over a public place. In areas where the District Plan requires the construction of verandahs on new buildings, existing buildings will be required to retain verandahs in the future.

Permission from an authorised officer

- 3.2 Notwithstanding the provisions of clause 3.1, no person shall erect, cause to be erected or altered, any verandah, balcony or awning over any public place except with the permission of an authorised officer. An authorised officer may impose conditions relating to the materials to be used in construction and design of the structure to ensure the public place is protected and that maintenance and cleaning operations in the public place are not hindered.

Waterproof Junctions

- 3.3 The junctions between a new verandah and any adjoining existing verandah shall be made waterproof.

Minimum height

- 3.4 The minimum height of any part of the underside of a verandah, balcony, or awning shall be three metres above the finished surface level of the public place beneath it. District plan requirements may also set a maximum height for the verandah.

Width

- 3.5 Every verandah, balcony or awning extending over a public place shall be of the suspended type. A verandah, balcony or awning over a footpath shall not be closer to the kerb line than 500 millimetres, measured as a vertical line drawn from the face of the kerb, unless an authorised officer specifically approves its design.

Standing on verandahs

- 3.6 No person shall stand on any verandah erected over a public place except for the purpose of inspection, maintenance or egress in the case of fire.

Maintenance of verandah, balcony or awning

- 3.7 Any verandah, balcony or awning over a public place, including all elements used to attach it to the building or otherwise support it, shall be maintained in a clean, waterproof and structurally sound condition and in a state of good repair by the owner of the building.

Lamps and gas appliances

- 3.8 No person shall erect or suspend from any verandah, balcony or from the face of any building any lamp or gas appliance over or across any public place except with the permission of an authorised officer. The height of any such lamp or gas appliance shall be not less than 3 metres above the public place below.

Lighting

- 3.9 All owners of properties with verandahs shall ensure that sufficient lighting is provided at the property owners expense to adequately illuminate the areas beneath the verandahs to ensure visibility of potential hazards for pedestrians at all times.

Maintenance of Lighting

- 3.10 Where lighting is provided on a verandah or the building to which it is attached to achieve the purpose of clause 3.9, the owner shall ensure that such lighting is installed and maintained so as to be safe and operational at all times. Safety shall include the avoidance of adverse glare or distraction for vehicle users.

Removal of non-complying structures

- 3.11 Where any verandah, balcony or awning does not comply with the provisions of this bylaw the council may serve a notice in writing requiring the owner of the building to which the verandah, balcony or awning is attached to clean, repair, alter or remove the verandah, balcony or awning so that it complies with this bylaw and/or the relevant requirements of any applicable district plan rule.

Failure to comply with notice

- 3.12 Where any person fails to comply with any notice under clause 3.11 within the time specified in the notice an authorised officer may have the verandah, balcony or awning cleaned, repaired, altered or removed, as the case may be. The cost incurred in doing so shall be recoverable by the council as a debt from the owner.

Release of removed structures

- 3.13 Any verandah, balcony or awning removed by the council shall be released to the owner upon payment of the costs incurred in its removal, transport and storage.

Temporary removal for works

- 3.14 An authorised officer may, by written notice to the owner of a building with a verandah, balcony or awning over a public place, require the temporary removal of that verandah, balcony or awning, to enable construction work to take place near to or beneath that structure. The removal and reinstatement of the verandah, balcony or awning and the building consent for such work shall be at the cost of the person or organisation responsible for the work requiring such removal and reinstatement.

Where written notice is given to an owner under this clause the owner must apply for any building consent necessary under the Building Act 2004 for the building work involved in removing and reinstating the verandah, balcony or awning. Such an application must be made within one month of receiving notice under this clause, and is to be made in accordance with specifications for that building and as contained in the notice to the owner.

Reduction of width

- 3.15 The council may require a reduction of the width of any verandah or awning before its reinstatement, if any activities within the public place necessitate such a reduction or it is needed to comply with the council's district planning or bylaw requirements.

Certain Provisions not Retrospective

- 3.16 Clauses 3.4, 3.5 and 3.8 shall not apply to particular aspects of a verandah or associated feature that can be demonstrated to have been in existence at 1 January 2015 and for which the property owner had not been previously requested by Council to remedy that aspect.

4 PROJECTIONS FROM BUILDINGS

Projection - architectural features

- 4.1 Architectural features at a height of not less than 3 metres above the level of a formed footpath, or 4.5 metres above ground level where no footpath has been formed, may project over a public place with the approval of an authorised officer.

Hoisting materials

- 4.2 Nothing may be fitted to any building for the hoisting of materials of any nature over a public place except with the permission of an authorised officer.

Windows over public places

- 4.3 No opening portion of a window, which opens out over a public place, shall be less than 2.5 metres above the public place except with the permission of an authorised officer.

Maintenance of building projections

- 4.4 Any projections from buildings over a public place, including all elements used to attach it to the building or otherwise support it, shall be maintained in a clean and structurally sound condition and in a state of good repair by the owner of the building.

Foundation projections

- 4.5 No foundation shall project beyond the boundary or building line under a public place provided that an authorised officer may, if it is considered that the projection will not injuriously prejudice the installation of underground services of any nature, permit a projection not exceeding 200 millimetres, where the depth below ground level to the top of the projection exceeds 2 metres.

Certain Projection Provisions not Retrospective

- 4.6 Clauses 4.1, 4.2, 4.3 and 4.5 shall not apply to particular aspects of a projection or associated feature that can be demonstrated to have been in existence at 1 January 2015 and for which the property owner had not been previously requested by Council to remedy that aspect.

5 CONSTRUCTION WORK IN PUBLIC PLACES

Surface water run-off

- 5.1 Every person undertaking building work shall at all times, from the commencement of construction or commencement of site works until building work is completed, ensure that adequate provision to the satisfaction of the council is made for the protection of other land (including streams, roads, and drains) from surface water run-off.

Clean road

- 5.2 A person in charge of a construction or demolition site or conducting construction or demolition works on a site shall, if required by an authorised officer, ensure that mud and dirt and other debris is removed from vehicles prior to their departure from the site if there is a likelihood of that debris being deposited in any public place.

6 PUBLIC SAFETY

Permit

- 6.1 No person shall, for the purpose of carrying out any excavations, demolition, construction, building or building maintenance work, obstruct, operate on, over, or under, or deposit material on any footpath, carriageway or other public place except pursuant to a permit issued by an authorised officer.

See also similar provisions in the Otorohanga District Council Traffic Bylaw 2005

Permit conditions

- 6.2 Any permit issued in accordance with clause 6.1 including any permit for a safety fence, hoarding, gantry, scaffolding or other safety issues shall be issued subject to any conditions, restrictions and limitations as an authorised officer considers necessary or desirable to ensure the safety and convenience of the public and the protection of any public place.

7 DEMOLITION

7.1 Every person carrying out the demolition or removal of a building or part thereof above a plane of 45 degrees from the boundary of a public place shall comply with the following requirements:

- a. One storey only at a time shall be demolished or removed commencing from the uppermost level,
- b. No material shall be stored or stacked upon any floor of the building,
- c. All material shall be lowered to the ground as soon it has been displaced,
- d. No external wall or part thereof abutting on any street or public place shall be demolished or removed except at such time and under such conditions as an authorised officer may approve,
- e. No material shall be thrown onto any street or public place,

Dust removal

- f. Water shall be sprayed upon all displaced materials for the purpose of preventing or lessening the diffusion of dust arising from any demolition activity,
- g. A ball and crane or other mechanically-assisted demolition methods shall not be used on any building closer than the height of the building from the street frontage or within 12 metres of the street boundary (whichever is the greater) unless approval has been obtained from an authorised officer to close the public place adjacent to the work. The authorised officer may specify the amount of public place to be closed off to allow the work to be carried out without endangering public safety. Where an authorised officer so approves the contractor shall pay supervisory costs incurred by the council to maintain public safety,
- h. No portion of a building closer than its height from the public place shall be left standing when it is no longer stable unless arrangements have been made to the satisfaction of an authorised officer for the protection of the public in such circumstances,

- i. Where required by an authorised officer, demolition work shall be carried out under the supervision and control of a Chartered Professional Engineer and the confirmation of an Engineer's appointment shall be submitted by the applicant prior to the issue of a demolition permit,

Footpath protection

- j. A hoarding or gantry shall be erected to the requirements of Clause F5 of the New Zealand Building Code where in the opinion of an authorised officer there is a need to safeguard people or other property from demolition activities occurring on any land,

Further requirements

- k. The owner of any site shall comply with any requirements of an authorised officer during the progress of demolition or removal work, in connection with:
 - i. the safety and convenience of the public
 - ii. the protection of adjacent buildings, and the protection of the surface of the street and any other public place.

Dispensations

- 7.2 An authorised officer may in an appropriate case dispense with compliance with any of the requirements of clause 7.1.

8 PROTECTION OF PUBLIC DURING BUILDING OPERATIONS OR MAINTENANCE

- 8.1 No person shall erect any building or undertake maintenance on any part of a building adjacent to any public place if there is a likelihood of objects falling onto the public place until there has been erected a fence or hoarding or gantry or barrier so as to shut off and render safe the pedestrian and vehicular traffic using or which may use the adjacent parts of the public place. No such fence, hoarding, gantry or barrier shall be erected without first having obtained a building consent.

Site fences, hoardings and gantries erected pursuant to clause 8.1 above shall comply with the requirements of Clause F5 of the New Zealand Building Code. Acceptable Solution F5/AS1 provides one acceptable solution to the requirements of F5.

- 8.2 Where permission has been given for construction or maintenance of a verandah or other structure to be erected over a public place the necessary work shall be carried out at such times and in such a manner as an authorised officer shall approve having regard to the conditions of pedestrian and vehicular traffic. Where an authorised officer does not authorise the complete closure of the footpath affected then operations shall proceed over half of the footpath width at a time, with the remainder of the footpath being protected with an adequate hoarding, to the satisfaction of an authorised officer.

9 LIFTING MATERIAL AND EQUIPMENT OVER PUBLIC PLACES

Hoisting materials

- 9.1 The design of new buildings and their method of construction shall be carried out so far as is practicable to provide for the unloading and hoisting of materials and equipment on and over the building site itself and clear of any public place.

Permission to hoist

- 9.2 No person shall undertake the mechanical hoisting of building materials or equipment from or over any public place without a permit from an authorised officer. Permission may be refused if an authorised officer is of the opinion that it is unnecessary for the air space above the public place to be used because building materials and equipment can reasonably be unloaded on or over the site from vehicles driven onto the building site and clear of the street, or that the building can reasonably be designed or redesigned so as to provide for off-street unloading operations during its construction.

Conditions

9.3 An authorised officer in granting a permit pursuant to clause 9.2 may impose such conditions as are necessary to ensure the safety of the public, including persons on the public place who are engaged in the hoisting operations. The following conditions shall apply to every consent:

- a. Areas over which or from which hoisting is to be carried out must be coned, roped, fenced or barricaded off as directed by an authorised officer,

Gantry

- b. A clearly defined and fully protected gantry type throughway or bypass, substantially constructed, must be provided for pedestrian use, over any footpath alongside any public place from which materials and equipment are to be hoisted. This protected throughway shall be to the approval of an authorised officer, and it shall extend along the full length of the frontage of the site. Where it is required by an authorised officer the protected throughway shall extend beyond the frontage of the building to provide radial protection to the footpath,
- c. Crane jibs may swing over unprotected public roadways and footpaths but not the loads hanging from them. The load must be luffed back over footpath gantries as soon as practicable and before clewing the jib so that loads are not at any time suspended over unprotected areas. No vehicle which is being unloaded from a coned off area shall move away until its last load has been hoisted clear of the roadway,
- d. The lifting or lowering of materials or equipment on trays without sides is prohibited. The tray must be enclosed on all sides to a height not less than the height of the load.

Insurance

9.4 Insurance cover shall be taken out by the consent applicant for any construction work that may affect public safety indemnifying the council for a minimum amount of \$2,000,000 or as determined by an authorised officer, in respect of any claims for injury or damage to persons or property, such cover to be with a registered insurance office and in a

form satisfactory to an authorised officer. An authorised officer may reduce or waive this requirement in the case of minor works when the risk is considered minimal.

10 STREET DAMAGE DEPOSIT CHARGE

Building work may require street damage deposit charge

- 10.1 An authorised officer may require that a person pays to council a street damage deposit charge prior to undertaking any building work.

Use of deposit

- 10.2 An authorised officer may apply the street damage deposit charge payable under clause 10.1 towards any inspection fees charged by the council and unpaid, and towards the cost of any work or repair carried out by the council, during, or at the completion of building work, site work or excavation work to reinstate the road reserve to at least as good a state of repair as that which immediately preceded the commencement of the work.

Waiving of deposit

- 10.3 An authorised officer may waive the requirement for the payment of a street damage deposit charge in whole or in part, where he or she determines that the building work, site work or excavation work proposed is unlikely to cause damage to the road reserve.

Refunding deposit

- 10.4 At the completion of building work and after the issue of final certification for the building work undertaken, the council shall refund any street damage deposit charge paid, less any deductions for inspection fees incurred and unpaid and any costs incurred by the council, including any reasonable administrative costs, to repair any damage to the road reserve arising from any building work, or site work.
- 10.5 If a street damage deposit charge is not sufficient to cover the inspection fees charged and the cost of any work undertaken by the council, including any reasonable administrative costs, to repair any damage to the road reserve arising from any building work or site work, the applicant will be liable for the balance.

Warranty Period

- 10.6 If the council identifies any defects within the warranty period in the repairs to the road reserve undertaken by the applicant, the council may repair the defect and recover the costs incurred, including any reasonable administration costs, from the applicant.

Recovery of Debt

- 10.7 Any amount owing by the applicant to the council may be recovered by the council from that person or entity as a debt due in any court of competent jurisdiction.

11 SETTING OF FEES AND CHARGES

- 11.1 The council may prescribe fees and charges for authorities, approvals, permits and consents under this bylaw in accordance with section 150 of the Local Government Act 2002.

Fees, including the street damage deposit charge, lease fees and licence and permit fees, may be set as part of the council's long-term plan or annual plan

12. OFFENCES AND PENALTIES

Every person who fails to comply with the requirements of this Bylaw commits an offence and is liable, on summary conviction, to a fine not exceeding \$20,000 or as set out in Section 242 of the Local Government Act 2002.

13. OTHER REQUIREMENTS

The provisions of this Bylaw do not remove the need for any consent required under the Resource Management Act 1991 or the Building Act 2004 and do not provide relief from responsibility for compliance with all other relevant statutes, regulations and bylaws.

THE RESOLUTION BY WAY OF SPECIAL CONSULTATIVE PROCEDURE TO AMEND THIS BYLAW was passed by **THE OTOROHANGA DISTRICT COUNCIL** at a meeting of the Otorohanga District Council held on theday of2015 and confirmed at a subsequent meeting of the Council held on the day of 2015, by a resolution passed by the Council on the day of 2015 the said Bylaw was ordered to come into effect on the..... day of 2015.

This Bylaw confirmed by Council on 2015

Mayor

Date

Chief Executive

Date

