

Proposed changes to the Public Places Bylaw

Note: The new Bylaw combines the Public Places Bylaw 2015, Objectionable Signs Bylaw 2014 and the Street Users Bylaw 2014. These three existing Bylaws will be revoked at the commencement date of the new Bylaw.

Colour coding has been used to assist in understanding the origin of clauses within the new combined bylaw. Text from the Public Places Bylaw is in black coloured font. Text from the Street Users Bylaw is in orange coloured font and text from the Objectionable Signs Bylaw is in purple coloured font. Text that has been newly drafted and does not have its origin in any of the three bylaws is in red coloured font. Text that has been relocated from one place in a bylaw to another place in the same bylaw is in green font.

Section	Clause Reference	Proposed Change	Reason
Throughout the Bylaw		Replacement of “Specified Public Place” with Alcohol Control Area	This term relates to the alcohol ban area in the Feilding Central Business District, and any new ban areas that may be added by Council resolution in the future. The term “Alcohol Control Area” is preferred as it is easier to understand and there is no legal requirement to use the term “Specified Public Place.”
		Replacement of “No person may” with “A person must not”	“A person must not” is preferable to “No person may” from an enforcement perspective as it is more directive language. The use of “may” can imply some form of discretion.
		Capitalisation of words that are defined in clause 4.2 or the Manawatu District Explanatory Bylaw 2014.	This convention is to assist bylaw users in identifying defined terms. Reference to the definitions is to aid understanding of the bylaw.
		Use of macron in Manawatū	The inclusion of a macron above the u in “Manawatū District” is an accepted convention. However, Council’s legal for the purposes of the

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			Common Seal remains “Manawatu District Council.”
		Replacement of “shall” with “will”	The use of “shall” is outdated in policy drafting. The term “will” is more commonly used and better understood.
		Replacement of “the Local Government Act 2002” with “the Act”	The Local Government Act 2002 is defined in clause 4.2 of the draft bylaw as “the Act.” All references to the Local Government Act 2002 have therefore been replaced by “the Act” to shorten the Bylaw.
		Updating of clause references	As clauses have been copied from the current bylaws to a new combined bylaw and new sections and clauses have been added and deleted, any existing clause references need to be updated to match the numbering of the draft Bylaw.
1 Preliminary Provisions	1.1	Replacement of 2015 with 2020	This change is made in anticipation of the new Bylaw being made operative in 2020.
	1.2	Insertion of reference to the Prostitution Reform Act 2003 and deletion of the “Sale and Supply of Alcohol Act 2012.”	Council is proposing to combine the Public Places Bylaw 2015, the Objectionable Signs Bylaw 2014 and the Street Users Bylaw 2014 into a single combined Public Places Bylaw 2019. Clause 1.2 lists those Acts that give Council powers to create bylaws. As the scope of the bylaw is being expanded, the list of relevant Acts is also

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			<p>expanding to ensure that all relevant powers are captured within the Preliminary Provisions.</p> <p>Reference to the Sale and Supply of Alcohol Act 2012 is not necessary in this clause as this Act is only relevant in terms of enforcement and does not relate to Council's powers to create Bylaws.</p>
	1.3	<p>Insertion of clause 1.3</p> <p>Nothing in this Bylaw derogates from any duty, power or responsibility arising from any other Act, regulations, Bylaw or rule.</p>	<p>This clause is necessary to ensure that users are aware that compliance with this Bylaw does not remove their responsibility to comply with other Acts, Bylaws and Plans.</p>
	Explanatory note	<p>Insertion of references to Sale and Supply of Alcohol Act 2012, Prostitution Reform Act 2003, and Land Transport Act 1998</p>	<p>The Public Places Bylaw 2015, Objectionable Signs Bylaw 2014 and Street Users Bylaw 2014 are proposed to be replaced by this new combined "Public Places Bylaw 2020." As the matters covered by this bylaw has been expanded, the explanatory note needs to be update to ensure that it refers to all relevant legislation.</p>
2 Purpose	2.1	<p>New sub-clause (a) that combines parts from the purpose of the Street Users Bylaw and the Objectionable Signs Bylaw, plus the insertion of "public" before "health and safety..."</p>	<p>As Council is proposing to combine three bylaws into one, it is necessary to expand the purpose of the bylaw to include all relevant matters.</p> <p>Sub-clause (a) combines the second half of clause 2.1 of the Street Users Bylaw 2014 with the second part of clause 2.1 of the Objectionable Signs Bylaw 2014. The insertion of "public" in</p>

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		<p>Deletion of “the” and insertion of “health and safety” in sub-clause (b)</p> <p>Insertion of sub-clause (c)</p> <p>Insertion of new sub-clause (d)</p> <p>Insertion of sub-clause (d) from the Objectionable Signs Bylaw;</p> <p>Deletion of “Advertising” from sub-clause (d)</p> <p>Insertion of new sub-clause (e) and deletion of sub-clauses (f) and (g), which were clauses 2.2 and 2.3 in the Public Places Bylaw 2015.</p> <p>Deletion of sub-clauses (f) and (g)</p> <p>Replacement of “To ensure that Advertising Signs, particularly those associated with Commercial Sexual Premises, do not cause a Nuisance or serious offence to members of the public” with “To regulate, control or prohibit Signs in Public Places, or signs that are visible from a public place, including Signs advertising Commercial Sexual Services” in sub-clause (h).</p>	<p>“public health and safety” is for consistency with terminology used in section 145(b) of the Local Government Act 2002 (General bylaw-making power of territorial authorities).</p> <p>Sub-clause (c) duplicates section 145(c) of the Local Government Act 2002 to ensure this bylaw covers the full scope of Council’s general bylaw-making powers under the Act.</p> <p>Sub-clause (d) is based on section 146(b) if the Local Government Act 2002 (Specific bylaw-making powers of territorial authorities). The addition is recommended to ensure that this bylaw covers all matters that it can under the Act.</p> <p>New sub-clause (e) replaces sub-clauses (f) and (g). The drafting of sub-clause (e) is more consistent with section 147(2) of the Local Government Act 2002 (Power to make bylaws for alcohol control purposes). Aligning the Bylaw with the Act ensures that Council is operating within its statutory powers with regards to the consumption of alcohol in public places.</p> <p>Proposed sub-clause (d) replicates the first part of clause 2.1 (Purpose) of the Objectionable Signs Bylaw 2014. The deletion of the word “Advertising” within sub-clause (d) is needed due to changes to the definition of “Signs.”</p>

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		Insertion of “in Public Places” to sub-clause (i).	<p>The new wording of sub-clause (h) is preferable as it better aligns with section 12(1) of the Prostitution Reform Act 2003.</p> <p>Sub-clause (i) replicates the first part of clause 2.1 of the Street Users Bylaw. The insertion of “in public places” is to clarify the scope of this Bylaw as relating to activities in public places, not on private property. The power to regulate trading in public places comes from section 146(a)(vi) of the Local Government Act 2002.</p>
3 Commencement	3.1	Replacement of 21 December 2015 with placeholder for date.	This is a place holder to ensure the new commencement date is inserted once the revised Bylaw is adopted.
4 Interpretation and Definitions	4.2	Addition of “and any subsequent amendments” to the definition of “Act”	This is to ensure that the Bylaw remains current if there are future amendments to the Local Government Act 2002.
	4.2	Insertion of a definition of “Alcohol”	The definition refers users to the definition of “alcohol” under the Sale and Supply of Alcohol Act 2012. It ensures that the terms used in the Bylaw are consistent with the Act. By referring to the Act rather than quoting the definition from the Act the Bylaw will remain current if there are future amendments to the Act.
	4.2	Replacement of “Specified Public Place” with “Alcohol Control Area” and modifications to the definition to refer to Schedule 3 and to any	The reason for the change from Specified Public Place to Alcohol Control Area is addressed above. The Alcohol Control Area is now included as Schedule 3 of the Bylaw, so the reference has

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		other area that Council resolves to designate as an Alcohol Control Area	been updated in the definition. Clause 23.3 gives Council the power to designate additional areas as “Alcohol Control Areas.” However, if these additional areas are not captured by this definition that creates uncertainty for enforcement.
	4.2	Deletion of the definition of “Advertising Sign”	This definition has been deleted as it is proposed to be replaced by a new definition of “Sign” which is discussed below.
	4.2	Amendments to the definition of “Busker” to replace “for reward or for voluntary” with “for free or for reward...”	“Voluntary” is not a good word to use in this context as it implies a service is being performed.
	4.2	Amendments to the definition of “Commercial Sexual Services” to retain reference to the definition within the Prostitution Reform Act 2003, but to delete the actual meaning.	This is to ensure that the Bylaw remains current if the definition in the Prostitution Reform Act 2003 is amended in the future. Otherwise there is potential for the Bylaw and Act definitions to become inconsistent during the life of the Bylaw.
	4.2	<p>Amendments to the definition of “Cycle” as follows:</p> <p>Cycle means a vehicle <u>vehicle</u> having at least two wheels <u>one wheel</u> and <u>that is designed primarily to be propelled by the muscular energy of the rider and includes</u></p>	<p>The change from two wheel to one wheel is so that unicycles are also captured by this definition.</p> <p>The change from being “propelled solely by the energy of the rider” to being “designed primarily to be propelled by the muscular energy of the rider” is to broaden the definition to also capture</p>

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		<p>a power-assisted cycle designed to be propelled solely by the energy of the rider. Children's cycles having wheels less than 355 mm diameter are excluded. BMX cycles are included no matter the diameter of the wheels.</p>	<p>power-assisted or electric bicycles which are increasing in popularity.</p>
	4.2	Insertion of a definition of "Food Control Plan"	<p>The definition of "Food Control Plan" is new to the bylaw. The definition is needed to ensure consistent understanding of the requirements for vehicles selling food under Clause 25.1(b) of the Bylaw. The requirement for a Food Control Plan was introduced by the Food Act 2014 and replaces the previous registration regime that applied to food premises under the Health Act 1956 and the Food Hygiene Regulations.</p>
	4.2	Deletion of the definition of "Mobile Trader"	<p>This definition is redundant as this activity is captured under the definition of "Street User." It is proposed that only the definition of "Street User" is retained and that any reference within the bylaw to "Mobile Trader" be replaced by "Street User."</p>
	4.2	Insertion of a definition of "Mobility Device"	<p>Section 6 of the draft Bylaw has been expanded to also control the use of mobility devices in public places. By making reference to the definition of this term under the Land Transport Act 1998, it is</p>

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			clear what is meant by this term in the context of this Bylaw.
	4.2	Insertion of a definition of “Organised Game, Activity or Event”	This is a new term that has been introduced to this draft Bylaw. The inclusion of a definition of this term ensures consistent interpretation of the Bylaw.
	4.2	Insertion of “2011” to “AS/NZS 4819” in the definition of “Property Number”	The year was missing from the standard in the Public Places Bylaw 2015. Insertion of the year helps to prevent confusion as to what standard this definition relates to.
	4.2	Insertion of a definition of “Public Place”	This definition duplicates the definition of “Public Place” in the Explanatory Bylaw 2014. While it is not strictly necessary to have the definition in both Bylaws, given that this Bylaw is the “Public Places” Bylaw the inclusion of this definition was considered reasonable and helpful for users.
	4.2	Insertion of a definition of “Reserve”	This definition duplicates the definition of “Reserve” in the Explanatory Bylaw 2014. It is not strictly necessary to have the definition in both Bylaws. However, including the definition in this draft Bylaw is recommended to assist users as the booking of a reserve for an organised game, activity or event is something that requires a permit under the draft Bylaw.
	4.2	Insertion of a definition of “Road” or “Roadway”	This definition is slightly different from the definition of “Road” contained in the Explanatory Bylaw 2014. The inclusion of “the road reserve

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			<p>from property boundary to property boundary” was added at the request of Council’s Enforcement Officers as the common understanding of the meaning of “road” is the sealed carriageway. This definition is to assist Enforcement Officers in dealing with offences when the offender disagrees that they have parked their vehicle on a “road.” “Roadway” is another term used in the draft Bylaw on one occasion (clause 11.2(b)).</p>
	4.2	Insertion of a definition of “Sand Dune Area”	<p>The clause that controls driving a vehicle, horse or other animal within the “Sand Dune Area” used to include a definition of what was meant by this term. It is more appropriate that the meaning of this term be relocated to the interpretation section of the Bylaw.</p>
	4.2	Insertion of a new definition of “Sign”	<p>The word “Advertising” has been deleted from the definition of “Advertising Sign” so as to not limit the signage controls to just signs used for advertising.</p> <p>The new definition is more comprehensive than the definition of “Advertising Sign” that was in the Objectionable Signs Bylaw 2014. It has been developed by researching similar definitions in the Bylaws of other local authorities.</p>
	4.2	Addition of “and wheeled recreation devices that have	<p>This part of the definition comes from the definition of “wheeled recreation device” in the</p>

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		motors with a maximum output of 300W” to the definition of “Skating Device”	New Zealand Transport Agencies Road Code. As motorised forms of recreation devices are being increasingly popular this addition is intended to ensure that the Bylaw keeps up with emerging technologies. We do not need to include reference to cycles as these are separately defined.
	4.2	<p>Changes to the definition of “Street Use and Street User” as follows:</p> <ul style="list-style-type: none"> • Addition of “Hawking” to (b) • Deletion of “public gathering” from (b) • Deletion of preacher and street photographer from (c) 	<p>“Hawking” is defined separately in the Bylaw. However, the amendments to clauses within the Bylaw mean that there are no longer any requirements or controls that are specific to “Hawkers.” By including hawking within the definition of a Street Use or Street User, this ensures this activity is controlled through permit requirements in the bylaw.</p> <p>The deletion of “public gathering” within the definition of a street use is recommended, as it is not clear what would constitute a “public gathering.” This could mean a gathering of people over a certain number or for a particular purpose. Unless a new definition of “public gathering” was added to the draft bylaw, it would be difficult to enforce the requirements around public gatherings. Any organised gathering within a public place is likely to be subject to an application for an “organised game, activity or event” and so is already captured elsewhere in the bylaw. The</p>

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			<p>inclusion of “public gathering” in the definition of “street user” is considered to be a double-up.</p> <p>The inclusion of “preacher” and “street photographer” within the definition of street user or street use would mean that a permit would be required to carry out such activities in a public place. Section 14 of the NZ Bill of Rights Act 1990 (BORA) protects the right to freedom of expression, specifically <i>“Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form.”</i> Such rights, pursuant to section 5 of the BORA, may be subject to reasonable limits.</p> <p>Given that preaching and street photography are activities of relatively low intensity, involving only a few people and with limited interference of how the public space may be used, the requirement to obtain a permit to do such activities may be viewed as an unreasonable restriction of section 14 of the BORA and viewed as a disproportionate response to address the problem Council is seeking to address. It is therefore recommended that these activities be removed from the definition of street use and street user.</p>
	4.2	Deletion of the definition of “Weapon”	This term is not used in the Bylaw so having it defined is unnecessary.

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	4.5	Replacement of Dog Control Bylaw 2014 with 2019, Insertion of Animal Bylaw 2019 and Dog Control Policy 2019	The Dog Control Bylaw 2014 was revised in 2019. It is therefore necessary to update this reference in the draft Bylaw. The Animal Bylaw 2019 and Dog Control Policy are also considered relevant as so have been added to this clause.
	4.6	Delete clause 4.6 in its entirety.	It is not necessary to retain this clause from the Street Users Bylaw. As the Street Users and Public Places Bylaws are being combined there is no need to reference either bylaw in its singular form. The reference to the "Food Safety Policy" is redundant as this policy was revoked at the time the new requirements of the Food Act 2014 came into force.
5 Obstruction of or Damage to Public Places	5.3	Deletion of clause 5.3	This clause is proposed to be deleted as it is not clear what it is trying to achieve and seems superfluous to the Bylaw.
6 Control of Cycles, Skating Devices and Mobility Devices		Removal of Skateboards from section title, addition of Skating Devices and Mobility Devices	"Skateboards" has been replaced by "Skating Devices" as this is the defined term in the bylaw and is much broader in its consideration than just skateboards. Mobility devices has also been added to the heading to enable consideration of mobility devices in public places that are being used in an unsafe manner.
	6.1	<ul style="list-style-type: none"> Deletion of "or", between Cycle or Skating device, insertion of "or Mobility 	The "or" has been relocated within this clause as the number of devices it considers has increased to also include mobility devices. The addition of

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		<p>Device” and “in the opinion of an Enforcement Officer”</p> <ul style="list-style-type: none"> • Deletion of “cause” in (c) “Cause a Nuisance” • Addition of “likely to” to sub-clause (d) and replacement of “infrastructure” with “property” 	<p>“in the opinion of an Enforcement Officer” was a recommendation from the legal review of the draft Bylaw. It makes It clear who is responsible for deciding on offences and makes it more enforceable.</p> <p>The word “cause” is unnecessary.</p> <p>The addition of “likely to” means that an Enforcement Officer has the authority to cause someone to cease behaving in an appropriate manner prior to their actions actually resulting in damage to property. The word “property” is preferred to “infrastructure” as infrastructure implies Council-owned whereas property may include public or private property in a public place.</p>
	6.2 and 6.3	Delete in their entirety	Council is proposing to delete skating device ban area that was shown in Schedule 1 of the Public Places Bylaw 2015. Council is instead looking to focus on user behaviour. As Schedule 1 is to be deleted there is no need to retain these clauses.
	Explanatory Note	<p>Addition of explanatory notes:</p> <p><i>Explanatory Notes: Part 11 of the Land Transport (Road User) Rule 2004 sets out the requirements for pedestrians, riders of Mobility Devices, and wheeled recreational</i></p>	This explanatory note is intended to inform users about while Council is responsible for enforcing the bylaw, the NZ Police are responsible for enforcing the Road User Rules. For example, the Police are responsible for enforcing the rules that require cycles to be driven on the road and not the footpath; and for ensuring that skating devices

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		<p><i>devices (including Skating Devices). Compliance with the Road Rules is enforced by the New Zealand Police.</i></p>	<p>and mobility devices are not operating at a speed that constitutes a hazard to other footpath users.</p>
	6.4	<p>Deletion and replacement of clause 6.4 about the impounding of skating devices with a new explanatory note, as follows:</p> <p><i>“Any Enforcement Officer may impound any property being used in breach of this Bylaw.</i></p> <p><i>Prior to seizing and impounding property, the Enforcement Officer will:</i></p> <ul style="list-style-type: none"> <i>(i) Direct (orally or in Writing) the person committing the offence to stop committing the offence; and</i> <i>(ii) Advise (orally or in Writing) the person committing the offence that, if he or</i> 	<p>Section 164 of the Local Government Act already gives an Enforcement Officer the power to seize property that is not on private land and that is being used in committing an offence. It is therefore not necessary to include a clause in the Bylaw to give Enforcement Officers that power. Reference to those powers in an explanatory note is sufficient and preferable.</p> <p>An Enforcement Officer is required to follow certain conditions before seizing property. The inclusion of these preconditions in this explanatory note is to provide information for users and to ensure that Enforcement Officers follow the correct statutory process.</p>

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		<p><i>she does not stop committing the offence, the Enforcement Officer has power to seize and impound the property; and</i></p> <p><i>(iii) Provide the person with a reasonable opportunity to stop committing the offence.</i></p>	
7 Activities in Public Places	Heading	Addition of “Activities in” to section heading	The amendments to this heading are to make it more descriptive about what this sections of the bylaw controls.
	7.1	<p>Amendments as follows:</p> <p>No person may<u>A person must only</u> undertake any Organised game, or a Activity or Event, fly any Unmanned Aerial Vehicle, operate any Vehicle or drive, ride, or lead any Animal in any <u>Public Place</u>Park or Reserve except:</p>	<p>The Public Places Bylaw 2015 does not define what is meant by “organised game.” It is therefore not clear what types of activities in parks and reserves, or in public places generally, are controlled by the bylaw. The changes to this section clarify the intent.</p> <p>Reference to flying unmanned aerial vehicles has been deleted from this section as they are to be controlled through new sections that are proposed to be added to the bylaw.</p> <p>The replacement of “Park or Reserve” with “Public Place” is to broaden this clause to also consider</p>

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		<p>(a) On areas set aside especially for those purposes; or</p> <p>(b) With the prior consent from the <u>an approved activity and event on Council land/roads application</u> from Council.</p> <p><i><u>Explanatory Note: Refer to the Manawatū District Council's Animal Bylaw 2019, Dog Control Bylaw 2019 and Reserve Management Plans for rules relating to dogs and other animals in Public Places, including Parks and Reserves.</u></i></p>	<p>activities in other public places, such as parades on public roads or activities in public squares.</p> <p>Event organisers must apply to Council if they want sole use of a public place for an organised game, activity or event. The form they must complete is called an “activity and event on Council land/roads” application. This wording is used in sub-clause (b) to make it clear that this is the form that must be completed and approved in relation to organised games, activities or events.</p> <p>Clause 7.1 refers to dogs and other animals in public places. There are other bylaws and rules in reserve management plans that must also be considered. The explanatory note is so that these other requirements are not overlooked.</p>
	7.2	Delete in its entirety	This clause is not needed as controls around mobile traders are now managed through street user permits elsewhere in the Bylaw.
	7.3	<p>Amendments to clause 7.3 as follows:</p> <p>Every person must, on the request of an <u>Enforcement Council Officer</u>, immediately cease playing or taking</p>	Enforcement Officer is the better term to use in clause 7.3 as it will be Council's Enforcement Officers that will respond to complaints or reports of dangerous, damaging or nuisance behaviour.

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		<p>part in any <u>Organised Game, Activity or Event, or any other game</u> or other activity on or in any <u>Public Place</u> any Park or Reserve which in the Council <u>Enforcement Officer's</u> opinion:</p> <ul style="list-style-type: none"> (a) Is dangerous; (b) Is likely to damage the Park or Reserve <u>Public Place</u> or anything in it; (c) Is causing a Nuisance; or (d) Does not have the consent of Council pursuant to Clause 7.1. 	<p>The insertion of "Organised Game, Activity or Event" is to give Enforcement Officers the discretionary power to stop such activities (even if they have an approved booking) if they are being done in a manner that is dangerous, damaging or causing a nuisance.</p> <p>"Park or Reserve" has been replaced with "Public Place" to ensure all activities taking place on or in any public place are covered, such as those on roads or in public squares.</p> <p>Sub-clause (d) is not needed as clause 7.1 above already lets people know that an approval from Council is required.</p>
8 Booking Applications for an Organised Game, Activity, or Event in a Public Place	8.1 – 8.6	Insertion of Section 8	<p>This is a new section of the Bylaw. It sets out the steps that must be followed by event organisers when making a booking for an organised game, activity or event that requires sole use of a public place.</p> <p>Applications needs to be lodged at least one calendar month before the game, activity or event is proposed to take place, particularly as there may be other permits, consents, approvals or authorisations from Council required in addition</p>

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			<p>to the booking application. For example, if a building consent is required in association with an organised game, activity or event, the event organiser needs to allow at least 20 working days for the processing of this application.</p> <p>To ensure that event organisers have certainty, Council has committed to confirming event availability within 5 working days of receiving a booking application. If the venue is not available Council will refund the application fee.</p> <p>Any approved booking will be subject to terms and conditions which must be complied with.</p>
9 Operating an Unmanned Aerial Vehicle (UAV)	9.1 to 9.10	Insertion of Section 9	<p>The process for obtaining approval from Council to fly an unmanned aerial vehicle (UAV) under the Public Places Bylaw 2015 was not clear or practical. Prior consent from Council was required before flying a UAV within any park or reserve. As decisions on when to fly are governed by the conditions on any particular day advanced notice is not always practical (unless the UAV is being flown in association with an organised game, activity or event occurring on a specific day).</p> <p>Council's new approach to managing UAVs is to identify particular locations within Schedule 1 that are prohibited UAV flying zones. A permit will not be granted to fly in these zones unless the UAV is</p>

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			<p>being operated for emergency purposes or on behalf of Council.</p> <p>Council has given its approval to fly a UAV over Council land or facilities outside of the prohibited flying zones, providing certain conditions are met. The advice notes below these conditions are to educate users of the other requirements that must be met, including:</p> <ul style="list-style-type: none"> • compliance with Civil Aviation Authority rules and regulations; • necessary clearances for flights within controlled air space; and • Part 102 certification for flying above or in proximity to people at sporting events or other events involving large or dense crowds of people. <p>A permit is required to fly a UAV in association with an organised game, activity or event, or for any flight that is not able to meet the conditions of clause 9.2.</p> <p>Section 9 includes the application requirements for permits to fly UAVs. These matters are consistent with Civil Aviation Authority Rules. The permit holder is required to comply with any conditions imposed on the permit.</p>

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Sections 10 and 11	General Approach for issuing permits under the Bylaw	<p>The Street Users Bylaw 2014 included a permit application process for those wanting to carry out a Street Use (clauses 5.1 to 6.13). These application requirements are similar to those in the Public Places Bylaw 2015 for activities requiring consent (clauses 20.1 to 20.6).</p> <p>In drafting the new Public Places Bylaw these sections have been combined and simplified into a single permit process for Street User Activities.</p> <p>In considering the origin of the clauses, text that is shown in green within sections 9 and 10 has been relocated from section 20 of the Public Places Bylaw 2015 (section 28 in the draft Bylaw) and text shown in orange is from sections 5 and 6 of the Street Users Bylaw 2014.</p> <p>In general, section 10 of the draft Bylaw contains clauses that relate to the permit application process, the matters Council will consider when deciding whether or not to grant a permit, and requirements on permit holders. Section 10 of the draft Bylaw includes general requirements that apply to Street Users when they are operating in a public place.</p>	
10 Street Users Activities		Insertion of “activities” in section heading	The heading change to “Street User Activities” is recommended as it is the activities of street users not the street users themselves that Council is looking to manage through this bylaw.
	10.1	Replacement of “No person may carry out a Street Use without having first obtained a Permit from Council” with “A person must obtain a permit from Council prior to carrying out any Street Use Activity”	This change is for consistency with terminology used elsewhere in the Bylaw and to make the wording more directive.

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	10.2	Replacement of “use” with “be in”. Replacement of “set out in the” with “prescribed in”	Changes to this clause are for consistency with similar clauses elsewhere in this Bylaw and other recently adopted bylaws.
	10.3	<ul style="list-style-type: none"> • Replacement of “may” with “will” • Deletion of “, the date, time and place of the proposed use of a Public Place;” in sub-clause (a) • Deletion of sub-clauses (b), (h), and (i). • Additions to sub-clause (d) as follows: <u>whether any Vehicle to be used in connection with selling or storing food is suitable for the purpose; has registered a Food Control Plan with Council, if required by the Food Act 2014; or is registered with the Ministry of Primary Industries under a national programme;</u> • Insertion of sub-clause (e) 	<p>The word “may” implies a discretion. “Will” is more direct and enforceable.</p> <p>Sub-clause (a) has been drafted by combining clauses 5.3(a) and (d) from the Street Users Bylaw 2014 (which relate to matters Council considers when granting a permit for a street use) and clause 20.1(b) of the Public Places Bylaw 2015 (which relates to applications for consent for activities in public places).</p> <p>Sub-clauses (b) and (i) are proposed to be deleted as they are not relevant to Council’s decision about whether or not to grant a permit.</p> <p>Sub-clause (h) is covered by sub-clause (a) above, so should be deleted.</p> <p>The additions to sub-clause (d) are to reflect the new requirements that were introduced by the Food Act 2014 for vehicles that are used to store or sell food.</p> <p>New sub-clause (e) is relevant to street users selling or supplying alcohol but is missing from the current bylaws.</p>

Section	Clause Reference	Proposed Change	Reason
	10.4, 10.6 and 10.7	Insertion of new clause 10.4 and deletion of clauses 10.6 and 10.7 in their entirety	This clause replaces clauses 10.6 (clause 20.3 of the Public Places Bylaw 2015) and clause 10.7 (clause 5.4 of the Street Users Bylaw 2014). The wording used is consistent with other recently adopted Council bylaws.
	10.5	Insertion of clause 10.5 “a permit is personal to the applicant and is not transferable”.	This is a new clause that has been added to inform permit holders. Its inclusion is consistent with the permit requirements in other Council bylaws.
	10.8	Replacement of: <ul style="list-style-type: none"> • “consent” with “permit”; • “their consent” with “a copy of their permit”; and • “Authorised Officer” with “Enforcement Officer” 	The term “consent” was chosen over “permit” to limit potential confusion with consents granted under the Building Act 2004 or Resource Management Act 1991. “Authorised Officer” is not the right term to use as this is not a defined term in this bylaw or the Explanatory Bylaw. The term “Authorised Officer” in the Dog Control Bylaw is specific to officers operating under the Dog Control Act. As enforcement of this Bylaw will be carried out by Council’s Enforcement Officers this is the correct term to use in this clause.
	10.9	Deletion of 10.9	This was clause 20.6 in the Public Places Bylaw 2015. It has been replaced by new clause 10.1.
	10.10	Amendments as follows: <u>If, in the opinion of an Enforcement Officer, a permit holder is operating in</u>	This is a new clause that replaces clause 20.6 of the Public Places Bylaw 2015 and clause 5.5 of the Street Users Bylaw 2014. The wording has been

Section	Clause Reference	Proposed Change	Reason
		<p><u>breach of any terms or conditions of their permit, or this Bylaw, they may at any time, by notice in Writing delivered to the permit holder, revoke or amend the permit and require the Street Use to cease immediately. Every person found to be in breach of any condition of permit, or this Bylaw, may have that permit withdrawn by the Council and must cease the Street immediately.</u></p>	<p>drafted so as to be consistent with similar clauses in other recently reviewed Council Bylaws.</p>
	10.11	Deletion of clause 10.11	<p>This clause is proposed to be deleted due to concerns about the reasonableness of this approach. The clause, as drafted (copied from the Street User Bylaw 2014) provides an unrestricted right to cancel a street user permit. This may be appropriate if the street use is giving rise to health and safety concerns, but this is already covered by clause 11.1 and would be enforced through clause 30.2 of the draft Bylaw.</p>

Section	Clause Reference	Proposed Change	Reason
11 General Provisions for Street use	11.1	Replacement of “Hawker, Mobile Shop or Stall” with “Street Use”	As these activities are all now included in the definition of “Street Use” there is no need to list them separately in this clause.
	11.2	Replacement of “Grassed Verges” with “A Grass Verge”	These changes are for consistency with how this term is defined in the Explanatory Bylaw 2014.
	11.3	Insertion of clause 11.3	This new clause replaces clause 11.10 (clause 6.7 in the Street Users Bylaw 2014).
	11.4	Replacement of “Hawker or Keeper of a Mobile Shop or Street Stall” with “Street User” and insertion of “both during operation and prior to leaving that area”	<p>As these activities are all now included in the definition of “Street Use” there is no need to list them separately in this clause.</p> <p>This new clause combines clauses 6.11 (Clause 11.12 of the draft Bylaw) and 6.8 (clause 11.11 of the draft Bylaw) of the Street Users Bylaw 2014 into a single clause.</p>
	11.5 – 11.13	Deletion of clauses 11.5 – 11.13	<p>Clause 11.5 relates to matters that are considered for the permit, so have been combined with clause 10.3 above.</p> <p>Clause 11.6 is not needed as clause 10.8 already requires permit holders to provide a copy of their permit when requested by an enforcement officer.</p> <p>Clause 11.7 duplicates clause 10.5.</p> <p>Clause 11.8 has been replaced by clause 10.4.</p> <p>Clause 11.9 is not needed as this could be imposed as a condition of the permit and clause 11.3</p>

Section	Clause Reference	Proposed Change	Reason
			<p>already requires that the vehicle display a current warrant and licence.</p> <p>Clause 11.10 has been replaced by new clause 11.3.</p> <p>Clause 11.11 repeats clause 10.10.</p> <p>Clause 11.12 has been incorporated into new clause 6.11.</p> <p>Clause 11.13 repeats clause 10.8.</p>
12 Fees and Charges for Street User Permits		Deletion of section 12	This section repeats clause 10.2 so should be deleted.
14 Beaches	14.2	Replacement of reference to clause 6.3 with 14.4	Clause 14.2 restricts vehicles on beaches to those areas that Council has set aside for that purpose by resolution. This clause (9.2 in the Public Places Bylaw 2015) incorrectly referred to resolutions passed under clause 6.3, which is specific to the skateboarding ban area in Schedule 1. The recommended additions to clause 14.4 (see below) will fill this gap. Reference to clause 6.3 has therefore been replaced by reference to clause 14.4.
	14.3	<p>Amendments to clause 14.3 as follows:</p> <p>(a) Allow any Horse to <u>be within the Horse control area</u> remain on</p>	The changes to sub-clause (a) are to clarify what is meant by allowing a horse to “remain on the foreshore.” The proposed approach for managing horses within the horse ban area is similar to the approach taken for dogs within prohibited public

Section	Clause Reference	Proposed Change	Reason
		<p>the foreshore as shown in schedule 2 to this Bylaw, except that a Horse may be ridden or otherwise led in a direct route through the Horse control area to a part of the foreshore outside of the control area; or</p> <p>(b) <u>Walk through, Drive or ride any Vehicle, Horse, or other Animals within any Sand Dune Area, being the area above the last high tide, except on any defined vehicle beach accessway or any area which is set aside by Council for that purpose.</u></p>	<p>places. Dogs are allowed to be led through a prohibited public place if there is no reasonable alternative access and the owner and dog take the most direct route across.</p> <p>The addition of “walk through” in sub-clause (b) is reasonable as walking through dunes also causes damage to them and clause 14.1 already requires people to use designated access routes to the beach, where they are available.</p> <p>The description of the sand dune area has been relocated to the definitions section (clause 4.2), so the description of the dunes has been removed from sub-clause (b).</p>
	14.4	Insertion of “set aside by Council for the purpose of driving a Vehicle on the beach, or the areas”	As noted in the commentary on clause 14.2, the bylaw refers to Council passing resolutions to set aside areas on the beach where vehicles may drive. The amendments to clause 14.4 give Council

Section	Clause Reference	Proposed Change	Reason
			the power to pass resolutions to amend or revoke areas on the beach where vehicles may drive.
15 Overhanging Trees or Shrubs		Deletion of section	This duplicates provisions in the Local Government Act. There is no need for the bylaw to duplicate the Act.
16 Fences	16.3	Insertion of explanatory note below clause 16.3 <i><u>Explanatory Note: Any fence must also comply with all applicable requirements of the Manawatū District Plan.</u></i>	The explanatory note is to assist users in understanding that there are other signage requirements that sit outside of the bylaw that must also be complied with.
17 Property Addressing	Heading	Replacement of Numbering with Addressing in section heading.	This change is for consistency with the name of the new "Property Addressing Policy 2020."
	17.2	Insertion of 17.2	Council is currently drafting a new Property Addressing Policy. This Policy is anticipated to be made operative ahead of this draft Bylaw being adopted. Reference to the Policy in this Bylaw is necessary to ensure that the requirements of the Policy are able to be enforced.
	17.3-17.6	Deletion of clauses 17.3-17.6	These clauses are proposed to be deleted as there is no need for the Bylaw to repeat details that will be included in the Property Addressing Policy 2020.

Section	Clause Reference	Proposed Change	Reason
21 Control of Alcohol in the Alcohol Control Area	21.1	<p>In sub-clause (b), deletion of “that is within the area described in Schedule 3 of the Bylaw”, insertion of “or in a Vehicle within an Alcohol Control Area; or”;</p> <p>And</p> <p>Insertion of “Unless an exception applies” at the end of the clause</p>	<p>As the definition of “Alcohol Control Area” includes reference to Schedule 3 there is no need to also reference this within the clause.</p> <p>Section 147(3) of the Local Government Act allows territorial authorities to make bylaws for the purpose of <i>“prohibiting or otherwise regulating or controlling, either generally or for one or more specified periods, the presence or consumption of alcohol in vehicles, or vehicles of stated kinds or descriptions, in public places.”</i> The proposed additions to sub-clause (b) is to prohibit the consumption of alcohol in vehicles within the alcohol control area. Exemptions around the possession and transport of alcohol are covered by section 22 of the draft Bylaw.</p> <p>Council can grant a special liquor licence, such as for an outdoor seating area at a restaurant or a particular event. Such licences would be subject to conditions, such as the alcohol would only be able to be consumed within a specific designated area. The addition to the end of clause 21.1 is to provide for such exceptions.</p>
	21.3	Insertion of clause 21.3	<p>Clause 23.3 gives Council the power to designate additional areas as “Alcohol Control Areas.” However, clause 21.2 only refers to those areas identified in Schedule 3 of the Bylaw. This may limit the ability of the New Zealand Police to enforce alcohol control areas that council</p>

Section	Clause Reference	Proposed Change	Reason
			<p>designates by resolution under clause 23.2 but are not mapped in Schedule 3. This new clause is fill this gap.</p> <p>The timeframes over which the alcohol control area operates would be specified in the individual resolutions passed for each area. Clause 21.3 therefore makes reference to “the hours specified by Council in the resolution” and not a particular timeframe like in clause 21.2.</p>
22 Exceptions to Restriction	22.2	Replacement of “Clause 16” with “Section 21”	This is a consequential change as a result of the insertion and deletion of other sections in the bylaw. The reference to “section” to make it clear that all three clauses within this section of the draft Bylaw are relevant.
23 Designation of new Alcohol Control Areas	23.1	Deletion of clause 23.1	This clause is not needed as it duplicates the definition of alcohol control areas.
	23.4	Deletion of clause 23.4	This clause is proposed to be deleted as there are no legal requirements for alcohol control area signage. Clause 23.4 implies a mandatory requirement for notices to be displayed. While Council will endeavour to have notices in or adjacent to alcohol control areas, failure to have notices does not affect Council’s ability to enforce the Bylaw.
24 Powers of Police	24.1	Amendments as follows:	The proposed amendments are to ensure this part of the bylaw is consistent with section 169 of the

Section	Clause Reference	Proposed Change	Reason
		<p>(a) Search a container <u>in the possession of a person who is in, or entering, an Alcohol Control Area for the purpose of ascertaining whether Alcohol is present</u></p> <p>(b) Search a vehicle <u>Vehicle that is in, or is entering, or Vehicle entering a Public Place any Alcohol Control Area for the purpose of ascertaining whether Alcohol is present;</u></p> <p>(c) Seize and remove the any Alcohol and its container <u>any Alcohol and its container</u> if the Alcohol is in <u>any Alcohol Control Area in breach of the Bylaw; and</u></p> <p>(d) <u>Arrest any person whom the police constable finds committing an Offence; or</u></p>	<p>Local Government Act 2002 (Powers of arrest, search and seizure in relation to alcohol bans).</p>

Section	Clause Reference	Proposed Change	Reason
		<p>(e) Arrest <u>any</u> person who has been asked and refused to either leave a Public Place <u>the Alcohol Control Area</u> or to <u>surrender to a police constable any Alcohol that is in that person's possession in breach of the Bylaw.</u></p>	
25 Control of Objectionable Signs	25.1	Insertion of “in the opinion of an Enforcement Officer”	This change is recommended to make it clear who has the authority to make a decision on whether a sign breaches this clause of the Bylaw.
	Explanatory note below clause 25.3	<p>Insertion of Explanatory Note below clause 25.3 as follows:</p> <p><i>Explanatory Note: Any sign must also comply with the requirements of the Manawatū District Plan.</i></p>	The inclusion of this explanatory note is to inform users that there are other requirements for signs that must also be considered in addition to the requirements of the Bylaw.
26 Commercial Sexual Premises	26.1 and 26.2	<ul style="list-style-type: none"> Combining of clauses 26.1 and 26.2 (clauses 7.1 and 7.2 in the Objectionable Signs Bylaw 2014; 	To simplify the Bylaw it is recommended that clauses 26.1 and 26.2 are combined into a single clause that sets out where signs for commercial sexual services may be located. In doing so, the wording “other than in accordance with clause

Section	Clause Reference	Proposed Change	Reason
		<ul style="list-style-type: none"> • Replacement of an Advertising Sign” with “a Sign”; • Insertion of “On the Premises in which the Commercial Sexual Services are provided” in sub-clause (a); and • Replacement of “the area described in clause 7.2(a)” with “of the Business Zone” in sub-clause (b) 	<p>7.2” has been deleted from the end of clause 26.1 and “The restriction in clause 7.1 does not apply to Advertising Signs:” has been deleted from the start of clause 26.2.</p> <p>As noted above, the definition of an “Advertising Sign” has been replaced by a “Sign.” This change is for consistency with the changes to the definitions.</p> <p>The addition to sub-clause (a) is to limit the location of signs advertising Commercial Sexual Services to the actual premises where the services are provided.</p> <p>The amendments to sub-clause (b) are to simplify it.</p>
	26.3	<ul style="list-style-type: none"> • Deletion of clause 26.3; and • Insertion of and Explanatory Note as follows: <i>Explanatory Note: Any Sign must also comply with the requirements of the Manawatū District Plan.</i> 	<p>Clause 26.3 has been replaced by an explanatory note that refers users to the signage requirements of the District Plan which also must be complied with. The requirements of the District Plan will not be enforced through the Bylaw, so it is more appropriate that these requirements be included in an explanatory note rather than within a clause.</p> <p>The prohibition of pictorial images in clause 26.3 is unnecessary as if any image used on a sign is objectionable in any way it can be removed under clause 25.1.</p>

Section	Clause Reference	Proposed Change	Reason
27 Exemptions to Section 25 and Section 26		Insertion of "Section 25 and 26" to section heading.	Given the wide range of topics covered by the draft Bylaw there are other clauses referring to exemptions. The addition to the heading is to make it clear for users what these exemptions relate to.
	27.1	Replacement of "the Bylaw" with "section 25 and section 26 of the Bylaw"	As the Objectionable Signs Bylaw 2014 only included one set of clauses relating to exemptions the reference to "the Bylaw" was appropriate. However, now that the draft Bylaw contains more than one set of exemptions it is necessary to specify the sections that these exemptions relate to within the clause to prevent confusion.
	27.2	Replacement of "that council may prescribe from time to time in the" with "prescribed in"	These changes are for consistency with other clauses about fees and charges within the draft Bylaw and other recently adopted bylaws.
28 Activities Requiring Consent		Deletion of Section 28 in its entirety	This section duplicates the permit requirements in section 10 of the draft Bylaw so should be deleted.
29 Offences and Breaches	29.1	Insertion of "or any terms and conditions on any permit issued under this Bylaw"	This addition is proposed so that Council is also able to undertake enforcement action against any permit holder who fails to comply with the terms and conditions of any permit issued under this Bylaw. This is needed as clause 10.10 of the draft Bylaw only gives an Enforcement Officer the authority to revoke or amend a permit if a permit holder is operating in breach of any terms or conditions of their permit, not to take further enforcement action.

Section	Clause Reference	Proposed Change	Reason
30 Repeals, Savings and Transitional Provisions	30.1 and 30.2	Insertion of a new clauses 30.1 and 30.2 that revoke the Objectionable Signs Bylaw 2014, Street Users Bylaw 2014 and Public Places Bylaw 2015 at the commencement date of this Bylaw. However, any resolutions passed under these bylaws or any legal proceedings under these bylaws will proceed as if the bylaws had not been revoked.	This new Bylaw will replace these three current Bylaws. It is necessary to revoke the current bylaws at the commencement date of the new Bylaw to ensure that there are not two bylaws in force at the same time managing the same activities. Clause 30.2 ensures that any legal proceedings under the current bylaws that are underway at the time the current bylaws are revoked are able to continue as if the current bylaws had not been revoked.
	30.3	<p>Amendments to clause 30.3 as follows:</p> <p>Any consent, or permit or exemption granted under <u>the Public Places Bylaw 2015</u>, the Objectionable Signs Bylaw 2014 or the Street Users Bylaw 2014 Chapter 2 of the Manawatu District Bylaw 2008 that was in force immediately before the commencement of this Bylaw, continues in force as if it is a consent, permit, <u>or exemption</u> of that kind issued under this Bylaw, but:</p>	<p>The Objectionable Signs Bylaw 2014, Public Places Bylaw 2015 and Street Users Bylaw 2014 each contain a section relating to the continuation of consents, permits or exemptions granted under the bylaw that were in force immediately prior to the commencement of the new Bylaw. These clauses have been combined. As the types of approvals or exemptions granted under the different Bylaws differ, it is necessary to refer to consents, permits and exemptions within this clause.</p> <p>These clauses referred to the Manawatu District Bylaw 2008 as this is the Bylaw that preceded the Objectionable Signs, Street Users and Public Places Bylaw. This reference has been updated to refer to the current bylaws that are being revoked by this new combined Public Places Bylaw.</p>

Section	Clause Reference	Proposed Change	Reason
		(a) Expires on the date specified in such consent, permit <u>or exemption</u> ; or	
	30.4	<p>Amendments to clause 30.4 as follows:</p> <p>Any resolution or other decision made under <u>the Public Places Bylaw 2015</u>, the Objectionable Signs Bylaw 2014 or Street Users Bylaw 2014 Chapter 2 of the Manawatu District Bylaw 2008 remains in force in the area to which it applied, <u>as if they were resolutions made under this Bylaw</u>, until revoked or replaced by an equivalent resolution or decision made by the Council under this Bylaw.</p>	<p>These amendments have been made as the Manawatu District Bylaw 2008 preceded the Objectionable Signs, Street Users and Public Places Bylaw. This clause needs to refer to the most recent version of the Bylaws that this new bylaw is replacing.</p> <p>The insertion of “as if they were resolutions made under this Bylaw” has been added based on legal advice.</p>
Schedule 1 Skateboarding Ban	N/A	Deletion of Schedule 1 Skateboarding Ban	This schedule is proposed to be deleted as Council wants to focus on user behaviour through clause 6.1 as opposed to a ban on the use of skating devices in the Feilding CBD. Council also wants to

Section	Clause Reference	Proposed Change	Reason
			encourage the use of active modes of transport including skateboards, scooters, roller blades and so on as this has environmental and health benefits.
Schedule 1 – Prohibited UAV Flying Zones	N/A	Insertion of Schedule 1 Prohibited UAV Flying Zones	This is a new schedule which is referenced in Section 9 of the draft Bylaw.
Schedule 2 – Horse Control Areas	N/A	Replacement of maps with new images. Deletion of the legend from the bottom of the maps.	The horse control areas are unchanged but the maps have been re-generated to improve image quality. Also, the legend at the bottom of the maps has been removed as it refers to “area in which horses are not allowed to remain.” This wording is inconsistent with the new wording in clause 14.3 of the draft Bylaw so has been deleted to avoid confusion.