

# **Control of Advertising Signs Bylaw 2014**

**September 2014**

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## Control of Advertising Signs Bylaw

### 1 Introduction

This bylaw is made in accordance with the Local Government Act 2002, the Land Transport Act 1998 and the Bylaws Act 1910.

### 2 Purpose

The purpose of this bylaw is to ensure that advertising signs are erected, maintained, and displayed in such a manner that they do not present a hazard or danger to public safety. The bylaw recognises there is a need to advertise businesses and promote activities, events and commerce whilst also seeking to maintain aesthetic standards and preserve amenity values.

#### NOTES:

The New Zealand Transport Agency as a road controlling authority has its own bylaws for the control of signs on State Highways within the District.

Other bylaws, in addition to this bylaw, may also apply to signs.

### 3 Interpretation

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

#### Chief Executive Officer

means the person appointed as the Chief Executive Officer of Council or such officer as he or she delegates to act on his or her behalf.

#### Display area

means the area of the sign (not including its supporting structure) that is visible from any aspect.

#### Public amenity sign

means a sign placed, painted, or erected by Council, or by any other person with the prior consent of the Chief Executive Officer, for purposes other than commercial advertising.

#### Road and/or street

Has the meaning given to these terms in Section 2(1) of the Land Transport Act 1998.

#### Sign

means a temporary or permanent visual message or other notice conveyed to the public which is visible from a public place:

- i. to display, advertise or identify a product, business or service, or
- ii. to inform or warn the public; and
- iii. it includes any frame, supporting device and associated ancillary equipment.

A "sign" includes, but is not limited to:

- a. Any mural, message or notice painted on, affixed to or otherwise incorporated to a building, structure, or property; or
- b. Any banner, flag, poster, billboard, sandwich board, wind sock, blimp or projection of light to create an advertising image whether or not it is affixed to or otherwise incorporated to a building, structure or property; or
- c. Any bunting that has symbols or messages on it; or
- d. Any vehicle on which a sign is displayed.

#### 4 **Offensive and discriminatory signs**

No person shall:

- a. Erect or display any sign that explicitly or implicitly:
  - i. Is discriminatory or advocates discrimination;
  - ii. Is objectionable, offensive, threatening or insulting; or
  - iii. Incites or counsels any person(s) to commit any offence.

#### 5 **Signs on Council roads, parks and reserves**

Notwithstanding any other provision in this bylaw, no person shall erect or display any sign including attaching a sign in any way to a pole, fence, street furniture or other public utility structure in a public place under the control of Whangarei District Council including a park or reserve, unless approved by the Chief Executive Officer or delegate.

#### 6 **Real Estate Signs**

Notwithstanding any other provision in this Bylaw, the following signs advertising the sale, lease or auction of land or premises on which the sign is situated on the property being sold, leased or auctioned or on road reserve immediately adjacent to the property being sold, leased or auctioned are permitted:

- i. one sign up to 3m<sup>2</sup> in display area; or
- ii. up to a maximum of four signs, each not exceeding 1 m<sup>2</sup> in display area,

No person shall erect or display or allow to be erected or displayed:

- i. Any sign advertising land or premises for sale, auction or lease after the date upon which the purchaser or lessee takes possession of that land or premises, or the date of that settlement, whichever is the earlier; or
- ii. any sign (other than a sign advertising land or premises for sale, auction or lease) for more than two days following completion of the event to which the sign relates; or
- iii. more than one sign on any land or premises (being a sign advertising that land or premises for sale, auction or lease) for each real estate agency involved in the sale, auction or leasing of that land or premises; or
- iv. any sign advertising an open home other than prior to the day of the event or after the event concludes.

#### 7 **Signs on or over roads, footpaths and public places**

No person shall erect or display or allow to be erected or displayed any sign in such a position as to be on, or project over any road, private street, or public place other than the following:

- a. Signs affixed to any structure including any portable box or barrow where the sign advertises the product, service or event being offered from that structure; or
- b. Signs securely fastened and extending up to 100mm into a public place where fastened to the wall of a building in an area zoned as a Business Environment under the Whangarei District Plan; or
- c. Signs in an area zoned as a Business Environment under the Whangarei District Plan up to a maximum 1 m<sup>2</sup> in display area, including any sandwich board or flag advertising commercial or industrial premises placed immediately outside or adjacent to such premises, provided that such sign shall not cause any obstruction, nuisance or danger to either pedestrian or vehicular traffic. Where any commercial or industrial premises has more than one street frontage then that premises may have one sign on each street frontage.

#### 8 **Signs on verandahs**

No person shall erect or display or allow to be erected or displayed any sign on a verandah overhanging a road or a public place other than a sign that is:

- a. No less than 2.4 m above the footpath beneath the sign; and
- b. Set back at least 600 mm horizontally from an imaginary vertical line at the road kerb; and
- c. If located on a verandah fascia, be not more than 900 mm in depth or protrude more than 200 mm from the fascia; and

- d. If located under the verandah, at right angles to the fascia line, and be limited to one per site; and
- e. If located on top of the verandah, be not more than 1.2m high, not more than 1.8m<sup>2</sup> in area and no more than one per site; and
- f. Advertising only goods, services or products available on the site of the sign.

## 9 Signs affecting Traffic Safety

No person shall erect or display or allow to be erected or displayed a sign where in the opinion of the Chief Executive Officer or delegate that sign would create a traffic hazard or a traffic safety issue having regard to whether it would:

- a. Obstruct or be likely to obstruct the view of any corner, bend, intersection, vehicle crossing, traffic sign or traffic signal;
- b. Distract unduly or be likely to distract unduly the attention of road users;
- c. resemble or be likely to be confused with any traffic sign or signal;
- d. give rise to excessive levels of glare, use flashing or revolving lights or ,reflective materials or moving images that may interfere with a road user's vision;
- e. invite drivers to turn so close to a turning point that there is no time to signal and turn safely;
- f. constitute or be likely to constitute in any way a danger to road users.

## 10 Commercial Signs

- a. No person shall erect or display or allow to be erected or displayed a sign for commercial purposes on any property other than on the property where the goods, services or products advertised for sale are available.
- b. A project sign to identify the nature of the project and the professional participants for the duration of the construction period is permitted. Such signs shall not exceed three square metres in display area and shall be erected on a construction site or the site of a project.

## 11 Signs on vehicles

No person shall display or allow to be displayed a sign on any vehicle which is stationary on any road, where that vehicle is being used primarily for the purpose of exhibiting the sign.

No person shall display a sign on any vehicle on any private property other than on any property at which the goods, services and products advertised on that vehicle are offered for sale where the vehicle is being used primarily for the purpose of exhibiting the sign.

## 12 Sign parks

Sporting, cultural, public amenity or community event signs may be erected in designated Council sign parks only with the approval of the Chief Executive Officer or delegate. Sites are available subject to any terms and conditions the Chief Executive Officer or delegate may specify, including payment of a fee in accordance with Council's current Fees and Charges schedule.

## 13 Banners in the Cameron Street Mall

Sporting, cultural, public amenity or community event banners may be erected in the Cameron Street Mall only with the approval of the Chief Executive Officer or delegate. A site is available subject to any terms and conditions as the Chief Executive Officer or delegate may specify, including payment of a fee in accordance with Council's current Fees and Charges schedule.

## 14 Sporting, cultural, public amenity or community event signs

Signs advertising a forthcoming sporting, community or cultural event up to a maximum sized display area of 3 m<sup>2</sup> may be placed on the Council road reserve provided that such signs:

- a. Shall not be erected more than 21 days prior to the event
- b. Shall be removed within two days after the event concludes; and
- c. Shall not be placed within the vehicular carriageway or footpath.

## 15 Election signs

A sign or signs for general or local electioneering or referendum purposes, for a maximum period of two (2) months prior to polling day shall be permitted provided that the sign shall not exceed:

- a. 3m<sup>2</sup> in display area in areas zoned as Living Environments under the Whangarei District Plan, or

- b. 2m<sup>2</sup> in display area in areas zoned as the Open Space Environment under the Whangarei District Plan, or
- c. 6m<sup>2</sup> in display area in all other zoned Environments under the Whangarei District Plan.

Any election sign shall be removed the day before polling day.

## 16 General requirements for construction and maintenance of signs

All signs, other than signs permitted under clause 14 of this bylaw, shall be professional in presentation and be well constructed.

All signs must be fixed, placed and maintained in a manner so they do not pose a danger to property or the public. This shall be the responsibility of the sign owner and/or the owner of the land or building on which the sign is placed.

## 17 Exemptions

Where a sign lawfully existed prior to the coming into force of this bylaw, but it does not comply with this bylaw, it may remain in place and be repaired, or maintained, provided that such work does not increase the physical size or the extent of its non compliance with this bylaw.

Where the Chief Executive Officer or delegate is satisfied that compliance with any requirement of this bylaw would be unreasonable or impractical, an exemption from compliance with the bylaw may be granted on such conditions as the Chief Executive Officer or delegate considers appropriate.

In making a decision to exempt any sign from the provisions of this bylaw, the Chief Executive Officer or delegate will have regard to:

- i. the purpose of the sign
- ii. the benefits to the community of that sign
- iii. the potential for proliferation of signs
- iv. the duration the sign will remain erected
- v. the effect on amenity in the area of the sign
- vi. the size of the sign
- vii. traffic safety

## 18 Application of this bylaw

This bylaw does not apply to any :

- i. public amenity sign; or
- ii. Council sign containing, traffic or direction information; or
- iii. street or place naming sign;
- iv. sign indicating the presence of any hazardous substances and/or a hazardous facility; or
- v. signs erected pursuant to any statute or regulation; or
- vi. signs that have obtained a resource consent.

This bylaw does not affect any conditions placed on signs by a rule in the District Plan or any resource consent.

## 19 Seizure of property not on private land

Council has powers of seizure of property not on private land under the Local Government Act 2002.

- a. An enforcement officer may seize and impound property that is not on private land if—
  - i. the property is materially involved in the commission of an offence; and
  - ii. it is reasonable in the circumstances to seize and impound the property; and
  - iii. before seizing and impounding the property, the enforcement officer—
    - directed (orally or in writing) the person committing the offence to stop committing the offence; and
    - has advised (orally or in writing) the person committing the offence that, if he or she does not stop committing the offence, the enforcement officer has power to seize and impound the property; and
    - provided the person with a reasonable opportunity to stop committing the offence.

- b. However, if the property is not in the possession of a person at the time the enforcement officer proposes to seize and impound the property, the enforcement officer does not have to comply with subsection 19 a.
- c. Council may recover the costs of removing or altering any non-complying sign from the person who committed the breach including from the proceeds of disposal by sale.

## **20 Seizure of property on private land**

Council has powers of seizure of property on private land under the Local Government Act 2002. In accordance with 165 of the Local Government Act 2002, Council may apply for a search warrant authorising an enforcement officer to enter private property involved in the commission of an offence, and seize and impound property.

## **21 Repair or Removal of Signs**

The Chief Executive Officer or delegate may, by notice in writing require the owner, occupier or lessee of any land where an unsightly, non-complying, unsafe or unauthorized sign is located to repair or remove that sign within a period stated in such notice.

Where the owner or user of a sign, or the owner of land over or on which a sign is located, receives a notice given under this clause, that person shall comply with the requirements of the notice within the time specified in the notice.

Where any person has been requested to alter or remove any non-complying, unsafe or unauthorized sign, that sign shall not be altered or replaced unless the altered or replacement sign complies with this bylaw.

Where any person fails to comply with any requirement to alter or remove any sign, the Chief Executive Officer or delegate may have the sign altered or removed. The cost incurred in altering or removing the sign shall be recoverable as a debt against the owner of the sign or the owner of the land on or over which the sign was placed.

Any sign removed by the Chief Executive Officer or delegate shall be released to the owner upon payment of the costs incurred in its removal and storage.

## **22 Offences**

Every person who breaches this bylaw commits an offence.

## **23 Compliance with clauses**

All signs, whether permitted or not must comply with clauses 4,5,6,7,8,9,10,11 and16.