

Notice of Meeting:

I hereby give notice that an ordinary meeting of Hamilton City Council will be held on:

Date: Friday 9 October 2015
Time: 10:00am
Meeting Room: Committee Room 1
Venue: Municipal Building, Garden Place, Hamilton

Richard Briggs
Chief Executive

Business and Investment Subcommittee OPEN AGENDA

Membership

Chairperson Her Worship the Mayor J Hardaker
Members Cr M Forsyth
Cr A King
Cr A O'Leary
Cr R Pascoe

Quorum: Three members

Meeting Frequency: Quarterly – or as required

Brendan Stringer
Committee Advisor

6 October 2015
Telephone: 07 838 6768
Brendan.Stringer@hcc.govt.nz
www.hamilton.govt.nz

Terms of Reference:

- To enhance Hamilton's economic position.
- Promote investment and business attraction opportunities for Hamilton.
- Oversee implementation of the Economic Development Agenda.
- To receive information and provide advice in relation to potential major developments.
- Recommend funding for Hamilton & Waikato Tourism (HWT) and Hamilton Central Business Association (HCBA) and receive six monthly/quarterly and annual reports.
- Develop and recommend to the Strategy and Policy Committee the Central City Transformation Plan.
- Develop and recommend a strategy to optimize use of the Municipal Endowment Fund and the Domain Endowment Fund by 30 March 2014.

Special Notes:

- The sub-committee may request expert advice through the Chief Executive when necessary.
- This sub-committee monitors Hamilton Properties Ltd.

Power to act:

- Recommend funding for Hamilton & Waikato Tourism (HWT) and Hamilton Central Business Association (HCBA) to the Finance Committee or Council.
- Make operational decisions that are aligned to the outcomes of the Economic Development Agenda.

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1 Apologies

2 Confirmation of Agenda

The Committee to confirm the agenda.

3 Declaration of Interest

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

Committee: Business and Investment
Subcommittee

Date: 09 October 2015

Report Name: Business and Investment
Subcommittee Open Minutes
15 September 2015

Author: Brendan Stringer

Status	<i>Open</i>
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Recommendation

That the Subcommittee confirm and adopt as a true and correct record the Open Minutes of the Business and Investment Subcommittee Meeting held on 15 September 2015.

1. Attachments

2. Attachment 1 - Business and Investment Subcommittee Open Minutes - 15 September 2015

Business and Investment Subcommittee

OPEN MINUTES

Minutes of a meeting of the Business and Investment Subcommittee held in Committee Room 1, Municipal Building, Garden Place, Hamilton on Tuesday 15 September 2015 at 2:30pm.

PRESENT

Chairperson	Her Worship the Mayor J Hardaker
Members	Cr M Forsyth Cr A King Cr A O’Leary Cr R Pascoe

In Attendance	Cr G Chesterman
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Richard Briggs – Chief Executive
 Sean Murray – Executive Director H3 & Events
 Lance Vervoort – General Manager Community
 Lee-Ann Jordan – Chief of Staff
 Chris Simpson – Business Manager

Also In Attendance	David Heald – Director and Trustee, Chartwell Trust (<i>Item C3 Only in the Public Excluded Session</i>) Kiri Goulter – Chief Executive, Hamilton and Waikato Tourism (<i>Item 6 Only</i>) Graeme Osborne – Board Chair, Hamilton and Waikato Tourism (<i>Item 6 Only</i>) Sandy Turner- General Manager, Hamilton Central Business Association (<i>Item 7 Only</i>) Greg Wills – Board Chair, Hamilton Central Business Association (<i>Item 7 Only</i>)
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Committee Advisor	Mr B Stringer
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1. Apologies

The Chair noted that Cr Pascoe had indicated he would be retiring early from the Meeting.

2. Confirmation of Agenda

The Chair proposed that the Public Excluded reports were to be considered by the Subcommittee after Item 3 (*Declarations of Interest*).

Resolved: (Her Worship the Mayor Hardaker/Cr O'Leary)
The Committee to confirm the Agenda.

3. Declarations of Interest

No members of the Committee declared a Conflict of Interest.

Item 11 was introduced at this time in accordance with the Confirmation of Agenda.

11. Resolution to Exclude the Public

In response to questions, the Executive Director H3 & Events ('the Executive Director') confirmed that the grounds to exclude the public for Item C4 – Sale of the Beggs Wiseman Building – remained correct, notwithstanding that the tender process had been completed. The Chief Executive supported this position and advised that the Subcommittee could resolve to release the information to the public after the item was debated during the public excluded session.

Resolved: (Her Worship the Mayor Hardaker/Cr Forsyth)

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Business and Investment Subcommittee Public Excluded Minutes 18 June 2015) Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)
C2. Business and Investment Subcommittee Action List - Public Excluded - 15 September 2015)	
C3. Land Behind Artspost - Development Site Update		
C4. Sale - Beggs Wiseman Building		

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Item C1.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C2.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C3.	to enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h) Section 7 (2) (i)
Item C4.	to enable Council to carry out negotiations to enable Council to carry out commercial activities without disadvantage to enable Council to carry out negotiations	Section 7 (2) (h) Section 7 (2) (i)

The Meeting moved into a Public Excluded session (2:37pm to 3:27pm).

4. Business and Investment Subcommittee Open Minutes 18 June 2015

Resolved: (Her Worship the Mayor Hardaker/Cr Pascoe)

That the Subcommittee confirm and adopt as a true and correct record the Open Minutes of the Business and Investment Subcommittee Meeting held on 18 June 2015.

5. Business and Investment Subcommittee Action List - Open - 15 September 2015

Resolved: (Her Worship the Mayor Hardaker/Cr O'Leary)

That the report be received.

6. Hamilton and Waikato Tourism Year End Report to 30 June 2015

The Chairperson welcomed Graeme Osborne, Chair of Hamilton and Waikato Tourism ('HWT') and Kiri Goulter, Chief Executive HWT, who presented their report and circulated a copy of HWT's Annual Activities Report to the Subcommittee members, which was tabled. The following matters were highlighted:

- International tourism figures were above the national average, though further work was required in relation to attracting domestic visitors.
- Good progress had been made in relation to events and conferences.
- Significant contributions had been made to regional tourism by the private sector.
- Council's work on the Central City Transformation Plan and River Plan provided a vision and drive for the city which was welcomed.

The HWT representatives responded to the following questions:

- **Strategy for Hamilton City**

- More commercial propositions were required to be offered that would encourage travel agents to refer their customers to Hamilton. The Hamilton Gardens and activities around the Waikato River were noted as current examples, and they provided something different to other locations in New Zealand. HWT were exploring ways to create a commissionable product connected to the Gardens.
- Opportunities existed to enhance the retail hospitality offering as part of the city's urban experience.
- A cross-agency approach was required to improve domestic visitor numbers.

- **Connection with Maaori**

While the Waikato Museum told the story of the local Maaori well, there was a need for more entrepreneurs to bring this alive. Increased momentum from Tainui was expected in this space.

- **Jetstar**

Hamilton International Airport submitted the bid for Jetstar to operate flights through Hamilton. It was acknowledged that Jetstar's priority was to connect into its hub in Auckland.

The Chairperson thanked the HWT representatives for their presentation.

Resolved: (Her Worship the Mayor Hardaker/Cr O'Leary)

That the report be received.

Cr Pascoe retired from the Meeting (3:40pm) during Item 6 and did not take part in voting.

7. **Hamilton Central Business Association (BID) Year End Report to 30 June 2015 and Strategic Business Plan 2015/16**

The Chairperson welcomed Sandy Turner, General Manager of the Hamilton Central Business Association ('HCBA') and Greg Wills, Chair HCBA, who noted the following highlights from the last year:

- Completion of stage one of the Embassy Park project;
- Positive feedback received in relation to the People's Project and the improved vibe for safety issues in the city;
- Focus on improved social media and the launch of HCBA's digital strategy in October 2015 that would enable retailers to sell their products online via HCBA's website; and
- Development of the Central City Transformation Plan ('CCTP') and River Plan.

The HCBA representatives responded to the following questions:

- **Parking**

The Association recognised there were mixed views on parking in the central city. It would cover this issue in its submission to Council on the CCTP at the relevant time.

- **New Tenancies**

There had been an increase in new retail tenancies, some of which originated as pop-up stores or from local markets.

- **City Safe**

Once the annual survey on central city safety was completed, it was expected that positive messages would be circulated.

- **Association's Branding**
The Association would revisit this issue in 2016.

Resolved: (Her Worship the Mayor Hardaker/Cr O'Leary)

That the report be received.

The Meeting adjourned (4:20pm to 4:25pm)

8. **Central City Transformation Plan ('CCTP')**

The Executive Director spoke to the report and advised that should the Strategy and Policy Committee approve public engagement for the CCTP, the proposed Public Open Day would now take place on Wednesday, 30 September 2015; recommendations would be made to the Strategy and Policy Committee at its meeting on 8 December 2015.

The Executive Director responded to the following questions:

- **Consultation Period**
The Executive Director stated that while the public engagement period could be extended to four weeks from the recommended three weeks, he did not consider that the additional week would provide significantly more feedback. It was noted that the River Plan's consultation period was three weeks.
- **Page 6 – Framework for Actions**
It was suggested that the draft CCTP should:
 - distinguish between Strengths that had been completed and those that were aspirational.
 - clarify under 'Challenges' that it was the perception of safety issues that needed to be addressed.
- **Page 7 – Distribution of Retail Spending in Hamilton**
Chartwell was included under the 'Balance of Hamilton' category.
- **Page 46 – Implementation & Timeframes**
Staff would review and consider how to identify and keep track of actions that were part of 'business as usual' operations.
- **District Plan**
Staff advised that the proposed reshape of the central city was to encourage developers to undertake certain activities in the designated precincts. It was noted that:
 - the CCTP contemplated a project to review the District Plan to align with precinct identities and support District Plan variations, if required; and
 - City Planning staff had previously advised should any District Plan variations be required that these would be best considered following the conclusion of the Proposed District Plan appeals and the River Plan process in order for all variations to progress together.
- **Funding**
CCTP projects that were not included within the 10-Year Plan would need to be presented to Council for funding to be approved on a case-by-case basis.

Resolved: (Cr O'Leary/Her Worship the Mayor Hardaker)

Recommendation to Strategy and Policy Committee

That:

- a) the report be received;
- b) the Subcommittee approves the draft Central City Transformation Plan and recommends it to the Strategy and Policy Committee for approval for public engagement, noting that the final plan will be reported to the Committee for approval on 8 December 2015; and
- c) the timetable for public engagement is approved and recommended to the Strategy and Policy Committee for approval.

Cr King dissenting

9. Policy Reviews

The Executive Director took the report as read and responded to the following questions:

- **Gateways Policy**
City Transportation staff would address whether it was a policy or plan that was needed as part of their review, and whether it continued to be required.
- **Street and Directional Signage Policy**
This policy had been replaced by a Signage Manual, with significant matters proposed to be picked up in any revised Gateways Policy.
- **Public Places Policy and Bylaw**
Staff were requested to consider the following issues in their review:
 - i. To make the policy and bylaw more concise and clearer;
 - ii. To make it easier for trading activities to take place, including promotion of mobile shops in the city and to reassess whether a fee was required to permit outdoor dining facilities.
- **Municipal Endowment Fund Investment Policy**
This policy was due a scheduled review, which would consider if the Endowment Fund could be used to better effect. It was noted that the Chief Finance Officer and Executive Director Special Projects were to take this review forward, including obtaining legal advice on any changes recommended.

Resolved: (Her Worship the Mayor Hardaker/Cr O'Leary)

Recommendation to Strategy and Policy Committee

That:

- a) the report be received;
- b) the following recommendation is made to the Strategy and Policy Committee:
That the Street and Directional Signage Policy be deleted;
- c) the following policy updates are presented at the November Business and Investment Subcommittee meeting:
 - i) Gateways Policy;
 - ii) Streetscape Beautification and Management Policy;
 - iii) Municipal Endowment Fund Investment Policy and Freeholding Council Domain and Municipal Endowment Leases Policy; and
 - iv) Public Places Policy and Bylaw.

10. Review of Business Improvement District (BID) Policy

The Executive Director spoke to the report and noted that the purpose of the proposed membership of the working group to undertake the policy review was to provide a degree of independence. It was also suggested that a member of the Subcommittee sit on the working group.

In response to questions, the Executive Director acknowledged it was important to have the appropriate balance on the working groups, including independent retail expertise and an understanding of BIDs operating in other parts of New Zealand and overseas.

Resolved: (Her Worship the Mayor Hardaker/Cr Forsyth)

That:

- a) the report be received;
- b) the terms of reference for the BID Policy review are approved and the working group is to report back to the Subcommittee on 18 November 2015;
- c) the Chief Executive is authorised to appoint the members of the BID Policy working group; and
- d) the Business and Investment Subcommittee member appointed to the working group is Councillor O'Leary.

The Meeting was declared closed at 5:18pm.

Committee: Business and Investment
Subcommittee

Date: 09 October 2015

Report Name: Draft Public Places Policy and
Bylaw

Author: Kelvin Powell

Report Status	<i>Open</i>
Strategy, Policy or Plan context	<i>Draft Central City Transformation Plan</i>
Financial status	<i>There is not budget allocated</i>
Assessment of significance	<i>Having regard to the decision making provisions in the LGA 2002 and Councils Significance Policy, a decision in accordance with the recommendations is not considered to have a high degree of significance</i>

1. Purpose of the Report

2. To approve the draft Public Places Policy and Public Places Bylaw for recommendation to the Strategy and Policy Committee.

3. Recommendations from Management

That:

- a) the report is received;
- b) the **draft Public Places Policy** is approved for recommendation to the Strategy and Policy Committee;
- c) the **draft Public Places Bylaw** is approved for recommendation to the Strategy and Policy Committee; and
- d) the following public engagement timeframe is recommended to the Strategy and Policy Committee:
 - i. Public engagement for the bylaw and policy commences following the Council meeting in November 2015 and remains open until 15 January 2016.
 - ii. The Business and Investment Subcommittee meet on 3 February 2016 to approve any changes to the policy if any, and to hold hearings and deliberate on the bylaw.
 - iii. Recommendations are made to the Strategy and Policy committee meeting on 11 February 2016.
 - iv. The Council approve the bylaw at its meeting on 18 February 2016.

4. Attachments

5. Attachment 1 - Public Places Policy 2009
6. Attachment 2 - Public Places Bylaw 2009
7. Attachment 3 - Draft Public Places Policy

8. Attachment 4 - Draft Public Places Bylaw
9. Attachment 5 - Survey results

10. Background

11. The Strategy and Policy Committee allocated review of the Public Places Policy and Public Places Bylaw to the Business and Investment Subcommittee. At its meeting on 15 September 2015, the Business and Investment Subcommittee resolved to receive the review outcomes at this meeting. (Report linked [here](#)).
12. On 24 September 2015 (Report linked [here](#)) the Council confirmed that a bylaw continues to be the most appropriate mechanism to manage commercial activity in public places while ensuring pedestrian access and public safety is not compromised. The Council also approved the following timetable to ensure the bylaw was in place prior to its expiry early in 2016:
 - A draft bylaw, in conjunction with a draft policy, be presented to the Strategy and Policy Committee on 3 November 2015 to be adopted for public engagement.
 - An extraordinary meeting of Council be convened on 3 November 2015 to adopt the bylaw for public engagement.
13. The City Environment Unit applies and enforces the policy and bylaw. The Public Places Policy was first approved in 2009 and provides the policy guidance for a wide range of activities in public places, including outdoor dining, signs and busking. Its purpose is to minimise public nuisance and protect public health and safety. The Public Places Bylaw provides the Council with powers to regulate activities in public places based on the content of the policy.
14. The policy and bylaw apply to all public places in the city (excluding parks, domains and reserves which have their own policy and bylaw). The City Safe Unit has identified changes required to the policy based on their experience with the policy and has also sought input from HCBA and others in considering the review. Staff conducted a survey earlier this year seeking feedback from key stakeholders and a copy of the results of the survey are Attachment 5. The City Safe Unit has also contacted a number of councils around the country to ascertain their approaches to managing commercial activity and public access and safety in public places.

15. Discussion

16. Attached are:
 - The current policy and bylaw (Attachments 1 and 2).
 - The drafts for the updated policy and bylaw (Attachments 3 and 4).
17. The policy and the bylaw have been updated to the new Council templates and updated for plain language. Superfluous wording has been removed, standardised terminology included and sections that relate to operational use of the policy (such as the information required for applicants) has been moved to the schedules. Policy changes are set out below.
18. There is no change to the central city map. The current area defined as the central city for the purposes of the policy works well and covers the areas that relate specifically to central city issues.
19. **The Public Places Policy (PPP)**
20. The changes proposed by staff for discussion with the subcommittee are divided into technical changes and policy changes:

21. Technical changes:
- (a) Adding an additional purpose on page 3 clause 2.VI.
 - (b) Updated definitions to ensure they aligned with the definitions used in other policies and bylaws and changes in legislation (enforcement officer, road, public place).
 - (c) The inclusion of flags and banners in the definition of 'Sign'.
 - (d) Inclusion of a definition for 'Shade Awning'.
 - (e) New Schedule 3 containing the information about applications. Some of this was previously included in the body of the policy and has been included in a schedule because more clarity is required for the public to know what is required when applying for permits.
22. Policy changes:
- (a) A change from 9pm to 6pm for outdoor dining barriers and supervision to commence.
 - (b) Mobile shops:
 - Permission for up to 3 mobile shops to operate in the central city with conditions attached to operation (see clause 4). The current policy does not allow mobile shops to operate in the central city.
 - A change to the start time for mobile shops to 6am. The current policy is 8am.
 - A change to the end time for mobile shops to 10pm. The current policy is 8.30pm.
 - (c) A change to the hours buskers are allowed to operate within – from 7am – 1am. The current policy is from 8.30am – 8.30pm.
 - (d) The inclusion of a new section on 'other activities' on footpaths in clause 6. This is to give policy guidance to staff to respond to requests for promotional activities on footpaths. The current policy has no guidance.
 - (e) Schedule 1 – Footpath Layouts:
 - Standardisation of the width of the clearway on footpaths to 2 metres and standardisation for that clearway to be in the centre of the footpath. The current policy includes various clearways for different areas in the central city which creates confusion and is not necessary for the policy to operate effectively balancing public health and safety with public enjoyment of activities.
 - Standardisation of footpath layouts including that the continuous 2 metre clearway is in the centre of the footpath. The current policy contains a variety of footpath layouts for different streets. These are not necessary for the policy to operate effectively and a standardised clearway gives assistance to those with disabilities.
 - (f) The section on Garden Place has been removed as general policy clauses apply.
23. **Public Places Bylaw**
24. There are no changes to the Public Places Bylaw apart from those identified in paragraph 12 and 15 (b) and (c) above.
25. **Public Engagement**
26. A councillor briefing on the draft policy and bylaw is proposed for 20 October 2015.
27. Four weeks public engagement and hearings are required before the Public Places Bylaw can be approved.

- 28. If the Subcommittee approves the changes to the Public Places Policy proposed by staff, public engagement is recommended because there is high interest in the policy from the hospitality and retail sectors and public engagement will ensure they have an opportunity to give their views.
- 29. Taking into account the holiday break, the following timeframe is recommended:
 - (a) Approval of the draft bylaw and policy by Strategy and Policy Committee on 3 November 2015 and then subsequent approval of the bylaw at the November Council meeting.
 - (b) Public engagement for the bylaw and policy commences following Council approval in November and given the holiday break, remains open until 15 January 2016.
 - (c) The Business and Investment Subcommittee meet on 3 February 2016 to approve any changes to the policy if any, and to hold hearings and deliberate on the bylaw.
 - (d) Recommendations are made to the Strategy and Policy committee meeting on 11 February 2016.
 - (e) The Council approve the bylaw at its meeting on 18 February 2016, to ensure the bylaw is in operation within the legal requirements.

Signatory

Authoriser	Sean Murray, Executive Director, H3 and Events
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Hamilton City Council
POLICY MANUAL

Subject	Public Places Policy	File Reference	30/0/1-15 & 13/1.
Approved By	Council	Date Approved	25 February 2009
		Date In Force	1 July 2009
		Date Reviewed	
Sponsor	General Manager Environmental Services & City Planning	Community Outcome	Vibrant & Creative

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Hamilton City Council

POLICY MANUAL

Section 1 – Introduction

- 1.1 The Hamilton City Public Places Policy (“the policy”) outlines Hamilton City Council’s (“Council”) approach towards a wide range of activities in public places. Powers to regulate activities in public places are outlined in the Hamilton City Public Places Bylaw 2008.
- 1.2 Activities in public places such as al fresco dining or street performance can add to the vibrancy, creativity and look and feel of our city. This policy ensures that such activities are managed in an appropriate way to ensure that Hamilton’s public places are lively and attractive whilst not compromising safety and access.
- 1.3 Businesses, groups and individuals that are permitted to use public places for trading activities are responsible for managing those activities in accordance with the provisions outlined in this policy. This policy also provides guidance on regulations pertaining to signs not covered in the District Plan (i.e. signs on unzoned land).

Section 2 – Principles of the policy

- 2.1 Council will refer to the following principles when considering activities in public places:
 - Providing rich and diverse culinary, entertainment and art experiences that generate vitality and discourse
 - Hamilton promotes enterprise to all its communities
 - Getting about on foot or by bike is easy, our streets are aesthetically attractive, welcoming and encourage walking and cycling
 - Encouraging the chance encounter, where casual contact can flourish to generate new possibilities and development
 - Celebrating Hamilton’s character, reflecting the uniqueness of its setting and enhancing the culture of the city and its people
 - Reflecting the diversity and the rich lifestyles of its population, and encouraging a vibrant mix of people, ages, uses and activities
 - Adding to the city’s vibrancy and strengthening the existing function of areas
- 2.2 These principles provide a strategic context for Council. They reflect what Council is seeking to achieve in the administration of this policy. Any activity which Council seeks to regulate will give due consideration to the overarching principles in this policy.

Section 3 – Purpose of the policy

- 3.1 The purposes of this policy are to;
 - Protect the public from nuisance.
 - Protect, promote, and maintain public health and safety.
 - Minimise the potential for offensive behaviour in public places.
 - Regulate trading in public places.
 - Regulate, control, or prohibit signs.

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Section 4 – Definitions

Busker	means any person/s performing for voluntary donations in any public place, such as an itinerant musician or actor
Council	means Hamilton City Council
Enforcement officer	means a person appointed by Council to exercise the powers of an enforcement officer in relation to offences against, and infringement offences under, the Local Government Act 2002, including enforcement of the bylaws of Council
Footpath sign	a device for advertising that is placed on the footpath
Hawker	means any person/s who, in a public place, solicits sales or orders for sales of any goods, not in pursuance of any invitation to call with, or of any previous order or request for such goods but does not include any person who operates a vehicle as a mobile shop
Heritage precinct	areas of special heritage character as defined in the Hamilton City District Plan
Heritage buildings	buildings of special heritage character as defined in the Hamilton City District Plan
Mobile shop	means a vehicle from which goods are offered or exposed for sale in any public place, or from which goods or services may be ordered (whether or not in pursuance of any invitation to call) but does not include any vehicle used for the purpose of transporting goods pursuant to a prior order placed for the delivery of goods
Market	any outdoor place, accessible to the public, where goods are offered for sale, which usually consists of a number of merchandise stalls grouped together
Merchandise display	a display located in a public place outside a premise from which goods are offered or exposed for sale
Public Place	means a place that is: <ul style="list-style-type: none"> a. under the control of Council; and b. open to, or being used by, the public, whether or not there is a charge for admission; and includes: c. a road, whether or not the road is under the control of Council; and d. any part of a public place; but e. excludes reserves which are regulated by the Parks, Domains and Reserves Bylaw 2007
Road	includes: <ul style="list-style-type: none"> a. Every road, street or public highway under Council's control;

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- b. Any land that is vested in Council for the purpose of a road as shown on a deposited survey plan;
- c. Any land that is vested in Council as a road or street pursuant to any other enactment;
- d. Any access way or service lane;
- e. Every square or place intended for use of the public generally;
- f. Every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;
- g. But, except as provided in the Transit New Zealand Act 1989 or in any regulations under that Act, does not include a motorway within the meaning of that Act.

Road frontage	the front/s of a premise that face out onto a public place.
Sign	includes any poster, placard, handbill, writing, picture, or device for advertising or other purposes that is displayed in, upon or over any public place
Stall	includes any stationary yet moveable stand or similar structure on or at or from which goods are sold or exposed for sale

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Section 5 – Outdoor dining areas

5.1 Overview

- 5.1.1 With a rapidly growing café, bar and restaurant culture, Hamilton is now enjoying a tradition of eating and drinking al-fresco. In order to manage the increasing popularity of outdoor dining areas, Council has introduced an outdoor dining area plan and permit system.
- 5.1.2 Cafes, bars and restaurants wishing to use part of the footpath space directly outside their premises for the purposes of outdoor dining or drinking must apply to Council for an outdoor dining permit, which will include the submission of an outdoor dining area plan. The outdoor dining permit will regulate the use of all street furniture used in outdoor dining areas.
- 5.1.3 Council is aware of the competing interests in the use of city footpaths and seeks through this policy to balance the needs of various users. Accordingly, Council has developed a set of conditions which cover the location and design of outdoor dining facilities.
- 5.1.4 They present an integrated approach to the design and management of the city's public realm to improve its usage, quality and image. These conditions provide a streamlined process for issuing permits for street furniture.
- 5.1.5 An applicant wishing to serve alcohol as part of an outdoor dining area should apply to Council for a liquor licence or an extension to an existing liquor license. Please refer to Council's Licensed Premises Policy.

5.2 General conditions

- 5.2.1 Applications for a **Outdoor Dining Permit** must include two copies of a plan and specifications of the proposed outdoor dining area on a scale of 1:50 showing:
- I. the location and dimensions of the proposed outdoor dining area;
 - II. the position of furniture including tables and chairs, planter boxes, screens, heaters, blinds/dividers, patio heaters, signage and umbrellas to be provided in the proposed outdoor dining area (please refer to the regulations pertaining to street furniture contained in this policy).
 - III. the area either side of the boundaries (up to 10 metres) of the proposed area indicating the location of all footpaths, public facilities, public places, streets and street alignments.
 - IV. Photographs or brochures of the furniture to be set up in the proposed outdoor dining area
 - V. Specifications of any enclosures or screens/dividers including ground and supporting fixtures. This includes any semi continuous or continuous overhead, side and front enclosures (including those that are retractable) that are supported by any fixed supports, structural frames or columns in the public place, whether or not the enclosure is occupied by outdoor furniture.
- 5.2.2 The outdoor dining area must not cause any damage to any ornamental verge or kerbing.

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- 5.2.3 Use of fixed furniture is not permitted.
- 5.2.4 All street furniture (tables, chairs, planter boxes, pull-down blinds etc) should be arranged within the agreed dining areas. No item of outdoor dining furniture should impinge the continuous clearway or setbacks from the kerb, loading zones etc (see clause 5.3).
- 5.2.5 No street furniture should have sharp edges or projections which may cause injury and all street furniture should be of durable construction.
- 5.2.6 Permit holders are responsible for cleaning the footpath and the removal of litter in the outdoor dining areas.
- 5.2.7 No waste material including sweepings, detergents and cleaning agents shall be disposed of into the street gutter or stormwater drains.
- 5.2.8 An outdoor dining permit must be either displayed or be available for inspection by an enforcement officer upon request.
- 5.2.9 The owner of the premise must keep in full force and effect a policy of public liability insurance to a minimum value of \$2,000,000 indemnifying Council against any claim arising from damage caused by any piece of outdoor furniture outlined in this policy.
- 5.2.10 The maximum patron density in the dining areas approved under this policy should be one per square metre.
- 5.2.11 From the hours of 9pm until the end of the approved business day the boundaries of an outdoor dining area should be clearly defined through use of barriers or other appropriate street furniture.
- 5.2.12 From the hours of 9pm until the end of the approved business, adequate supervision of the outdoor dining area must be maintained.
- 5.2.13 Between the end of the approved business day and 7am all street furniture used in an outdoor dining area must be secured together and, as far as practicable, removed from the footpath or when requested by Council to facilitate street works, services or repairs, or other public utilities.
- 5.2.14 Council will inform permit holders should a special event will require the removal of some or all of the street furniture used in outdoor dining areas during normal business hours.
- 5.2.15 Ashtrays must be provided, except where smoking is prohibited.
- 5.2.16 An applicant wishing to serve alcohol as part of an outdoor dining area should apply to Council for a liquor license or an extension to an existing liquor license. Please refer to Council's Licensed Premises Policy.

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5.3 Layout of outdoor dining areas

- 5.3.1 All outdoor dining areas should observe the following layout requirements (refer to the specific dimensions outlined in schedules 1 and 2)

5.4 Continuous clearway and setbacks

- 5.4.1 There must be at least 2m of unobstructed and continuous footpath width in the CityHeart, Hamilton East and Frankton, with the exception of 1.7m in Victoria Street. A minimum unobstructed footpath width of 1.5m must be maintained in all other areas of the city.
- 5.4.2 All continuous clearways must have a vertical clearance of 2.2m. The location of the continuous clearway should be between the premise-side dining area and the kerb-side dining area, with the exception of Victoria Street (West) where the clearway will be next to the kerb-side setback (refer to schedule 1 for street layouts for Victoria Street (East and West) and Hood Street)
- 5.4.3 The kerb-side dining area should maintain a minimum setback from the kerb of 0.5m (as outlined in schedule 1). This will provide adequate space for access to parking meters and opening of vehicle doors.
- 5.4.4 A minimum setback of 1m must be maintained from all intersections, street trees, street furniture (such as benches), cycle racks, phone boxes, loading zones, mobility parking spaces and bus stops.

5.5 Café umbrellas, shade awnings

- 5.5.1 Umbrellas must be of stable design and properly secured to prevent blowing over in strong wind.
- 5.5.2 They must not penetrate or damage the surface of Council footpaths nor interfere with pedestrian movement.

5.6 Planter boxes

- 5.6.1 Planter boxes must be strong, durable and wind resistant. They should be well maintained with attention paid to the upkeep of plants.
- 5.6.2 Planter boxes must not be fixed to the footpath.

5.7 Heaters

- 5.7.1 Heaters may be free standing or fixed to verandas.
- 5.7.2 Overhead heaters must be securely fixed to verandas and should be turned off outside of hours of business.

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- 5.7.3 Freestanding patio heater should be of stable design and of a height not exceeding 2.5 metres measured from the base to the top of the heater. They should be located on a flat surface.
- 5.7.4 All heaters be located away from combustible materials and used in accordance with the operating instructions. They must not be placed where they pose a safety or fire hazard.
- 5.7.5 Fire extinguishing equipment must be kept in close proximity to where the heaters are being used.

5.8 Pull-down blinds and screens

- 5.8.1 Requests to include screens and/or pull-down blinds in outdoor dining areas will be assessed on a case by case basis. Due consideration will be given to the potential for the screen/pull-down blind to obscure surveillance by Council CCTV cameras and to safety issues for pedestrians, cyclists and motorists due to the obscuring of sight lines.
- 5.8.2 Should an applicant wish to use screens and/or pull down blinds this information must be included with the permit application and outdoor dining area plan. Details of any proposed fixing of a pull down blind to the pavement must also be included.
- 5.8.3 All pull-down blinds must be furled outside of the hours specified in the outdoor dining area permit.
- 5.8.4 Screens must be removed from the footpath outside of the hours specified in the outdoor dining area permit.

5.9 Barriers

- 5.9.1 Barriers may be used to define the boundaries of an outdoor dining area
- 5.9.2 Barriers shall not exceed a maximum height of 0.9m.
- 5.9.3 Clearance from the ground is required to allow stormwater run-off
- 5.9.4 Barriers must be of stable construction to prevent blowing over in strong wind.

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Section 6 – Conditions for signs

6.1 Overview

6.1.1. Council's Hamilton City Proposed District Plan ("District Plan") contains provisions which regulate signage on all zoned land within the city. However, the District Plan does not regulate signs in public places, such as footpath signs and signs upon verandas.

6.1.2 Signs which are erected for or on behalf are Council are exempt.

6.2 General conditions

6.2.1 No person shall erect a sign in or over a public place without first obtaining a permit from Council.

6.2.2 No Council owned land is to be used for erecting election signs for Parliamentary Elections or Local Body Elections. Please see Council's Election Sign Policy.

6.2.3 For conditions regarding billboards and street banners consult Communication and Marketing, Hamilton City Council, 1st Floor, Municipal Building.

6.2.4 For general conditions regarding signs in public places please consult the Public Places Bylaw 2008.

6.2.5 All signs shall be maintained in good order and condition. An enforcement officer may issue a notice requiring specified remedial work to be carried out if that officer reasonably believes the sign does not comply with this provision or if a sign will cause a safety hazard.

6.3 Footpath signs

6.3.1 The following conditions will apply to footpath signs:

- I. A footpath sign should be no larger than 600mm wide by 750mm high with a maximum base area of 0.45 square metres.
- II. A footpath sign must be located in the premise-side or kerb-side areas and should not impinge on the continuous clearway and observe setbacks (see section 5).
- III. A maximum of one sign per road frontage. Requests for additional footpath signs will be considered on a case by case basis.
- IV. The footpath sign must not obscure the visibility of road users.
- V. The footpath sign must not resemble a warning sign or road traffic sign.
- VI. The footpath sign must not have sharp edges or projections which may cause injury to pedestrians.
- VII. The sign must be constructed so as to be secure against all weather conditions and gusts of wind .

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- VIII. No sign shall be placed in a position that restricts vehicles access to a right of way or to any public place to which vehicles have a right of access.
- IX. An enforcement officer may request removal of sign/s to allow works or maintenance services to take place.
- X. Advertising shall not be illuminated, have reflective surfaces or resemble a traffic sign.
- XI. If footpath signs have a base, they should be designed to be detectable to a visually impaired person navigating the footpath with the aid of a cane i.e. the incorporation of a bar or panel spanning the otherwise base of the object.
- XII. All signs are to be removed from the footpath outside of hours of business.

6.4 Veranda signs

- 6.4.1 Signs attached beneath verandas should leave a clearance of 2.75m to the footpath
- 6.4.2 Signs attached beneath verandas should observe a set back of 0.5m from a vertical line from the edge of the kerb.
- 6.4.3 Signs located on top and on the fascia of a veranda shall not extend beyond the fascia of the building and will be set back not less than 0.5m from an imaginary vertical line from the road kerb.
- 6.4.4 Veranda signs are restricted to signs advertising businesses, services or products located on the site associated with the sign.
- 6.4.5 Signs located on top or beneath verandas should be structurally sound and be affixed to the veranda in a safe manner.

6.5 Signage in Heritage precincts

- 6.5.1 The design and location of signage in a public place within a heritage precinct or outside a heritage building (as defined or listed in the Hamilton City District Plan) must be compatible with the heritage significance of the area or the building so as not to detract from that significance.
- 6.5.2 Special consideration will be given to signage approval associated with heritage areas or outside heritage buildings, to ensure that signage does not materially affect the heritage value of the area and/or building.
- 6.5.3 Signage within heritage precincts or outside heritage buildings will be subject to the conditions for signs above as well as being assessed on a case by case basis to ensure that they do not detract from the heritage significance of the area or building.

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Section 7 – Conditions for markets, stalls, merchandise displays and mobile shops

7.1 Overview

7.1.1. Trading in public places can add life and vibrancy to a city however consideration must also be given to those people and businesses which could experience adverse affects. Council's policy is to generally favour trading in public places in organised street markets but will consider applications for individual stalls.

7.2 Street markets

7.2.1 An applicant for a market must provide the following information to Council:

- I. A scale plan delineating:
 - the extent of the public area to be occupied
 - the siting and the number of market stalls proposed
 - any associated facilities such as public toilets.
 - II. Specifications of any barriers, signs and screens including any ground supporting fixtures.
 - III. A traffic management plan showing
 - the location of ingress and egress to the market
 - any parking provided, any temporary measures to control traffic to and from the market site
 - measures for loading and unloading of market goods and stall set up and pack down
 - the contact details for a person responsible for implementing the traffic management plan.
 - IV. Details of public liability insurance
 - V. The name, address and contact details of the applicant and market operator.
 - VI. The details of the type of market stalls, hours of operation and names, addresses and contact details for each market stall operator.
 - VII. Evidence that all market stalls selling, preparing and handling food comply with food hygiene regulations.
 - VIII. Evidence that all market stalls selling alcohol hold the necessary liquor license
- 7.2.2 Details of the cleaning arrangements following the business hours of the market will be agreed as part of the application process.
- 7.2.3 It will be the responsibility of the market operator to ensure that individual stall owners have applied for any necessary liquor licenses.

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7.2.4 It will be the responsibility of the market operator to ensure that individual stall owners comply with the above conditions.

7.3 Individual stalls

Council's general policy is to encourage stalls to be part of managed street markets (see above) however applications for individual stalls will also be considered on a case by case basis.

The following conditions will apply to individual stalls:

- I. Stalls must not sell offensive material.
- II. Stalls should not obstruct or hinder the flow of pedestrians in any public place.
- III. Stalls selling, preparing and handling food must comply with food hygiene regulations.
- IV. Stalls selling alcohol must hold the necessary liquor licenses.

7.4 Merchandise Display

7.4.1 The following conditions will apply to merchandise displays:

- I. Merchandise should be placed up against the façade of the shop to which the merchandise belongs.
- II. Merchandise displays must observe the same requirements on setbacks and clearways as outdoor dining areas. There must be at least 2m of continuous unobstructed footpath width in the CityHeart (1.7m in Victoria Street), Hamilton East and Frankton retail areas (see schedule1). A minimum unobstructed footpath width of 1.5 metres to apply in all other areas. A vertically clear continuous route of 2.2 metres to be maintained in all areas.
- III. The merchandise display must not have sharp edges or projections which may cause injury to pedestrians, be any form of nuisance nor display offensive material.
- IV. Merchandise displays are to be removed outside normal trading hours which are 8.30am to 8.30pm and when requested by Council officers to facilitate street works, services or repairs, or other public utilities.

7.5 Mobile shops conditions

7.5.1 The following conditions will apply to mobile shops:

- I. A mobile shop must not operate within the Hamilton CityHeart area except for events and street markets that have the prior permission of Council (see schedule 2 for a map of the CityHeart area)

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- II. A mobile shop must be at least 50 metres away from an intersection.
- III. The location of the mobile shop must not result in an infringement of parking or traffic statute or bylaw.
- IV. Mobile shops selling, preparing and handling food must comply with food hygiene regulations.
- V. Mobile shops selling alcohol must hold the necessary liquor licenses
- VI. Selling of goods is only permitted from the kerbside.
- VII. Trading permitted only during the hours of 8am to 8.30pm.
- VIII. Permit must be displayed at all times.
- IX. Trading should not be to be undertaken until all required licences or permits relevant for the particular good and/or service being traded have been obtained.

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Section 8 – Use of Garden Place and Civic Plaza

8.1 General Conditions

8.1.1 The following conditions apply to the use of Garden Place and Civic Plaza.

- I. Private vehicles may enter Garden Place and Civic Plaza to transport materials to the event. Prior approval is required from Council for the vehicles to be given access.
- II. The use of a sound system is permitted in Garden Place and Civic Plaza, however if a noise complaint is received it will be dealt with following Council's noise compliant procedures.
- III. A building consent is required if an applicant wishes to erect a marquee or tent that has a floor area exceeding 50 square meters or if the a marquee or tent will be erected for a period of longer than one month.
- IV. The maximum period of stay for a private vehicle is to be no longer than 30 minutes, except if otherwise agreed with Council. Such time restrictions will not apply to emergency vehicles.
- V. There should be no obstruction of public seating
- VI. Pedestrians should not be impeded or inconvenienced in any way.
- VII. The area should be left clean and tidy upon completion of use.
- VIII. Permission to use the lawn area in Garden Place may be given but may be withdrawn if it rains on the day of the proposed event. This is to ensure the condition of the lawn area is maintained to a high standard.

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Section 9 – Conditions for Busking, Hawking and Charitable collections

9.1 Busking conditions

9.1.1 Buskers must apply for a busking permit from Council before commencing trading. The following conditions will apply to buskers:

- I. No busker shall impede or inconvenience the flow of pedestrians and customers.
- II. Buskers must be courteous and mindful of surrounding businesses and the general public. If valid complaints are received, a permit may be revoked by Council.
- III. Busking will only be permitted between the hours of 8.30am and 8.30pm.
- IV. Buskers must not enter any premises unless authorised by a person having control of those premises.
- V. Buskers are to carry a copy of the permit at all times and shall produce a copy of the permit to any enforcement officer upon request.
- VI. Buskers are not permitted to use voice enhancement equipment, including, but not limited to, microphones, amplifying equipment and loud hailers, unless they are part of an event for which Council approval has been given.
- VII. A reasonable level of noise is to be maintained at all times having regards to the place and situation. If, at the Council's discretion, it is decided that a reasonable level of noise has not been maintained a permit may be revoked by Council.
- VIII. Failure to comply with any of these conditions may result in a permit being cancelled, varied and/or prosecution.

9.2 Hawkers conditions

9.2.1 The following conditions will apply to hawkers:

- I. Hawkers are not permitted in the CityHeart.
- II. Hawkers must not enter premises which display a written notice prohibiting their entry.
- III. Shop doorways must be kept clear.
- IV. When visiting premises, a Hawker must leave immediately if requested to do so by the owner or occupier of the premises.
- V. Identification must be worn at all times.
- VI. The flow of pedestrians must not be impeded or inconvenienced in any way.

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VII. Every hawker is to trade only during the hours of 8.30am and 8.30pm, 7 days per week.

9.3 Charitable collections

9.3.1 Prior approval must be given by Council to collect charitable donations in a public place.

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Section 10 – Obtaining Council approval

10.1 Overview

10.1.1 Council will issue permits for the following:

- Outdoor dining areas ¹
- Signs in public places (including footpath signs)
- Street markets
- Individual stalls
- Merchandise displays
- Mobile shops
- Busking
- Charitable collections
- Garden Place/Civic Plaza Use

10.2 How to apply

10.2.1 Applicants wishing to apply for a Council permit should contact Business Support at Ground Floor, Municipal Building, Garden Place or on 07 838 6633.

10.3 Changes to permits

10.3.1 Requests for changes to Council permits should be made to Business Support (contact details above).

10.4 Expiry of permit

10.4.1 A permit shall be valid for a period of 12 months from the date of issue, unless otherwise stated on the permit. A permit will automatically expire when the business holding the permit is sold.

10.5 Permit renewal process

10.5.1 Provided the permit holder has complied with the terms and conditions of their permit Council may renew the permit for a period of up to 12 months upon receipt of an application in writing and the required fee, and upon such terms and conditions as the Council considers appropriate.

10.6 Transfer of permits

10.6.1 Permits issued under this policy are not transferable.

10.7 Cancellation of permit

10.7.1 A permit may be cancelled or amended if:

- I. the proprietor fails to comply with the permit conditions
- II. other valid reasons that require cancellation, such as streetscape upgrades or refurbishment

¹ Requests for tables, chairs, umbrellas, planter boxes, heaters, pull down blinds, screens, barriers and approval to sell alcohol should be submitted as part of an outdoor dining area application.

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Section 11 – Fees, monitoring and enforcement

11.1 Fees

11.1.1 Council will set fees to cover the cost of issuing permits and monitoring, enforcing and administering this policy. These will be reviewed annually and detailed in Council's Fees Schedule.

11.1.2 The applicant must pay the full permit fee and have met all the requirements of the permit prior to it being issued.

11.2 Monitoring

11.2.4 Council will monitor activities in public places regularly to ensure that permit conditions are being complied with and that no unauthorised activity is occurring in public places.

11.3 Enforcement

11.3.1 Council reserves the right to revoke permits if evidence of non-compliance is observed. The standard protocol for non-compliance is as follows:

- I. If a permit holder does not comply with the conditions of this policy, the Council will verbally notify the trader of the issue.
- II. If the problem persists, the Council will provide a written warning to that permit holder identifying the issue/s and required remedy.
- III. If the business continues to infringe, the Council will consider revoking the permit.
- IV. Individuals or groups that trade on footpaths or other public spaces without a permit will be asked to remove their material and cease with trading activity. Council will issue a written warning to the person.
- V. If the infringement persists, Council will reserve the right to confiscate the stall setup or trading material pursuant to sections 163 and 164 of the Local Government Act 2002.

11.3.2 The Council may dispose of confiscated property pursuant to section 168 of the Local Government Act 2002.

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POLICY MANUAL**Schedule 1 – Street layouts**

Garden Place and Civic Plaza	Horizontal width (m)	Vertical height (m)
Dining area next to premise	1.5	-
Continuous clearway	2.0	2.2
Dining area other side of clearway*	Varies	

Victoria Street (East) (River-side)	Horizontal width (m)	Vertical height (m)
Dining area next to premise**	2.8	-
Continuous clearway***	1.7	2.2
Dining area next to kerb	N/A	N/A
Set-back from kerb	0.5	-
TOTAL	5.0	-

Victoria Street (West) (City-side)	Horizontal width (m)	Vertical height (m)
Dining area next to premise	1.4	-
Continuous clearway	1.7	2.2
Dining area next to kerb****	1.4	-
Set-back from kerb	0.5	-
TOTAL	5.0	-

Hood Street	Horizontal width (m)	Vertical height (m)
Dining area next to premise	3.0	-
Continuous clearway	2.0	2.2
Potential dining area next to kerb****	4.0	-

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Set-back from kerb	0.5	-
TOTAL	9.5	-

Grey Street	Horizontal width (m)	Vertical height (m)
Dining area next to premise	1.5	-
Continuous clearway	2.0	2.2
Dining area next to kerb****	1.5	-
Set-back from kerb	0.5	-
TOTAL	5.5	-

* As there is no kerb in Garden Place or Civic Plaza the dining area on the other side of the continuous clearway may be extended so long as it does not impinge onto the grass area of Garden Place, bollards, street furniture or continuous clearways. The exact dimensions of the dining area should be agreed with Council.

** The premise side area may be wider where a premise is set back further from the footpath than other neighbouring properties. The only requirement is that the premise side dining area does not encroach into the continuous clearway or the required setbacks from street furniture.

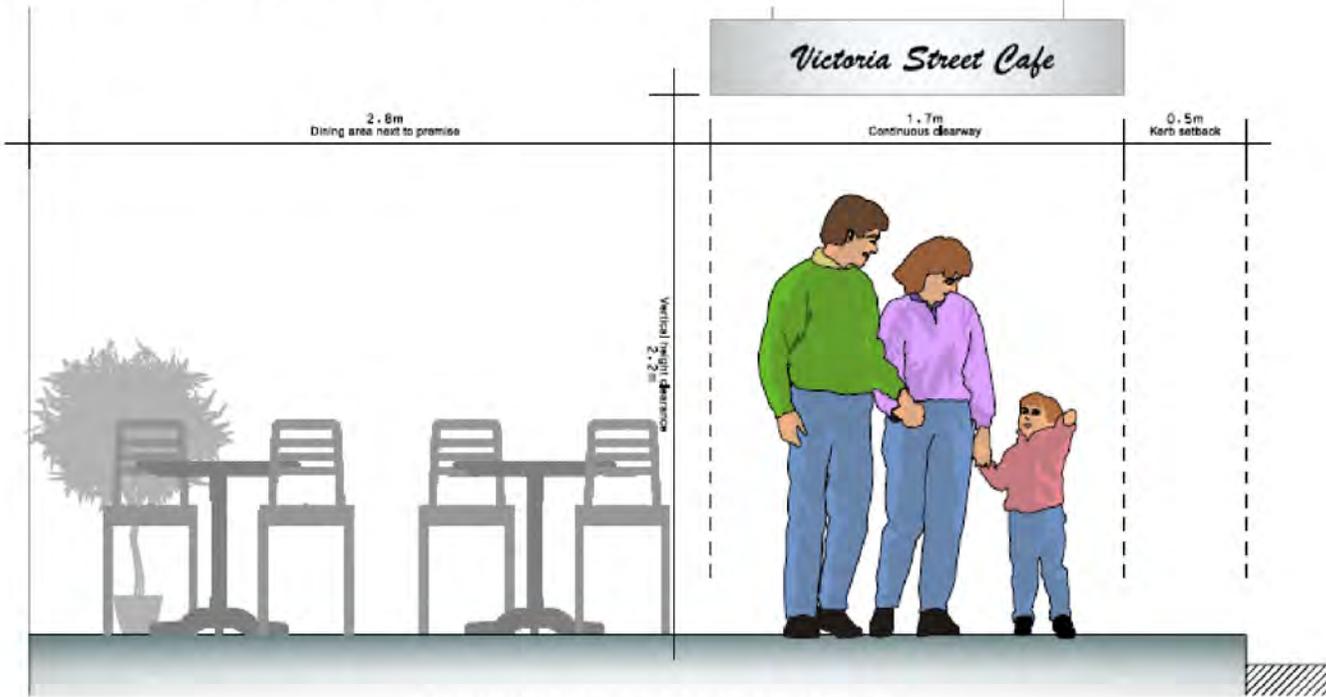
***The continuous clearway will be wider in sections of Victoria Street (East) where the footpath is wider

****Where the kerb width is greater than the general standard for this street, the dining area next to the kerb may be extended so long as it does not impinge onto the set-back from the kerb, other setbacks such as cycle racks or bus stops or the continuous clearway.

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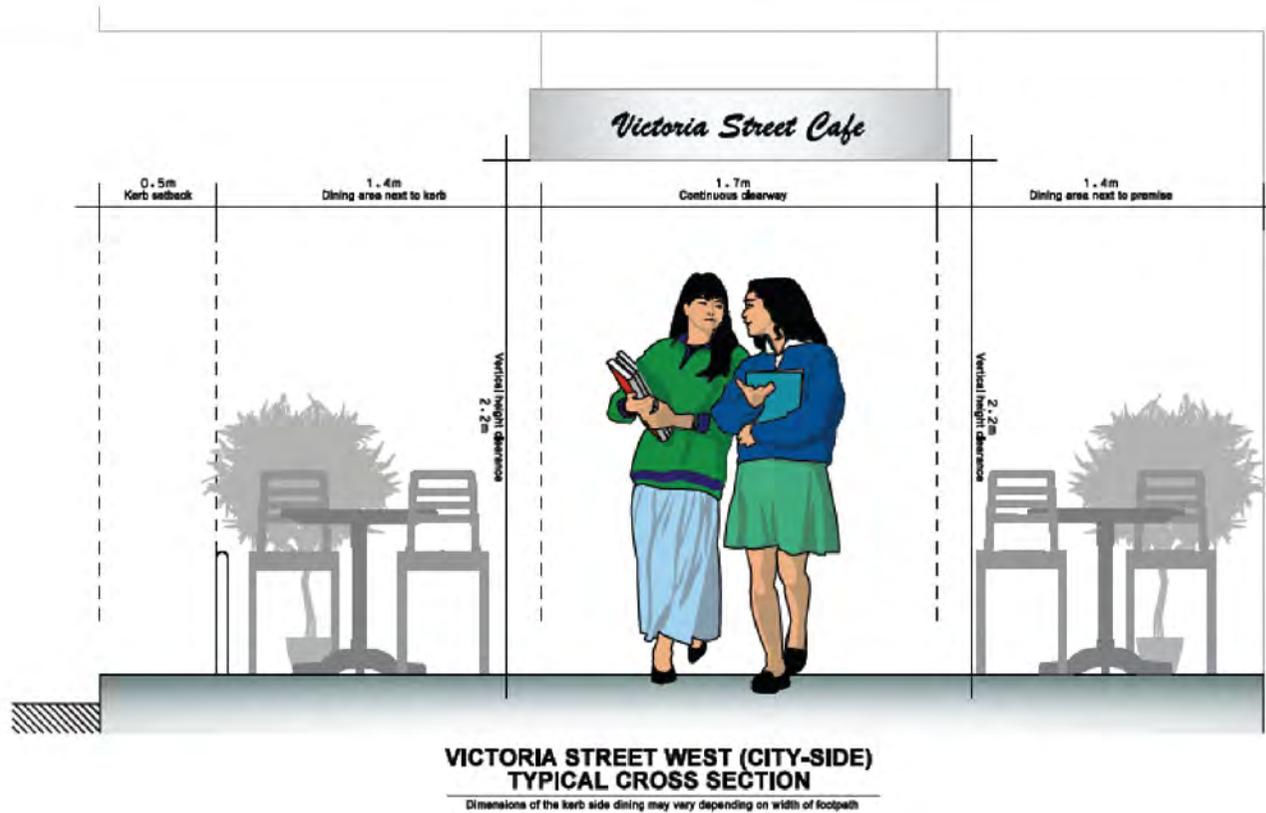
Schedule 2 — Street Layouts for Victoria Street (East & West) and Hood Street



**VICTORIA STREET EAST (RIVER-SIDE)
TYPICAL CROSS SECTION**

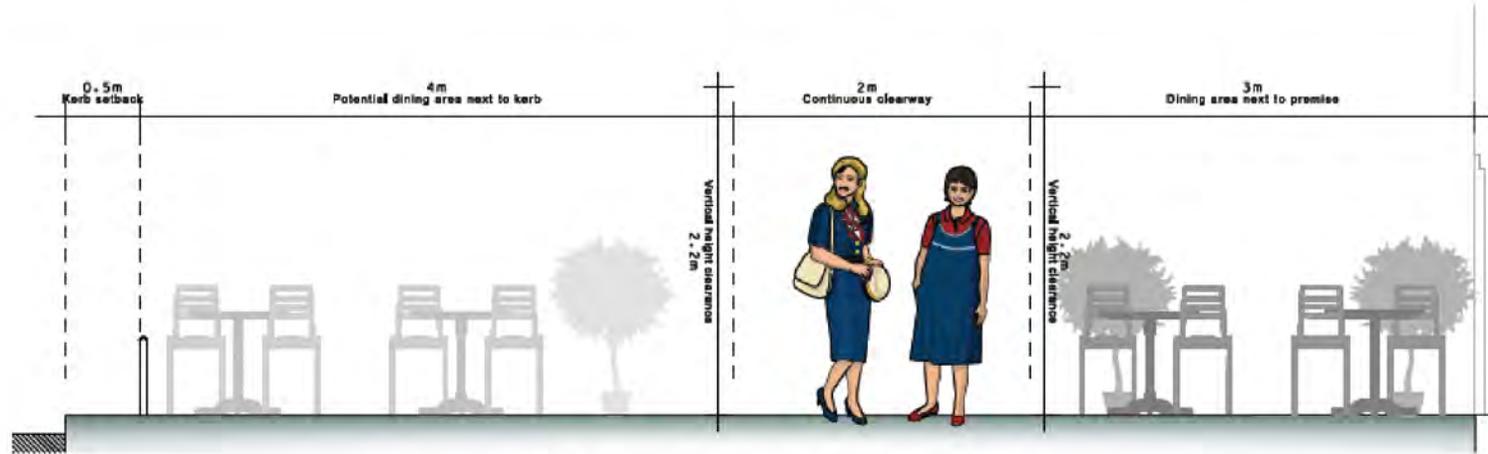
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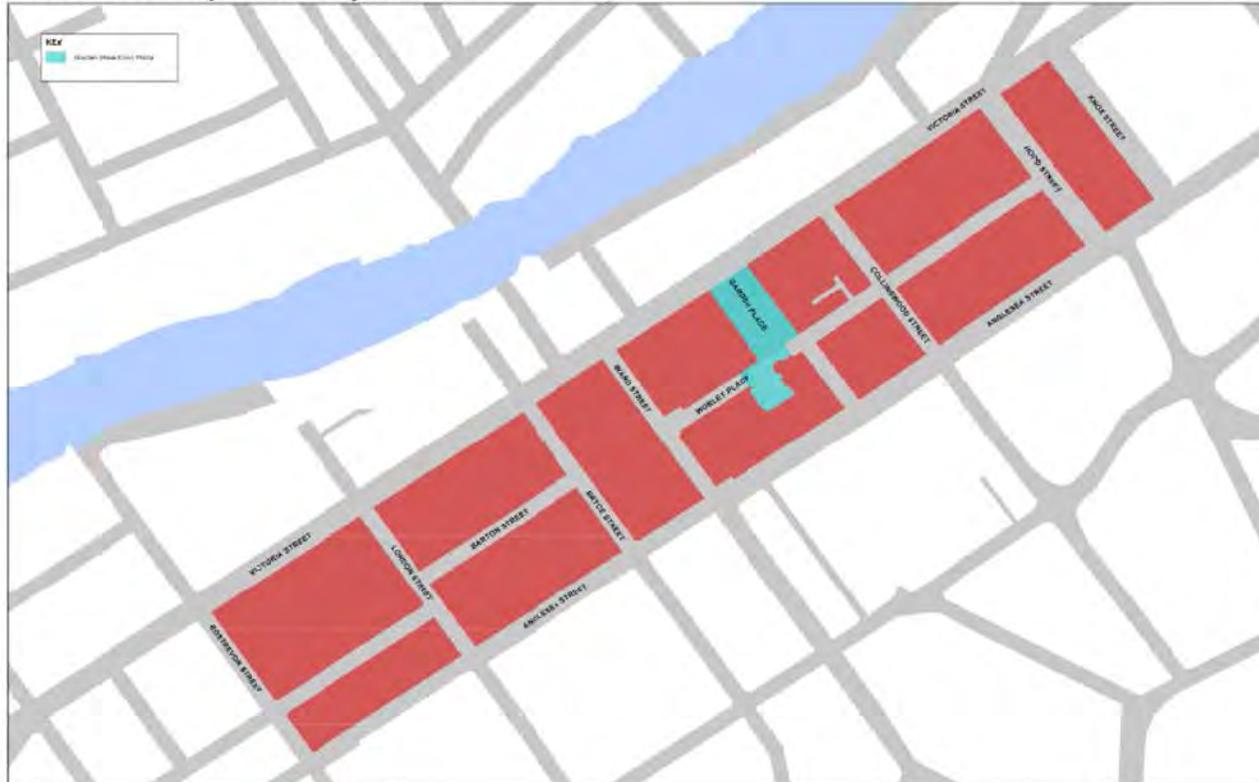
HOOD STREET TYPICAL CROSS SECTION

Dimensions of the kerb side dining may vary depending on width of footpath

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Schedule 3 –Map of the CityHeart



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THE HAMILTON CITY PUBLIC PLACES BYLAW 2009

Hamilton City Council makes this Bylaw under the Local Government Act 1974 and the Local Government Act 2002 ("the Act").

This Bylaw may be referred to as the Hamilton City Public Places Bylaw 2009 and applies to the whole of the district of Hamilton City Council.

1.0 Short title

1.1 This bylaw may be cited as the Hamilton City Public Places Bylaw 2009.

2.0 Revocation

2.1 This bylaw revokes and replaces the Hamilton City Trading in Public Places Bylaw 1999 and the Hamilton City Public Places and Signs Bylaw 1996.

3.0 Purposes

3.1 This Bylaw is made for the purposes of:

- a. Protecting the public from nuisance.
- b. Protecting, promoting, and maintaining public health and safety.
- c. Minimise the potential for offensive behaviour in public places.
- d. Regulating trading in public places.
- e. Regulating, controlling, or prohibiting signs.

4.0 Interpretation

4.1 In this bylaw, unless inconsistent with the context:

Enforcement Officer means a person appointed by Council to exercise the powers of an enforcement officer in relation to offences against, and infringement offences under, the Local Government Act 2002, including enforcement of the bylaws of Council

Council means Hamilton City Council

District	means the area controlled by Hamilton City Council
Designated	means specified by Council by resolution
General Manager	means the Council General Manager responsible for administration and enforcement of this Bylaw
Person	includes a natural person, incorporated company and a body of persons whether incorporated or not
Public Place	means a place that is: <ul style="list-style-type: none"> a. under the control of Council; and b. open to, or being used by, the public, whether or not there is a charge for admission; and includes: c. a road, whether or not the road is under the control of Council; and d. any part of a public place; but e. excludes reserves which are regulated by the Parks, Domains and Reserves Bylaw 2007
Road	includes: <ul style="list-style-type: none"> a. a. Every road, street or public highway under Council's control; b. Any land that is vested in Council for the purpose of a road as shown on a deposited survey plan; c. Any land that is vested in Council as a road or street pursuant to any other enactment; d. Any access way or service lane; e. Every square or place intended for use of the public generally; f. Every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof; g. But, except as provided in the Transit New Zealand Act 1989 or in any regulations under that Act, does not include a motorway within the meaning of that Act.
Sign	includes: <ul style="list-style-type: none"> a. any poster, placard, handbill, writing, picture, or device for advertising or other purposes; and b. that is displayed, or to be displayed upon or over any public building or bridge, building, wall, fence, post, tree, pavement, or hoarding, situated in or upon or adjoining any land or road that is either: <ul style="list-style-type: none"> i. the property of Council; or ii. under the control of the Council
Trade or trading	includes but is not limited to the exchange, purchase, or sale of goods; the provision of entertainment activities in return for donations; keeping a mobile shop; busking; hawking; locating and operating a stall; displaying merchandise; setting out street furniture

5.0 Intent

5.1 The intent of this Bylaw is to encourage the public to use public places while also allowing occupation and use of those public places for trading activities.

6.0 Public Places

6.1 Persons occupying or using public places should take all reasonable steps to:

- a. Protect the public from nuisance.
- b. Protect, promote, and maintain public health and safety.
- c. Minimise the potential for offensive behaviour in public places.

7.0 Fees

7.1 Council may charge a fee for any permit issued under this Bylaw.

7.2 Council may refund, remit, or waive any fee in situations determined by Council and set out in Council policy.

8.0 Permits for trading in a public place

8.1 Any person intending to trade in a public place must apply in writing to Council for the relevant permit and must pay the associated fee.

8.2 Council may issue permits on the basis of its current relevant policies.

8.3 Council may revoke a permit if the permit holder fails to comply with the conditions of the permit, and may refuse to issue that person with a new permit.

8.4 Permits are personal to the permit holder and are not transferable.

8.5 A permit holder may surrender a current permit.

9.0 Activities that may cause a nuisance

9.1 Any person intending to undertake an activity in a public place which is not specified in Council's Public Places Policy and which may cause a nuisance to the public in that public place must obtain permission from the General Manager before undertaking the activity.

9.2 The General Manager will not unreasonably withhold permission, and may impose conditions to protect the public from nuisance.

10.0 Activities that may have an adverse effect on public health or safety

10.1 Any person intending to undertake an activity in a public place which is not specified in Council's Public Places Policy and which may affect public health or safety in that public place must obtain permission from the General Manager before undertaking the activity.

10.2 The General Manager will not unreasonably withhold permission, and may impose conditions to protect, promote, or maintain public health and safety.

11.0 Permits for signs

11.1 Any person intending to display or continue to display any sign in upon or over public buildings or bridges, or upon or over buildings, walls, fences, posts, trees, pavements, or hoardings situated:

- a. In or upon or adjoining any land or road the property of or under the control of the Council; or
- b. In any manner so that it shall be visible from any such road or public place;

Must apply in writing to Council for a permit and must pay the relevant fee.

11.2 Council may issue permits on the basis of its current relevant policies.

11.3 Council may revoke a permit if the permit holder fails to comply with the conditions of the permit, and may refuse to issue that person with a new permit.

11.4 Permits are personal to the permit holder and are not transferable.

11.5 A permit holder may surrender a current permit.

11.6 Council may waive any application under this part of this Bylaw if the sign is permitted by the District Plan Rules or under a current valid resource consent.

NOTE: Resource Consent may be required for signs that are not covered by this Bylaw.

12.0 Existing signs

12.1 Council may remove any sign in a public place that:

- a. Does not comply with the requirements for issue of a permit under this Bylaw set out in Council policy; and
- b. Has not been used for advertising purposes for the six months preceding the making of this Bylaw.

12.2 Any sign that was lawfully displayed at the date this Bylaw is made that does not comply with the requirements for a permit may:

- a. Remain in place; and
- b. Be repaired, altered or maintained if such works will not increase the extent of its non-compliance with this bylaw.

13.0 Offences

13.1 The following are offences against this Bylaw:

- a. Obstructing emergency vehicles from gaining access to or egress from a public place.
- b. Obstructing service vehicles from gaining access to or egress from a public place.
- c. Trading in a public place without a valid permit issued under this Bylaw.
- d. Failure to produce a permit issued under this Bylaw to an authorised officer upon request.
- e. Failure to comply with the conditions of a permit issued under this Bylaw.
- f. Causing a nuisance in a public place, without permission from the General Manager, or in breach of a condition imposed by the General Manager.
- g. Affecting public health or safety in a public place, without permission from the General Manager, or in breach of a condition imposed by the General Manager.
- h. Displaying or continuing to display any sign that requires a permit under this Bylaw without a permit.

14.0 Penalties

- 14.1 Every person who breaches this Bylaw commits an offence and may be liable on summary conviction to a fine:
 - a. Of not more than \$500 in respect of an offence relating to a sign; or
 - b. Not exceeding \$20,000 for any other offence.

The foregoing Bylaw was duly made by the Hamilton City Council by a resolution passed on the 25th day of February 2009 following consideration of submissions received during the special consultative procedure. The Hamilton City Public Places Bylaw 2009 was ordered to come into force on the 1st day of July 2009.

The COMMON SEAL of the HAMILTON CITY COUNCIL was hereunto affixed in the presence of:

Councillor _____

Chief Executive _____

First adopted:	
Revision dates/version:	
Next review date:	
Engagement required:	
Document number:	D-1955147
Associated documents:	D-1954936 (Draft Bylaw)
Sponsor/Group:	City Growth



PUBLIC PLACES POLICY (DRAFT)

Purpose and Scope

1. This policy provides for businesses, groups and individuals to apply to use public places for trading activities that are consistent with the purpose of this policy.
2. The purposes of this policy are to:
 - I. Protect the public from nuisance.
 - II. Protect, promote, and maintain public health and safety.
 - III. Minimise the potential for offensive behaviour in public places.
 - IV. Regulate trading in public places.
 - V. Regulate, control, or prohibit signs.
 - VI. Ensure public spaces are safe and used in ways that positively contribute to the city's identity and people's enjoyment of public spaces.
3. In applying these purposes, Council decisions will take into account the following principles. Public spaces should:
 - I. Provide culinary, entertainment and art experiences that generate activity and vibrancy.
 - II. Be attractive, clean and safe.
 - III. Promote a welcoming image of Hamilton to residents and to visitors.
 - IV. Facilitate easy access for pedestrians and cyclists.
 - V. Provide spaces for people to gather for activities or social engagement and interaction.
 - VI. Strengthen the existing function of public space locations.

Definitions

Busker	means any person/s performing for voluntary donations in any public place, such as an itinerant musician or actor.
Council	means Hamilton City Council.
Enforcement officer	means a person appointed by Council to exercise the powers of an enforcement officer in relation to offences against, and infringement offences under, the Local Government Act 2002, including enforcement of Council bylaws.
Hawker	means any person/s who, in a public place, solicits sales or orders for sales of any goods, not in pursuance of any invitation to call with, or of any previous order or request for such goods but does not include any person who operates a vehicle as a mobile shop.
Heritage precinct	areas of special heritage character as defined in the District Plan.
Heritage buildings	buildings of special heritage character as defined in the District Plan.
Mobile shop	means: <ul style="list-style-type: none"> • a vehicle from which goods are offered or exposed for sale

	<p>in any public place, or from which goods or services may be ordered whether or not as a result of any invitation to call;</p> <ul style="list-style-type: none"> it does not include any vehicle used to transport goods that have been order for delivery.
Market	any outdoor place, accessible to the public, where goods are offered for sale, which usually consists of a number of merchandise stalls grouped together.
Market	any outdoor place, accessible to the public, where goods are offered for sale, which usually consists of a number of merchandise stalls grouped together.
Merchandise display	a display located in a public place outside a premise from which goods are offered or exposed for sale.
Public Place	includes any place or space that is not private property and which is open to the public but excludes reserves which are regulated by the Parks, Domains and Reserves Bylaw 2007 and any amendments to that bylaw.
Road	<p>means:</p> <ul style="list-style-type: none"> A road defined in s315 of the Local Government Act 1974 and includes any street, motorway, beach, place to which public have access whether as of right or not; Any bridge, culvert, ferry, ford forming part of a road or street or motorway or place to which the public have access whether as of right or not; All sites at which vehicles may be weighed for the purpose of the Land Transport Act 1998 or any other Act; and Any service land or mall forming part of a road.
Road frontage	the front/s of a premise that face out onto a public place.
Shade Awning	means a single free standing or cantilevered shade or protective covering that may also be fixed to a building or that extends out over the footpath. It does not include a gazebo, marquee or tent.
Sign	means any material or device used for the purposes of advertising or to disseminate information, or any other similar purpose. These may include, but are not limited to: any poster, placard, handbill, flags, banners, writing, picture, or device for advertising or other purposes that is displayed in, on or over any public place, including placed on a footpath.
Stall	includes any stationary but moveable stand or similar structure on or at or from which goods are sold or exposed for sale.
Trade or trading	includes but is not limited to the exchange, purchase, or sale of goods; the provision of entertainment activities in return for donations; keeping a mobile shop; busking; hawking; locating and operating a stall; displaying merchandise; setting out street furniture.

Policy

1. Outdoor Dining Areas

- 1.1 Cafes, bars and restaurants wishing to use part of the footpath space directly outside their premises for outdoor dining must obtain a permit.
- 1.2 Applicants must provide the information in Schedule 3 when applying for a permit for outdoor dining.
- 1.3 An applicant wishing to serve alcohol as part of an outdoor dining area must apply to the District Licensing Authority for an alcohol license or a variation of the area to which their alcohol licence applies.

1.4 General conditions that apply to Outdoor Dining Permits

- 1.4.1 There must be a continuous 2.0 metre wide clearway maintained on all footpaths at all times.
- 1.4.2 The outdoor dining area must not cause any damage to any ornamental verge or kerbing.
- 1.4.3 Use of fixed furniture is not permitted.
- 1.4.4 All street furniture (tables, chairs, planter boxes, pull-down blinds etc.) must be arranged within the dining areas in compliance with this policy and as provided for in the permit.
- 1.4.5 No sharp edges or projections which could cause injury are permitted and all street furniture must be of durable construction.
- 1.4.6 Permit holders are responsible for cleaning the footpath and removing litter in the outdoor dining areas.
- 1.4.7 No waste material including sweepings, detergents and cleaning agents is to be disposed of into the street gutter or stormwater drains.
- 1.4.8 An outdoor dining permit must be either displayed or be available for inspection by an enforcement officer if requested.
- 1.4.9 The owner of the premise must hold public liability insurance to a minimum value of \$2,000,000 indemnifying Council against any claim arising from damage caused by any piece of outdoor furniture in the outdoor dining area.
- 1.4.10 The boundaries of an outdoor dining area must be clearly defined through use of barriers or other appropriate street furniture from 6 pm until the end of the trading day.
- 1.4.11 Adequate supervision of the outdoor dining area must be maintained from 6pm until the end of the trading day.
- 1.4.12 Between the end of the trading day and 7am all street furniture used in an outdoor dining area must be secured together so that it cannot be used by the public and, as far as practicable, removed from the footpath or when requested by Council to enable street works, services or repairs, or other public utilities.

- 1.4.13 Permit holders must comply with Council requests to remove some or all of the street furniture used in outdoor dining areas during normal business hours during a special event.
- 1.4.14 Ashtrays must be provided, except where smoking is prohibited.
- 1.5 Layout of outdoor dining areas**
- 1.5.1 All outdoor dining areas must observe the layout requirements set out in Schedules 1 and 3
- 1.6 Café umbrellas and shade awnings**
- 1.6.1 Umbrellas or shade awnings must be of stable design and properly secured to prevent blowing over in strong wind.
- 1.6.2 Umbrellas or shade awnings must not penetrate or damage the surface of Council footpaths or interfere with pedestrian movement.
- 1.7 Planter boxes**
- 1.7.1 Planter boxes must not be fixed to the footpath and must be strong, durable and wind resistant. The planter boxes and plants must be well maintained.
- 1.8 Heaters**
- 1.8.1 Heaters may be free standing or fixed to verandas.
- 1.8.2 Overhead heaters must be securely fixed to verandas and should be turned off outside of hours of business.
- 1.8.3 Freestanding patio heater should be of stable design and of a height not exceeding 2.5 metres measured from the base to the top of the heater. They should be located on a flat surface.
- 1.8.4 All heaters must be located away from combustible materials and used in accordance with the operating instructions. They must not be placed where they pose a safety or fire hazard.
- 1.8.5 Fire extinguishing equipment must be kept in close proximity to where the heaters are being used.
- 1.9 Pull-down blinds and screens**
- 1.9.1 Requests to include screens and/or pull-down blinds in outdoor dining areas will be assessed on a case by case basis. Consideration will be given to the potential for the screen/pull-down blind to obscure surveillance by Council CCTV cameras and to safety issues for pedestrians, cyclists and motorists caused by obscured sight lines.
- 1.9.2 If an applicant wishes to use screens and/or pull down blinds this information must be included with the permit application and outdoor dining area plan. Details of any proposed fixing of a pull down blind to the pavement must also be included.
- 1.9.3 All pull-down blinds and screens must be rolled up or removed from the footpath outside of the hours specified in the outdoor dining area permit.
- 1.10 Barriers**
- 1.10.1 Barriers may be used to define the boundaries of an outdoor dining area.
- 1.10.2 Barriers shall not exceed a maximum height of 0.9m.
- 1.10.3 Clearance from the ground is required to allow stormwater run-off.

- 1.10.4 Barriers must be of stable construction to prevent blowing over in strong wind.
- 2. Signs**
- 2.1 Signs in public places are regulated under this policy. The District Plan regulates signs on zoned land.
- 2.2 This policy does not apply to:
- signs erected for or on behalf of Council
 - billboards and over head street banners (*note: contact Strategy and Communication's Group, Hamilton City Council*)
- 2.3 A person wishing to erect a sign in or over a public place must obtain a permit.
- 2.4 No Council owned land is to be used to erect election signs for Parliamentary Elections or Local Body Elections.
- 2.5 General conditions**
- 2.5.1 All signs must be maintained in good order and condition. An enforcement officer may issue a notice requiring specified remedial work to be carried out if that officer reasonably believes the sign does not comply with this clause or if a sign will cause a safety hazard.
- 2.5.2 A maximum of one sign per road frontage is permitted.
- 2.5.3 The footpath sign must not obscure road users visibility or be placed in a position that restricts vehicle access to a right of way or to any public place which provides a right of access for vehicles.
- 2.5.4 The permitted size for signs is set out in Schedule 2.
- 2.5.5 A footpath sign must be located in a way that does not impinge on the continuous clearway and it must observe the setback requirements in Schedule 1.
- 2.5.6 The footpath sign must not resemble a warning sign or road traffic sign.
- 2.5.7 The footpath sign must not have sharp edges or projections which may cause injury to pedestrians.
- 2.5.8 The sign must be constructed to ensure it is secure against all weather conditions and gusts of wind.
- 2.5.9 An enforcement officer may request removal of sign/s to allow works or maintenance services to take place.
- 2.5.10 Advertising shall not be illuminated, have reflective surfaces or resemble a traffic sign.
- 2.5.11 All signs are to be removed from the footpath outside of hours of business.
- 2.5.12 Signs on verandas are restricted to signs advertising businesses, services or products located on the site associated with the sign.
- 2.5.13 Signs located on top or beneath verandas should be structurally sound and be fixed to the veranda in a safe manner.
- 2.5.14 Signs attached beneath verandas should leave a clearance of 2.75m to the footpath.
- 2.5.15 Signs attached beneath verandas should observe a set back of 0.5m from a vertical line from the edge of the kerb.

2.5.16 Signs located on top and on the fascia of a veranda must not extend beyond the fascia of the building and will be set back not less than 0.5m from an imaginary vertical line from the road kerb.

2.6 Signs in Heritage Areas

2.6.1 The design and location of signs in a public place in a heritage area or outside a heritage building (as defined or listed in the District Plan) must be compatible with the heritage significance of the area or the building so that they do not detract from that significance.

2.6.2 Signs in heritage areas or outside heritage buildings will be assessed on a case by case basis and special consideration may apply to signs approved for use to ensure that signs do not materially affect the heritage value of the area and/or building.

3. Markets, Stalls and Merchandise Displays

3.1 Street Markets and Stalls

3.1.2 A street market is not permitted to operate without a permit.

3.1.3 Council's general policy is to encourage stalls to be part of managed street markets however permits for individual stalls will be considered on a case by case basis. An applicant wishing to operate a stand alone stall is not permitted to operate without a permit.

3.1.4 Applicants must provide the information in Schedule 3 when applying for a permit to operate a street market or an individual stall.

3.1.5 A market operator granted a permit is responsible for each individual stall owner complying with permit conditions and for having the necessary alcohol licenses.

3.1.6 Cleaning arrangements following the business hours of the market will be included in the permit conditions.

3.1.7 The following conditions will apply to stalls, including those stalls in a street market:

- I. Stalls must not sell offensive material.
- II. Stalls must not obstruct or hinder the flow of pedestrians in any public place.
- III. Stalls selling, preparing and handling food must comply with food hygiene regulations.
- IV. Stalls selling alcohol must hold the necessary alcohol licenses.

3.2 Merchandise Display

3.2.1 The following conditions will apply to merchandise displays:

- I. Merchandise should be placed up against the façade of the shop it belongs to.
- II. Merchandise displays must observe the requirements on setbacks and clearways set out in Schedule 1.
- III. The merchandise display must not have sharp edges or projections which may cause injury to pedestrians or create a nuisance.
- IV. Merchandise displays must not contain any form of offensive material.
- V. Merchandise displays are to be removed at the end of trading hours or when requested by Council staff to enable street works, services or repairs, or other public utilities.

4. Mobile Shops

- 4.1 Mobile shops are not permitted to operate without a permit. A permit to operate may be given as part of a permit for an event or street market, or as a stand alone permit.
- 4.2 Unless approval is granted under clause 4.5 below, mobile shops are not permitted to operate within the Central City (see the map in Schedule 4).
- 4.3 Applicants must provide the information in Schedule 3 when applying for a permit for a mobile shop.
- 4.4 The following conditions apply to all mobile shops:
 - I. No mobile shop is permitted to operate in a traffic zone where the posted speed limit is greater than 60km per hour.
 - II. The location of mobile shops will not impede or inconvenience the flow of traffic, pedestrians or customers and must not breach any bylaw or traffic legislation.
 - III. Permits may include permission to have tables and chairs in close proximity to the mobile shop for the purposes of dining. Council has sole discretion to determine what constitutes close proximity.
 - IV. Mobile shops selling, preparing and handling food must comply with food hygiene regulations.
 - V. Mobile shops selling alcohol must hold the necessary alcohol licenses.
 - VI. Hours of operation are only permitted between 6am – 10pm.
 - VII. The permit must be displayed at all times.
- 4.5 In addition to the conditions in clause 4.4 above, the following extra conditions apply to mobile shops permitted to operate within the Central City (see the map in Schedule 4):
 - I. Up to 3 permits only may be granted at any one time.
 - II. They will be granted for a maximum period of 6 months only.
 - III. They will be issued for a specified location which will be in one of the permitted locations identified in the map in Schedule 4.
 - IV. Trading hours will be specified in the permit and may extend to 3am taking into account the location.
 - V. No alcohol consumption or sales will be permitted.
5. **Busking, Hawking and Charitable collections**
- 5.1 Buskers are not permitted to operate without a permit. Applicants must apply for a busking permit before commencing trading.
- 5.2 **Busking conditions**
- 5.2.1 The following conditions apply to buskers:

- I. No busker will impede or inconvenience the flow of pedestrians and customers.
- II. Buskers must be courteous and mindful of surrounding businesses and the general public. If valid complaints are received, a permit may be revoked.
- III. Busking is permitted between the hours of 7am and 1 am but no busker is permitted to remain in a single location for longer than 2 continuous hours
- IV. Buskers must not enter any premises unless authorised by a person having control of those premises.
- V. Buskers are to carry a copy of the permit at all times and must produce a copy of to any enforcement officer if requested.
- VI. Buskers are not permitted to use voice enhancement equipment, including, microphones, amplifying equipment and loud hailers, unless they are part of an event approved by Council.
- VII. A reasonable level of noise is to be maintained at all times having regard to the place and situation. If, at the Council's discretion, it is decided that a reasonable level of noise has not been maintained a permit may be revoked.
- VIII. Permits will be issued for a period of no more than 6 months.

5.3 Hawkers conditions

5.3.1 The following conditions apply to hawkers:

- I. Hawkers are not permitted to operate within the area shown in the map in Schedule 4.
- II. Hawkers must not enter premises which display a written notice prohibiting their entry.
- III. Shop doorways must be kept clear.
- IV. When visiting premises, a Hawker must leave immediately if requested to do so by the owner or occupier of the premises.
- V. Identification must be worn at all times.
- VI. The flow of pedestrians must not be impeded or inconvenienced in any way.
- VII. Hawkers are only permitted to trade during the hours of 8.30am and 8.30pm.

5.4 Charitable collections

- 5.4.1 No one is permitted to collect charitable donations in a public place without a permit.
- 5.4.2 Applicants must provide the information in Schedule 3 when applying for a permit to collect charitable donations.
- 5.4.3 Approval may include conditions such as location and hours permitted for the activity.

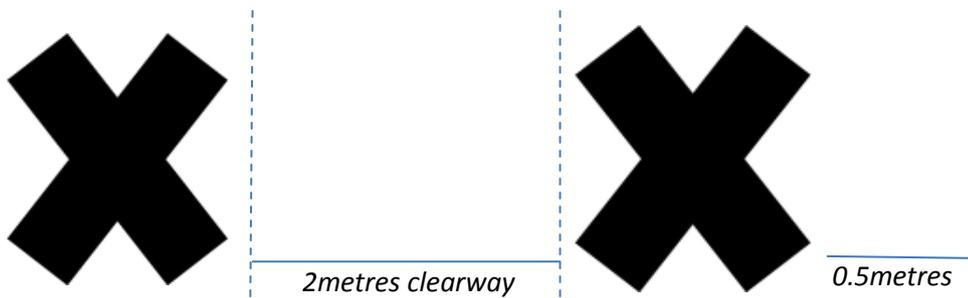
6. Other Activities on Footpaths

- 6.1 Cafés, bars and restaurants and other businesses wishing to use part of the footpath space directly outside their premises for entertainment or promotional activities must apply for a permit.
- 6.2 Applications will be considered on a case by case basis taking into account:
 - I. The impact the activity could have on existing approved activities already occurring in or around the location.
 - II. Public health and safety and public nuisance.
 - III. Proposed hours for the activity to operate.
 - IV. Whether the activity is a one off event or reoccurring.

- 6.3 Any application will take into account any other permits granted for the space that is the subject of the application.
- 6.4 General Conditions**
- 6.4.1 Voice enhancement equipment, including microphones, amplifying equipment and loud hailers are not permitted.
- 6.4.2 A reasonable level of noise is to be maintained at all times having regard to the place and situation. If, at the Council's discretion, it is decided that a reasonable level of noise has not been maintained a permit may be revoked.
- 6.4.3 The activity must not impede or inconvenience the flow of traffic, pedestrians and customers.
- 6.4.4 The activity must not interfere in traffic visibility
- 7. General Permit Conditions**
- 7.1 All applications for any permit must be made on the approved application form, contain all the information requested and be accompanied by the prescribed fee. Applications not complying with the requirements will not be processed.
- 7.2 Approval may be withheld if the applicant has previously breached approval conditions.
- 7.3 Permits under this policy are issued by the City Safe Unit.
- 7.4 Unless specified otherwise, all permits are issued for 12 months and will automatically expire.
- 7.5 Permits automatically expire when a business holding a permit is sold.
- 7.6 Permits issued under this policy are not transferable.
- 7.7 A permit may be cancelled or amended if:
- I. If permit conditions are breached.
 - II. Other valid reasons that require cancellation, such as streetscape upgrades or refurbishment
- 7.8 Council reviews fees annually changes are notified by public notice.
- 7.9 The applicant must pay the full permit fee and have met all the requirements of the permit prior to it being issued.
- 8. Enforcement**
- 8.1 Permit conditions are monitored regularly to ensure activities in public places are occurring in terms of the permit granted. The following process applies if permit condition/s are breached:
- I. First breach: verbal notification of the breach and request to rectify
 - II. Failure to rectify: a written warning to that permit holder identifying the issue/s and required remedy.
 - III. Failure to remedy: the Council will consider revoking the permit.
- 8.2 Individuals or groups that trade on footpaths or other public spaces without a permit will be asked to remove their material and cease the trading activity. Council will issue a written warning to the person.
- 8.3 If the infringement persists, Council reserves the right to confiscate the stall setup or trading material under sections 163 and 164 of the Local Government Act 2002.
- 8.4 The Council may dispose of confiscated property under to section 168 of the Local Government Act 2002.

Schedule 1: Footpath Layouts

1. There must be a continuous 2.0 metre wide clearway maintained on all footpaths at all times.
2. The 2.0 metre clearway must exist when the tables and chairs are in use.
3. The continuous clearway must be in the middle of the footpath.
4. The vertical height permitted under this policy is a maximum height of 2.2metres.
5. The minimum distance from the kerb must be 0.5 metres.
6. The minimum setback from all street trees, street furniture (such as benches and seats), cycle racks, phone boxes, mobility parking zones and bus stops must be 1 metre.



Schedule 2: Signs Dimensions

1. The definition of a sign is contained in the definition section of the policy.
2. The approved dimensions for a flag or banner, that is either affixed or free standing, is:
 - No larger than .75m wide
 - No larger than 3.2m high
3. The maximum approved dimensions for any other sign is:
 - No larger than 600mm wide
 - No larger than 750mm high
 - The maximum base area is 0.45 square metres



Schedule 3: Application Requirements for Certain Permits

1. General Requirements

- 1.1 All applications must be in the prescribed format and contain the information requested.
- 1.2 Applications not complying with these requirements will not be processed.
- 1.3 All applications must include the prescribed fee.

2. Information Required for Outdoor Dining Permit

- 2.1 Applications for an Outdoor Dining Permit must include two copies of a plan and specifications of the proposed outdoor dining area on a scale of 1:50 showing:
 - i. The location and dimensions of the proposed outdoor dining area.
 - ii. The position of furniture including tables and chairs, planter boxes, screens, heaters, blinds/dividers, patio heaters, signage and umbrellas to be provided in the proposed outdoor dining area (please refer to Schedule 1 for these requirements).
 - iii. The area either side of the boundaries (up to 10 metres) of the proposed area indicating the location of all footpaths, public facilities, public places, streets and street alignments.
 - iv. Photographs or brochures of the furniture to be set up in the proposed outdoor dining area.
 - v. Specifications for enclosures or screens/dividers including ground and supporting fixtures. This includes any semi continuous or continuous overhead, side and front enclosures (including those that are retractable) that are supported by any fixed supports, structural frames or columns in the public place, whether or not the enclosure contains outdoor furniture.

3. Information Required for Street Market Stalls Permit and Individual Stalls Permit

- 3.1 Applications for a Street Market Stall must include:
 - i. A scale plan showing:
 - the extent of the public area to be occupied
 - the siting and the number of market stalls proposed
 - any associated facilities such as public toilets.
 - ii. Specifications of any barriers, signs and screens including any ground supporting fixtures.
 - iii. A traffic management plan showing:
 - the location of ingress and egress to the market

- any parking provided, any temporary measures to control traffic to and from the market site
- measures for loading and unloading of market goods and stall set up and pack down
- the contact details for a person responsible for implementing the traffic management plan.

IV. Details of public liability insurance.

V. The name, address and contact details of the applicant and market operator.

VI. The details of the type of market stalls, hours of operation and names, addresses and contact details for each market stall operator.

VII. Evidence that all market stalls selling, preparing and handling food comply with food hygiene regulations.

VIII. Evidence that all market stalls selling alcohol hold the necessary alcohol license.

4. Information Required for Charitable Collections Permit

4.1 Applications for approval to collect charitable donations must include:

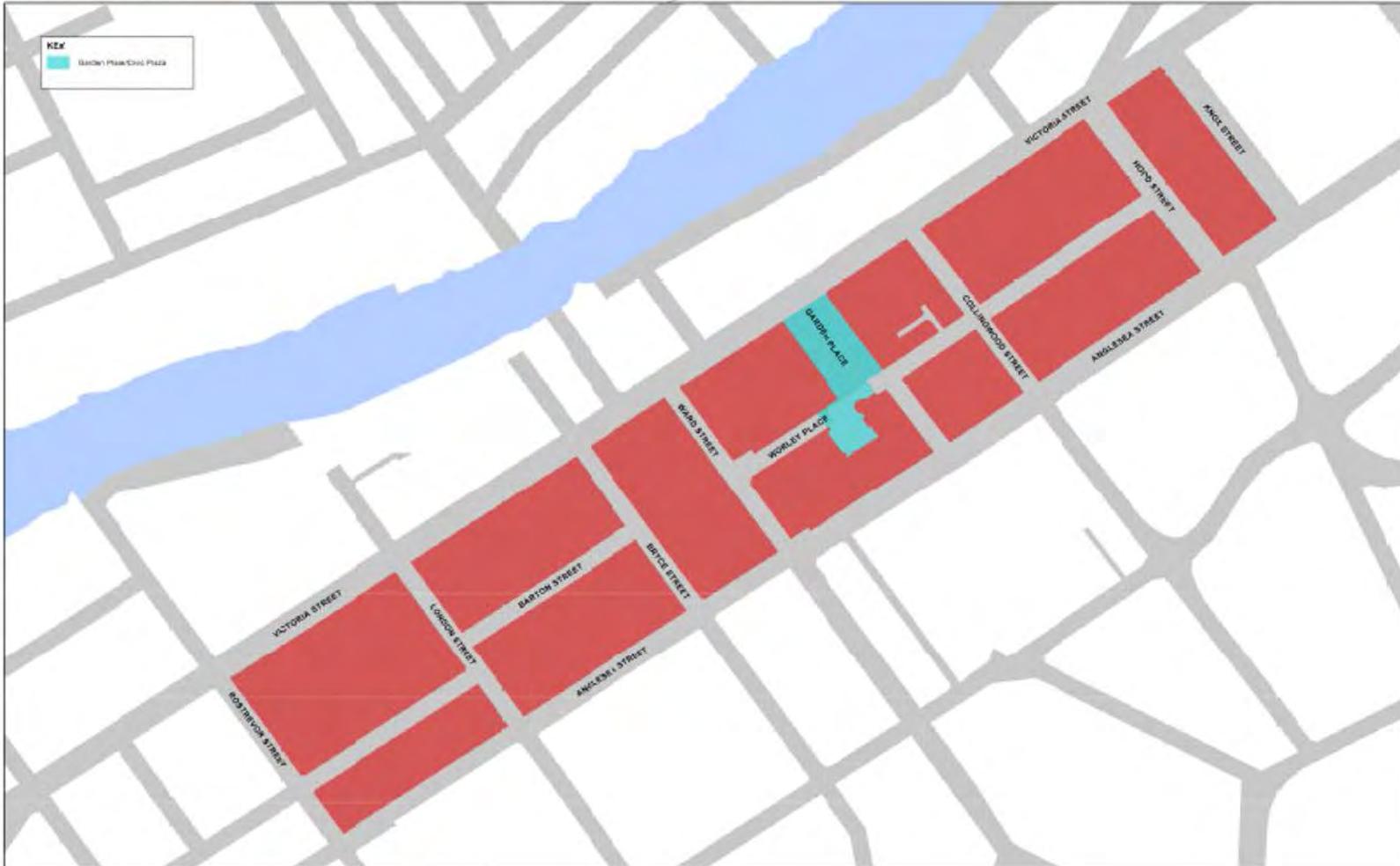
- I. The date, time and location of the intended donation collection.
- II. Approval from the Charity to collect donations.

5. Information Required for Mobile Shops Permit

5.1 Applications for a mobile shop permit must include:

- I. The intended location and trading hours.
- II. The location of, and distance measurements to, footpaths, roads, all street trees, street furniture (such as benches and seats), cycle racks, phone boxes, mobility parking zones and bus stops and any other structures.
- III. If tables and chairs are intended to be provided:
 - a plan of the location and dimensions of the proposed area where they will be situated, including information about proximity to the mobile shop. The dimensions must be to scale 1:50.
 - Photographs of the tables and chairs to be provided.

Schedule 4: Central City Map



PUBLIC PLACES BYLAW 2016

Hamilton City Council makes this bylaw under the Local Government Act 1974, Local Government Act 2002, and any amendments to those Acts.

1.0 Title

1.1 Public Places Bylaw 2016.

2.0 Revocation

2.1 This bylaw revokes and replaces the Hamilton City Public Places Bylaw 2009.

3.0 Purpose and Scope

3.1 This Bylaw applies to any public place within the Hamilton City Council boundary.

3.2 The purpose of this Bylaw is to:

- a. Protect the public from nuisance.
- b. Protect, promote, and maintain public health and safety.
- c. Minimise the potential for offensive behaviour in public places.
- d. Regulate trading in public places.
- e. Regulate, control, or prohibit signs.
- f. Ensure public spaces are safe and used in ways that positively contribute to the city's identity and people's enjoyment of public spaces.

4.0 Interpretation

4.1 Except where inconsistent, the following definitions apply to this Bylaw:

Council	means Hamilton City Council.
Enforcement Officer	means a person appointed by Council to exercise the powers of an enforcement officer in relation to offences against, and infringement offences under, the Local Government Act 2002, including enforcement of Council bylaws.
General Manager	means the Council General Manager responsible for the administration and enforcement of this Bylaw.

Person	includes an individual, a corporation sole, or a body of persons whether corporate or otherwise.
Public Place	includes any place or space that is not private property and which is open to the public but excludes reserves which are regulated by the Parks, Domains and Reserves Bylaw 2007 (including any amendments to that bylaw).
Road	means: <ul style="list-style-type: none"> • a road defined in s315 of the Local Government Act 1974 and includes any street, motorway, beach, place to which public have access whether as of right or not; • Any bridge, culvert, ferry, ford forming part of a road or street or motorway or place to which the public have access whether as of right or not; • All sites at which vehicles may be weighed for the purpose of the Land Transport Act 1998 or any other Act; and • Any service land or mall forming part of a road.
Sign	A sign is any material or device used for the purposes of advertising or to disseminate information, or any other similar purpose. These may include, but are not limited to: any poster, placard, handbill, flags, banners, writing, picture, or device for advertising or other purposes that is displayed in, on or over any public place, including placed on a footpath. <i>Explanatory Note: Please refer to Schedule 2 of the Public Places Policy 2016 for detail.</i>
Trade or trading	includes but is not limited to the exchange, purchase, or sale of goods; the provision of entertainment activities in return for donations; keeping a mobile shop; busking; hawking; locating and operating a stall; displaying merchandise; setting out street furniture.

4.2 Explanatory notes are for information only. They do not form part of this bylaw, and may be made, amended, revoked or replaced by the Council at any time without a formal process.

5.0 Public Places

5.1 Persons occupying or using public places should take all reasonable steps to:

- Protect the public from nuisance.
- Protect, promote, and maintain public health and safety.
- Minimise the potential for offensive behaviour in public places.

6.0 Activities that may cause an adverse affect on public health or safety in a public place

- 6.1 Any person intending to undertake any activity in a public place which is not specified in Council's Public Places Policy and which may cause an adverse effect on public health or safety in that public place, must obtain approval from Council to undertake the activity.
- 6.2 The General Manager will not unreasonably withhold permission, and may impose conditions to protect the public's health and safety.

7.0 Activities that may cause a nuisance in a public place

- 7.1 Any person intending to undertake any activity in a public place which is not specified in Council's Public Places Policy and which may cause nuisance in that public place must obtain approval from Council to undertake the activity.
- 7.2 The General Manager will not unreasonably withhold permission, and may impose conditions to protect the public from nuisance.

8.0 Permits

- 8.1 A person must hold a permit issued by Council to undertake in a public place any trading, or display a sign, or collect donations for charity.
- 8.2 Any permit granted is personal to the person and is not transferable.
- 8.3 Council may revoke a permit if the holder fails to comply with the permit conditions and may refuse to issue that person with a new permit.
- 8.4 Council may waive any application under this Bylaw if an approval is granted through another existing mechanism such as signs permitted by the District Plan Rule or a resource consent.

9.0 Fees

- 9.1 The Council may charge fees for permits, including fees to process an application, to review an existing approval and to inspect activities and charges for the period of that approval.

10.0 Offences

- 10.1 Any person who does not comply with this Bylaw commits an offence.
- 10.2 The following are offences against this Bylaw:
- a. Obstructing emergency vehicles from gaining access to a public place.
 - b. Obstructing service vehicles from gaining access to a public place.
 - c. Trading in a public place without a valid permit.
 - d. Failure to produce a permit to an authorised officer upon request.
 - e. Failure to comply with the conditions of a permit issued.

- f. Trading or carrying on an activity in a public place in such a way that causes nuisance or affects public health and safety.

11.0 Penalties

- 11.1 Under section 242 of the Local Government Act 2002, any person who breaches this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.

This Bylaw was made by the Hamilton City Council by a resolution passed on *INSERT DATE* following consideration of submissions received during the consultation period. The Hamilton Public Places Bylaw 2016 comes into force on *INSERT DATE*

The COMMON SEAL of the HAMILTON CITY COUNCIL in the presence of:

Councillor _____

Chief Executive _____

HAMILTON CITY PUBLIC PLACES BYLAW 2009

Feedback from key stakeholders

The following organisations provided high level feedback on the current bylaw.

- Hamilton Central Business Association
 - Hamilton Youth Advisory Panel
 - Older Person's Advisory Panel
 - CCS Disability Action
- Hospitality New Zealand
 - Stakeholders from the Alcohol Industry
 - Stakeholders from retailers

1. All of stakeholders (11) agree with the purpose and focus of the current bylaw.

Commentary was based on

- *Charitable organisations using public place to collect fund and using aggressive tactics in approaching people*
- *Speedy turnover for applications*
- *Appreciation that there need to be rules and regulations around the use of public places for public safety.*

2. Feedback on whether people thought the activities (e.g. outdoor dining, signs and street entertainment) in public places were being managed appropriately.

Response	Number of response
Yes (<i>appropriately managed</i>)	6
No (<i>not managed appropriately</i>)	4
Did not know	1

Commentary was based on

- *Information on when/how to get permit for street performances.*
- *Too much clutter and random signage*
- *Misuse of public places by businesses*
- *Enforcement of the bylaw in terms of the signage's on footpaths. People with disabilities (wheelchairs, visions impaired) are affected when there are no clearways alongside restaurants.*
- *Aggressive fundraisers in public places*
- *Over enforcement of bylaw and policy constricting activities that add vibrancy to the Hamilton nightlife.*

3. What key stakeholders identified as working well.

- *Outdoor dining*
- *Alcohol bans and family friendly events and space*
- *The ability for bars and restaurants to use footpaths and other common areas adjacent to their premises to accommodate patrons.*
- *Good enforcement and current bylaw has the ability to adequately control the various aspects which may impact on hospitality businesses.*

- *The current levels of activity and timing allowed works well.*

4. What key stakeholders identified as not working well

- *Recent proliferation of signs on fences adjacent to footpaths advertising businesses . They look untidy and some of which are a hazard.*
- *More footpath space taken up with business furniture , making it hard to walk.*
- *Properties that vacate are not held accountable for old signage. Require landlords to be responsible for old, broken signage on both building and hanging under verandas and pedestrian areas.*
- *Begging in public places*
- *Clarification on what spaces are to be used for what activity. For example clarification of outdoor dining and consumption of alcohol during that period for when they are licensed.*

5. Usefulness of having all the information contained in one document.

Response	Number of response
Yes (<i>very useful to contain information in one document</i>)	8
No (<i>not useful to contain information in one document</i>)	0
Did not know	1
No answered	1

6. Affect on the organisation by the Public Places Bylaw and Policy.

The only response to this question was in relation to how the currently bylaw/policy makes it harder for people who use mobility aides to get around the city.

7. Additional Comments

- *Extra flexibility to encourage more street stalls/performers in the main CBD area.*
- *Prohibit random signage, eliminate signage that are safety concerns and reduce the encroachment of restaurant furniture on footpaths.*
- *Requirement to leave pedestrian clearway.*
- *Any additional fees and compliance cost will be unwelcome.*
- *Happy with the bylaw as it is and leave it unchanged.*
- *Please do not change the times of the outdoor dining permits to 11pm.*

Resolution to Exclude the Public

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Business and Investment Subcommittee Excluded Minutes 15 September 2015) Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987)))	Section 48(1)(a)

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Item C1.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
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