

Notice of Meeting:

I hereby give notice that an ordinary Meeting of the Community Committee will be held on:

Date: Tuesday 19 May 2020
Time: 10.00am
Meeting Room: Audio Visual Link

Richard Briggs
Chief Executive

Community Committee *Komiti Hapori* OPEN LATE AGENDA

Membership

Chairperson - *Heamana*

Deputy Chairperson - *Heamana Tuarua*

Members

Cr M Bunting

Cr K Naidoo-Rauf

Mayor P Southgate

Deputy Mayor G Taylor

Cr M Forsyth

Cr M Gallagher

Cr R Hamilton

Cr D Macpherson

Cr A O'Leary

Cr R Pascoe

Cr S Thomson

Cr M van Oosten

Cr E Wilson

Maangai Te Pora Thompson-Evans and Maangai Olly Te Ua

Quorum: A majority of members (including vacancies)

Meeting Frequency: Six weekly

Becca Brooke
Governance Manager
Menetia Mana Whakahaere

14 May 2020

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Council Report

Item 10

Committee: Community Committee

Date: 19 May 2020

Author: Sandra Murray

Authoriser: Jen Baird

Position: Consultant

Position: General Manager City Growth

Report Name: Hamilton Safety in Public Places Bylaw - recommendation to Council for public consultation

Report Status	Open
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Purpose - *Take*

1. To inform the Community Committee on the review of the Hamilton Safety in Public Places Bylaw 2014.
2. To seek a recommendation from Community Committee to the Council to consult the public on the proposed Hamilton Safety in Public Places Bylaw in compliance with S82 of the Local Government Act 2002 and the Council's Significance and Engagement Policy.

Staff Recommendation - *Tuutohu-aa-kaimahi*

(Recommendation to the Council)

3. That the Community Committee receives the report.
4. That the Community Committee recommends that the Council:
 - a) approves **Option 1** – that a bylaw is the most appropriate way of addressing the perceived problems in relation to controlling nuisance behaviour in Hamilton; and
 - b) approves consultation for one month from 1 June to 30 June 2020 on the proposed Hamilton Safety in Public Places Bylaw (**Attachments 1 & 2**) and Statement of Proposal (**Attachment 3**).

Executive Summary - *Whakaraapopototanga matua*

5. Staff have reviewed the Hamilton Safety in Public Places Bylaw 2014 (the Bylaw) and propose minor amendments.
6. A Special Consultative Process is not required as the amendments to the Bylaw do not meet the requirements in the Council's Significance and Engagement Policy. Therefore, consultation will be carried out as required under S82 of the Local Government Act 2020 (LGA).
7. Staff consider the decision in this report has low significance and that the recommendations comply with the Council's legal requirements.

Background and Discussion -*Kooreo whaimaarama*

8. The Council has an existing Hamilton Safety in Public Places Bylaw 2014 (the Bylaw), which the Council is required to review to meet its legislative requirements under S159 of LGA.
9. A bylaw must be reviewed 5 years after first adoption and is thereafter reviewed 10-yearly. The existing Bylaw was first adopted in 2015 and the current review was commenced in 2019.
10. Staff consider that the existing Bylaw is fit for purpose and recommend only minor amendments to provide clarification and better align the Bylaw with recent amendments to the Psychoactive Substances Act.
11. The purpose of the existing Bylaw is to set controls and assist staff to manage nuisance behaviour within Hamilton.
12. Nuisance behaviour is defined as:
 1. Begging in a public place in a manner that is likely to cause harassment, alarm, or distress to any reasonable person, or causes an unreasonable interference with the peace, comfort or convenience of any person.
 2. Sleeping in a public place in such a way as to cause an obstruction.
 3. Urinating or defecating in a public place other than a toilet.
 4. Consuming, injecting, inhaling or ingesting a mind-altering substance in a public place.
 5. Any conduct in a public place that is likely to cause unreasonable interference with the peace, comfort or convenience of a reasonable person in the circumstances in which it occurs, whether that person is in a public place, to the extent that it disturbs public order and is more than those subjected to it should have to tolerate.
13. Staff note that no prosecutions have ever been taken under the Bylaw.
14. Staff prefer to engage and then educate where any issues are identified. Enforcement is only taken as a last resort. This model is also used by the NZ Police in relation to enforcement of activities such as alcohol-related offending.
15. The Bylaw is a useful tool for staff to refer to when managing public behaviour, as it provides clear direction on what constitutes nuisance behaviour when in discussion with a person on the street.
16. Recommended amendments:
 1. The Bylaw includes "Riding a skateboard within the areas defined in the Skateboarding Prohibited Areas Register" as nuisance behaviour. Staff recommend all reference to skateboarding as a nuisance behaviour is removed as:
 - few problems have been encountered from skateboard use; and
 - attitudes towards skateboarding have changed, with active transport options (such as skateboarding and using scooters) now viewed as part of the range of transport options available to people.
 2. Amendments to the definition of 'psychoactive substances' and the removal of 'mind-altering substance' to clarify these substances in light of previous changes to the Psychoactive Substances Act and future potential changes to cannabis legislation.
17. If the recommendations are not approved, skateboarding will continue to be considered nuisance behaviour in some situations; there may also be potential for confusion regarding the intent of the Bylaw, particularly with potential future changes to cannabis legislation.
18. Staff consider the decision in this report to have a low significance and that the recommendations comply with the Council's legal requirements.

Options

19. When reviewing the Bylaw, the Council is required to determine whether it is appropriate to have a bylaw or not; therefore, the Council must determine as required under sections 160(1) and 155 of the LGA:
 - **Option 1** – that a Bylaw is the most appropriate way of addressing the perceived problems in relation to controlling nuisance behaviour in Hamilton.
 - **Option 2** – that a Bylaw is not the most appropriate way of addressing the perceived problems in relation to controlling nuisance behaviour in Hamilton.
20. Staff recommend Option 1 to clarify and update the Bylaw.

Financial Considerations - *Whaiwhakaaro Puutea*

21. This is a regular operating activity funded through the 2018-28 Long-Term Plan.

Legal and Policy Considerations - *Whaiwhakaaro-aa-ture*

Staff confirm that option1 complies with the Council's legal and policy requirements. **Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga***

23. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
24. The recommendations set out in this report are consistent with that purpose.

Social

25. Nuisance behaviour has the potential to make people feel unsafe in public places.
26. The Bylaw is intended to provide guidance for staff and regulations for the public as to appropriate behaviour in public, and to ensure all members of the public can feel safe.
27. The Hamilton Safety in Public Places Bylaw assists Council to:
 1. protect the public from nuisance;
 2. protect, promote, and maintain public health and safety; and
 3. minimise the potential for offensive behaviour in public places

Economic

28. The proposed amendments are not expected to have an economic impact.

Environmental

29. The proposed amendments may provide a small environmental benefit through a potential increase in skateboarding as a mode of transport.

Cultural

30. Residents who use skateboards as a mode of transport may experience a greater sense of inclusion in society.

Risks - *Tuuraru*

31. There are no known risks associated with the decisions required for this matter.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

Significance

32. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matter(s) in this report has/have a low level of significance.

Engagement

33. The Hamilton Central Business Association and the People's Project were provided with an opportunity to provide comment on the existing Bylaw and proposed amendments.
34. The Hamilton Central Business District responded with no suggestions or concerns. The Peoples Project did not provide feedback.
35. Businesses in the city centre will be notified of the opportunity to provide feedback on the proposed amendments to the proposed Trading in Public Places Policy through the Council's website and newsletters, via the Hamilton Central Business Association and via direct email from the Council's database of central city businesses.
36. There is a statutory requirement to consult as per legislation outlined below.
37. The LGA requires the Council to consult the public on whether to continue the existing Bylaw without amendment (s160(3)(b), the LGA) or amends, revokes or replaces the Bylaw (ss160(3)(a) and 156(1), the LGA).
38. The legislative requirement to review the Bylaw provides an opportunity for the Council to engage the community on how the existing Bylaw is working and to consider feedback.
39. Staff will invite stakeholders to provide formal feedback through the public consultation from 1 June to 30 June 2020 so that their views can be captured on the options presented for consideration by the Council, in conjunction with the wider community's views.
40. Section 156 of the LGA sets out that the Council is required the use the Special Consultative Procedure (the SCP) if:
- the Bylaw concerns a matter identified under the Council's Significance and Engagement Policy as being of significant interest to the public; or
 - there will be a significant impact on the public due to the changes to or revocation of the Bylaw.
41. A Special Consultative Process is not required for consultation as the amendments to the policy do not meet the requirements in the Council Significance and Engagement Policy. Therefore, consultation will be carried out as required under S 82 of the LGA.
42. Submitters also have an opportunity to present their views in a spoken form at the Hearings and Engagement Committee on the 25th August 2020.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Hamilton Safety in Public Places 2019 Review - Clean

Attachment 2 - Hamilton Safety in Public Places 2019 Review - Tracked Changes

Attachment 3 - Statement of Proposal - Safety in Public Places Bylaw .

Hamilton City Council BYLAWS

Approved By: Council	Date Adopted: 27 November 2014
Date in Force: 15 December 2014	Review Date: 1 March 2023

HAMILTON SAFETY IN PUBLIC PLACES BYLAW 2014

This Bylaw is made by the Hamilton City Council under the powers given to it by the Local Government Act 2002.

1. PURPOSE

1.1. The purposes of this bylaw are:

- a) protecting the public from nuisance;
- b) protecting, promoting, and maintaining public health and safety; and
- c) minimising the potential for offensive behaviour in public places

2. APPLICATION

2.1. This Bylaw applies to public places in Hamilton.

3. DEFINITIONS

3.1. The following definitions apply to this Bylaw, except where inconsistent with the context:

Authorised Officer	A person appointed by Hamilton City Council for the purposes of ensuring compliance with the Bylaw, as defined as an Enforcement Officer in the Local Government Act 2002 section 177.
Council	Hamilton City Council
Nuisance behaviour	Nuisance behaviour includes: <ol style="list-style-type: none"> a) Begging in a public place in a manner that is likely to cause harassment, alarm, or distress to any reasonable person, or causes an unreasonable interference with the peace, comfort or convenience of any person. b) Sleeping in a public place in such a way as to cause an obstruction. c) Urinating or defecating in a public place other than a toilet. d) Consuming, injecting, inhaling or ingesting a mind-altering substance in a public place. e) Any conduct in a public place that is likely to cause unreasonable interference with the peace, comfort or convenience of a reasonable person in the circumstances in which it occurs, whether or not that person is in a public place, to the extent that it disturbs public order and is more than those subjected to it should have to tolerate.
Offensive behaviour	Behaviour in a public place that is capable of arousing real anger, resentment, disgust or outrage in the mind of a reasonable person, objectively assessed, to the extent that it disturbs public order and is more than those subjected to it should have to tolerate.

Hamilton City Council BYLAWS

- Psychoactive substance** Means the definition in s 9 of the Psychoactive Substances Act 2013, except that it **does include** a controlled drug specified in Schedule 1, 2 or 3 of the Misuse of Drugs Act 1975.
- Public Place** Public place includes any place or space that is not private property, and which is open to the public.

Note: This bylaw is required to comply with the New Zealand Bill of Rights Act 1990, which protects freedom of expression among other rights. The mere fact of participating in a public protest will not, on its own, constitute offensive or nuisance behaviour. Public order is sufficiently disturbed if the behaviour causes offence of such a kind or to such an extent that those affected are substantially inhibited in carrying out the purpose of their presence at that place.

4. BREACH OF BYLAW

4.1. The following conduct is an offence under this bylaw:

- a) Nuisance behaviour;
- b) Behaviour in a public place that poses a threat to public safety;
- c) Offensive behaviour;
- d) Failing to comply with any lawful notice or direction given under this bylaw;
- e) Obstructing or hindering any authorised officer in performing any duty or power conferred by this bylaw.

5. PENALTIES AND POWERS

- 5.1. 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.
- 5.2. Under section 163 of the Local Government Act 2002 the Council or an authorised officer may remove or alter any work or thing that is or has been constructed in breach of this Bylaw and may recover the costs of doing so from the person who committed the breach. This does not affect that person's liability for the breach.
- 5.3. Under section 162 of the Local Government Act 2002 the Council may apply to the District Court for an injunction restraining a person from committing a breach of this Bylaw.
- 5.4. The Council or an authorised officer may seize and impound property materially involved in committing an offence, under sections 164 and 165 of the Local Government Act 2002.
- 5.5. The Council will return or may dispose of property seized and impounded in accordance with sections 167 and 168 of the Local Government Act 2002.
- 5.6. Under section 176 of the Local Government Act 2002 any person who has been convicted of an offence under this bylaw is liable to pay the Council the costs of remedying any damage caused in the course of committing the offence.

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

Councillor:

Councillor:

Chief Executive:

Trim ID

HAMILTON CITY COUNCIL HAMILTON CITY SAFETY IN A PUBLIC PLACE BYLAW 2014

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Hamilton City Council BYLAWS

Explanatory Note:

This note is for information purposes and does not form part of this Bylaw. For guidance on how all other nuisance behaviours are covered by other Council Bylaws and Policies please refer to the Nuisance Behaviour and Policy and Bylaws table.

Offensive behaviour	The definition of offensive behaviour is taken from the decision of the Supreme Court in <i>Morse v Police</i> [2011] NZSC 45; (2011) 25 CRNZ 174.
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Item 10

Attachment 1

Hamilton City Council BYLAWS

Approved By: Council	Date Adopted: 27 November 2014
Date in Force: 15 December 2014	Review Date: 27 November 2019 <u>1 March 2023</u>

HAMILTON SAFETY IN PUBLIC PLACES BYLAW 2014

This Bylaw is made by the Hamilton City Council under the powers given to it by the Local Government Act 2002.

1. PURPOSE

1.1. The purposes of this bylaw are:

- a) protecting the public from nuisance;
- b) protecting, promoting, and maintaining public health and safety; and
- c) minimising the potential for offensive behaviour in public places

2. APPLICATION

2.1. This Bylaw applies to public places in Hamilton.

3. DEFINITIONS

3.1. The following definitions apply to this Bylaw, except where inconsistent with the context:

Authorised Officer ~~Any enforcement officers appointed and warranted by Council under the Local Government Act 2002~~

A person appointed by Hamilton City Council for the purposes of ensuring compliance with the Bylaw, as defined as an Enforcement Officer in the Local Government Act 2002 section 177.

Council Hamilton City Council

Mind-altering substance ~~Means a synthetic or naturally-occurring substance which may alter consciousness or intoxicate. It includes psychoactive substances and substances used for glue sniffing, but does not include:~~

- ~~a) Medically prescribed substances ingested by the person who was prescribed them;~~
- ~~b) Substances purchased from a pharmacy without a medical prescription;~~
- ~~c) Caffeine;~~
- ~~d) Nicotine;~~
- ~~e) Alcohol as defined in the Sale and Supply of Alcohol Act 2012.~~

Nuisance ~~Nuisance includes but is not limited to:~~

- ~~a) The definition in section 29 of the Health Act 1956 so far as it relates to Council functions;~~
- ~~b) A Nuisance behaviour.~~

Nuisance behaviour Nuisance behaviour includes:

- a) Begging in a public place in a manner that is likely to cause harassment, alarm, or distress to any reasonable person, or

Hamilton City Council BYLAWS

Item 10

Attachment 2

causes an unreasonable interference with the peace, comfort or convenience of any person.

~~b) Riding a skateboard within the areas defines in the Skateboarding Prohibited Areas Register.~~

b) Sleeping in a public place in such a way as to cause an obstruction.

c) Urinating or defecating in a public place other than a toilet.

d) Consuming, injecting, inhaling or ingesting a mind-altering substance in a public place.

e) Any conduct in a public place that is likely to cause unreasonable interference with the peace, comfort or convenience of a reasonable person in the circumstances in which it occurs, whether or not that person is in a public place, to the extent that it disturbs public order and is more than those subjected to it should have to tolerate.

Offensive behaviour Behaviour in a public place that is capable of arousing real anger, resentment, disgust or outrage in the mind of a reasonable person, objectively assessed, to the extent that it disturbs public order and is more than those subjected to it should have to tolerate.

Psychoactive substance ~~Means the definition in s 9 of the Psychoactive Substances Act 2013, except that it does include a controlled drug specified in Schedule 1, 2 or 3 of the Misuse of Drugs Act 1975. Means the definition in section 9 of the Psychoactive Substances Act 2012.~~

Public Place Public place includes any place or space that is not private property, and which is open to the public.

Skateboard ~~Does not include a cycle, scooter, roller skates, roller blades, in-line skate or a mobility device such as a wheelchair or pushchair.~~

Note: This bylaw is required to comply with the New Zealand Bill of Rights Act 1990, which protects freedom of expression among other rights. The mere fact of participating in a public protest will not, on its own, constitute offensive or nuisance behaviour. Public order is sufficiently disturbed if the behaviour causes offence of such a kind or to such an extent that those affected are substantially inhibited in carrying out the purpose of their presence at that place.

4. BREACH OF BYLAW

4.1. The following conduct is an offence under this bylaw:

- a) Nuisance ~~behaviour~~;
- b) Behaviour in a public place that poses a threat to public safety;
- c) Offensive behaviour;
- d) Failing to comply with any lawful notice or direction given under this bylaw;
- e) Obstructing or hindering any authorised officer in performing any duty or power conferred by this bylaw.

Hamilton City Council BYLAWS

~~5. CONTROL OF SKATEBOARDING~~

~~5.1. The Council may, by resolution, amend the scope of clause 4.1(a) with respect to skateboarding by adding, modifying or deleting an area to the Skateboarding Prohibited Areas Register.~~

6.5. PENALTIES AND POWERS

6.1.5.1. 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.

6.2.5.2. Under section 163 of the Local Government Act 2002 the Council or an authorised officer may remove or alter any work or thing that is or has been constructed in breach of this Bylaw and may recover the costs of doing so from the person who committed the breach. This does not affect that person's liability for the breach.

6.3.5.3. Under section 162 of the Local Government Act 2002 the Council may apply to the District Court for an injunction restraining a person from committing a breach of this Bylaw.

6.4.5.4. The Council or an authorised officer may seize and impound property materially involved in committing an offence, under sections 164 and 165 of the Local Government Act 2002.

6.5.5.5. The Council will return or may dispose of property seized and impounded in accordance with sections 167 and 168 of the Local Government Act 2002.

6.6.5.6. Under section 176 of the Local Government Act 2002 any person who has been convicted of an offence under this bylaw is liable to pay the Council the costs of remedying any damage caused in the course of committing the offence.

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

Councillor:

Councillor:

Chief Executive:

Hamilton City Council BYLAWS

Item 10

Explanatory Note:

This note is for information purposes and does not form part of this Bylaw. For guidance on how all other nuisance behaviours are covered by other Council Bylaws and Policies please refer to the Nuisance Behaviour and Policy and Bylaws table.

Nuisance	<p>Section 29 of the Health Act 1956 provides:</p> <p>Without limiting the meaning of the term nuisance, a nuisance shall be deemed to be created in any of the following cases, that is to say:</p> <p>(a) where any pool, ditch, gutter, watercourse, sanitary convenience, cesspool, drain, or vent pipe is in such a state or is so situated as to be offensive or likely to be injurious to health:</p> <p>(b) where any accumulation or deposit is in such a state or is so situated as to be offensive or likely to be injurious to health:</p> <p>(c) where any premises, including any accumulation or deposit thereon, are in such a state as to harbour or to be likely to harbour rats or other vermin:</p> <p>(d) where any premises are so situated, or are in such a state, as to be offensive or likely to be injurious to health:</p> <p>(e) [Repealed]</p> <p>(f) where any building or part of a building is so overcrowded as to be likely to be injurious to the health of the occupants, or does not, as regards air space, floor space, lighting, or ventilation, conform with the requirements of this or any other Act, or of any regulation or bylaw under this or any other Act:</p> <p>(g) where any factory, workroom, shop, office, warehouse, or other place of trade or business is not kept in a clean state, and free from any smell or leakage from any drain or sanitary convenience:</p> <p>(h) where any factory, workroom, shop, office, warehouse, or other place of trade or business is not provided with appliances so as to carry off in a harmless and inoffensive manner any fumes, gases, vapours, dust, or impurities generated therein:</p> <p>(i) where any factory, workroom, shop, office, warehouse, or other place of trade or business is so overcrowded while work is carried on therein, or is so badly lighted or ventilated, as to be likely to be injurious to the health of the persons employed therein:</p> <p>(j) where any buildings or premises used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive or likely to be injurious to health:</p> <p>(k) where any animal, or any carcass or part of a carcass, is so kept or allowed to remain as to be offensive or likely to be injurious to health:</p> <p>(ka) where any noise or vibration occurs in or is emitted from any building, premises, or land to a degree that is likely to be injurious to health:</p> <p>(l) where any trade, business, manufacture, or other undertaking is so carried on as to be unnecessarily offensive or likely to be injurious to health:</p> <p>(m) where any chimney, including the funnel of any ship and the chimney of a private dwellinghouse, sends out smoke in such quantity, or of such nature, or in such manner, as to be offensive or likely to be injurious to health, or in any manner contrary to any regulation or Act of Parliament:</p> <p>(n) where the burning of any waste material, rubbish, or refuse in connection with any trade, business, manufacture, or other undertaking produces smoke in such quantity, or of such nature, or in such manner, as to be offensive or likely to be injurious to health:</p> <p>(o) where any street, road, right of way, passage, yard, premises, or land is in such a state as to be offensive or likely to be injurious to health:</p> <p>(p) where any well or other source of water supply, or any cistern or other receptacle for water which is used or is likely to be used for domestic purposes or in the preparation of food, is so placed or constructed, or is in such a condition, as to render the water therein offensive, or liable to contamination, or likely to be injurious to health:</p>
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Attachment 2

Hamilton City Council BYLAWS

Attachment 2

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	<p>(q) where there exists on any land or premises any condition giving rise or capable of giving rise to the breeding of flies or mosquitoes or suitable for the breeding of other insects, or of mites or ticks, which are capable of causing or transmitting disease</p> <p>Under s 29 of the Health Act 1956 "nuisance" has its full natural and ordinary meaning: <i>Adam v Napier City Council</i> AP55/86 HC Napier, 29 September 1987 (HC).</p>
Offensive behaviour	The definition of offensive behaviour is taken from the decision of the Supreme Court in <i>Morse v Police</i> [2011] NZSC 45; (2011) 25 CRNZ 174.
Psychoactive substance	<p>Section 9 of the Psychoactive Substances Act 2013 provides:</p> <p>(1) In this Act, unless the context otherwise requires, psychoactive substance means a substance, mixture, preparation, article, device, or thing that is capable of inducing a psychoactive effect (by any means) in an individual who uses the psychoactive substance.</p> <p>(2) Psychoactive substance includes—</p> <p>(a) an approved product;</p> <p>(b) a substance, mixture, preparation, article, device, or thing that is, or that is of a kind that is, or belongs to a class that is, declared by the Governor-General by Order in Council made under section 99 to be a psychoactive substance for the purposes of this Act.</p> <p>(3) Despite subsections (1) and (2), psychoactive substance does not include—</p> <p>(a) a controlled drug specified or described in Schedule 1, 2, or 3 of the Misuse of Drugs Act 1975;</p> <p>(b) a precursor substance specified or described in Schedule 4 of the Misuse of Drugs Act 1975;</p> <p>(c) a medicine within the meaning of section 3 of the Medicines Act 1981 or a related product within the meaning of section 94 of that Act;</p> <p>(d) a herbal remedy (within the meaning of section 2(1) of the Medicines Act 1981);</p> <p>(e) a dietary supplement (within the meaning of regulation 2A of the Dietary Supplements Regulations 1985);</p> <p>(f) any food (within the meaning of section 2 of the Food Act 1981);</p> <p>(g) any alcohol, unless the alcohol contains a psychoactive substance as defined in subsection (1) or (2) that is not alcohol;</p> <p>(h) any tobacco product (within the meaning of section 2(1) of the Smoke-free Environments Act 1990), unless the tobacco product contains a psychoactive substance as defined in subsection (1) or (2) that is not tobacco;</p> <p>(i) a substance, mixture, preparation, article, device, or thing that is, or that is of a kind that is, or belongs to a class that is, declared by the Governor-General by Order in Council made under section 99 not to be a psychoactive substance for the purposes of this Act</p>



HAMILTON SAFETY IN PUBLIC PLACES BYLAW

STATEMENT OF PROPOSAL

JUNE 2020

FURTHER INFORMATION

Hamilton City Council
Garden Place, Private Bag 3010, Hamilton

 haveyoursay@hamilton.govt.nz

 07 838 6699

 hamilton.govt.nz/haveyoursay

 [/hamiltoncitycouncil/](https://www.facebook.com/hamiltoncitycouncil/)



Hamilton City Council (the Council) is seeking feedback on two issues, following the review of the *Hamilton Safety in Public Places Bylaw*.

WHY ARE WE DOING THIS?

Hamilton City Council are proposing minor changes to the *Hamilton Safety in Public Places Bylaw* to better reflect the way we keep our community safe.

Hamilton Safety in Public Places Bylaw 2014

The Bylaw was first adopted in 2014 as per the Local Government Act 2002 requirements. The Council is required to review the existing bylaw after the first 5 years by law. This provides an opportunity for the Council to check in with our community on how the Bylaw is working and consider feedback.

The Council has determined that:

- the current *Hamilton Safety in Public Places Bylaw* is the most appropriate means of controlling the issue of nuisance behaviour in public places in Hamilton City; and
- the Bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990 because the limits it places on the rights and freedoms contained within that Act can be demonstratively justified in a free and democratic society.

The Council proposes to continue the current Bylaw with minor changes.

OPTIONS

In compliance with the LGA, the Council provides two options. The Council wants to consult on its intention to continue the current Bylaw with minor changes.

If you do not think the Bylaw should be continued with changes, then the Council would like to know why. Tell us your views either way in the feedback form attached.

CONTINUE WITH THE CURRENT BYLAW, WITH MINOR CHANGES (PREFERRED)

The Council believes the current Bylaw is fit for purpose but proposes making minor changes to make the Bylaw clearer.

The Council proposes to:

- Remove references to skateboarding as a nuisance behaviour from the Bylaw as few problems have been encountered from skateboard use; and attitudes towards skateboarding have changed with active transport options (such as skateboarding and using scooters) now viewed as part of the range of transport options people may choose.
- Update definitions to align with other Council documents or legislation including an amendment to definition of 'psychoactive substances' and the removal of the term 'mind-altering substance'. These changes are intended to clarify these terms in to account for potential future changes to legislation.

DO NOT CONTINUE WITH THE CURRENT BYLAW (NO BYLAW)

This will mean the Council does not continue with a Bylaw for nuisance behaviour after it considers feedback through the consultation process.

A copy of the amended Bylaw is attached to this Proposal.

TELL US YOUR THOUGHTS ON THE BYLAW

Before making any final decisions, we'd like to have your input.

You can give us feedback from 1 June to 30 June 2020 using the feedback form below.

HOW TO GIVE FEEDBACK:

- Fill out a feedback form online at hamilton.govt.nz/haveyoursay
- Fill out the feedback form included in this Statement of Proposal and send to: Hamilton City Council, Communication and Engagement team, Private Bag 3010, Hamilton, 3240.
- Fill out the feedback form and deliver to the Municipal Building Reception or any branchy of Hamilton City Libraries.

Feedback forms and the proposed Bylaw changes are available from all Hamilton City Libraries, and from the Ground Floor reception of the Council's Municipal Building in Civic Square.

For any queries please ring 07 838 6699 or email haveyoursay@hcc.govt.nz

NEXT STEPS

Staff will collect and analyse all feedback at the close of the submission period.

The analysis of this feedback will be presented to the August 2020 meeting of the Hearings and Engagement Committee. At this meeting, submitters who want to speak to their written submission will be able to do so.

The Council will then consider all the views and make a decision on the Bylaw.

FEEDBACK FORM

HAMILTON SAFETY IN PUBLIC PLACES BYLAW – JUNE 2020

Hamilton City Council has reviewed the *Hamilton Safety in Public Places Bylaw*.

FEEDBACK FORMS CAN BE:

- Completed online at hamilton.govt.nz/haveyoursay
- Posted to: Freepost 172189, Hamilton City Council, Communication and Engagement team, Hamilton Safety in Public Places Bylaw, Private Bag 3010, Hamilton, 3240.
- Emailed to: haveyoursay@hcc.govt.nz

Name: _____

Organisation (if responding on behalf of an organisation) _____

Privacy statement:

The Local Government Act 2002 requires submissions to be made available to the public. Your name will be published with your submission and made available in a report to elected members and to the public. Other personal information supplied will be used for administration and reporting purposes only. Please refer to Council's Privacy Statement at hamilton.govt.nz for further information.

PLEASE TICK IF YOU DO NOT WANT YOUR NAME TO BE PUBLISHED WITH YOUR SUBMISSION ☐

WOULD YOU LIKE THE OPPORTUNITY TO TALK TO US ABOUT YOUR SUBMISSION IN PERSON?

☐ Yes ☐ No

Hearings are being held in August 2020. We will be in touch to arrange a date and time.

YOUR FEEDBACK:

1. SHOULD HAMILTON CONTINUE ITS CURRENT HAMILTON SAFETY IN PUBLIC PLACES BYLAW WITH THE PROPOSED MINOR CHANGES?

☐ Yes ☐ No

Reasons (Please print clearly):

Run out of room? Feel free to attach additional pages.

ABOUT YOU: (Please print your details clearly)

This section tells us a bit more about you. By capturing this information, we will be able to better understand who is, and isn't, providing feedback. This information will not be used in a way which may identify you.

WHERE DO YOU LIVE?

I am a Hamilton city resident, my suburb is: _____

I live outside Hamilton city:

☐ Waipa ☐ Waikato ☐ Elsewhere in New Zealand ☐ Overseas

CONTACT DETAILS

We will use this to get in touch with you if you would like the opportunity to talk to us about your submission in person.

Phone: (day) _____ (evening) _____

Email: _____

WHAT IS YOUR AGE GROUP? (at your last birthday)

☐ Under 16 ☐ 16-19 ☐ 20-24 ☐ 25-29 ☐ 30-34
☐ 35-39 ☐ 40-44 ☐ 45-49 ☐ 50-54 ☐ 55-59
☐ 60-64 ☐ 65-69 ☐ 70-74 ☐ 75-79 ☐ 80+

WHICH ETHNIC GROUP DO YOU IDENTIFY AS?

☐ NZ European ☐ Maaori ☐ Indian ☐ Chinese ☐ Samoan
☐ British ☐ Filipino ☐ Tongan ☐ South African ☐ Cook Island Maaori
☐ Other _____

WHICH OF THE FOLLOWING BEST DESCRIBES YOUR HOUSEHOLD SITUATION?

☐ Living alone ☐ Living with others that are not family
☐ Family or couple with dependants (children or other family) ☐ Family or couple with no dependants

Please get your feedback to us by 30 June 2020.

