

Kaikōura District

**Structures, Works and Items in Public
Places Bylaw 2022**



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KAIKŌURA DISTRICT STRUCTURES, WORKS AND ITEMS IN PUBLIC PLACES

In pursuance and exercise of the powers vested in it by Part 8 of the Local Government Act 2002, the Local Government Act 1974, the Bylaws Act 1910, and any other Act or Authority thereto enabling it, the Kaikōura District Council **MAKES THE KAIKŌURA DISTRICT STRUCTURES, WORKS AND ITEMS IN PUBLIC PLACES BYLAW 2022:**

A Bylaw to:

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

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

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

1. **SHORT TITLE**

This Bylaw shall be cited and referred to as “The Kaikōura District Structures and Works and Items in Public Places Bylaw 2022”.

2. **INTERPRETATION**

In this Bylaw, except where inconsistent with the context:

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

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

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

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

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

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

Council means the Kaikōura District Council

Item means but is not limited to any vehicle; sign; merchandise stand; household furnishings, appliances, fixtures or fittings; building materials, skip bins and produce.



Public place -

- a. means a place with the Kaikōura District -
 - i. that is under the control of the council; and
 - ii. that is open to, or being used by, the public, whether or not there is a charge for admission; and
- b. includes-
 - i. roads, whether or not the road is under the control of the council; and
 - ii. footpaths, being any path or way principally designed for and used by pedestrians, including any footbridge or grass berm for use of pedestrians; and
 - iii. any part of a public place.

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

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

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

Utility Network Operator has the same meaning as defined in s166 of the Resource Management Act 1991.

3 VERANDAS, BALCONIES AND AWNINGS

Requirements for Verandas

- 3.1 The Kaikōura District District Plan may require owners to build Verandas over the footpath as part of the construction or modification of buildings in various parts of urban areas. A resource consent as well as a building consent may be required for a Veranda, balcony or awning attached to a



building especially if this protrudes over a public place. In areas where the District Plan requires the construction of Verandas on new buildings, existing buildings will be required to retain Verandas in the future.

Permission from an authorised officer

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

Waterproofing and discharge of roof water

- 3.3 Every Veranda, balcony or awning extending over a public place and any junctions between any adjoining structures shall be made waterproof, with rainfall on the structures contained and collected for discharge to a stormwater system in a manner that does not cause it to discharge onto a footpath or otherwise nuisance to the users of the public space.

Minimum height

- 3.4 The minimum height of any part of the underside of a Veranda, balcony, or awning shall be 2.8 metres above the finished surface level of the public place beneath it. For the purpose of measuring this height it does not include any sign that might be attached under it. District Plan requirements may also set a maximum height for Verandas in business areas.

Type of support

- 3.5 Every Veranda, balcony or awning extending over a public place shall be of the suspended type that is not reliant upon any supporting elements coming into contact with the ground of the public place below.

Width

- 3.6 Every Veranda, balcony or awning over a footpath shall extend a minimum of 2.0 metres over the width of that footpath, provided that this does not



result in the structure being closer to the kerb line than 500 millimetres, measured as a vertical line drawn from the face of the kerb.

Standing on Verandas

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

Maintenance of Veranda, balcony or awning

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

Lamps and gas appliances

- 3.9 No person shall erect or suspend from any Veranda, balcony or from the face of any building any lamp or gas appliance over or across any public place except with the permission of an authorised officer. The height of any such approved lamp or gas appliance shall be not less than 2.5 metres above the public place below.

Maintenance of Lighting

- 3.10 Where lighting is provided on a Veranda the owner shall ensure that such lighting is installed and maintained so as to be safe at all times. Safety shall include the avoidance of adverse glare or distraction for vehicle users. Owners are encouraged to adopt lighting that conforms with the 'Best Practice Lighting for Dark Skies' guidelines that are available on the Council website.

Removal of non-complying structures

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



Failure to comply with notice

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

Release of removed structures

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

Temporary removal for works

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

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

Reduction of width

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



Airspace Lease

- 3.16 Except where such a structure is required by Kaikōura District Council's District Plan or other regulations, an airspace lease with associated charges may be required by Council for any Veranda, balcony, awning or other structural projection that projects over a public place.
Rentals shall be set at a level that reflects the associated benefit of the structure to the owner.

Certain Provisions Not Retrospective

- 3.17 Clauses 3.4, 3.5 and 3.9 shall not apply to particular aspects of a Veranda or associated feature that can be demonstrated to have been in existence at the date of confirmation of this bylaw and for which the property owner had not been previously requested by Council to remedy that aspect.

4 PROJECTIONS FROM BUILDINGS

Projection - architectural features

- 4.1 Architectural features at a height of not less than 2.8 metres above the level of a formed footpath, or 4.5 metres above ground level where no footpath has been formed, may project over a public place with the approval of an authorised officer.

Hoisting materials

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

Windows over public places

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

Maintenance of building projections

- 4.4 Any projections from buildings over a public place, including all elements used to attach it to the building or otherwise support it, shall be maintained

in a clean and structurally sound condition and in a state of good repair by the owner of the building.

Foundation projections

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

Certain Provisions not Retrospective

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

5 CONSTRUCTION WORK IN PUBLIC PLACES

Surface water run-off

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

Clean road

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

6 PUBLIC SAFETY

Permit

- 6.1 No person shall, for the purpose of carrying out any excavations, demolition, construction, building or building maintenance work, obstruct, operate on, over, or under, or deposit material on any footpath, carriageway

or other public place except pursuant to a permit issued by an authorised officer.

Note: See also similar provisions in the Kaikōura District Council Traffic and Parking Bylaw 2018.

Permit conditions

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

7 DEMOLITION

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

- a. One storey only at a time shall be demolished or removed commencing from the uppermost level,
- b. No material shall be stored or stacked upon any floor of the building,
- c. All material shall be lowered to the ground as soon it has been displaced,
- d. No external wall or part thereof abutting on any street or public place shall be demolished or removed except at such time and under such conditions as an authorised officer may approve,
- e. No material shall be thrown onto any street or public place,
- f. Water shall be sprayed upon all displaced materials for the purpose of preventing or lessening the diffusion of dust arising from any demolition activity,
- g. A ball and crane or other mechanically-assisted demolition methods shall not be used on any building closer than the height of the building



from the street frontage or within 12 metres of the street boundary (whichever is the greater) unless approval has been obtained from an authorised officer to close the public place adjacent to the work. The authorised officer may specify the amount of public place to be closed off to allow the work to be carried out without endangering public safety. Where an authorised officer so approves the party undertaking the demolition shall pay supervisory costs incurred by the council to maintain public safety,

- h. No portion of a building closer than its height from the public place shall be left standing when it is no longer stable unless arrangements have been made to the satisfaction of an authorised officer for the protection of the public in such circumstances,
- i. Where required by an authorised officer, demolition work shall be carried out under the supervision and control of a Chartered Professional Engineer and the confirmation of an Engineer's appointment shall be submitted by the applicant prior to the issue of a demolition permit,
- j. A hoarding or gantry shall be erected to the requirements of Clause F5 of the New Zealand Building Code where in the opinion of an authorised officer there is a need to safeguard people or other property from demolition activities occurring on any land,

Further requirements

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



8 PROTECTION OF PUBLIC DURING BUILDING OPERATIONS OR MAINTENANCE

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

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

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

9 LIFTING MATERIAL AND EQUIPMENT OVER PUBLIC PLACES

Hoisting materials

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

Permission to hoist

- 9.2 No person shall undertake the mechanical hoisting of building materials or equipment from or over any public place without permission from an authorised officer.

Conditions

- 9.3 An authorised officer in granting a permission pursuant to clause 9.2 may impose such conditions as are necessary to ensure the safety of the public, including persons on the public place who are engaged in the hoisting operations. The following conditions shall apply to every consent:
- a. Areas over which or from which hoisting is to be carried out must be coned, roped, fenced or barricaded off.
 - b. A clearly defined and fully protected gantry type throughway or bypass, substantially constructed, must be provided for pedestrian use, over any footpath alongside any public place from which materials and equipment are to be hoisted. This protected throughway shall extend along the full length of the frontage of the site. Where it is required by an authorised officer the protected throughway shall extend beyond the frontage of the building to provide radial protection to the footpath,
 - c. Crane jibs may swing over unprotected public roadways and footpaths but not the loads hanging from them. No vehicle which is being unloaded from a coned off area shall move away until its last load has been hoisted clear of the roadway,
 - d. The lifting or lowering of materials or equipment on trays without sides is prohibited. The tray must be enclosed on all sides to a height not less than the height of the load.

Insurance

- 9.4 Insurance cover shall be taken out by the consent applicant for any construction work that may affect public safety indemnifying the council for a minimum amount of \$2,000,000 in respect of any claims for injury or

damage to persons or property, such cover to be with a registered insurance office. An authorised officer may reduce or waive this requirement in the case of minor works when the risk is considered minimal.

10 STREET DAMAGE DEPOSIT CHARGE

Building work may require street damage deposit charge

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

Use of deposit

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

Refunding deposit

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

Warranty Period

- 10.5 If the council identifies any defects within the warranty period in the repairs to the road reserve undertaken by the applicant, the council may repair the

defect and recover the costs incurred, including any reasonable administration costs, from the applicant.

Recovery of Debt

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

11. PLACEMENT OF OTHER ITEMS IN PUBLIC PLACES

Other Items on Footpaths etc

- 11.1 No person shall stand, park, place or leave any item or permit or allow any item to remain in or upon any footpath, grass verge, grass berm or public place in a manner that may in the opinion of an Authorised officer affect the safe and/or efficient operation of that footpath, grass verge, grass berm or public place; or create a nuisance or health hazard, except:
- (a) With the written consent of Council; or
 - (b) In compliance with a public notification by Council; or
 - (c) In compliance with clause 12.

Approved Uses of Footpaths etc

- 11.2 Notwithstanding the provisions of clause 11.1, items in the form of outdoor furniture, merchandise stands and/or footpath signs may be displayed on a footpath fronting that owner's retail or service establishment, provided that:
- (a) No less than 2.0 metres of the footpath width shall remain clear of obstructions for pedestrians at all times; and
 - (b) Kerb and channel crossings for pedestrian or other access to footpaths remain unobstructed; and
 - (c) The outdoor furniture, merchandise stands and/or footpath signs are not permanently fixed to the footpath space; and
 - (d) The outdoor furniture, merchandise stands and/or footpath signs are removed from the footpath whenever the retail or service establishment is closed for business; and

- (e) The outdoor furniture and footpath signs are presented and maintained to a high standard of cleanliness and repair at all times (the furniture shall not be of soft plastic material); and
- (f) The outdoor furniture and merchandise stands are to be placed beside the shop frontage and the footpath signs are to be placed at the kerbside (where possible at either end of an identified parking space); and
- (g) No person is prohibited or restricted from exiting their vehicle from any identified parking space; and
- (h) The maximum number of items allowed per business is four, of which three may be furniture items. For the purpose of this clause one café table and two chairs can be counted as a single furniture item.
- (i) Any signs meet the requirements of the Kaikōura District (Signs) Bylaw; and
- (j) The owner pays the relevant fees for the permission to occupy the area of the public place containing the items.

12 PERMISSIONS UNDER THIS BYLAW

- 12.1 The Council may set application fees for permissions under this bylaw and any application for a permission must be accompanied by the relevant application fee (if any).
- 12.2 An application for permission must be in writing, contain all information necessary for the authorised officer to consider issuing a permit, and be submitted in accordance with applicable Council policy.
- 12.3 Any permission under this bylaw may –
 - (a) include conditions (including the payment of ongoing fees and charges); and
 - (b) be granted by an authorised officer at the officer's discretion.
- 12.4 An authorised officer determining an application for permission may require the applicant to provide further information, such as (without limitation) a Traffic Management Plan, site location plan, and a Corridor Access Request.
- 12.5 Any breach of the conditions of a permission granted under this bylaw –
 - (a) may result in the permission being withdrawn; and

(b) is a breach of this bylaw.

13 SETTING OF FEES AND CHARGES

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

Note: Fees, including the street damage deposit charge, lease fees and licence and permit fees, may be set as part of the council's long-term plan or annual plan or through other amendment of Council's Schedule of Fees and Charges.

14. EXEMPTION FOR UTILITY NETWORK OPERATORS

Utility Network Operators are exempt from the provisions of this Bylaw.

15. OFFENCES AND PENALTIES


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

16. OTHER REQUIREMENTS

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

THE RESOLUTION BY WAY OF SPECIAL CONSULTATIVE PROCEDURE TO MAKE THIS BYLAW was passed by **THE KAIKŌURA DISTRICT COUNCIL** at a meeting of the Kaikōura District Council held on the 15th day of December 2021 and confirmed at a subsequent meeting of the Council held on the 30th day of March 2022, by a resolution passed by the Council on the 30th day of March 2022 the said Bylaw was ordered to come into effect on the 7th day of April 2022.


This Bylaw confirmed by Council on 30/3/2022



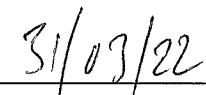
Mayor



Date



Chief Executive



Date



