

Mr Prebble

**AUCKLAND CITY COUNCIL (LITTER
PREVENTION)**

[LOCAL]

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A BILL INTITULED

**An Act to make provision for the prevention and abatement
of litter in the district of the Corporation of the City of
Auckland**

5 BE IT ENACTED by the General Assembly of New Zea-
land in Parliament assembled, and by the authority of the
same, as follows:

1. Short Title and commencement—(1) This Act may be
cited as the Auckland City Council (Litter Prevention) Act
10 1977.

No. 120—1

Price 20c

(2) This Act shall come into force on a date to be appointed for its commencement by the Governor-General by Order in Council.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Corporation” means the body corporate of the Mayor, Councillors, and Citizens of the City of Auckland:

“Council” means the **Auckland City Council**:

“District” means the district of the Corporation:

“Depositing”, in relation to litter, includes casting, placing, throwing, or dropping litter; and also includes refuse dropped or blown from vehicles or trailers arising from failure to take proper precautions to secure the load or otherwise to prevent its escape; and “deposit” has a corresponding meaning:

“Litter” means any refuse, rubbish, animal remains, garbage, debris, dirt, filth, rubble, ballast, stones, earth, or waste matter, or any other matter of a like nature; and includes anything that is deliberately discarded in breach of the provisions of this Act:

“Litter officer” means an officer appointed by the Council in accordance with section 4 of this Act:

“Public place in the district” includes and applies to every road, street, footpath, footway, court, alley, and thoroughfare of a public nature, or open to or used by the public as of right, and to every place of public resort so open or used and also shall be deemed to include—

(a) Any public park, garden, reserve, or other place of public recreation or resort; or

(b) Any railway station, platform, or yard; or

(c) Any public hall, theatre, or room in which any public concert, theatrical presentation or other public entertainment is being held or performed or is taking place; or

(d) Any market; or

(e) Any auction room or mart or place while a sale by auction is there proceeding; or

(f) Any racecourse, cricket ground, football ground, or other such place to which the public have access free or on payment of any gate money; or

5 (g) Every other place open to or used by the public whether on the payment of money or otherwise—but does not include any site for the disposal of litter, or any receptacle installed in any public place:

“Site for the disposal of litter” means an area set apart as a site for the deposit and disposal of refuse or of any other litter by the Council pursuant to section 38 of the Health Act 1956 or any other enactment.

10 **3. Application of this Act—**(1) The provisions of this Act shall apply to the deposit of litter in public places in the district and on Crown land and privately owned land therein, and the provisions of the Litter Act 1968 shall not apply to the district.

15 (2) The provisions of this Act shall apply to the deposit of litter by the Government or by any officer thereof in his capacity as such officer.

4. Appointment of litter officers—(1) The Council may from time to time appoint any suitable person (whether 20 already employed by the Council or not) to be a litter officer to exercise the duties conferred on him by this Act.

(2) Every such appointment shall be on such terms as to remuneration and other conditions of employment as the Council may determine.

25 (3) Every officer shall hold office during the pleasure of the Council and may at any time be removed from office by it, or he may at any time resign his office by notice in writing addressed to the Town Clerk.

30 (4) The Council shall supply to every officer appointed by it a written warrant, under the seal of the Council evidencing the appointment, and the production of that warrant shall be sufficient proof of the appointment.

35 (5) The Council may, if it thinks fit, provide its litter officers with uniforms or insignia of appointment for wearing whilst on duty, but it shall not be under any obligation to do so.

40 (6) Every such officer shall, on the termination of his appointment, whether by removal from office or by resignation, surrender to the Council his warrant of appointment and any uniform or insignia that may have been issued to him.

4 *Auckland City Council (Litter Prevention)*

5. Other litter officers—The following persons shall by virtue of their office be deemed to be litter officers for the purposes of this Act:

- (a) Every member of the Police who shall have all the powers of a litter officer in any public place or on any land to which the provisions of this Act apply: 5
- (b) Every traffic officer employed by the Council while he is acting in the exercise of his powers or the discharge of his duties in any public place in the district where he is authorised to exercise his jurisdiction as a traffic officer. 10

6. Powers and duties of litter officers other than traffic officers—(1) Every litter officer (other than a traffic officer), if for the time being in uniform or in possession of a warrant or other evidence of his authority as an officer, is authorised to enforce the provisions of this Act and he may, without further authority than this section, summarily interfere to prevent the deposit or attempted deposit of litter in any public place in the district or on any other land to which the provisions of this Act apply. 15 20

(2) Where any such officer finds a person depositing litter as aforesaid (whether inadvertently or otherwise) or has good cause to believe that a person has deposited litter (whether inadvertently or otherwise) in any such place or on such land the officer may require him to place the litter in the nearest receptacle (if one is reasonably available) or if by reason of the size or quantity of the litter or for any reason it is not practicable for the litter to be placed in a receptacle, to remove the litter from the place or land. 25 30

(3) If any such officer finds a person committing an offence against section 10 of this Act, or has good cause to believe that a person has committed such an offence, the officer may require that person to state his true name and place of residence and to verify the same if called upon. 30

7. Powers and duties of traffic officers as litter officers— (1) Every litter officer who is a traffic officer in uniform is authorised to enforce the provisions of this Act so far as they relate to the deposit of litter in a public place in the district in which he is authorised to exercise his jurisdiction as a traffic officer and he may, without further authority than this section, summarily interfere to prevent such a deposit. 35 40

(2) Where any such officer finds a person depositing litter (whether inadvertently or otherwise) in a public place in the district in which he is authorised to exercise his jurisdiction, or has good cause to believe that a person has deposited
5 litter (whether inadvertently or otherwise) therein, the officer may require him to place the litter in the nearest receptacle (if one is reasonably available) or, if by reason of the size or quantity of the litter or for any other reason it is not practicable for the litter to be placed in a receptacle,
10 to remove the litter from that place.

(3) If any such officer finds a person committing an offence against section 10 of this Act, or has good cause to believe that a person has committed such an offence, the officer may require that person to state his true name and
15 place of residence and to verify the same if called upon.

(4) Notwithstanding the provisions of this section and of section 6 of this Act, the Council may resolve that traffic officers employed by it shall have all the powers conferred on litter officers by the said section 6 and on the passing
20 of any such resolution by the Council, every traffic officer employed by it may exercise the powers conferred by the said section 6 as if he were a litter officer to whom that section relates.

(5) The provisions of section 67 of the Transport Act
25 1962 shall apply to any offence committed against this Act.

8. Receptacles for litter—(1) The Council may require the proprietor or occupier of any public place in the district that is not under the Council's control or management or of any shop or other place where persons foregather and where
30 litter is likely to be produced to provide receptacles of suitable construction and design for the temporary deposit of litter as may be reasonably be necessary to ensure that the place may be kept free of litter, and to make appropriate provision for the emptying of the contents and for the temporary storage thereof prior to disposal.
35

(2) The Council may require the receptacle or receptacles referred to in subsection (1) of this section to be located either inside the public place or shop or other premises or outside the same, depending upon the circumstances of the
40 particular case.

9. Council may make grants, etc., for the abatement or prevention of litter—(1) The Council may, notwithstanding anything to the contrary in any other enactment, from time to time—

(a) Make grants of such amounts as it thinks fit to any organisation (not established for the purpose of making a profit) whose principal objects include the abatement or prevention of litter: 5

(b) Spend such sums of money as it thinks fit on any scheme or campaign for the abatement or prevention of litter. 10

(2) The Council may enter into arrangements with community or similar organisations for clearing up litter, and it may make payment of bounties for litter collected.

10. Depositing litter—(1) Every person commits an offence, and is liable in the case of an individual to a fine not exceeding \$400 or, in the case of a body corporate, to a fine not exceeding \$2,000, who without reasonable excuse deposits litter in or on any public place in the district or on any Crown or private land to which this Act applies or having deposited any litter as aforesaid (whether inadvertently or otherwise), leaves the litter there. 15 20

(2) The provisions of this section shall not apply to the Government or to any officer thereof in his capacity as such officer. 25

11. Litter infringements—(1) Notwithstanding the provisions of section 16 of this Act, where any litter officer observes a person committing an offence against section 10 of this Act, or has good cause to believe that that person is committing such an offence, he may (as an alternative to taking action under the Summary Proceedings Act 1957) serve or cause to be served on the offender a litter infringement notice in accordance with the provisions of this section. 30

(2) Subject to the provisions of this section, a person in receipt of a litter infringement notice shall be liable to pay to the Council a fee of \$10. 35

(3) A litter infringement notice may be served by serving it personally upon the person to whom it is addressed or by sending it by registered letter addressed to him at his last known place of residence or business or at the place of residence given in terms of section 6 (3) of this Act or of subsections (3) or (5) of section 7 of this Act. 40

(4) Every litter infringement notice served by registered letter shall be deemed to have been received when in the ordinary course of post it would be delivered, and in proving service it shall be sufficient to prove that the letter was properly addressed and posted.

(5) Every litter infringement notice shall contain the following particulars:

- (a) Such details of the alleged offence as are sufficient fairly to inform the person to whom it is addressed of the time place and nature of the offence; and
- (b) The amount of the fee payable to the Council in respect of the offence; and
- (c) The place at which and the times during which the fee may be paid; and
- (d) A statement that if the fee is not paid before the date specified in the notice, being not less than 14 days after the date of service of the notice, proceedings may be taken under the Summary Proceedings Act 1957 for an offence against subsection (6) of this section, a copy of which subsection shall be set out in the notice.

(6) Notwithstanding anything in section 10 of this Act, every person commits an offence and is liable to a fine not exceeding \$10 who, having been served with a litter infringement notice relating to that offence, fails to pay to the Council before the date specified in the notice the said fee of \$10.

12. Payment of fines to Council—The provisions of section 109 of the Public Revenues Act 1953 shall apply to every fine recovered in respect of a conviction for an offence against this Act.

13. Wilful breaking of bottles or glass in a public place in the district—Every person commits an offence, and is liable to imprisonment for a term not exceeding 1 month or to a fine not exceeding \$400, or to both, who wilfully breaks any bottle or any glass or any article made of glass, in or on any public place in the district without lawful authority or without the express consent of the Council.

14. Offences in respect of litter officers—Every person commits an offence, and is liable to a fine not exceeding \$400, who—

- (a) Wilfully obstructs a litter officer while acting in the execution of any of the powers or duties conferred on him by this Act; or
- (b) Without lawful excuse fails within a reasonable time to comply with the requirement of an officer exercising the power conferred upon him by section 6 (2) or section 7 (2) of this Act; or 5
- (c) After being required to disclose his true name and place of residence by an officer acting pursuant to the power conferred on him by section 6 (3) or section 7 (3) of this Act— 10
 - (i) Refuses to disclose his true name or place of residence; or
 - (ii) Gives a false name or place of residence; or 15
 - (iii) Gives such a general description of his place of residence as is illusory for the purpose of discovery;
- (d) Personates or falsely pretends to be an officer; or
- (e) Offers violence to, or assaults, threatens or intimidates or uses threatening language or behaves in a threatening manner to any officer while he is acting in the exercise of his powers or the discharge of his duties under this Act; or 20
- (f) Gives or agrees to give or offers to any officer any gift or consideration as an inducement or reward for any act done or to be done, or for any forbearance observed or to be observed or for any favour shown or to be shown by him, or who, being such an officer, accepts or agrees to accept or solicits 25 30 any such gift or consideration as aforesaid.

15. Liability of officers of body corporate—If a body corporate commits an offence against section 10 of this Act, every director, manager, secretary, or other similar officer of the body corporate, and every person purporting to act in any such capacity, shall also be guilty of that offence if the act or omission constituting the offence occurred with his knowledge and consent. 35

16. Offences punishable on summary conviction—Save where otherwise expressly provided, every offence against this Act shall be punishable on summary conviction. 40

17. **Offender may be ordered to clear area**—(1) Without limiting the powers conferred on litter officers by this Act, where any person is convicted of an offence against section 10 of this Act the Court may, instead of or in addition to
5 imposing a penalty, order the offender, under the supervision and to the satisfaction of a person nominated by the Court, to clear up and remove from the area the deposited litter within such period and to such place as may be specified in the order; and on the making of any such order the
10 Court shall further order that, if the offender fails to comply with the order, he shall be liable, in addition to any penalty imposed under the said section 10 to a fine not exceeding \$400.

(2) Where the order is complied with to the satisfaction
15 of the person nominated by the Court that person shall give or send to the offender a statement in writing to that effect.

(3) Where an offender fails to comply with any such order, any Magistrate, on the application of the person nominated by the Court to supervise the clearing and
20 removal of the litter, may issue a summons requiring the offender to show cause why the fine imposed by the order should not be enforced.

(4) On the hearing of the summons to show cause, the Court may make such order as it thinks fit.

25 **18. Cost of removing litter**—Where a Court convicts a person of an offence against section 10 of this Act, it may, if it thinks fit, in addition to imposing a penalty, order the offender to pay by way of compensation to the Council such sum as it considers reasonable to cover the cost of the
30 removal of the litter; and the amount so awarded shall be deemed to be a judgment debt due to the Council from the offender and may be enforced in any manner in which a judgment or order of the Court for the payment of a civil debt may be enforced.

35 **19. Bylaws**—The Council shall make bylaws prescribing the form of a litter infringement notice that contains the matters referred to in section 11 (5) of this Act, and such other information as it may consider to be relevant.