

# CLUTHA DISTRICT COUNCIL REGULATORY BYLAWS

## PART 7

### LIQUOR CONTROL

#### 700 PURPOSE

This Bylaw is made under the authority of section 147 of the Local Government Act 2002 (the Act) which gives Council a specific power to make bylaws for liquor control purposes.

This bylaw is to prohibit the consumption or possession of liquor in specified public places for the purposes of:

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

#### 701 SCOPE

This Bylaw shall apply to the prohibition and control of liquor in public places that are located within the areas specified in Appendix A.

The Bylaw is subject to, and should be read in conjunction with, the Local Government Act 2002 and the Sale of Liquor Act 1989.

#### 702 DEFINITIONS

For the purposes of this Bylaw, unless the context requires otherwise, the following definitions apply:

<b>Act</b>	Local Government Act 2002.
<b>Council</b>	The Clutha District Council.
<b>Event</b>	An activity involving groups of people engaged in recreational, leisure or similar pursuits either as participants or spectators and includes sports meetings, carnivals, craft or trade fairs, displays and the like.
<b>Hours of darkness</b>	A period of time between half an hour after sunset on one day and half an hour before sunrise on the next day.
<b>Liquor</b>	Has the meaning assigned to that term in section 2 of the Sale of Liquor Act 1989.

<b>Public notice</b>	The meaning assigned to that term in section 5 of the Act.
<b>Public place</b>	The meaning assigned to that term in section 147(1) of the Act.
<b>Specified period</b>	A period specified in Appendix A of this Bylaw, and in respect of which the prohibitions and controls in this Bylaw will apply at any specified public place.
<b>Specified public place</b>	A place specified in Appendix A of this Bylaw, and in respect of which the prohibitions and controls in this Bylaw will apply at any specified time, day or event. It does not include any part of a public place for which a liquor licence has been issued under the Sale of Liquor Act 1989.

## **703 PROHIBITED ACTS**

Subject to clause 705 of this Bylaw the following actions are prohibited, at all times, within any liquor ban area as described in Appendix A:

- (a) the consumption of liquor in a specified public place, or in a vehicle within a specified public place;
- (b) the bringing of liquor into a specified public place;
- (c) the possession of liquor in a specified public place, or in a vehicle within a specified public place.

## **704 AMENDMENTS TO SPECIFIED PUBLIC PLACES**

### **704.1 Amendments to specified periods and/or specified public places**

Council may, through the special consultative procedure set out in section 83 of the Act, amend this Bylaw. Amendments may include:

- (i) Adding a specified public place in Appendix A;
- (ii) Modifying the boundaries of a specified public place already contained in Appendix A;
- (iii) Removing a specified public place from Appendix A.

### **704.2 Addition of specified periods and/or specified public places for planned events**

Council may, by resolution, specify additional periods and public places during which the bringing of liquor into, the possession and/or consumption of liquor in that public place may be prohibited. The Council may make such a resolution in relation to any planned public event, function or social gathering to be held in that public place.

### **704.3 Public notice of resolution**

Every resolution made pursuant to clause 704.2 shall be:

- (i) Publicly notified (as defined in clause 702) at least 14 days before it shall take effect; and
- (ii) Marked by one or more conspicuous street signs in or adjacent to the specified public place, unless it is impracticable or unreasonable to do so.

## **705 EXCEPTIONS**

### **705.1 Licensed premises**

As provided for in section 147(3) of the Act, this Bylaw does not prohibit, in the case of liquor in an unopened bottle or other unopened container:

- (a) the transport of that liquor from premises that adjoin a public place during any period when, under the Sale of Liquor Act 1989, it is lawful to sell liquor on those premises for consumption off the premises, provided the liquor is promptly removed from the public place:
- (b) the transport of that liquor from outside a public place for delivery to premises that adjoin the public place, provided the premises are licensed for the sale of liquor under the Sale of Liquor Act 1989.

In addition to this, the bylaw does not prohibit the possession and/or consumption of liquor at any premises within a specified public place in compliance with a licence for the sale and/ or consumption of liquor under the Sale of Liquor Act 1989. This includes footpath areas that are licensed as part of those premises and are clearly defined by the placement of tables and chairs outside those premises, and other areas, clearly defined and identified under an appropriate liquor licence for an event or function at the time liquor is being possessed or consumed.

### **705.2 Other premises**

As provided for in section 147(3)(c) of the Act, this Bylaw does not prohibit, in the case of liquor in an unopened bottle or other unopened container, the transport of that liquor from outside a public place to premises that adjoin a public place –

- (i) by, or for delivery to, a resident of those premises or by his or her bona fide visitors; or
- (ii) from those premises to a place outside the public place by a resident of those premises, provided the liquor is promptly removed from the public place.

### **705.3 Special Licences**

This bylaw does not limit any individual or organisation (corporate or otherwise) from obtaining a Special Licence pursuant to section 73 of the Sale of Liquor Act 1989, for any event to be held in a specified public place.

### **705.4 Dispensations**

The Chief Executive or other authorised officer may, on application by any person, grant a waiver, dispensation or licence to do or refrain from doing anything that would otherwise be in breach of this bylaw for the purpose of enabling possession and/or consumption of liquor in a specified public place at any time.

In considering any such application, Council shall obtain and consider a response to the request from the police, including any reason set out in that response.

Where any such waiver, dispensation or licence is granted Council shall:

- (i) stipulate the specific time periods and locations associated with the event;
- (ii) give public notice via advertisement in a newspaper which is circulated in the affected area at least 7 days prior to the commencement of the waiver, dispensation or licence

The applicant may be required to reimburse the costs associated with the public notice, processing the application and obtaining a police response to the application.

## **706 ENFORCEMENT**

Enforcement of this Bylaw will be carried out by the police as set out in sections 169 and 170 of the Local Government Act 2002, which has been summarised in clause 706.1 and 706.2.

### **706.1 Police powers of arrest, search, and seizure in relation to liquor**

A member of the police may, without warrant, -

- (a) for the purpose of ascertaining whether liquor is present, search –
  - (i) a container (for example, a parcel, package, bag, or case) in the possession of a person who is in, or entering, a public place:
  - (ii) a vehicle that is in, or is entering, a public place:
- (b) seize and remove liquor and its container if the liquor is in a public place in breach of a bylaw:
- (c) arrest a person whom the member of the police finds committing an offence:
- (d) arrest a person who has refused to comply with a request by a member of the police –
  - (i) to leave the public place; or
  - (ii) to surrender to a member of the police the liquor that, in breach of a bylaw, is in that person's possession.

Liquor or a container seized by police from any person breaching this Bylaw becomes the legal property of the Crown.

### **706.2 Conditions relating to power of search**

Before exercising the power of search in relation to a container or vehicle set out in clause 706.1, a member of the police must –

- (a) inform the person in possession of the container or the vehicle, as the case may be, that they have the opportunity of removing the container or the vehicle from the public place; and
- (b) provide the person with a reasonable opportunity to remove the liquor or the vehicle, as the case may be, from the public place.

However, on specified dates or in relation to specified events, duly notified by Council in accordance with s170(3) of the Act, a member of the police may, immediately and without further notice, exercise the power to search a container or a vehicle.

## **707 BREACH OF BYLAW**

Subject to clause 705 of this Bylaw, any person who carries out any action described in clause 703 breaches this Bylaw and commits an offence against the Act.

Under section 242(4) of the Act, a person who commits an offence against this Bylaw is liable, on conviction, to a fine not exceeding \$20,000.

## Appendix A – Liquor Ban Areas

Subject to the exceptions set out in clause 705 of the Bylaw, the specified places and specified periods relating to those specified places are as follows:

Specified Public Places	Specified Period
<b>BALCLUTHA</b>	
1. Town Hall Street, Charles Street, and Clyde Street adjacent to the Town Hall and Information Centre, and associated grounds.	24 hours per day, seven days per week.
2. Renfrew Street from Clyde Street to James and Paisley Streets.	24 hours per day, seven days per week.
3. Lanark Street playground including the associated carpark area.	24 hours per day, seven days per week.
4. State Highway 1 – from the intersection of Clyde Street and Kakapuaka Road to the Essex Street Night and Day Store (property references – 25 and 26 Essex Street).	24 hours per day, seven days per week.
5. Arthur Strang boat ramp area.	During the hours of darkness (as defined by the bylaw)
<b>MILTON</b>	
1. Grey Street – from Union Street to Ajax Street, including the area surrounding the public toilets.	24 hours per day, seven days per week.
2. Union Street from the Springfield Road/ Cross Street intersection to the Ossian Street Intersection.	24 hours per day, seven days per week.
3. Property on which the Milton Cenotaph is located.	24 hours per day, seven days per week.
4. Moore Park	24 hours per day, seven days per week.