

Clutha District Council Regulatory Bylaw 2018

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Clutha District Council Regulatory Bylaws Part 1 - Introduction

1. Scope

1.1

The purpose of this Introductory Part is to identify and clearly interpret those terms and expressions that are used throughout the Bylaw.

1.2

This Part outlines serving of orders and notices, powers of delegation and entry, suspension and revocation of licences, removal of works executed contrary to the Bylaw, dispensing powers, fees and charges, offences and breaches and penalties for breach of bylaws.

1.3

It should be noted that other definitions are contained within the specific Parts of the Bylaw.

1.4

This Bylaw is made under the provisions of the Local Government Act 2002 and will take effect from 1 July 2018.

2. Definitions and Interpretation

2.1

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

| | |
|---------------------------|---|
| Act | Local Government Act 2002 |
| Agent | A person or business authorised to act on another's behalf |
| Animal | Any member of the animal kingdom, including any mammal, bird, finfish, shellfish, reptile, amphibian, insect or invertebrate, and includes the carcass or constituent parts thereof, but does not include human beings or dogs. |
| Approved | Approved by the Council or a Committee of Council or by any officer authorised on behalf of the Council. |
| Authorised agent | Any person who is not an employee of the Council but is authorised by the Council to act on its behalf. |
| Authorised officer | Any person appointed or authorised by the Council to act on its behalf and with its authority including a member of the police. |
| Bylaw | A Bylaw of the Council for the time being in force, made under the provisions of any enactment or authority |

enabling the Council to make bylaws.

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| Council | The Clutha District Council or any committee, subcommittee, or person to whom the Council's powers, duties, and discretions under the Act have lawfully been delegated. |
| Custodian | Any person for the time being appointed or contracted by the Council to control or manage or to assist in the control and management of any land or premises belonging to or under the jurisdiction of the Council. |
| District | The Clutha District. |
| Dwelling or dwellinghouse | Any house, tent, vehicle or other structure, whether permanent or temporary, and whether attached to the soil or not, used in whole or in part for human habitation, and includes the land occupied by the dwelling. |
| Footpath, Private Road, Private Way | Have the respective meanings assigned to them under section 315 of the Local Government Act 1974 [still in force under the Local Government Act 2002]. |
| Licence | A licence or approval issued under this Bylaw. |
| Local authority | The meaning assigned to that term in section 5(1) of the Act. |
| Motor vehicle | The meaning assigned to that term in section 2(1) of the Land Transport Act 1998. |
| Nuisance | The meaning assigned to that term in section 29 of the Health Act 1956. |
| Occupier | The inhabitant occupier of any property and in any case where any building, house, tenement, or premises is or are unoccupied includes the owner. |
| Offence | Any act or omission in relation to this Bylaw for which any person can be punished either on indictment or by summary process. |
| Owner | As applied to any land, building, or premises, means any person for the time being entitled to receive the rent for such property, or who would be so entitled if it were let to a tenant at a rack rent, and where any such person is absent from New Zealand, shall include their attorney or agent. |
| Person | A natural person and also a body of persons, whether corporate or unincorporated. |
| Portico | Every awning, porch, verandah, shed, shade, or covering upon, across, or over any public footway or part of a road, street, private street, or access-way for the |

purpose of shade or shelter, together with any supports thereof, other than the building against which it shall be.

| | |
|---|--|
| Premises | Any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands, buildings, and places adjoining each other and occupied together are deemed to be the same premises. |
| Principal administrative officer | The principal administrative officer of Council, irrespective of the designation given to that officer and includes any person for the time being appointed by the Council to perform the duties or a particular duty of the principal administrative officer. |
| Public notice | The meaning assigned to that term in section 5(1) of the Act. |
| Public place | The meaning assigned to that term in section 147(1) of the Act. It includes, without being limited to, every road, reserve, park, domain, beach, foreshore and recreational grounds under the control of the Council. |
| Reserve | The meaning assigned to that term in section 2(1) of the Reserves Act 1977. |
| Road | The meaning assigned to that term in section 2(1) of the Land Transport Act 1998. |
| Stock | Cattle, sheep, horses, deer, donkeys, mules, goats, pigs alpacas, llamas, ostriches, or other animal (excluding dogs) including their young, kept in captivity, or farmed, and dependent on humans for their care and sustenance. |
| Territorial authority | The meaning assigned to that term in section 5(1) of the Act. |
| Urban area | Residential, business, rural village and coastal village zones as defined in the District Plan. |
| Vehicle | The meaning assigned to that term in section 2(1) of the Land Transport Act 1998. |
| Waterworks | The meaning assigned to that term in section 5(1) of the Act. |
| Writing, written or similar term | Words written, printed, painted, engraved, lithographed, or otherwise traced or copied. |

2.2

For the purpose of this Bylaw, the singular includes the plural, and the plural includes the singular.

2.3

Words referring to any district, locality, place, person, office, officer, functionary, party or thing mean each district, locality, place, person, office, officer, functionary, party or thing, to whom or to which the provision applies.

2.4

The headings to the clauses of this Bylaw shall not affect the interpretation of any clause.

2.5

Every Schedule to this Bylaw forms part of this Bylaw and if provided for in the Bylaw text, any such schedule or policy note may be altered from time to time by Council resolution and in accordance with the Act.

2.6

For the purposes of this Bylaw the word 'shall' refers to practices that are mandatory for compliance with this Bylaw, while the word 'should' refers to practices which are advised or recommended.

3. Officers to Continue in Office

All officers appointed by the Council at the time this Bylaw takes effect, are deemed to have been appointed under this Bylaw.

4. Serving of Order and Notices

4.1

Except as otherwise provided for in any other enactment, where any notice, order, or other document is required to be served on any person for the purposes of this Bylaw, service may be effected by delivering it personally to the person or by sending it by post to that person's last known residential or business address.

4.2

If the person is absent from New Zealand the order, notice or other document may be served on the person's agent in the manner referred to in 4.1.

4.3

If the order, notice or other document relates to land or buildings, then the order, notice, or other document should be served on the person who owns that land or buildings. However, if that person is not known, or is absent from New Zealand, or has no known agent in New Zealand, the order or notice may be:

- (a) served on the person who is occupying the land or buildings; or
- (b) if there is no person in occupation, put up on some conspicuous part of the land or buildings.

It is not necessary in that notice to name the occupier or the owner of that land or buildings.

4.4

Where an order or notice is sent by registered post, it shall be sent so as to arrive no later than the latest time on which such an order or notice is required to be served.

4.5

Any order or notice issued shall state the time within which the remedial action is to be carried out, which may be extended from time to time by written authority of Council or an authorised officer of Council.

5. Powers of Delegation

5.1

Where this Bylaw provides for the issue of any order, notice or licence, such order, notice or licence shall be deemed to be issued in compliance with this Bylaw if it is issued by any officer of the Council authorised by the Council for that purpose.

5.2

Where this Bylaw imposes any powers or duties on a Principal Administrative Officer or any authorised officer of Council that officer may, with the consent of Council, delegate any of those powers or duties, either generally or particularly, to any other officer of the Council.

6. Powers of Entry for Purposes of this Bylaw

Except where provided for under any other enactment, sections 171, 172, 173, and 182 of the Act apply in relation to any power of entry under this Bylaw.

7. Licences

7.1

Any person doing or proposing to do anything or causing or proposing to cause any condition to exist for which a licence from the Council is required under this Bylaw, shall first obtain a licence from the Council or any authorised officer.

7.2

Every application for a licence shall be accompanied by the relevant fee. If the application for the licence is declined, the fee shall be refunded less any reasonable processing costs.

7.3

No application of a licence, and no payment of or receipt for any fee paid in connection with such application, confers any right, authority or immunity on the person making that application or payment.

7.4

Any licence is deemed to be issued in compliance with this Bylaw if it is issued by an authorised officer, and every licence is subject to such conditions as may be imposed.

7.5

Unless this Bylaw or the licence provides otherwise, every licence and every application for a licence shall be in such form as may be prescribed from time to time by the Council.

7.6

Unless this Bylaw provides otherwise, a licence is not transferable, and no such licence authorises any person other than the licence holder to act in any way under its terms or conditions.

7.7

If, following a request for payment by a reasonable date, any licence fee due remains unpaid, the licence shall cease to have effect from that date.

8. Suspension and Revocation of Licences

8.1

Unless this Bylaw provides otherwise, if a licence holder is convicted of any offence relating to the holder's suitability as a licensee, the Council may immediately revoke or suspend the licence for any specified time.

8.2

The Council may by notice in writing call upon a licence holder to appear before the Council and give reasons why the licence should not be revoked or suspended, if any of the following are brought to the notice of the Council:

(a) That the licence holder –

(a) has acted or is acting in a manner contrary to the true intent and meaning of this Bylaw;
or

(b) has failed to comply with any of the conditions of the licence; or

(c) is in any way unfit to hold the licence; or

(b) That the premises for which the licence was issued is being used for any purpose other than that stated in the licence, or is in a state of disrepair contrary to the terms of the licence; or

(c) That the Bylaw is not being properly observed.

8.3

The Council may, if it considers the allegations proven or if there is no appearance by the licence holder, revoke, or suspend the licence for any specified time.

8.4

A person whose licence has been suspended under this Bylaw and any premises for which that licence has been so suspended is, during the period of that suspension, deemed to be unlicensed.

9. Encroachment to be Removed upon Notice

9.1

If any building or structure, or any part of a building or structure, has been erected, constructed or placed upon, under, over or across any public place without Council's permission, Council may, by notice in writing, require the owner to remove such building or structure, or part of building or structure, as specified in the notice.

9.2

A notice issued under clause 9.1 may require such precautions to be taken as Council thinks necessary for the safety of the public and for the proper securing of a building or structure, or part of a building or structure, as is to remain after a removal.

10. Removal of Works

10.1

Where a notice served under section 9 has not been complied with, the Council, or any authorised officer or agent of the Council, may pull down, remove or alter any work, material or thing erected or being in contravention of any part of this Bylaw. Refer to section 163, and for seizure of property sections 164, 165, 167, and 168, of the Act.

10.2

The Council may recover from any person responsible for the breach of any part of this Bylaw, all expenses incurred by it in connection with such pulling down, removal or alteration. This includes the cost of debt collecting and legal fees.

10.3

The exercise of this authority does not relieve any person from liability for any penalty for erecting or permitting the continued existence of any such work, material or thing.

10.4

If a breach is such that public health, or safety considerations, or risk of consequential damage to Council assets is such that delay would create unacceptable results, the Council may take immediate action to rectify the defect, and recover all reasonable costs (as set out in clause 10.2).

10.5

On payment of all Council's costs, including storage where applicable, the lawful owner may claim any object, material or thing removed under clause 10.1.

10.6

If not claimed within 6 months after it was seized and impounded, following giving public notice of the intention to do so, the Council may dispose of (by way of sale or otherwise), any object material or thing as it sees fit and apply the proceeds to meet any outstanding costs. The lawful owner shall be entitled to claim any residual sum.

11. Dispensing Power

Where, in the opinion of the Council, full compliance with any of the provisions of this Bylaw would:

- (a) needlessly or injuriously affect any person, or the course or operation of the business of any person; or
- (b) bring loss or inconvenience to any person without any corresponding benefit to the community;

the Council may, on the special application of that person, dispense with the requirement for full compliance with the provisions of this Bylaw; provided that any other terms or conditions (if any) that Council may deem fit to impose shall be complied with by that person.

12. Forms

Wherever forms are prescribed in Bylaws, slight deviations, but to the same effect and not calculated to mislead, do not invalidate those forms.

13. Fees and Charges

13.1

The Council may:

- (a) through the annual plan process, or;
- (b) at any time by ordinary resolution, publicly notified,

prescribe fees to be charged for any certificate, authority, approval, permit, or consent from, or inspection or service, by the Council under the provisions of the Act or any other enactment where that enactment contains no provision for authorising the Council to charge a fee.

The setting of any fees or charges shall be in accordance with section 150 of the Act.

13.2

Where a fee has been paid under clause 13.1 for a service or inspection that has not been given, the Council may provide a refund, a remission, or waiver of any such fee, or portion of it as the Council may determine.

14. Offences and Breaches

14.1

No person shall do anything, or cause any condition to exist, for which a licence or approval from the Council is required under this Bylaw, without first obtaining that licence or approval. The failure to obtain required licences or approvals shall constitute a breach of this Bylaw.

14.2

No application for a licence or authority from the Council, and no payment of or receipt for any fee paid in connection with such application, licence, or authority, shall confer any right, authority, or immunity on the person making such application or payment.

14.3

Any person commits a breach of this Bylaw who:

- (a) Does, or causes to be done, or knowingly permits or suffers to be done anything whatsoever contrary to or otherwise than as provided by this Bylaw;
- (b) Omits or neglects to do, or knowingly permits or suffers to remain undone, anything which according to the true intent and meaning of this Bylaw, ought to be done by the person at the time and in the manner provided by this Bylaw;
- (c) Does not refrain from doing anything which under this Bylaw they are required to abstain from doing;
- (d) Knowingly permits or suffers any condition of things to exist contrary to any provision contained in this Bylaw;
- (e) Refuses or neglects to comply with any notice given to that person under this Bylaw;

- (f) Obstructs or hinders any authorised officer of Council in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred upon that officer by this Bylaw; or
- (g) Fails to comply with any notice or direction given under this Bylaw.

14.4

Any person commits a breach of this Bylaw who:

- (a) Having constructed, affixed or provided, or caused to be constructed, affixed, or provided, any building or any part of a building, or any work, appliance, or material of any description whatsoever, contrary to, or otherwise than in accordance with the provision of this Bylaw; or
- (b) Having omitted to construct, affix, or provide any work, appliance or materials as required – and who does not, within a reasonable time after notice in writing has been given to them by the Council or any authorised officer of the Council, carry out the remedial action specified in that notice.

14.5

The provisions of clause 14.4 shall also apply to any building, part of a building, work, appliance, or material that has, before the coming into force of this Bylaw, been constructed, affixed, or provided or omitted contrary to or otherwise than as provided by any provision of any repealed Bylaw but re-enacted in substance in this Bylaw. Notice may be given and renewed in respect of any such building, part of a building, work, appliance or material.

14.6

Where it is suspected that any person has committed a breach of this Bylaw, that person shall, on the direction of an authorised officer, provide their full name and address.

15 Penalties for Breach of Bylaws

15.1

Every person who fails to comply with any part of this Bylaw commits an offence and is liable to:

- (a) The penalty set out in section 242 of the Act; or
- (b) Where another enactment specifies the penalty for a breach of the Bylaw, that other penalty.

15.2

In accordance with section 162 of the Act, the Council may apply to the District Court for an injunction to restrain a person from committing a breach of this Bylaw.

Clutha District Council Regulatory Bylaws Part 2 – Public Places

16. Scope

The Local Government Act 2002 (the Act) gives Council a general bylaw-making power to adopt bylaws for the purpose of protecting the public from nuisance; protecting, promoting, and maintaining public health and safety; and minimising the potential for offensive behaviour in public places.

The Act also gives Council a specific bylaw-making power to adopt bylaws for the purpose of managing, regulating against, or protecting from, damage misuse, or loss, or for preventing the use of, the land, structures, or infrastructure associated with reserves, recreation grounds, or other land under the control of the territorial authority.

This Part of the bylaw controls a diverse range of activities to ensure that acceptable standards of convenience, safety, visual amenity and civic values are maintained for the wellbeing and enjoyment of citizens, visitors and businesses within the district. In particular this Part addresses damage to public facilities such as roads, grass verges, garden areas and reserves. It also addresses activities within public places and reserves which may have an adverse effect on other users of these facilities.

This part of the bylaw should be read in conjunction with the relevant provisions from the Act, as well as other relevant legislation which outline some of the powers and requirements of the Council in regard to streets, public places and reserves.

17. Definitions

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

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|--------------------------|---|
| Freedom Camping | Any overnight stay on a public site, other than in commercial accommodation or an established camping ground which has toilets. Includes stays in campervans, mobile homes, caravans, other vehicles, tents or sleeping outdoors. |
| Material or thing | Any material of whatever kind, including wheelie bins and other containers for waste material, but excluding vehicles. |
| Public place | Defined in Part 1 |
| Ride a skateboard | Having either one or both feet, or any other part of the |

body of any person, on a skateboard when it is moving.

Road

As well as that defined in Part 1, should be taken to include all land lying between the boundaries of a road including footpaths and berms.

Skateboard

A wheeled device controlled or propelled by gravity or by energy exerted by the rider. The definition should be taken to include roller skates, in-line skates, or similar recreational devices, but does not include any wheelchair, baby or invalid carriage or bicycles.

18. Public Safety and Nuisances

18.1

Except with the prior permission of Council or an authorised officer, a person shall not upon or over any public place:

- a) Place or leave any litter, materials, substance or thing likely to be hazardous or injurious to any person, or likely to create a nuisance;
- b) Deposit in a public litter receptacle any household or trade refuse;
- c) Interfere with any refuse which is awaiting collection by an authorised collector;
- d) Drive any vehicle except on a formed road, or drive in a manner that is dangerous or inconsiderate to pedestrians or other vehicles in the public place;
- e) Cause or allow any material or thing to be deposited onto a public place or road;
- f) Leave any work, hole or excavation in a public place in a manner that could be a danger to anyone entering or using that public place;
- g) Solicit any subscription, collection or donation, or preach or undertake any busking;
- h) Distribute any printed or written material advertising any product, service or entertainment;
- i) Fly from or land any aeroplane, including model aeroplane, drone, hot air balloon, hang glider, parachute or similar in a manner that is dangerous or inconsiderate to other users of the public place;
- j) Play any game or use any object including scooters, skateboards, roller blades, roller skates, bicycles or motorised scooters, recklessly or in a manner which may intimidate, endanger, injure or cause a nuisance to persons in the public place, or damage the public place;
- k) Erect or place any structure on, over or under the public place except in compliance with any other Part of this bylaw or the District Plan.

18.2

Depositing litter in a public place, or on private land without the consent of the occupier of that land, is an offence under the Litter Act 1979 and may result in the person responsible being liable for penalties under that Act. Any person believed to have deposited litter in a public place or on private land without the consent of the occupier of that land may also be liable to Council for the following infringement fees:

- **Minor littering - \$100**

Where littering is:

- a) on a small scale, and;
- b) not likely to cause harm or injury to any person

For example, drink cans and food packaging.

- **Major littering - \$400**

For more serious or major littering offences where litter is:

- a) in large quantities, or;
- b) of a noxious nature, or likely to cause harm or injury to any person.

For example, household waste, commercial waste, green waste or car parts. The decision whether to issue an infringement notice for major littering or to refer the matter to the District Court will be determined on a case by case basis, based on the severity and malicious intent of the alleged offence.

18.3

Where any fence, wall, retaining wall or land adjacent to a public place is in a condition or state of disrepair which in the opinion of an authorised officer could cause damage or injury to a passerby, the authorised officer may give notice requiring the owner or occupier to repair or remove the fence, wall or retaining wall, or make the land safe.

18.4

Council may from time to time, and by publicly notified resolution, place a temporary ban on the possession of glass drinking vessels or containers from any public place throughout the district. Where such a ban has been imposed and that ban has been publicly notified, there shall be displayed at that public place a notice informing the public of the time and duration of that ban.

A person commits an offence against this Bylaw where they are in possession of any glass drinking vessel or container within any public place during the period of any temporary glass ban in respect of that place and where there is a notice displayed at the place informing of the glass ban's time and duration.

18.5

A ban on the possession of glass drinking vessels or containers is in place for Kaka Point over the foreshore adjoining the Esplanade from the intersection with Rata Street to the intersection with Karoro Creek Road, from 1 December to 31 January of the following year inclusive each summer, and over Moana Street for the period 30 December to 2 January of the following year inclusive each new year.

While the ban is in force, there shall be displayed notices at Kaka Point informing the public of the location and duration of the ban.

A person commits an offence against this Bylaw where they are in possession of any glass drinking vessel or container within the location and duration of the above glass ban.

19. Freedom Camping

Note:

1. Council agreed to rescind this section on 10 December 2020, to take effect from 1 January 2021.
2. The Clutha District Council Freedom Camping Bylaw 2021 was adopted by Council on 10 December 2020, to take effect from 1 January 2021.

~~Freedom camping shall only be permissible where:~~

- ~~a) camping is carried out in a self-contained mobile vehicle currently certified to the New Zealand Standard 5465:2001 A2 and displaying the necessary documentation; and~~
- ~~b) camping takes place on Council controlled public land for a maximum of three nights in any four-week period at any single location, with the exception of the prohibited areas stated in Schedule 1 attached. This Schedule may be changed from time to time by Council under the Local Government Act; and~~
- ~~c) all toilet waste and greywater is disposed of in Council approved dump points, set out in Schedule 2 attached. This Schedule may be changed from time to time by resolution of Council; and~~
- ~~d) refuse is only disposed of in an approved litter bin, skip or landfill; and~~
- ~~e) campers leave sites in a clean and tidy state with all rubbish and waste removed; and~~
- ~~f) there is no lighting of any fire at the site.~~

~~Where campers fail to comply with any of the above requirements, or otherwise commit an offence under section 20 of the Freedom Camping Act 2011 they are in breach of this part of the bylaw and may be liable for either:~~

- ~~• prosecution as a summary offence where the court may impose a fine not exceeding \$20,000 (under section 239 of the Local Government Act 2002); or~~
- ~~• an infringement notice in accordance with Section 27 of the Freedom Camping Act 2011~~

~~Campers must comply with any request of an authorised officer of Council to move on from their chosen camping spot.~~

20. Obstructing Public Places

Except with the permission of the Council or an authorised officer a person shall not in any public place:

- a) Obstruct an entrance to, or exit from, a public place;
- b) Place or leave any material or thing, including signage, on a public place that could obstruct the public right of passage, other than in accordance with such conditions as may be imposed, or in accordance with District Plan rules;
- c) Allow any gate or door on property abutting a public place, to swing over or across the public place or any part of a public place;
- d) Carry out any work on any motor vehicle in a public place, except in the case of any accident or emergency when repairs are necessary for the vehicle's removal.

21. Damage

21.1

Except with the permission of the Council or an authorised officer a person shall not in any public place:

- a) Damage, interfere with, destroy or remove any grass plot, flower bed, tree, shrub, or plant or any inscription or label relating to it;
- b) Pollute, damage, deface or disfigure, apply graffiti, posters or advertising devices to, or interfere with any ornament, statue, building, structure, or facilities;

Nothing in this sub-clause shall prevent the Council from supplying or approving the installation of display boards or temporary signs in any public place for the purpose of allowing posters to be displayed announcing upcoming functions or events;

- c) Cause or permit to be done any act whatsoever by which damage is caused to any public place, or any work or thing in, on, over or under the public place;
- d) Damage or interfere with any natural feature, animal or plant;
- e) Use any vehicle or be in control of an animal in a manner so that it damages any part of a public place;
- f) Drive or park any vehicle in a public place except in an area set aside for the driving or parking of vehicles;
- g) Remove any sand, soil or other naturally occurring material found in a public place except in accordance with the Regional or District Plan;
- h) Open any drain or sewer on, or disturb or remove the surface of, any public place.

21.2

Any person carrying out authorised works on a public place shall reinstate the area to a standard approved by an authorised officer.

21.3

Any person wishing to gain access to a beach shall use a designated access where this is available.

22. Placing of Articles on, and Damage to, Public Places

22.1

A person shall not place or leave, or cause or permit to be placed or left, any material or thing, including signage, amusement devices or items for sale or hire, on any public place unless:

- a) Such action has first been approved by Council or an authorised officer, and then only in accordance with such conditions as Council or the authorised officer may impose; or
- b) Such action is taken for the purpose of regular refuse or other collections authorised by the Council or is otherwise authorised by law; or
- c) Such action is permitted pursuant to any other Part of this bylaw.

22.2

A person shall not do, cause or permit to be done any act whatsoever by which damage is caused to any public place, or any work or thing in, on, over or under the public place.

23. Control of Skateboards

No person shall ride a skateboard on any footpath or any other public area without taking due care to ensure no damage is caused to any property or without reasonable consideration for other persons using the footpath or public area.

24. Exposing Articles for Sale

Except as provided for by any other Part of this bylaw no person shall expose for sale any article whatsoever on any footpath, or outside of any shop, shop window, or doorway abutting on any public place, so as to encroach on or over that public place, without the prior permission of Council, and then only in accordance with such conditions as Council may think fit to impose.

25. Assembly

A person shall not, without the prior consent of an authorised officer:

- a) Participate in any assembly or associate with other persons in a public place in such a way as to impede pedestrian or vehicular traffic or to prevent or hinder ready access to shops or premises facing onto the public place;
- b) Organise or conduct any meeting, gathering, demonstration, parade, procession or competition in a public place.

26. Awnings and Blinds

No person shall erect or maintain, or cause to be erected or maintained, any awning over any public place, or hang any awning, blind, or screen from any portico on any public place except with the permission of an authorised officer or pursuant to a requirement of the District Plan. In granting such permission an authorised officer may set such conditions as deemed appropriate. Any such permission may be revoked at any time by an authorised officer.

27. Projections on Public Places Not Permitted

27.1

Except where permitted by any other Part of this bylaw or by Council consent no person shall put, or

allow to be put, any portico, projecting window, balcony, wall, lamp, door step, cellar door, lamp post, signboard, window shutter, gate post, or other obstruction or projection of any kind whatsoever in, on, over or under a public place or in such a position as to interfere with or obstruct in any way the free passage of pedestrians or traffic upon any public place.

This restriction shall not apply to any verandah or awning erected pursuant to a requirement of the District Plan.

27.2

If any projection or obstruction has been placed against or in front of any building before the commencement of this bylaw which is contrary to any bylaw, Council may give notice to the owner or occupier of such building to remove or alter such projection or obstruction. Such owner or occupier shall, within the time stated in such notice, remove or alter the projection or obstruction.

27.3

Except where permitted by any other Part of this bylaw or by Council consent, no person shall stand on any verandah erected over a public place except for the purpose of inspection, maintenance or escape in the case of fire.

28. Restrictions on Use of Barbed Wire and Electrified Fences

28.1

Except with the permission of an authorised officer:

No person shall erect or permit to be erected any electrified fencing or barbed wire along, or within one metre of any boundary line between any land or building on one side and any public place on the other side.

Provided that, this sub-clause does not prohibit the placing of such barbed wire at a height of at least two metres, or electrified fencing at least three metres, from ground level at any public place.

28.2

Sub-clause 23.1 shall not apply within any area which has a predominantly rural character under the District Plan prepared by Council, except when the fence abuts or adjoins a footpath; provided that Council may from time to time by resolution specify conditions that will apply to temporary electric fences.

29. Road and Building Identification

29.1

The Council shall have the exclusive right to cause to be painted or affixed on a conspicuous part of a building, the name of the road, private road or public place to which it has frontage.

29.2

Notwithstanding 29.1 where a building or property is identified by other means, the owner or occupier of every building or group of buildings forming part of a complex or of the property shall mark such building or complex with numbers to be:

- not less than 50 mm in height for residential buildings, and;
- not less than 150 mm in height for all other buildings.

Numbers shall be as allocated or approved by Council and displayed in a position so as to be readily

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visible from the road to which it has frontage.

29.3

Numbers required by 29.2 shall be maintained by the owner or occupier in such a manner as to readily identify the property at all times.

29.4

Council shall have power at any time to alter the number of any building where in the Council's opinion it may be necessary or advisable to do so.

30. Animals and Stock on Public Roads

30.1

No person shall take or allow any animal under their care or control onto any public place if the Council has by resolution or public notice prohibited entry of that type of animal to that public place.

30.2

Subject to sub-clause 30.1, every person being the owner or having the care, custody, or control of any animal shall keep and prevent the animal from wandering or being at large without proper guidance on any public place.

See also Regulatory Bylaw – Part 6 - Dog Control

30.3

Any person proposing to drive any stock on any road must do so in accordance with the Roding Bylaw – Part 2 – Stock Movement.

31. Overhanging Vegetation Liable to Obstruct

31.1

No person shall permit or allow vegetation to encroach onto or over any public place so as to obstruct or interfere with the free movement of persons using that public place.

31.2

Where any person allows vegetation to encroach onto or over any public place which obstructs or interferes with public access then an authorised officer of Council will order it to be removed within a timeframe as considered reasonable by the officer. Where it is not removed within the set timeframe Council will take action to remove the overhanging vegetation at the cost of the property owner.

31.3

Notwithstanding any removal costs under sub-clause 31.2, any person who does not comply with sub-clause 31.1 may also be liable for fines under s356 of the Local Government Act 1974.

32. Additional Requirements for Reserves

32.1

Subject to the provisions of this part of the bylaw every reserve shall be open to the public at all times except during such hours that Council or an authorised officer may determine that any reserve shall be closed to the public.

32.2

An authorised officer may from time to time and for such periods as they think fit, and in accordance with section 53 of the Reserves Act 1977, set aside areas of a reserve, for the exclusive use of particular groups or for particular kinds of recreational activities. Council may charge for the right to have exclusive use of a reserve.

32.3

The Council may fix charges for the entry to a reserve in accordance with the Reserves Act 1977, and it shall be an offence against this part of the bylaw to enter a reserve without having paid the property charge for entry, if a charge is payable.

32.4

An authorised officer may close or restrict entry to all of, or any portion of, a reserve at such times as considered necessary to prevent damage to, or allow maintenance of, the reserve. Such closure shall be advertised by signs at the entrances to the reserve. It shall be an offence against this part of the bylaw to be found on a reserve at any time when the reserve is closed to public entry.

32.5

Every person committing a breach of the provisions of this Part of the bylaw shall, upon request by an authorised officer, immediately leave the reserve, and shall be prohibited from appearing on the reserve for such period as the authorised officer deems fit. Any person so ordered to leave shall still be liable to be prosecuted for the breach of the bylaw, and any person failing to leave with reasonable speed, to comply with a request to leave, shall commit a further offence.

Schedules from Council's Policy on Freedom Camping

Schedule 1: Prohibited Areas

- Public places in any urban area. This includes: Balclutha, Clinton, Kaitangata, Kaka Point, Lawrence, Milton, Owaka, Papatowai, Pounaweia, Stirling, Taieri Mouth, Tapanui and Waihola. This prohibition does not apply to any signposted designated freedom camping sites within those urban areas. For the purposes of this Schedule, public places include any land which the Clutha District Plan zones as Urban, Industrial, Rural Settlement, or Transitional Resource Area, or any public land adjoining those zones, within the named towns.
- All areas where Council 'No Camping' signs are displayed.
- The foreshore area between Kaka Point and The Nuggets.

Schedule 2: Dump Point Locations

- Balclutha - Balclutha Camping Ground (commercial)
- Catlins Valley – River Ridge Retreat (commercial)
- Chaslands - McLean Falls Holiday Park, Rewcastle Road (commercial)
- Clinton - Triangle Reserve opposite RD Petroleum Station (public)
- Kaitangata - Kaitangata Riverside Motor Camp (commercial)
- Kaka Point - Kaka Point Camping Ground (commercial)
- Lawrence - Reserve opposite Police Station (public)
- Milton - Taylor Park (commercial)
- Owaka - Catlins Inn (commercial)
- Owaka – Inn Street (public)
- Owaka - Thomas's Catlins Lodge & Holiday Park (commercial)
- Papatowai - Papatowai Motor Camp (commercial)
- Pounaweia - Pounaweia Motor Camp (commercial)
- Tapanui - Near Bushyhill Street playground (public)
- Waihola - Lake Waihola Holiday Park (commercial)

Note: Dump Point locations may be added to or deleted from this list from time to time as availability changes. Fees may apply for using dump points at commercial locations.

Clutha District Council Regulatory Bylaws Part 3 - Hostels

33. Scope

This part of the Bylaw draws together some of the legislative requirements in regards to the operation of hostels, guest houses, boarding houses, motels and residential clubs, to ensure that conditions do not arise that may threaten the health and safety of tenants, neighbours or the community.

It is anticipated that this Bylaw may become redundant after the Health Act 1956 is reviewed but is intended to act as an interim measure to ensure adequate facilities and prevent overcrowding in such accommodation.

This part of the Bylaw applies to all buildings defined as hostels, but it is considered that it will not be regarded as onerous by owners/landlords who maintain their premises at a reasonable standard. This part of the Bylaw applies to budget accommodation housing for more than 5 persons. Accommodation for up to 5 people, other than members of the family of the occupier or person in charge, for reward or payment, is deemed to be a residential activity by the Clutha District Plan.

This bylaw is made pursuant to Council's powers under the Health Act 1956 and section 145(b) of the Local Government Act 2002.

34. Definitions

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

| | |
|---------------|---|
| Guest | A person for whom any room or part of any room in a hostel is provided for lodging or use or occupation and to whom whole or partial board may also be supplied. |
| Hostel | <p>A building in which accommodation is provided for a single night or longer for more than 5 people, other than members of the family of the occupier or person in charge and control of the building, and with or without a common right to the use of common cooking, dining and laundry facilities. A hostel may include, but is not limited to:</p> <ul style="list-style-type: none">a) a boarding house;b) a guest house;c) a rooming house;d) traveller's accommodation as defined by the Clutha District Plan;e) a motel;f) a residential club;g) backpacker accommodation |

but does not include:

- (i) a private hotel as defined by the Clutha District Plan;
- (ii) any homestay which accommodates five or less people;
- (iii) any hospital as defined in section 2 of the Hospitals Act 1957;
- (iv) any home for aged persons required to be licensed under Section 120A of the Health Act 1956;
- (v) any private hospital required to be licensed under Part V of the Hospitals Act 1957;
- (vi) any institution licensed under section 9 of the Mental Health Act 1969;
- (vii) any home that is required to be registered or deemed to be registered under Part IX of the Children and Young Persons Act 1974;
- (viii) any child care centre required to be licensed by regulations made under the provisions of the Education Act 1989;
- (ix) any home required to be registered under Part II of the Disabled Persons Community Welfare Act 1975;
- (x) any camping ground required to be licensed under regulations made under section 120B of the Health Act 1956.

35. Compliance

No person shall let for occupation any hostel which does not comply with the provisions of this Part of the bylaw and with all relevant statutory provisions regarding its occupancy.

36. Appointment of Manager

36.1

Any person who lets for occupation any hostel shall appoint a manager. In any case where no manager is appointed the person who lets the premises for accommodation shall be deemed to be the manager for such premises. If the manager does not permanently reside on the premises a resident manager who resides on the premises shall also be appointed with all the powers and responsibilities of the manager. In this Part 'manager' includes 'resident manager'.

36.2

The requirement to appoint a resident manager for a hostel shall not apply in any case where an authorised officer is satisfied that this would be unreasonable or impracticable having regard to the particular circumstances.

37. Responsibilities of Manager

37.1

The owner or manager of a hostel shall:

- (a) Maintain all of the building and all appliances, fixtures and fittings in the building in good repair and in a clean and hygienic condition and cause all rooms, passages, stores, floors, ceilings, windows, doors and walls of the building to be kept clean and free from vermin.
- (b) Cause every yard, court or other open space to be kept, at all times, in good order and thoroughly clean, and free from any accumulation of refuse, foul matter or undesirable growth and shall, as often as necessary, wash all paved surfaces in such yard or court or other open space;
- (c) Ensure all parts of the premises are adequately lit and ventilated at all times;
- (d) Provide a suitable storage area in an approved location where rubbish bags or rubbish containers can be stored prior to their placement for collection on rubbish collection day and maintain any rubbish storage areas in a clean and tidy condition.
- (e) Provide and maintain in good repair and efficient working order any artificial lighting, emergency lighting, fire alarms, fire detection devices and fire extinguishers or any other feature as may be required by the New Zealand Building Code or a Compliance Schedule under section 44 of the Building Act 1991 for the hostel.

37.2

The manager or resident manager shall cause:

- (a) All bed linen, bedclothes, bedding, bedsteads and all soft furnishing provided to guests to be thoroughly cleaned as often as necessary to maintain these items in a clean and wholesome condition and free from vermin.
- (b) All refuse to be removed at least daily from every room in the hostel;
- (c) Every room used as a bedroom is to be furnished with the approved number of beds sufficient for all occupants but not exceeding the limits of table 1. A sufficient supply of clean bed linen and bedding shall be available for every guest in each bedroom in cases where they are not required to provide their own. Every bedroom shall have adequate clothes storage facilities for the number of guests, and suitable curtain or window coverings for privacy.
- (d) In cases where guests are not required to provide their own, towels are to be supplied for each guest at least weekly and to every newly-arrived guest. All bed linen and bedclothes supplied to guests shall be removed as soon as convenient after a bedroom has been vacated. All such bedclothes and the bed from which the bedclothes have been removed shall be thoroughly aired.

37.3

The manager or resident manager of a hostel shall not:

- (a) Except in the case of an emergency, use or permit to be used in any part of the premises any lighted candles, or any lamp, or heater supplied with kerosene, mineral or other oil or spirit for lighting or heating purposes unless such candle, lamp or heater is constructed, protected, and secured to prevent the risk of fire to the building or its contents;
- (b) Store or keep, or allow to be stored or kept, any kerosene, mineral or other oil, spirit, matches or any explosive or flammable substances in any cupboard or other place situated under any staircase or near any fire escape, balcony leading to a fire escape or fire exit;
- (c) Cause or permit any obstruction to be placed in any flight of stairs, passage, or other means of escape. All doors in connection with such means of escape shall be maintained so that they can be readily opened in the direction of exit travel without the use of a key;
- (d) At any time permit a greater number of persons to be accommodated in any bedroom in the hostel than the number assessed in accordance with table 1;

Table 1

| Number of persons permitted to sleep in a bedroom | |
|--|---|
| Area of Bedroom | Number of Persons |
| Under 4.5 m ² | Nil |
| 4.5 m ² or more but less than 6 m ² | ½ in an existing building but nil in a new building |
| 6.0 m ² or more but less than 10 m ² | 1 |
| 8.0 m ² or more but less than 10 m ² | 1 ½ |
| 10 m ² or more but less than 12 m ² | 2 |
| 12 m ² or more but less than 14 m ² | 2 ½ |
| 14 m ² or more but less than 17 m ² | 3 |
| 17 m ² or more but less than 20 m ² | 3 ½ |
| 20 m ² or more | 4 persons and 1 additional person for each additional complete 5 m ² |
| NOTE – | |
| (1) | For the purposes of this table an existing building means a building existing prior to 10 October 1947 being the date when the Housing Improvement Regulations came into force. |
| (2) | For the purposes of this table ½ a person means a child who has attained the age of one year and is under 10 years of age. |

- (e) Permit any room that is not approved for use as a bedroom to be occupied or used for that purpose;

38. Kitchen Standards

Every hostel shall, where the Building Code requires, have a kitchen and a dining room to the following minimum standards for the preparation of meals for guests or where guests can provide their own individual meals:

- (a) All floors, walls and ceilings in the kitchen shall be properly constructed, kept in good repair, and finished to provide smooth, impervious, easily cleanable surfaces. All walls and ceilings shall be finished in a light colour;
- (b) All parts of the kitchen and dining room shall be adequately lit by daylight and artificial lighting as the circumstances require, to facilitate cleaning and inspection;
- (c) All parts of the kitchen and dining room shall be adequately ventilated;
- (d) All parts of the kitchen and dining room shall be maintained in a clean, hygienic and tidy condition, free from foul odours and vermin;
- (e) The kitchen shall be provided with a sufficient number of sinks and other sanitary fittings reasonably necessary for the cleansing of crockery, utensils and appliances used in the preparation, service and consumption of food. Every such sink shall be supplied with a piped supply of hot and cold water;
- (f) A wash-hand basin supplied with piped hot and cold water shall be located within the kitchen or within close proximity to the kitchen. The wash-hand basin shall be supplied with soap, a nail brush and hand-drying equipment;
- (g) All benches, shelves, tables, cupboards, appliances and equipment shall be constructed and finished so that they are capable of being easily cleaned;
- (h) Adequate means of preparing and cooking food, sufficient for the numbers of guests, shall be provided in the kitchen;
- (i) Adequate refrigerated and frozen storage shall be provided sufficient for the numbers of guests, for the storage of perishable and readily perishable foods. All refrigerated storage shall operate at 4°C or below and frozen storage at minus 18°C or below;
- (j) Adequate space for storage of food shall be provided, so placed, fitted and ventilated as to protect the food from flies, dust, and other contamination and from the direct rays of the sun;
- (k) Adequate tables and chairs and utensils in the dining room for the consumption of food.

39. Exemptions

Where an authorised officer is satisfied that compliance with the requirements of this Part of the bylaw would be unreasonable or impractical, an exemption in respect of any particular requirement may be granted in whole or in part, with any modifications and subject to any conditions, such as time limitations, which may be desirable in the circumstances.

40. Fees

Council, by resolution publicly notified, may set inspection fees.

Clutha District Council Regulatory Bylaws Part 4 - Trading in Public Places

41. Scope

41.1

The purpose of this Part of the Bylaw is:

- (a) to regulate the conduct of persons selling goods on streets, roads, footpaths and other public places; and
- (b) to regulate the conduct of persons using vehicles to sell goods and services to the general public; and
- (c) to regulate the conduct of persons soliciting for donations or subscriptions, or distributing advertising material
- (d) to ensure public safety, minimise conflict with neighbouring land uses, and protect the intended use of the public place.

41.2

This Bylaw is made pursuant to Section 146(a)(vi) of the Local Government Act 2002 which gives Council the power to make a Bylaw for the district for the purpose of regulating trading in public places. This Part of the Bylaw has effect from 20 December 2010.

42. Definitions and Interpretation

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

| | |
|----------------------------------|--|
| Goods | Any product or service. |
| Service delivery vehicle | Any vehicle being used for the purpose of delivering goods to any business premises or organisation and does not involve the sale of goods to the general public in any public place. |
| Hawker | <p>Any person who carries or takes about any goods, wares, or merchandise for sale, not in pursuance of any invitation to call with, or of any previous order or request for such goods; and</p> <ul style="list-style-type: none"> • includes a peddler, and any person who exposes for sale any goods, wares or merchandise carried or taken about by that person, or solicits the custom of any other person; and whether any person shall carry any such goods, wares, or merchandise or not; • but does not include any person who uses any vehicle as a mobile or travelling shop. |
| Itinerant Trader | Retailers who have no fixed place of business, moving from place to place to sell their goods to consumers. |
| Mobile or travelling shop | A vehicle, whether self-propelled or not, from which goods, wares, or merchandise are offered or exposed for sale, or from which goods, wares, or merchandise may be ordered (whether or not in pursuance of an invitation to call with the goods, wares, or merchandise) or from which services are offered for sale. |
| Public place | The meaning assigned to that term in section 147(1) of the Act. |
| Stand or stall | Any other use of a public place for selling or exposing for sale any goods or services, or for any soliciting or promotion, whether or not any stand, stall or other structure is used, other than as defined for hawker or mobile or travelling shop. |

43. Conditions of Operation

Every person who wishes to sell goods, or solicit for donations or subscriptions, or distribute advertising materials in a public place shall comply with the following provisions:

- a) Selling goods for profit shall only occur if it:
 - (i) occurs for no more than 2 calendar days in any consecutive period of 30 days, if located beside a State Highway or within a Service, Retail Frontage area as identified

- within the Clutha District Plan; or
- (ii) is not located beside any State Highway or Service, Retail Frontage area as identified within the Clutha District Plan; or
 - (iii) is part of a street fair, market or similar organised by a local community group;
- b) The approval of the occupier of the adjacent property must be obtained for all stationary activities;
 - c) The approval of Council's Environmental Health Officer must be obtained for all activities involving food products;
 - d) Operation is limited to daylight hours only;
 - e) No road or footpath may be obstructed, and adequate space for clear passage must be maintained at all times;
 - f) Activities must not be located where they will restrict the visibility of road users;
 - g) Activities must keep clear of all fire hydrants and markers so that these are clearly visible at all times and the hydrants themselves are readily accessible to the Fire Service;
 - h) At the conclusion of the day's activities the operation must be completely removed, and the site left in a clean and tidy condition;
 - i) Operators must not create excessive or unreasonable noise;
 - j) All liability for claims of damages that may arise from the operation rests with the operator.

44. Fees

Council may by ordinary resolution, publicly notified notice, or through the annual plan process, prescribe fees for site rentals. Fees may differ for any class of licence as prescribed.

45. Compliance with Requests from an Authorised Officer

Every operator shall comply with any request from an authorised officer.

46. Compliance with Conditions

An operator who fails to comply with any part of this bylaw shall be in breach of this bylaw.

47. Exemptions

The exemptions allowed under this part of this bylaw are as follows:

- a) For the operator of a fishing vessel registered under Section 103 of the Fisheries Act 1996 and who is the holder of a current fishing permit issued under that Act, where that operator, or a person appointed in by him in that behalf, sells fresh fish or shellfish (taken from that vessel in accordance with the conditions of the permit) from that vessel at the place where it is moored, berthed, or beached or from a stall (including a vehicle used as a stall) within 450 metres of that place;
- b) Service delivery vehicles including milk vendors;
- c) Any market, stall or stand which has a current approval under any other bylaw, legislation, resource consent or specific resolution of Council.

Clutha District Council Regulatory Bylaws Part 5 - Keeping of Animals, Poultry and Bees

48. Scope

The purpose of this part of the bylaw is to outline requirements for the keeping of animals, poultry and bees. The requirements are deemed necessary for the protection of neighbours and property owners.

Note: It shall be for an authorised officer of Council to determine upon reasonable grounds that a nuisance is being created.

This bylaw is made pursuant to sections 145 and 146(a)(v) of the Local Government Act 2002 and section 64 of the Health Act 1956.

Nothing in this Bylaw shall derogate from any provision of, or the necessity for compliance with, any statute, regulation, rule of law or permission relating to the welfare or keeping of any animals, poultry or bees.

49. Keeping of Animals

49.1

No person shall keep an animal which is or is likely to be a nuisance or a threat to public health or safety.

49.2

No person shall keep an animal in conditions which are or are likely to be a nuisance or a threat to public health or safety.

49.3

No person shall allow any animal in a public place in a manner which is or is likely to be a nuisance or a threat to public health or safety.

49.4

A person keeping an animal shall comply, in addition to this bylaw, with any other relevant statutory requirements.

49.5

Any person keeping an animal shall confine the animal within the boundaries of the premises where the animal is being kept.

50. Pig Keeping

No pig, or any piggery building, or any area designated for the occupation of pigs, is to be located less than 50 metres from any of the following:

- (a) Any residential building
- (b) Milking shed
- (c) Any place used for preparation, storage or sale of food

(d) Public road

(e) Adjoining property boundaries.

51. Stock in Urban Areas

Any person keeping stock in an urban area shall conduct the activity so as to ensure that:

- it does not create a nuisance to occupants of an adjoining or nearby property,
- the margins of any river, lake or area of coast adjoining the property are protected from the adverse effects of such stock, and;
- the health and safety of the stock is adequately provided for.

52. Poultry Keeping

52.1

No poultry, caged or otherwise, numbering in excess of 10 birds (which shall include geese, ducks, turkeys, and domestic fowls of all descriptions including a combination thereof) shall be kept in a predominantly urban area. Housing shall be provided in a properly constructed poultry house covered in with a rainproof roof and provided with a floor of concrete, or other approved material, with a surrounding nibwall to which a poultry run may be attached.

52.2

No poultry house or poultry run shall be erected or maintained, so that any part of it is within 10 m of any dwelling, factory, or any other building, whether wholly or partially occupied, or within 2 m of the boundary of adjoining premises.

52.3

Every poultry run shall be enclosed to confine the poultry.

52.4

Every poultry house and poultry run shall be maintained in good repair, in a clean condition free from any offensive smell or overflow and free from vermin.

53. Noise from Animal, Bird, or Fowl

No person shall keep on any premises any noisy animal, bird, or poultry which causes a nuisance to residents in the neighbourhood.

54. Bee Keeping

54.1

No person shall keep bees or store hives or beekeeping equipment if an authorised officer assesses the activity is or is likely to become a nuisance or annoyance to any person or potentially dangerous or injurious to health.

54.2

An authorised officer may prescribe conditions relating to the location and number of hives able to be kept on any premises or place within an urban area of the District.

Clutha District Council Regulatory Bylaws Part 6 - Dog Control

Pursuant to the powers vested in it by the Local Government Act 2002, the Dog Control Act 1996 and all other powers thereunder enabling the Clutha District Council makes this Bylaw.

55. Short Title

This Bylaw may be cited as the “Clutha District Council Dog Control Bylaw 2018”.

56. Commencement

This Bylaw shall come into force on the 1st day of July 2018.

57. Object of Bylaw

The object of this Bylaw is to control the keeping of dogs in the area of the Clutha District Council.

58. Interpretation

In this Bylaw, unless the context otherwise requires –

| | |
|----------------------------|--|
| Approved | means approved by the Council or by any Officer of the Council authorised in that behalf. |
| District | means the District of Clutha. |
| Council | means the Clutha District Council or any committee, sub-committee or authorised officer of the Clutha District Council who by definition under the Local Government act has authority in the matter. |
| District Plan | means the Clutha District Plan pursuant to the Resource Management Act 1991. |
| Dog Control Officer | means a dog control officer as defined in Section 11 of the Dog Control Act 1996. |
| Dog Ranger | means a dog ranger as defined in Section 12 of the Dog Control Act 1996. |
| Owner | means owner as defined in Section 2 of the Dog Control Act 1996. |
| Public Place | has the meaning assigned to the term by Section 2 of the Dog Control Act 1996. |
| Reserve | means any park, garden, plantation, forest, open space or ground set apart for public recreation or enjoyment and which is controlled or administered by the Council, the Department of Conservation, and the Yellow Eyed Penguin Trust. |
| Road | means a road as defined in Section 315 of the Local Government Act 1975. |
| Working Dog | has the meaning assigned to the term by Section 2 of |

the Dog Control Act 1996.

Wildlife

means wildlife as defined in Section 2 and as described in Section 3 of the Wildlife Act 1953 or marine mammal as defined in Section 2 of the Marine Mammals Protection Act 1978

59. Shelter for Dogs

59.1

The owner of any dog shall provide for it a weatherproof kennel or place of confinement of adequate size, constructed on well drained ground and, in the case of a kennel without other means of confinement, provided with a fixed chain or running wire which allows the dog free movement about the kennel with access to clean water. All kennels or places of confinement shall be kept in a clean and sanitary condition. A place of confinement may include a dwelling.

59.2

No owner of any dog shall keep the dog on any premises or in any kennel or place of confinement, other than a dwelling, any part of which is nearer than 2 metres to any boundary. Existing use rights shall apply unless a nuisance is created.

60. Control of Dogs

60.1

Leash Control Areas - The owner or any person for the time having charge of any dog shall ensure the dog does not enter or remain in any public place in the Urban, Industrial, Rural Settlement Resource Areas (as defined by the Clutha District Plan) or all public cemeteries unless it is kept on a leash, chain or lead which is secured or held so the dog cannot break loose.

60.2

The provisions of 60.1 shall not apply to a working dog carrying out the work in respect of which the dog has been registered.

60.3

Notwithstanding the provisions of 60.1, in any public place within the 'non- designated' area i.e. generally being the Rural, Transitional and Coastal Resource Area as defined by the District Plan (but excluding any Dog Prohibited area), or in any designated Dog Exercise Area (see Schedule A) a dog may be exercised without being restrained provided such a dog is kept under continuous control whilst being exercised.

60.4

For the purpose of this clause there shall be deemed to be sufficient control if such dog is under continuous surveillance of some responsible person and the dog does not give rise to any reasonable complaint as to its behaviour whilst being exercised.

60.5

Dog owners must place their dogs on a leash when they are within 20m of wildlife.

60.6

Dog Prohibited Areas - Notwithstanding any other provision of this bylaw (with the exception of Clause 66) the entry of dogs on to any public place specified in Schedule A is prohibited.

61. Fouling by Dogs

No person (being the owner or a person having control or charge of any dog) shall permit or suffer the dog to foul with faecal matter any public place or any land or premises other than land or premises occupied by that person provided that no offence shall be deemed to have been committed against this bylaw where the owner or person having control or charge of the dog removes the faecal matter immediately after the dog has deposited the droppings. Where a public litter bin or similar receptacle is used to dispose of the faecal matter, they must be suitably wrapped or contained to prevent fouling such receptacles.

62. Infectious or Infested Dogs

No person being the owner or having control or charge of any infectious or infested dog shall take the same into any public place or permit such dog to enter or remain in a public place except when being taken to a veterinary clinic.

63. Nuisances

63.1

The owner of any dog and the owner or the occupier of any premises on which any dog or dogs are kept shall:

63.2

Take adequate precautions to prevent the dog or dogs or the keeping of dogs from becoming a nuisance.

- a) Keep every bitch in season confined but adequately exercised.
- b) Keep such dog or dogs tied up (or otherwise confined), unless they are being exercised off the premises on a leash.

63.3

If, in the opinion of Council, any dog or dogs, or the keeping thereof on any premises has become or is likely to become a nuisance, Council may, by notice in writing, require the owner or occupier of the premises within a time specified in such notice, to do all or any of the following;

- a) Reduce the number of dogs kept on the premises
- b) Construct, alter, reconstruct or otherwise improve the kennels, places of confinement or other buildings used to house or contain such dog or dogs.
- c) Require such dog or dogs to be tied up or confined during specified periods.
- d) Take such other action as Council deems necessary to minimize or remove the likelihood of nuisance.

64. Licence to Keep More Than Two Dogs

64.1

No more than two dogs of registrable age (whether or not such dogs are registered) may be kept on any premises situated in the urban, industrial, or rural settlement resource areas as defined by the Clutha District Plan unless the owner or occupier is the holder of a licence to keep more than two dogs.

64.2

No licence shall be granted to the owner or occupier of any premises if such premises by reason of

inadequate size, location or detrimental effect on any premises would be inappropriate for the housing of three or more dogs.

64.3

A licence issued under this clause is subject to the conditions set by Council. Any breach of such conditions or other terms, conditions or restrictions shall be a breach of this bylaw. Any licence may be revoked by Council for breach of conditions or in the event of change of circumstances relating to: -

- a) the premises
- b) the owner or occupier thereof
- c) the dogs kept or remaining on such premises

64.4

Applications for licences to keep more than two dogs shall be made on the form supplied by Council and shall provide such information in respect of the application as Council may reasonably require.

64.5

There shall be paid to Council upon application for every such licence such fee as Council from time to time by resolution publicly notified prescribe and every such licence shall remain in force for the period of twelve months following the date of issue unless revoked and may then be renewed at no ongoing cost.

64.6

The fee for such licence shall be payable in addition to the registration fees payable under the Dog Control Act 1996.

65. Impounding of Dogs

When any contravention of Clause 60 occurs, or where any dog (whether or not wearing the proper registration label or disc) is found at large in breach of any provisions of this Bylaw or the Dog Control Act 1996, the dog may be impounded in accordance with Section 52 of the Dog Control Act 1996.

66. Suspend

Council may by resolution suspend the provisions of any part of this bylaw for such periods and locations as may be specified for the operation of organised dog or animal events.

67. Breach of Bylaw

Any person contravening or offending against or committing, permitting, or suffering a breach of any of the foregoing provisions shall be liable to prosecution or infringement notice for an offence against this bylaw.

68. Penalty

Every person who commits a breach of this bylaw is liable to a fine not exceeding \$500 and, where the breach is a continuing one, to a further fine not exceeding \$50 for every day on which the breach has continued.

69. Repeals

All other Bylaws in force in the Clutha District prior to the 1 day of July 2016 for the purposes of the control of dogs, are hereby repealed.

The foregoing Bylaw was duly made by the Clutha District Council by Special Consultative Procedure and adopted at a meeting held on 30 June 2016 and ordered to come into force on the 1st day of July 2016.

Schedule A

Dog Exercise Areas

Nil areas identified to date.

Public places from which dogs are prohibited

1. Areas laid out and equipped as children's playgrounds.
2. The designated playing area of all sports grounds
3. All school grounds
4. All swimming pools
5. Any premises used for the manufacture, preparation, storage, or the sale of food
6. Between the surf patrol flags at Kaka Point when they are in use.
7. The beach from the Nuggets Fishing Camp breakwater at Tirohanga south to the boundary of the Nuggets Lighthouse Reserve (this prohibition does not apply to farm working dogs used for the purpose of moving livestock)
8. All land administered by the Yellow Eyed Penguin Trust under the Reserves Act and as the administering body under the same Act for public conservation land. Specifically, the following significant breeding areas for yellow-eyed penguins and / or blue penguins: *
 - Hina Hina Cove
 - Long Point beach and foreshore from Haywards Point to the tip of Long Point and including the east side of Long Point from the tip to Waterfall Bay/Chasm Island DOC Reserve.
 - The Northern cliff end of Purakaunui Bay beach.
 - Owaka Heads within the fenced penguin breeding area
 - Sandy Bay beach and foreshore and fenced penguin breeding area
 - Jacks Blowhole and Penguin Bay within the Tunnel Rock Scenic Reserve and Blowhole viewing area).

*this prohibition does not apply to farm working dogs used for the purpose of moving livestock.

9. Clyde Street, Balclutha between the intersections of Renfrew and Gordon Streets i.e. the main shopping area.

(This prohibition does not apply to guide-dogs for the blind, hearing ear dogs, police dogs, dogs being used by security guards or dogs confined in an efficient container, or securely confined in or by lead or restraint on a vehicle nor does it apply to organised events held by Kennel Clubs/dog obedience clubs/dog trials etc).

NOTE: SCHEDULE A MAY BE AMENDED FROM TIME TO TIME IN TERMS OF THE SPECIAL CONSULTATIVE PROCESS SET DOWN IN SECTION 716A LOCAL GOVERNMENT ACT.

Clutha District Council Regulatory Bylaws Part 7 - Liquor Control

70. 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.

71. 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.

72. Definitions

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

| | |
|-------------------------------|---|
| Act | Local Government Act 2002. |
| Council | The Clutha District Council. |
| Event | 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. |
| Hours of darkness | A period of time between half an hour after sunset on one day and half an hour before sunrise on the next day. |
| Liquor | Has the meaning assigned to that term in section 2 of the Sale of Liquor Act 1989. |
| Public notice | The meaning assigned to that term in section 5 of the Act. |
| Public place | The meaning assigned to that term in section 147(1) of the Act. |
| Specified period | 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. |
| Specified public place | 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.

73. Prohibited Acts

Subject to clause 75 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.

74. Amendments to Specified Public Places

74.1 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.

74.2 Addition of specified periods and/or specified public places for planned events

Council may, by resolution, specify additional periods and public places where the possession and/or consumption of liquor is 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.

74.3 Public notice of resolution

Every resolution made pursuant to clause 74.2 shall be:

- (i) Publicly notified (as defined in clause 72) 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.

75. Exceptions

75.1 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.

75.2 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.

75.3 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.

75.4 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.

76. 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 76.1 and 76.2.

76.1 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.

76.2 Conditions relating to power of search

Before exercising the power of search in relation to a container or vehicle set out in clause 76.1, 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.

77. Breach of Bylaw

Subject to clause 69 of this Bylaw, any person who carries out any action described in clause 73 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 75 of the Bylaw, the specified places and specified periods relating to those specified places are as follows:

Specified Public Places

Specified Period

BALCLUTHA

- | | |
|---|--|
| 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) |
| 6. the Cromer Street playground and Cromer and Yarmouth Streets adjacent to the playground | 24 hours per day, seven days per week. |
| 7. Paisley Street between Renfrew and Lanark Streets | 24 hours per day, seven days per week. |

MILTON

- | | |
|---|--|
| 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. |