



LIQUOR (CONTROL OF LIQUOR IN PUBLIC PLACES) BYLAW 2004

The Central Otago District Council resolved on the 26 May 2004 at a duly called ordinary meeting of Council, to adopt the Liquor (Control of Liquor in Public Places) Bylaw 2004. Such resolution was made following the carrying out of the Special Consultative Procedure and other procedural requirements of the Local Government Act 2002.

The bylaw came into force on 3 June 2004.

The **COMMON SEAL** of the **Central Otago District Council** was hereunto fixed in the presence of:

Mayor _____

Chief Executive _____

The Central Otago District Council in pursuance of the powers contained in the Local Government Act 2002, the Bylaws Act 1910, and any other authority enabling the Council in this behalf hereby makes the following Bylaw.

1. Title and Commencement

- (i) This Bylaw shall be known as the Liquor (Control of Liquor in Public Places) Bylaw 2004.
- (ii) The Bylaw shall come into effect on the 3rd day of June 2004.

2. Interpretation

In this Bylaw unless the context otherwise requires:

“**Act**” means the Local Government Act 2002.

“**Council**” means the Central Otago District Council.

“**Enforcement Officer**” means any Police Constable or any person appointed by Council under Section 177 of the Act (reproduced in Schedule 1) to exercise the powers of an enforcement officer in relation to offences against and infringement offences under the Act and against and under this Bylaw.

“**Liquor**” has the meaning given to such term in the Sale of Liquor Act 1989. (reproduced in Schedule 1)

“**Offence**” has the meaning given to such term in Section 169(1) of the Act. (reproduced in Schedule 1)

“**Public Place**” has the meaning given to such term in Section 147(1) of the Act. (reproduced in Schedule 1)

“**Specified Period**” means such times, days, periods of times and days as the Council may from time to time by resolution of Council decide upon in accordance with Clauses 3.1 and 3.2 of this Bylaw.

“**Specified Public Place**” means such public place, or places as the Council may from time to time by resolution of Council decide upon in accordance with Clauses 3.1 and 3.2 of this Bylaw.

“**Vehicle**” has the meaning given to such term by Section 2(1) of the Land Transport Act 1998. (reproduced in Schedule 1)

3. SPECIFICATION OF PUBLIC PLACES AND PERIODS

3.1. The Council may from time to time, by resolution duly made by it, resolve in respect of a detailed Specified Public Place to prohibit or otherwise regulate or control:

3.1.1. The consumption of liquor in such specified public place.

3.1.2. The bringing of liquor into such specified public place.

3.1.3. The possession of liquor in or on such specified public place.

3.1.4. In conjunction with any such prohibition relating to liquor under paragraphs 3.1.1, 3.1.2 and 3.1.3 the presence of or use of a vehicle in such specified public place.

for such specified periods as are detailed in such resolution of the Council.

3.2. Public Notice of the resolution of Council made pursuant to Clause 3.1 above to prohibit, control or regulate liquor in specified public places for specified periods shall be publicly notified at least 14 clear days prior to the commencement of the first specified period detailed in such resolution.

4. EXEMPTIONS

The exemption provisions as detailed in Section 147(3) of the Act shall apply to this Bylaw. (reproduced in Schedule 1)

5. POWERS OF ARREST, SEARCH AND SEIZURE

The powers given to members of the Police by Sections 169(2) and 170 of the Act shall apply to this Bylaw. (reproduced in Schedule 1)

6. OFFENCES

Any person who:

(a) possesses, and/or consumes and/or brings liquor onto any specified public place during any specified period as detailed in any resolution passed by Council following the giving of public notice commits an offence.

(b) in conjunction with a prohibition relating to liquor brings onto or uses any vehicle in any specified public place during any specified period as detailed in any resolution passed by Council following the giving of public notice commits an offence.

7. PENALTY

7.1 Any person convicted of an offence against this Bylaw is liable on summary conviction to a fine not exceeding \$20,000.

7.2 The provisions of Sub-part 3 of Part 9 of the Act shall apply to any offence committed in breach of the terms of this Bylaw. (reproduced in Schedule 1)

Schedule 1 – Sections of Legislation referred to in the Bylaw

The sections listed below were current as at the time the Bylaw was adopted.

Section of the Land Transport Act 1998

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

...

vehicle—

- (a) Means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and
- (b) Includes a hovercraft, a skateboard, in-line skates, and roller skates; but
- (c) Does not include—
 - (i) A perambulator or pushchair:
 - (ii) A shopping or sporting trundler not propelled by mechanical power:
 - (iii) A wheelbarrow or hand-trolley:
 - (iv) A child's toy, including a tricycle and a bicycle, provided, in either case, no road wheel (including a tyre) has a diameter exceeding 355 mm:
 - (v) A pedestrian-controlled lawnmower:
 - (vi) A pedestrian-controlled agricultural machine not propelled by mechanical power:
 - (vii) An article of furniture:
 - (viii) An invalid wheel-chair not propelled by mechanical power:
 - (ix) Any other contrivance specified by the rules not to be a vehicle for the purposes of this definition:

Section of the Sale of Liquor Act 1989 referred to in the Bylaw

2 Interpretation

In this Act, unless the context otherwise requires,—

...

liquor means any fermented, distilled, or spirituous liquor (including spirits, wine, ale, beer, porter, honeymead, stout, cider, and perry) that is found on analysis to contain 1.15 percent or more alcohol by volume:

Sections of the Local Government Act 2002 referred to in the Bylaw

147 Power to make bylaws for liquor control purposes

(1) In this section,—

liquor has the meaning given to it in the Sale of Liquor Act 1989

public place—

- (a) means a place—
 - (i) that is under the control of the territorial authority; and
 - (ii) that is open to, or being used by, the public, whether or not there is a charge for admission; and
- (b) includes—
 - (i) a road, whether or not the road is under the control of a territorial authority; and
 - (ii) any part of a public place.

- (2) Without limiting section 145, a territorial authority may make bylaws for its district for the purpose of prohibiting or otherwise regulating or controlling, either generally or for 1 or more specified periods,—
- (a) the consumption of liquor in a public place:
 - (b) the bringing of liquor into a public place:
 - (c) the possession of liquor in a public place:
 - (d) in conjunction with a prohibition relating to liquor under paragraphs (a) to (c), the presence or use of a vehicle in a public place.
- (3) A bylaw made under this section 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:
 - (c) 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.

169 Powers of arrest, search, and seizure in relation to bylaw prohibiting liquor in public place

- (1) In this section and in section 170,—
- liquor** has the meaning given to it in the Sale of Liquor Act 1989
- offence** means an offence under section 239 that is a breach of a bylaw prohibiting—
- (a) the consumption or possession or both of liquor in, or the bringing of liquor into, a public place; or
 - (b) in conjunction with a prohibition relating to liquor, the presence or use of a vehicle in a public place.
- public place** means a public place as defined in section 147(1) in respect of which there is a bylaw prohibiting—
- (a) the consumption or possession or both of liquor in, or the bringing of liquor into, that place; or
 - (b) in conjunction with a prohibition relating to liquor, the presence or use of a vehicle in that place.
- (2) 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.
- (3) Liquor or a container seized under subsection (2)(b) is forfeited to the Crown if the person from whom the liquor or container is seized is convicted of breaching the bylaw.

170 Conditions relating to power of search

- (1) Before exercising the power of search under section 169(2)(a) in relation to a container or a vehicle, a member of the police must—
 - (a) inform the person in possession of the container or the vehicle, as the case may be, that he or she has 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.
- (2) However, on specified dates or in relation to specified events, notified in accordance with subsection (3), a member of the police may, immediately and without further notice, exercise the power under section 169(2)(a) to search a container or a vehicle.
- (3) Before a member of the police may exercise the power of search under subsection (2), the territorial authority must—
 - (a) specify the public place (within the meaning of section 169(1)) where, and the period when, this power may be exercised by the police by public notice given 14 days in advance in accordance with this Act; and
 - (b) indicate the location of the public place by 1 or more clearly legible notices affixed in 1 or more conspicuous places on, or adjacent to, the place to which the notice relates, unless it is impracticable or unreasonable to do so.
- (4) Subsection (2) only applies if the member of the police is authorised to exercise that power by a bylaw made under section 147.

177 Appointment of enforcement officer

- (1) A local authority may appoint persons to be enforcement officers in the district or region of the local authority in relation to any offence under this Act, including, without limitation,—
 - (a) offences against bylaws made under this Act;
 - (b) infringement offences provided for by regulations made under section 259.
- (2) A local authority must issue warrants in writing to enforcement officers appointed under this section, specifying—
 - (a) the responsibilities and powers delegated to them; and
 - (b) the infringement offences in relation to which they are appointed.
- (3) An enforcement officer must produce his or her warrant and evidence of identity whenever reasonably required to do so by any person.
- (4) Enforcement officers may exercise the power to seize an object under section 164.

Sub-part 3 of Part 9

243 Interpretation

In this subpart,—

infringement fee, in relation to an infringement offence, means the amount prescribed by regulations made under section 259(b) as the infringement fee for the offence

infringement offence means an offence specified as such in regulations made under section 259(a).

244 Proceedings for infringement offences

A person who is alleged to have committed an infringement offence may either—

- (a) be proceeded against under the Summary Proceedings Act 1957; or
- (b) be served with an infringement notice under section 245.

245 Issue of infringement notices

- (1) An infringement notice may be served on a person if an enforcement officer—
 - (a) observes a person committing an infringement offence; or
 - (b) has reasonable cause to believe that an infringement offence is being or has been committed by that person.
- (2) An infringement notice may be served—
 - (a) by an enforcement officer (not necessarily the person who issued the notice) personally delivering it (or a copy of it) to the person alleged to have committed the infringement offence; or
 - (b) by post addressed to that person's last known place of residence or business.
- (3) For the purposes of the Summary Proceedings Act 1957, an infringement notice sent to a person under subsection (2)(b) must be treated as having been served on that person when it was posted.
- (4) An infringement notice must be in the prescribed form and must contain the following particulars:
 - (a) details of the alleged infringement offence sufficient to inform fairly a person of the time, place, and nature of the alleged offence:
 - (b) the amount of the infringement fee specified for that offence:
 - (c) the time within which the infringement fee must be paid:
 - (d) the address of the place at which the infringement fee must be paid:
 - (e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:
 - (f) a statement that the person served with the notice has a right to request a hearing:
 - (g) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing:
 - (h) any other particulars that are prescribed.
- (5) If an infringement notice has been issued under this section,—
 - (a) proceedings in respect of the offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957; and
 - (b) the provisions of that section apply with all necessary modifications.

246 Entitlement to infringement fees

A local authority may retain the infringement fee received by it for an infringement offence if the infringement notice was issued by an enforcement officer appointed by that local authority.