

Alcohol Restrictions in Public Places Bylaw 2019



Adopted 14 August 2019

The Central Otago District Council resolved on the 14 August 2019 at a duly convened ordinary meeting of Council, to review and adopt the Alcohol Restrictions in Public Places Bylaw 2019. 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 1st September 2019.

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

A handwritten signature in blue ink, appearing to be "John", written in a cursive style.

Mayor

A handwritten signature in blue ink, appearing to be "Suzanne Jacobs", written in a cursive style.

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.

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TITLE

1.0 This Bylaw shall be known as the Alcohol Restrictions in Public Places Bylaw 2019.

COMMENCEMENT

2.0 The Bylaw shall come into effect on the 1st day of September 2019.

PURPOSE

3.0 The purpose of this Bylaw is to:

(a) reduce the potential for alcohol related offensive behaviour, harm, damage, disorder, crime and to promote and improve community health and safety.

(b) achieve its objective by putting in place controls and restrictions on the possession, consumption and carriage of alcohol, in some public places within the Central Otago District.

INTERPRETATION

4.0 For the purposes of this Bylaw unless the context otherwise requires:

Act means the Local Government Act 2002 or any superseding legislation.

Alcohol means a substance:

(a) that—

- (i) is or contains a fermented, distilled, or spirituous alcohol; and
- (ii) at 20°C is found on analysis to contain 1.15% or more ethanol by volume; or

(b) that—

- (i) is a frozen liquid, or a mixture of a frozen liquid and another substance or substances; and
- (ii) is alcohol (within the meaning of paragraph (a)) when completely thawed to 20°C; or
- (c) that, whatever its form, is found on analysis to contain 1.15% or more ethanol by weight in a form that can be assimilated by people.

Blossom Festival – is an annual event, held in Alexandra to celebrate the advent of spring.

Council means the Central Otago District Council.

Police means any constable or other member of the New Zealand Police as defined by the Policing Act 2008.

Offence means a breach of clause 2.1 of this Bylaw that constitutes an infringement offence under section 239A of the Act.

Person has the same meaning given in the Interpretation Act 1999. (Includes a corporation, a body corporate and an unincorporated body)

Public Place (In accordance with section 147(1) of the Local Government Act 2002) means a place –
(a) that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it; but
(b) does not include licensed premises.

Specified Period means:

- (a) From 10.00pm to 7.00am the following day on every Thursday, Friday, Saturday and Sunday within the townships of Alexandra, Clyde and Cromwell (Schedule 1);
- (b) From 12.00am (midnight) on the Thursday before the start of Blossom Festival weekend to 12am (midnight) on the Saturday of the Blossom Festival weekend within the townships of Alexandra, Clyde and Cromwell (Schedule 2); and
- (c) From 12.00am (midnight) on 25 December until 12.00am midnight the following day and 12.00am (midnight) on 31 December until 12.00am midnight the following day throughout the areas of Alexandra, Clyde and Cromwell (Schedule 3).

Alcohol Restriction Zone means a permanent alcohol restriction in a public place, or places defined in Schedule 1, Schedule 2 and Schedule 3 and any such additional place the Council may from time to time by resolution of Council decide upon in accordance with Clauses 6.0 and 6.1 of this Bylaw.

Temporary Alcohol Restriction Zone means a zone described in a resolution of Council made under this Bylaw in which the prohibitions under clauses 7.0 to 7.2 are temporarily in place in the public places within the zone and during the times, days or dates specified in the resolution.

Vehicle has the meaning given to such term by Section 2(1) of the Land Transport Act 1998, and includes any contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and includes a trailer, but does not include an ambulance, fire engine or police vehicle.

Prohibited Acts

5.0 The following acts are prohibited:

- (a) The consumption of alcohol in any Alcohol Restriction Zone during any Specified Period;
- (b) The possession of alcohol in any Alcohol Restriction Zone during any Specified Period;
- (c) The bringing of alcohol into any Alcohol Restriction Zone during any Specified Period; and
- (d) The consumption and possession of alcohol in a vehicle in any Alcohol Restriction Zone during any Specified Period.

Additions to Specified Periods and Alcohol Restriction Zones by resolution

- 6.0 The Council may from time to time (by resolution adopted following use of the special consultative procedure, as set out in sections 83 and 156 of the Act) define any additional period to be included within the meaning of Specified Period as defined in this bylaw.
- 6.1 The Council may from time to time (by resolution adopted following the use of the special consultative procedure, as set out in sections 83 and 156 of the Act) define any additional zone to be included within the meaning of Alcohol Restriction Zone as defined in this bylaw.
- 6.2 Every resolution made under clause 6.0 or clause 6.1 above shall be publicly notified at least 14 days before it shall take effect.
- 6.3 The Council may at any time, by resolution, amend or revoke a resolution made under clause 6.0 or 6.1.

Temporary Alcohol Restriction Zones

- 7.0 The Council may declare a Temporary Alcohol Restriction Zone by resolution which will describe the specific zone and the times, days or date during which the prohibitions imposed under clause 1.7 apply to any public place in that zone.
- 7.1 Before the Council declares a Temporary Alcohol Restriction Zone it will comply with sections 77 – 82 of the Act.
- 7.2 Any resolution made under clause 7.0 shall be publicly notified at least 14 days before it shall take effect.

Signage

- 8.0 Where it is practicable and reasonable to do so, the Council will erect signage within public places covered by this bylaw to provide information to the public about the restrictions imposed under the bylaw. The size, location and terms of the signage will be at the Council's discretion.
- 8.1 To avoid doubt, the absence of signage in any public place does not authorise a breach of this bylaw.

Exemptions

- 9.0 The bylaw does not prohibit, in the case of alcohol in an unopened bottle or other unopened container –
- (a) the transport of that alcohol from premises that adjoin an Alcohol Restriction Zone during any period when, under the Sale and Supply of Alcohol Act 2012 it is lawful to sell alcohol on those premises for consumption off the premises, provided the alcohol is promptly removed from the Alcohol Restriction Zone;
 - (b) the transport of that alcohol from outside an Alcohol Restriction Zone for delivery to premises that adjoin the Alcohol Restriction Zone, provided the premises are licensed for the sale of alcohol under the Sale and Supply of Alcohol Act 2012;
 - (c) the transport of that alcohol from outside an Alcohol Restriction Zone to premises that adjoin a Alcohol Restriction Zone –
 - 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 Alcohol Restriction Zone by a resident of those premises, provided the alcohol is promptly removed from the Alcohol Restriction Zone.
- 9.1 This bylaw does not apply to any areas or activities where the sale or consumption of alcohol is authorised by any licence issued under the Sale and Supply of Alcohol Act 2012, including:
- (a) any public place which is part of a licensed premises' outdoor area and shown on a plan attached to the on licence granted under the Sale and Supply of Alcohol Act 2012;
 - (b) any public place that is subject to a special licence granted under the Sale and Supply of Alcohol Act 2012 by the Central Otago District Licensing Committee for the term of that special licence;
 - (c) any vehicle in a public place to which a licence under the Sale and Supply of Alcohol Act 2012 applies;
 - (d) any event held in a public place at which alcohol is served pursuant to a caterer's licence endorsed pursuant to section 38 of the Sale and Supply of Alcohol Act 2012.

Dispensing Powers

- 10.0 The Chief Executive of the Council may waive compliance with any provision of this Bylaw in any case where the Chief Executive is of the opinion that full compliance would needlessly cause harm, loss or inconvenience to any person or business without any corresponding benefit to the community.
- 10.1 The Chief Executive may in their discretion impose conditions of any such waiver granted under clause 10.0.

Police powers of search in Temporary Alcohol Restriction Zones

- 11.0 This bylaw authorises members of the Police to exercise the power of search under section 169(2)(a) of the Act for the purposes of section 170(2) of the Act in relation to any zone which has been declared a Temporary Alcohol Restriction Zone by resolution of the Council under clauses 7.0 to 7.2.
- 11.1 Subject to clause 11.2 below, the powers of search contemplated under clause 11 can be exercised by the Police immediately and without further notice.
- 11.2 Clause 11.0 only applies if the resolution declaring a Temporary Alcohol Restriction Zone provides that clause of this bylaw will apply.

Offences and Penalty

- 12.0 Every person who breaches this bylaw commits an offence.
- 12.1 Every person who commits an offence under this Bylaw is liable to a penalty, and may be served an infringement notice (*\$250.00) by the Police in accordance with section 243, 244 and 245 of the Act.

*Infringement fee is set by the Local Government (Alcohol Ban Breaches) Regulations 2013.
- 12.2 Any person convicted of an offence against this Bylaw is liable on summary conviction to a fine not exceeding \$20,000, as specified in s.242(4) of Act.
- 12.3 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.