

CHAPTER 2 - PUBLIC PLACES

The Marlborough District Council hereby makes by resolution the following Chapter 2 of the Marlborough District Council Bylaw 2010 pursuant to the powers contained in Sections 145 and 146 of the Local Government Act 2002, and any other Act or authority in any way enabling the Council in that behalf.

Section 1 – Public Places

201 Reserves and Public Places Other than Roads

- 201.1 No person on any public place not being a road may:
- (i) Use a motor vehicle except in those areas which have been set aside for that purpose;
 - (ii) Use a motor vehicle unsafely or without due care and attention or without reasonable consideration for other persons;
 - (iii) Use a motor vehicle in a way which causes damage to the surface of the public place.

202 Games

- 202.1 The Manager is authorised to set aside areas of a reserve for the playing of games.
- 202.2 Where the Manager has set aside areas of a reserve for the playing of games, no person may play such games outside the areas of the reserve set aside for that purpose, where the playing of such games may damage or unduly interfere with the use of the reserve.
- 202.3 No person may play games on a reserve where there is a notice bearing the words "*Grounds Closed to Play*" or a notice to similar effect.
- 202.4 The Council may by resolution fix charges for the right to use or be admitted to reserves and the times of admission.
- 202.5 The Council may by resolution prescribe the period during which any particular reserve (except a beach) is open to the public.

203 Camping Grounds

- 203.1 The Council may designate areas in a reserve for use as a camping ground and may establish or construct any facilities in relation to this.
- 203.2 No person may camp on a public place other than in an area designated as a camping ground by the Council.
- 203.3 In any area designated by the Council as a camping ground no person may:

- (i) Camp unless:
 - (a) A site has been allocated to that person by an authorised officer of Council;
 - (b) The fees and charges prescribed by the Council have been paid;
 - (c) The person in charge of the tent, car or caravan is over the age of 18 years.
- (ii) Use any electricity, water or any other service in a wasteful manner.
- (iii) Enter the camping ground unless they are the occupier of a site or the visitor of an occupier or have other lawful business on the site.
- (iv) Deposit any rubbish other than in receptacles provided for that purpose.
- (v) Use any motor vehicle in any part of the camping ground between the hours of 10.30 p.m. and 7.00 a.m. unless the vehicle is owned or used by one of the occupiers of a site.
- (vi) Operate a motor vehicle in any part of the camping ground unless it is fitted with an effective muffler.
- (vii) Have more than two motor vehicles at any site at any one time.

203.4 **Havelock Motor Camp**

- (i) This Bylaw applies to that area known as the Havelock Motor Camp, located in Havelock and set aside by the Council as a camping ground.
- (ii) *Community Association*, for the purposes of this Bylaw, means the Havelock Community Association Incorporated.

Motor camp Manager means any person for the time being appointed by the Havelock Community Association to control and manage or assist in the control and management of the Havelock Motor Camp.
- (iii) The Motor camp Manager shall be a Council appointed officer for the purposes of carrying out the provisions of this Bylaw to the extent that those provisions apply to the Havelock Motor Camp.
- (iv) The Community Association may by resolution set or alter the fees payable in respect of occupying sites at the Havelock Motor Camp.

204 Prohibitions

204.1 Except as expressly provided for in this Bylaw and as otherwise authorised by law no person may, in on or over any public place:

Obstructions

- (i) Place any obstruction or projection of any kind in a position in which it may interfere with the passage of traffic or pedestrians;

Damage

- (ii) Enter or walk upon any enclosures, flower beds, or places set apart for the cultivation of plants, or on any part of a reserve on which entry or walking is prohibited or restricted by notice;
- (iii) Extinguish or damage any street lamp or lamp post or damage or interfere with any warning light, signs or barricades placed by the Council including those to warn the public of danger;
- (iv) Do any act which damages degrades or creates a nuisance to any person, property or public place;

Games

- (v) Play any game or engage in any activity that is likely to interfere with the safety or convenience of the public;
- (vi) Enter onto any place marked out as a playing area for any game while that game is in progress unless as a competitor or official taking part in the game;
- (vii) Consume intoxicating liquor except as has been lawfully sold at that place;

Litter

- (viii) Break any bottle or deposit any article likely to cause a nuisance or danger to the public;
- (ix) Place in any public refuse receptacle any offensive matter or any domestic or trade refuse;
- (x) Place any offensive matter or any domestic or trade refuse on any public place;

Advertising

- (xi) Place any poster or other document on, or disfigure, or deface any public property;

Fences

- (xii) Use barbed wire or electricity in any fence adjoining any public place. This clause of this Bylaw does not apply to properties in a rural zone as defined in the relevant District Plan;

Removal

- (xiii) Remove any wood, gravel, soil, plant, vegetation or other matter from any public place;

Entrance/Exit

- (xiv) Enter or leave any Reserve except through the entrances or exits provided for that purpose;

Stock

- (xv) Being in charge of stock, fail to take proper steps to prevent that stock wandering.

205 Prohibitions Where Dispensations Are Available

205.1 No person may in on or over any public place, except in accordance with an approval issued by the Council and subject to any conditions contained in that approval:

- (i) Land an aircraft, helicopter, hang-glider, glider or descend by parachute or hot air balloon;
- (ii) Fly any model powered driven aeroplane, helicopter, hovercraft or similar device;
- (iii) Open any drain or sewer;
- (iv) Set off any fireworks or explosive material or light any bonfire or fire;
- (v) Use any vehicle for the purposes of living accommodation;
- (vi) Leave any building material, rubbish or other matter likely to cause an obstruction or danger to any person or property;
- (vii) Dig any hole or excavation:
- (viii) Sell or offer for sale any article of food or merchandise or liquor, intoxicating or otherwise, or any kind of drink, or carry on any trade, pursuit, or calling;
- (ix) Erect or exhibit any advertising sign, directional sign or hoarding on any public property.

206 Council Wharves

206.1 **Application**

This provision of this chapter of this Bylaw is applicable only to wharves owned by the Council.

206.2 **Closure of Wharves**

- (i) An authorised officer of the Council may close any wharf when in that officer's reasonable opinion it is necessary to do so for any reason.
- (ii) No person may enter onto the wharf while it remains closed.

206.3 **Removal of Vessels**

- (i) An authorised officer of Council may order any person in control of any vessel to remove that vessel from a berth alongside a wharf when in the officer's opinion the removal is:
 - (a) Reasonable for the accommodation of other vessels; or
 - (b) In the interests of public safety; or
 - (c) To prevent damage to the wharf.
- (ii) An authorised officer of the Council may have any vessel removed if any person in charge of the vessel fails to remove it within a reasonable time after being requested to do so. All costs incurred in the removal and all other incidental costs shall be a debt due to the Council from that person.

206.4 **Damage**

- (i) Any person in charge of a vessel which damages or causes damage to any wharf:
 - (a) Must immediately report the incident to the Council; and
 - (b) Is liable for all costs for repair or replacement of the wharf.

206.5 **Time Limit on Berthage**

- (i) Except with the permission of Council no person may at any wharf berth any vessel at any steps or landing place for passengers:
 - (a) So as to obstruct the approach of other vessels; or
 - (b) For any period of time greater than is reasonably necessary for the embarking or disembarking of passengers or the loading or unloading of goods.

206.6 **Removal of Goods**

- (i) Except where the Council otherwise authorises, all goods deposited on any wharf must:
 - (a) Be removed from the wharf as soon as is practicable;
 - (b) Not be sorted, opened, packed or repacked on the wharf.
- (ii) Except where Council otherwise authorises all goods of a dangerous or flammable nature must be removed immediately upon being deposited on the wharf. Any goods not removed may be removed by the Council and the owner of the goods must pay all costs of their removal and storage.
- (iii) No goods may be deposited on a wharf if, in the opinion of an officer of the Council, those goods are likely to cause damage to any wharf. The Council may remove such goods deposited on a wharf and the owners of the goods are liable for all costs of removal and storage and all costs for repair or replacement of the wharf.

206.7 **Cleaning of Wharves**

Where the Council incurs costs for cleaning or clearing wharves as a result of use by a vessel, the owner and the person in charge of that vessel are severally liable for those costs.

206.8 **Obstructions**

No person may:

- (i) Obstruct vessels using a wharf;
- (ii) Obstruct the loading or discharging of goods or passengers from any vessel berthed at a wharf;
- (iii) Sell any goods on a wharf without permission from the Council;
- (iv) Climb on the structure of any wharf below the deck level or upon any cargo placed on a wharf or any crane or hoist on a wharf unless authorised to do so by the Council.

206.9 **Fees**

- (i) The owner or person in charge of every vessel that is either occupying a berth at a Council wharf or moored outside a vessel occupying a berth at a Council wharf must pay such berthage fee or wharfage fee as Council may from time to time publicly notify, or, in the case of a Council wharf under the control of another person, such rates as Council has authorised that person to publicly notify.
- (ii) The owner or person in charge of any vessel using:

(a) Water supplied by Council; or

(b) Electricity supplied by Council;

must pay a fee as prescribed by Council Resolution for that supply.

(iii) The owner or person in charge of any vessel must pay wharfage rates upon all goods and livestock using Council wharves. Such rates are publicly notified by Council or, in the case of a Council wharf which is under the control of another person authorised by Council, such rates are publicly notified by that person.

207 Breaches

207.1 Where Council is the lawful occupier, a trespass notice may be given. If the person is causing problems other than breaches of this bylaw, for example disorderly behaviour, the police may need to be involved.

Section 2 – Control and Licensing of Traders

HAWKERS, MOBILE SHOPS, ITINERANT TRADERS

208 Exemptions

208.1 The provisions of this Bylaw do not apply to:

- (i) Fishers selling fish pursuant to s67 of the Fisheries Act 1983;
- (ii) Sellers of newspapers;
- (iii) Flea markets being an open air market selling inexpensive and sometimes second hand goods provided that such flea market is conducted on an area to which subclause (iv) below applies;
- (iv) Any area which the Marlborough District Council resolves for, a particular time period, to be a designated site for itinerant trading;
- (v) Any permitted activity in terms of Council's District Plan where such activity is on private land.

209 Partial Exemptions

209.1 Any person who carries on a business as a legitimate occupier of business premises in the District is not required to obtain a licence for carrying about goods for sale or offering services, if those goods or services are similar in nature to those which are sold from that person's

usual place of business. This provision applies to such a person and their employees provided that there are not more than two persons (including employees) carrying out such an activity at a site other than the person's usual place of business.

- 209.2 A person carrying out or engaged in an activity for which a partial exemption exists under clause 209.1 must comply with the provisions of this Bylaw as though they were the holder of a licence issued under this Chapter. The Council may impose any conditions on such a person which it considers appropriate.

210 Licence Required

- 210.1 Except as otherwise provided, no person shall engage in the business of an itinerant trader without having first obtained a licence from the Council in accordance with the terms of this Chapter of this Bylaw.

211 Application for Licence

- 211.1 Every person wishing to obtain a licence under 210.1 must apply to the Manager. Before granting a licence, the Council may require such an applicant to provide further information including:
- (i) Evidence of good character.
 - (ii) Details of proposed operation.
 - (iii) Details about employees or contractors.
 - (iv) Proposed areas and times of operation.
 - (v) Details of Goods and services to be on offer.
- 211.2 Every person seeking to obtain a licence must provide to the Manager with the application a certificate signed by an authorised officer of the Council that the activity proposed complies with the requirements of the relevant District Plan.
- 211.3 The names of all employees or contractors must be lodged with the Council. All employees or contractors must carry a form signed by the holder of the licence showing their authority to operate under the licence when engaged in the business of itinerant trading.
- 211.4 Every application for a licence must state what the applicant intends to sell. Where a motor vehicle is to be used, the application must specify the registration number of that vehicle.
- 211.5 No vehicle other than that specified in a licence issued pursuant to this Chapter of this Bylaw may be used for itinerant trading without the approval of an Environmental Health Officer of Council.

212 Sale of Food for Human Consumption

- 212.1 An application for a licence to sell food for human consumption must be accompanied by all licences and consents which the applicant is required to obtain under the provisions of any Act, Regulation or Bylaw relating to the licensing and regulation of such activities.
- 212.2 Before issuing any licence an Environmental Health Officer of Council must be satisfied that any motor vehicle used in connection with the selling of food for human consumption and any premises for the storage of such food are suitable for that purpose.

213 Fees and Expiry of Licence

- 213.1 Each licence issued shall be valid for one year from the date of issue or for such lesser period as is specified in the licence.
- 213.2 Every application for a licence must be accompanied by the prescribed fee. Licence fees will be prescribed by publicly notified Council resolution.
- 213.3 Upon expiry of any licence, application may be made for renewal of the licence. An endorsement of the original licence by an authorised officer of the Council stating the new expiry date is sufficient notification of renewal.

214 Form of Licence

- 214.1 Every licence issued must be in the form required by the Council.

215 Production of Licence

- 215.1 A licence issued pursuant to this Chapter of this Bylaw must be carried by an itinerant trader while involved in that business, and must be produced upon request by an authorised officer of the Council.
- 215.2 Where a licence holder is trading from a vehicle, the licence holder must place the licence document in a conspicuous place in that vehicle while trading.

216 Name to Appear on Vehicle

- 216.1 Every licensed itinerant trader must display their name on the vehicle used for trading while involved in that trading. Such name must be:
- (i) In some conspicuous place;
 - (ii) On the exterior of any vehicle or container in which the goods are carried; and

- (iii) Legible and in letters not less than 25 mm in height.

217 Moving On

- 217.1 Every itinerant trader must move from where that person is carrying out such business when requested by any authorised officer of the Council to any other part of any public place as indicated by that officer.
- 217.2 If any itinerant trader refuses to leave or is not in attendance of any vehicle used for trading then an authorised officer of the Council may remove any vehicle or other property used by that trader.
- 217.3 Every itinerant trader who is not the holder of a licence must desist from trading and move any goods, vehicles or other property from any public place when requested to do so by an Authorised Officer of Council.

218 Location

- 218.1 An itinerant trader using a mobile shop is prohibited from operating within 200 metres of other businesses of a similar nature.
- 218.2 An itinerant trader is prohibited from operating at intersections, narrow roadways, corners, bends, rises, pedestrian crossings or any other area where the Council considers it is inappropriate or dangerous to conduct such a business.

219 Council May Prescribe Conditions

- 219.1 The Council may:
- When a licence is issued to any itinerant trader; or
 - When resolving an area as a designated site for itinerant trading; or
 - By notice in writing:
 - (i) Impose any conditions with which the itinerant trader or user must comply to carry on business. Any person who fails to comply with such conditions within any period specified for compliance is guilty of an offence against this Bylaw;
 - (ii) Require any traders using a mobile shop to discontinue the use of any vehicle;
 - (iii) Make and impose any standards and conditions it considers necessary to control the standard of service and the type of goods or services provided. This may include restricting numbers of itinerant traders.

220 Licence not Transferable

220.1 A licence issued to an itinerant trader is not transferable to any other person.

221 Illegal Activities

221.1 Any person who, in the course of business as an itinerant trader, engages in any illegal or unlawful activity forfeits their Licence upon conviction.

STANDS, STALLS AND BUSKERS**222 Licence Required**

222.1 A licence must be obtained from the Council before any person may place on any public place, any:

- (i) Structure or vehicle for the purpose of carrying out or engaging in any activities using street stalls or stands; or
- (ii) Structure or apparatus for weighing, knife-grinding, automatic vending, slot machine entertainment or any similar purpose.

222.2 A licence must be obtained from the Council before any person may be a busker or a seller of raffle tickets in any public place.

223 Application

223.1 Every application for a licence pursuant to clause 222 of this Chapter of this Bylaw must be in such form as required by the Council.

223.2 Every application for a licence pursuant to clause 222 of this Chapter of this Bylaw will be assessed in terms of the following matters:

- (i) The size of the operation including dimensions and staffing, and the total area occupied.
- (ii) The proposed times of operation of the facility.
- (iii) The duration of occupancy.
- (iv) The character of the operator.
- (v) The likely affect on established or future businesses within the range of the licence holder's location.
- (vi) Advertising signage proposed.
- (vii) Location.

- (viii) Any other matter which the Council thinks fit.

224 Conditions of Licence

224.1 Every licence issued under this part of this Chapter of this Bylaw is subject to such reasonable conditions as the Council may impose.

224.2 The Council may charge rental in addition to the licence fee, for the occupation of any public place (other than roads), or the airspace above the surface of any road.

Every licence shall state:

- (i) The expiry date;
- (ii) The portion of any public place which the applicant is permitted to occupy;
- (iii) The hours during which that person may occupy the public place; and
- (iv) The class of article or goods permitted to be sold.

224.3 Payment of a rental does not entitle the occupier to exclusive possession for any specified public place. A licence is subject to pedestrians and traffic having unobstructed passage over the specified public place.

225 Licence Not Transferable

225.1 A licence is only transferable to another person with the Council's prior written approval.

225.2 A person may only stand or sell under the authority of a licence issued to another person in accordance with the terms of licence or as otherwise directed by Council. A busker's licence is not transferable.