

MARLBOROUGH DISTRICT COUNCIL LIQUOR BAN BYLAW 2011

Liquor Control in Public Places

Explanatory Note

The Local Government Act 2002 gives Council the power to control the consumption and possession of liquor in public places. The Council can use this power generally, to create on-going liquor bans in public places, or to ban liquor for one-off special events or occasions in public places.

The aim of this bylaw is to control the consumption of alcohol in those public places where Council is concerned that the possession of liquor in the public place, whether generally or over a specified period may result in disorderly behaviour and criminal offending.

Definitions

For the purposes of this bylaw the following definitions will apply:

“**Liquor**” has the meaning given to it in section 147(1) of the Local Government Act 2002, being the meaning given to it in the Sale of Liquor Act 1989.

“**Public place**” has the meaning given to it in section 147(1) of the Local Government Act 2002, which for Marlborough District Council’s purposes:

- (1) means a place-
 - (i) that is under the control of Marlborough District Council; and
 - (ii) that is open to, or being used by, the public, whether or not there is a charge for admission; and
- (2) 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.

For the avoidance of doubt, a specified public place does not include any part of that place for which a current liquor licence is in force in accordance with the Sale of Liquor Act 1989 to the extent that the liquor licence permits the activities which would otherwise be prohibited under this Bylaw.

“**Specified public place**” means a public place which is specified in a resolution passed for the purpose of this bylaw and in respect of which this bylaw prohibits or otherwise regulates or controls the consumption or possession of liquor either generally or in respect of any specified period.

“**Specified period**” means a period specified in a resolution passed for the purpose of this bylaw and within which the prohibitions and controls in this bylaw will apply in relation to a particular specified public place.

“**Container**” includes any object used for or capable of holding, transporting or storing items, including without limitation any parcel, package, bag, case, perambulator or pushchair, shopping or sporting trundler, wheelbarrow or handtrolley, child’s toy, or wheelchair.

1. RESOLUTION TO SPECIFY PUBLIC PLACES

- 1.1 Council may specify, by resolution, the public places in which the prohibitions and controls in this bylaw will apply.
- 1.2 A resolution made under 1.1 may specify that the prohibitions and controls in this bylaw will apply to the specified public places either generally, or only in relation to specified periods or events.

- 1.3 A resolution made under 1.1 may be made, amended or revoked at any time.
- 1.4 Before specifying a public place under 1.1, the Council will consider:
 - 1.4.1 Whether liquor is likely to be present in a public place on the days or periods specified; and
 - 1.4.2 Information about the nature of the locality and the reasons why the prohibition is being sought:
 - 1.4.3 The scale and nature of the area proposed for the ban:
 - 1.4.4 Whether or not private rights will be unnecessarily or unjustly invaded:
 - 1.4.5 Whether it is necessary to consult the public to gauge community views on the issue.

2. LIQUOR PROHIBITION

- 2.1 No person may, either generally, or where a specified period applies, in that specified period:
 - 2.1.1 Consume, bring into or possess liquor in a specified public place; and
 - 2.1.2 In conjunction with a prohibition in 2.1.1, have or use a vehicle in a specified public place

3. EXCEPTIONS

- 3.1 As provided for in section 147(3) of the Local Government Act 2002, this bylaw does not prohibit in the case of liquor in an unopened bottle or other unopened container:
 - 3.1.1 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:
 - 3.1.2 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:
 - 3.1.3 The transport of that liquor from outside a public place to premises that adjoin a public place-
 - 3.1.3.1 by, or for delivery to, a resident of those premises or by his or her bona fide visitors; or
 - 3.1.3.2 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.
- 3.2 In addition, this bylaw does not prohibit, in the case of liquor in an unopened bottle or other unopened container:
 - 3.2.1 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 consumption of alcohol under the Sale of Liquor Act 1989:

3.2.2 The transport of that liquor from those premises that adjoin a public place to a place outside the public place by a residents bona fide visitors, provided the liquor is promptly removed from the public place.

4. POWERS OF THE POLICE

4.1 In addition to their general powers under sections 169 and 170 of the Local Government Act 2002, any member of the New Zealand Police may exercise the power under section 170(2) of that Act (to search a container or vehicle without further notice) on specified dates, or in relation to specified events which may be notified by the Council from time to time in accordance with section 170(3) of the Act.

5. OFFENCES

5.1 Every person who breaches this bylaw, commits an offence under section 239 of Local Government Act 2002, and is liable on conviction is liable to a fine under section 242 of the Local Government Act 2002.

Record No.