

Marlborough District Council

Alcohol Control Bylaw 2018



This bylaw is made under the Local Government Act 2002.

[Explanatory Note

The Local Government Act 2002 gives Council the power to control the consumption and possession of alcohol in public places. The Council can use this power generally, to create on-going alcohol bans in public places, or to ban alcohol 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 alcohol in the public place, whether generally or over a specified period may result in disorderly behaviour and criminal offending.]

1. Title

This bylaw is the Marlborough District Council Alcohol Control Bylaw 2018.

2. Commencement

This bylaw comes into force on 1 February 2018.

3. Application

This bylaw applies to all public places in the Marlborough District.

4. Definitions

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

alcohol has the meaning given by section 147(1) of the Local Government Act 2002, being the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012:

*[Explanatory Note: in section 5(1), **alcohol** means a substance—*

- (a) *that—*
 - (i) *is or contains a fermented, distilled, or spirituous liquor; 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.]*

Council means the Marlborough District Council:

licensed premises has the meaning given by section 147(1) of the Local Government Act 2002, being the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012:

*[Explanatory Note: in section 5(1), **licensed premises** means any premises for which a licence is held]*

public place has the meaning given by section 147(1) of the Local Government Act 2002:

*[Explanatory Note: in section 147(1), **public place**—*

- (a) *means a place 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 public place means a public place specified by Council by resolution from time to time in accordance with clause 1 of this bylaw:

specified period means a period specified by Council by resolution from time to time in accordance with clause 1 of this bylaw and, if there is no such period specified, means at any time.

1. RESOLUTION TO SPECIFY PUBLIC PLACES

- 3.1 Council may specify, by resolution, publicly notified, the public places in which the prohibitions and controls in this bylaw will apply.
- 3.2 Council may specify, by resolution, publicly notified, periods during which alcohol may not be possessed, consumed or brought into any specified public place or in any vehicle in any specified public place.
- 3.3 A resolution made under clause (1) or (2) 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.
 - 1.3.1. A resolution made under clause (1) or (2) may be made, amended or revoked at any time.
 - 1.3.2. Before specifying a public place under clause (1) or a period under clause (2), the Council will consider:
 - 1.3.2.1. Whether alcohol is likely to be present in the public place on the days or periods proposed to be specified; and
 - 1.3.2.2. Information about the nature of the locality and the reasons why the prohibition is being sought:
 - 1.3.2.3. The scale and nature of the area proposed for the ban or other control:
 - 1.3.2.4. Whether or not private rights will be unnecessarily or unjustly invaded:
 - 1.3.2.5. Whether it is necessary to consult the public to gauge community views on the issue.

2. ALCOHOL PROHIBITION

- 2.1 No person may, either generally, or where a specified period applies, in that specified period:
 - 2.1.1. consume any, alcohol in a specified public place:
 - 2.1.2. bring any alcohol into any specified public place:
 - 2.1.3. possess any alcohol in any specified public place:
 - 2.1.4. consume or possess any alcohol in a vehicle in a specified public place.

[Explanatory Note: This bylaw does not regulate, control or prohibit, as provided for in section 147(5) of the Local Government Act 2002, in the case of alcohol in an unopened container:

- (a) *The transport of the alcohol from licensed premises next to a public place if—*
 - (i) *it was lawfully bought on those premises for consumption off the premises; and*
 - (ii) *it is promptly removed from the public place:*
- (b) *The transport of the alcohol from outside a public place for delivery to licensed premises next to the public place:*

- (c) *The transport of the alcohol from outside a public place to premises next to a public place by, or for delivery to, a resident of the premises or by his or her bona fide visitors; or*
- (d) *The transport of the alcohol from premises next to a public place to a place outside the public place if—*
 - (i) *the transport is undertaken by a resident of those premises; and*
 - (ii) *the alcohol is promptly removed from the public place.]*

3. POWERS OF THE POLICE

- 3.1 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.

4. OFFENCES

- 4.1 Every person who breaches this bylaw, commits an infringement offence under section 239A of Local Government Act 2002, and is liable to an infringement fee.

5. BYLAWS NOT TO LIMIT OR AFFECT OTHER ENACTMENTS

- 5.1 This bylaw does not limit or affect the requirements in or under any other enactment.

6. REVOCATION

- 6.1 The Marlborough District Council Liquor Ban Bylaw is revoked.

7. SAVINGS

- 7.1 Any resolutions, approvals, permits or other acts of authority made under Marlborough District Council Liquor Ban Bylaw 2011, current at the time of revocation of that bylaw, remain in force on their terms until amended, replaced or revoked by Council.