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Liquor (Control of Liquor in Public Places)

Approved by Council: 5 July 2004
Date of Effect: 8 July 2004

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PART 18: LIQUOR (CONTROL OF LIQUOR IN PUBLIC PLACES)

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

18.1 Title and Commencement - (1) This Bylaw shall be known as the Liquor (Control of Liquor in Public Places) Bylaw 2004.

(2) The Bylaw shall come into effect on the 8th day of July 2004.

18.2 Interpretation

ACT means the Local Government Act 2002

COUNCIL means the Dunedin City Council.

LIQUOR has the meaning given to it in the Sale of Liquor Act 1989, that is, “*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*”.

OFFENCE means an offence under Section 239 of the Local Government Act 2002 that is a breach of this Bylaw.

PUBLIC PLACE – means a place:

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

SPECIFIED PERIOD means a period described in Schedule A hereto and any such additional period as may be defined by Council by resolution from time to time in accordance with Clause 5 of this Bylaw

SPECIFIED PUBLIC PLACE means a public place described in Schedule B hereto and any such additional place as may be defined by Council by resolution from time to time in accordance with Clause 5 of this Bylaw

18.3 Liquor Prohibition - No person shall:

bring liquor into; or,
possess liquor in; or,
consume liquor in
any Specified Public Place at any time during any Specified Period in respect of that public place.

18.4 Exemptions

(1) **Taking Liquor to or from Licensed Premises** - This Bylaw 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 specified public place during any specified period when, pursuant to 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 specified public place.

(b) The transport of that liquor from outside a specified public place for delivery to premises that adjoin the specified public place, provided the premises is licensed for the sale of liquor pursuant to the Sale of Liquor Act 1989.

(c) The transport of that liquor from outside a specified public place to premises that adjoin the specified public place for consumption on those premises, provided the premises is licensed pursuant to the Sale of Liquor Act 1989.

(2) **Taking Liquor to or from Other Premises** - This Bylaw does not prohibit, in the case of liquor in an unopened bottle or other unopened container: -

(a) The transport of liquor to/or from other premises adjoining a specified 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 specified public place by a resident of those premises, provided the liquor is promptly removed from the specified public place.

(3) **Licensed Premises** - This Bylaw does not prohibit the possession or consumption of liquor in any specified public place, or part of that specified public place, where such is a permitted pavement seating area attached to a premises licensed pursuant to the Sale of Liquor Act 1989.

(4) **Special Licenses** - This Bylaw does not limit any individual or organisation (corporate or otherwise) from obtaining a Special Licence pursuant to section 73 of the Sale of Liquor Act 1989 for any event to be held in a Specified Public Place.

18.5 Resolution to Specify Public Places

(1) **Addition/Removal of Specified Periods and/or Specified Public Places** - The Council may from time to time by resolution adopted following the use of the special consultative procedure in accordance with section 83 of the Act, add to Schedule B hereto other public places to which the provisions of this Bylaw shall then apply for any period specified in the resolution, or amend the period applying in respect of any listed public place, or in like manner may delete from Schedule B those public places in respect of which it considers this Bylaw should no longer apply.

(2) **Addition of Specified Periods and/or Specified Public Places for Planned Events** - The Council may from time to time by resolution specify additional periods and public places during

which the bringing of liquor into, the possession and/or consumption of liquor in that public place may be prohibited. The Council may make such a resolution in relation to any planned public event, function or social gathering to be held in that public place.

In conjunction with any prohibition for any specified event, Council may also prohibit the presence or use of any vehicle in the public place for the duration of the event.

(3) **Public Notice of Resolution** - Every resolution made pursuant to Clause 5.1 or Clause 5.2 above shall be publicly notified in the Otago Daily Times and by street signage in or adjacent to the Specified Public Place at least 14 days before it shall take effect.

18.6 Powers of Arrest, Search and Seizure

(1) **Powers of the Police** - Where a prohibition on the possession and/or consumption of liquor is in effect in any public place pursuant to the provisions of section 169 of the Act, a member of the police may, without warrant, -

- (a) for the purpose of ascertaining whether liquor is present, search;
 - (i) any container (for example, a parcel, package, bag or case) in the possession of any person who is in, or entering, the public place;
 - (ii) any vehicle that is in, or entering, the public place.
- (b) seize and remove liquor and its container if the liquor is in the public place in breach of that prohibition;
- (c) arrest any person whom the member of police finds committing an offence against that prohibition;
- (d) arrest any person who has refused to comply with a request by a member of the police –
 - (i) to leave the specified public place; or,
 - (ii) to surrender to a member of the police the liquor that, in breach of that prohibition, is in that person's possession.

(2) **Warning by the Police** - Before exercising the power of search under Clause 6.1(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 vehicle, as the case may be, that he or she has the opportunity of removing the container or the vehicle from the specified 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.

18.7 Offences - Every person who breaches this Bylaw commits an offence under section 239 of the Act and is liable, on conviction, to the penalty set out in section 242(4) of the Act, that is, a fine not exceeding \$20,000.

Schedule A – Specified Period

At any time on any day.

Schedule B – Specified Public Place

George Street between The Octagon and Albany Street, Princes Street between The Octagon and Jetty Street and all public places including streets, service lanes, lanes, footpaths, car parks and reserves (including The Octagon, Exchange, Queens Gardens, Railway Station and the grounds of First Church) within the areas bounded by:

- Moray Place, Great King, Filleul, Frederick and London Streets; and,
- George, Albany, Malcolm and Frederick Streets; and,
- Broadway, Manse, Jetty, Bond and Rattray Streets; and,
- Princes Street, Moray Place, Lower Stuart Street, High Street, Queens Gardens (east) and Rattray Street; and,
- Moray Place; and,
- The skateboard park situated at Thomas Burns Street.