

DUNEDIN CITY COUNCIL
ALCOHOL (CONTROL OF ALCOHOL IN PUBLIC PLACES) BYLAW 2004
(Reviewed and Amended in December 2016)

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.

1.0 TITLE AND COMMENCEMENT

- (i) This Bylaw shall be known as the Alcohol (Control of Alcohol in Public Places) Bylaw 2004.
- (ii) The Bylaw shall come into effect on the 8th day of July 2004.

2.0 INTERPRETATION

Act – means the Local Government Act 2002

Council – means the Dunedin City Council

Alcohol – means a substance that is or contains a fermented, distilled or spirituous liquor and at 20°C is found on analysis to contain 1.15% or more of ethanol by volume; or that is a frozen liquid, or a mixture of a frozen liquid and another substance or substances and is alcohol (as described) when completely thawed to 20°C; or that, whatever its form, is found on analysis to contain 1.15 percent or more ethanol by weight in a form that can be assimilated by people

Offence – means an offence under Section 239A of the Local Government Act 2002 that is a breach of this Bylaw

Public Place – 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 does not include licensed premises

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 Restricted 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

3.0 ALCOHOL PROHIBITION

No person shall:

- bring alcohol into; or,
- possess alcohol in; or,
- consume alcohol in

any Specified Restricted Place at any time during any Specified Period in respect of that restricted place.

4.0 EXEMPTIONS

4.1 Taking Alcohol to or from Licensed Premises

This 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 a specified restricted place during any specified period when, pursuant to 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 specified restricted place.
- (b) The transport of that alcohol from outside a specified restricted place for delivery to premises that adjoin the specified restricted place, provided the premises is licensed for the sale of alcohol pursuant to the Sale and Supply of Alcohol Act 2012.
- (c) The transport of that alcohol from outside a specified restricted place to premises that adjoin the specified restricted place for consumption on those premises, provided the premises is licensed pursuant to the Sale and Supply of Alcohol Act 2012.
- (d) The transport of that alcohol not consumed at a licensed premises adjoining the specified restricted place to outside the specified restricted place, provided the bottle or container is unopened or resealed, and provided the alcohol is promptly removed from the specified restricted place.

4.2 Taking Alcohol to or from Other Premises

This Bylaw does not prohibit, in the case of alcohol in an unopened bottle or other unopened container: -

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

4.3 Licensed Premises

This Bylaw does not prohibit the possession or consumption of alcohol in any specified restricted place, or part of that specified restricted place, where such is a permitted pavement seating area attached to a premises licensed pursuant to the Sale and Supply of Alcohol Act 2012.

4.4 Special Licenses

This Bylaw does not limit any individual or organisation (corporate or otherwise) from obtaining a Special Licence pursuant to section 64 of the Sale and Supply of Alcohol Act 2012 for any event to be held in a Specified Restricted Place.

5.0 RESOLUTION TO SPECIFY RESTRICTED PLACES

5.1 Addition/Removal of Specified Periods and/or Specified Restricted 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.

5.2 Addition of Specified Periods and/or Specified Restricted Places for Planned Events

The Council may from time to time by resolution specify additional periods and public places during which the bringing of alcohol into, the possession and/or consumption of alcohol 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.

5.3 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 Restricted Place at least 14 days before it shall take effect.

6.0 POWERS OF ARREST, SEARCH AND SEIZURE

6.1 Powers of the Police

Where a prohibition on the possession and/or consumption of alcohol 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 alcohol is present, search;
 - (i) a container (for example, a bag, case, package or parcel) in the possession of a person who is in, or entering, a restricted place;
 - (ii) a vehicle that is in, or entering, a restricted place.
- (b) seize and remove alcohol (and its container) that is in a restricted place in breach of an alcohol ban;
- (c) arrest any person whom the constable finds committing an offence;
- (d) arrest any person who has refused to comply with a request by a constable –
 - (i) to leave the specified restricted place; or,
 - (ii) to surrender to a constable the alcohol that, in breach of an alcohol ban is in the person's possession.

6.2 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 restricted place; and,
- (b) provide the person with a reasonable opportunity to remove the alcohol or the vehicle, as the case may be, from the restricted place.

7.0 OFFENCES

Every person who breaches this Bylaw commits an offence under section 239A of the Act and is liable to a fine of \$250.

Schedule A – Specified Period

At any time on any day.

Schedule B – Specified Restricted 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, carparks and reserves (including The Octagon, Exchange, Queens Gardens, Railway Station and the grounds of First Church) within the areas bounded by, and including both sides of:

- Filleul, London and George Streets; and,
- Albany, Malcolm and Cumberland Streets; and,
- Lower Stuart Street to the Railway Station; and,
- Queens Gardens (east), High and Rattray Streets; and,
- Bond, Jetty and Manse Streets; and,
- Broadway and Rattray Street; and,
- Smith Street and York Place to Filleul Street; and,
- The skateboard park situated at Thomas Burns Street.

