

Bylaw

ALCOHOL CONTROL

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| TITLE: | Alcohol Control Bylaw 2017 |
| TEAM: | Environmental Services |
| RESPONSIBILITY: | Environmental Monitoring Manager |
| DATE ADOPTED: | 17 May 2023 |
| DATE BYLAW IS IN OPERATION: | 1 June 2023 |
| NEXT REVIEW DATE | 1 June 2033 |

1. Title

The title of this bylaw is Ashburton District Council Alcohol Control Bylaw 2017.

2. Purpose

The purpose of this bylaw is, in relation to specified public places, to:

- reduce the potential for alcohol-related offensive behaviour and harm, damage, disorder and crime;
- protect, promote and maintain public health and safety; and
- provide controls on the consumption and possession of alcohol.

3. Related documents

- Ashburton District Council Local Alcohol Policy
- Ashburton District Council Open Spaces Bylaw
- Ashburton District Council Public Places Bylaw
- Ashburton District Plan
- Local Government Act 2002
- Local Government (Alcohol Ban Breaches) Regulations 2013
- New Zealand Bill of Rights Act 1990
- Sale and Supply of Alcohol Act 2012
- Summary Offences Act 1981
- Summary Proceedings Act 1957.

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5. Application

This bylaw applies to public places in Ashburton District. Exclusions to the bylaw are set out in clause 9.

6. Definitions

Alcohol has the same meaning as section 5(1) of the Sale and Supply of Alcohol Act 2012 and 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*
- (ii) *substances; and*
- (iii) *(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.*

Alcohol Ban Area means the public places described in the Schedules of this bylaw in

which alcohol restrictions are in place permanently or for a specified period.

Bylaw means the Ashburton District Council Alcohol Control Bylaw 2023.

Container means any object used for or capable of holding, transporting or storing items.

Council means Ashburton District Council.

District means the district of the Ashburton District Council.

Drinking vessel means a container used for or capable of holding, transporting or storing a liquid of any kind.

Event means an organised activity involving a group of people.

Glass Ban Area means the public areas described in Schedule 1 and Schedule 2 of this bylaw in which glass restrictions apply.

Licensed premises has the same meaning as section 5(1) of the Sale and Supply of Alcohol Act 2012 and means any premises for which a licence is held.

Nuisance means a person or thing causing inconvenience or annoyance.

Offence means an offence under section 239A of the Local Government Act 2002 that is a breach of this bylaw.

Person means a natural person, a corporation sole, or a body of persons whether incorporated or not.

Public Place has the same meaning as section 147(1) of the Local Government Act 2002. 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 a licensed premises.

Special Licence has the same meaning as section 22 of the Sale and Supply of Alcohol Act 2012 Special Licence:

There are 2 kinds of special licence: on-site special licences and off-site special licences.

*a) On the premises a special licence designated as an **on-site special licence** is held for, the licensee can sell and supply alcohol, for consumption there, to people attending an event described in it.*

*b) On the premises a special licence designated as an **off-site special licence** is held for, the licensee can sell the licensee's alcohol, for consumption somewhere else, to people attending an event described in it.*

Specified Period means a period 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 alcohol either generally or in respect of any specified public place.

Specified Public Place means a public place shown on the plans contained in Schedule 1 and Schedule 2 and such additional place as may be defined by the Council by resolution from time to time in accordance with clause 15.4 of this bylaw.

7. Permanent Alcohol Bans

- 7.1 A person must not (unless an exemption under clause 9 or 10 applies):
- 7.1.1 consume alcohol in an Alcohol Ban Area;
 - 7.1.2 bring alcohol into an Alcohol Ban Area;
 - 7.1.3 possess alcohol in an Alcohol Ban Area;
 - 7.1.4 consume, bring or possess alcohol in a vehicle within an Alcohol Ban Area.

8. Temporary Alcohol Bans

- 8.1 In addition to clause 7, Council may from time to time, resolve under the Local Government Act 2002 to include additional area(s) as Alcohol Ban Areas for a specified period relating to a specified event or a particular time of the year.
- 8.2 If a Temporary Alcohol Ban is issued, Council will publicly notify the ban at least 14 days prior to the date of enforcement. The details of the Temporary Alcohol Ban and the enforcement period will be made publicly available.

9. Exemptions

- 9.1 The alcohol restrictions in this bylaw do not apply to areas or activities covered by a license issued under the Sale and Supply of Alcohol Act 2012, including:
- 9.1.1 any public place which is part of a licensed premises' outdoor area, where permission to occupy that area has been granted by Council;
 - 9.1.2 the carrying of alcohol directly between one part of a licensed premises and another part of the same licensed premises across a public place that separates the parts of the same licensed premises;
 - 9.1.3 any public place that is subject to a special license, for the term of that license;
 - 9.1.4 any vehicle in a public place to which a license under the Sale and Supply of Alcohol Act 2012 applies;
 - 9.1.5 within defined areas at any event held in a public place at which alcohol is served under a caterer's license under the Sale and Supply of Alcohol Act 2012.

- 9.2 The alcohol restrictions in this bylaw do not apply to any bringing or possessing of alcohol in an unopened container which falls within any of the exemptions in section 147(4) of the LGA.

Explanatory notes: The following note is explanatory and is not part of the bylaw, but is intended to explain its general effect:

Exemptions for the transportation of unopened bottles or containers of alcohol through Alcohol Ban Areas are listed in section 147(4) of the Act as follows:

A bylaw under this section does not prohibit, regulate, or control, 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 those premises; and*
 - (ii) it is promptly removed from the public place; or*
- b) the transport of the alcohol from outside a public place for delivery to licensed premises next to the public place; or*
- 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 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.*

FOR EXAMPLE; if you purchase alcohol from a supermarket that falls within the Alcohol Ban Area, you do not breach the bylaw if you do not open the alcohol containers and promptly leave the licensed premises in accordance with section 147(4)(a)

- 9.3 A person can apply in writing to Council for an exemption for an activity that would be in breach of this bylaw.
- 9.4 The bylaw does not apply to organised events in public places that Council by resolution has suspended the application of this bylaw between specified hours on any given day/s, in accordance with section 151 (2) of the Local Government Act 2002.

10. Special Licenses

- 10.1 Nothing in this bylaw stops any individual or organisation (corporate or otherwise) from applying to the Council for a Special Licence for an event to be held in an Alcohol Ban Area.
- 10.2 Clause 7 (permanent alcohol bans) and Clause 8 (temporary bans) do not apply to alcohol sold, supplied or consumed within the area to which a Special Licence applies.

11. Amending Alcohol Bans

- 11.1 Council may amend or revoke an alcohol ban in accordance with the Local Government Act 2002. All amendments will be publicly notified at least 14 days before they date the effects of the amendments are to come into effect.
- 11.2 Council may amend Alcohol Ban Areas by resolution as provided for in section 151(2) of the Local Government Act 2002. These areas will be publicly notified as per the requirements in the Local Government Act 2002.

12. Signage

- 12.1 Council must display signage indicating the location and extent of the Alcohol Ban Area using sufficient legible notices in conspicuous places on, or adjacent to, the place to which the notice relates, informing the public of the Alcohol Ban Area unless it is impracticable or unreasonable to do so. The absence of signage is not a defence against breach of this bylaw.

13. Powers of Police

- 13.1 As provided by section 169 and 243 of the Local Government Act 2002, a police constable is empowered to enforce this bylaw, and is authorised to:
 - 13.1.1 search a vehicle or container entering or within an Alcohol Ban Area subject to requirements of section 170 of the Local Government Act 2002;
 - 13.1.2 seize and remove alcohol if the alcohol is in breach of this bylaw;
 - 13.1.3 issue an infringement notice for any breach of the bylaw and impose an infringement fee under section 4 of the Local Government (Alcohol Ban Breaches) Regulations 2013; and
 - 13.1.4 arrest a person who has been asked and refused to either leave a public place or to surrender alcohol that is in breach of this bylaw.

Explanatory note: No warrant is required by the Police to conduct a search to ascertain whether Alcohol is present in a container or Vehicle that is in or entering an Alcohol Ban Area.

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) in a Specified Public Place on such specified dates as may be notified by the Council from time to time in accordance with the requirements in s.170 of the Local Government Act 2002.

14. Glass vessels in Glass Ban Areas

- 14.1 No person shall have in his or her possession, at any time, any glass drinking vessel or container in any Glass Ban Area, as detailed in Schedule 1 and 2.
- 14.2 Council may declare additional areas as Glass Ban Areas by resolution as provided for in section 151(2) of the Local Government Act 2002. These areas will be publicly notified as per the requirements in the Local Government Act 2002

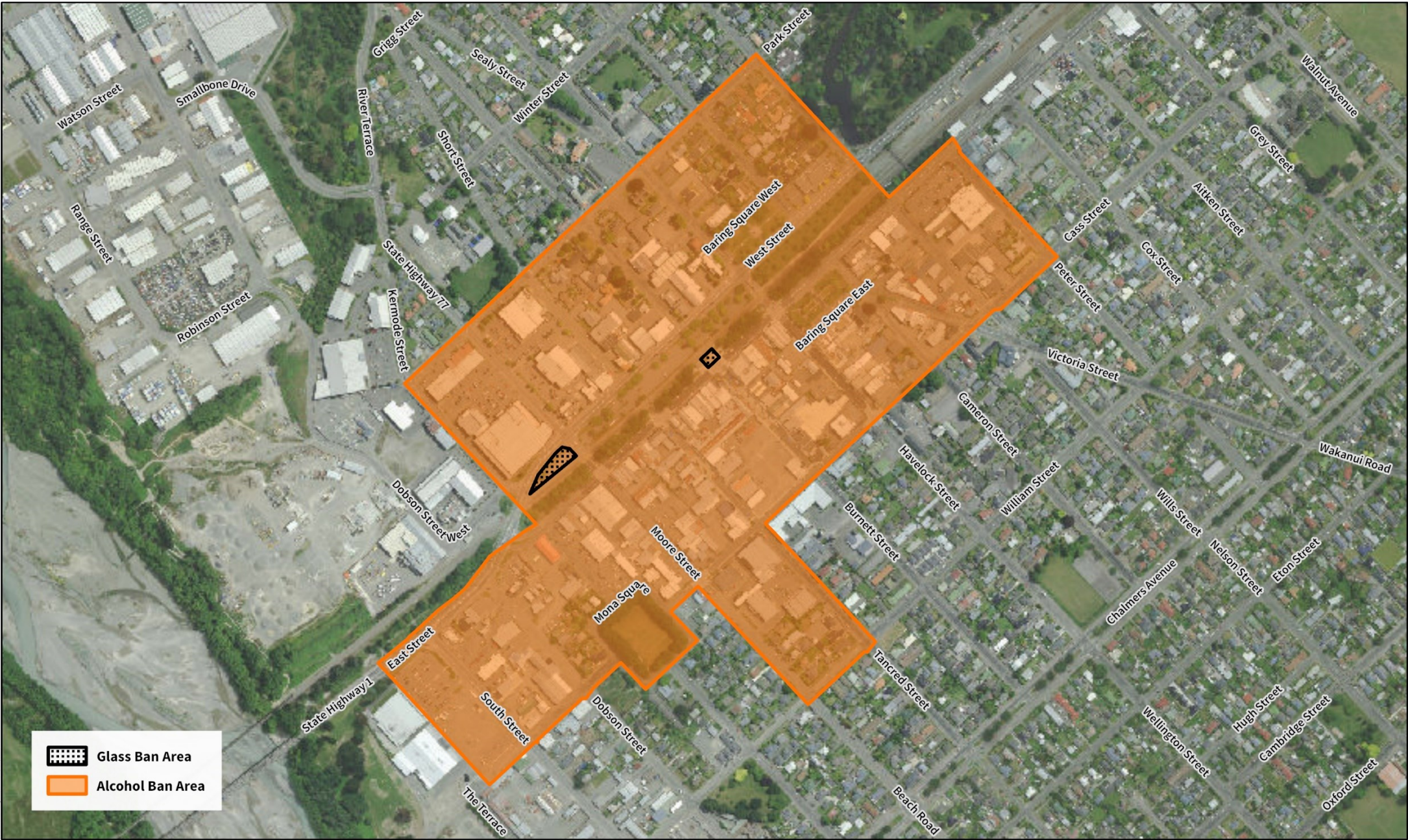
15. Designation of Specified Public Places and Specified Periods

- 15.1 Specified Public Places are initially those areas described in the Schedule 1 and 2 of this bylaw, and referred to as Alcohol Ban Areas in this bylaw or otherwise known by the term “restricted place” as defined in s.169(1) of the Local Government Act 2002.
- 15.2 Council may declare additional areas as Specified Public Places by resolution as provided for in section 151(2) of the Local Government Act 2002. These areas will be publicly notified as per the requirements in the Local Government Act 2002.
- 15.3 Specified Periods are:
 - 15.3.1 in relation to Alcohol Ban Areas during the period from 9:00pm on any day to 7:00am the following day; and
 - 15.3.2 in relation to Glass Ban Areas 24 hours a day, 7 days a week; and
 - 15.3.3 during Labour Weekend each year the Labour Weekend Alcohol & Glass Ban Area shown on Schedule 2 of this bylaw, during the period from 9:00pm on the Saturday until 7:00am on the following Monday; and
 - 15.3.4 any additional period that may be specified by the Council by resolution from time to time in accordance with Clause 15.4 of this bylaw.
- 15.4 Council may declare additional periods as Specified Periods by resolution as provided for in section 151(2) of the Local Government Act 2002. These periods will be publicly notified as per the requirements in the Local Government Act 2002.

16. Offences and Penalties

- 16.1 The penalty for breaching an alcohol ban is an infringement fee of \$250.00 as per the Local Government (Alcohol Ban Breaches) Regulations 2013.

Schedule 1 – Ashburton Alcohol and Glass Ban Areas



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|  | <p>N</p> <p>Scale @ A4: 1:7,500</p> <p>0 100</p> <p>Metres</p> | <p>Ashburton Alcohol and Glass Ban Area</p> | <p>Disclaimer Note: This map may contain information derived in part or wholly from sources other than Ashburton District Council. It is supplied in good faith but its accuracy or completeness is not guaranteed. This information is indicative only and must not be used for legal purposes. Contains information sourced from the LINZ Data Service licensed for reuse under CC BY 4.0.</p> <p>Service Layer Credits: Land Information New Zealand, Environment Canterbury</p> |
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Schedule 2 – Methven Alcohol and Glass Ban Areas

