



Palmerston North City

**PALMERSTON NORTH LIQUOR
CONTROL BYLAW 2003**

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In exercise of the powers vested in it by the Local Government Act 2002 generally, and in particular section 147, the Palmerston North City Council makes this Bylaw:

1. TITLE

1.1 The title of this Bylaw shall be “THE PALMERSTON NORTH LIQUOR CONTROL BYLAW 2003”.

2. PURPOSE

2.1 The purpose of this Bylaw is to promote a safe inner City environment for the use and enjoyment of the public by reducing the incidence of property damage through the control of possession and use of liquor within the central business district of Palmerston North in accordance with the powers provided in the Local Government Act 2002.

2.2 This Bylaw is made in accordance with the provisions of Part 8 (to do with the regulatory, enforcement and coercive powers of local authorities) and section 83 (to do with special consultative procedure) of the Local Government Act 2002 together with any other powers and enactments conferred on the Council.

3. COMMENCEMENT

3.1 This Bylaw will come into force on 1 December 2003.

4. DEFINITIONS AND INTERPRETATION

‘Central Business District’ means the area bounded by and including from the intersection Grey and Princess Street due south along Princess Street to Ferguson Street, then due west down Ferguson Street to Pitt Street, due north along Pitt Street to Church Street, then due west down Church Street to Cook Street, then due north along Cook Street to Cuba Street, then due east along Cuba Street to the intersection of Cuba-Pitt-Bourke Streets, then due north along Bourke Street to the intersection with Walding Street, then due east along Walding Street and Grey Street to the intersection with Princess Street.

‘City’ means the district of Palmerston North City as constituted by the Local Government (Manawatu-Wanganui Region) Reorganisation Order 1989.

‘Council’ means the Palmerston North City Council.

‘Liquor control’ means the acts prohibited by clause 5 of this bylaw.

‘Offence’ means an offence against a bylaw and shall include the omission, failure, or neglect to comply with any part of a bylaw.

‘Public place’ means

(a) any place that is -

- (i) under the control of the Council; and
 - (ii) open to, or being used by, the public, whether or not there is a charge for admission; and
- (b) includes –
- (i) a road, whether or not the road is under the control of the Council; and
 - (ii) any part of a public place; but
- (c) does not include –
- (i) any part of a place for which a liquor licence has been issued in accordance with the Sale of Liquor Act 1989; or
 - (ii) any place in any building that is owned or occupied by the Council.

5. Liquor control

- 5.1 The following acts are prohibited in all public places within the Central Business District:
- (a) the consumption of liquor in a public place;
 - (b) the bringing of liquor into a public place;
 - (c) the possession of liquor in a public place;
 - (d) in conjunction with the activities prohibited under paragraphs (a) to (c), the presence of an opened bottle or opened container in a vehicle in a public place.
- 5.2 For the purposes of clarity, this bylaw does not prohibit the activities described in section 147 (3) of the Local Government Act 2002 (reproduced in Schedule 2).

6. Liquor control area

- 6.1 The liquor control area is the Central Business District as defined in clause 4 and shown on the map in Schedule 1.
- 6.2 The roads that form the boundary of the liquor control area are included in the liquor control area.
- 6.3 This bylaw does not prohibit the consumption or possession of liquor in a place for which a liquor licence has been issued under the Sale of Liquor Act 1989.

7. Times of liquor control

- 7.1 Liquor control shall apply at all times in the liquor control area.

8. Penalty for Breach of Bylaw

- 8.1 Any person who acts in breach of this bylaw commits an offence and is liable on summary conviction to a fine of up to \$20,000.

9. Enforcement of Bylaw

- 9.1 The Police will enforce this bylaw under the powers of arrest, search and seizure found in sections 169 and 170 of the Local Government Act 2002 (reproduced in Schedule 2).

SCHEDULE 2

Sections of the Local Government Act 2002 referred to in the Bylaw:

“147 Powers to make bylaws for liquor control purposes

- (3) A bylaw made under this section 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 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 those premises, provided the liquor is promptly removed from the public place:
 - (b) 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:
 - (c) the transport of that liquor from outside a public place to premises that adjoin a 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 public place by a resident of those premises, provided the liquor is promptly removed from the public place.”

“169 Powers of arrest search and seizure in relation to bylaw prohibiting liquor in public place

- (1) In this section and in section 170, -
liquor has the meaning given to it in the Sale of Liquor Act 1989
offence means an offence under section 239 that is a breach of bylaw prohibiting –
- (a) the consumption or possession or both of liquor in, or the bringing of liquor into, a public place; or
 - (b) in conjunction with a prohibition relating to liquor, the presence or use of a vehicle in a public place.
- Public place** means a public place as defined in section 147 (1) in respect of which there is a bylaw prohibiting –
- (a) the consumption or possession or both of liquor in, or the bringing of liquor into, that place; or
 - (b) in conjunction with a prohibition relating to liquor, the presence or use of a vehicle in that place.
- (2) A member of the police may, without a warrant, -
- (a) for the purpose of ascertaining whether liquor is present, search –
 - (i) a container (for example, a parcel, package, bag, or case) in the possession of a person who is in, or entering, a public place:
 - (ii) a vehicle that is in, or is entering, a public place:
 - (b) seize and remove liquor and its container if the liquor is in a public place in breach of a bylaw:
 - (c) arrest a person whom the member of the police finds committing an offence:
 - (d) arrest a person who has refused to comply with a request by a member of the police –
 - (i) to leave the public place; or
 - (ii) to surrender to a member of the police the liquor that, in breach of a bylaw, is in that person’s possession.
- (3) Liquor or a container seized under subsection (2)(b) is forfeited to the Crown if the person from whom the liquor or container is seized is convicted of breaching the bylaw.

170 Conditions relating to power of search

- (1) *Before exercising the power of search under section 169(2)(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 the vehicle, as the case may be, that he or she has the opportunity of removing the container or the vehicle from the 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.*
- (2) *However, on specified dates or in relation to specified events, notified in accordance with subsection (3), a member of the police may, immediately and without further notice, exercise the power under section 169 (2) (a) to search a container or a vehicle.*
- (3) *Before a member of the police may exercise the power of search under subsection (2), the territorial authority must-*
 - (a) *specify the public place (within the meaning of section 169 (1)) where, and the period when, this power may be exercised by the police by public notice given 14 days in advance in accordance with this Act; and*
 - (b) *indicate the location of the public place by 1 or more clearly legible notices affixed in 1 or more conspicuous places on, or adjacent to, the place to which the place relates, unless it is impractical or unreasonable to do so.*
- (4) *Subsection (2) only applies if the member of the police is authorised to exercise that power by a bylaw made under section 147.*