

CONTROL OF ACTIVITIES AND OBSTRUCTIONS IN PUBLIC PLACES BYLAW 2010

The QUEENSTOWN LAKES DISTRICT COUNCIL in pursuance of the powers and authorities vested in it by the Local Government Act 2002 and the Local Government Act 1974 and all other powers enabling it in that regard, has resolved to adopt the following Bylaw which is known as the "Queenstown Lakes District Council Control of Activities and Obstructions in Public Places Bylaw 2010".

OBJECTIVE

The objective of this Bylaw is to ensure that activities in public places contribute to the safety and vibrancy of the Queenstown Lakes District without causing nuisance, restricting the efficiency of pedestrian/vehicular movement or impacting negatively on established businesses.

PRINCIPLES

Activities in public places can add to the character, vibrancy, visitor experience and safety of the District. It is important, however, to control these activities to ensure that appropriate standards of health, safety, pedestrian priority and visual amenity are maintained. It is also important to consider Council's overall strategic direction and the potential impacts on established businesses when determining where these activities can occur.

The Control of Activities and Obstructions in Public Places Bylaw 2010 seeks to provide for reasonable controls to protect health and safety, safeguard the public from nuisance and provide for the regulation of trading in public places.

This Bylaw also enables the management of trading and activities in public places in order to balance the various different, and sometimes competing, lawful uses for which public places may be used.

1. REPEALS AND SAVINGS

- 1.1 On the date this Bylaw comes into force, all Bylaws previously made in the Queenstown Lakes District Council, Queenstown Borough Council or Lake County Council relating to anything dealt with in this Bylaw are hereby repealed, on condition that any such Bylaw shall remain in force so far as it relates to any offence committed, prosecution or proceedings commenced, right or liability accrued, notice given or order made under or against any of the provisions in the previous Bylaws before the coming into force of this Bylaw.
- 1.2 Aside from the provisions of Clause (1.1) above, all permits issued under any repealed Bylaw after the commencement of this Bylaw shall be considered to have been issued under this Bylaw and shall be subject to its provisions.

2. INTERPRETATION

In this Bylaw, unless the context otherwise requires, the following terms are defined as stated below:

"Arts and Crafts Market" means a market which involves the selling of arts and crafts, products and services.

"Busker" means a person who performs for the public by playing a musical instrument, dancing, singing, clowning or juggling, or doing other acts of a similar nature in public places for voluntary donations from their audience. Busker and busking shall have a corresponding meaning.

"Council" means the Queenstown Lakes District Council.

"District" means the area within the jurisdiction of the Queenstown Lakes District Council.

"Enforcement Officer" means a person appointed by Council under Section 177 of the Local Government Act 2002 but also includes a Police Officer.

"Event" means an activity or activities that take place on one or more days that draws a gathering of people for a specified purpose, and includes any community event, commercial event, private event in a public place, performance, concert, sporting event, parade, filming, demonstration, public meeting or exhibition.

"Farmers Market" means a food market where growers, farmers and artisan food producers sell their wares directly to consumers and takes place at a designated location on a regular basis.

"Footpath" means the part of the road reserve that is set aside primarily for the use of pedestrians.

"Temporary food outlets" includes a stall or vehicle, whether self propelled or not, from which food is offered or displayed for sale, or from which food may be ordered, but does not include any vehicle used for the purpose of transporting and delivering food following the placement of an order.

"Permit" means an official approval granted by the Council (or its regulatory agent) giving permission to undertake an activity governed by this Bylaw.

"Public place" includes any place that is open to or is being used by the public, excluding community halls and including only such private land as is subject to a public access easement.

"Road" means the whole of any land which has been laid out by or vested in the Council for the purposes of a road or street, every accessway or service lane under the control of the Council and every square or place intended for use by vehicles and includes State Highways.

"Street Market Day" includes any market day organised by retailers and/or business owners where the purpose is to undertake an extraordinary event where retailing is undertaken in public spaces.

"Trading" includes selling, hiring, bartering, the offering of, or displaying for sale any goods or services. Trading and trader shall have a corresponding meaning.

PART 1 – ACTIVITIES AND OBSTRUCTIONS IN PUBLIC PLACES

3. PERMIT REQUIRED

- 3.1 Any person undertaking an event or any of the following activities other than pursuant to a resource consent, must first obtain a permit to do so under this bylaw; trading (excluding trading as a temporary food outlet), busking, entertaining, displaying or demonstrating, distributing printed material or placing any container for the distribution of printed material in any public place or road.
- 3.2 Any person trading as a temporary food outlet in any public place or road, whether pursuant to a resource consent or not, must first obtain a permit to do so under this Bylaw.

4. COUNCIL DISCRETION ON ISSUING PERMITS

A permit may be declined where the proposal does not satisfy the objective and principles of this Bylaw and/or any relevant assessment criteria listed in Schedules A and B.

5. EVENT AND MARKET ORGANISER RESPONSIBILITIES

Every Event, Arts and Crafts Market, Farmers Market or Street Market Day must have one nominated person responsible for submitting all permit applications and any associated fees to Council for all trading activities within the event or market, prior to its commencement.

6. CANVASSING

No person shall solicit, canvass, entice or accost any person with intent to obtain that person's patronage in relation to any commercial undertaking in any public place.

PART II - APPLICATIONS FOR PERMITS

7. FORMS

Every application for a permit shall be made in writing on the appropriate Council form and shall include such information as is reasonably necessary for determining whether to issue a permit.

8. CONDITIONS OF PERMITS

- 8.1 Every permit issued under this Bylaw shall be subject to such conditions as the Council may reasonably impose to meet the objective and principles of the Bylaw. These may include conditions as specified in Schedules C and D as appropriate.
- 8.2 Permits may be issued to either individuals or organisations for periods of up to 12 months.

9. PERMITS NOT TRANSFERABLE

Any permit granted in accordance with the provisions of this Bylaw only applies to the person(s) or organisation(s) named on the permit and is not transferable.

10. FEES

The Council may by resolution fix, alter or abolish fees payable for any permit required.

11. REGISTER OF PERMITS

The Council shall keep a register of all permit holders and any person may inspect the register during Council office hours.

12. REVOCATION OR SUSPENSION OF PERMITS

Any permit under this Bylaw is issued solely at the Council's discretion and may be amended, revoked or suspended at any time, if it is not used in accordance with the permit conditions or the objective and principles of this Bylaw.

PART III – OFFENCES, BREACHES AND PENALTIES

13. FAILURE TO COMPLY WITH A PERMIT

No person shall conduct any activity for which a permit is required other than in accordance with all the conditions of the permit.

14. PERMIT TO BE CARRIED

Every person undertaking an activity for which a permit is required shall at all times carry their permit with them and shall produce their permit when requested to do so by an Enforcement Officer.

15. PENALTIES

Every person who breaches this Bylaw commits an offence and is liable upon summary conviction to a fine not exceeding \$20,000 as set out in the Local Government Act 2002.

This Bylaw is made under the provisions of the Local Government Act 2002. By resolution of the Queenstown Lakes District Council at meeting on day of 2010 and publically notified The common seal of the Queenstown Lakes District Council is attached in the presence of.....

Mayor

Chief

Executive

Officer

SCHEDULE A - ASSESSMENT CRITERIA FOR ALL ACTIVITIES IN A PUBLIC PLACE

PERMIT APPLICATIONS SHALL BE CONSIDERED WITH REGARD TO THE FOLLOWING ASSESSMENT CRITERIA INCLUDING, BUT NOT LIMITED TO:

- *Amenity and Character:* Activities and obstructions in public places have the potential to enhance or detract from the amenity and character of public places. For any permit to be granted to undertake an activity or activities in a public place, it must be considered that the scale and nature of the activity or activities is appropriate in the proposed location without having any adverse effects on amenity and character of the area.
- *Public Safety:* Any activity/activities in a public place shall not result in any undue safety risk to the public including any pedestrians and/or vehicles. Where a potential safety risk has been identified, a Safety Management Plan shall be included with the application.
- *Nuisance:* The potential for nuisance from the activity/activities shall be identified and measures shall be adopted to mitigate the effects on members of the public.
- *Other Permits and Approvals:* All applicants undertaking an activity or activities in public places must ensure that they obtain all other approvals and permits as required. This includes the requirement to obtain written permission from the New Zealand Transport Agency and include this in the application if the proposed location is on any State Highway within the district.
- *Vehicle Traffic and Pedestrian Flow:* Any activity/activities undertaken in a public place shall not result in any undue restriction on vehicle traffic and pedestrian flow. Any restrictions on vehicle traffic might require approval from Council's roading engineers.

Please note: The purpose of these assessment criteria is to enable potential adverse effects from activities in public places to be avoided, not to inhibit freedom of expression.

SCHEDULE B – ASSESSMENT CRITERIA FOR DISTRIBUTION OF PRINTED MATERIAL

APPLICATIONS SEEKING PERMISSION FROM THE COUNCIL FOR THE DISTRIBUTION OF PRINTED MATERIAL OR THE PLACEMENT OF ANY CONTAINER USED FOR THE DISTRIBUTION OF PRINTED MATERIAL, IN ANY PUBLIC PLACE WITHIN THE DISTRICT SHALL BE CONSIDERED WITH REGARD TO THE FOLLOWING ASSESSMENT CRITERIA INCLUDING, BUT NOT LIMITED TO:

- *Areas of distribution:* Permit application shall include information on the areas where the printed material is to be distributed to assist the management of this activity.
- *Effects from litter:* There shall be no adverse effects from the distribution of printed material or the placement of containers in terms of littering, and mitigation measures should be identified to address the potential for littering.
- *Clutter (including cumulative effects):* Ensure the number of containers on streets are managed to avoid clutter and cumulative effects.
- *Size:* Containers must not be excessive in size and should be considered in relation to the width of pedestrian access of the street to minimise pedestrian obstructions.
- *Location:* Containers must be sited in such a way so they will have no adverse effects on pedestrian access and safety.
- *Objective and Principles:* The distribution of pamphlets, handbills or other such printed material must be consistent with the objective and principles of this Bylaw.

Please Note:

These criteria do not include any restriction regarding the content of any printed material for which a permit application has been made.

SCHEDULE C– STANDARD CONDITIONS FOR ACTIVITIES

ALL PERMITS GRANTED WILL INCLUDE SOME CONDITIONS. THESE CONDITIONS MAY INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

- Permit holders must trade at least 100 metres from any town centre zone and/or any retail premises selling similar products unless operating pursuant to a resource consent.
- Permit holders must relocate every 60 minutes and move at least 100 metres from their previous location unless operating pursuant to a resource consent.
- No permit holder may return to the same location within a 24 hour period unless operating pursuant to a resource consent.
- All temporary food outlets must comply with all relevant food safety requirements.
- Permit holders must obtain written permission from the New Zealand Transport Agency prior to trading on any State Highways within the district.

SCHEDULE D – STANDARD CONDITIONS OF BUSKING PERMITS

ALL BUSKING PERMITS GRANTED WILL INCLUDE SOME CONDITIONS. THESE CONDITIONS MAY INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

1. Busking in any one area for periods exceeding one hour is not permitted.
2. Buskers shall ensure that there is a break period of 30 minutes between performances being performed at the same location.
3. Buskers may be required to move to a different location when requested to do so by an Enforcement Officer, as a result of a complaint or contravention of a permit condition.
4. Permits are valid for a period of up to 12 months from date of issue, unless otherwise specified.
5. Buskers must carry their permit and present it to an Enforcement Officer upon request.
6. Buskers must ensure that the performance does not unnecessarily obstruct pedestrian flow.
7. Any performance must not cause a nuisance e.g. excessive noise
8. Buskers must not argue with or abuse the public.
9. Permits are not transferable.
10. Buskers must at all times conduct their performances in a safe manner and must not put the public's safety at risk at any time.
11. No busker may operate within 50 metres of any other busker.
12. No busking may be undertaken between the hours of 10 pm and 8 am the following day.
13. Buskers must ensure that the activity being undertaken is consistent with the objective and principles of this Bylaw.
14. Failure to observe the conditions of the Busking Permit may result in the cancellation or suspension of the permit by an Enforcement Officer.