



## **Yarra City Council**

# **Consumption of Liquor in Public Places**

## **Local Law No.8 of 2009**

**Made: 20 October 2009  
Sunset: 19 October 2019**

**YARRA CITY COUNCIL**

**LOCAL LAW NO.8 [2009]**

**CONSUMPTION OF LIQUOR IN PUBLIC PLACES LOCAL LAW 2009**

**Part 1: General Provisions**

**1. Title**

This local law is called the Consumption of Liquor in Public Places Local Law 2009.

**2. Objective**

The principal objective of this local law is to control the consumption and possession of liquor in a public place including where such consumption or possession may interfere with the amenity and enjoyment of the public place or of land in the vicinity of the public place. Supporting objectives include:

- (a) promoting alcohol related harm minimisation by restricting the opportunity for unregulated public drinking within the municipality;
- (b) supporting the effective governance of the municipality by promoting improved amenity of public spaces and discouraging anti-social behaviour;
- (c) providing an effective means for police to deal with unregulated public drinking; and
- (d) improved management of festivals and events reducing risk for attendees, visitors, organisers and Council.

**3. The power to make this local law**

Council's authority to make this local law is contained in section 111(1) of the Act.

**4. Operation**

This local law applies to all public places within the municipal district.

**5. Commencement**

This local law commences on the day on which it is made.

**6. Revocation of the Consumption of Alcohol in Public Places Local Law 1998**

On the commencement of this local law, the Consumption of Alcohol in Public Places Local Law 1998 is revoked if it has not already been revoked.

## 7. Definitions

In this local law, unless inconsistent with the context:

"**Act**" means the *Local Government Act 1989*.

"**authorised officer**" means an authorised officer appointed under section 224 of the Act for the purposes of this local law, including a police officer referred to in section 224(3) of the Act.

"**Chief Executive Officer**" means the Chief Executive Officer of Council or a person acting in that position.

"**Council**" means Yarra City Council.

"**day-time hours**" means 9.00 am to 8.59 pm.

"**festival**" means a festival or other event declared by Council to be such in accordance with clause 12 of this local law.

"**liquor**" has the same meaning as the *Liquor Control Reform Act 1998*.

"**municipal district**" means the municipal district of Council.

"**night-time hours**" means 9.00 pm to 8.59 am the following morning.

"**Part**" means the relevant part of the local law.

"**prescribed area**" means an area declared by Council to be such in accordance with clause 18 of this local law.

"**public place**" means:

- (a) a road;
- (b) a park;
- (c) a place to which members of the public have access or are permitted to access whether or not on payment of a fee;

*but does not include any authorised premises or licensed premises, within the meaning of the Liquor Control Reform Act 1998, including any outside licensed areas.*

## Part Two: General Conditions

### 8. Operation of this Part

- (1) Subject to clause 8(2), this Part applies to the whole of the municipal district at all times except to:
  - (a) festivals as declared under Part 3, or

- (b) day-time hours in prescribed areas as declared under Part 4.
- (2) Council may by resolution declare areas of the municipal district to be exempt from the operation of this Part. *If this exemption is not to operate for 24 hours of each day then the resolution shall define the hours of each day to which the exemption applies.*
- (3) A declaration made under clause 8(2) comes into operation upon publication of the declaration in a newspaper circulating generally in the municipal district.
- (4) Council may from time to time publish procedures and protocols to support the effective operation and implementation of this local law.

**9. Consumption or possession of liquor**

A person must not in a public place:

- (a) consume liquor; or
- (b) be in possession of liquor in an open container.

**10. Directions to the public**

- (1) An authorised officer who observes a person consuming or possessing liquor in breach of clause 9 may direct the person consuming or possessing liquor in breach of clause 9 to:
  - (a) cease the consumption of liquor;
  - (b) seal the container of liquor;
  - (c) tip the liquor out into a receptacle approved by the authorised officer; or
  - (d) surrender any opened container of liquor to the authorised officer.
- (2) A person who fails to comply with a direction given in accordance with clause 10(1) is guilty of an offence.

**Penalty: 1 penalty unit**

## **Part Three: Provisions relating to festivals**

**11. Application of this Part**

This Part applies to festivals and other events specified by Council to be such in accordance with clause 12.

**12. Declaration of festivals**

Council may, on its own volition or upon application by any person, declare by a resolution of Council that a festival or public event is a festival for the purpose of this Part.

**13. Scope of declaration**

The declaration referred to in clause 12 must specify:

- (a) the period over which such festival or event is to be conducted;
- (b) if not to run 24 hours per day, the hours of each day that the festival or event is to be conducted;
- (c) the area within the municipal district within which the festival or event is to be conducted (which description may be by words, plan or map or a combination);
- (d) areas within the festival or event that are designated as allowing responsible service of alcohol during specified times; and
- (e) the name of the person or persons conducting the festival or event.

**14. Operation of declaration**

The declaration made under clause 12 comes into operation upon publication of the declaration in a newspaper circulating generally in the municipal district.

**15. Consumption or possession of liquor at a festival**

A person must not in a public place during a festival:

- (a) consume liquor; or
- (b) be in possession of liquor in an open container.

**16. Directions to the public**

(1) An authorised officer who observes a person consuming or possessing liquor in breach of clause 15 may direct the person consuming or possessing liquor in breach of clause 15 to:

- (a) cease the consumption of liquor;
- (b) remove the liquor from the festival;
- (c) seal the container of liquor;

- (d) tip the liquor out into a receptacle approved by the authorised officer;
  - (e) surrender any opened container of liquor to the authorised officer; or
  - (f) leave the festival.
- (2) A person who fails to comply with a direction given in accordance with clause 16(1) is guilty of an offence.

**Penalty: 1 penalty unit**

## **Part Four: Prescribed Areas**

**17.** This Part applies to the whole of the municipal district during day-time hours except to festivals.

**18. Declaration of prescribed areas**

Council may, on its own volition or upon application by any person, declare by a resolution of Council that part of its municipal district is to be a prescribed area for the purposes of this Part.

**19. Scope of declaration**

- (1) The declaration referred to in clause 18 must specify:
- (a) the area of the municipal district to be the prescribed area (which description may be by words, plan or map or a combination); and
  - (b) if not to operate for all day-time hours, the hours of each day to which this Part applies.
- (2) For the purpose of clause 19(1), the whole of the municipal district may be a prescribed area.

**20. Operation of declaration**

The declaration referred to in clause 18 comes into operation upon publication of the declaration in a newspaper circulating generally in the municipal district.

**21. Consumption or possession of liquor in a prescribed area**

A person may in a public place in a prescribed area during day-time hours:

- (a) consume liquor responsibly; or
- (b) be in possession of liquor in an open container;

provided it is in such manner as not to disturb or ~~is~~ be likely to disturb the amenity or enjoyment of the public place or of land in the vicinity of the public place.

## **22. Directions to the public**

- (1) An authorised officer who observes a person consuming or possessing liquor in breach of clause 21 may direct the person consuming or possessing liquor in breach of clause 21 to:
  - (a) cease the consumption of liquor;
  - (b) seal the container of liquor;
  - (c) tip the liquor out into a receptacle approved by the authorised officer; or
  - (d) surrender any opened container of liquor to the authorised officer.
- (2) In considering whether a person's conduct is disturbing or is likely to disturb the amenity or enjoyment of the public place or of land in the vicinity of the public place, the authorised officer must take account of any matter Council may determine by resolution to be a relevant matter to take into account for the purposes of this local law.
- (3) A person who fails to comply with a direction given in accordance with clause 22(1) is guilty of an offence.

**Penalty: 1 penalty unit**

## **Part Five: Offences and Reporting**

### **23. General offence provision**

- (1) A person who contravenes or fails to comply with any provision of this local law is guilty of an offence and is liable to the penalty stated under the provision.
- (2) As an alternative to prosecution for an offence, a person may be served with an Infringement Notice.

### **24. Authorisation to prosecute**

- (1) An authorised officer must not commence prosecution proceedings against any person unless he or she first receives written authority from the Chief Executive Officer to do so.
- (2) An authorised officer is not required to obtain authorisation prior to issuing an Infringement Notice but must, within 5 business days of issuing an Infringement Notice, provide a report to the Chief Executive Officer.

- (3) The Chief Executive Officer may delegate his or her functions under this clause to any member of staff.