

**NELSON CITY COUNCIL BYLAW
CONTROL OF DRINKING IN PUBLIC PLACES**

The Nelson 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 Drinking in Public Places Bylaw 2003.
- (ii) The Bylaw shall come into effect on the First day of December 2003.

2.0 INTERPRETATION

Act - means the Local Government Act 2002

Chief Executive – means the person for the time being exercising the functions of the Chief Executive of the Council

Council - means the Nelson City Council

Enforcement Officer - means a person appointed by the Council pursuant to Section 177 of the Local Government Act 2002 to exercise the powers of an Enforcement Officer in relation to offences against these bylaws.

Hours of Darkness – means any period of time between half an hour after sunset on one day and half an hour before sunrise on the next day.

Liquor - has the meaning given to it in the Sale of Liquor Act 1989.

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

Public Place - means a place –

- (i) That is under the control of the Council; and
- (ii) That is open to, or being used by, the public, whether or not there is a charge for admission, and includes:
 - (i) A road, whether or not the road is under the control of the Council; and
 - (ii) Any part of a public place.

Schedule A Public Place – means a public place described in Schedule A hereto.

3.0 PROHIBITED ACTS

No person shall:

- bring liquor into;
- possess liquor in; or
- consume liquor in

any Schedule A Public Place at any time during any period specified in respect of that public place, within that schedule.

4.0 ADDITION OR DELETION OF PUBLIC PLACES

4.1 Resolution of the Council

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 A 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 A those public places in respect of which it considers this bylaw should no longer apply.

4.2 Public Notice of Resolution

Every resolution made pursuant to Clause 4.1 above shall be publicly notified at least 14 days before it shall take effect.

5.0 EXEMPTIONS

5.1 Taking Liquor to or from Licensed Premises

The bylaw 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 the 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 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.

5.2 Licensed Premises

The bylaw does not prohibit the possession of or consumption of liquor in any public place, or part of a public place, where such is authorised by a licence issued under the Sale of Liquor Act 1989, or where BYO liquor is permitted by the organiser of any function or event making use of such public place pursuant to the specific consent of the Council.

6.0 POWERS OF ARREST SEARCH AND SEIZURE

6.1 Powers of the Police

Where a prohibition on the possession or consumption of liquor is in effect in respect of any public place, pursuant to the foregoing provisions, a member of the police may, without 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, the public place:
 - (ii) a vehicle that is in, or is entering, the public place:
- (b) seize and remove liquor and its container if the liquor is in the public place in breach of that prohibition;
- (c) arrest a person whom the member of the police finds committing an offence against that prohibition;
- (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 that prohibition, is in that 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 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.

7.0 SPECIFIED EVENTS

7.1 Prohibition of Vehicles and Consumption or Possession of Liquor

The Council may, where it considers it appropriate for the safe and effectual holding in any public place or part of a public place of any public event, function or gathering, by resolution publicly notified no less than 14 days before the event:

- (i) Prohibit the consumption of liquor in the specified public place during that period or periods, the bringing of liquor into the specified public place during that period or periods, and the possession of liquor in the specified public place during that period or periods;
- (ii) And may also in conjunction with the prohibition relating to liquor in (i) above prohibit the presence or use of any vehicle in a public place.

7.2 Powers of Search, Confiscation and Arrest

Where the Council has resolved to prohibit vehicles and/or the consumption or possession of liquor in any specified public place on the occasion of the holding of any public event, function or gathering, any member of the Police may:

- (a) immediately and without further notice, for the purpose of ascertaining whether liquor is present, search any container (for example parcel, bag or case) in the possession of any person who is in or entering the specified public place or search any vehicle that is in or entering the specified public place.
- (b) Seize and remove liquor and its container if the liquor is in the public place in breach of this prohibition;
- (c) Arrest a person whom the member of the police finds committing an offence against this prohibition;
- (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 this prohibition, is in that person's possession.

8.0 POWER TO REQUEST NAME AND ADDRESS

If an Enforcement Officer or member of the Police believes on reasonable grounds that a person is committing or has committed an offence against this bylaw, either of them may direct the person to give –

- (a) his or her name and address; and
- (b) the name and address and whereabouts of any other person connected in any way with the alleged offence.

8.1 Obstruction of Enforcement Officer

Every person commits an offence against this bylaw and is liable on summary conviction to a fine not exceeding \$1,000 who intentionally refuses to give information when requested to do so by an Enforcement Officer or member of the Police under Clause 8.0, or knowingly misstates information.

9.0 BREACH OF BYLAW AND PENALTY

Any person who acts in breach of any provision within Clauses 1.0 – 8.0 of this bylaw commits an offence against this bylaw and is liable on summary conviction to a fine not exceeding \$1,000.

THE COMMON SEAL of
the NELSON CITY COUNCIL
was hereunto affixed in the presence of

Mayor

Chief Executive


SCHEDULE A


1. In the following areas the period of prohibition is 24 hours 7 days a week.
 - (i) Any public place within the area bounded by and including Halifax Street, Collingwood Street, Nile Street, Trafalgar Square (Church Hill) and Rutherford Street.
 - (ii) Pioneers Park
 - (iii) Anzac Park
 - (iv) The Maitai River walkways and reserves from Queen Elizabeth II Drive to Nile Street
 - (v) Queens Gardens
 - (vi) Rutherford Park (excluding the Trafalgar Centre)
 - (vii) The central islands of Haven Road between its intersections with Halifax Street and Queen Elizabeth II Drive
 - (viii) The Lions Playground – Tahunanui Reserve
 - (ix) That area of Stoke Commercial Centre bounded by and including Main Road Stoke, Songer Street, Neale Avenue and Poorman Valley Stream.
 - (x) Extension of the Nelson Business District westwards to include the area bounded by Kerr Street, Gloucester Street, Pioneers Park, ANZAC Park, and Halifax Street.
2. In the following areas the Period of Prohibition is from 9.00 pm on any day to 7.00 am on the day following during the period of daylight saving and from 7.00 pm on any day to 7.00 am on the day following for the rest of the year.
 - (i) The Maitai Walkway and reserves (including Branford Park) from the Nile Street Bridge to the western boundary of the Waahi Takaaro Golf Course
 - (ii) Tahunanui Reserve – Excluding the Lions Playground
 - (iii) Miyazu Gardens
 - (iv) Fairfield Park
 - (v) Trafalgar Park (Excluding the Trafalgar Pavilion)
 - (vi) Saxton Field Reserve
 - (vii) Isel Park
 - (viii) Broadgreen Gardens
 - (ix) Marsden Reserve
 - (x) The Botanics Reserve
 - (xi) Paddy's Knob
 - (xii) Green Meadows
 - (xiii) Abel Tasman Statue Car park
 - (xiv) Victory Square Reserve
 - (xv) Neale Park/Guppy Park
 - (xvi) Railway Reserve (Tahunanui Drive to Saxton Road)

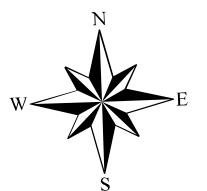
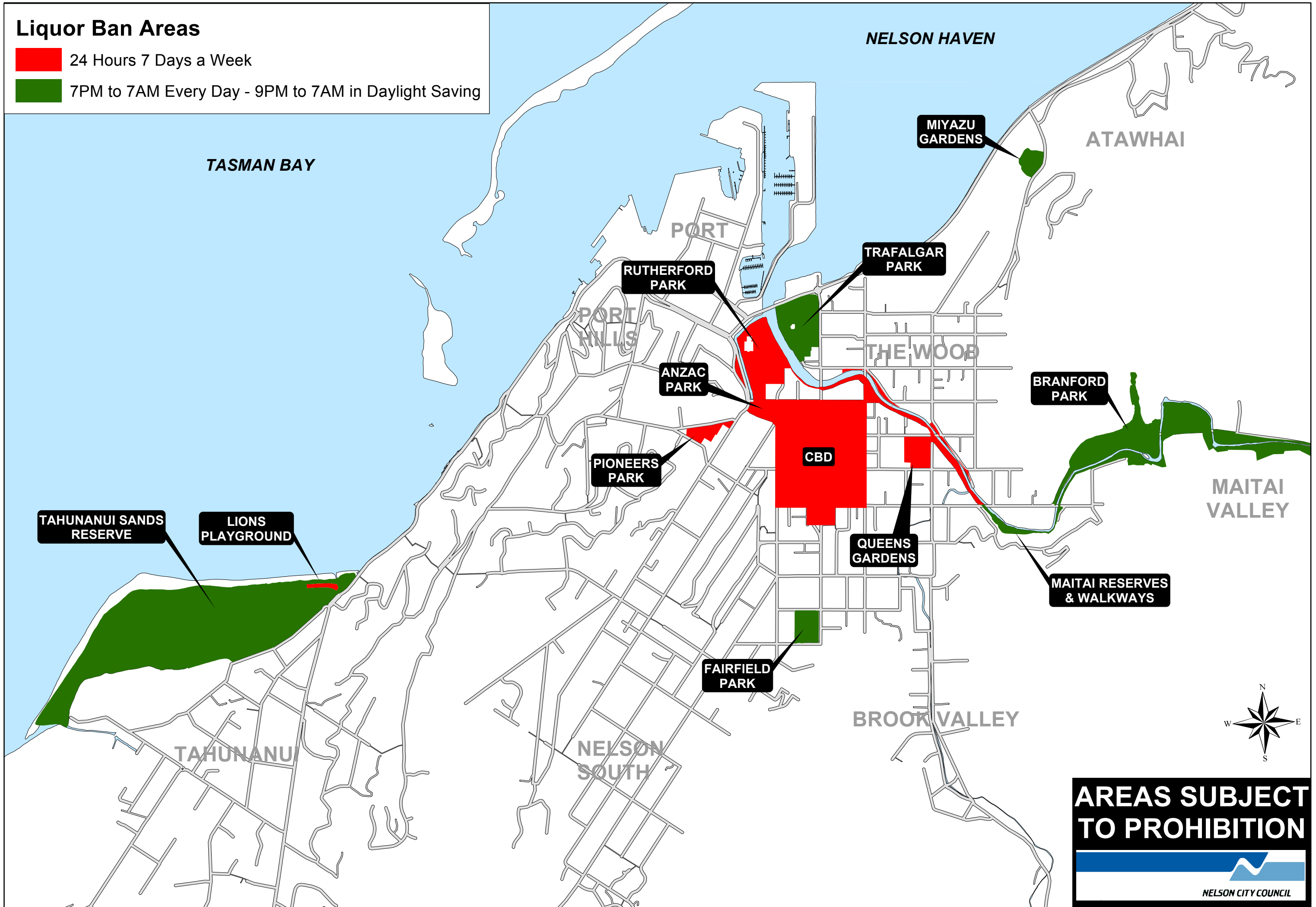
(xvii) QEII Walkway/Cycleway and surrounds (Trafalgar Street to the eastern end of Neale Park)

Adopted pursuant to a review of the bylaw initiated at the ordinary Council meeting of 18 December 2008 and confirmed at the Ordinary meeting of the Council of 16 April 2009.

Liquor Ban Areas

 24 Hours 7 Days a Week

 7PM to 7AM Every Day - 9PM to 7AM in Daylight Saving



AREAS SUBJECT TO PROHIBITION



NELSON CITY COUNCIL