

SELWYN DISTRICT COUNCIL PUBLIC PLACES BYLAW 2018

Pursuant to the powers vested in it under Sections 145 and 146 of the Local Government Act 2002, the Selwyn District Council makes this Bylaw.

1. SHORT TITLE AND COMMENCEMENT

This Bylaw is the Selwyn District Council Public Places Bylaw 2018. This Bylaw comes into force on 1 October 2018.

2. OBJECT OF BYLAW

This Bylaw enables the management of public places in order to balance the various different, and sometimes competing, lawful uses for which public places may be used. It seeks to provide for reasonable controls to protect health and safety, to protect the public from nuisance and to provide for the regulation of trading in public places.

3. INTERPRETATION

In this Bylaw, unless the context requires otherwise-

‘Business vehicle’	means any vehicle that is used in supplying goods and services for profit.
‘Commercial activities’	<p>includes:</p> <ul style="list-style-type: none">• Both static and mobile based trading, which includes selling, hiring, or displaying for sale any goods (including vehicles) or services;• advertising goods, services or events;• the provision of outdoor dining facilities for the sale or consumption of food and beverages, including those offered by alcohol licensed premises;• busking and street performing; and/or• other activities undertaken for payment or reward.
‘Council’	means the Selwyn District Council.
‘Passenger Service Vehicle’	has the same meaning as in Section 2 of the Land Transport Act 1998.

‘Public place’

means an area that is open to or used by the public, which is under the control of the Council, and includes:

- roads, streets, carpark, footpaths, cycleways, accessways, reserve or public reserve (as defined in the Reserves Act 1977), parks and recreation grounds; and
- State Highways within the district with a posted speed limit of less than or equal to 70 km per hour for which there is current delegation in place from the New Zealand Transport Authority to the Council.

4. DELEGATION

In this Bylaw, where the written permission of the Council is required, such permission may be given by the Chief Executive who may delegate all or part of that function to any other officer of the Council.

5. EXCLUSIONS

(1) Clause 6 of this Bylaw does not apply to:

- (a) passenger service vehicles.
- (b) any advertising on any business vehicle.
- (c) Gate sales of produce from private property, provided that:
 - i. The produce is sourced from the same property from which it is being sold; and
 - ii. Any customer parking is located off the carriageway and does not cause any obstruction or danger to other road users.

(2) Clauses 6 and 7 of this Bylaw do not apply to:

- (a) Any activities that form part of free community events or events that are for charitable purposes that are run by local authorities, voluntary/charitable organisations, schools, community groups, or not for profit organisations, including advertising of such events.
- (b) One free standing sign located on footpath or road frontage directly in front of a business operating from fixed premises, provided that the sign:
 - i. is advertising goods or services or the activity of the business to which it relates;
 - ii. is no larger than 600mm wide by 1600mm high;
 - iii. allows for 2 metres of unobstructed pedestrian thoroughfare;

- iv. is removed during the period that the premises is closed; and
 - v. is constructed and displayed in a manner that does not endanger public safety.
- (c) Any activity which has a current and valid approval from Selwyn District Council that specifically permits the use of the public place for the activity, provided that:
- i. the nature, scale and location of the activity remain the same as when the approval was granted;
 - ii. the approval is being undertaken by the person to whom the approval was issued; and
 - iii. the activity complies with any terms and conditions that are specified in that approval.

6. COMMERCIAL ACTIVITIES IN PUBLIC PLACES

- (1) No person may undertake commercial activities in a public place, without the written permission of the Council.
- (2) A permit issued under this clause is subject to such terms and conditions that the Council thinks fit.
- (3) Terms and conditions specified in a permit may include, without limitation, such matters as:
 - (a) the name of the permit holder
 - (b) the duration of the permit
 - (c) the location to which the permit applies
 - (d) the type of commercial activity allowed by the permit
 - (e) a requirement that the permit must be displayed for the view of members of the public
 - (f) a requirement to obtain additional relevant licences, approvals or permits before the permit can be exercised.
- (4) An application for a permit must be made in writing, on the appropriate form provided by the Council.

7. OBSTRUCTIONS IN PUBLIC PLACES

- (1) No person may erect or place anything in, on or over a public place, and allow it to remain there in circumstances where it causes or is likely to cause danger or inconvenience to those using the public place, without the written permission of the Council.

- (2) These obstructions include, but are not limited to, furniture for outdoor dining and freestanding signs, except where covered by the exemption specified in clause 5(2)(b) of this Bylaw.
- (3) A permit issued under this clause is subject to such terms and conditions the Council thinks fit.
- (4) Terms and conditions specified in a permit may include, without limitation, such matters as:
 - (a) the name of the permit holder
 - (b) the duration of the permit
 - (c) the location to which the permit applies
 - (d) the type of obstruction covered by the permit
 - (e) details of arrangements to manage the effect of the obstruction.
- (5) An application for a permit must be made in writing, and on the appropriate form provided by the Council.

8. FEES AND CHARGES

The Council may set fees and charges as a condition for access to, or use of any public place. Any fees will be included in the Council's fees and charges schedule. Payment of such fees shall be a condition for access to, or use of that place.

9. OPERATIONAL POLICIES

- (1) The Council may, from time to time, (by resolution) adopt operational policies related to matters regulated by this bylaw, provided that any such policies are not inconsistent with this Bylaw.
- (2) Operational Policies may set out, without limitation, such matters as:
 - (a) guidance information
 - (b) application procedures
 - (c) administration arrangements
 - (d) terms and conditions
 - (e) definitions

10. DISPLAY OF PERMIT

Any person with a permit issued under clause 6 or 7 must display a copy of that permit prominently for the view of members of the public, if the permit indicates that it must be displayed, or have it available to be inspected by any Council officer or Police Officer on request.

11. PERMIT NOT TRANSFERABLE

A permit under clause 6 or 7 is not transferable to any other person, unless otherwise stated on the permit.

12. PERMIT MAY BE ALTERED, SUSPENDED OR CANCELLED

- (1) The Council, on giving reasonable notice to the permit holder, may alter the terms and conditions of the permit in the event of a change to any circumstances of the permit holder or the public place.
- (2) The Council may suspend or cancel any permit given under clause 6 or 7 in the following cases:
 - (a) Without notice if:
 - (i) urgent action is required to protect the public from unhygienic, unsafe or hazardous conditions in the public place where the permit applies;
 - (ii) urgent works are required in the public place where the permit applies;
 - (iii) any terms and conditions of the permit are breached, where the period covered by the permit is 3 days or less.
 - (b) On the giving of 48 hours' notice to the person who holds the permit if:
 - (i) the activity will interfere with intended road works or a special event;
 - (ii) any terms or conditions of the permit are breached where the period covered by the permit is more than 3 days.

13. OFFENCE AND PENALTY

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

14. SELWYN DISTRICT COUNCIL GENERAL BYLAW 2009

- (1) The provisions of the Selwyn District Council General Bylaw 2009 and any bylaw passed in amendment or substitution are implied into and form part of this Bylaw.
- (2) In the event of inconsistency or conflict between the provisions of this Bylaw and any other bylaw of Selwyn District Council, the provisions of this Bylaw shall prevail.

The **COMMON SEAL** of the
SELWYN DISTRICT COUNCIL
was hereunto affixed, in accordance
with the Resolution made by the
Council on 12 September 2018
in the presence of:

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J.B. Norton Acting
Mayor Mayor

Chief Executive