

# Alfresco Dining Policy

## DOCUMENT CONTROL

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## 1. Purpose

Alfresco dining in public spaces brings vibrancy to towns within the District, suggesting street life and energetic towns. Outdoor seating areas for food service provide a space for social interaction and the opportunity to rest and observe street activity. They also increase the sense of safety and security in the streets, due to increased occupancy.

These areas also provide restaurant and café owners with the opportunity of extending business and promoting patronage with a more visible presence, promoting economic development in our townships.

The Alfresco Dining Policy (the Policy) has been developed to regulate the use of street dining furniture so as to keep our streets clean, safe and not hindering pedestrian flow while encouraging our towns to be dynamic.

For regulations regarding sandwich boards, please see the District Plan.

## 2. Definitions and Abbreviations

TERM	MEANING
<b>ALFRESCO DINING</b>	The serving and eating of food in a public space, namely footpaths, in open air or under a tent, marquee or other temporary shelter

## 3. Policy Details

### 3.1 Background

Principles by which decisions regarding the Policy are made are:

- Licensing activities on footpaths should be reflective of Council’s vision and mission.
- Pedestrian priority should be enhanced to facilitate efficient and safe walking routes in our townships and encourage people to walk as their primary mode of transport through townships.
- Streetscapes of our townships should be vibrant, safe and attractive, and when setting any rebate, Council will consider how a proposed activity might positively contribute to achieving this principle.
- Our townships should provide opportunities for pedestrians to participate in the public environment through leisure, retail, recreation and entertainment activities.
- Businesses and groups that use footpaths should do so in a fair and balanced way, that does not impair safe and efficient pedestrian movement. Footpaths shall be managed in accordance with:
  - Relevant Council guidelines and the District Plan.

- NZ standard 4121:2001 Design of Access and Mobility - Buildings and Associated Facilities (NZS4121) for accessible journeys and design elements.
- Relevant legislation and standards for health and safety and advertising.

## 3.2 Regulations

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To be able to have street furniture for use in alfresco dining, restaurateurs must hold a current licence for alfresco dining, obtained from Council.

A minimum of 1.5 metres of footpath will be available for pedestrian use at all times.

Umbrellas shall be confined to the area and not encroach onto the pedestrian way, and shall be at a height that is safe for pedestrians.

Alfresco dining and associated street furniture must be confined to the area of footpath directly outside the premises. Any other locations will be determined through the relevant Area Engineer on advice from the Community Board or Community Development Area Subcommittee.

This policy will apply to each town across the District unless a Community Board or Community Development Area Subcommittee has advised Council that they do not wish to charge fees in their area. In this case, the policy will still apply; however, the fees will be remitted.

## 3.3 Licensing and Applications

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An initial application to have alfresco dining is to be made in writing and approval will be granted following an inspection of the premise by an Area Engineer.

All applications must contain:

- A map of the location of any street plantings/trees and Council-owned street furniture.
- A sketch showing the location of any proposed chairs, umbrellas, outdoor heating devices and any other furniture that will be used in this activity.
- Proposed hours of operation.
- Letters of support from the adjoining (on either side of the location and the same side of the street) business owners or lessees will be obtained. Council staff can request other nearby business/lessees' opinions if the alfresco dining furniture is likely to have an effect on them.
- Proof of building consent (if applicable).
- Proof of valid Alcohol Premise Licence (if applicable).
- Proof of public liability (refer to Section 3.4).

Any building as defined in Section Three of the Building Act (1991) that is required for this activity shall require a building consent unless it is exempted by the Third Schedule of the Building Act (1991).

If the restaurateur holds an Alcohol Premise Licence, they must show that they intend to either obtain a new Alcohol Premise Licence for this area, or how they will not serve alcohol in that area.

Once granted, licences will be placed on property files as an advice for all Council staff dealing with the property.

Individual licences shall be issued by the local Area Engineer in consultation with the Property Department and relevant elected body, and shall be valid for a maximum period of three years, before renewal is necessary.

### **3.4 Operational Details**

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Licensees will hold public liability for a minimum of \$1,000,000 and shall take full responsibility for indemnifying Council against any claims, demands, or actions made upon Council arising out of licensees' operations.

Licensees will be responsible for keeping their licence areas clean and tidy. All stained or damaged pavement surfacing must be cleaned or replaced promptly by licensees at no cost to Council.

Licensees must control all litter arising from their activities and shall not use Council provided street litter bins for this purpose.

Licensees are not able to assign or sublet the licensed area without the approval of Council.

Licensees will comply with all statutory requirements, Acts, Regulations, Bylaws, Ordinances, Rules and lawful directions of Council, including but not limited to, the following:

- Building Act (1991) and amendments;
- Food Hygiene Regulations (1974) and amendments;
- Health and Safety in Employment Act (1992) and amendments;
- Litter Act (1979) and amendments;
- Local Government Act (2002) and Amendments;
- Public Works Act (1981) and amendments;
- Resource Management Act (1991) and amendments;
- Sale and Supply of Alcohol Act (2012) and amendments;
- Southland District Council Roding Bylaw;
- Southland District Council Trading in Public Places Bylaw (2012).

Where the applicant for a licence to occupy a public place is the holder of an On Licence, then the occupation of the public place may not commence until such time as the applicant has sought and obtained an Alcohol Premise Licence before the sale and consumption of liquor can occur in the alfresco dining specified area.

### **3.5 Fees**

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Fees are to be set by Council (inclusive of GST) and will consist of an administration fee and annual fees (or part thereof), as set out in the Schedule of Fees and Charges. Annual fees for the first year of a licence are pro rata.

The Community Board or Community Development Area Subcommittee for each area will decide whether or not annual fees in relation to this activity shall be remitted. In the case of remission, other regulatory aspects of this policy still apply.

### 3.6 Enforcement

If a licence holder does not comply with the conditions of this policy, the Council will, on the first occasion:

- Provide information to ensure all parties know what is required.
- Verbally notify the business, individual or group of the issue and provide a warning to the business, individual or group of the issue and provide a warning of the consequences of future violation of the policy.

For a second violation of the policy, the Council will provide a written second warning to the business, group or individual identifying the issue(s), required remedy and timeframe, and consequences of future violation of the policy.

For a third violation of the policy, the Council will take appropriate action, selecting from such options as revocation of the licence.

### 3.7 Revocation of Licence

The Area Engineer may revoke an Alfresco Dining Licence if significant breaches of the policy are unable to be resolved by other means (such as verbal or written warnings).

### 3.8 Transitional Procedures

This policy will take effect from 1 July 2015. Current licence holders will not be required to re-apply for licences, but will be required to pay their annual fees from this date. Any restaurants currently operating alfresco dining without a licence will be required to apply for a licence and pay the licence application fee.

## 4. Roles and Responsibilities

PARTY/PARTIES	ROLES AND RESPONSIBILITIES
<b>AREA ENGINEER</b>	Receive, process and finalise licence applications (in consideration of any advice from the relevant Community Board/Community Development Area Subcommittee) including the inspection of the location during application.  Enforce the policy, including revoking the licence if necessary.
<b>ENVIRONMENTAL HEALTH</b>	To report any offences of the policy to the Area Engineer, if seen during regular restaurant inspections.

PARTY/PARTIES	ROLES AND RESPONSIBILITIES
<b>PROPERTY DEPARTMENT</b>	Invoice for fees and require that fees be paid to Council.
<b>COMMUNITY BOARD/COMMUNITY DEVELOPMENT AREA SUBCOMMITTEE</b>	Give advice to the Area Engineer as required. Decide whether the policy is to apply in their local area.

## 5. Revision Record

DATE	VERSION	REVISION DESCRIPTION
24/07/	r/9/9/13466	This policy supersedes the Alfresco Type Dining on Public Land Policy (2003)
29/03/2018	r/18/3/7120	Document updated to new styles