



Alcohol Control Bylaw 2018

Date Made: 07 June 2018
Commencement: 01 July 2018

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PART 1: INTRODUCTION

The Whakatane District Council makes this bylaw pursuant to section 147 of the Local Government Act 2002.

Section 169 of the Local Government Act 2002 gives the Police powers of search and seizure, without warrant, to enforce this Bylaw and the Police are responsible for its enforcement.

1 Short Title and Commencement

This Bylaw shall be known as the Whakatane District Council Alcohol Control Bylaw 2018.
This Bylaw comes into force on 1 July 2018.

2 Revocation

The Whakatane District Council Consolidated Bylaw Part 15: Alcohol Control is hereby revoked from the day this Bylaw comes into force.

3 Purpose

- (1) The purpose of the Alcohol Control Bylaw 2018 is to promote a safe environment for the use and enjoyment of the public by reducing the incidence of alcohol related offences, particularly those of a violent and/or destructive nature, by providing for alcohol control in specified public areas of the Whakatane District.
- (2) The Alcohol Control Bylaw 2018 is related to the Whakatane District Alcohol Strategy which aims to address community and Council concern for the harmful and negative effects associated with the consumption of alcohol in public places, such as offensive behaviour, drunkenness and violence.
- (3) The Alcohol Control Bylaw 2018 does not affect the ability of people to transport alcohol to or from private premises (including business premises) within or adjoining a public place to which an alcohol ban applies. This allows businesses to receive stock, BYO patrons to take alcohol to a restaurant, and residents and their visitors to transport alcohol to and from their residences.
- (4) The Alcohol Control Bylaw 2018 also enables the Council to grant a dispensation from compliance with any or all parts of the Alcohol Control Bylaw 2018 for special events.

4 Interpretation

In this Bylaw, unless the context requires or otherwise expressly provided:

ALCOHOL has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012.

COUNCIL means the Whakatane District Council or any Committee, Community Board or elected member of Council or Officer authorised to exercise the authority of Council.

DISTRICT means the area within the territorial boundary of the Whakatane District Council

DISTRICT PLAN means the operative Whakatāne District Plan.

LICENSED PREMISES has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012, and can include a footpath and or public place as described in the liquor license.

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

PUBLIC PLACE has the meaning given by section 147 (1) of the Local Government Act 2002.

VEHICLE has the same meaning as contained in section 2 (1) of the Land Transport Act 1998.

PART 2: ALCOHOL CONTROL

5 Alcohol Control

The following acts are prohibited in specified public places in the Whakatane District:

- (a) the consumption of alcohol in a specified public place;
- (b) the bringing of alcohol into a specified public place;
- (c) the possession of alcohol in a specified public place;
- (d) the presence or use of a vehicle in a specified public place in conjunction with a prohibition relating to alcohol under clauses 5 (a) to (c).

6 Specifying Public Places

- (1) The Council may from time to time by publicly notified resolution specify public places and periods to which this alcohol control bylaw shall apply.
- (2) A resolution made under clause 6 (1) may specify that the prohibitions and controls will apply to the specified public place either generally or only in relation to specified periods or public events.
- (3) A resolution made under clause 6 (1) may be amended or revoked at any time.

7 Exceptions To Bylaw

- 1) The exceptions to this Bylaw are set out in section 147(4) of the Local Government Act 2002. Section 147(4) is reproduced below:

Section 147(4) states:

A bylaw under this section does not prohibit, regulate, or control, in the case of alcohol in an unopened container,—

- (a) the transport of the alcohol from licensed premises next to a public place, if—
 - (i) it was lawfully bought on those premises for consumption off those premises; and
 - (ii) it is promptly removed from the public place; or
- (b) the transport of the alcohol from outside a public place for delivery to licensed premises next to the public place; or
- (c) the transport of the alcohol from outside a public place to premises next to a public place by, or for delivery to, a resident of the premises or his or her bona fide visitors; or
- (d) the transport of the alcohol from premises next to a public place to a place outside the public place if—
 - (i) the transport is undertaken by a resident of those premises; and

(ii) the alcohol is promptly removed from the public place.

(2) Licensed Premises

Any land where the sale of alcohol is authorised by any licence granted under the Sale and Supply of Alcohol Act 2012 is excluded from the definition of a public place for the purposes of this bylaw. This includes footpath areas that are licensed as part of those premises and are clearly defined by the placement of tables and chairs outside those premises, and other areas, clearly defined, and identified under an appropriate alcohol licence for an event or function.

8 Enforcement

The Police will enforce this Bylaw using the powers of arrest, search and seizure as set out in section 169 and section 170 of the Local Government Act 2002.

9 Penalties

- (1) Any person who acts in breach of this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000 as set out in section 242(4) of the Local Government Act 2002.
- (2) The provisions of Subpart 3 – Infringement Offences of Part 9 of the Local Government Act 2002 shall apply to any offence committed in breach of this Bylaw.

10 Dispensation and Suspension for Special Events

- (1) The Chief Executive Officer of the Council may, on written application by any person including a Council officer, grant a waiver, dispensation, suspension of operation of any part of this Bylaw or licence to do or refrain from doing anything which would otherwise be in breach of this bylaw for the purpose of enabling possession and/or consumption of alcohol in a public place at the time of any special event.
- (2) Such a waiver, dispensation or suspension of operation of any part of this Bylaw or licence shall be granted only in respect of specific time periods and specific locations associated with the special event, to enable better enjoyment of the event by members of the public.
- (3) In considering any such application, the person responsible for making a decision shall obtain and consider a response from New Zealand Police to the request, including the reasons for that response.
- (4) When any such waiver, dispensation, suspension or licence is granted, public notice of the waiver, dispensation, suspension or licence shall be given by public notice advertisement in a newspaper circulating in the Whakatane District at least 6 days prior to the commencement of the period when the waiver, dispensation, suspension or licence commences.
- (5) A fee or charge may be payable by the applicant to cover any direct costs or outgoings associated with the public notice and/or obtaining a police response to the application under this clause. This fee or charge may be refunded, remitted or waived at the discretion of the Chief Executive Officer.

SCHEDULE 1 – MATTERS RESOLVED BY COUNCIL

1 Introduction

The Whakatane District Council Alcohol Control Bylaw 2018 prohibits the consumption or possession of alcohol in public places specified by resolution of the Council.

The Council resolutions specifying public places to which alcohol bans shall apply do not form part the Bylaw itself, and are listed here for information purposes only.

2 Alcohol Control Areas And Times

The Council has resolved that under clause 6 of the Alcohol Control Bylaw 2018, alcohol controls be imposed on:

- (1) All beaches, reserves, parks, boat ramps and jetties within the District; and
- (2) The roads specifically identified in the Whakatane Central Business District, Hillcrest Road (including the Seaview Road Carpark), the Heads and River Edge Park, the Kopeopeo Central Business District, Otarawairere, Kohi Point Scenic Reserve, Taneatua , Murupara, Te Teko and Edgumbe as shown in the maps in Attachment 2.

at the following specified times:

Permanent Basis

- (1) The acts referred to in section 5 of the Whakatane District Council Alcohol Control Bylaw 2018 are prohibited on a permanent basis on the days and hours from 12.00 noon Thursday to 3:00am Monday.

Christmas/New Year Period

- (2) The acts referred to in section 5 of the Whakatane District Council Alcohol Control Bylaw 2018 are prohibited between midday on 24 December to midday on 26 December and midday on 31 December to 3:00am on 1 January.

SCHEDULE 2 – MAPS SHOWING ALCOHOL CONTROL AREAS

- Map 1: Matata
- Map 2: Thornton
- Map 3: Thornton to Coastlands Beach
- Map 4: Coastlands
- Map 5: Piripai
- Map 6: CBD
- Map 7: Warren Cole Walkway
- Map 8: Kopeopeo
- Map 9: Whakatāne - Ohope
- Map 10: Ohope 01
- Map 11: Ōhope 02
- Map 12: Ōhope 03
- Map 13: Ōhope 04
- Map 14: Edgumbe
- Map 15: Taneatua
- Map 16: Te Teko
- Map 17: Murupara