

WAIPA DISTRICT COUNCIL

PUBLIC PLACES LIQUOR CONTROL BYLAW 2008

In pursuance of and exercise of the powers and authorities vested in it by sections 145 and 147 of the Local Government Act 2002 (“the Act”) and of each and every power and authority thereto enabling, Waipa District Council makes and ordains this Bylaw.

1.0 SHORT TITLE

This bylaw shall be cited and referred to as the “WAIPA DISTRICT PUBLIC PLACES LIQUOR CONTROL BYLAW 2008”.

2.0 PURPOSE

The purpose of this bylaw is to prohibit or control the consumption of, bringing into and possession of liquor in specified public places and also to:-

- (a) protect the public from nuisance in public places;
- (b) protect, promote and maintain public health and safety in public places; and
- (c) minimise the potential for offensive behaviour in public places.

3.0 SCOPE

This bylaw shall apply to the prohibition and control of liquor in public places that are located within the areas specified in Schedule 1.

4.0 DEFINITIONS

Event, means an activity involving relatively large groups of people engaged in recreational, leisure or similar pursuits either as participants or spectators and includes sports meetings, carnivals, craft or trade fairs, displays and the like.

Liquor, as defined in section 2 of the Sale of Liquor Act 1989, means any fermented, distilled, or spirituous liquor (including spirits, wine, ale, beer, porter, honeymead, stout, cider and perry) that is found on analysis to contain 1.15 percent or more alcohol by volume.

Public place, as defined in section 147 of the Act, means a place that is:

- (a) under the control of the territorial authority; and

- (b) is open to, or being used by, the public, whether or not there is a charge for admission; and this includes:
- (c) a road, whether or not the road is under the control of the territorial authority; and
- (d) any part of a public place.

For the avoidance of doubt this definition includes roads, service lanes, footpaths, pedestrian malls, public car parks, parks and reserves.

Specified public place, means a place specified in this bylaw, and in respect of which the prohibitions and controls in this bylaw will apply at any specified time, day or event. It does not include any part of a public place for which a liquor licence has been issued under the Sale of Liquor Act 1989.

Territorial authority, means the Waipa District Council.

5.0 CONTROL OF LIQUOR

Subject to sections 9, 10 and 11 of this bylaw, the following actions are prohibited at all times:

- (i) the consumption of liquor in a specified public place;
- (ii) the bringing of liquor into a specified public place;
- (iii) the possession of liquor in a specified public place; and
- (iv) in conjunction with the prohibiting relating to liquor under paragraphs i) to iv) above, the presence or use of a vehicle in a specified public place.

6.0 COUNCIL MAY ADD, AMEND OR DELETE A SPECIFIED PUBLIC PLACE

- 6.1 Council may amend this bylaw in accordance with the Act. Amendments may include adding a specified public place to Schedule 1, modifying the boundaries of a specified public place already contained in Schedule 1 or removing a specified public place from Schedule 1.
- 6.2 In addition to this, Council may from time to time, resolve under the Act to include an additional area as a specified public place for a particular time period related to a specified event or a particular time of the year. Where this is done, a minimum 7 days of public notice shall be given prior to the event or particular time of the year, specifying the additional areas and the time period when the provisions of this bylaw shall apply. Public notices shall be affixed in or adjacent to these specified public places at such times that the provisions of this bylaw apply.

7.0 CRITERIA FOR ADDING OR MODIFYING A SPECIFIED PUBLIC PLACE

Before amending this bylaw by resolution, Council may consider:

- (i) the extent of the problems associated with liquor in this area;
- (ii) whether these problems are likely to continue without liquor control;
- (iii) other options for addressing these problems, in particular options that may be more appropriate than liquor control;
- (iv) due balance between public and private rights;
- (v) the community's views on the proposed ban; and
- (vi) the police's views on the proposed ban.
- (vii) any other matter Council considers relevant.

8.0 BREACH

Subject to sections 9, 10 and 11 of the bylaw, any person who breaches this bylaw commits an offence against the Act.

9.0 EXCEPTIONS

Licensed premises and other premises

As provided for in section 147(3) of the Act, this bylaw does not prohibit, in the case of liquor in an unopened bottle or unopened container:

- (a) The transport of that liquor from premises that adjoin a specified 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 that the liquor is promptly removed from the specified public place;
- (b) The transport of that liquor from outside a specified public place for delivery to premises that adjoin the specified public place, provided the premises are licensed for the sale of liquor under the Sale of Liquor Act 1989; and
- (c) The transport of that liquor from outside a specified public place to premises that adjoin a specified 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 specified public place by a resident of those premises, provided the liquor is promptly removed from the specified public place.

In addition to this, the bylaw does not prohibit the possession and/or consumption of liquor at any premises within a specified public place in compliance with a

licence for the sale and/or consumption of liquor under the Sale of Liquor Act 1989. 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 or an approved plan, and other areas, clearly defined and identified under an appropriate liquor licence for an event or function at the time liquor is being possessed or consumed.

10.0 SPECIAL LICENSES

This bylaw does not limit any individual or organisation (corporate or otherwise) from obtaining a Special Licence pursuant to section 73 of the Sale of Liquor Act 1989, for any event to be held in a specified public place.

11.0 DISPENSATION

11.1 The Chief Executive of the Waipa District Council or his/her nominated representative may, on application by any person including a territorial officer, grant a waiver, dispensation or licence to do or refrain from doing anything that would otherwise be in breach of this bylaw for the purpose of enabling possession and/or consumption of liquor in a specified public place at any time.

11.2 Such a waiver, dispensation or licence shall be granted only in respect of specific time periods and specific locations associated with an event, to enable better enjoyment of the event by members of the public.

11.3 In considering any such application, the person responsible for making the decision shall obtain and consider a response to the request from the police, including any reason set out in that response.

11.4 When any such application is granted, public notice of it shall be given by public notice advertisement in a local newspaper circulating in Waipa District at least 7 days prior to the commencement of the period when the waiver, dispensation or licence commences.

11.5 The applicant may be required to pay Waipa District Council a fee or charge to cover any actual and reasonable costs associated with the public notice, processing the application and/or obtaining a police response to the application.

12.0 POWERS OF THE POLICE

12.1 Police powers of arrest, search and seizure under this bylaw are set out in sections 169 and 170 of the Local Government Act 2002. In summary, a member of the police may:

(a) for the purpose of ascertaining whether liquor is present, search:

(i) a container (which includes but is not limited to a bottle, package, parcel, bag or case) in the possession of a person who is in, or entering, a specified public place; or

- (ii) a vehicle that is in, or is entering, a specified public place;
- (b) seize and remove liquor and its container if the liquor is in a specified public place in breach of the bylaw;
- (c) arrest a person the police finds committing an offence;
- (d) arrest a person who has refused to comply with a request by a member of the police to:
 - (i) leave the public place; or
 - (ii) surrender to a member of the police the liquor that, in breach of the bylaw, is in the person's possession.

12.2 The police do not require a warrant to conduct a search to ascertain whether liquor is present in a container or a vehicle. However, prior to exercising the power of search, a person must be informed that they have the opportunity to promptly remove a container or a vehicle containing liquor from a specified public place, and the person shall be given a reasonable opportunity to do so.

12.3. For the avoidance of doubt, in circumstances where a person so informed has removed liquor from a specified public place, and subsequently returns with liquor to that specified public place within a period when it could be reasonably deemed that the person has been informed prior to remove the liquor, this bylaw shall not be interpreted as in any way requiring the police to provide the person with a further opportunity to remove the liquor from the specified public place prior to search.

13.0 PENALTIES

Any person who breaches the bylaw may be liable on summary conviction to a fine not exceeding \$20,000.

The foregoing bylaw is made by Waipa District Council by Special Consultative Procedure and confirmed at a meeting of Council held on the day of 2008. This bylaw becomes operative on the day of 2008.

IN WITNESS WHEREOF the Common Seal of Waipa District Council was hereunto affixed pursuant to a resolution of Council passed on the day of 2008
In the presence of:-

.....
Mayor

.....
Chief Executive Officer

SCHEDULE 1: SPECIFIED PUBLIC PLACES

Public places within the following areas of Waipa District are specified public places for the purpose of this bylaw:

- (i) As shown by the crossed areas on the maps attached for Te Awamutu and Cambridge.