

# Proposed Waikato District Council Alcohol Control Bylaw 2020

Waikato District Council, in exercise of its powers under the Local Government Act 2002 hereby makes the following bylaw.

## Introduction

### 1.0 Short title, commencement and application

- 1.1 The bylaw is the "Waikato District Council Alcohol Control Bylaw 2020".
- 1.2 The bylaw shall apply to the Waikato District.
- 1.3 The bylaw shall come into force on xxx xxx.

## Part I – Preliminary provisions

### 2.0 Purpose

The purpose of this bylaw is to provide for the prohibition and control of the consumption or possession of alcohol in public places (including vehicles in public places) to reduce alcohol related harm.

### 3.0 Interpretation

- 3.1 In this Bylaw, unless the context otherwise requires –

<b>Act</b>	means the Local Government Act 2002
<b>Alcohol</b>	has the same meaning as 'alcohol' given by section 5(1) of the Sale and Supply of Alcohol Act 2012.
<b>Council</b>	means the Waikato District Council
<b>Licensed premises</b>	has the same meaning as 'licensed premises' given by section 5(1) of the Sale and Supply of Alcohol Act 2012 and means any premises for which a licence under the Sale and Supply of Alcohol Act 2012 is held.

**Permanent**

**Alcohol Ban Area** means an area described in schedule one in which alcohol restrictions are permanently in place in the public places within the area, during the times, days or dates specified in the Schedule.

**Public place**

has the same meaning as ‘public place’ given by section 147 of the Local Government Act 2002; and means a place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is entitled to exclude or eject any person from it; but does not include licensed premises.

**Temporary**

**Alcohol Ban Area** means an area described in a resolution made under this bylaw in which alcohol restrictions are temporarily in place in the public places within the area during the times, days or dates specified in the resolution.

**Waikato District**

means the area within the boundaries under the territorial authority of the Waikato District Council and includes all coastal areas to the line of mean low water springs.

3.2 Any explanatory notes and attachments are for information purposes only and do not form part of this Bylaw.

3.3 The Interpretation Act 1999 applies to this Bylaw.

## Part 2 – Control of Alcohol

### 4.0 Alcohol Ban Areas

4.1 Every person is prohibited from consuming, bringing into, or possessing alcohol in any public place (including a vehicle) in contravention of an alcohol ban made by the Council in accordance with clause 5.1.

*Explanatory note:*

*As at 21 January 2020, under section 147(4) of the Local Government Act 2002, the prohibition in clause 6(1) does not apply to alcohol in an unopened container in the following circumstances:*

- (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.*

## **5.0 Alcohol Control Areas**

5.1 Council may, by resolution, declare alcohol control areas for the purpose of prohibiting or otherwise regulating or controlling, either generally or for one or more specified periods, any or all of the following:

- (a) the consumption, bringing into or possession of alcohol in public places; and
- (b) in conjunction with (a), the presence or consumption of alcohol in vehicles, or vehicles of stated kinds or descriptions, in public places.

5.2 Any resolution made under clause 5.1 must also:

- a)** include a map of the alcohol control area;
- b)** specify whether the alcohol control area is permanent or temporary and, if temporary, the time(s) that any prohibition or control applies;
- c)** if consumption, bringing into or possession of alcohol is controlled rather than prohibited, specify the nature of the control.

5.3 The Council must, before making an alcohol controlled area in accordance with clause 5.1:

- (a) Be satisfied that the alcohol controlled area gives effect to the purpose of the bylaw; and
- (b) Comply with the decision-making requirements under Subpart 1 of Part 6 of the Local Government Act 2002; and
- (c) Comply with the criteria under section 147B of the Act, as follows:
  - (i) Be satisfied that there is evidence that the area to which the alcohol ban will apply has experienced a high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area; and
  - (ii) Be satisfied that the alcohol ban is appropriate and proportionate in light of the evidence and can be justified as a reasonable limitation on people's rights and freedoms; and

- (d) Investigate and, where appropriate, implement community-focused solutions as an alternative to or to complement an alcohol controlled area; and
- (e) Consider the views of the New Zealand Police; and
- (f) Consider the views of Maori; and
- (g) Consider the views of owners, occupiers, or persons that the Council has reason to believe are representative of the interests of owners or occupiers, of premises within the area to which the alcohol ban will apply.

5.4 The Council may, at any time, amend or revoke alcohol controlled area in accordance with clauses 5.1, 5.2 and 5.3 with the necessary modifications.

5.5 Clause 5.3 does not apply to a person who is acting pursuant to, and in accordance with any conditions of, a consent granted under clause 10.1.

## 6.0 Permanent alcohol control areas

6.1 Council may by resolution, under clause 5.1 declare an area to be a permanent alcohol control area at all times; or for specified, repeated periods of time.

6.2 Permanent alcohol control areas are listed in Schedule One. Schedule one illustrates the specific areas that are permanent alcohol control areas and states the times, days or dates during which the alcohol restrictions apply to the public places.

6.3 Every person is prohibited from consuming, bringing into, or possessing alcohol in all Council Controlled Parks, Reserves and Esplanades (including a vehicle) between the hours of 9pm and 9am.

*Explanatory note: All resolutions of Council declaring alcohol control areas are contained within the additional information for the Alcohol Control Bylaw 2018 - Register of Resolutions, attached to this Bylaw.*

## 7.0 Temporary alcohol control area

7.1 Council may, by resolution, under clause 5.1 declare an area to be a temporary alcohol control area for a specific period not exceeding seven consecutive days.

7.2 Council will give public notice of a temporary alcohol control area at least 14 days before the temporary alcohol control area comes into force.

*Explanatory note: Sections 147A and 147B of the Act are outlined in Section 3 of the Additional Information to this Bylaw.*

7.3 Where a temporary alcohol control area applies to an event Council must consider:

- (i) the nature and type of the event;
- (ii) the history (if any) of the event;
- (iii) the number of people expected to attend the event;

- (iv) the area in which the event is to be held;
  - (v) whether the Police support the proposed temporary alcohol control area; and
  - (vi) whether the Police will be present at the event to enforce it.
- b) may consider any other information it considers relevant.

*Explanatory note: Records of resolutions made for temporary alcohol controls will not be included in the 'register of resolutions' but are permanently recorded through the appropriate Council records of meetings, minutes and resolutions.*

## **8.0 Signage**

- 8.1 Where it is practicable or reasonable to do so, the Council will erect signage within alcohol control areas to provide information to the public about the restrictions. The size, location and content of the signage will be at the Council's discretion.
- 8.2 To avoid any doubt, the absence of signage in any alcohol control area does not authorise a breach of this bylaw.
- 8.3 This clause is subject to any regulations made under section 147C of the Act.

## **Part 3 – Enforcement offences and penalties.**

### **9.0 Enforcement.**

- 9.1 A constable may use their powers under the Act to enforce this Bylaw
- 9.2 This Bylaw authorises a constable to exercise the power of search under sections 169(2)(a) and 170(2) of the Act for temporary alcohol areas declared in accordance with clauses 6 and 8.

*Explanatory note: Section 170(2) provides constables with additional powers of search in relation to temporary alcohol controls that have been notified and indicated by signs in accordance with section 170(3) of the Act.*

### **10.0 Offences and penalties**

- 10.1 Every person who breaches this bylaw commits an offence.
- 10.2 Every person who commits an offence under this bylaw is liable to a penalty under the Local Government Act 2002.

*Explanatory note: As at 18 December 2013, the penalty for breaching an alcohol bylaw is an infringement fee of \$250 under the Local Government (Alcohol Ban Breaches) Regulations 2013.*

## Part 5 – Exceptions.

### 11.0 Exceptions

11.1 The restrictions within an alcohol ban area do not apply to areas or activities which are covered by a licence issued under the Sale and Supply of Alcohol Act 2012, including:

- (a) Any public place which is part of a licenced premises' outdoor area, where permission to occupy that area has been granted by the Council; or
- (b) The carrying of alcohol directly between one part of a licensed premises and another part of the same premises across a public place that separates the parts of the licensed premises; or
- (c) Any public place that is subject to a special licence, for the term of that licence; or
- (d) Any vehicle in a public place to which a licence under the Sale and Supply of Alcohol Act 2012 applies; or
- (e) Any event held in a public place at which alcohol is served under a section 38 endorsed licence under the Sale and Supply of Alcohol Act

Explanatory note:

A number exceptions for the transportation of unopened bottles or containers of alcohol through alcohol control areas are listed in section 147(4) of the Act, and are not restricted by this bylaw, including:

- Commercial deliveries to licensed premises;
- Carrying alcohol purchased from an off-licence (eg liquor store);
- Carrying alcohol to or from BYO licensed premises;
- Carrying alcohol to or from private residences.

Some of these exceptions require the alcohol to be promptly removed from any public places covered by alcohol restrictions.

11.2 Any resolution of the Council may be amended, rescinded, or reinstated by a further resolution of the Council.

This bylaw was made pursuant to a resolution passed by the Waikato District Council on **Add Date**.

THE COMMON SEAL of WAIKATO DISTRICT COUNCIL was hereto affixed in the presence of:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Chief Executive

## WAIKATO DISTRICT COUNCIL

### PROPOSED ALCOHOL CONTROL BYLAW 2020

#### First Schedule

Specified Public Places where the consumption of alcohol, possession of alcohol and use of a vehicle in conjunction with alcohol is prohibited at all times.

1. **Raglan Township**, including Bow Street, Bankart Street, Cliff Street (from Bow Street to James Street), Wainui Road (from Bow Street to Ngarunui Beach Road), Wallis Street (from Bow Street to James Street), Wi Neera Street, as shown in red on the attached map called “Permanent Ban Area Raglan”.
2. **Ngaruawahia Township**, including Carlton Avenue, Durham Street between Newcastle Street and Waingaro Road, Ellery Street East, Ellery Street between Herschel street and Great South Road, Eyre Street, Galileo Street, Great South Road between River Road and Ellery Street East, Havelock Road between Whatawhata Ave and Kia Toa Street, Herschel Street between Newcastle Street and Ellery Street, Jesmond Street, Jordan Street, Lower Waikato Esplanade, Market Street, Regent street, River Road between Duke Street and Great South Road, Waikato Esplanade between Galileo Street and Ellery Street East, Waingaro Road between Great South Road and Herschel Street, as shown in red on the attached map “Permanent Ban Area Ngaruawahia”.
3. **Taupiri Township**, including Bob Byrne park, Te Putu Street, The Crescent0, Greenlane Road, Murphy Lane, and Great South Road between Gordonton Road and Lovell Avenue, as shown in red on the attached map called “Permanent Ban Area Taupiri”.
4. **Huntly Township**, including Alder lane, Bridge Street, Glasgow Street, Harris Street, Main Street between Bell Crossing and Tainui Bridge Road, Onslow Road, Paki Street between Harris Street and Baker Street, Ralph Street, Shand Lane, Taihua Street, Tainui Bridge Road to Harris Street, Tumate Mahuta Drive, Wight Street, William Street, Venna Fry Lane, as shown in red on the attached map called “Permanent Ban Area Huntly”.
5. **Te Kauwhata Township**, including Main Road, Tavern Park Lane, Te Kauwhata Road between Travers Road Main Road, and Waerenga Road up to Swan Road, as shown in red on the attached map called “Permanent Ban Area Te Kauwhata”.
6. **Meremere Township**, along Te Pua Avenue between Island Block Road and Springhill Road, as shown in red on the attached called “Permanent Ban Area Meremere”.



Specified Parks, Reserves, esplanades and beaches where the consumption of alcohol, possession of alcohol and use of a vehicle in conjunction with alcohol is prohibited at all times.

- 1 Sunset Beach, Port Waikato Permanent Ban Area**
  
- 2 Karioitahi Beach, Waiuku Permanent Ban Area**
  
- 3 Wainui Reserve, Raglan Permanent Ban Area**
  
- 4 Maraetai Bay, Port Waikato permanent Ban Area**

**WAIKATO DISTRICT COUNCIL –**

**DRAFT ALCOHOL CONTROL BYLAW 2020**

**Second Schedule**

Specified Public Places where the consumption of alcohol, possession of alcohol and use of a vehicle in conjunction with alcohol is prohibited at all times during a specific time period being 23 December through to 10 February.

- I Wider Raglan Ward area as per the attached map