

HUTT CITY COUNCIL BYLAW 2004

CONTROL OF LIQUOR IN PUBLIC PLACES

Adopted by Council 14 December 2004.

1 Interpretation

1.1 In this Bylaw, unless the context requires otherwise:

“**Bylaw**” means this Control of Liquor in Public Places bylaw.

“**Council**” means the Hutt City Council.

“**Liquor**” has the meaning given to it in section 2 of the Sale of Liquor Act 1989.

“**Liquor ban**” means the controls on liquor set out in clause 2.1.

“**Liquor ban area**” means a public place specified by resolution of the Council, passed under clause 3.1 for the purpose of this bylaw.

“**Public place**” has the meaning given to it in section 147(1) of the Local Government Act 2002.

2 Controls on Liquor

2.1 No person may, while a liquor ban applies:

- (a) consume or possess liquor in a liquor ban area;
- (b) bring liquor into a liquor ban area; or
- (c) have or use a vehicle in a liquor ban area in conjunction with any activity under paragraphs (a) or (b).

3 Resolution to Specify Liquor Ban Areas

3.1 The Council may, by resolution, specify liquor ban areas, where and when a liquor ban will apply - Refer Schedule 1 attached

3.2 A resolution made under clause 3.1 may specify that a liquor ban applies either generally or only in relation to specified times and days or events.

3.3 The Council may amend or revoke a resolution made under clause 3.1 at any time.

3.4 Before making a resolution under clause 3.1, the Council must take into account:

- (a) whether it is necessary to consult with the public to gauge community views on a proposed liquor ban area.
- (b) the nature, features, and scale, of the proposed liquor ban area;
- (c) the problems that have been caused by the consumption of liquor in the proposed liquor ban area, including the nature and severity of the problems, and the times and days that problems have occurred;
- (d) the likelihood that liquor will be present in the proposed liquor ban area on the days or period specified.
- (e) the extent to which the proposed liquor ban area may assist in addressing these problems;

- (f) any restrictions or limitations on private individuals' rights that would be caused by a proposed liquor ban area.
- (g) any other information considered by the Council to be relevant.

4 Exceptions to this Bylaw

- 4.1 This bylaw does not apply to any premises or area which is licensed for the time being under the Sale of Liquor Act 1989.
- 4.2 The exceptions listed in section 147(3) of the Local Government Act 2002 apply to premises that are licensed under the Sale of Liquor Act 1989 for the consumption of liquor.

5 Permits for Exemption from this Bylaw

- 5.1 Any person may apply to the Council for a permit to allow him or her to conduct a function or event in a public place that would otherwise be in breach of the controls on liquor in clause 2.
- 5.2 Any applications under clause 5.1 must be made in writing using an application form approved by the Chief Executive of the Council and be lodged with the Council no later than 10 working days prior to the date on which the function or event is to be held.
- 5.3 The Council may grant a permit to allow any person to conduct a function or event in a public place that would otherwise be in breach of the controls on liquor in clause 2 on such terms and conditions as the Council considers appropriate in each case.
- 5.4 Where fighting or serious disorder breaks out, or there is reasonable ground for believing that fighting or serious disorder is about to break out, on any premises or area where a permit granted under clause 5.3 applies, any member of the New Zealand Police may order the person conducting the function or event to close the function or event, or any part of the function or event, until good order has been restored, and may order any person to leave the function or event, or any part of the function or event.

6 Powers of the Police

- 6.1 Any member of the New Zealand Police may exercise the power under section 170(2) of Local Government Act 2002 (to search a container or vehicle without further notice) on specified dates, or in relation to specified events, that are notified in accordance with section 170(3) of that Act.

Commentary

The following comments do not form part of the bylaw. They are provided to alert readers to relevant law and information that relate to the bylaw.

Statutory authority

This bylaw is made under section 147 of the Local Government Act 2002.

Offence

It is an offence under section 239 of the Local Government Act 2002 to breach a bylaw. If you breach this bylaw, you may be liable on conviction to a fine of up to \$20,000 under section 242(4) of the Local Government Act.

Definitions

The interpretation section of this bylaw refers to various definitions in some Acts. These are:

Section 2, Sale of Liquor Act 1989

“Liquor” 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.

Section 147, Local Government Act 2002

“public place” –

- (a) *means a place –*
 - (i) *that is under the control of the territorial authority; and*
 - (ii) *that is open to, or being used by, the public, whether or not there is a charge for admission; and*
- (b) *includes –*
 - (i) *a road, whether or not the road is under the control of a territorial authority; and*
 - (ii) *any part of a public place.*

Signs will notify the public of liquor ban areas

The Council has a policy that signs or notices will be put up in areas where a liquor ban applies, informing members of the public about the terms of the ban.

The Police’s powers of search and seizure

The Local Government Act 2002 provided powers to members of the Police to search containers and vehicles for alcohol and to seize alcohol.

Section 169(2) states:

A member of the police may, without warrant, –

- (a) *for the purpose of ascertaining whether liquor is present, search –*
 - (i) *a container (for example, a parcel, package, bag, or case) in the possession of a person who is in, or entering, a public place:*
 - (ii) *a vehicle that is in, or is entering, a public place:*
- (b) *seize and remove liquor and its container if the liquor is in a public place in breach of a bylaw:*
- (c) *arrest a person whom the member of the police finds committing an offence:*

- (d) *arrest a person who has refused to comply with a request by a member of the police –*
 - (i) *to leave the public place; or*
 - (ii) *to surrender to a member of the police the liquor that, in breach of a bylaw, is in that person's possession.*

Before exercising the powers in section 169(2)(a), a Police officer must inform the person that he or she may remove the alcohol from the public place and allow them a reasonable opportunity to do so (see section 170(1)). However, the Police do not have to do this where the Council has informed members of the public that the Police may exercise their powers without further notice for particular dates or events (see section 170(2)). The Council will inform members of the public by erecting notices in the affected areas (see section 170(3)).

Liquor that is seized under section 169(2)(b) will be forfeited to the Crown if the person is convicted of breaching the bylaw (see section 169(3)).

Exceptions to liquor bans

The Local Government Act 2002 provides a number of exceptions to any bylaw that controls liquor in a public place.

Section 147(3) of that Act states:

A bylaw made under this section does not prohibit, in the case of liquor in an unopened bottle or other unopened container, –

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

If you come within any of these exceptions, you will not be in breach of the bylaw.

Permits for exemption from the bylaw

You can obtain an application form for a permit from the Council .

Council officers will be able to assist you in completing the form if you have any queries.

You will not need to obtain a permit if you already have some form of licence under the Sale of Liquor Act for the function or event, as you will be covered by the exception in clause 4.1.

The powers granted to the Police to close a function or event are equivalent to the powers the Police have under section 174 of the Sale of Liquor Act in respect of any licensed premises.

SCHEDULE 1

Hutt City Council Liquor Ban Areas

The Hutt City Council resolved at its meeting held on 14 December 2004, pursuant to Clause 3 of the Control of Liquor in Public Places Bylaw 2004, to make the areas and times set out in the schedule below those to which the bylaw applies.

General Areas:

- 1 **Central Business District - In the designated public place of "the Central Business District"** being the central commercial area of Laings Road, Queens Drive, High Street to Queens Drive, Andrews Avenue, Stevens Grove, Dudley Street, Margaret Street, Bunny Street, Queensgate Road, the central commercial part of Bloomfield Terrace, Knights Road, Cornwall Street and Waterloo Road, Memorial Place, Dudley and Daly Streets and the area known as the Riverbank Carpark, situated on the eastern side of the Hutt River between the Melling and Ewen Bridges from Wednesday to Saturday 6.00pm to 6.00am the next day and 24 - 31 December and 1 and 2 January at all times.
NB: The Central Business District liquor ban as noted immediately above was revoked by the Council on 12 August 2008 and replaced with a new liquor ban as outlined in 11 below.
- 2 **Riddiford Gardens** - The Riddiford Gardens area bounded by Queens Drive, Laings Road, Myrtle Street and Woburn Road at all times.
NB: The Riddiford Gardens liquor ban as noted immediately above was revoked by the Council on 12 August 2008 when it became part of the Central Business District new liquor ban area as outlined in 11 below.
- 3 **Days Bay Beach** - being the foreshore area between Marine Drive and Ferry Road to the north, and Waerenga Road to the south **6.00pm on 5 November to 6.00am on 6 November, each year.**
- 4 **Petone Beach** - The foreshore area between The Esplanade and the Korokoro Stream to the west and the Hikoikoi Reserve adjacent to McEwen Park to the east 6.00pm on 5 November to 6.00am on 6 November, each year.
NB: The Petone Beach liquor ban as noted immediately above was revoked by the Council on 12 August 2008 when it became part of the new Petone liquor ban area as outlined in 10 below.
- 5 **Naenae Shopping Area, Railway Station and Subway** - being the commercial area of Vogel Street, Everest Avenue, Cambridge Terrace and Treadwell Street and the subway, and Naenae Railway Station between Cambridge Terrace and Oxford Terrace **at all times.**

The Hutt City Council resolved at its meeting held on 8 August 2006, pursuant to Clause 3 of the Control of Liquor in Public Places Bylaw 2004, to make the areas and times set out in the schedule below those to which the bylaw applies.

- 6 **Norfolk Street Shopping Area, Wainuiomata** - The Norfolk Street Shopping Area, footpath and parking area in front of shops on Norfolk Street and Honey Grove, and the rear of the Norfolk Street shops - as outlined in Appendix 1 - **at all times.**
- 7 **Homedale Village Shops, Wainuiomata** - The Homedale Village Shops, Main Road from, and including the Moores Valley Road roundabout, south to the access road for the Tennis Club, the access road to the Tennis Club, and Moores Valley Road, from the intersection with Main Road to the entrance of the Palliser Hotel - as outlined in Appendix 2 - **at all times.**
- 8 **Queen Street Shops and Hugh Sinclair Park, Wainuiomata** - The Queen Street Shops, adjacent park bordered by Fitzherbert Road, Queen Street and Wainuiomata Road, including the Library and Community Centre; the entire length of The Strand and Hugh Sinclair Park, with emphasis

placed on the Skate Park and Children's Play Area; and the service lane running adjacent to Wainuiomata Police Station, leading to the Post Office – as outlined in Appendix 3 - **at all times**.

The Hutt City Council resolved at its meeting held on 12 August 2008, pursuant to Clause 3 of the Control of Liquor in Public Places Bylaw 2004, to make the areas and times set out in the schedule below those to which the bylaw applies.

- 9 **Stokes Valley Shopping Centre and Speldhurst Park** – The Stokes Valley shopping centre and Speldhurst Park as bordered by Stokes Valley Road, Bowers Street, George Street, Evans Street – as outlined in Appendix 4 – **at all times**.

10. **Petone** – The area bordered by the Hutt Road, Udy Street, Cuba Street, Manchester Street, William Street, east to the Te Mome Stream from the southern boundary of Wilford School, south down the stream, including McEwan Park, Hikoikoi Reserve and the Petone foreshore – as outlined in Appendix 5 – **at all times**.

11. **Central Business District** – being the central commercial area bordered by Woburn Road, Market Grove, Hutt River Bank, Melling Bridge, area known as the Melling Station and the Skateboard Park, part of Harbour View Road, Rutherford Street, Queens Drive, Kings Crescent, Cornwall Street, Knights Road, Bloomfield Terrace, and Bellevue Road – as outlined in Appendix 6 – **at all times**.