



**Whangarei**  
District Council

# Alcohol Control Bylaw 2018



*Pursuant to the Local Government Act 2002, Whangarei District Council makes the following bylaw about alcohol control in public places*

# Contents

1. Title . . . . .	8
2. Commencement . . . . .	8
3. Application . . . . .	8
<b>Part 1 – Preliminary Provisions . . . . .</b>	<b>9</b>
4. Purpose. . . . .	9
5. Interpretation . . . . .	9
<b>Part 2 – Control of alcohol. . . . .</b>	<b>10</b>
6. Alcohol control areas . . . . .	10
7. Permanent alcohol control areas . . . . .	10
8. Temporary alcohol control areas . . . . .	10
9. Matters to be considered before declaring alcohol control areas . . . . .	10
<b>Part 3: Enforcement Powers. . . . .</b>	<b>11</b>
10. Enforcement . . . . .	11
<b>Part 4: Offences and Penalties . . . . .</b>	<b>11</b>
11. Bylaw breaches. . . . .	11
<b>Part 5: Exceptions . . . . .</b>	<b>11</b>
12. Exceptions . . . . .	11

## 1. Title

This Bylaw is the Alcohol Control Bylaw 2018.

## 2. Commencement

19 December 2018.

## 3. Application

This Bylaw applies to the Whangarei District.

# Part 1 – Preliminary Provisions

## 4. Purpose

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

*Explanatory notes:*

*The provisions of the Act provide explicit details about what this type of bylaw can control. Generally, any transporting of alcohol in unopened containers within an alcohol control area is permitted, subject to certain conditions. See section 147 of the Act for further details.*

*Alcohol control areas do not apply to licensed premises, which can include situations where a special license has been issued for a specific event. Licensed premises can include areas of public places such as footpaths.*

*Under the Act only constables (New Zealand Police Officers) can take enforcement action under this Bylaw. Constables have powers of arrest, search and seizure under the Act and they can also issue infringement notices.*

## 5. Interpretation

- 5.1 Any word used in this Bylaw that is defined in section 5, 147, 169, 169A and 243 of the Act, or section 5 of the Sale and Supply of Alcohol Act 2012 has, for the purposes of this Bylaw, the same meaning as in those sections, unless otherwise provided for in this clause.
- 5.2 In this Bylaw, unless the context otherwise requires -
  - Act** means the Local Government Act 2002
  - Council** means the Whangarei District Council.
  - Whangarei District** means the area within the boundaries of the Whangarei District and includes all coastal areas to the line of mean low water springs.
- 5.3 Any explanatory notes and attachments are for information purposes only and do not form part of this Bylaw.
- 5.4 The Interpretation Act 1999 applies to this Bylaw.

# Part 2 – Control of alcohol

## 6. Alcohol control areas

- 6.1 Council may, by resolution, declare alcohol control areas in which the consumption, bringing in, and possession of alcohol in public places is prohibited or controlled.
- 6.2 Any resolution made under clause 6.1 must also:
  - a. include a map of the alcohol control area
  - b. specify the time(s) that any prohibition or control applies, and whether the alcohol control area is permanent or temporary
  - c. if consumption, bringing in, and possession of alcohol is controlled rather than prohibited, specify the nature of the control.
- 6.3 No person shall consume, bring into, or possess alcohol in any public place (including inside a vehicle) in an alcohol control area in contravention of a resolution made under clauses 6.1 and 6.2.
- 6.4 Clause 6.3 does not apply to a person who is acting pursuant to, and in accordance with any conditions of, a consent granted under clause 12.1.

*Explanatory note: As at 01 April 2014, The Act defines a public place for the purposes of alcohol control as:*

*“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 lawfully entitled to exclude or eject any person from it; but does not include licensed premises.”*

## 7. Permanent alcohol control areas

- 7.1 Council may under clause 6.1 declare an area to be a permanent alcohol control area at all times, or for specified, repeated periods of time.
- 7.2 Council will consult in accordance with section 82 of the Act on any proposal to declare, amend or revoke a permanent alcohol control area.

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

## 8. Temporary alcohol control areas

- 8.1 Council may under clause 6.1 declare an area to be a temporary alcohol control area for a specific period not exceeding seven consecutive days.
- 8.2 Council will give public notice of a temporary alcohol control area at least 14 days before the temporary alcohol control area comes into force.

## 9. Matters to be considered before declaring alcohol control areas

- 9.1 Before declaring a permanent alcohol control area Council:
  - a. must consider views presented to the Council through consultation on the proposal to declare a permanent alcohol control area
  - b. must consider the relevant criteria in sections 147A and 147B of the Act, as applicable
  - c. may consider any other matter it considers relevant.
- 9.2 Before declaring a temporary alcohol control area Council:
  - a. must consider the relevant criteria in sections 147A and 147B of the Act, as applicable
  - b. where the temporary alcohol control area applies to an event, may 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 whether the Police will be present at the event to enforce it
- c. 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.*

## Part 3: Enforcement Powers

### 10. Enforcement

10.1 A constable may use their powers under the Act enforce this Bylaw.

10.2 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 control 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.*

## Part 4: Offences and Penalties

### 11. Bylaw breaches

11.1 Every person who breaches this bylaw commits an offence.

11.2 Every person who commits an offence under this bylaw is liable to a penalty under the Act.

*Explanatory note: As at 29 October 2013 the penalty for breaching an alcohol control bylaw is an infringement fee of \$250 under the Local Government (Alcohol Control Breaches) Regulations 2013.*

## Part 5: Exceptions

### 12. Exceptions

12.1 Council may issue a consent to any person, or class of persons, to allow the consumption, bringing in and possession of alcohol in a public place (including inside a vehicle) within an alcohol control area.

12.2 In considering an application for a consent under clause 12.1, Council will consider the following matters:

- a. The purpose of the exception
- b. The proposed duration of the exception
- c. The area of the proposed exception
- d. Whether the area is under the control of, or managed by, Council
- e. Whether any other permits are required from Council for the event
- f. Any other matter Council considers relevant

12.3 Council may prescribe conditions for any such consent, including, but not limited to:

- a. the duration of the consent

- b. the exact location to which the consent applies
  - c. the maximum number of people the consent applies to.
- 12.4 Council may by resolution made after consultation that gives effect to the requirements of section 82 of the Act:
- a. prescribe a fee for receiving and processing an application and issuing a consent
  - b. determine situations when consent fees may be remitted, refunded or waived.
- 12.5 A consent may be cancelled by Council at any time.

*Explanatory note: Exceptions for events with special licences do not require consent under clause 11.1, as they are excluded from the definition of public places that applies to this Bylaw.*

# Additional information to Alcohol Control Bylaw 2018

This document is for information purpose only and does not form part of this Bylaw. It contains matters made pursuant to this Bylaw and information to help users to understand, use and maintain this Bylaw. The document may be updated at any time.

## Section 1: History of Bylaw

Action	Description	Date of decision	Commencement
Expire	Liquor Management Bylaw 2011 expires in accordance with Local Government (Alcohol Reform) Amendment Act 2012	NA	18 December 2018
Make	Alcohol Control Bylaw 2018	13 December 2018	19 December 2018

## Section 2: Related documents

Document	Description	Location	Date
<b>Reports to Council/Committee/Panels</b>			
Briefing	Overview of policy analysis, legislative requirements and consultation approach	<a href="#">Council meetings webpage - link</a>	31 July 2018
Adoption of Statement of Proposal	Statement of Proposal including draft Bylaw adoption for public consultation	<a href="#">Council meetings webpage - link</a>	30 August 2018
Hearing	Hearing for interested parties to share their views in person	NA – hearing cancelled	NA
Deliberations	Deliberations on submission issues raised	<a href="#">Council meetings webpage - link</a>	13 November 2018
Making of Bylaw	Council makes final Bylaw	<a href="#">Council meetings webpage - link</a>	13 December 2018
<b>Legislation</b>			
Local Government Act 2002	Provides the functions, duties, powers and penalties to make and enforce this Bylaw.	<a href="http://www.legislation.govt.nz">www.legislation.govt.nz</a>	NA
Sale and Supply of Alcohol Act 2012	Associated legislation	<a href="http://www.legislation.govt.nz">www.legislation.govt.nz</a>	NA
Local Government (Alcohol Ban Breaches) Regulations 2013	Regulations that determines the infringement fee for breaching an alcohol ban	<a href="http://www.legislation.govt.nz">www.legislation.govt.nz</a>	NA
Bylaws Act 1910	Provides for certain matters related to the validity of bylaws.	<a href="http://www.legislation.govt.nz">www.legislation.govt.nz</a>	NA
Interpretations Act 1999	Provides for certain matters related to the interpretation of bylaws.	<a href="http://www.legislation.govt.nz">www.legislation.govt.nz</a>	NA

## Section 3: Delegations

Clause	Function, Duty, Power to be delegated	Delegated Authority	Delegation date	Delegation active date
All	All of its responsibilities, duties and powers under this bylaw, except - (a) the power to set fees (b) the power to make a decision for which a Council resolution is required (c) the power to hear and decided on any appeal process	Chief Executive	13 December 2018	19 December 2018

## Section 4: Enforcement powers

Legislative provision	Description
Section 169 and 170 of the Local Government Act 2002	A constable has powers of arrest, search and seizure in relation to alcohol bans.

## Section 5: Offences and penalties

Provision	Description of offence	Maximum fine upon conviction	Infringement fee
cl 4*	Breach of bylaw	n/a	\$250*

\*Local Government (Alcohol Ban Breaches) Regulations 2013

## Section 6 – Register of resolutions for permanent alcohol bans

Map #	Area	Operative times	Decision date	Commencement date
1	Whangarei CBD	24 hours a day, seven days a week	13/12/2018	19/12/2018
2	Kamo		13/12/2018	19/12/2018
3	Marsden Village		13/12/2018	19/12/2018
4	Matapouri		13/12/2018	19/12/2018
5	Oakura		13/12/2018	19/12/2018
6	Onerahi		13/12/2018	19/12/2018
7	Otaika		13/12/2018	19/12/2018
8	Otangarei		13/12/2018	19/12/2018
9	Otuihau; Whangarei Falls		13/12/2018	19/12/2018
10	Pataua North & South		13/12/2018	19/12/2018
11	Tikipunga		13/12/2018	19/12/2018
12	Waipu		13/12/2018	19/12/2018
13	Whananaki – Moureeses Bay		13/12/2018	19/12/2018
14	Whananaki		13/12/2018	19/12/2018
NA	All public places 300 metres landwards from the line of mean low water springs		13/12/2018	19/12/2018