



# ***Alcohol Control Bylaw 2018***

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

## **1. Title**

This Bylaw is the Alcohol Control Bylaw 2018.

## **2. Commencement**

- 2.1 This Bylaw comes into force on 19 December 2018.
- 2.2 Amendments to this Bylaw come into force on 19 December 2024.

## **3. Application**

This Bylaw applies to Whangārei District.

# **Part 1: Preliminary Provisions**

## **4. Purpose**

The purpose of this Bylaw is to reduce crime and disorder in public places that is caused or made worse by alcohol consumed in those places.

### ***Related information:***

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

Alcohol bans do not apply to licensed premises, which can include situations where a special licence 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 can also issue infringement notices.

## 5. *Interpretation*

5.1 Any word used in this Bylaw that is defined in sections 5, 147, 169, 169A or 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;

**Whangārei District** means the area within the boundaries of the Whangārei District and includes all coastal areas to the line of mean low water springs.

5.3 Any related information, attachments and links 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 bans

- 6.1 Council may, by resolution, declare an area to be an alcohol ban area where 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 ban area;
  - b. specify the time(s) that any prohibition or control applies, and whether the alcohol ban 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 may consume, bring into or possess alcohol in any public place (including inside a vehicle) in an alcohol ban area in breach 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.

#### **Related information:**

As at 29 August 2024, 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 bans

- 7.1 Council may under clause 6.1 declare an area to be a permanent alcohol ban area at all times, or for specified, recurring periods of time.
- 7.2 Council will consult in accordance with Part 6 of the Act on any proposal to declare, amend or revoke a permanent alcohol ban.

#### **Related information:**

All resolutions of Council declaring permanent alcohol ban areas are included in the Register of Resolutions as additional information to this Bylaw.

## 8. *Temporary alcohol bans*

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

## 9. *Matters to be considered before declaring alcohol bans*

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

### ***Related information:***

Records of resolutions made for temporary alcohol bans will not be included in the Register of Resolutions, but are permanently recorded through 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 to enforce this Bylaw.

#### **Related information:**

Section 169 of the Act provides constables with powers of arrest, search and seizure to enforce alcohol bans. Constables must first give people the opportunity to remove any alcohol from the permanent alcohol ban area before carrying out a search.

10.2 In the case of a temporary alcohol ban declared under clauses 6 and 8 of this Bylaw, a constable may exercise the power of immediate search under section 170(2) of the Act.

#### **Related information:**

Section 170(2) of the Act provides constables with additional powers of search in relation to temporary alcohol bans that have been notified and indicated by signage 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.

#### **Related information:**

As at 29 August 2024, 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 ban 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.







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