

HOROWHENUA DISTRICT COUNCIL LIQUOR BYLAW 2004

The Horowhenua District Council in pursuance of the powers contained in the Local Government Act 2002, the Bylaws Act 1910 and any other authority enabling the Council in that behalf makes the following Bylaw.

1. TITLE AND COMMENCEMENT

This Bylaw shall be known as "The Horowhenua District Council Liquor Bylaw 2004" and shall come into effect on the day 2nd day of September 2004.

2. SCOPE

The Bylaw is made under the authority of Section 147 of the Local Government Act 2002. The primary purpose of this bylaw is to enhance safety and the public enjoyment of public places in a reasonable manner by providing for liquor control in specified areas to reduce the incidence of alcohol related offences.

3. DEFINITIONS AND INTERPRETATION

In this Bylaw, if not inconsistent with the context:

- "Act" means the Local Government Act 2002.
- "Council" means the Horowhenua District Council.
- "Enforcement Officer" means a person appointed by the Council pursuant to s177 of the Local Government Act 2002 to exercise the powers of an Enforcement Officer.
- "Liquor" has the meaning given to it in the Sale of Liquor Act 1989.
- "Liquor prohibition" means a prohibition specified in this Bylaw, on the consumption of liquor, the bringing of liquor into, and the possession of liquor, in a designated public place (subject to the prescribed exceptions in Section 147 (3) of the Local Government Act 2002).
- "Member of the Police" means a sworn member of the Police appointed under the Police Act 1958.
- "Offence" means an offence under Section 239 of the Local Government Act 2002 that is a breach of this bylaw.
- "Public Holiday" has the meaning given to it in the Holidays Act 1981 and any amendments to that Act.
- "Public Place" means a place:
 - (i) That is under the control of the Council; and
 - (ii) That is open to, or being used by, the public, whether or not there is a charge for admission; and includes
 - (i) A road, whether or not the road is under the control of the Council; and
 - (ii) Any part of a public place.

4. ENFORCEMENT POWERS UNDER THIS BYLAW

4.1 Powers of Search

Where Council has resolved to prohibit the consumption or possession of liquor in any public place, the requirements on Police relating to Search, Seizure and Arrest are detailed in Clause 4.2.

4.2 Powers of Search, Seizure and Arrest

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 against this bylaw.
- (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.

4.3 Before exercising the power of search under Clause 4.2(a) in relation to a container or a vehicle, a member of the police must -

- (a) inform the person in possession of the container or the vehicle, as the case may be, that he or she has the opportunity of removing the container or the vehicle from the public place; and
- (b) provide the person with a reasonable opportunity to remove the liquor or the vehicle, as the case may be, from the public place.

4.4 **Power to Request Name and Address**

Any person whom an Enforcement Officer or member of the Police believes on reasonable grounds is committing or has committed an offence against this bylaw fails or refuses when required by the Enforcement Officer or member of the Police to give his/her name and/or address, or give a false name and/or address, he/she shall be guilty of an offence against the Act and liable on conviction to a fine not exceeding \$5,000.

5. **PUBLIC PLACES**

5.1 The places listed below are designated by this part of this Bylaw as public places in respect of which the consumption of liquor, the bringing of liquor into and the possession of liquor in those places is prohibited on the days of the week and during the hours prescribed for each place:

5.1.1 *Waitarere Beach.* This public place is the area known as Waitarere Beach depicted on the map as Appendix 1, and includes all reserves, formed and unformed public roads, thoroughfares, walkways, access ways and vehicle parking areas located within the boundaries specified.

Liquor Prohibition. A liquor prohibition applies in this public place from:

- (a) 5.00 pm on Guy Fawkes evening until 7.00 am on the day following, of each year

- (b) 5.00 pm on New Year's Eve evening until 7.00 am of New Year's Day of each year.

5.1.2 *Foxton Beach*. This public place is the area known as Foxton Beach depicted on the map as Appendix 2, and includes all reserves, formed and unformed public roads, thoroughfares, walkways, access ways and vehicle parking areas located within the boundaries specified.

Liquor Prohibition. A liquor prohibition applies in this public place from:

- (a) 5.00 pm on Guy Fawkes evening until 7.00 am on the day following, of each year
- (b) 5.00 pm on New Year's Eve evening until 7.00 am of New Year's Day of each year.

5.1.3 *Hokio Beach*. This public place is the area known as Hokio Beach depicted on the map as Appendix 3, and includes all reserves, formed and unformed public roads, thoroughfares, walkways, access ways and vehicle parking areas located within the boundaries specified.

Liquor Prohibition. A liquor prohibition applies in this public place from:

- (a) 5.00 pm on Guy Fawkes evening until 7.00 am on the day following, of each year
- (b) 5.00 pm on New Year's Eve evening until 7.00 am of New Year's Day of each year.

5.1.4 *Waikawa Beach*. This public place is the area known as Waikawa Beach depicted on the map as Appendix 4, and includes all reserves, formed and unformed public roads, thoroughfares, walkways, access ways and vehicle parking areas located within the boundaries specified.

Liquor Prohibition. A liquor prohibition applies in this public place from:

- (a) 5.00 pm on Guy Fawkes evening until 7.00 am on the day following, of each year
- (b) 5.00 pm on New Year's Eve evening until 7.00 am of New Year's Day of each year.

5.1.5 *Levin CBD*. This public place is the area known as Levin CBD depicted on the map as Appendix 5, and includes all reserves, formed and unformed public roads, thoroughfares, walkways, access ways and vehicle parking areas located within the boundaries specified, including the Sunrise Projects Limited carpark of Levin New World Supermarket, 21 Bath Street, Levin, and Write Price Foodbarn, 508 Queen Street, Levin.

Liquor Prohibition. A liquor prohibition applies in this public place at all times.

5.1.6 *Foxton CBD*. This public place is the area known as Foxton CBD depicted on the map as Appendix 6, and includes all reserves, formed and unformed public roads, thoroughfares, walkways, access ways and vehicle parking areas located within the boundaries specified.

Liquor Prohibition. A liquor prohibition applies in this public place at all times.

5.1.7 *Shannon CBD.* This public place is the area known as Shannon CBD depicted on the map as Appendix 7, and includes all reserves, formed and unformed public roads, thoroughfares, walkways, access ways and vehicle parking areas located within the boundaries specified.

Liquor Prohibition. A liquor prohibition applies in this public place at all times.

5.1.8 *Jubilee Park, Levin.* This public place is designated as the Jubilee Park site and includes all footpath areas bounding this site along Bath Street and Parker Avenue, Levin.

Liquor Prohibition. A liquor prohibition applies in this public place at all times.

6. EXCEPTIONS FROM THIS BYLAW FOR TRANSPORTATION OF LIQUOR

6.1 There is no offence against this Bylaw where liquor has been purchased from an Off Licensed premise within the Liquor Ban area, and is being transported in an unopened state from this area.

7. EXCEPTIONS FROM THIS BYLAW FOR LICENSED PREMISES

7.1 Prohibitions in this Bylaw do not apply -

- Liquor sold by premises in a liquor ban area, under the Sale of Liquor Act 1989, in an unopened state.
- Liquor being transported in an unopened state from premises in a liquor ban area, licensed for the sale and/or consumption of liquor under the Sale of Liquor Act 1989;
- Where in compliance with a licence for the sale and/or consumption of liquor under the Sale of Liquor Act 1989, liquor is allowed to be consumed in the areas that are licensed as part of the liquor licence where they may be established in a liquor ban area.

8. POWER OF WAIVER, DISPENSATION AND SUSPENSION FOR SPECIAL EVENTS

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

8.2 Such a waiver, dispensation or suspension of operation of any part of this bylaw shall be granted only in respect of specific time periods and specific locations associated with the special event, to enable better enjoyment of the event by members of the public.

8.3 In considering any such application, the person responsible for making a decision shall obtain and consider a response from New Zealand Police to the request, including the reasons for that response.

- 8.4 Where any such waiver, dispensation or suspension is granted, public notice of the waiver, dispensation or suspension should be given by public notice advertisement in a daily newspaper circulating the Horowhenua District at least 6 days prior to the commencement of the period when the waiver, dispensation or suspension commences.
- 8.5 A fee or charge may be payable by the applicant to cover any direct costs or outgoings associated with the public notice and/or obtaining a police response to the application under this section. This fee or charge may be refunded, remitted or waived at the discretion of the Chief Executive of the Horowhenua District Council, or his/her nominated representative.
- 8.6 Nothing in this Section over-rides any conditions in the Sale of Liquor Act 1989 pertaining to Special Licences requirements.

9. ADDITION OR DELETION OF PUBLIC PLACES

- 9.1 The Council may from time to time add other public places to which the provisions of this bylaw shall then apply, or in like manner may delete public places in respect of which it considers this bylaw should no longer apply. In any case, the Special Consultative Procedure shall be used.

10. BREACH OF BYLAW AND PENALTY

- 10.1 Any person who acts in breach of any provision of this bylaw commits an offence and on summary conviction is liable to a fine not exceeding \$20,000.

The foregoing Bylaw was duly made by the Horowhenua District Council by a resolution passed on the 9th day of March 2004 and was confirmed following consideration of community submissions received during a special consultation procedure, by a resolution passed on 1st September 2004.

The Common Seal of the)
HOROWHENUA DISTRICT COUNCIL)
was hereunto affixed in the presence of:)

_____ Mayor

_____ Chief Executive

APPENDIX 1

APPENDIX 2

APPENDIX 3

APPENDIX 4

APPENDIX 5

APPENDIX 6

APPENDIX 7