



Kaipara District Council

Alcohol Control Bylaw 2018

Comment

1 Title1

2 Commencement1

3 Application1

4 Purpose.....1

5 Interpretation.....1

6 Alcohol Controls.....2

7 Permanent Alcohol Control Areas2

8 Temporary Alcohol Control2

9 Matters to be considered before declaring alcohol control areas.....3

10 Enforcement.....3

11 Bylaw Breaches4

12 Exceptions4

13 Additional Information To Alcohol Control Bylaw 20185

1 Title

This bylaw is the Alcohol Control Bylaw 2018.

2 Commencement

19 December 2018.

3 Application

This bylaw applies to the Kaipara district.

Part 1 – Preliminary Provisions

4 Purpose

The purpose of this bylaw is to provide for prohibition and control of the consumption 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 s147 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 they can also issue infringement notices.

5 Interpretation

- (1) Any word used in this bylaw that is defined in s5, s147, s169, s169A and s243 of the Local Government Act 2002, or s5 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.
- (2) In this bylaw, unless the context otherwise requires:

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|------------------|--|
| Act | means the Local Government Act 2002. |
| Council | means the Kaipara District Council. |
| Kaipara district | means the area within the boundaries of the Kaipara District and includes all coastal areas to the line of mean low water springs. |
- (3) Any explanatory notes and attachments are for information purposes only and do not form part of this bylaw.
- (4) The Interpretation Act 1999 applies to this bylaw.

Part 2 – Control Of Alcohol

6 Alcohol Controls

- (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.
- (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 permeant or temporary;
 - c) If consumption, bringing and possession of alcohol is controlled rather than prohibited, specify the nature of the control.
- (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).
- (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 12(1).

Explanatory note

As at 01 April 2014, The Act defines a public place for the purposes of an alcohol control area 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.”

A private residence is not considered a public place and other buildings may or may not be considered a public place depending on the reason for their use. Please contact Council for more information.

7 Permanent Alcohol Control Areas

- (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.
- (2) Council will consult in accordance with the principles of consultation in s82 of the Act on any proposal to declare, amend or revoke a permanent alcohol control area.

Explanatory note

All resolutions of Council declaring alcohol bans are contained within the additional information to Alcohol Control Bylaw 2018, register of resolutions, attached to this bylaw. Each resolution will define the specified area and state the period of time(s) that the alcohol ban applies.

8 Temporary Alcohol Control

- (1) Council may under clause 6(1) declare an area to be a temporarily alcohol control area for a specific period not exceeding seven consecutive days.

- (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

- (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.
- (2) Before declaring a temporary alcohol control area the 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:
 - i. may consider 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 bans 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

- (1) A constable may use their powers under the Act to enforce this bylaw.
- (2) This bylaw authorises a constable to exercise the power of search under s169(2)(a) and s170(2) of the Act for temporary alcohol areas declared in accordance with clauses 6 and 8.

Explanatory note

S170(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 s170(3) of the Act.

Part 4: Offences And Penalties

11 Bylaw Breaches

- (1) Every person who breaches this bylaw commits an offence.
- (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 Ban Breaches) Regulations 2013.

Part 5: Exceptions

12 Exceptions

- (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.
- (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.
- (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.
- (3) Council may by resolution, made after public consultation that gives effect to the requirements of s82 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.
- (4) 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 as they are excluded from the definition of public places that applies to this bylaw.

13 Additional Information To Alcohol Control Bylaw 2018

Part 13 is for information purposes only and does not form part of this bylaw. It contains matters made pursuant to this bylaw to help users to understand, use and maintain this bylaw. The document may be updated at any time.

Register of resolutions for permanent alcohol bans

| General location description | Map number | Operative time | Decision date | Commencement date |
|------------------------------|------------|---|---------------|-------------------|
| Mangawhai | 1 | Continuously 24hours a day from 8.30pm 22 December through to 7.00am 13 January the following year and from 8.30pm to 7.00am (10.5hours) for every other day of the year starting on 13 January at 8.30pm and ending 22 December at 7.00am each year. | 29/11/2018 | 19/12/2018 |
| Ruawai | 2 | 24hours a day every day of the year | 29/11/2018 | 19/12/2018 |
| Dargaville | 3 | 24hours a day every day of the year | 29/11/2018 | 19/12/2018 |
| Te Kopuru | 4 | 8.30pm to 7.00am the following day all year round | 29/11/2018 | 19/12/2018 |
| Pouto | 5 | 8.30pm to 7.00am the following day all year round | 29/11/2018 | 19/12/2018 |
| Glinks Gully | 6 | 8.30pm to 7.00am the following day all year round | 29/11/2018 | 19/12/2018 |
| Baylys Beach | 7 | 8.30pm to 7.00am the following day all year round | 29/11/2018 | 19/12/2018 |
| Omamari | 8 | 8.30pm to 7.00am the following day all year round | 29/11/2018 | 19/12/2018 |

| General location description | Map number | Operative time | Decision date | Commencement date |
|------------------------------|------------|---|---------------|-------------------|
| Aranga | 9 | 8.30pm to 7.00am the following day all year round | 29/11/2018 | 19/12/2018 |
| Kaihu | 10 | 8.30pm to 7.00am the following day all year round | 29/11/2018 | 19/12/2018 |
| Tinopai | 11 | 8.30pm to 7.00am the following day all year round | 29/11/2018 | 19/12/2018 |

Register of resolutions for temporary alcohol bans

| General location description | Map number | Operative days / time | Decision date |
|------------------------------|------------|-----------------------|---------------|
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