



KAWERAU DISTRICT COUNCIL

Alcohol Control Bylaw 2022

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Explanatory Statement

The Kawerau District Council wishes to address issues of inappropriate, annoying and offensive behaviour arising from alcohol consumption in public places.

The Kawerau District Council has determined that a Bylaw is the most appropriate mechanism to address these issues and to enhance public safety and community well-being without unduly restricting public rights. The objective of this Bylaw is to help, protect the public from nuisance and promote and maintain public health and safety.

The Bylaw is made under the powers granted to territorial authorities by Part 8 of the Local Government Act 2002.

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Kawerau District Council Alcohol Control Bylaw 2022

1 Title and Commencement

This Bylaw may be cited as “The Kawerau District Council Alcohol Control Bylaw 2022” and shall come into force on 23 September 2022.

2 Purpose

The purpose of this Bylaw is to control the consumption of alcohol in public places to reduce alcohol related harm.

3 Interpretation

For the purpose of this Bylaw the following definitions shall apply:

Alcohol has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012 (or any subsequent legislation in amendment of, or substitution for, the same).

Bylaw means the Kawerau District Council Alcohol Control Bylaw 2022.

Council means the Kawerau District Council.

Public Place has the meaning given by section 147 of the Local Government Act 2002 (or any subsequent legislation in amendment of, or substitution for, the same).

Offence means an offence under Section 239A of the Local Government Act 2002 that is a breach of this Bylaw (or any subsequent legislation in amendment of, or substitution for, the same).

Vehicle has the meaning as contained in section 2(1) of the Land Transport Act 1998 (or any subsequent legislation in amendment of, or substitution for, the same).

4 Alcohol-Free Area

4.1 Alcohol Free Areas are public places specified in Schedule 1. The following acts are prohibited 24 hours a day 7 days a week:

- a) the consumption of alcohol in an alcohol-free area.
- b) bringing of alcohol into an alcohol-free area.
- c) possession of alcohol in an alcohol-free area.
- d) use of a vehicle, in conjunction with an act relating to alcohol as set out in clauses 4.1 a to c.

5 Temporary Alcohol-Free Area

5.1 The Council may from time to time, by notified resolution, specify public place/s, events and/or timeframes to which this Bylaw shall apply. This is referred to as a temporary alcohol-free area.

5.2 The following acts are prohibited at the place and for the timeframe as set out in the notified resolution made under clause 5.1:

- a) the consumption of alcohol.

- b) bringing of alcohol into a temporary alcohol-free area.
- c) possession of alcohol in a temporary alcohol-free area.
- d) use of a vehicle, in conjunction with an act relating to alcohol as set out in clauses 4.1 a to c.

6 Special Licences

- 6.1 Clause 4 and 5 of this Bylaw shall not apply to the consumption or possession of alcohol acquired pursuant to a special licence granted by Council under the Sale and Supply of Alcohol Act 2012 for a special public event held within a specified alcohol-free area, when the alcohol is being consumed within that area as part of the public event. (Special licence applications must be received 20 working days prior to event – applications available on Kawerau District Councils website).

7 Dispensation

- 7.1 The Chief Executive Officer of Council may, on written request by any person including a Council Officer, grant a dispensation of operation of any part of the Bylaw for the purpose of enabling consumption and/or possession of alcohol in a public place at the time of any special event. (Dispensation requests must be received 14 working days prior to event – points to cover in request are available on the Kawerau District Council website)
- 7.2 In considering an application for dispensation, the decision maker shall obtain and consider the opinion of the NZ Police before determining the outcome.
- 7.3 Any dispensation, of any part of this Bylaw shall be granted only in respect of specific location and timeframe associated with the special event, for the purpose of enabling better enjoyment of the event by members of the public.
- 7.4 The provisions of clauses 4 shall not apply to any public place or specified part of that public place in respect of which a dispensation has been granted.
- 7.5 Public notification of any dispensation approved may be advertised in a newspaper circulating in Kawerau District and on the Council website and facebook page for at least 7 days prior to the commencement of the dispensation.
- 7.6 A fee may be charged to the applicant for the dispensation to cover any direct costs associated with processing the application, including the public notice and/or obtaining a police response to the application under this clause. This fee may be refunded, remitted, or waived at the discretion of the Chief Executive.

8 Exceptions to Bylaw

- 8.1 Exceptions to clauses 4 and 5 of this Bylaw are set out in section 147(4) of the Local Government Act 2002 (or any subsequent legislation in amendment of, or substitution for, the same). Section 147(4) of the Local Government Act 2002 states -

A bylaw under this section does not prohibit, regulate, or control, in the case of alcohol in an unopened container -

- (a) the transport of the alcohol from licensed premises next to a public place, if—
 - (i) it was lawfully bought on those premises for consumption off those premises; and
 - (ii) it is promptly removed from the public place; or
- (b) the transport of the alcohol from outside a public place for delivery to licensed premises next to the public place; or
- (c) the transport of the alcohol from outside a public place to premises next to a public place by, or for delivery to, a resident of the premises or his or her bona fide visitors; or
- (d) the transport of the alcohol from premises next to a public place to a place outside the public place if—
 - (i) the transport is undertaken by a resident of those premises; and
 - (ii) the alcohol is promptly removed from the public place.

8.2 Licensed Premises - Any land where the sale of alcohol is authorised by any licence granted under the Sale and Supply of Alcohol Act 2012 is excluded from the definition of a public place for the purpose of this Bylaw.

9 Offences and Breaches

9.1 Every person breaches this Bylaw who:

- a) does, or allows anything to be done, which is contrary to this Bylaw or any part of it: or
- b) fails to do, or allows anything to remain undone, which ought to be done within the time and in the manner required by this Bylaw or any part of it; or
- c) does anything which this Bylaw prohibits; or
- d) fails to comply with any notice given under this bylaw or any part of it or any condition of a consent or licence granted by Council; or
- e) obstructs or hinders any Council Officer or other Council appointed person in performing any duty or in exercising any power under this Bylaw.

9.2 Every person who breaches this Bylaw commits an offence and may be issued an infringement notice as set out in section 239A of the Local Government Act 2002.

10 Notices

10.1 Council may give notice to any person in breach of this Bylaw to carry out any remedial action in order to comply with the Bylaw and every such notice shall state the timeframe in which the remedial action is to be carried out and may be extended from time to time.

11 Powers of Arrest, Search and Seizure

11.1 A member of the Police may, in any prohibited or restricted alcohol area, without warrant enforce this Bylaw using the power of search, seizure and arrest as set out in s169 (2) and (3) of the Local Government Act 2002. Police actions must be completed in accordance with s170 of the Local Government Act 2002.

Section 169 (2) Local Government Act 2002

(2) A constable may, without warrant

- (a) for the purpose of ascertaining whether alcohol is present, search -

- (i) a container (for example, a bag, case, package, or parcel) in the possession of a person who is in, or entering, a restricted place; or
- (ii) a vehicle that is in, or is entering, a restricted place:
- (b) seize and remove any alcohol (and its container) that is in a restricted place in breach of an alcohol ban:
- (c) arrest any person whom the constable finds committing an offence:
- (d) arrest any person who has refused to comply with a request by a constable—
 - (i) to leave a restricted place; or
 - (ii) to surrender to a constable any alcohol that, in breach of an alcohol ban is in the person’s possession.
- (3) Alcohol or a container seized under subsection (2)(b) is forfeited to the Crown if the person from whom the alcohol or container is seized pays the infringement fee.

12 Penalties

12.1 Every person who commits an offence against this Bylaw is liable for an infringement pursuant to 239A of the Local Government Act 2002.

13 Revocations and changes

13.1 The Liquor Control Bylaw 2009 is hereby revoked.

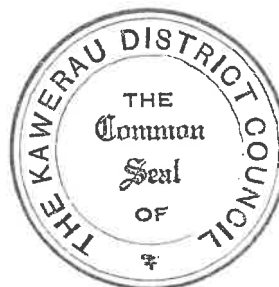
13.2 The Kawerau District Council Alcohol Control Bylaw 2022 was duly made by a resolution passed at a meeting of the Kawerau District Council held on 20 September 2022 following a special consultative procedure.

The Common Seal of the
Kawerau District Council
 was affixed hereto in the presence of:

.....
 Mayor

.....
 Chief Executive Officer

.....
 Date



FIRST SCHEDULE – ALCOHOL FREE AREAS

The following places shown in map 1, are Alcohol Free areas 24 hours a day and 7 days a week:

- Kawerau Town Centre bounded by and including Islington Street, Onslow Street and Plunket Street.
- The area from Onslow Street by the Navalmen's Club through to and including Prideaux Park. This includes the areas around the Ron Hardie Recreation Centre such as the circus paddock, outdoor basketball courts, BMX track and skateboard park.
- Tamarangi Drive from Parimahana Drive to Short Street (including Liverpool Street and Islington Street).
- Keith McKenzie Park

MAP 1



FIRST SCHEDULE – ALCOHOL FREE AREAS

The following place shown in map 2, is an Alcohol-Free areas 24 hours a day and 7 days a week:

- Stoneham Walk

MAP 2



FIRST SCHEDULE – ALCOHOL FREE AREAS

The following places shown in map 3, is an Alcohol-Free areas 24 hours a day and 7 days a week:

- The Kawerau Cemetery

MAP 3

