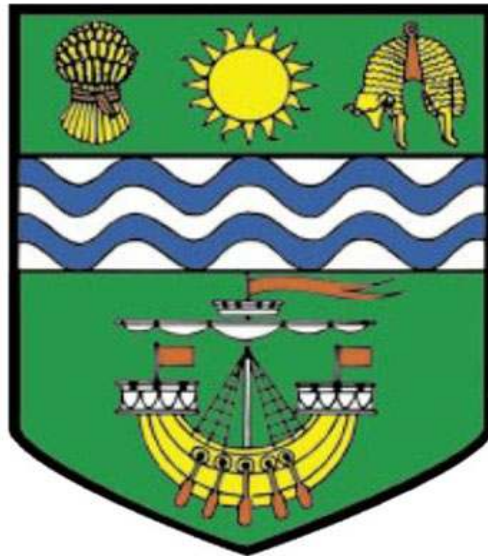


# **CENTRAL HAWKE'S BAY DISTRICT COUNCIL BYLAWS**



## **Part 29 – Liquor Control in Public Places**

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# Contents

Explanatory Note .....	2
Copyright .....	2
Referenced Documents .....	2
Foreword .....	3
<b>Section</b>	
2900 General .....	4
2900.1 Scope .....	4
2900.2 Definitions .....	4
2900.3 Interpretation .....	4
2901 Designation of Specified Public Places, Days and Times .....	5
2902 Designation of Specified Events and Periods .....	5
2903 Offences Prohibited in Specified Public Places .....	5
2903.1 Offences .....	5
2903.2 Vehicles .....	6
2904 Exceptions .....	6
2904.1 Licensed Premises .....	6
2904.2 Other Premises .....	6
2904.3 Special Licences .....	6
2904.4 Dispensation .....	6
2905 Powers of the Police .....	7
2905.1 General Powers .....	7
2905.2 Powers for Specified Events and Places .....	7
2905.3 Conditions Relating to Power of Search .....	8
2906 Signage .....	8
2910 Bylaw Approval Date .....	8
<b>APPENDIX</b>	
Schedule A Specified Public Places, Days and Times - Waipukurau .....	9
<i>Plan A - Map 1</i> .....	10
Schedule B Specified Public Places, Days and Times - Waipawa .....	11
<i>Plan B - Map 1</i> .....	12
<i>Plan B - Map 2</i> .....	13

## **Explanatory Note**

This Bylaw is based on the Model General Bylaw NZS9201:Part 29:2007 Liquor Control in Public Places as compiled by Standards New Zealand. This Bylaw amends that Standard as necessary to meet the requirements of the Central Hawke's Bay District Council.

## **Copyright**

The copyright of the Model General Bylaw NZS9201:Part 29:2007 Liquor Control in Public Places is the property of the Standards Council. The copying and amendment of the Model Bylaw has been carried out by a Territorial Authority in the process of preparing its local bylaw, as permitted by the Standards Council.

## **Referenced Documents**

Reference is made in this document to the following:

### **New Zealand Standard**

NZS 9201.1:- Model General Bylaws - Introductory

### **New Zealand Legislation**

- Local Government Act 2002
- Sale of Liquor Act 1989

**Foreword**

The CHBDC Bylaws series covers various matters under territorial authority jurisdiction. Territorial authorities are empowered under the Local Government Act 2002 to make liquor control Bylaws.

This CHBDC Bylaw is based on the Model General NZ Standard Liquor Control in Public Places Bylaw prepared by Standards New Zealand. The Model General has been reviewed by technical staff and amendments have been made where required to meet the requirements of the Central Hawke's Bay District Council. Further updates have been made where necessary to reflect changes in related legislation.

The purpose of this bylaw is to cover such matters as specification of public places, days and times where the Liquor Control Bylaw applies, outline the powers of the Police and detail exemptions to the Bylaw, and it should be read in conjunction with the Local Government Act 2002, sections 147, 169 and 170.

Reference should be made to CHBDC:Part 1 Introductory for any other definitions not included in this Part.

# CHBDC BYLAWS

## Part 29 - LIQUOR CONTROL IN PUBLIC PLACES

### 2900 GENERAL

#### 2900.1 Scope

The Local Government Act 2002, section 147, gives authority to territorial authorities to adopt bylaws to regulate activities which can be carried out in roads, public places and reserves. The purpose of this Bylaw is to enhance safety and the public enjoyment of public places by providing for liquor control in specified public places, and for specified days, times and events.

#### 2900.2 Definitions

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

**Liquor** - As defined in the Sale of Liquor Act 1989.

**Offence** - Means an offence under section 239 of the Local Government Act 2002.

**Public Place** - As defined under section 147 of the Local Government Act 2002. A place that:

- (a) is under the control of the territorial authority; and
- (b) is open to, or being used by, the public, whether or not there is an admission charge.

Public places also include:

- (c) a road, whether or not the road is under the control of the territorial authority; and
- (d) any part of a public place.

**Specified Day** - A specific day or part of a day identified in this Bylaw, or in a territorial authority resolution passed for the purposes of this Bylaw, and to which the prohibitions and controls of this Bylaw apply to any specified public place or specified event.

**Specified Event** - An event identified in this Bylaw or in a territorial authority resolution passed for the purpose of this Bylaw, and to which the prohibitions and controls in this Bylaw apply. Refer to conditions applying in section 170 of the Local Government Act 2002.

**Specified Period** - A period specified in this Bylaw, or in a territorial authority resolution passed for the purpose of this Bylaw, and in respect of which the prohibitions and controls in this Bylaw will apply to any specified public place or event.

**Specified Public Place** - A public place specified in this Bylaw, and in respect of which the prohibitions and controls in this Bylaw will apply at any specified time, day or event. Does not include any part of a place for which a liquor licence has been issued under the Sale of Liquor Act 1989.

#### 2900.3 Interpretation

For the purposes of this Standard, the word 'shall' refers to practices that are mandatory for compliance with this Standard, while the word 'should' refers to practices that are advised or recommended.

## **2901 DESIGNATION OF SPECIFIED PUBLIC PLACES, DAYS AND TIMES**

Specified public places, days and times shall be described in the Appendix to this Bylaw within Schedules A and B.

### *NOTE -*

Before specifying a public place under this section, the territorial authority should consider:

- (a) information about the nature of the locality and the reasons why the prohibition or control is being sought;
- (b) Whether liquor is likely to be present in a public place on the days or during the periods specified;
- (c) The scale and nature of the area proposed for the prohibition or control;
- (d) Whether or not private rights will be unnecessarily or unjustly compromised;
- (e) Whether it is necessary to consult the public to gauge community views on a proposed prohibition or control;
- (f) Any recommendations, advice or other comments received from the Police and other emergency services in relation to the proposal; and
- (g) Any other information considered to be relevant.

## **2902 DESIGNATION OF SPECIFIED EVENTS AND PERIODS**

In addition to designating specified public places, days and times, as in Section 2901, the territorial authority by resolution may order a prohibition of liquor consumption or possession (including while in a vehicle) in a public place for certain specified periods, times and / or within certain specified public places or areas for specified events. The prohibition shall be notified subject to section 170 of the Local Government Act 2002.

## **2903 OFFENCES PROHIBITED IN SPECIFIED PUBLIC PLACES**

### **2903.1 Offences**

Every person who breaches this Bylaw commits an offence under section 239 of the Local Government Act 2002 and is liable, upon summary conviction, to a fine not exceeding \$20,000.

Any person commits an offence who:

- (a) brings liquor into,
- (b) possesses liquor in, or
- (c) consumes liquor in any specified public place or during any specified period or event in breach of a prohibition under this Bylaw.

## 2903.2 Vehicle

It shall also be an offence to possess or consume liquor in any vehicle while in any specified public place, or during any specified period or event, in breach of a prohibition under this Bylaw except for the exceptions given under Sections 2904.1 and 2904.2

## 2904 EXCEPTIONS

### 2904.1 Licensed Premises

As provided for in section 147(3) of the Local Government Act 2002, this Bylaw does not prohibit, in the case of liquor in an unopened bottle or other unopened container:

- (a) the transport of that liquor from premises that adjoin a specified public place during any period when, under the Sale of Liquor Act 1989, it is lawful to sell liquor on those premises for consumption off the premises, provided that the liquor is promptly removed from the specified public place;
- (b) the transport of that liquor from outside a specified public place for delivery to premises that adjoin the specified public place, provided the premises are licensed for sale under the Sale of Liquor Act 1989.

For the purpose of clarity, this Bylaw does not prohibit the consumption or possession of liquor in a place with a liquor licence which has been issued under the Sale of Liquor Act 1989.

### 2904.2 Other Premises

In addition to Section 2904.1, this Bylaw does not prohibit, in the case of liquor in an unopened bottle or other unopened container:

- (a) the transport of that liquor from those premises that adjoin a specified public place to a place outside the specified public place by a resident's *bona fide* visitors, provided the liquor is promptly removed from the specified public place;
- (b) the transport of liquor from outside a specified public place by, or for delivery to, a resident of premises adjoining the specified public place.

### 2904.3 Special Licences

This Bylaw does not limit any individual or organisation (corporate or otherwise) in obtaining a Special Licence pursuant to section 73 of the Sale of Liquor Act 1989, for any event to be held in a specified public place.

### 2904.4 Dispensation

The Chief Executive of the territorial authority may, on application by any person including a territorial authority 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.

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.

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

When any such waiver, dispensation or suspension is granted, public notice of the waiver, dispensation or suspension shall be given by public notice advertisement in a newspaper circulating in the district at least 14 days prior to the commencement of the period when the waiver, dispensation or suspension commences.

The applicant may be required to pay the territorial authority a fee or charge to cover any actual and reasonable costs associated with the public notice, processing the application or obtaining a Police response to the application under Section 2904.

## **2905 POWERS OF THE POLICE**

### **2905.1 General Powers**

In specified public places, or at specified events, in accordance with sections 169 and 170 of the Local Government Act 2002, Police may:

- (a) For the purpose of ascertaining whether liquor is present search:
  - (i) a container (e.g. a parcel, package, bag or case) in the possession of a person who is in, or entering, a specified public place
  - (ii) a vehicle that is in, or is entering, a specified public place;
- (b) Seize and remove liquor and its container if the liquor is in a public place in breach of the Bylaw;
- (c) Arrest a person the Police finds committing an offence;
- (d) Arrest a person who has refused to comply with a request by a member of the Police:
  - (iii) to leave the public place, or
  - (iv) to surrender to a member of the Police the liquor that, in breach of the Bylaw, is in the person's possession.

### **2905.2 Powers for Specified Events and Places**

In addition to their general powers under sections 169 and 170 of the Local Government Act 2002, the Police may:

- (a) exercise the power under section 170(2) of the Act (to search a container or a vehicle without further notice) on specified times and dates; or
- (b) exercise powers under section 170(2) of the Act in relation to specified events and specified public places which may be notified by the territorial authority from time to time in accordance with section 170(3) of the Act, by public notice a minimum of 14 days in advance of any prohibition.

*NOTE* - A territorial authority may choose whether or not to make express provision in the Bylaw, under section 147 of the Local Government Act 2002, to enable the Police to invoke the powers specified in 6.2 (see Local Government Act 2002 section 170 (4)).

**2905.3 Conditions Relating to Power of Search**

**2905.3.1 General**

Before exercising the power of search under Sections 2905.1 and 2905.2 in relation to a container or a vehicle, a member of the Police shall:

- (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 container or the vehicle, as the case may be, from the public place.

**2905.3.2 Specified Dates and Events**

However, on specified dates or in relation to specified events, notified in accordance with Section 2902, a member of the Police may, immediately and without further notice, exercise the power under Sections 2905.1 and 2905.2 to search a container or a vehicle.

Before a member of the Police may exercise the power of search under Sections 2905.1 and 2905.2, the territorial authority shall:

- (a) specify the public place (in accordance with Sections 2901 and 2902) where, and the period when, this power may be exercised by the Police by public notice given 14 days in advance in accordance with the Local Government Act 2002; and
- (b) indicate the location of the public place by one or more clearly legible notices affixed in one or more conspicuous places on, or adjacent to, the place to which the notice relates, unless it is impracticable or unreasonable to do so.

The above powers only apply if the member of the Police is authorised to exercise that power by a bylaw made under section 147 of the Local Government Act 2002.

**2906 SIGNAGE**

The territorial authority shall erect signage within public places covered by this Bylaw to provide information to the public on the terms of the Bylaw. The size, location and content of this signage shall be at the territorial authority’s discretion. To avoid any doubt, the temporary absence of signage in any public place does not authorise breach of this Bylaw.

**2910 BYLAW APPROVAL DATE**

The Common Seal of the Central Hawke's Bay District Council was attached, under Resolution (*Reference - CHBDC:Part29:2008*) passed at a meeting of the Central Hawke's Bay District Council held on ..... (Day) ..... (Month) ..... (Year).

**APPENDIX - SPECIFIED PUBLIC PLACES****SCHEDULE A - WAIPUKURAU LIQUOR BAN****Specified Public Places.**

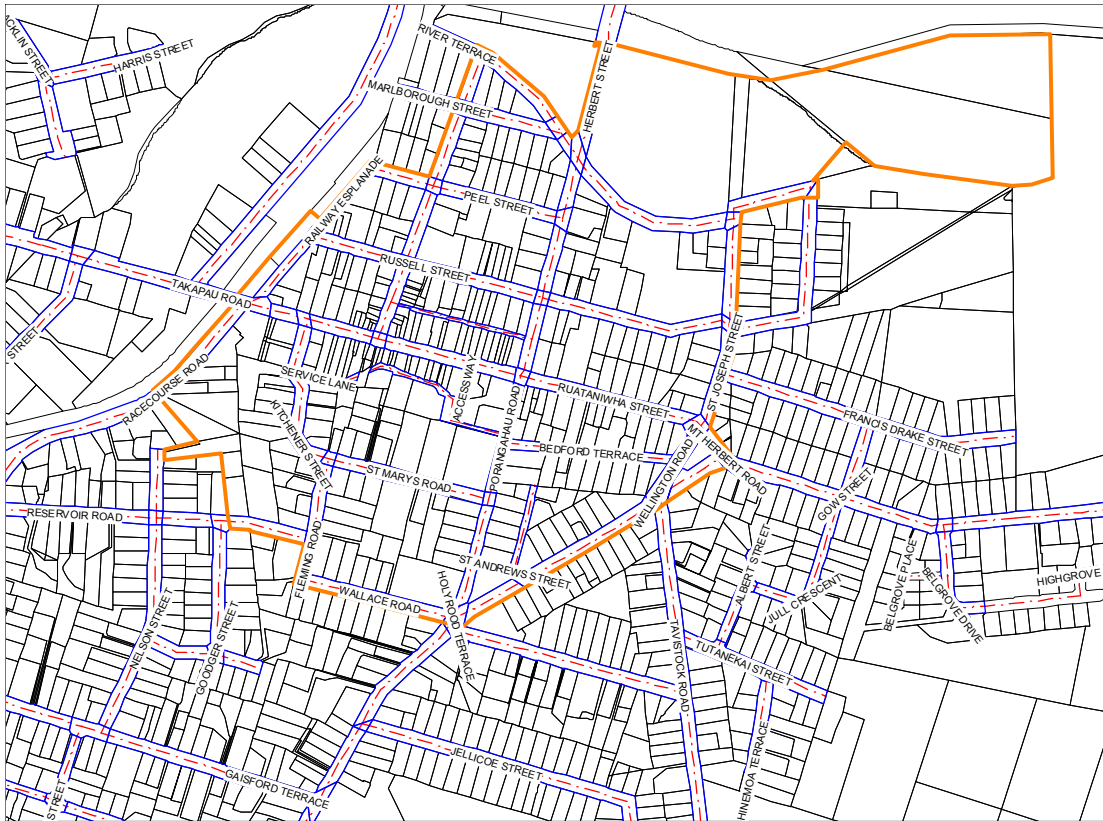
All public places shown on the Waipukurau Liquor Ban Plan A, including streets, roads, footpaths, car parks and parks within the area bounded by:

- The western side of Racecourse Road, including all of the public car park area adjoining the railway lines from the intersection with Takapau Road / SH 2, south to a point opposite the southern boundary of Hunter Park on Racecourse Road with private property.
- The southern boundary of Hunter Park from Racecourse Road east to the road access to the Hunter Park kindergarten from Nelson Street then west along the northern boundary of that access road with private property finishing at Nelson Street,
- The southern boundary of the access road to Hunter Park Kindergarten from Nelson Street with private property, east to the western boundary between Hunter Park (water reservoir) and Hunter Park Kindergarten and other private property,
- South along that boundary to the southern side of Reservoir Road, then east to the western side of Fleming Road.
- South along the western side of Fleming Road to Wallace Road then east along the southern side of Wallace Road to the eastern side of Wellington Road where it intersects with Holyrood Terrace and Porangahau Road,
- Generally north along the eastern side of Wellington Road, across the intersection with Tavistock Road and along the eastern side of Tavistock Place to a point directly opposite on the northern side of Mount Herbert Road,
- Generally west along the northern side of Mount Herbert Road to the intersection with St. Josephs Street then north along the eastern side of St. Josephs Street to a point directly opposite on the northern side of River Terrace.
- Generally east along the northern side of River Terrace where it borders Russell Park to a point where River Terrace and Mitchell Street intersect.
- Generally north then east along the boundary of Russell Park with private property and then north along the boundary of Russell Park to the boundary with the Tukituki River stopbank.
- West along the boundary of Russell Park and the Tukituki River stopbank to a point directly opposite where this boundary meets Herbert Street,
- South on the western side of Herbert Street to the intersection with River Terrace then generally west along the northern side of River Terrace to a point directly opposite where the western side of Northumberland Street intersects with River Terrace,
- South along the western side of Northumberland Street to where it intersects with Peel Street then west along the northern side of Peel Street and then generally south along the western side of Railway Esplanade including all of the public car parking area adjoining the railway line and all of the land occupied by the Council's public toilet block on the corner of Railway Esplanade and Tavistock Road / SH 2, hence completing the boundary area where it joins with that described in the first paragraph of this schedule.

**Specified Period:**

On every day, at any time.

Plan A: Map 1 showing the Specified Public Places in Waipukurau.



Boundary of Specified Public Places in Waipukurau

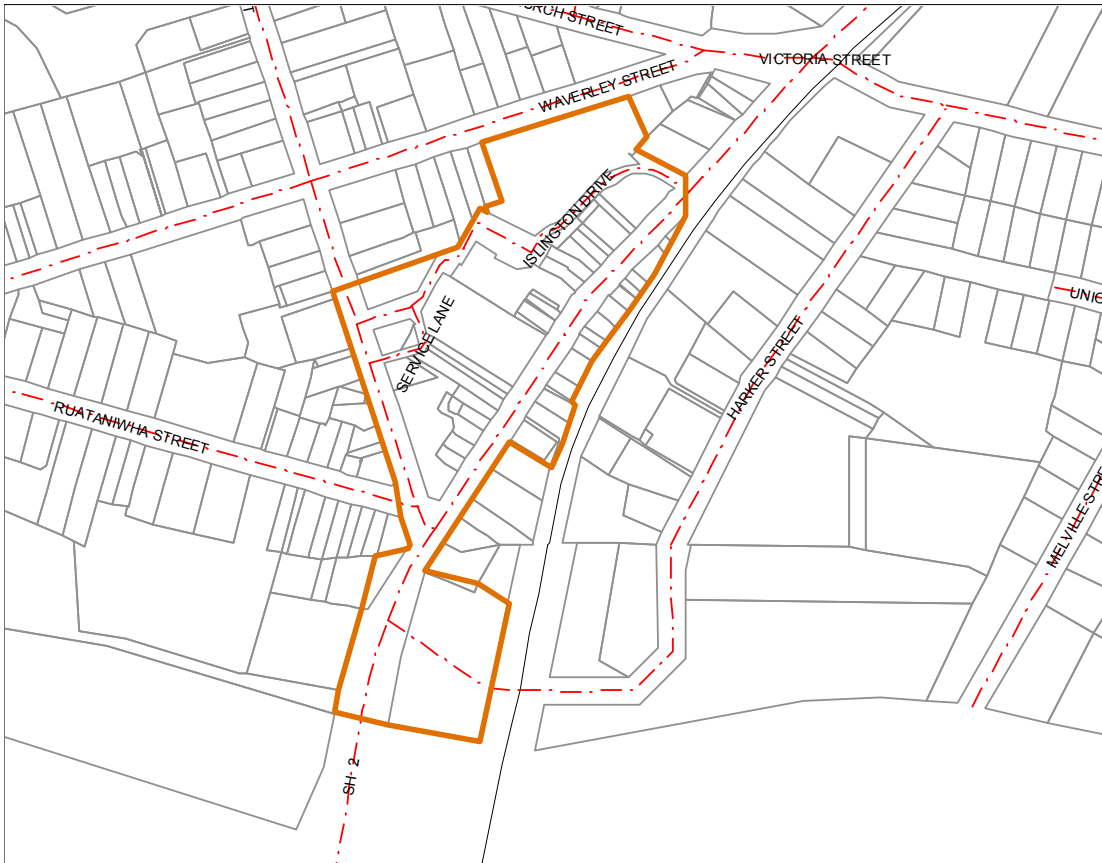
**SCHEDULE B - WAIPAWA LIQUOR BAN****Specified Public Places**

1. All public places shown on the Waipawa Liquor Ban Plan B Map 1, including streets, roads, footpaths, car parks and parks within the area bounded by:
  - The western side of Kenilworth Street, from a point directly opposite where Islington Drive intersects with Kenilworth Street, south to a point on the western side of High Street / State Highway 2 where it intersects with the eastern end of Ruitaniwha Street on the southern side.
  - Generally south along the western side of High Street / State Highway 2, including the reserve area behind the old St John Hall, to a point opposite the southern edge of the skateboard park, then generally east to the eastern edge of the reserve containing the skateboard park, then generally north along the edge of the skateboard park reserve, across Harker Street and around the outside edge of all the parcel of reserve containing the Waipawa Swimming Pool to a point on the boundary of the Swimming Pool with the Waipawa BP Service Station on the eastern side of High Street (this includes all of the skateboard park reserve area and all of the Waipawa Swimming Pool reserve).
  - Generally north along the eastern side of High Street including all of the public car parking area adjoining the railway line from the CHB Settlers Museum north to a point directly opposite where the generally northern side of Islington Drive intersects with High Street.
  - Generally northwest along the northern side of Islington Drive to a point where Nellie Jull Park starts at the boundary with private property.
  - Generally north along the boundary of Nellie Jull Park with private property to the generally southern side of Waverly Street.
  - Generally west along the southern side of Waverly Street to the boundary of Nellie Jull Park and private property.
  - Generally south along the boundary of Nellie Jull Park and private property to Islington Drive.
  - Generally west along the northern side of Islington Drive, including the public car parking areas adjoining private property on that northern side, to a point on the western side of Kenilworth Street hence completing the boundary area where it joins with that described in the first paragraph of this schedule.
2. All of the public places shown on the Waipawa Liquor Ban Plan B Map 2 which includes all the fenced area commonly known as Loten Park on Bibby Street that has been developed with suitable playground equipment as a children's playground.

**Specified Period**

On every day at any time.

**Plan B: Map 1** showing the Specified Public Places in Waipawa Town Centre



————— Boundary of Specified Public Places in Waipawa

**Plan B: Map 2** showing the Specified Public Place in Waipawa known as Loten Park, Bibby Street



————— Boundary of Specified Public Places in Waipawa