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**WAIMATE DISTRICT CONSOLIDATED BYLAW 2008**

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**CHAPTER 4****4 LIQUOR BAN IN PUBLIC PLACES****Scope**

The purpose of this chapter of the Bylaw is to promote a safer environment in Waimate District by reducing the incidence of property damage through the control of possession and use of liquor within specified areas of Waimate District in accordance with the powers provided in the Local Government Act 2002.

**401 Liquor control**

401.1 The following acts are prohibited in all Public Places that are subject to an alcohol ban prescribed by this chapter of the Bylaw:

- (a) the consumption of liquor in a Public Place;
- (b) the bringing of liquor into a Public Place;
- (c) the possession of liquor in a Public Place;
- (d) in conjunction with the activities prohibited under paragraphs (a) to (c), the presence or use of a Vehicle in a Public Place.

401.2 For the purposes of clarity, this chapter of the Bylaw does not prohibit the activities described in section 147(3) of the Local Government Act 2002 (reproduced in the Second Schedule to this chapter of the Bylaw) or any activities detailed in any subsequent amendment to that section of the Act.

**402 Liquor control area**

402.1 The Council may from time to time by resolution of Council declare any specified area to be subject to the provisions of this chapter of the Bylaw for such times as are considered appropriate.

- 402.2 Areas specified as being subject to an alcohol ban under the provisions of clause 402.1 shall be generally detailed in the First Schedule to this chapter of the Bylaw however Council may also apply as it sees fit alcohol bans of a temporary nature areas that may not be in the First Schedule.
- 402.3 This chapter of the Bylaw does not prohibit the consumption or possession of liquor in a place for which a liquor licence has been issued under the Sale of Liquor Act 1989.
- 403 Times of liquor control**
- 403.1 Liquor control shall apply at all times in the liquor control area unless otherwise specified in the First Schedule to this chapter of the Bylaw.
- 404 Breach of Bylaw**
- 404.1 Any Person who acts in breach of this chapter of the Bylaw commits an offence and is liable on summary conviction to a fine of **up to \$20,000**.
- 405 Enforcement of Bylaw**
- 405.1 The Police will enforce this chapter of the Bylaw by means of the powers of arrest, search and seizure found in sections 169 and 170 of the Local Government Act 2002 (reproduced in the Second Schedule to this chapter of the Bylaw).

## **WAIMATE DISTRICT CONSOLIDATED BYLAW 2008**

### **CHAPTER 4**

### **LIQUOR BAN IN SELECTED PUBLIC PLACES**

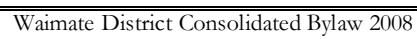
#### **FIRST SCHEDULE**

##### **BYLAW POLICY**

##### **LIQUOR CONTROL AREA**

##### **SUBJECT:**

Clause 402.1 – Liquor Control Area. (Refer also to attached plans)



**WAIMATE DISTRICT CONSOLIDATED BYLAW 2008****CHAPTER 4****LIQUOR BAN IN PUBLIC PLACES****SECOND SCHEDULE****BYLAW POLICY****LIQUOR CONTROL  
ENFORCEMENT OF BYLAW**

**SUBJECT:** Clause 401.2 and 405.1– Liquor Control & Enforcement of Bylaw.

**SECTIONS OF THE LOCAL GOVERNMENT ACT 2002  
REFERRED TO IN THIS CHAPTER OF THE BYLAW****“147 Powers to make Bylaws for liquor control purposes**

- (3) A Bylaw made under this section 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 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 those premises, provided the liquor is promptly removed from the Public Place;
  - (b) the transport of that liquor from outside a Public Place for delivery to premises that adjoin the Public Place, provided the premises are licensed for the sale of liquor under the Sale of Liquor Act 1980;
  - (c) the transport of that liquor from outside a Public Place to premises that adjoin a Public Place:
    - (i) by, or for delivery to, a resident of those premises or by his or her bona fide visitors; or
    - (ii) from those premises to a place outside the Public Place by a resident of those premises, provided the liquor is promptly removed from the Public Place.”

**“169 Powers of arrest search and seizure in relation to Bylaw prohibiting liquor in Public Place**

- (1) In this section and in section 170:  
**liquor** has the meaning given to it in the Sale of Liquor Act 1989  
**offence** means an offence under section 239 that is a breach of Bylaw prohibiting:  
(a) the consumption or possession or both of liquor in, or the bringing of liquor into, a Public Place; or  
(b) in conjunction with a prohibition relating to liquor, the presence or use of a Vehicle in a Public Place.  
**Public Place** means a Public Place as defined in section 147(1) in respect of which there is a Bylaw prohibiting:  
(a) the consumption or possession or both of liquor in, or the bringing of liquor into, that place; or  
(b) in conjunction with a prohibition relating to liquor, the presence or use of a Vehicle in that place.
- (2) A member of the police may, without a 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;  
(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.
- (3) Liquor or a container seized under subsection (2)(b) is forfeited to the Crown if the person from whom the liquor or container is seized is convicted of breaching the Bylaw.”

**“170 Conditions relating to power of search**

- (1) Before exercising the power of search under section 169(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.
- (2) However, on specified dates or in relation to specified event, notified in accordance with subsection (3), a member of the police may, immediately and without further notice, exercise the power under section 169(2)(a) to search a container or a Vehicle.
- (3) Before a member of the police may exercise the power of search under subsection (2), the territorial authority must:
  - (a) specify the Public Place (within the meaning of section 169(1) where, and the period when, this power may be exercised by the police by public notice given 14 days in advance in accordance with this Act; 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 place relates, unless it is impractical or unreasonable to do so.
- (4) Subsection (2) only applies if the member of the police is authorised to exercise that power by a Bylaw made under section 147.”