



**SOUTH WAIRARAPA
DISTRICT COUNCIL**
Kia Reretahi Tātau

SOUTH WAIRARAPA DISTRICT COUNCIL ALCOHOL CONTROL BYLAW 2021

Contents

Foreword.....	3
1. Title and Commencement.....	3
2. Purpose	3
3. Interpretation.....	3
4. Alcohol prohibited in public places where an alcohol ban applies.....	4
5. Council may make a temporary alcohol ban by resolution	4
6. Council may amend alcohol bans by resolution	5
7. Council Permission	5
8. Signage.....	5
9. Offences and Penalties	5
10. Enforcement.....	6
Schedule 1: Alcohol Bans	7
Alcohol Ban Area: Map 1	8

Referenced Documents

Reference is made in this document to the following New Zealand legislation:

- » Local Government Act 2002
- » Sale and Supply of Alcohol Act 2012
- » Local Government (Alcohol Ban Breaches) Regulations 2013

Foreword

This Bylaw is made under sections 145 and 147 of the Local Government Act 2002.

1. Title and Commencement

- 1.1. The title of this Bylaw is the South Wairarapa District Council Alcohol Control Bylaw 2021.
- 1.2. This Bylaw shall come into force throughout the South Wairarapa district on 4 November 2021.

2. Purpose

- 2.1. The purpose of this Bylaw is to control the consumption, bringing into, or possession of alcohol in public places to reduce and mitigate crime and disorder that is caused or made worse by the presence or consumption of alcohol in those places. The controls in this Bylaw apply: a) to any public place subject to an alcohol ban, as listed in Schedule 1 to this Bylaw; or b) where a temporary ban for specified events or specified periods is made by Council resolution in accordance with clause 5. Alcohol bans, when applied in accordance with the relevant legislation and supported by the available evidence, mitigate the potential for noise, litter, vandalism, violence, and other forms of crime or disorder which would otherwise occur in the absence of a permanent or temporary ban.
- 2.2. This Bylaw limits individual rights and the freedom to consume, bring into, or possess alcohol in public places only to the extent that can be reasonably justified. Any such limits imposed under this Bylaw are designed to be appropriate and proportionate to the level of crime and disorder which would otherwise occur in those places, as determined by evidence and proper assessment. Other strategies are also utilised to address alcohol-related crime and disorder, and include existing Police powers to protect public safety, Council powers to regulate licensed premises, and public education.

3. Interpretation

- 3.1. In this Bylaw, unless the context otherwise requires:

Alcohol has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012.

Council means the Governing Body of the South Wairarapa District Council or any person delegated or authorised to act on its behalf.

Public Place has the meaning given by section 147 of the Local Government Act 2002.

Explanatory Note: as at the date the Bylaw comes into effect the definition of a public place in section 147 of the Local Government Act 2002:

- (a) means 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
- (b) does not include licensed premises.

Most areas where an encroachment licence has been granted by Council will not be “public places” for the purpose of this definition. A case by case assessment will be made.

Vehicle has the meaning given by section 2(1) of the Land Transport Act 1998.

3.2. Explanatory notes are for information only. They do not form part of this bylaw and may be made, amended, revoked or replaced by Council at any time.

4. Alcohol prohibited in public places where an alcohol ban applies

4.1. A person is prohibited from consuming, bringing into, or possessing alcohol in any public place (including in a vehicle) where—

- (a) an alcohol ban as provided in Schedule 1 of this Bylaw applies; or
- (b) an alcohol ban made by Council in accordance with clause 5 of this Bylaw applies.

Explanatory Note: The exceptions listed in section 147(4) of the Local Government Act 2002 apply. As at the date the Bylaw comes into effect an alcohol ban does not apply in the case of alcohol in an unopened container to—

- “(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.”

For example, this may include transporting alcohol from a supermarket to your home or from your home to a friend's house.

Licensed premises are exempt from the Bylaw as they are excluded from the definition of “public place” under section 147 of the Local Government Act 2002.

5. Council may make a temporary alcohol ban by resolution

5.1. Council may by resolution make an alcohol ban prohibiting, regulating or controlling the consumption, bringing into, or possession of alcohol in any public place (including in a vehicle) for specified events or for one or more specified periods.

5.2. An alcohol ban made under clause 5.1 for specified events or periods must be publicly notified at least 14 days in advance of the specified event or period in accordance with section 170(3) of the Local Government Act 2002.

Explanatory Note: Before making an alcohol ban by resolution Council must comply with criteria prescribed in section 147B of the Local Government Act 2002. As at the date the Bylaw comes into effect, before making a resolution Council must be satisfied that:

- “(a) there is evidence that the area to which the Bylaw applies (or will apply by virtue of the resolution) has experienced a high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area; and
- (b) the Bylaw, as applied by the resolution,—
 - (i) is appropriate and proportionate in the light of the evidence; and
 - (ii) can be justified as a reasonable limitation on people’s rights and freedoms.

Council must also comply with the general decision-making requirements in sections 77—82 of the Local Government Act 2002.

6. Council may amend alcohol bans by resolution

- 6.1. Council may add to, amend or revoke an alcohol ban in Schedule 1 by resolution following the use of the special consultative procedure set out in sections 83 and 156 of the Local Government Act 2002.
- 6.2. An alcohol ban made under clause 6.1 must be publicly notified at least 14 days before it takes effect.

Explanatory Note: Before making a resolution relating to a bylaw Council must comply with the criteria prescribed in section 147B and the general decision-making requirements in sections 77—82 of the Local Government Act 2002, as set out in the Explanatory Note above.

7. Council Permission

- 7.1. Any person may apply to the Council for prior written permission for any activity that would be in breach of any prohibition under this Bylaw. A special licence may be issued under the Sale and Supply of Alcohol Act 2012 in respect of any location or event and may include waivers and dispensations (subject to and in accordance with the terms of that special licence).

8. Signage

- 8.1. The Council may erect signage within public places covered by this Bylaw to inform and educate the public and to assist with enforcement of the terms of the Bylaw. The size, location and terms of this signage shall be at Council's discretion.
- 8.2. To avoid any doubt, the absence of signage in any public place does not authorise breach of this Bylaw.

9. Offences and Penalties

- 9.1. A person who consumes or possesses any alcohol in, or brings alcohol into, a public place in breach of an alcohol ban under clause 4 commits an offence.
- 9.2. A person who commits an offence under this Bylaw is liable to a penalty under the Local Government Act 2002.

Explanatory Note: As at the date the Bylaw comes into effect, the penalty for breaching an alcohol ban is an infringement fee of \$250 under section 4 of the Local Government (Alcohol Ban Breaches) Regulations 2013.

10. Enforcement

10.1. The Police may use their powers under the Local Government Act 2002 to enforce this Bylaw.

Explanatory Note: The New Zealand Police are responsible for enforcing alcohol bans and have powers relating to search, seizure and arrest under sections 169 and 170 of the Local Government Act 2002.

Schedule 1: Alcohol Bans

Name	Alcohol Ban Area	Operative Time	Map Number
Toast Martinborough event	Martinborough Memorial Square bounded by Strasbourge, Cork, Naples and Ohio Streets and the adjoining Cambridge Road, Texas, Oxford, Kansas, Jellicoe and Kitchener Streets that enter the Square.	Midday to 9pm on the day of the event	1

Alcohol Ban Area: Map 1

