



## **CONTROL OF LIQUOR & LIQUOR BAN BYLAW 2006**

The Kaikoura District Council in pursuance of the powers contained in the Local Government Act 2002 (and particular Section 147 of that Act), the Bylaws Act 1910 and any other authority enabling the Council in this behalf hereby makes the following Bylaw.

### **1.0 Title and Commencement**

- (i) This Bylaw shall be known as the Control of Liquor & Liquor Ban Bylaw 2006.
- (ii) The Bylaw shall come into effect on the **1<sup>st</sup> August 2006**

### **2.0 Interpretation**

**Act** – means the Local Government Act 2002.

**Council** – means Kaikoura District Council.

**Enforcement Officer** – means any Police Officer or any person appointed by the Council pursuant to Section 177 of the Local Government Act 2002 to exercise the powers of an Enforcement Officer in relation to offences against these Bylaws.

**Liquor** – means “any fermented, distilled, or spiritous liquor (including sprits, wine, ale beer, porter, honeymead, stout, cider and perry) that is found on analysis to contain 1.15 percent or more alcohol by volume”. Note: This is the meaning given to liquor in the Sale of Liquor Act 1989.

**Offence** – means an offence under Section 239 of the Act and includes the offences in clause 3 of this Bylaw.

**Public Place** – means a place –

- (i) That is under the control of the Council; and
- (ii) That is open to, or being used by, the public, whether or not there is a charge for admission;  
and includes
  - (i) A road, whether or not the road is under the control of a territorial authority; and
  - (ii) Any part of a public place.

**Specified Period** – means a permanent 24 hour period where the liquor ban is in force and any additional period that may be determined by the council by resolution from time to time and publicly notified in accordance with clause 4 of this Bylaw.

**Specified Public Place** – means a public space defined or listed in the attached schedule and such additional place as may be defined by the council by resolution from time to time and publicly notified in accordance with clause 4 of this Bylaw.

This shall include the following areas:

- Beach Road from Alpine View Motels to Ramsgate Street on Esplanade
- Ludstone Road from DOC Building to West End
- Davidson Terrace
- Whaleway Station Road to West End, including carparks & walkways
- Corner Churchill Street/Scarborough Street to West End
- Deal Street including Churchill Park
- Esplanade from West End to Ramsgate Street
- Torquay Street from Killarney Street to Ramsgate Street
- Upper Killarney Street to Scarborough Street/Churchill Street corner
- Takahanga Terrace
- Killarney Street
- Yarmouth Street
- Brighton Street
- Ramsgate Street
- Including the beach and foreshore of the above areas, reserve areas, sports grounds, camp areas and car parks).

### **3.0 Offences**

3.1 It shall be an offence under this Bylaw to:

- Bring liquor into,
- Possess liquor in, or
- Consume liquor in

any Specified Public Place during any Specified Period.

### **4.0 Addition of Specified Periods and Specified Public Places**

4.1 The Council may from time to time by resolution specify additional periods during which the bringing of liquor into a public place and the possession or consumption of liquor in a public place may be prohibited and (in conjunction with such a prohibition) the presence or use of vehicles may be regulated or controlled. The council may make such a resolution in relation to any planned public event, function or social gathering to be held in a public place or in relation to a period when the congregation of a large number of people in a public place is anticipated.

4.2 The Council may from time to time by resolution specify additional public places that are to be defined as Specified Public Places and in relation to which the provisions of the Bylaw relating to the prohibition, regulation or control of liquor and vehicles may apply during a Specified Period.

4.3 Every resolution made pursuant to Clause 4.1 of clause 4.2 above shall be publicly notified at least 14 days before it shall take effect.

## **5.0 Exemptions**

5.1 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 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 the 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 1989.
- (c) The transport of the 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.

5.2 This Bylaw does not apply to any area that is the subject of a special licence issued pursuant to the Sale of Liquor Act 1989.

## **6.0 Powers of Arrest Search and Seizure**

6.1 In accordance with Section 169 & 170 of the Act a member of the Police may, without 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:
- (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 against this bylaw.
- (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.

6.2 Before a member of the police may exercise the power of search in Clause 6.1 the Council must –

- (a) specify the public place where, this power may be exercised by the Police by public notice given at least 14 days in advance of the ban taking effect:
  - (b) indicate the location of the public place by 1 or more clearly legible notices affixed in 1 or more conspicuous places on, or adjacent to, the place to which the notice relates, unless it is impracticable or unreasonable to do so.
- 6.3 If the council has not so specified a place and indicated its location under Clause 6.2, then before exercising the power of search under Clause 6.1 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.
- 6.4 In accordance with Section 169 of the Act, liquor or a container seized under clause 6.1 is forfeited to the Crown if the person from whom the liquor or container is seized is convicted of breaching the bylaw.
- 7.0 Breach of Bylaw and Penalty**
- 7.1 Any person who commits any offence listed in clause 3 of this Bylaw or acts in breach of any provision of this Bylaw commits an offence and on summary conviction is liable to the penalty set out in Section 242(a) of the Act (a fine not exceeding \$20,000).

#### **EXPLANATORY NOTES**

1. The Council has considered this Bylaw in relation to the Bill of Rights Act 1990 and deemed it not to be contrary to the provisions of the Act.
2. This Bylaw shall be reviewed within five years of the day from which the bylaw is made.