

## Franklin District Council Liquor Control Bylaw 2008

### **1. Title and Commencement**

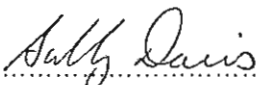
- (1) This Bylaw may be cited as the Franklin District Council Liquor Control Bylaw 2008 and shall come into force on Tuesday 4 November 2008.
- (2) This Bylaw applies to the Franklin District.
- (3) This Bylaw repeals the Franklin District Council Liquor Control Bylaw 2004.

### **2. Liquor Control Bylaw Validation**

- (1) The Franklin District Council Liquor Control Bylaw 2008 was duly made at a meeting of the Franklin District Council held on Thursday 23 October 2008 after completion of the special consultative procedure under section 86 of the Local Government Act 2002.
- (2) The Common Seal of the Franklin District Council was affixed hereto, pursuant to a resolution of Council, on Thursday 23 October 2008 in the presence of:



.....  
Mark Ball  
**Mayor**



.....  
Sally Davis  
**Chief Executive**

.....  
28/10/08

**Date**

### 3. Scope and Purpose

Section 147 of the Local Government Act 2002 empowers territorial authorities to make bylaws for liquor control purposes. 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.

### 4. Definitions and Interpretation

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

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

**Chief Executive** means the Chief Executive of the Franklin District Council.

**Council** means the Franklin District Council.

**Liquor** means liquor as defined in the Sale of Liquor Act 1989.

**Offence** has the same meaning as defined in section 169(1) of the Local Government Act 2002.

**Public place**, as defined under section 147 of the Local Government Act 2002,

- (a) means a place:
  - (i) that is under the control of Council; and
  - (ii) that is open to, or being used by, the public, whether or not there is an admission charge; and
- (b) includes
  - (i) a road, whether or not the road is under the control of Council; and
  - (ii) any part of a public place.

**Specified day** means a specific day or part of a day identified in this Bylaw, or in a Council 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** means 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** means a period specified in this Bylaw, or in a Council 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** means 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, but does not include any part of a place for which a liquor licence has been issued under the Sale of Liquor Act 1989.

### 5. Designation of specified public places, days and times

Specified public places, days and times shall be described in the Schedule to this Bylaw.

### 6. Designation of specified events and periods

In addition to designating specified public places, days and times, as in clause 5, Council 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.

## **7. Offences prohibited in specified public places**

- (1) It shall be an offence to:
  - (a) Bring liquor into any specified public place;
  - (b) Possess liquor in or at any specified public place (including but not limited to liquor in a container such as a bag, parcel or package); or
  - (c) Consume liquor in or at any specified public place, or during any specified period or event.
- (2) It shall also be an offence to possess or consume liquor in a vehicle while in any specified public place, or during any specified period or event, save for the exceptions given under clause 8 of this Bylaw.

## **8. Exceptions**

### **(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. This includes footpath areas that are licensed as part of those premises and are clearly defined by the placement of tables and chairs outside those premises, and other areas, clearly defined, and identified under an appropriate liquor licence for an event or function at the time of possession and/or consumption of alcohol.

### **(2) Other premises**

In addition to sub-clause (1) above, 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.

### **(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.

**(4) Dispensation**

- (a) The Chief Executive may, on application by any person including a Council 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.
- (b) 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, if required to do so by the Chief Executive.
- (c) 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 daily newspaper circulating in the Franklin District at least 14 days prior to the commencement of the period when the waiver, dispensation or suspension commences.
- (d) The applicant may be required to pay the Council 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 clause 8(4) of this Bylaw. This fee or charge may be refunded, remitted or waived at the discretion of the Chief Executive, or his/her nominated representative.

**9. Powers of the police**

**(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 specified public place in breach of this 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:
  - (i) To leave the specified public place, or
  - (iv) To surrender to a member of the police the liquor that, in breach of this Bylaw, is in the person's possession.

**(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.

**(3) Conditions relating to power of search**

**(a) General**

Before exercising the power of search under clauses 9(1) and 9(2) of this Bylaw in relation to a container or a vehicle, a member of the police shall:

- (i) 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 specified public place; and
- (ii) Provide the person with a reasonable opportunity to remove the container or the vehicle, as the case may be, from the specified public place.

**(b) Specified dates and events**

However, on specified dates or in relation to specified events, notified in accordance with clause 6 of this Bylaw, a member of the police may, immediately and without further notice, exercise the power under clauses 9(1) and 9(2) of this Bylaw to search a container or a vehicle.

Before a member of the police may exercise the power of search under clauses 9(1) and 9(2) of this Bylaw, the territorial authority shall:

- (i) Specify the public place (in accordance with sections 2 and 3) 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
- (ii) 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.

**10. Signage**

Council 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 Council's discretion. To avoid any doubt, the temporary absence of signage in any public place does not authorise breach of this Bylaw.

**SCHEDULE OF SPECIFIED PUBLIC PLACES, DAYS AND TIMES**  
**(refer to attached maps delineating each specified public place)**

<b>Specified Public Place</b>	<b>Specified hours of operation</b>
Alexandra Redoubt Reserve	7pm-7am daily
Centennial Park	7pm-7am daily
The Elbow	7pm-7am daily
Hamilton Estate	7pm-7am daily
Heights Park Cemetery	7pm-7am daily
Hoods Landing	7pm-7am daily
Karioitahi Beach	24 hours/day, 7 days/week
Les Batkin Reserve	7pm-7am daily
Maraetai Bay	7pm-7am daily
Massey Park	7pm-7am daily
Pukekohe CBD	7pm-7am daily
Pukekohe Hill Reserve	7pm-7am daily
Rosa Birch Park	7pm-7am daily
Sandspit Reserve	7pm-7am daily
Sunset Beach	24 hours/day, 7 days/week
Te Toro Reserve	7pm-7am daily
Tuakau CBD	7pm-7am daily
Tuakau Domain Recreation Reserve	7pm-7am daily
Waitangi Falls	7pm-7am daily
Waiuku CBD	7pm-7am daily