

Hamilton City Council

BYLAWS



Approved By: Council	Date Adopted : 11 August 2010
Date Amended: 16 December 2015	Amendments: <ul style="list-style-type: none">• Update to include changes to Legislation,• Style of bylaw updated to be easier to read.
Date Amendment came into force: 20 January 2016	Review Date: 1 December 2025

HAMILTON ALCOHOL CONTROL BYLAW 2015

This bylaw is made by the Hamilton City Council under the powers given to it by the Local Government Act 2002 and any amendments to that act.

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1. TITLE

1.1. Hamilton Alcohol Control Bylaw 2015.

2. REVOCATION

2.1. This bylaw revoked and replaced the Hamilton City Public Places Liquor Control Bylaw 2007.

3. PURPOSE AND SCOPE

3.1. The bylaw aims to reduce harm related to alcohol by controlling where and when people can drink or have alcohol in their possession in public places. This bylaw is made under the authority of the Local Government Act 2002 and applies to any public places within the district of Hamilton City Council as specified in Schedule 1A.

4. DEFINITIONS

4.1. In this bylaw except where inconsistent with the context:

Alcohol	Has the same meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012. <i>Explanatory note: As at 1 December 2014, the definition of alcohol means a substance (a) that— (i) is or contains a fermented, distilled, or spirituous liquor; and (ii) at 20°C is found on analysis to contain 1.15% or more ethanol by volume; or (b) that— (i) is a frozen liquid, or a mixture of a frozen liquid and another substance or substances; and (ii) is alcohol (within the meaning of paragraph (a)) when completely thawed to 20°C; or (c) that, whatever its form, is found on analysis to contain 1.15% or more ethanol by weight in a form that can be assimilated by people.</i>
Council	Means Hamilton City Council.
Event	Means an organised activity involving a large group of people.
Licensed Premises	Meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012. <i>Explanatory note: As at 1 December 2014, the definition of licensed premises means any premises for which a licence is held.</i>
Public Place	Meaning given by section 147(1) of the Local Government Act 2002. <i>Explanatory note: As at 1 December 2014, the definition of public place - (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.</i>
Special Licence	Means the type of licence detailed in section 22 of the Sale and Supply of Alcohol Act 2012.

4.2. Explanatory notes are for information only. They do not form part of this bylaw, and may be made, amended, revoked or replaced by the Council at any time without a formal process.

4.3. Any future amendments to, or replacement of, a part of an act or regulation referred to in the bylaw apply to this bylaw.

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5. PERMANENT ALCOHOL BANS

5.1. A person must not:

- a) bring alcohol into an alcohol ban area specified in Schedule 1; or
- b) consume alcohol in an alcohol ban area in Schedule 1, or in a vehicle within an alcohol ban area; or
- c) have alcohol in their possession in an alcohol ban area or in a vehicle that is in an alcohol ban area specified in Schedule 1,

Unless an exemption or special licence applies.

Explanatory note 1: alcohol ban areas are outlined in Schedule 1 of this bylaw and exclude licensed premises.

Explanatory note 2: From 1 December 2014 under section 147(4) of the Local Government Act 2002, the prohibitions in clause 5 do not apply to alcohol in an unopened container in the following circumstances;

a) the alcohol is being transported 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.

6. EXEMPTIONS

6.1. A person can apply in writing to Hamilton City Council's Chief Executive (or the Chief Executive's nominated representative) for an exemption for an activity that would be in breach of this bylaw.

6.2. The Council will consult with the New Zealand Police when considering all applications for exemptions.

6.3. When an exemption is granted the public must be informed of the activity 7 days in advance of it taking place.

6.4. Fees may be prescribed to cover any actual and reasonable costs associated with the public notice, processing the application and/or obtaining a police response to the application for an exemption.

7. SPECIAL LICENCES

7.1. This bylaw does not stop any individual or organisation (corporate or otherwise) from obtaining a special licence for an event to be held in an alcohol ban area.

7.2. Clauses 5 and 8.1 do not apply to alcohol sold, supplied or consumed within the area to which a special licence applies.

8. TEMPORARY ALCOHOL BANS

8.1. In addition to clause 5, the Council may from time to time, resolve under the Local Government Act 2002 to include additional area(s) as an alcohol ban area for a particular time period relating to a specified event or a particular time of the year.

8.2. If this is done the Council will give the public at least 7 days notice of the temporary ban. The details of the alcohol ban area and when it will apply will also be made publically available.

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9. AMENDING ALCOHOL BANS

- 9.1. The Council may amend or revoke an alcohol ban in accordance with the Local Government Act 2002 (Subpart 1 of Part 6).
- 9.2. The Council may make resolutions to amend the alcohol ban areas in accordance with section 147B of the Local Government Act 2002.

10. SIGNAGE

- 10.1. The Council may display signs informing the public of the alcohol ban area. The absence of signage is not a defence against breach of this bylaw.

11. POWERS OF THE POLICE

- 11.1. In an alcohol ban area, in accordance with sections 169 and 170 of the Local Government Act 2002, the New Zealand Police may:
- a) inspect containers in the possession of people who are in or entering an alcohol ban area;
 - b) search a vehicle that is in or entering an alcohol ban area;
 - c) seize and remove alcohol and its container if it has been brought into an alcohol ban area; and
 - (i) arrest a person if they are committing an offence;
 - (ii) arrest a person who has refused to comply with a request by a member of the New Zealand Police:
 - to leave the alcohol ban area, or
 - to surrender the alcohol that, in breach of the bylaw, is in the person's possession.

12. OFFENCES AND PENALTIES

- 12.1. Any person who does not comply with the provisions of this bylaw commits an offence.
- 12.2. An offence under this bylaw is liable to a penalty under the Local Government Act 2002.

Explanatory note: As at 29 October 2013 the penalty for breaching an alcohol ban is an infringement fee of \$250 under the Local Government Act (Alcohol Ban Breaches) Regulations 2013.

The foregoing amended bylaw was duly made by the Hamilton City Council by a resolution passed on the 16th of December 2015 following consideration of submissions received during the consultation period. The Hamilton Alcohol Control Bylaw 2010 (Amended) was ordered to come into force on the 20th of January 2016.

The COMMON SEAL of the HAMILTON CITY COUNCIL
was hereunto affixed in the presence of:

Councillor: _____

Councillor: _____

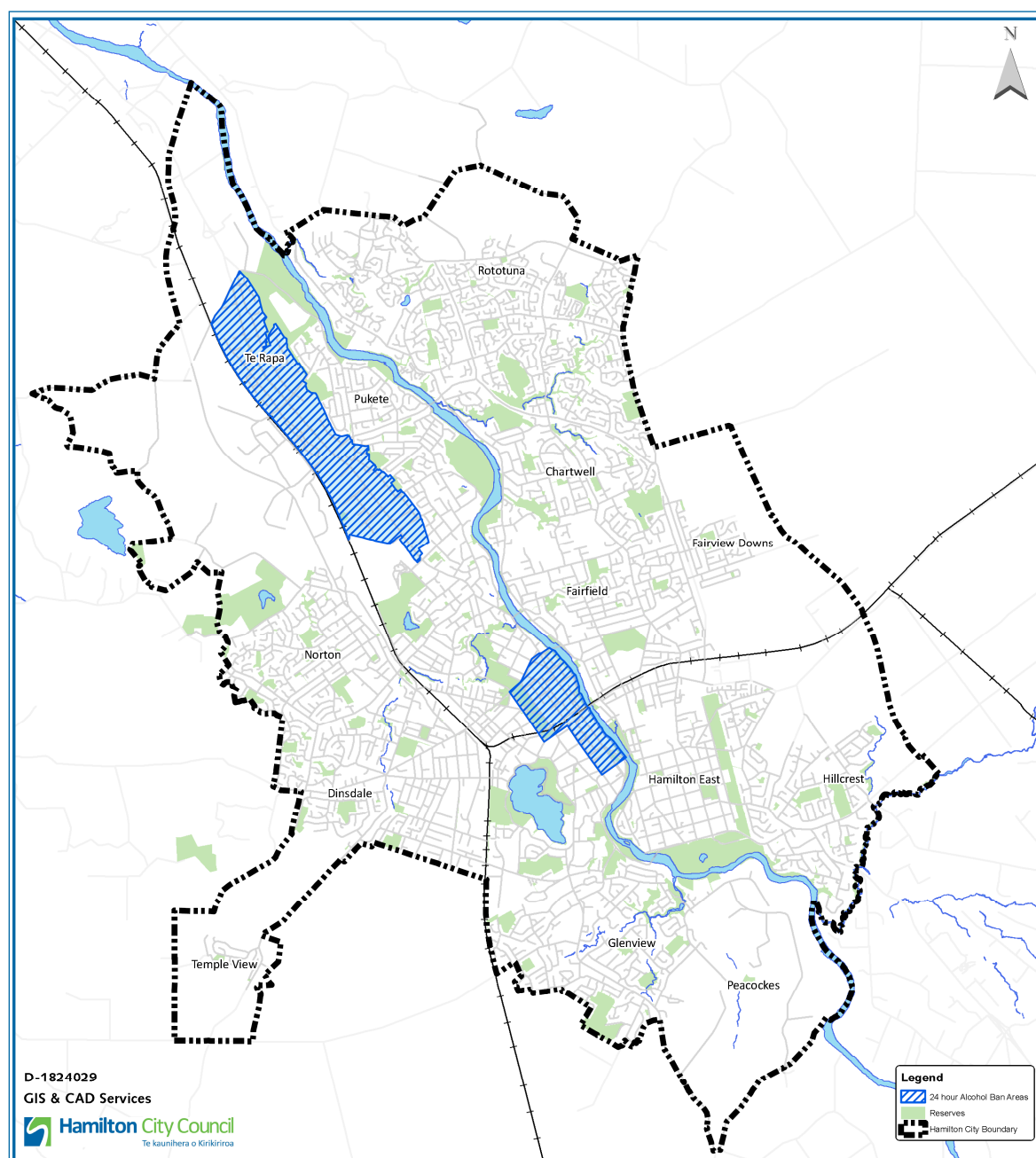
Chief Executive: _____

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SCHEDULE 1: ALCOHOL BAN AREAS

A. Time Restricted Alcohol Ban Area

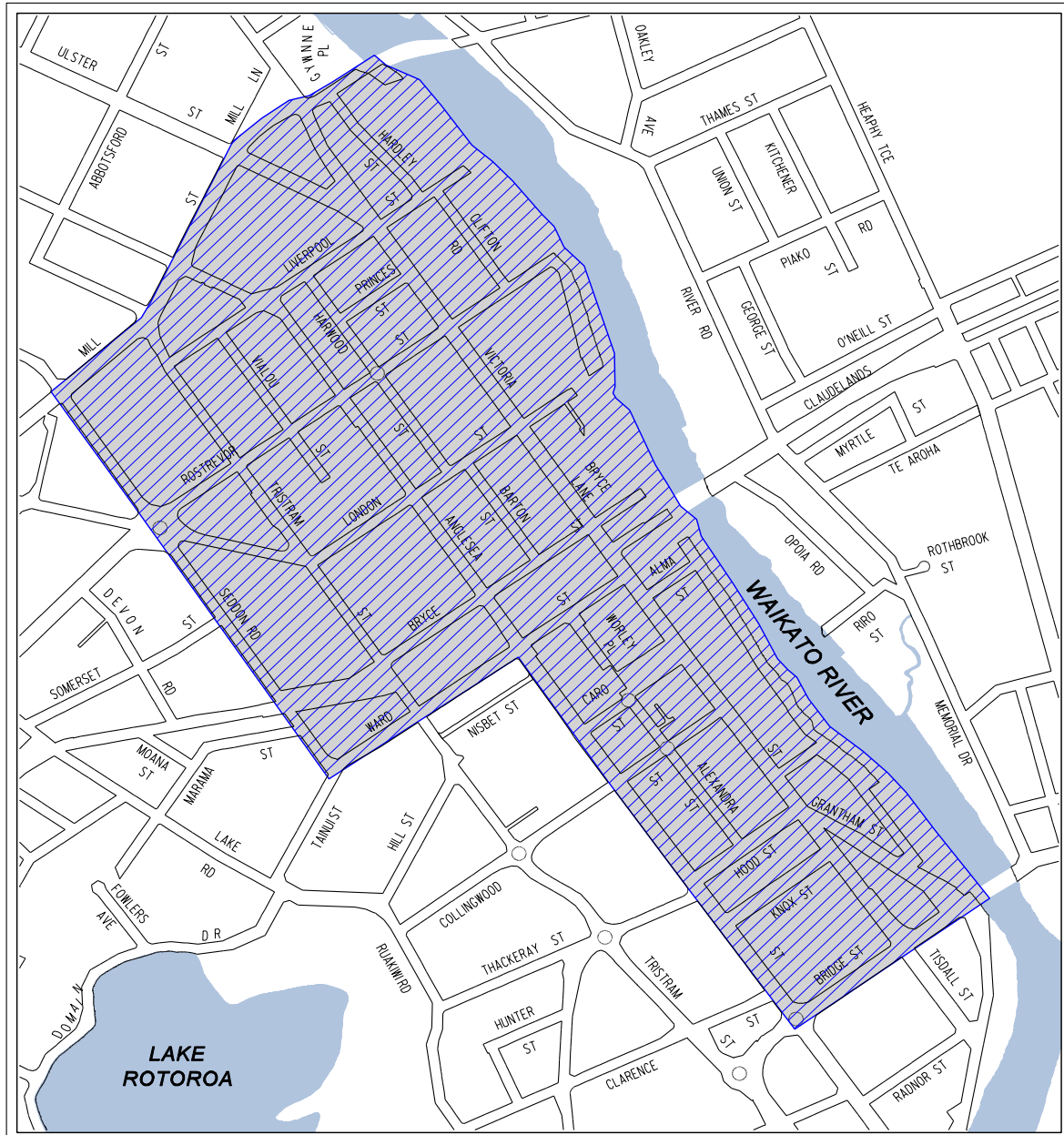
An alcohol ban is in place, covering all public places within the district of Hamilton City Council, shown within the black dotted line on the map below, from 10pm to 6am, 7 days a week.



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B. 24 hour Central City Ban Area

The parts of the Central City shown by the blue shaded area in the map below are included within the Central City Alcohol Ban Area. The ban is in place 24 hours a day, 7 days a week:



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C. Te Rapa Alcohol Ban Area

The following parts of Te Rapa shown by the blue shaded area in the map below are included within the Te Rapa Alcohol Ban Area. The ban is in place 24 hours a day, 7 days a week:

