






Managers House proposed for demolition and re-development

Maori Warden lease Building

Proposed Accommodation Lease Area
 Proposed lease area for tourist/special event short-term accommodation area services

Area to be leased to Motor Caravan Association for short-term accommodation

All Areas
Tui Ora Reserve
 Henderson Creek Reserves Management Plan
 Concept
 Area
 1,250 @ A1
 Date of completion of work
 2010
 This document is the property of Waikato City Council

- KEY**
-  Scheduled Heritage Trees
 -  Proposed Transit/Reserve Signage
 -  Mown grass
 -  Gravel/bark pathways
 -  Concrete pathways

WAITAKERE CITY COUNCIL BYLAW REVIEW (LOCAL GOVERNMENT ACT 2002)

REPEAL OF REDUNDANT BYLAWS - SUMMARY OF INFORMATION

➤ **BACKGROUND INFORMATION**

The Council is currently reviewing its bylaws as required by the Local Government Act 2002 (LGA02). The following bylaws are recommended to be repealed as they have been superseded as described below and are therefore redundant (these bylaws do not exist at most other Councils in the region). Further, many of these bylaws do not fit within one of the allowable general or specific bylaw making powers contained in section 145 or 146 of the LGA02. The intention of the review of bylaws is to ensure that they remain appropriate in a changing social and legal environment.

Waitakere City Council Bylaw No.3 (1990) Land Subdivision & Development

The purpose of this bylaw is to provide for recovery of costs in relation to subdivision applications. All fees and charges relating to matters referred to in the bylaw are now set by the annual plan process in accordance with the Resource Management Act 1991 and s. 150 of the LGA02. It is therefore appropriate to repeal this bylaw.

Waitakere City Council Bylaw No.12 (1990) Certification Fee for Documents

The purpose of this bylaw is to provide for recovery of costs in relation to certificates issued for cross leases and unit title developments for Land Registry purposes. As with Bylaw No.3, fees should be set through the power in s.150 of the LGA02, and a submission has been made in the Annual Plan process suggesting a fee of \$75.00 (GST incl) be charged in these circumstances. Again it is therefore appropriate to repeal this bylaw.

Waitakere City Council Bylaw No.15 (1990) Dangerous Goods Approvals & Inspection Fees

The purpose of this bylaw is to ensure that specified activities relating to the storage of dangerous goods, oil burning equipment and gas equipment are approved by the Council's Dangerous Goods Inspector. The bylaw also makes provision for the Council to set fees for the issue of licences and undertaking relevant inspections.

The licensing regime in the Hazardous Substances & New Organisms Act 1996 ("HASNO", which came into force in July 2001) is now managed by the Environmental Risk Management Authority ("ERMA") established under this Act. The Council does not now issue any licences or undertake any inspections referred to in the bylaw, and nor does it employ a Dangerous Goods Inspector. The bylaw is therefore redundant and should be repealed.

Waitakere City Council Bylaw No.16 (1990) Fencing of Swimming Pools

The purpose of this bylaw is to regulate the fencing of swimming pools, however enforcement action is taken in accordance with the Fencing of Swimming Pools Act 1987 (the bylaw largely replicates this legislation). The bylaw is not used to address the problem, is effectively redundant and should therefore be repealed.

Waitakere City Council Bylaw No.21 (1990) Hazardous Substances

The bylaw requires Council approval for dealings with hazardous substances but as with Bylaw No.15, the licensing regime in the HASNO Act 1996 is now managed by ERMA. Other organisations such as Occupational Safety & Health (OSH) also have some responsibilities under this Act, but the Council has only been left with a minor residual responsibility and for this purpose contractors are used in the limited circumstances required to supplement the resources of other responsible agencies. The bylaw is effectively redundant and should therefore be repealed.

Waitakere City Council Bylaw No.23 (1990) Clean Indoor Air

The purpose of this bylaw is stated to be the conservation of public health by regulating smoking in certain indoor areas, but it has been superseded by the Smoke-free Environments Act 1990. This led to the appointment by the Ministry of Health of 'smoke-free officers' who investigate complaints of non-compliance and take enforcement action as and when required. Again it is therefore appropriate to repeal this bylaw.

Waitakere City Council Bylaw No.24 (1991) Construction Noise

The purpose of this bylaw is to require that construction noise does not exceed the levels set out in New Zealand Standard NZS 6803P:1984 for the relevant type of construction area. Enforcement of noise levels is currently undertaken through the District Plan mechanism, which provides for these NZS levels as a permitted activity. The bylaw is not used to address the problem, is effectively redundant and should therefore be repealed. The District Plan needs to be amended however to refer to the updated New Zealand Standard NZS 1999.

➤ **PROCESS FOR REPEALING THESE BYLAWS**

Changes to bylaws must go through the special consultative procedure as set out in sections 83, 86 and 89 of the Local Government Act 2002. The Council approved a Statement of Proposal for public consultation at its meeting of 27 July. To obtain this document (including Summary of Information and copies of the bylaws) and/or Submission Form, please visit Council's Counter Services at the **Civic Centre, 6 Waipareira Ave, Henderson**, phone our Call Centre on **839-0400**, go to the website: <http://www.waitakere.govt.nz/HavSay/index.asp> or email: info@waitakere.govt.nz.

Any submissions on the repeal of these bylaws must be received by **4pm Friday 30 September** at the above-stated physical, website or email addresses (or fax no: 09-836-8001). Oral submissions can be made at hearings of the Planning & Regulatory Committee from 9.30am 11th & 14th November, & 1pm on the 15th. Recommendations will be presented at Council's 30 November meeting and a public notice will then be placed in the local newspaper.

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WAITAKERE CITY COUNCIL

BYLAW NO. 3 1990

LAND SUBDIVISION & DEVELOPMENT

The Waitakere City Council, acting in pursuance and exercise of the powers and authorities contained in the Local Government Act 1974, Bylaws Act 1910 their respective amendments and any other Act or authority in any way enabling the Council in that behalf RESOLVES BY SPECIAL ORDER to make the following bylaw

1. SHORT TITLE

The Short Title of this Bylaw shall be the Waitakere City Council Bylaw No. 3 1990 - Land Subdivision & Development.

2. COMMENCEMENT

This Bylaw shall come into force on the 13th day of March 1990.

3. INTERPRETATION

The expression 'NZS' and 'NZSS' when used herein shall mean a specification declared by the Standards Council to be a New Zealand Standard Specification pursuant to the provisions of the Standards Act 1965.

4. ADOPTION OF NZS 9201, THE MODEL GENERAL BYLAW

The standard specification known as NZS 9201, Model General Bylaw is hereby adopted as the general bylaw of the Waitakere City Council and shall be subject to the provisions of the SECOND SCHEDULE to this Bylaw and shall be read in conjunction therewith. The titles of documents, and amendments thereto hereby adopted are listed in the FIRST SCHEDULE to this bylaw, and these documents are annexed hereto.

(c) Any fees payable by the Council to the District Land Register relative to any matter connected with the subdivision of land or any right of way application shall be reimbursed by the said person.

(d) For checking any plans as to roading, vehicle access and parking layout, ground development, water supply, drainage, sewerage reticulation or sewage treatment and disposal works or other services to be carried out constructed or installed included in or associated with the subdivision or development, a fee according to the approved estimated value of the said works, as follows:-

Value of Works
Up to \$5,000
\$5,000 to \$50,000

Over \$50,000

Checking Fee
\$50
\$50 plus 3/4% on sum
over \$5,000
\$387.50 plus 1/2% on sum
over \$50,000

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BYLAW NO. 3
LAND SUBDIVISION & DEVELOPMENT

- (e) For engineering inspections on the site, a fee according to the approved estimated value of the said works, as follows:-

<u>Value of Works</u>	<u>Checking Fee</u>
Up to \$5,000	\$50
\$5,000 to \$50,000	\$50 plus 3/4% on sum over \$5,000
Over \$50,000	\$387.50 plus 1/2% on sum over \$50,000

- (f) For the purposes of paragraphs (d) and (e) hereof, the consultant engineer or surveyor acting for the subdivider or developer shall submit an estimate of the cost of the said works associated with the subdivision or development at the time the plans of the said works are submitted to the Council such estimate to be subject to approval for this purpose by Council's Engineer. In the event of the actual cost of work being at variance with the agreed estimate, an adjustment may be made by Council's Engineer at any time or times prior to completion of the said subdivision or development.
- (g) Notwithstanding anything contained in the preceding paragraphs (d) and (e) hereof, for each engineering inspection on site to test either water or sewerage installation other than the test at which such water or sewerage installations is approved or certified as acceptable by Council an additional fee not exceeding \$100 may be charged.
- 3.3 The fees payable under paragraphs (a), (b), (c) and (d) of the sub-clause 3.2 shall be paid to the Council upon submission of plan or plans in respect of which the fee is or fees are payable, and the fee or fees payable under paragraph (e) of the said sub-clause 3.2 shall be paid before the survey plan of the sub-division is approved by the Council or in the case of the development plan, before the building or buildings forming part of the said development are occupied or used.
- 3.4 If it shall appear, subsequent to the submission of a plan and acceptance by the Council of the fees then required by it to be paid, that any further fees are properly payable in accordance with this bylaw then the person who submitted the plan or the owner of the land which is proposed to be subdivided or developed, shall on demand in writing under the hand of the Chief Executive forthwith pay such further fee or fees.
- 3.5 If any of the inspections or other services in respect of which any of the fees under this bylaw have been paid are not made or given by the Council it may refund any of the said fees or portion thereof as it may determine.
- 3.6 The said fees as herein set out shall be increased in each case by the amount of any Goods and Services Tax charged from time to time in accordance with the Goods and Services Tax Act 1985 or amendments thereto.

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BYLAW NO. 3
LAND SUBDIVISION & DEVELOPMENT

The Common Seal of the)
WAITAKERE CITY COUNCIL)
was hereunto affixed)
Pursuant to a resolution)
of Council passed on)
28 February 1990 in the)
presence of)

CHIEF EXECUTIVE

MANAGER: FINANCE & ADMINISTRATION

WAITAKERE CITY COUNCIL

BYLAW NO. 12 1990

CERTIFICATION FEE FOR DOCUMENTS

The Waitakere City Council, HEREBY MAKES BY SPECIAL ORDER the following bylaw pursuant to the powers contained in the Local Government Act 1974, and the Unit Titles Act 1972, and any other Act or authority in any way enabling the Council in that behalf.

1 SHORT TITLE

This bylaw may be cited as the Waitakere City Council Bylaw No. 12 1990 - Certification Fee for Documents.

2 COMMENCEMENT

This Bylaw shall come into force on the 13th day of March 1990.

3 INTERPRETATION

"Certificate" shall mean a certificate in writing given by the Principal Administrative Officer or other authorised officer of the Council and endorsed on the plan, in accordance with the requirements of Section 314 of the Local Government Act 1974, or Section 5(1)(g) of the Unit Titles Act 1972, or any provision in amendment or substitution therefore as the case may be.

"Plan" Shall mean a fiat plan intended to be deposited for the purposes of a company lease or cross lease arrangement or a unit plan intended to be deposited for the purposes of creation of a stratum estate under the Unit Titles Act 1972.

4 POWER OF CONTROL TO CHARGE CERTIFICATION FEE

The Council may from time to time by resolution prescribe a fee to be paid in respect of every certificate requested to be given on any plan submitted to the Council of that purpose, and such fee may be calculated or computed by reference to the number of flats or principal units shown on the said plan or in such other manner as the Council may consider appropriate.

The Common Seal of the
WAITAKERE CITY COUNCIL
was hereunto affixed pursuant to a
resolution of Council passed on
28 February 1990 in the presence of:

CHIEF EXECUTIVE OFFICER

MANAGER: FINANCE & ADMINISTRATION

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WAITAKERE CITY COUNCIL

BYLAW NO. 15 1990

DANGEROUS GOODS APPROVALS AND INSPECTION FEES

The Waitakere City Council acting in pursuance and exercise of the powers and authorities conferred on it by the Local Government Act 1974, the Bylaws Act 1910 and their respective amendments and all other powers and authorities in any way enabling it HEREBY RESOLVES by way of Special Order to make the following:

1 SHORT TITLE

This Bylaw may be cited as the Waitakere City Council Bylaw No. 15 1990 - Dangerous Goods Approvals and Inspection Fees.

2 COMMENCEMENT

This Bylaw shall come into force on the 13th day of March 1990.

3 INTERPRETATION

In this Bylaw, unless the context otherwise requires:-

- (a) 'Council' means the Waitakere City Council.
- (b) 'District' means the district of the City of Waitakere.
- (c) 'Inspector' means the Dangerous Goods Inspector appointed by the Waitakere City Council pursuant to the Dangerous Goods Act 1974.
- (d) 'the Act' means the Dangerous Goods Act 1974 or any replacement of that Act and any regulations made thereunder.
- (e) 'Person' includes any board society or company and any other body of persons whether incorporated or not.
- (f) Expressions defined in the Act or Regulations made pursuant thereto have the meaning so defined.

4 No approval or consent required by this Bylaw shall be given unless an application for such approval or consent has been lodged with the Council and the inspection fee prescribed by this Bylaw in respect of such approval or consent has been paid to the Council.

5 STORAGE TANKS

No person shall repair, remove or examine or permit or cause to be repaired, removed or examined any aboveground or underground storage tank used for the purpose of storing those dangerous goods of Class 3 as set forth in the Schedule to the Act without first having obtained the approval of the Inspector.

BYLAW NO. 18
DANGEROUS GOODS APPROVALS
& INSPECTION FEES

6 OIL BURNING EQUIPMENT

No person shall install or cause or permit to be installed oil burning equipment (other than domestic installations) irrespective of the storage capacity of the tanks supplying fuel thereto without first having obtained the approval of the Inspector.

7 LIQUIFIED PETROLEUM GAS EQUIPMENT

No person shall install or cause or permit to be installed liquefied petroleum gas equipment without first having obtained the approval of the Inspector.

8 COMPRESSED NATURAL GAS EQUIPMENT

No person shall install or cause or permit to be installed compressed natural gas equipment without first having obtained the approval of the Inspector.

9 FEES AND CHARGES

The Council may from time to time by resolution fix and alter fees and charges for the issue of licences and the making of inspections and for any other services provided by the Council in accordance with the control or the storage of dangerous goods in the district.

10 Nothing in this Bylaw shall limit or otherwise affect the provisions of the Act or Regulations made pursuant thereto, or the Waitakere City Council Building Bylaw 1990 or amendments thereto.

The Common Seal of the)
WAITAKERE CITY COUNCIL)
was hereunto affixed pursuant to a)
resolution of Council passed on)
28 February 1990 in the presence of:)

CHIEF EXECUTIVE OFFICER

MANAGER: FINANCE & ADMINISTRATION

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WAITAKERE CITY COUNCIL

BYLAW NO. 16 1990

FENCING OF SWIMMING POOLS

(Incorporating Amendments No.1 and No.2)

The Waitakere City Council, acting in pursuance and exercise of the powers and authorities conferred on it by the Local Government Act 1974, the Bylaws Act 1910, their respective amendments, and all other powers and authorities in any way enabling it **HEREBY RESOLVES** by **SPECIAL ORDER** to make the following bylaw:-

1 SHORT TITLE

The short title of this Bylaw shall be the Waitakere City Council Bylaw No. 16, 1990-Fencing of Swimming Pools.

2. COMMENCEMENT

This Bylaw shall come into force on the 13th day of March 1990.

3 INTERPRETATION

In this Bylaw, unless the context otherwise requires:-

"Fence" means a fence that complies with the requirements of the Schedule to this Bylaw and includes any part of a building and any gates or doors forming part of the fence; and "fenced" has a corresponding meaning.

"Gates or doors" does not include any door to which Clause 11 of the Schedule of this Bylaw applies.

"Immediate pool area" means the land in or on which the pool is situated and so much of the surrounding area as is used for activities or purposes carried on in conjunction with the use of the pool.

"Judicial officer" means any District Court Judge, Justice, or Registrar of a District Court (other than a constable); but does not include any person who is a member or employee of the territorial authority.

"Owner" means the owner of a pool; except -

- (a) Where the pool is subject to a hire purchase agreement within the meaning of the Hire Purchase Act 1971, in which case it means the purchaser of the pool.
- (b) Where the pool is on premises that are not subject to a tenancy under the Residential Tenancies Act 1986 and the pool is subject to a lease or is part of

BYLAW NO.16
FENCING OF SWIMMING POOLS

premises subject to a lease, in which case it means the lessee of the pool or the premises.

"Swimming pool" and "pool" mean an excavation, structure, or product that is used or is capable of being used for the purpose of swimming, wading, paddling, or bathing; and includes any such excavation, structure, or product, that is a spa pool.

"Territorial Authority" has the same meaning as in the Local Government Act 1974.

4 APPLICATION TO EXISTING POOLS

This Bylaw shall apply in respect of any swimming pool constructed, erected, or installed before the date of commencement of this Bylaw at any time on or after the 1st day of May 1988 when the pool is filled or partly filled with water.

5 APPLICATION TO NEW POOLS

This Bylaw shall apply in respect of any swimming pool constructed, erected, or installed on or after the date of commencement of this Bylaw or at any time when the pool is filled or partly filled with water.

6 NOTIFICATION OF EXISTENCE OF POOL TO THE COUNCIL

- (1) Every owner of a pool to which this Bylaw applies when the pool is filled or partly filled with water or to which this Bylaw will apply on or after the 1st day of May 1988 when the pool is filled or partly filled with water shall comply with any reasonable requirement of the territorial authority to advise the Council of the existence of the pool.
- (2) Every person who proposes to construct or install a pool to which this Bylaw will apply when the pool is filled or partly filled with water shall notify the Council of the intention to construct or install the pool before the construction or installation commences.

7 OBLIGATIONS OF OWNER AND PERSONS IN CONTROL OF POOL

- (1) Every owner of a pool to which this Bylaw applies shall ensure that, except as provided in any exemption granted under Clause 7 of this Bylaw, the pool, or some or all of the immediate pool area including all of the pool, is fenced by a fence that complies with the requirements of the Schedule to this Bylaw at all times when this Bylaw applies in respect of the pool.
- (2) Every owner of a pool to which this Bylaw applies shall comply or ensure that there is compliance with every condition imposed under Clause 12(2) of this Bylaw.

BYLAW NO.16
FENCING OF SWIMMING POOLS

- (3) Every person who has possession of the property on which any pool to which this Bylaw applies is situated shall ensure that the pool is not filled or partly filled with water at any time when the person knows or could reasonably be expected to know that any obligation imposed by this section on that or any other person is not being complied with.
- (4) The fact that a person complies with any obligation imposed by this Bylaw shall not excuse that person from any other duty imposed by any other Act, Regulation or Bylaw.

8. OBLIGATION OF TERRITORIAL AUTHORITIES

The Council shall take all reasonable steps to ensure that this Bylaw is complied with within its district.

9. OFFENCE

- (1) Every person who, without reasonable cause, fails to comply with any obligation imposed by Clause 6 or Clause 7 of this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$500.00 and, where the failure is a continuing one, to a further fine not exceeding \$50.00 for every day on which the failure has continued.
- (2) Where the owner or person entitled to possession or control of a pool to which this Bylaw applies is not entitled to possession of the property on which the pool is situated or the immediate pool area (whether because of any tenancy agreement, agreement to occupy a hotel room, motel, or camping ground, or otherwise) it shall be a defence to any proceedings for any offence described in subsection (1) of this section in relation to Clause 7 of this Bylaw if the Court is satisfied that the owner took all reasonable steps -
 - (a) To ensure that the obligation was complied with; and
 - (b) To ensure that the persons in possession of the property or entitled or likely to be in the immediate pool area are made aware of the existence of the pool.
- (3) Where any person is convicted of the offence described in subsection (1) of this section in relation to Clause 7 of this Bylaw the Court may order that the pool be drained of water and be kept empty until the pool is fenced in a manner that complies with this Bylaw or any condition imposed under section 12 of this Bylaw is met, as the case may require.

10. POWER OF ENTRY FOR COUNCIL OFFICERS

- (1) Without limiting any other powers of the Council, any officer of the Council, who has reasonable grounds to believe -

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BYLAW NO.16
FENCING OF SWIMMING POOLS

- (a) That there is on any land within the district of the Council a swimming pool to which this Bylaw applies; and
- (b) That the pool is not fenced as required by this Bylaw or any condition imposed under Clause 12 of this Bylaw is not being complied with:-

May at any reasonable time enter on the land and carry out an inspection to determine whether or not there is on the land such a pool that is not fenced as required by this Bylaw or whether or not the condition is being complied with.

- (2) Nothing in subclause (1) of this clause shall confer on any person the power to enter any house, home unit, or apartment building unless the entry is authorised by a warrant given by a judicial officer on written application on oath, which shall not be granted unless the judicial officer is satisfied that the entry is essential to enable the inspection to be carried out.
- (3) Every warrant issued under subclause (2) of this clause shall be directed to a named officer of the Council and shall be valid for a period of 1 month from the date of its issue or such lesser period as the judicial officer considers appropriate; and the period of validity shall be shown in the warrant.
- (4) Every person exercising the power of entry conferred by subclause (1) of this clause shall carry a warrant of Appointment issued by the Council and specifying:
 - (a) The name and the office or offices held by the person.
 - (b) That the person is authorised by the Council to exercise the power conferred by subclause (1) of this clause to enter the land and carry out the inspection.

11 EXEMPTED POOLS

Nothing in this Bylaw shall apply in respect of –

- (a) Any pool that has no part of the top of its side walls less than 1.2 metres above the adjacent ground level or any permanent projection from or object standing on the ground outside and within 1.2 metres of the walls, where the outside surface of the side walls is constructed so as to inhibit climbing and any ladder or other means of access to the interior of the swimming pool can be readily removed or rendered inoperable and is removed or rendered inoperable whenever it is intended that the pool not be used.
- (b) Any excavation, structure, or product, in which the maximum depth of water does not exceed 400mm.

BYLAW NO.16
FENCING OF SWIMMING POOLS

- (c) Any excavation, structure, or product:
- (i) That is not used in association with any house, home unit, apartment building, school, hospital, hotel, motel, camping ground, or other similar premises; and
 - (ii) That is not modified for use, or intended to be used, for swimming, wading, paddling, or bathing.
- (d) Any pool intended to be used for wading or paddling in any place that is under the administration of the Council.
- (e) Any pool that is wholly enclosed within a building that is used principally for a purpose or purposes not related to the use of the pool.
- (f) Any pool where –
- (i) Persons are employed and present to provide supervision of the pool whenever the pool is available for use; and
 - (ii) Access to the pool is effectively prevented by a fence that complies with this Bylaw or by locked gates or doors whenever the pool is not intended to be available for use.

12. SPECIAL EXEMPTIONS

- (1) The Council may, by resolution, grant an exemption from some or all of the requirements of this Bylaw in the case of any particular pool where the Council is satisfied, having regard to the particular characteristics of the property and the pool, any other relevant circumstances, and any conditions it imposes under subclause (2) of this clause, that such an exemption would not significantly increase danger to young children.
- (2) In granting an exemption under subclause (1) of this clause, the Council may impose such other conditions relating to the property or the pool as are reasonable in the circumstances.
- (3) Any exemption granted or condition imposed under this clause may be amended or revoked by the Council by resolution.

13. EXPIRY OF CERTIFICATES OF COMPLIANCE

All certificates of compliance issued by the Waitakere City Council or the former Waitemata City Council pursuant to any form of bylaw or enactment or any former clause of this bylaw shall be deemed to have expired on the 1st day of August 1990 and have no further effect from that date.

14 **ALTERATIONS**

Every owner of a pool shall immediately notify the Council of any event or occurrence or any work which alters in any way a fence to which this bylaw applies or any structure deemed to comprise such a fence shall comply with any requirements imposed by the Council to ensure continued compliance with this bylaw.

"SCHEDULE"

REQUIREMENTS FOR FENCES UNDER THIS BYLAW

The requirements for fences under this bylaw shall be those stipulated in the Schedule to the Fencing of Swimming Pools Act 1987 and any amendments thereto.

WAITAKERE CITY COUNCIL

BYLAW NO. 23 1990

CLEAN INDOOR AIR

That the Waitakere City Council acting in pursuance and exercise of the power and authorities conferred on it by the Local Government Act 1974, the Bylaws Act 1910, their respective amendments and all other powers and authorities in anyway enabling it HEREBY CONFIRMS by SPECIAL ORDER to make the following bylaw:-

1 SHORT TITLE

The Short Title of this Bylaw shall be the Waitakere City Council Bylaw No. 23, 1990 - Clean Indoor Air.

2 COMMENCEMENT

This Bylaw shall come into force on the 5th day of October 1990.

3 INTERPRETATION

In this bylaw, unless the context otherwise requires:-

- (a) CITY means the City of Waitakere.
- (b) FINANCIAL INSTITUTION means any premises being used principally for the business of any bank, building society, insurance company or any other provider of "financial services" as defined in the Goods and Services Tax Act 1985.
- (c) HEALTH CARE CENTRE means any premises from or in which are provided health care services and includes any hospital, medical or dental rooms, surgery or clinic and any premises for physiotherapy, naturopathy, chiropractic or any other form of health care or therapy and includes any foyer, reception area, or any room or area in which patients are admitted to a health care centre.
- (d) INDOOR PUBLIC AREA means that part of any indoor area of a financial institution, public utility building, restaurant or sales outlet which is open to the public in the ordinary course of the business or activity being carried on there.
- (e) PREMISES includes any building or part of a building and any temporary structure, tent or marquee, or part thereof.
- (f) PROPRIETOR means any person who owns, governs, controls or directs the business or activity carried on within any financial institution, health care centre, public utility building or sales outlet.
- (g) PUBLIC UTILITY BUILDING means any premises occupied by any local authority or public body specified in the First schedule to the Local Government Act 1974 or the First and Second Schedules to the State Owned Enterprises Act 1986.

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- (h) **RESTAURANT** means any premises being used principally for the business of selling or offering for sale to the public food for consumption on the premises wherein at least 15 seats are provided for the use of patrons, and includes a restaurant as defined that is within any premises licensed under the Sale of Liquor Act 1989.
- (i) **SALES OUTLET** means any premises being used principally for the purpose of selling or offering for sale to the public any goods or services (including professional services) but does not include any:
- (i) Health care centre;
 - (ii) Licensed hotel or tavern;
 - (iii) Restaurant;
 - (iv) Bowling alley;
 - (v) Pool hall;
 - (vi) Bowling alley;
 - (vii) Dance hall;
 - (viii) Amusement gallery; or
 - (ix) Public Utility Building
- (j) **SMOKE** means to smoke, hold or otherwise have control over an ignited tobacco product, weed or plant; and "smoking" has a corresponding meaning.

4 PURPOSE

- (a) Because the smoking of tobacco or any other weed or plant is a danger to health and can also be a danger to health and a cause of material annoyance and discomfort to non-smokers present in indoor areas, the Waitakere City Council declares that the purposes of this bylaw are:
- (i) To conserve the public health, well-being, safety and convenience by regulating smoking in certain indoor areas of certain premises; and
 - (ii) To minimise the deleterious effects of smoking in indoor areas by prohibiting smoking in certain indoor areas of certain premises.
- (b) This bylaw is not intended to create any right to smoke or to impair or affect any other person's entitlement to regulate or prohibit smoking in any premises.

5 REQUIREMENTS AS TO SALES OUTLETS

- (a) No person shall smoke in any indoor public area of a sales outlet.
- (b) The proprietor of any sales outlet shall post or cause to be posted one or more signs of the kind specified by this bylaw.
- (c) The sign or signs shall be conspicuously posted so as to be clearly visible at all times to all persons entering or remaining in any such indoor public area.

6 **REQUIREMENTS AS TO HEALTH CARE CENTRES**

- (a) No person shall smoke in any health care centre.
- (b) The proprietor of any health care centre shall post or cause to be posted one or more signs of the kind specified by this bylaw.
- (c) The sign or signs shall be conspicuously posted so as to be clearly visible at all times to all persons entering or remaining in the health care centre.

7 **REQUIREMENTS AS TO FINANCIAL INSTITUTIONS AND PUBLIC UTILITY BUILDINGS**

- (a) No person shall smoke in the indoor public area of a financial institution or public utility building.
- (b) The proprietor of any financial institution or public utility building shall post or cause to be posted one or more signs of the kind specified by this bylaw.
- (c) The sign or signs shall be conspicuously posted so as to be clearly visible at all times to all persons entering or remaining in any such indoor public area.

8 **REQUIREMENTS AS TO LIFTS**

- (a) No person shall smoke in a public lift in any premises.
- (b) The proprietor of any premises which contains one or more public lifts shall post or cause to be posted one or more signs of the kind specified by this bylaw.
- (c) The sign or signs shall be conspicuously posted so as to be clearly visible at all times to all users of the lift or lifts.

9 **REQUIREMENTS AS TO RESTAURANTS**

- (a) The proprietor of any restaurant shall designate at least FIFTY PER CENT (50%) of the total number of seats available in the restaurant for the consumption of food as smoke-free and shall clearly identify such seats by appropriate signs or notices.
- (b) Smoke-free seats shall be contiguous to each other.
- (c) No person shall smoke while sitting at any smoke-free seat or within one metre of any smoke-free seat.
- (d) The proprietor of any restaurant shall post or cause to be posted one or more signs of the kind specified by this bylaw.
- (e) The sign or signs shall be conspicuously posted so as to be clearly visible at all times to all persons entering or remaining in the area in which smoking is prohibited.

10 **DISPENSING POWER**

Where in the opinion of the Waitakere City Council full compliance with any of the provisions of this bylaw would needlessly or injuriously affect the course or operation of the business of, or be attended with loss or inconvenience to, any proprietor without any corresponding benefit to the community, the Waitakere City Council may, on the special application of that proprietor, dispense with full compliance with the provisions of this bylaw upon such terms and conditions (if any) as the Waitakere City Council sees fit.

11 **OFFENCES AND PENALTIES**

(a) Every person commits an offence against this bylaw who:

- (i) Does any act in contravention of any provision of this bylaw, or
- (ii) Fails to comply with any requirement of any provision of this bylaw, or
- (iii) Destroys, damages, defaces or otherwise alters in any way any sign posted in accordance with the provisions of this bylaw;

and is liable on summary conviction to a fine not exceeding \$500.00 and where the offence is a continuing one to a further fine not exceeding \$50.00 for every day or part of a day thereof on which the offence continues.

(b) The continued existence of anything in a state, or the intermittent repetition of any actions, contrary to any provision of this bylaw shall be deemed to be a continuing offence.

12 **SIGNS**

Every sign required to be posted pursuant to this bylaw shall conform with the description set out in Schedule A hereto.

13 **REVOCATION AND SAVING**

(a) Any sign complying with the former Waitemata City Council Bylaw No. 18 - Clean Indoor Air and posted prior to the coming into force of this bylaw, shall be deemed to be posted in compliance with this bylaw until 1 August 1995, after which time all signs shall be in strict compliance with Schedule A hereto.

(b) Subject to (a), the Waitemata City Council Bylaw No. 18 - Clean Indoor Air and amendments are hereby revoked.

SCHEDULE A - SIGNS

Every sign shall:-

- (a) Carry the text 'SMOKE FREE ZONE' or 'NO SMOKING' or 'NON SMOKING PLEASE' in upper case or lower case letters, or a combination of both, such letters to be not less than 20 millimetres in height.
- (b) Consist of two or more contrasting colours, or consist of lettering contrasting to the background colour where the lettering is applied directly to a surface or is mounted on a clear panel.
- (c) Read "Waitakere City Council Bylaw No. 23 - Fine \$500 plus \$50.00 per day for continuing offence" at the bottom of the sign.
- (d) Be square or rectangular and have no side smaller than 250 millimetres.

The Common Seal of the)
WAITAKERE CITY COUNCIL)
was hereunto affixed pursuant to a)
resolution of Council passed on)
26 September 1990 in the presence of.)

CHIEF EXECUTIVE OFFICER

MANAGER: FINANCE & ADMINISTRATION

WAITAKERE CITY COUNCIL

BYLAW NO. 21 1990

HAZARDOUS SUBSTANCES

The Waitakere City Council, acting in pursuance and exercise of the powers and authorities conferred on it by the Local Government Act 1974, the Health Act 1956, the Bylaws Act 1910, their respective amendments, and all other powers and authorities in any way enabling it HEREBY RESOLVES by SPECIAL ORDER to make the following bylaw:-

1 SHORT TITLE

The short title of this bylaw shall be the Waitakere City Council Bylaw No. 21, 1990 - Hazardous Substance.

2 COMMENCEMENT

This Bylaw shall come into force on the 13th day of March 1990.

3 INTERPRETATION

(1) In this bylaw, unless the context otherwise requires:

'Council'	means the Waitakere City Council.
'District'	means the District of Waitakere City Council.
'Hazardous Substance'	means any substance classified in Schedule A of this Bylaw and includes dangerous goods as defined in the Dangerous Goods Act 1974, toxic substances as defined in the Toxic Substances Act 1979 and any other flammable, toxic, explosive, noxious, infectious, radioactive or other substance which may impair health.
Kg	means kilogram
'LD50'	means the statistical estimate of the dosage necessary to kill 50 percent of an infinite population of test animals.
M	means metre
Mg	means milligrams
M.S.D.B.'s	means material safety data bulletins
NOS	means not otherwise specified
'Premises'	means any land, buildings, structure or place or part thereof in which hazardous substances are stored.