

# 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.

- (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: )

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**CHIEF EXECUTIVE OFFICER**

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**MANAGER: FINANCE & ADMINISTRATION**