

# 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 Substances.

#### **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.

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'Principal Entrance'	means any entrance from a public place to the premises that Council designates to be a principal entrance.
'Store'	means retaining or having in possession for more than 1 hour.
'STP'	means in respect of gases, standard temperature and pressure of 20°C and 1 atmosphere respectively.
'Occupier'	in relation to any premises, means the person in actual occupation of those premises; and, in relation to any premises in which any manufacture, trade, or business is carried on (whether for pecuniary profit or not), includes the person carrying on that manufacture, trade, or business in the premises.
'Officer'	means a person appointed by Council to be an officer for the purposes of this Bylaw.
'United Nations Number'	means the identification number of a substance designated by the "United Nations Committee of Experts on the Transport of Dangerous Goods".
'Use'	means use at a rate or in a manner which presents a hazard to any other person.

**4 PURPOSE**

Because storage and handling of hazardous substances can result in accidents, pollution of environment and creation of risk to human life and property, the Waitakere City Council declares the purposes of this Bylaw are:-

- (a) To provide for effective control for hazardous substances.
- (b) To identify the location of type of risk.
- (c) To minimise the effect of accident spillage.
- (d) Generally provide controls to bring about an improvement in environmental standards.

5 No person, being the occupier of any premises within the District shall store, handle, blend, pack, use any hazardous substance listed in Schedule A of this Bylaw, in quantities exceeding the limits listed in Schedule B of this Bylaw, for that particular class(s) or category(s) of hazardous substance, unless prior approval in writing from the Council has been granted.

6 Every person, being an occupier of any premises within the District, and desiring approval to store, handle, use a hazardous substance for the purposes of Clause 5 of the Bylaw shall make application on the form specified in Schedule C of this Bylaw.

- 7 Every application made under Clause 6 of this Bylaw shall be accompanied by such details and plans necessary in the opinion of Council to show:-
- (a) The nature and quantity of hazardous substances.
  - (b) The premise and the parts of those premises upon which hazardous substances are proposed to be stored, used or handled.
  - (c) The nature of storage facilities proposed, including loading and unloading areas.
  - (d) The intended use of the materials.
  - (e) The nature of transportation methods to and from the site.
  - (f) The suitability of the site for the storage of the hazardous substances proposed.
  - (g) The adequacy of safety facilities and measures at the premises.
  - (h) The suitability of access routes for transportation of hazardous substances to and from the site and the safety measures to be observed during transportation and loading and unloading of hazardous substances at the premises.
  - (i) The adequacy of provision for emergency services, including the suitability of access to the premises, access within the premises, labelling and recording the materials stored on the premises and availability of suitable fire fighting rescues.
  - (j) The adequacy of facilities and measures for the purposes of containing any hazardous substance to the confines of the applicant's premises and of the prevention of pollution.
  - (k) The adequacy of facilities and measures for the cleaning up of any hazardous substance in the event of spillage or accident.
  - (l) Such other matters as the Council may deem relevant in the consideration of application.
- 8 The Council may either prior to or during the consideration of an application made pursuant to this Bylaw, request a report to be made on the application from the New Zealand Fire Service, the Auckland Regional Council or any person or persons having or believed to have knowledge about the hazardous substance or substances referred to in the application.
- 9 The Council may refuse to grant permission if in its opinion there is an unacceptable risk of injury or death to any other person not being the occupier or employee of the occupier, making such application, or there is an unacceptable risk of damage to any property outside of the boundary of the premises to which the application relates.

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- 10 The Council on granting approval to any person to store, handle, use or accept consignment of any hazardous substance, may impose any conditions it thinks fit including:-
- (a) The nature and volume of hazardous substances which may be held on premises.
  - (b) The provision of such additional safety measures, structures, devices and procedures as may be deemed necessary to protect public health, well being, safety and convenience.
  - (c) The provision of such additional safety and containment measures and facilities as are necessary to ensure that no spillage of hazardous substances will adversely affect the surrounding environment and as are necessary to ensure all hazardous substances are confined to the applicant's premises in the event of an accident.
  - (d) The principal entrance to the premises and the information and signs which must be displayed for the information of emergency services at the principal entrance.
  - (e) The parts of the premises where identified hazardous substances may, or may not be stored.
  - (f) The management techniques to be employed within the premises to minimise the likelihood of an accident and the procedures to be followed in the event of an accident.
  - (g) The provision of reasonable safety separation distances between a hazardous substance area and any other activity, depending upon circumstances relevant to the application.
  - (h) The comparability of hazardous substances with other materials and uses on the site or on adjoining site, whether or not the materials or uses involve other hazard substances.
  - (i) Such other conditions as may be considered appropriate or reasonable in the circumstances of the application.
- 11 The Council may at any time, after having granted approval to any person to store, handle, use any hazardous substance, amend any condition of approval or revoke any approval if an unacceptable risk of injury or death to any person, not being the occupier or an employee of the occupier, or a substantial risk of damage to any property outside the boundary of the premises to which the approval relates, continues to exist or where other circumstances of any kind requires such action, and give notice to the occupier of such action.
- 12 Every person who, being the occupier or an employee of an occupier, of any premises within the District, and having been granted approval to store, handle, use a hazardous substance shall abide by all conditions imposed by Council under Clause 7 of this Bylaw.
- 13 The Council may from time to time prescribe a fee for the consideration of an application for approval or variation of conditions of approval to store, handle, use or accept the consignment of hazardous substances under this Bylaw.
- 14 Every person making an application for approval under Clause 6 of this Bylaw shall pay the cost of all reports and consultants fees that are necessary for the application to be considered.
- 15 The Council will keep such records of approvals granted under this Bylaw as it thinks fit.

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- 16 The Council may if it thinks fit, delegate any of its powers under this Bylaw to an 'officer' appointed under Clause 18 of this Bylaw.
- 17 The Council may appoint any suitably skilled and qualified person to be an 'officer' for the purposes of this Bylaw.
- 18 Any officer may enter and inspect any premises for the purposes of this Bylaw and examine any hazardous substance, container or appliance containing or having contained a hazardous substance, and take photographs of any hazardous substance or container for hazardous substance, require the rectification of situations where an unacceptable risk is occurring, and seize, detain or remove any hazardous substance if he has reason to believe that a substantial risk does exist to any person other than occupier or an employee of the occupier, or investigate any accident involving hazardous substances.
- 19 The Officer may require any persons being in the occupier or an employee of the occupier of any premises to provide reasonable particulars in relation to the storage, use or handling of hazardous substances on those premises, including transportation methods and the disposal of waste hazardous substances.
- 20 Every occupier of premises where hazardous substances, listed in Schedule A of this Bylaw are stored, handled or used in quantities exceeding the limits listed in Schedule B of this Bylaw, and in the opinion of the officer any occupier of other premises where hazardous substances are stored, shall display at the principal entrance of the premises an appropriate warning sign or signs indicating the hazardous substance that is being stored, handled or used at the premises.
- 21 Every warning sign required by this Bylaw shall be in accordance with the New Zealand Chemical Industry Council Inc. Code of Practice "Warning signs for premises storing hazardous substances" or otherwise approved by Council.
- 22 No person shall use or cause to be used any hazardous substance in any manner that causes a substantial risk of injury or death to any other person, being the occupier of or an employee of the occupier of premises where the hazardous substance is being used, or that causes damage to any other premises.
- 23 Nothing in this Bylaw shall; derogate from the functions of the Council in respect to the administration of the Resource Management Act 1991, or the Department of Labour, the Auckland Regional Council, Department of Health, Ministry of Transport (Marine Division) or the New Zealand Railways Corporation or any other Government Department or state owned enterprise in the administration of any Acts or Regulations within their jurisdiction.
- 24 No person shall convey, transport, carry or deliver any hazardous substance in the District except in accordance with the provisions of NZS 5433, 1988 (Code of Practice for the Transport of Hazardous Substances on Land).
- 25 Every person shall take all reasonable and practicable steps to contain and neutralise any spillage of a hazardous substance to prevent the pollution of any watercourse, river, sea or other body of water whether directly or indirectly through a sewer system or not, or the pollution of any land except at a specified refuse disposal site operated by the Auckland Regional Council.

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- 26 Every occupier of a premises used for the storage, handling or use of hazardous substances shall keep sufficient safety equipment for the protection of any person engaged in the containment, recovery and cleaning up operations of a spillage of a hazardous substance and have a written emergency procedure for substances used.
- 27 Every occupier of premises used for the storage, handling or packing of hazardous substances shall provide approved storage facilities for hazardous substances and shall have available current M.S.D.B.'s for all hazardous substances stored or used on the premises.
- 28 Every occupier of premises used for the storage, handling or packing of hazardous substances shall use the best practicable means to minimise accumulations of empty or waste containers in all yard areas adjacent to buildings on the site.
- 29 All yard areas and cart docks used for the storage, handling of hazardous substances shall have approved bunding systems to contain any spillage of liquid hazardous substances. No bunded area shall have any outlet to a sanitary or stormwater sewer system.
- 30 No person shall dispose of any unwanted or waste hazardous substance without the prior approval of Council and the Auckland Regional Authority.
- 31 Every application for approval of Council to dispose of any unwanted or waste hazardous substance shall be made in accordance with Schedule D of this Bylaw.
- 32 The Council on granting approved to any person to dispose of unwanted or waste hazardous substances may impose any conditions it thinks fit, including method of disposal, time and rate of disposal, the disposal site and mode of transportation to the disposal site.

**33 DISPENSING POWER**

Where in the opinion of the Council full compliance with any of the provisions of the Bylaw would needlessly or injuriously affect the course or operation of any business of any occupier, the local authority may, on the special application of that occupier dispense with the full compliance with the provisions of this Bylaw PROVIDED THAT any other terms or conditions (if any) that the Council may deem fit to impose shall be complied with by such occupier as aforesaid.

**34 APPEALS**

Any occupier of premises directly affected by any decision or requirement of an officer or Council and is aggrieved by that decision may appeal in writing to the Chief Executive Officer of the Council, who shall constitute an Appeal Committee to hear the appeal.

On hearing the application the Chief Executive Officer on the advice of the Appeal Committee may confirm, reverse or modify the decision or requirements.



**SCHEDULE A**

**CLASSIFIED HAZARDOUS SUBSTANCES**

The following classes (Class 1 - Class 9) of substances are declared to be hazardous substances for the purposes of this Bylaw.

**'Class 1'** means any explosive substance subject to the provisions of the Explosives Act 1957 and its amendments and regulations thereto.

**'Class 2A'** means any gas, other than gases included in other classes of hazardous substances in this bylaw, which are compressed, liquefied or dissolved under pressure.

**'Class 2B'** means any flammable gas other than a liquefied flammable gas, and acetylene.

**'Class 2C'** means compressed or dissolved acetylene, whether or not contained within a porous substance.

**'Class 2D'** means liquefied petroleum gas, and any other liquefied flammable gas.

**'Class 2E'** means chlorine.

**'Class 2F'** means anhydrous ammonia.

**'Class 2G'** means liquid oxygen.

**'Class 3A'** means any flammable liquid or mixture of liquids and liquids containing solids in solution or a suspension of any kind which in each case has a flash point, determined by the methods set out in the Second Schedule of the Dangerous Goods Regulations 1985, less than 23°C and nitro-cellulose with, by mass, a nitrogen content not exceeding 12.6% wetted with, by mass, not less than 45% flammable liquids having a flash point, determined by the methods set out in the Second Schedule of the Dangerous Goods Regulations 1985, less than 23°C.

**'Class 3B'** means any flammable liquid or mixture of liquids and liquids containing solids in solution or a suspension of any kind which in each case has a flash point, determined by the methods set out in the Second Schedule of the Dangerous Goods Regulations 1985, of 61°C or less than 61°C but not less than 23°C, and nitro-cellulose with, by mass, a nitrogen content not exceeding 12.6% wetted with, by mass, not less than 45% flammable liquids having a flash point, determined by the methods set out in the Second Schedule of the Dangerous Goods Regulations 1985, of 61°C or less than 61°C by not less than 23°C.

**'Class 3C'** means fuel oil.

**'Class 4'** means flammable solids, being substances liable to spontaneous combustion or substances which, on contact with water, emit flammable gases, and listed in the Dangerous Goods Order 1983.

**'Class 5A'** means oxidising substances including bromates, chromates and dichromates, chlorates, chlorites, chromium trioxide (anhydrous), hypochlorites (with more than 39% available chlorine), inorganic peroxides, nitrates, perborates, perchlorates, permanganates, persulphates, potassium nitrate, sodium nitrate, tetranitromethane, urea hydrogen peroxide, hydrogen peroxide, zirconium picramate wetted with not less than 20% water.

**'Class 5B'** means oxidising substances being all organic peroxides.

**SCHEDULE A**

**CLASSIFIED HAZARDOUS SUBSTANCES (cont'd)**

**'Class 6.1A'** means any toxic substance listed as a 'deadly poisons' in the first schedule of the Toxic Substances Regulations 1983 and amendments thereto, and any other toxic substance having a LD50 less than 10mg/kg, and substances recognised as being carcinogens.

**'Class 6.1B'** means any toxic substance listed as a 'dangerous poison' in the Second Schedule of the Toxic Substances Regulations 1983 and amendments thereto, and toxic substances having a LD50 of, or greater than 10mg/kg but less than 200mg/kg.

**'Class 6.1C'** means any toxic substance listed as a 'standard poison' in the Third Schedule of the Toxic Substances Regulations 1983 and amendments thereto, and toxic substances having a LD50 of, or greater than 200mg/kg but less than 1000mg/kg.

**'Class 6.1D'** means any toxic substance listed as a 'harmful substance' in the Fourth Schedule of the Toxic Substances Regulations 1983 and amendments thereto, and toxic substances having a LD50 of, or greater than 1000mg/kg.

**'Class 6.2'** means any substance containing pathogenic micro-organisms.

**'Class 7'** means radioactive materials subject to the provisions of the Radiation Protection Act 1965, and its amendments and regulations made thereto.

**'Class 8'** means any corrosive substance including hydrochloric acid, hydrofluoric acid, nitric acid, sulphuric acid, phosphoric acid hydrofluorosilicic acid, chlorosulphonic acid, potassium hydroxide in solution, sodium hydroxide in solution, sodium hypochlorite in solution, and aqueous ammonia.

**'Class 9'** means any substance recognised as being dangerous, which is not included in Classes 1-8 in this Bylaw.

**SCHEDULE B**

**QUANTITIES OF HAZARDOUS SUBSTANCES THAT MAY BE STORED  
OR USED WITHOUT APPROVAL OF COUNCIL**

<b>CLASS AND DESCRIPTION OF HAZARDOUS SUBSTANCES</b>	<b>QUANTITY (LIMIT) WHICH MAY BE STORED PURSUANT TO THIS BYLAW WITHOUT APPROVAL OF COUNCIL</b>
Class 1 - Explosives	Up to 1000 kg (fireworks) 15 kg (small arms ammunition) 5 kg (gunpowder) 2.5 kg (other explosives)  NB. Refer Clause 21 in respect to the administration of the Explosives Act 1957 and its amendments, and regulations thereto.
Class 2A - Gases other than gases listed in other classes of hazardous substances in this Bylaw.	No limit (exempt from this Bylaw)  NB. Gases which are toxic substances will be subject to Class 6 - Toxic Substances.
Class 2B - Gases	Up to 100m <sup>3</sup> @ STP
Class 2C - Gases	Up to 100m <sup>3</sup> @ STP
Class 2D - Gases	Up to 150kg
Class 2E - Gases	Up to 250kg
Class 2F - Gases	Up to 1000 litres
Class 2G - Gases	Up to 200m <sup>3</sup> @ STP
Class 2 - Aerosols having a flammable content less than 45%	No limit (exempt from this Bylaw)  NB. Aerosols containing poisons will be subject to Class 6 - Toxic Substances
Class 2 - Aerosols having a flammable content of 45% or more	Up to 1000 litres
Class 3A - Flammable Liquids	Up to 250 litres
Class 3B - Flammable Liquids	Up to 50,000 litres
Class 4 - Flammable Solids	Up to 25 kg
Class 5A - Oxidising Agents	Up to 100 kg
Class 5B - Organic Peroxides	Up to 10 kg
Class 6.1A - Toxic Substances	Any quantity (no exemption), except for laboratory or research purposes, then up to 5 kg
Class 6.1B - Toxic Substances	Up to 10 kg
Class 6.1C - Toxic Substances	Up to 100 kg
Class 6.1D - Toxic Substances	Up to 500 kg
Class 6.2 - Toxic Substances	Any quantity (no exemption), except for laboratory research or hospital purposes
Class 7 - Radioactive Substances	Any quantity having a radioactivity exceeding 100 becquerels/gram.  NB: Refer Clause 21 in respect to the Administration of the Radiation Protection Act 1965 and its amendments and regulations thereto.
Class 8 - Corrosives	Up to 250 kg
Class 9 - Miscellaneous Hazardous Substances	Up to 1000 kg

Provided that in any material containing a hazardous substance in diluted form, the quantity (limit) referred to in this Schedule B shall be calculated on a percentage and volume basis.

**SCHEDULE C**

**APPLICATION FOR APPROVAL OR VARIATION OF AN EXISTING APPROVAL TO STORE, USE  
OR HANDLE OR ACCEPT CONSIGNMENT OF HAZARDOUS SUBSTANCES WITHIN THE  
WAITAKERE CITY COUNCIL DISTRICT**

I **[state full name of applicant]** hereby apply for approval or variation of an existing approval to store, use, handle, or accept consignment of the following hazardous substances:

**[state nature and volume of hazardous substances]**

The property in respect of which this application is made is situated at **[describe the property in a manner which will allow it to be readily identified]**.

The hazardous substances will be transported to and from the site **[cite the transportation method]**.

Supplementary material [set out any other information considered relevant to the application].

I am the **[state whether owner, occupier, lessee, etc]** of the property.

Name of Owner ..... Address: .....

Name of Occupier: ..... Address: .....

Dated this ..... day of ..... 19

Address for Service: .....

Signature: .....

**SCHEDULE D**

**APPLICATION FOR APPROVAL TO DISPOSE OF WASTE HAZARDOUS SUBSTANCES**  
**WITHIN THE WAITAKERE CITY COUNCIL DISTRICT**

I **[state full name of applicant]** hereby apply for approval to dispose of the following waste hazardous substances:

**[state nature and volume of hazardous substances]**

The property where the waste hazardous substances to which this application is made is situated at **[describe the property in a manner which will allow it to be readily identified]**.

The disposal method proposed is **[set out all information considered relevant to the application]**.

I am the **[state whether owner, occupier, lessee, etc]** of the property.

Name of Owner ..... Address: .....

Name of Occupier: ..... Address: .....

Dated this ..... day of ..... 19

Address for Service: .....

Signature: .....