

WAITAKERE CITY COUNCIL

DRAFT

DRAFT GENERAL ADMINISTRATION BYLAW 2010

PART 1

INTRODUCTION

1.0 **CITATION**

This bylaw may be cited as the Waitakere City Council General Administration Bylaw 2010.

2.0 **COMMENCEMENT**

This bylaw comes into force on the date it is adopted by Council.

3.0 **APPLICATION OF BYLAW**

Unless the context otherwise requires, or where otherwise expressly provided, the provisions of the Waitakere City Council General Administration Bylaw 2010 apply in respect of all other bylaws of the Council. The bylaw extends over the Waitakere City Council and may be amended from time to time. This bylaw should be read in conjunction with other Council bylaws and any other applicable statutory provisions, including, but not limited to, the Local Government Act 1974 and the Local Government Act 2002.

4.0 **PURPOSE**

The purpose of this bylaw is to provide general provisions to assist with the administration of Waitakere City Council bylaws.

PART 2

INTERPRETATION

5.0 **DEFINITIONS**

5.1 In a bylaw unless the context otherwise requires or where otherwise expressly provided –

“**Approved**” means approved by the Council or by any Committee or Officer of the Council authorised in that behalf.

“**Authorised Officer**” means any person appointed or authorised by the Council to carry out or exercise the duties of an authorised officer under a bylaw, or a sworn member of the Police in terms of the Policing Act 2008.

“**Bylaw**” means a bylaw of the Council for the time being in force, made under the provisions of any Act or authority enabling the Council to make bylaws.

“**Council**” means the Waitakere City Council or any Committee or Officer authorised to exercise the authority of the Council.

“**Environmental Health Officer**” means an Environmental Health Officer appointed by the Council under the authority of the Health Act 1956, any person working under the authority of an Environmental Health Officer or an officer appointed and warranted by the Council under the authority of the Health Act 1956.

“**District**” means the district of Waitakere City Council.

“**Enforcement Officer**” means a person appointed by the Council to exercise the powers of an enforcement officer in relation to offences against, and infringement offences under, the Local Government Act 2002 and any Council bylaw.

“**Foreshore**” has the same meaning as in section 2 of the Resource Management Act 1991.

“**Licence**” means a licence issued under a bylaw or under any statute and has the same meaning as permit, consent or approval.

“**Motor vehicle**” has the same meaning as in the Land Transport Act 1998.

“**Occupier**” means the inhabitant occupier of any premises, and if the premises are unoccupied, includes the owner.

“**Owner**” of any property, or as applied to any land, building, or premises, means any person entitled to receive the rack rent, whether on his or her own account or as agent or trustee for any other person, or who would be so entitled if the property were let, and includes any person registered under the Land Transfer Act 1952 as proprietor of the land or premises.

“**Person**” means a natural person and also a body of persons, whether corporate or unincorporated.

“**Premises**” means any dwelling, vessel, storehouse, warehouse, factory, shop, office, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands, buildings and places adjoining each other and occupied together shall be deemed to be the same premises.

“**Public Place**” means every road, street, footpath, court, alley, pedestrian mall,

roadway, cycle track, lane, access way and thoroughfare of a public nature or open to or used by the public as of right; and every square, building, reserve, park, domain, beach, foreshore, wharf or boat ramp and recreational ground and place of public resort or place to which the public have access.

“**Vehicle**” has the same meaning as in the Land Transport Act 1998.

5.2 Unless the context requires otherwise:

- (a) Where a bylaw contains an interpretation of a word or term, that interpretation will apply for the purpose of that bylaw.
- (b) If there is no express definition of a word or term in a bylaw, then for that bylaw, the definitions provided in this bylaw will apply.
- (c) If there is no express definition of a word or term in a bylaw or this bylaw, then primary legislation relative to that bylaw shall apply in respect of that bylaw.
- (d) In default of an express definition of a word or term in a bylaw or this bylaw or in the relative primary legislation, definitions of words or terms provided in the Local Government Act 1974 shall apply.
- (e) If a word or term has no definition as a result of the previous paragraph of this sub-clause, then the Acts Interpretation Act 1924 shall apply.

5.3 The headings to the clauses of this bylaw shall not affect the construction thereof.

5.4 A word which refers to the singular includes the plural, and the plural includes the singular.

5.5 A reference to a statutory provision includes any statutory provision which amends or replaces it, and any regulations, rules or other subordinate legislation made under it.

6.0 OFFICERS TO CONTINUE IN OFFICE

6.1 All Authorised Officers and Enforcement Officers appointed by the Council under or for the purpose of any repealed bylaw, and holding office at the time of coming into operation of this bylaw, shall be deemed to have been appointed under this bylaw.

7.0 SERVING OF ORDERS AND NOTICES

7.1 Except as otherwise expressly provided for in any Act, where any notice, order or other document is required to be served on any person for the purposes of a bylaw service may be effected by:

- (a) Delivering it personally; or
- (b) Sending it by courier; or

- (c) Sending it by registered post to the person's last known place of residence or business, or in the case of a company to its registered office.
- 7.2 If the person being served is absent from New Zealand, the notice may be served on his or her agent instead of on that person.
- 7.3 If the person being served has no known name or address, or is absent from New Zealand and has no known agent in New Zealand, and the notice relates to any premises, then the notice may be served on the occupier of the premises, or, if there is no occupier, may be put up on some conspicuous part of the premises. It shall not be necessary in any such notice to name the occupier or the owner of the premises.
- 7.4 If the person being served is deceased, the notice may be served on that person's personal or legal representative or executor.
- 7.5 Notices sent by post shall be deemed to have been served at the time when a letter would have been delivered in the ordinary course of post to that location.
- 8.0 POWERS OF ENTRY
- 8.1 For the purposes of doing anything that he or she is empowered to do under a bylaw, and subject to compliance with sections 171 and 173 of the Local Government Act 2002, a warranted Authorised Officer may enter any land or building other than a dwelling house.
- 8.2 Subject to compliance with sections 172 and/or 182 of the Local Government Act 2002, as the case may be, a warranted Enforcement Officer may enter any land for the purpose of detecting a breach of a bylaw or the commission of an offence or to check Council utility services.
- 9.0 LICENCES
- 9.1 Any person doing or proposing to do anything or to cause any condition to exist for which a licence from the Council is required under a bylaw or any part thereof or by any Act, shall first obtain a licence from the Council.
- 9.2 The Council may attach to any licence such terms or special terms or conditions as it deems fit.
- 9.3 No application or request for a licence from the Council, and no payment of or receipt for any fee paid in connection with such licence, shall confer any right, authority or immunity on the person making such application or payment.
- 9.4 The Council may require the payment of a fee for any licence. Following the request for payment, if any fee due remains unpaid, then the licence shall immediately cease to have effect.
- 9.5 Unless provided for elsewhere in a bylaw or in any enactment, a licence issued to a person named in that licence is not transferable to any other person, and no

such licence shall authorise any person other than the person named therein to act in any way under its terms and conditions.

9.6 Except as may be otherwise provided in any enactment or in a bylaw, the Council may suspend or revoke a licence if:

- (a) The holder of a licence:
 - (i) acts in a manner contrary to a bylaw; or
 - (ii) fails to comply with any of the terms or conditions of a licence; or
 - (iii) acts in a manner which, in the opinion of the Council, renders the holder unfit to hold a licence;
- (b) Any premises referred to in a licence or any part of such premises:
 - (i) are no longer being used for the purpose stated in the licence; or
 - (ii) have fallen into a state of disrepair or are not being kept and maintained in the condition required by the licence; or
 - (iii) are in any other manner failing to meet the requirements of a bylaw or applicable regulations.

9.7 The holder of a licence that has been suspended or revoked under clause 9.6 or under the provisions of a bylaw, and any premises in respect of which that licence has been so suspended or revoked, is deemed to be without a licence.

10.0 FEES

10.1 Subject to compliance with section 150 of the Local Government Act 2002, the Council may prescribe fees to be charged to a person doing or proposing to do anything to cause any condition to exist or for a licence, permit, certificate, authority, approval, or consent from, or inspection by, the Council under a bylaw or any other enactment.

11.0 OFFENCES

11.1 Every person commits an offence against a bylaw who:

- (a) Does, or causes or permits to be done, or is concerned in doing, anything whatsoever contrary to or otherwise than in accordance with a bylaw;
- (b) Omits, or neglects to do, or permits to remain undone, anything which according to a bylaw ought to be done by that person at the time and in the manner therein provided;
- (c) Does not refrain from doing anything which that person is required to refrain from doing under a bylaw;
- (d) Causes or permits any condition or thing to exist or continue to exist contrary to a bylaw;
- (e) Does anything, or causes anything to exist, for which a licence is required under a bylaw without first obtaining that licence;

- (f) Fails, refuses or neglects to comply with any notice direction or order served on that person under a bylaw;
- (g) Obstructs or hinders any Authorised Officer or other person for the time being appointed, employed or authorised by the Council in the performance or attempted performance of any duty to be discharged by such person under or in the exercise of any power conferred by a bylaw;
- (h) Fails or refuses to comply with any notice or conditions contained in any licence granted by the Council;
- (i) Having constructed, erected, affixed, provided or removed, or caused to be constructed, erected, affixed, provided or removed any building, or any part of a building, or any work, structure, appliance, or material of any description whatsoever, contrary to, or otherwise than in accordance with, the provisions of a bylaw; or
- (j) Having omitted to construct, erect, affix, provide or remove any work, appliance, or materials as required by a bylaw and who does not within the time stated in a notice served on that person by the Council or any Authorised Officer, such extension of that time as may be granted, fails to carry out the remedial work specified in that notice.

11.2 The provisions of this clause shall apply to any building, part of a building, work, structure, appliance, or material that has, before the coming into force of a bylaw, been constructed, erected, affixed, provided or removed, or omitted contrary to or otherwise than as provided by any provision of a bylaw hereby repealed, but re-enacted, or re-enacted in substance, in any other bylaw.

12. ENFORCEMENT AND PENALTIES

12.1 Every person who commits a breach of any of the provisions of a bylaw commits an offence and is liable to:

- (a) The penalty set out in section 238 of the Local Government Act 2002; or
- (b) Any other penalty where another enactment specifies the penalty for a breach of the bylaw.

12.2 Subject to any provision to the contrary, any person convicted of an offence against a bylaw shall be liable for the penalties set out in section 242 of the Local Government Act 2002.

12.3 In accordance with section 162 of the Act, the Council may apply to the District Court for an injunction to restrain a continuing breach of a bylaw.

12.4 Where any work or thing is, or has been, constructed in breach of a bylaw the Council or any Authorised Officer or an agent of the Council, may demolish, remove, or alter, any work, material or thing erected or being in contravention of any part of the bylaw. The Council may act under section 163 of the Local

Government Act 2002 and under sections 164, 165, 167, and 168, of the Local Government Act 2002 for seizure of property.

- 12.5 The Council may recover from any person responsible for the breach of any part of this Bylaw, all expenses incurred by it in connection with such demolition, removal or alteration. This shall include the cost of debt collecting and legal fees.
- 12.6 The exercise of an authority under clauses 12.4 and 12.5 shall not relieve any person from liability for any penalty for erecting or permitting the continued existence of any such work, material or thing.
- 12.7 If any breach of this Bylaw is such that public health, or safety considerations, or risk of consequential damage to Council assets is such that a delay would create unacceptable results, the Council may take immediate action to rectify the breach and recover all reasonable costs as set out in clause 12.5

13.0 DISPENSING POWER

- 13.1 Where in the opinion of the Council full compliance with any of the provisions of this bylaw, would needlessly or injuriously affect any person, or the course or operation of the business of, or be attended with loss or inconvenience to, any person without any corresponding benefit to the community, the Council may, on the special application of that person 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 person as aforesaid.