

WAITAKERE CITY COUNCIL

DRAFT SANITATION AND HYGIENE IN COMMERCIAL PREMISES BYLAW 2010

Explanatory Note

The Local Government Act 2002 gives authority to territorial authorities to protect the public from nuisance, protect, promote and maintain public health and safety and minimise the potential for harm arising from health nuisance that may cause a risk to public health. This bylaw is designed to protect, promote and maintain public health and safety in the course of the public receiving services from commercial premises that may have the potential to cause illness to people using those services.

This bylaw applies to all commercial premises or operations providing services to members of the public in which there is a risk or a potential risk for illness, injury or harm due to infection or contamination associated with the services offered.

The bylaw is not intended to and does not apply to:

- Premises or operations where the process is carried out by members of a professional body registered under the Health Practitioners Competence Assurance Act 2003 in the practice of that profession; or
- Premises used solely for the purposes of hairdressing as defined in the Health (Hairdressers) Regulations 1980.

PART 1

INTRODUCTION

1 Citation

This bylaw may be cited as the Waitakere City Council Sanitation and Hygiene in Commercial Premises Bylaw 2010.

2 Commencement

This bylaw comes into force on [13 September 2010] (“the commencement date”).

3 Revocation

The following bylaws shall be revoked with effect from the commencement date:

- Bylaw No 31 - Hygienic Operation of Massage Facilities (1999)
- Bylaw No 32 - Health Protection - Skin Piercing (2002)

4 Purpose

- 4.1 This bylaw is made under sections 145 (a) – (b) of the Local Government Act 2002 so as to protect the public from any health nuisance arising from the purchase of services involving a health risk.
- 4.2 In order to protect, promote and maintain public health, this bylaw controls and minimizes the risk or potential risk of illness, injury or harm due to infection or contamination associated with services offered to the public by setting sanitation and hygiene standards and requiring specified commercial premises to be licensed.

Part 2

Interpretation

5 Interpretation

- 5.1 In this bylaw unless the context otherwise requires or where otherwise expressly provided:
- (a) **“Authorised Officer”** means any person authorised by the Council to carry out any of the duties provided for in this bylaw.
 - (b) **“Council”** means the Waitakere City Council or any successor to it.
 - (c) **“Council controlled organisation”** has the same meaning as in section 6 of the Local Government Act 2002.
 - (d) **“Council organisation”** has the same meaning as in section 6 of the Local Government Act 2002.

- (e) **“Beauty therapy clinic”** or **“beauty therapy room”** means any premises in which processes, procedures or services intended to beautify, improve, protect, alter or cleanse the hair, skin, nails, complexion or body is offered. It includes premises where waxing, hair removal, sun tanning, manicure and pedicure procedures (including the application and removal of acrylic nails) or any red vein treatment is provided, but does not include premises used solely for the purposes of hairdressing as defined in the Health (Hairdressers) Regulations 1980.
- (f) **“Environmental Health Officer”** means an authorised officer appointed by the Council under the authority of the Health Act 1956.
- (g) **“Health and fitness centre”** includes any premises in which services are offered to the public for payment (including an entry fee, a service fee, or a membership fee) or reward that provides services including but not limited to exercise, massage, sun tanning, bathing, beauty therapy, sauna or steam rooms or pools, and other health or exercise services.
- (h) **“Massage premises”** or **“massage room”** includes but is not limited to a service whereby any room or premises is offered to the public in which body massage is offered for payment or reward, with or without the use of other facilities such as saunas or steam rooms or pools, beauty therapy rooms or health and fitness centre facilities. It does not include premises offering only facial massage or any premises used by members of a professional body registered under the Health Practitioners Competence Assurance Act 2003 where the process is carried out in the practice of that profession.
- (i) **“Practitioner”** means the person undertaking a prescribed process, but excludes members of a professional body registered under the Health Practitioners Competence Assurance Act 2003 where the process is carried out in the practice of that profession.
- (j) **“Prescribed process”** means any process which pierces the skin for any purpose, breaks or removes skin or hair, uses laser technology or any other technique, invasive or otherwise, to change the texture or physical appearance of skin or hair on any person. For the avoidance of doubt includes it any tattooing or beauty therapy procedure, the placement of dyes, inks, stains or other such pigments onto or into skin, or any procedure to provide for the placement of jewellery or other articles into or through the skin, and other skin piercing processes.
- (k) **“Skin piercing premise”** means any premise where any prescribed process is undertaken and includes tattooing and pigment implantation, ear and body piercing, and other like practices or processes or any part of any such practice or process, and “skin piercing” has a corresponding meaning.

Part 3

General Licensing Requirements

6 A licence is required for providers of prescribed processes and providers of commercial services required to meet hygiene standards listed below.

6.1 Unless a licence has been issued by the Council for the particular activity either under this bylaw, or another relevant bylaw, including the Public Places Bylaw 2010, no person, incorporated or otherwise shall establish or operate any of the following within the city:

- (a) skin piercing premise
- (b) beauty therapy clinic or room
- (c) health and fitness centre
- (d) massage premises or room

6.2 Every application for a licence must be received by the council no less than 40 working days before the proposed use commences.

Comment [m1]: This is consistent with Council's event processes (timeframe suggested by Sarah Natac and Huw (and agreed to by Alan Ahmu)

6.3 Any licence granted shall be subject to conditions where in the opinion of an Environmental Health Officer or authorised officer such conditions are appropriate to meet the requirements of this bylaw. The requirements set out in clause 7 shall constitute the basis or be the condition of any licence granted. Such conditions may reference any policy adopted by the Council.

6.4 It shall be a condition of every licence that any consents required under any other statute including but not limited to the Building Act 2004, the Resource Management Act 1991 or any other statute or bylaw for the operation, are obtained prior to the commencement of the activity for which a licence has been granted.

6.5 An application for the licensing of the premises or operation shall be made by the owner, occupier, operator, manager or other natural person or persons proposing to use the premises.

6.6 A licence must not be issued unless the premises or practice concerned complies with all requirements of this bylaw and with all other statutory provisions governing its operation or occupancy.

6.7 No licence is transferable and no licence authorises a person other than the person named in the licence to carry on the trade, business or practice specified on the licence.

6.8 The Council shall keep a register of the names and address for service of all persons to whom licences are issued. If the address for services is a residential property, then the licence holder is entitled to request that the address is not publicly disclosed on a public register.

- 6.9 Any register maintained by the Council shall be able to be inspected by any person during the Council's normal office hours. Where the address for service is requested by any person is a private address, the licence holder shall be contacted prior to the address being disclosed to any person.

Part 4

General Operating Requirements

7 General operating requirements for licensed providers

- 7.1 The general requirements set out in this clause, may be a condition of any licence granted under Part 4 of this bylaw
- 7.2 The general requirements set out in this clause, are binding on all licence holders.

Premises Generally

- 7.3 The premises where licensed services are being provided shall be constructed in accordance with all statutory requirements including but not limited to the Building Act 2004, the Resource Management Act 1991, any other bylaw governing this area of operation that are applicable in the circumstances.
- 7.4 The whole of the premises shall at all times be maintained in good repair and comply with the requirement of the Building Act 2004 and the Resource Management Act 1991. Any structural alterations, repairs, renovations, plumbing or drainage work that is required to be undertaken shall be undertaken and be completed without undue delay. Where such works are being carried out, the premises are prohibited from servicing the public in accordance with section 363 of the Building Act 2004.
- 7.5 The whole of the premises shall at all times be maintained in a good, clean and tidy condition, and free from any accumulation of rubbish or other materials that may harbour vermin or insects or that may become offensive or a nuisance. A breach of the Health Act 1956 in relation to licensed premises shall be a breach of this bylaw.
- 7.6 All premise surfaces, walls, fixtures, fittings or floor areas that for part of the premises intended to be for intended for public use, or where equipment is stored to service the public in relation to any prescribed process must have a smooth surface impervious to water, and be suitable for that use so as to be easily cleaned and maintained. For the avoidance of doubt this includes any reception or waiting areas, any bathroom facility, any kitchen or any store room.
- 7.7 All floors and walls shall be cleaned with a suitable disinfectant at least once every 24 hours and a log shall be maintained recording the cleaning regime. Such a log must be available to Environmental Health Officers for inspection at their request.

Equipment

(a) Towels and Linen

- 7.8 Any equipment used, including linen (such as towels, sheeting or cloths), garments or other materials used for any prescribed process, or used in association with any prescribed process, or for the cleaning of any premises must be appropriately stored to ensure that the equipment is kept clean, and where necessary, sterile.
- 7.9 Clean linen or towel must be used for each member of the public. Use of a common towel or other linen is prohibited. A log shall be maintained recording the use of clean linen or towels used for every member of the public. Such a log must be available to Environmental Health Officers for inspection at their request.
- 7.10 Linen (such as towels, sheeting and cloths) or any other protective garments, covers or material, must not be used on, or immediately under or over, a member of the public unless:
- (a) It has not been previously used; or
 - (b) Where it has been previously used, it has been laundered to render it clean and hygienic since last having been used.
 - (c) Any linen (including sheeting and pillow covers) must be immediately removed from any bed after the bed has been used in the provision of the services and the linen must be replaced with clean linen.
- 7.11 Used linen (such as towels, sheeting and cloths) or any other protective garments, covers or material and disposable gloves must be placed into an appropriate closed or covered container for cleaning or disposal, separate from clean linen.
- 7.12 Used linen may be laundered in a washing machine with laundry detergent and chlorine bleach or by a regular commercial laundry service.
- 7.13 Where any bed, table, squab, cushion, chair or other furniture and furnishings used in the provision of the services offered, and the execution of the services offered the furniture and furnishings must be provided with a satisfactory impervious protective cover that is able to be easily removed and laundered, or be covered in an impervious material that is able to be readily cleansed and sanitised.
- 7.14 Any such bed, table, squab, cushion, chair or other furniture and furnishings used in the provision of the services offered shall either be covered with new clean linen or towel for every new member of the public or be cleaned with a sanitiser prior to it being re-used by another member of the public.
- 7.15 All protective covers required to be provided by clause 7.9 must be removed and laundered whenever soiled or dirtied and must be immediately replaced with a clean protective cover.
- 7.16 A log shall be recording compliance with Clause 7.7 to 7.15. Such a log must be available to Environmental Health Officers for inspection at their request.

Other equipment

- 7.17 All needles and syringes used in the provision of a service that is a prescribed process or is use for skin piercing must be disposable.

- 7.18 All needles and syringes must be disposed of in a hazard free manner in a sealed container and disposed of off site.
- 7.19 All other tools used in the provision of a service that is a prescribed process or is for skin piercing must be sanitised with a disinfectant prior to re-use
- 7.20 A log shall be recording compliance with Clause 7.16 to 7.18. Such a log must be available to Environmental Health Officers for inspection at their request

Sanitation

[In the building act and compliance with building act is stated above, but should this be inserted anyway?]

- 7.21 All premises must be supplied with potable running water in a manner that complies with the Building Act 2004 and its regulations.
- 7.22 A sink supplied with piped hot and cold water must be provided in a readily accessible position (not in a kitchen) for the cleaning of equipment used on the premises, other than equipment used in association with the preparation or consumption of food.
- 7.23 All swimming pools, including all spa pools, provided on the premises must comply with all the provisions of New Zealand standard NZS 5826:2000 pool water quality.

Part 5

Skin Piercing Premises: General Requirements

8 Premise design

- 8.1 The general requirements set out in this part, may be a condition of any licence granted under Part 4 of this bylaw
- 8.2 The general requirements set out in this part, are binding on all licence holders.
- 8.3 All premises must have a wash-hand basin supplied with a constant supply of hot and cold water or tempered running water at a temperature of not less than 38 degree celsius, anti-bacterial soap, and approved hand-drying facilities in a readily accessible position within the treatment or procedure room where any person carries out any prescribed process.
- 8.4 The place where the wash-hand basin is required in clause 8.1 must be situated so that it cannot become directly contaminated by any prescribed process or equipment used during a prescribed process, or during any cleaning process, or by the placement of waste in any waste receptacle.
- 8.5 All premises must have suitable sinks in addition to the wash-hand basin in clause 8.1 for the cleaning of skin piercing equipment, and for cleaning purposes, supplied with water at a temperature of not less than 63 degrees celsius.

- 8.6 All premises must provide a separate area or room for the purposes of cleaning and sterilising of equipment.
- 8.7 All premises must have a separate location or cupboard for the safe storage of all chemicals held on the premises, away from treatment areas and items used when performing a prescribed process.

9 Equipment

- 9.1 All premises must have appropriately sized sharps containers, waste bins (fitted with plastic liner and lid), and bio hazard waste bins where appropriate, within each treatment or procedure room where any person carries out any prescribed process and sharps are generated.
- 9.2 All sharps containers and bio hazard waste bins must comply with ANZS4031:1992, and all premises must demonstrate that they have made appropriate arrangements to dispose of their sharps and bio hazard wastes.

10 Operations

- 10.1 Prior to the commencement of any prescribed process, the practitioner must advise the client of the risks associated with the process and of the potential for infection to occur during and after the process.
- 10.2 The practitioner must give suitable written and verbal instructions to the client on the precautions being taken, and the care of the area subject to the prescribed process and other information as appropriate to lessen the chance of infection.
- 10.3 No prescribed process (including tattooing, body piercing and other skin piercing) must be undertaken on any person under the age of 16 years without the prior written consent of their parent or guardian.
- 10.4 No prescribed process must be undertaken on any person without the prior written consent of that person who must attest and declare that to the best of their knowledge they do not:
- (a) Suffer from a communicable disease or skin disease; or
 - (b) Suffer from a bleeding disorder; or
 - (c) Take medication such as anticoagulants which thin the blood or interfere with blood clotting; or
 - (d) Have a history of allergies or adverse reactions to pigments, dyes or other skin sensitivities.
- 10.5 No prescribed process must be undertaken on any person where the practitioner believes that person to be under the influence of alcohol or any drug or mind altering substance.
- 10.6 The licensee of every premise must ensure that the following records are kept in the form of a log for a period of 5 years for any person undergoing a prescribed process:

- (a) The client's name;
- (b) The client's address;
- (c) The details of the procedure (including details of the practitioner) and location on the body where the procedure was undertaken; and
- (d) The date of the procedure.

10.7 The log required to be maintained under clause 10.6 must be available to Environmental Health Officers for inspection at their request.

10.8 All premises must have procedures for dealing with clients, staff and equipment where blood accidents occur. Such procedures must be kept on the premises in the form of a policy and all staff must be trained to comply with it. The licence holder must record any incident of blood accident and set out the steps they took to respond to it. The record shall be in the form of a log and must be available to Environmental Health Officers for inspection at their request.

10.9 No practitioner who knows or suspects that he or she is suffering from or is a carrier of a skin infection or a communicable disease, or associated condition must carry out any prescribed process without taking adequate precautions to prevent the transmittance of such infection, disease or condition.

10.10 The practitioner must:

- (a) At all times keep his or her clothing, hands, and fingernails clean and cover any impermeable dressing, any infection, damaged or inflamed skin; and
- (b) Thoroughly cleanse his or her hands by washing with soap or antibacterial cleansing agent including brushing his/her hands and nails when necessary using a single use sterile brush and then drying them with a single service towel or with an approved hand-dryer immediately:
 - i. Before putting on protective disposable gloves and commencing any process which involves the piercing of skin; and
 - ii. After removing protective disposable gloves on the completion of any process which involved the piercing of skin; and
- (c) After using a sanitary convenience, using any handkerchief or nasal tissue, smoking, eating or drinking; and

- (d) Immediately after handling or touching with bare hands soiled towels, linen or similar materials, biological matter or waste materials used or produced in connection with a process of skin penetration.
- (e) Before commencing any prescribed process, cover his/her hands with new unused protective disposable gloves. Sterile gloves must be worn when the operator is handling sterile items that must remain sterile prior to use.
- (f) Discard protective disposable gloves:
 - i. After carrying out any prescribed process on any person and before carrying out any prescribed process on any other person;
 - ii. After touching any object including surfaces and equipment which may have become contaminated with the blood or serum of any person other than the person on whom the prescribed process is being undertaken or after touching any object which has not been subject to a process of cleansing and sterilisation.
- (g) All operators must wear a protective garment or cover for every procedure of a suitable nature to prevent the operator's clothing from becoming contaminated during any proscribed process.

11 Sterilisation

11.1 All equipment shall be deemed to have been sterilised if the equipment has been:

- (a) Thoroughly cleansed by washing in warm water and detergent or within an ultrasonic cleaner and exposed to steam in accordance with the following requirements:
 - i. Exposure to steam must occur within a steriliser (autoclave) under the pressure indicated below (the times quoted above are holding times and do not include the time taken for the autoclave contents to reach the required temperature):
 - a. 103 kpa (15psi) – for at least 15 minutes at not less than 121 degrees celsius; or
 - b. 138 kpa (20psi) – for at least 10 minutes at not less than 126 degrees celsius; or
 - c. 206 kpa (30psi) – for at least 4 minutes at not less than 134 degrees celsius.

- ii. Every steriliser (autoclave) must be fitted with time, temperature and pressure gauges.
- iii. Every time the autoclave is used chemical indicator strips must be inserted to show that the temperatures as set out above have been attained during the autoclaving procedure.
- iv. During each use the gauges must be viewed to ensure that the correct times, temperatures and pressures are reached.
- v. Time, temperature and pressure readings must be recorded and noted after each usage.
- vi. Regular spore testing must be undertaken and the results recorded.
- vii. The autoclave must be serviced at no less than 6 monthly intervals, and the results recorded. These records must be maintained for a minimum of 3 years. The records must be made available to an environmental health officer or a medical officer of health on request.

Or

- (b) Thoroughly cleansed by washing in warm water and detergent and exposed to dry heat for at least 60 minutes at not less than 170 degrees Celsius; or
 - (c) Thoroughly cleansed by washing in cold water and detergent and then totally immersed in a glass bead steriliser operating at 250 degrees Celsius for a minimum of 5 minutes; or
 - (d) Thoroughly cleansed by a method appropriate to the nature of the article concerned and then submitted to a process of sterilisation approved by an Environmental Health Officer (this may include ethylene oxide treatment and gamma irradiation); or
 - (e) The equipment is a sterile product which must be individually packaged and marked "sterile" or displays an indicator tape (or similar indicator) indicating sterility, be intact and stored in such a manner as to preserve the sterility of the equipment.
- 11.2 All disposable materials used during a prescribed process must be disposed of immediately on completion of the prescribed process into an appropriate biohazard or sharps container.
- 11.3 All equipment that does not need to be sterile must be cleaned and then disinfected by a thermal or chemical disinfection procedure appropriate to the level of disinfection required and the item being disinfected, to the satisfaction of an Environmental Health Officer.
- 11.4 Prior to commencing any prescribed process all reusable equipment for skin piercing must be sterilised, and maintained in a sterile state until such time it is used.
- 11.5 Prior to commencing any prescribed process, the practitioner carrying out the process must cleanse the client's skin by swabbing with either:

- (a) 80 per cent dilution of ethyl alcohol in water; or
 - (b) 60 per cent dilution of isopropyl alcohol in water; or
 - (c) alcoholic (isopropyl and ethyl) formulations of 0.5 to 4 per cent weight/ volume chlorohexidine; or
 - (d) aqueous or alcoholic povidone-iodine (1 per cent weight/volume available iodine); or
 - (e) Other cleansing agents approved by the council or authorised officer.
- 11.6 No surgical marker pen or similar device used to mark any mucous membrane of any person must be used to mark any mucous membrane of any other person.
- 11.7 Clean linen, tissue or single-use paper products must be stored in a clean, enclosed storage area until needed for immediate use.
- 11.8 No animals must be allowed onto any premises, except any disability assist dog as provided for in the Dog Control Act 1996.

Part 6

Skin Piercing Premises – Tattooing

12 Maintenance and disposal of equipment

- 12.1 The general requirements set out in this part, may be a condition of any licence granted under Part 4 of this bylaw
- 12.2 The general requirements set out in this part, are binding on all licence holders.
- 12.3 The sterilisation of equipment used in tattooing must include, but is not limited to, the sterilisation of all needle related equipment, needle bars, tubes, tube tips, containers and spatulas made of a washable, non-absorbent material.
- 12.4 Single-use items, including needles, must not be re-used for any reason and must be immediately discarded after use, including single-use tubes or containers, spatulas made of wood, stencils used to transfer a pattern or design to the skin, razors and tattoo needles. After use, all needles, razors and other sharps must be immediately disposed of in sharps containers.
- 12.5 All dyes, pigments, or solutions used for any tattooing process (including transferring a pattern or design) must be:

- (a) Prepared, stored and dispensed in such a manner as to prevent any likelihood of any infection to any client or other person or contamination of the unused portion;
 - (b) Decanted into a clean sterilised container holding sufficient liquid for carrying out that tattoo on that person only.
- 12.6 Any remaining unused dye, pigment or solution (or any residue) must not be used in connection with the tattooing of any other person, and must be discarded immediately following the process and disposed of to waste, and the container either sterilised or discarded;
- 12.7 All creams and other semi-solid substances must be removed from containers with a clean, sterilised spatula.
- 12.8 All contaminated material, including blood contaminated wipes, soiled gloves, ink, and ink pots, must be placed in an approved biological waste container and disposed of at an approved biological waste management facility.

13 Operations

13.1 During the process, the practitioner must:

- (a) Ensure that the work area is kept tidy;
- (b) Only work on one client at a time, or use separate equipment or tools on each client;
- (c) Only use pre-purchase ink specifically manufactured for tattooing purposes;
- (d) Ensure that the body area surrounding the skin to be tattooed is draped with a single-use disposable paper product or clean linen.

13.2 The practitioner must provide aftercare instructions by:

- (a) Providing the client a copy of the specific aftercare provisions contained within the "Guidelines For The Safe Piercing Of Skin", Ministry Of Health 1998;
- (b) Informing the client when they should return for their next session;

13.3 Informing the client what to do if pain persists.

13.4 Practitioners of cultural tattooing processes (including kaitaamoko, tatau, ta moko) must comply with Ministry Of Health Guidelines On Cultural Tattooing.

Part 7

Massage Premises And Beauty Therapy Clinics

14 General requirements

- 14.1 The general requirements set out in this part, may be a condition of any licence granted under Part 4 of this bylaw
- 14.2 The general requirements set out in this part, are binding on all licence holders.

15 Massage premises

- 15.1 Massage rooms and beauty therapy rooms or cubicles must be constructed of materials capable of being easily cleaned.
- 15.2 A wash-hand basin must be provided in a readily accessible position close to every massage and beauty therapy room, for use by the staff.
- 15.3 All massaging must be carried out on a suitably sized towel individually issued to each client or on some other approved covering that is either laundered or disposed of after each client's use subject to Part 4.

16 Beauty Therapy Clinics

- 16.1 All premises must provide a separate area or room for the purposes of cleaning and sterilising of equipment and are subject to Part 4.
- 16.2 Practitioners undertaking any procedure (including depilation, electrolysis or red vein process) must ensure that the needle or blades are sterile and for single use only or sterilised, and after use, all needles or blades must be immediately disposed of in a sharps container.
- 16.3 Without the written consent of a registered medical practitioner, practitioners undertaking electrolysis must not:
- (a) Remove hair from moles or the inside of ears or nostrils;
 - (b) Perform electrolysis on any person who uses a hearing aid, or who has metal plates or pacemakers inserted in their body
- 16.4 Practitioners undertaking any waxing procedure must ensure that:
- (a) The wax is applied using a single use applicator or sanitised reusable spatula that must not be re-dipped in to the common wax pot after applying wax to the skin. Alternatively sufficient wax may be decanted in to a separate container prior to application by a reusable spatula.

- (b) All used wax and wax decanted for use and disposable applicators must be disposed of immediately following the completion of the waxing procedure.
- (c) All reusable spatulas must be thoroughly cleaned and then disinfected or sanitised by suitable chemical or thermal disinfection after each use.

16.5 All sun beds must be wiped down and rendered hygienic with a suitable disinfectant after every client's use and are subject to the requirements in Part 4.

Part 8

Enforcement and Penalties

17 Offences

17.1 A breach of the Health Act 1956 in relation to licensed premises shall be a breach of this bylaw.

17.2 Where such works are being carried out, the premises are prohibited from servicing the public in accordance with section 363 of the Building Act 2004

17.3 Every person commits a breach of this bylaw who:

- (a) Does anything or causes any condition to exist for which a licence or approval from the Council is required under this bylaw and operates without first obtaining that licence, or approval. No application for a licence, certificate or approval from the Council, and no payment or receipt for any fee paid in connection with such application, licence, or approval shall confer any right, authority or immunity on the person making such application or payment;
- (b) Fails to comply in all respects with any condition attached to any licence, consent, or approval;
- (c) Fails to obey a lawful instruction on being requested to do so by an authorised officer;
- (d) Is party to, or incites to be done, anything that is a breach of this bylaw;
- (e) Knowingly permits or allows anything to be done that is a breach of this bylaw; or
- (f) Obstructs or hinders any authorised officer or Environmental Protection Officer of the Council in the performance of his or her duties under this Bylaw.

18 Penalties

- 18.1 Pursuant to section 239 of the Act, every person who breaches a bylaw, commits an offence and is liable on summary conviction to the penalties set out in section 242 of the Act.
- 18.2 Pursuant to section 162 of the Act, the council may apply to the district court for an injunction restraining a person from committing a breach of this bylaw.
- 18.3 The council may remove or alter a work or thing which has been constructed in breach of a bylaw whether or not that thing is on private land in accordance with sections 164 and 165 of the Act.
- 18.4 In accordance with section 167 of the Act, where any property is seized under sections 164 or 165 of the Act, the property will be returned upon request to the person from whom it was seized from subject to the payment of any costs incurred by the council in the seizing of the property.
- 18.5 Where the property is not claimed within 6 months from the date of being seized the council may dispose of the property in accordance with section 168 of the Act subsequent to giving the owner 14 working day's notice of its decision.
- 18.6 Any costs incurred by the council, including the costs of storage and legal fees, incurred in the removal or alteration of the property is recoverable from the person who committed the breach in accordance with section 163 of the Act.
- 18.7 Where an infringement regime is introduced under subpart 3 of part 9 of the act and bylaws are deemed to infringement offences, an offence against this bylaw is an infringement offence.
- 18.8 For the avoidance of doubt it is offence under this bylaw to:
- (a) Obstruct or hinder any Council officer or other authorised officer in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred by this bylaw;
 - (b) Fail to comply with any lawful notice or direction given under this bylaw.
- 18.9 The council may revoke any approval or licence granted under this bylaw where the terms of the licence or approval have not been complied with.

19 Dispensing power

- 19.1 The council may, on an application in writing for dispensation seek for dispensation from complying with this bylaw (in whole or in part), subject to any other terms or conditions (if any) that the council may choose to impose, where in the opinion of the council, full compliance with any of the provisions of this bylaw causes injurious affection to:

- (a) Any person, or
- (b) The operation of any business, or
- (c) Causes inconvenience to any person without any corresponding benefit to the community

Adopted at a meeting of the Wiatakere City Council on [XXXXXX] 2010 by resolution [xxxxxxxxx]