

WAITAKERE CITY COUNCIL

REVIEW OF WAITAKERE CITY COUNCIL BYLAWS – 2010

SUMMARY OF INFORMATION

SUMMARY OF PROPOSAL

Waitakere City Council is undertaking a review of its existing bylaws, as required by the Local Government Act 2002. As a result of the bylaw review process, a draft set of bylaws has been developed that are now available for community consultation and comment.

The bylaws that are the subject of review were largely made under the Local Government Act 1974, and many of these bylaws have become outdated and need to reflect legislative changes and public expectations. The review process has identified where some bylaws could be amalgamated with other bylaws, some revoked or left to expire, and where new bylaws are necessary. The review has not resulted in substantial changes, but rather a rationalising of existing bylaws, with the proposed new bylaws largely reflecting current provisions.

The Local Government Act 2002 specifies the process that must be followed to create bylaws. This procedure ensures the rationale for having the bylaw is sound. The procedure has been used in the review of the Waitakere City Council bylaws, and in the development of the proposed new bylaws included in this proposal.

HAVE YOUR SAY

Council encourages you to have your say about the draft bylaws proposed. Please take the time to make a submission detailing your views on the draft bylaws, any amendments you think would enhance the draft bylaws and your views on whether a bylaw is the best mechanism to achieve the desired outcomes. A submission form is attached.

All information relating to the bylaws can be found at the main libraries of Henderson, New Lynn, Massey and Titirangi, as well as the Council's website www.waitakere.govt.nz/bylaws, and the Council's offices at 6 Henderson Valley Road, Henderson.

Submissions must be **in writing** and received no later than **5pm 23 July 2010**. Submissions must note whether you wish to be heard. Each person will be allocated 10 minutes to speak to their submission should they wish to be heard. The **hearings** will be from 9.30 am to 4pm between **9 and 16 August 2010**. The Council will be in touch with those submitters who wish to be heard.

Written submissions can be directed to the Council by:

Personal delivery:

Bylaws Review
Waitakere City Council
Legal Services Unit
Attention: Neta Mailata
6 Henderson Valley Road
Henderson

Post:

Bylaws Review
Waitakere City Council
Legal Services Unit
Attention: Neta Mailata
Private Bag 93109
Waitakere 0650.

Email:bylawsreview@waitakere.govt.nz

Subject: Bylaws Review

Attention: Legal Services Unit – Neta Mailata

Fax:

Bylaws Review-Legal Services Unit

Waitakere City Council

Attention: Neta Mailata

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Please note the Council will not take responsibility where emailed submissions fail to get through the server or there is a failure in postal delivery.

Listed below the main changes to the existing bylaws that are recommended in this review:

TABLE A: RECOMMENDATIONS FOR EXISTING BYLAWS

NAME OF BYLAW	DATE MADE	SUGGESTIONS FOR REVIEW	EXPLANATION
Amusement Galleries No 20	1990	Let expire	Made under sections 684(1)(31) and 686 Local Government Act 1974 ("bylaws as to billiard rooms, amusement galleries, and shooting galleries"), now repealed by section 266 of the Local Government Act 2002. Matters are covered by other statutes, regulations and bylaws.
Barbed Wire Fences No 8	1990	Revoke and replace	Recommend that relevant provisions of bylaw be included into new Public Places Bylaw.
Beaches and Waters No 9	1990	Revoke and replace	Recommend that relevant provisions of bylaw be included into new Public Places Bylaw.
Building	1990	Let expire	Matters are covered by other statutes, regulations and bylaws and the Waitakere City Council Operative District Plan.
Cemeteries and Crematoria No 18	1990	Revoke and replace	Recommend that relevant provisions of bylaw be included into new Public Places Bylaw.
Control of Noise No 4 Chapter 20	1990	Revoke and replace	Largely dealt with by Waitakere City Council Operative District Plan and Resource Management Act 1991. Recommend that relevant provisions of bylaw relating to the noise of activated intruder alarms be included into new Control of Intruder Alarm Systems Bylaw.
Fire Prevention No 6	1990	Let expire	Made under section 649 of the Local Government Act 1974, now repealed by section 266 of the Local Government Act 2002. Matters are covered by other statutes, regulations and bylaws including the (ARC) Proposed Auckland Regional Plan: Air, Land and Water (Part 2).
General No 4	1990	Let expire	Replicated from Model General Bylaw NZS 9201 (1972). Chapters now largely revoked and replaced.
Health Protection – Skin Piercing No 32	2002	Revoke and replace	Recommend that relevant provisions of bylaw be included into new Sanitation and Hygiene in Commercial Premises Bylaw.
Hygienic Operation of Massage Facilities No 31	1999	Revoke and replace	Recommend that relevant provisions of bylaw be included into new Sanitation and Hygiene in Commercial Premises Bylaw.

NAME OF BYLAW	DATE MADE	SUGGESTIONS FOR REVIEW	EXPLANATION
Introductory No 4 Chapter 1	1990	Revoke and replace	Recommend that relevant provisions of bylaw be included into new General Administration Bylaw to provide assistance with the interpretation and general provisions for Waitakere City Council Bylaws.
Mobile or Travelling Shops and Hawkers No 4 Chapter 4	1990	Revoke and replace	Recommend that relevant provisions of bylaw be included into new Public Places Bylaw.
Nuisances No 4 Chapter 11	1990	Let expire	Matters are covered by the Matters are covered by other statutes, regulations and bylaws, the Waitakere City Council Waste Bylaw (2005) and the (ARC) Proposed Auckland Regional Plan: Air, Land and Water.
Parks and Reserves No 4 Chapter 17	1990	Revoke and replace	Recommend that relevant provisions of bylaw be included into new Public Places Bylaw.
Public Places No 4 Chapter 2	1990	Revoke and replace	Recommend new, comprehensive, Public Places Bylaw be made and include relevant provisions of: Bylaw No 4 Chapter 2 – Public Places (1990) Bylaw No 4 Chapter 4 - Mobile or Travelling Shops and Hawkers (1990) Bylaw No 4 Chapter 17 – Parks and Reserves (1990) Bylaw No 7 - Traffic (1991) Bylaw No 8 - Barbed Wire Fences (1990) Bylaw No 9 - Beaches and Waters (1990) Bylaw No 18 - Cemeteries and Crematoria (1990) Bylaw No 22 - Use of Public Roads (1990)
Radio Frequency Radiation No 25	1991	Let expire	Matters are now covered by the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008, Telecommunications Act 2001, National Standard (NZS2772.1:1999), National Environmental Standard for Telecommunications Facilities (from 9 October 2008), and National Guidelines for Managing the Effects of Radiofrequency Transmitters (Ministry for the Environment and Ministry of Health, 2000).
Restriction on the Use of Jaw Traps No 10	1990	Let expire	Consequently revoked by operation of section 198 of the Animal Welfare Act 1999 (from 31 December 2007).
Scaffolding and Deposit of Building Materials No 4 Chapter 9	1990	Let expire	Matters are covered by the Waitakere City Council Waste Bylaw (2005) and the Building Code (clauses F5.2 and F5.3).
Septic Tanks and Disposal Systems No 19	1990	Let expire	Matters are covered by the Proposed Auckland Regional Plan: Air, Land and Water (Rules 5.5.20 to 5.5.28) and Technical Publication 58 ("TP58"), the Local Government Act 2002 (Part 7), Building Act 2004 (and Regulations and Building Code), the Resource Management Act 1991, and the Health Act 1956.
Spray Paint Cans No 27	1995	Let expire	Matters are now covered by sections 14A and 14B of the Summary Offences Act 1981 (as amended by the Summary Offences (Tagging and Graffiti Vandalism) Amendment Act 2008).

NAME OF BYLAW	DATE MADE	SUGGESTIONS FOR REVIEW	EXPLANATION
Traffic No 7	1991	Revoke and replace	Recommend relevant provisions be included in new Use of Roads and Parking Bylaw and new Public Places Bylaw.
Upper Harbour Bridge No 1	1990	Let expire	Consequently revoked by operation of section 8(1) of the Cities of Takapuna and Waitemata (Upper Harbour Bridge) Empowering Act 1976 once the bridge became part of the State highway and under the control of the New Zealand Transport Agency (from 18 June 1992).
Urupa (Maori Burial Site) No 28	1996	Revoke and replace	Recommend new Urupa (Maori Burial Site) Bylaw be made updating existing bylaw.
Use of Public Roads No 22	1990	Revoke and replace	Recommend that relevant provisions of bylaw be included into new Public Places Bylaw.
Waitakere Scenic Drive No 2	1990	Revoke and replace	Recommend that relevant provisions of bylaw be included into new Use of Roads and Parking Bylaw.
Water Supply No 4 Chapter 7	1990	Let expire	Matters are now covered by the Health Act 1956 as amended by the Health (Drinking Water) Amendment Act 2007.

TABLE B: PROPOSED NEW BYLAWS

PROPOSED NEW BYLAW	BYLAW TO BE REVOKED	EXPLANATION
Public Places	<ul style="list-style-type: none"> • Bylaw No 4 Chapter 2 – Public Places (1990) • Bylaw No 4 Chapter 4 - Mobile or Travelling Shops and Hawkers (1990) • Bylaw No 4 Chapter 17 – Parks and Reserves (1990) • Bylaw No 7 - Traffic (1991) • Bylaw No 8 - Barbed Wire Fences (1990) • Bylaw No 9 - Beaches and Waters (1990) • Bylaw No 18 - Cemeteries and Crematoria (1990) • Bylaw No 22 - Use of Public Roads (1990) 	<p>Recommend new, comprehensive, Public Places Bylaw be made and include relevant provisions of existing bylaws that currently address issues associated with public places. The new bylaw would address:</p> <ul style="list-style-type: none"> • Public health and safety • Nuisances • Offensive behaviour • Obstructing or damaging public places • Erecting or placing any structure in public places • Keeping, placing or parking any vehicle in public places • Trading in public places • Construction and use of vehicle crossings • Street numbering of buildings • Lighting of fires • Impeding pedestrian or vehicular traffic.

PROPOSED NEW BYLAW	BYLAW TO BE REVOKED	EXPLANATION
Sanitation and Hygiene in Commercial Premises	<ul style="list-style-type: none"> • Bylaw No 31 - Hygienic Operation of Massage Facilities (1999) • Bylaw No 32 - Health Protection - Skin Piercing (2002) 	Recommend a new general, comprehensive bylaw aimed at protecting the public from infection or contamination by setting sanitation and hygiene standards and requiring certain commercial premises and practices to be licensed. The premises include those offering skin piercing, beauty therapy, massage, and health and fitness services. A new bylaw would incorporate relevant provisions from the Massage Facilities and Skin Piercing bylaws.
Use of Roads and Parking	<ul style="list-style-type: none"> • Bylaw No 2 - Waitakere Scenic Drive (1990) • Bylaw No 7 - Traffic (1991) 	Recommend that some provisions of the Traffic Bylaw (1991) should be continued and incorporated into a new Use of Roads and Parking Bylaw, together with particular provisions of the Waitakere Scenic Drive Bylaw (prohibiting heavy vehicles between Woodlands Park Road and Shaw Road on the Scenic Drive). Other relevant provisions of the 1991 bylaw are recommended to be incorporated into a new Public Places Bylaw.
Control of Intruder Alarm Systems	<ul style="list-style-type: none"> • Bylaw No 4 Chapter 20 – Control of Noise (1990) 	Recommend a new noise bylaw which would require new and upgraded alarm systems to have an automatic cut-out device and be maintained. Other matters addressed in the Control of Noise Bylaw (1990) are now largely dealt with by the Waitakere City Council's Operative District Plan and the Resource Management Act 1991.
Urupa (Maori Burial Site)	<ul style="list-style-type: none"> • Bylaw No 28 - Urupa (Maori Burial Site) (1996) 	Recommend a new bylaw to update the 1996 bylaw to manage and regulate the Urupa at Waikumete Cemetery. The bylaw largely mirrors the general Waitakere City Council Cemeteries and Crematoria Bylaw of 1990, but also contains unique provisions relating to the Urupa and the role of the Urupa Management Trustees (Komiti).
General Administration	<ul style="list-style-type: none"> • Bylaw No 4 Chapter 1 - Introductory (1990) 	Recommend that Bylaw No 4, Chapter 1 - Introductory (1990) (based on Model General Bylaw NZS 9201 of 1972) be updated. A new, general administration bylaw would provide assistance with the interpretation and general provisions for Waitakere City Council Bylaws.