

Amendment to Bylaw 20, Amusement Galleries

INTRODUCTION

This report is written to seek an amendment to the 1990 Waitakere City bylaw number 20, covering amusement galleries.

Under the current bylaw every premises operating more than two amusement devices is required to have a licence and be subject to the bylaw.

The bylaw does not cover any premises licenced or chartered under the Sale of Liquor Act 1989.

AMENDMENT SOUGHT

There is a clear anomaly created by the current wording of the bylaw excluding premises with a liquor licence.

A prime example is that 14 year old school children are not permitted to be in an amusement gallery during normal school hours, however they are perfectly entitled to enter an establishment that is licensed for consuming alcohol and operate amusement devices in the company of intoxicated adults.

With the bylaw currently being enforced by council an obvious way for businesses to avoid having to comply is to simply obtain a liquor licence.

An amendment is therefore sought to the bylaw to enable it to cover establishments licenced under the Sale of Liquor act 1989.

The amendment sought is as follows:

1. The deletion of the line contained in article 10; "This bylaw shall not apply to premises licenced or chartered under the Sale of Liquor Act 1989, or its amendments."

2. This line should be replaced with the following;

"This bylaw shall apply to premises licenced or chartered under the Sale of Liquor Act 1989, or its amendments, with the following exceptions: Articles 14 and 17(b) and (c) shall not apply to those premises."

The articles referred to cover hours of operation (article 14) and the consumption and supply of intoxicating liquor (articles 17(a) and (b)), which would instead be subject to the Sale of Liquor Act 1989 and Waitakere City Council alcohol policy.

CONCLUSION

The amendment, by incorporating premises licensed for the sale of liquor operating amusement devices within the meaning of the bylaw, would provide a uniform standard to all premises operating such devices.

It would remove the current loophole, without affecting the operation of premises licenced for the sale of liquor.

It would also ensure that premises licenced for the sale of liquor and operating such a licence as an 'entertainment venue' had a measure of control in the manner with which they operated their amusement devices.

Such a move would be timely in light of the changes to the Waitakere City Council alcohol policy.



Brendan Stewart
Henderson Community Constable

June 5th, 2003

WAITAKERE CITY COUNCIL

BYLAW NO. 20 1990

AMUSEMENT GALLERIES

The Waitakere City Council acting pursuant to the power conferred upon it by Section 684(1)(31) of the Local Government Act 1974, does hereby make the following bylaw:-

1 SHORT TITLE

The short title of this bylaw shall be the Waitakere City Council Bylaw No. 20 1990 - Amusement Galleries.

2 COMMENCEMENT

This bylaw shall come into force on the 13th day of March 1990.

3 APPLICATION OF BYLAW

This bylaw shall apply to areas and buildings in which more than two amusement devices are operated and to which persons are admitted with or without the remittance of a fee.

4 PURPOSE

The object of this bylaw is to define, licence and control public billiard rooms, amusement galleries and shooting galleries.

5 INTERPRETATION

"Amusement" shall mean and include the playing or using for payment or other consideration, of mechanical or electronic games or devices, pool, miniature billiards, billiards, miniature golf, or other similar games or skill, recreation or entertainment.

"Amusement Gallery" includes a bowling or skittle alley, shooting gallery or game, amusement park or gallery, and all buildings in which more than two amusement devices are operated and to which persons are admitted with or without a fee.

"Amusement Device" includes mechanical or electronic games or devices, pool, miniature billiards, billiards, miniature golf, or other similar games of skill, recreation, or entertainment.

"Manager" means and includes the proprietor of an amusement gallery, the person or persons by whom an amusement gallery is occupied or conducted, the person or persons applying for and obtaining a license for an amusement gallery, or the person or persons named in any transfer of licence.

"Council" means the Waitakere City Council, or it's appointed Council Officer.

"Council Officer" unless inconsistent with the text, shall principally mean Environmental Health Officer.

6 **AMUSEMENT GALLERIES TO BE LICENSED**

- (a) No person shall use or permit to be used any land or buildings as an amusement gallery unless he has first obtained a licence to do so from the Council.
- (b) In every application for an amusement gallery licence or renewal thereof there shall be set forth the full name, place of abode, and occupation of the applicant, the situation of the premises sought to be licensed, and the purpose for which the premises will be used.
- (c) Any person who shall falsely state anything touching any particulars stated in such application shall commit an offence against this Bylaw.

Every licence under this Bylaw shall be deemed to be issued subject to the condition that the provisions of this Bylaw are complied with at all times and breach of any provision of this Bylaw shall be a breach of condition of the Licence.

7 **ISSUING OF LICENCE**

- (a) The Council in considering any application for any amusement gallery licence, may take into account the question whether the locality of which the proposed amusement gallery is situated is suitable, and may, if it considers it undesirable that the amusement gallery licence should be granted within that locality refuse to grant the licence.
- (b) The Council may refuse to issue or renew a licence for an amusement gallery if it is satisfied that the applicant, or in the case of an application by a company, is not a person of good character.
- (c) The general standard of the amusement gallery, space available, light and seating provisions where seating is considered necessary, and the age requirements of entry shall also be taken into account when issuing a licence, and if deemed appropriate by the Council, such restrictions or requirements shall be endorsed upon the licence.
- (d) Prior to the issue, annual renewal or transfer of any licence, the building shall be inspected by the Council officer and shall comply with the requirements for Buildings for Public Meetings and Assembly as laid down by the Health Act 1956 the Building Act 1991 the Building Act 1991, and the Fire Service Act 1975, the Building Code or their amendments.

8 **DURATION OF LICENCE**

Every such licence shall remain in force from the date thereof until the 31st day of March next and shall be renewed annually. The annual fee for each such licence shall be the sum as may from time to time be fixed by resolution of Council.

9 **TRANSFER OF LICENCE**

Upon the sale, lease, transfer, or change of ownership, occupancy or management, the new manager shall apply in writing to the Council to have his name endorsed on the licence of the amusement gallery as the manager, and to pay such fee as may from time to time be determined by resolution of Council. Such a transfer of licence shall not be endorsed until the Council. Such a transfer of licence shall not be endorsed until the Council has received a report from a Council Officer as to the good character of the applicant and the state of the building and equipment.

10 **REVOCATION OR SUSPENSION OF LICENCE**

Council may at any time revoke or suspend the licence granted in respect of any amusement gallery, if the manager thereof shall be convicted of any offence against this Bylaw or of any offence touching his character as such manager, or if the Council shall be satisfied (after giving the manager an opportunity of being heard) from the report of the Council Officer that the manager is acting or has acted in a manner contrary to the true intent and meaning of this Bylaw. During the period suspension, the amusement gallery shall be deemed to be unlicensed and shall remain closed.

This bylaw shall not apply to premises licensed or chartered under the Sale of Liquor Act 1989, or its amendments.

Dairies or Takeaway Bars with one or two amusement devices shall not require a licence, but are required to uphold the intent of this bylaw.

11 **RIGHT OF INSPECTION BY COUNCIL OR POLICE**

Council Officers, Truant Officers, or members of the Police Force shall have power of entry and access to every part of the amusement gallery. Any person opposing entry to such amusement gallery by a duly authorised person shall be guilty of an offence against this Bylaw.

The Council Officer may inspect the premises from time to time and report to Council on the games, devices and the equipment which are or may be used therein.

12 **SANITARY ACCOMMODATION AND CLEANLINESS OF PREMISES**

The manager shall at all times -

- (a) Provide and maintain in a clean sanitary and good working condition, toilet, urinal, and washing facilities for use of his staff and person using the amusement gallery, in accordance with the requirements of the Building Code and its amendments.
- (b) Keep the amusement gallery, furniture, fittings, fixtures, surrounds, and conveniences in good repair, in clean condition and the building well ventilated, to the satisfaction of the Council Officer.

13 **FOOD AND DRINK**

If any food or drink is to be sold or intended to be sold in any amusement gallery the approval of the Council Officer must be obtained before the licence is granted, renewed or transferred and the manager shall comply with all Statutes, Regulations and Bylaws relating to premises in which food or drink are sold.

14 **HOURS OF OPENING**

No amusement gallery shall be open or used for the purpose of any amusement except between the hours of 7.30 am and 11.00 PM on Mondays to Saturday inclusive, and all amusement galleries shall be closed throughout the whole of Christmas Day and Good Friday and on every Sunday unless the Manager shall have applied for and obtained the consent from Council to remain open. Such consent may be given subject to such conditions as Council may impose, and may be revoked by Council at any time.

15 **OFFSTREET PARKING**

The Council may require provision for offstreet parking to be made by the manager of an amusement gallery in accordance with the Council's Operative District Plan.

16 **PROVISION OF BICYCLE RACKS**

Unless otherwise approved by Council the manager of the amusement gallery shall provide bicycle racks sufficient to accommodate a minimum of one bicycle for each player that can be accommodated on the machines amusement devices, at any one time. Such bicycle racks shall preferably be placed on private land, or with the approval of the Council, may be placed on a public place where Council is satisfied that obstruction to the public will be minimal.

17 **MANAGER'S RESPONSIBILITIES**

From and after the issue of the licence, and while he shall be the manager of an amusement gallery, the manager shall be personally responsible for the proper conduct of such amusement gallery and shall himself see that all the provisions or requirements of this Bylaw are duly carried out and observed, and failure by him to do so shall be an offence against this Bylaw.

The manager shall not:

- (a) permit any wagering or gambling to be carried out in the amusement gallery;
- (b) permit any intoxicating liquor or controlled drug within the meaning of the Misuse of Drugs Act 1975, or its amendments, in or on the amusement gallery;
- (c) sell or supply intoxicating liquor or controlled drugs within the meaning of the Misuse of Drugs Act 1975, or its amendments, in or on the amusement gallery;
- (d) allow any intoxicated person or persons under the influence of drugs to enter or remain in or on the amusement gallery;
- (e) permit any person to remain in or on the amusement gallery who has behaved or threatens to behave in a disorderly manner therein or who has used obscene or indecent language therein;
- (f) permit any person under the age of fifteen years to remain in an amusement gallery during the normal school hours;
- (g) permit any noisy or disorderly behaviour or any conduct on the amusement gallery which may cause a nuisance or unreasonably disturb members of the public or adjacent business people or residents;
- (h) permit obstruction by way of bicycles, motor cycles or persons attending the gallery to any footpaths, footway or street.

On being satisfied that through noise, obstruction, obscenities or other sources of disturbance a nuisance is created, the Council may request the manager to abate the nuisance forthwith and if he fails to do so, the Council may cancel or suspend any licence issued in respect of the amusement gallery.

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Where the noise level of an individual amusement device can be adjusted, it shall be set at such a level as considered reasonable by the Council Officer.

18 **OFFENCES**

Any person contravening or offending against or permitting, or suffering a breach of any of the provisions of this Bylaw shall be guilty of an offence against this Bylaw.

Every person who is guilty of an offence against this Bylaw shall be liable to the penalties prescribed in the Local Government Act 1974, and its amendments.

The Common Seal of the)
WAITAKERE CITY COUNCIL)
was hereunto affixed pursuant to a)
resolution of Council passed on)
28 February 1990 in the presence of:)

CHIEF EXECUTIVE OFFICER

MANAGER: FINANCE & ADMINISTRATION