

WAITAKERE CITY COUNCIL

BYLAW NO. 25 1991

RADIO FREQUENCY RADIATION

The Waitakere City Council, acting on behalf of the Mayor, Councillors and Citizens of the City of Waitakere **HEREBY MAKES BY SPECIAL ORDER** the following bylaw pursuant to the powers contained in the Local Government Act 1974 and the Standards Act 1965 and by any other Act or Authority in any way enabling the Council in that behalf.

1 **SHORT TITLE**

The Short Title of this Bylaw shall be the Waitakere City Council Bylaw No, 25, 1991 - Radio Frequency Radiation.

2 **COMMENCEMENT**

This Bylaw shall come into force on the 1st day of November 1991.

3 **INTERPRETATION**

"Acceptable levels of public exposure to radio frequency radiation" means public exposure of levels less than the maximum exposure levels - non-occupational specified in paragraph 6 of NZS 6609:Part I: 1990.

"Operator" means the person responsible for operation of the radio or television transmitter or other device or their duly authorised agent.

"Person" includes a corporation sole and also a body of persons whether corporate or incorporate.

"Permanently:" means longer than 14 days.

"Public exposure" means involuntary exposure to radio frequency radiation of any person at any point beyond the boundary of the property from which the radio or television transmitter or other device is operating.

"Radio or television transmitter or other device" shall mean any radio or television transmitter or other device operating in a frequency range of 100 kHz but less than 300 GHz except for those exclusions contained in clause A14 of Appendix A to NZS 6609: Part I: 1990.

The expression "NZS" when used herein means a specification declared by the Standards Council to be a New Zealand Standard Specification pursuant to the provisions of the Standards Act 1988.

"The City" means the District of the Waitakere City Council.

"The Council" means the Waitakere City Council.

"Transmitter Power level" means:

- (a) For television transmissions: The average power supplied to the antenna transmission line by a transmitter during the interval of the horizontal synchronising pulse.
- (b) For radar transmissions: The average power supplied to the antenna transmission line by a transmitter during an interval of time sufficiently long compared with the transmitter duty cycle.
- (c) For other transmissions: The average power supplied to the antenna transmission line by a transmitter during an interval of time sufficiently long compared with the lowest frequency encountered in the modulation taken under normal operating conditions.

4 **PURPOSE**

Non-ionising radiation emitted from radio and television transmitters has been identified to the Council as a cause of public concern, particularly in the Waitakere Ranges. The Council has made this Bylaw for the purpose of:

- (a) providing such controls relating to the emission of radio frequency radiation as are necessary to conserve the health and safety of the people in the City.
- (b) establishing the methods by which the measurement of radio frequency radiation shall be carried out.
- (c) providing for regular monitoring of the emission of radio frequency radiation in the City.

5 **ADOPTION OF NZS 6609 PART I: 1990 AND NZS 6609 PART II: 1990**

5.1 The standard specification known as NZS 6609:Part I: 1990 is hereby adopted as the means of specifying acceptable levels of public exposure to radio frequency radiation and the means of limiting public exposure levels from electromagnetic fields in the frequency range 100kHz to 300ghz within the City.

5.2 The standard specification known as NZD 6609:Part II: 1990 is hereby adopted as the specification of techniques and instrumentation for the measurement of radio frequency radiation due to electromagnetic fields in the frequency range of 300kHz to 100ghz within the City.

6 **NO BREACH OF STANDARD**

No person shall operate a radio or television transmitter or other device so as to exceed the acceptable levels of public exposure to radio frequency radiation.

7 PRIOR APPROVAL

- 7.1 No person shall operate any radio or television transmitter or other device having a transmitter power level greater than 1kw without the prior written approval of the Council.

PROVIDED THAT where such radio or television transmitter or other device with a transmitter power level of greater than 1kw is in operation prior to the coming into force of this Bylaw the operator shall only be required to arrange and provide measurements as if there was an annual assessment due in terms of Clause 9 of this Bylaw. Such measurements are to be provided to the Council within 3 months of this Bylaw coming into force,

- 7.2 Every application made to the Council to operate any radio or television transmitter or any other device having a transmitter power level greater than 1kw shall be accompanied by the following information:

- (a) Details of the last measurement survey for the site if applicable.
- (b) Theoretical recalculations of any measurement points that are likely to approach or exceed the limits contained in paragraph 6 of NZS 6609:Part I: 1990.
- (c) The frequency or frequencies on which the proposed radio or television transmitter or other device is to operate.
- (d) The transmitter power level of the proposed radio or television transmitter or other device.
- (e) Details of the type of transmitter or device, i.e. whether this is radio or television or other.

- 7.3 The Council may refuse to grant approval if the applicant is unable to demonstrate that it can comply with the acceptable levels of public exposure to radio frequency radiation.

- 7.4 The Council may delegate its power of decision under this Bylaw to an officer of the Council who shall receive and consider all applications under clauses 7 and 8 of this bylaw.

- 7.5 In the event that an application under the provisions of this clause is approved by the Council the applicant shall forthwith after commissioning the new radio or television transmitter or other device referred to in paragraph 7.1 hereof arrange for the measurement of the radio frequency radiation level emitting from the radio or television transmitter or other device in accordance with NZS 6609:Part II: 1990, by an independent and qualified person approved by Council from time to time and provide the measurements to the Council.

- 7.6 In the even that a dispute arises between the Council and the applicant as to the construction or validity of this bylaw, or as to whether the applicant has demonstrated that it can comply with the acceptable levels of public exposure to radio frequency radiation, the dispute may be referred to the High Court by either party, by way of an application to the Court pursuant to the Declaratory Judgements Act 1908 and its amendments.

8 ALTERATIONS

8.1 No person shall:

- (a) Alter, replace, modify or reconfigure any antenna system associated with a radio or television transmitter or other device with a transmitter power level exceeding 1kw in such a way as to permanently affect the radiation field pattern of the antenna system, or
- (b) Increase the transmitter power level of any radio or television transmitter or other device to more than 1kw above the transmitter power level recorded at the most recent annual assessment.

8.2 The operator shall within 14 days after such alteration, replacement, modification, reconfiguration or increased, as referred to in paragraph 8.1 hereof arrange for the measurement of the new radio frequency radiation level emitting from the radio or television transmitter or other device in accordance with NZS 6609:Part II: 1990, by an independent and qualified person approved by Council from time to time and provide the measurements to the Council.

9 ANNUAL ASSESSMENT

The operator of any radio or television transmitter or other device approved in terms of clause 7 hereof shall arrange measurement of radio frequency radiation levels emitting from its facility in accordance with NZS 6609:Part II: 1990, by an independent and qualified person approved by Council from time to time at intervals of not greater than 12 months and within 14 days provide those measurements to the Council. If measurements have been taken for the purposes of clauses 7 or 8 hereof and provided to the Council then no measurements shall be required under this clause for a further 12 months unless required again pursuant to an application under clause 7 or alteration under clause 8 hereof.

10 INDEPENDENT ANALYSIS

10.1 An independent and qualified person appointed from time to time by the Council shall analyse the measurements received and method of measurement adopted in respect of measurements pursuant to paragraphs 7.2, 7.5, 8.2, and 9.1 and shall determine whether such levels comply with the acceptable levels of public exposure to radio frequency radiation.

10.2 The Council shall notify each operator of a radio or television transmitter or other device approved in terms of clause 7 hereof, the independent and qualified person to be appointed on each occasion pursuant to paragraph 10.1 and any such operator may object to that appointment within 14 days of receipt of notification. Where objections are received, the Council or Committee so delegated that power shall hear those objections and either confirm such appointment or decline to make any appointment or appoint some other person.

10.3 Any reasonable costs incurred by the Council in pursuance of paragraph 10.1 of this Bylaw shall be payable by the applicant within 28 days of receipt by the applicant of a written demand.

11 NOTICE OF EXCESSIVE EXPOSURE

If the analysis referred to in paragraph 10.1 of this Bylaw shows that the acceptable levels of public exposure to radio frequency radiation are exceeded the Council may by notice in writing to the applicant or operator as the case may be, require the applicant or the operator to take such steps as are necessary to comply with the acceptable levels of public exposure to radio frequency radiation within a period of time of not less than 24 hours, specified in the notice.

12 OFFENCES

Any person commits an offence against this bylaw who:

- (a) Operates or knowingly permits the operation of any radio or television transmitter or any other device so as to exceed the acceptable levels of public exposure to radio frequency radiation.
- (b) After the date of coming into force of this Bylaw:
 - (i) Commences operating or knowingly permits the commencement of operation of any radio or television transmitter or other device having a transmitter power level greater than 1kw without the prior approval of the Council.
 - (ii) Continues operating or knowingly permits the continued operation of any radio or television transmitter or other device having a transmitter power level of greater than 1kw that was in operation prior to the commencement of this Bylaw without providing the measurement as required in paragraph 7.5 of this Bylaw.
- (c) Being the operator of a radio or television transmitter or other device with a transmitter power level of greater than 1kw approved by the Council in terms of Clause 7 of this Bylaw:
 - (i) Fails to provide measurements as required in paragraphs 8.2 and 9.1 of this Bylaw.
 - (ii) Alters, replaces, modifies or reconfigures any antenna in such a way to permanently affect the radiation field pattern of the antenna system or increase the transmitter power level to more than 1kw above the transmitter power level at the most recent annual assessment without advising Council in writing of his intention to do so.
 - (iii) Fails to comply with a notice served by Council pursuant to Clause 11 of this Bylaw.

13 PENALTY

- 13.1 Every person who commits an offence against this Bylaw is liable on summary conviction fine not exceeding \$500.00 and where the offence is a continuing one to a further fine exceeding \$50.00 for every day or part of a day thereof on which the offence continues.

- 13.2 The continued existence of anything in a state, or the intermittent repetition of any acti contrary to any provision of this bylaw shall be deemed to be a continuing offence.

The Common Seal of the)
WAITAKERE CITY COUNCIL)
was hereunto affixed pursuant to a)
resolution of Council passed on)
24 September 1991 in the presence of:)

CHIEF EXECUTIVE OFFICER

MANAGER: FINANCE & ADMINISTRATION