



# **Hastings District Council**

## **Bylaw**

### **Chapter 6: Food Safety**

*The chapters have been separated from the consolidated document for ease of use*

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## CHAPTER 1 INTERPRETATION AND GENERAL PROVISIONS

### 1.1 Purpose and authority

1.1.1 The purpose of this part of the Bylaw is to provide consistency in the interpretation of terms used throughout the Bylaw and to provide for general matters common to many parts of the Bylaw.

1.1.2 Unless otherwise stated every part of the Bylaw is made under s 145 of LGA 02.

### 1.2 Commencement and revocation

1.2.1 Unless otherwise stated every part of the Bylaw will commence on the day following the date upon which the Council publicly notifies its decision to adopt the Bylaw.

1.2.2 The revocation of a former bylaw will take effect the day following the date upon which the Council publicly notifies its decision to revoke the former bylaw.

### 1.3 Definitions

1.3.1 The definitions in this clause apply to all parts of the Bylaw. Any definition specific to only one part of the Bylaw may be set out at the beginning of that part of the Bylaw. In the event of any conflict between a definition in this clause and the definition in another part of the Bylaw, the latter will prevail.

1.3.2 In this Bylaw:

“advertising device” has the same meaning as in the district plan

“animal” has the same meaning as in the Animal Welfare Act 1999 and, for the avoidance of doubt, includes poultry and stock

“approval” means an approval in writing granted by the Council under clause 1.5 and, where the context requires, includes a resource consent granted by the Council under the RMA

“berm” means the grass verge of a road

“Bylaw” means the Hastings District Council Consolidated Bylaw, any part of that Bylaw and any other bylaw made by the Council from time to time under LGA 02 or any other enactment

“carriageway” means the part of a road intended for movement of vehicles, does not include the berm or footpath but does include a vehicle crossing

“constable” means a sworn officer of the New Zealand Police

“Council” means Hastings District Council and when the context requires extends to include:

- a committee of the Council with delegated responsibility for the administration of the Bylaw
- an enforcement officer
- a Council officer with delegated responsibility for the administration of the Bylaw
- a parking warden and

- any other person with responsibility for administration of the Bylaw engaged by the Council under s 179 LGA 02

“Council facility” means any premises owned, occupied, managed or otherwise controlled by the Council

“cycle” has the same meaning as in Rule 1.6 of the Land Transport (Road User) Rule 2004.

“cycle path” means the part of a road physically separated from the roadway that is intended for the use of cyclists, but may also be used by pedestrians, and includes a cycle track formed under s 332 of the Local Government Act 1974

“district” means the district of the Council as defined in Part 2 of Schedule 2 of LGA 02

“district plan” means the plan made under the RMA for the district and includes both the operative district plan and any proposed district plan

“enforcement officer” means any person appointed by the Council under s 177 LGA 02

“footpath” means that part of a road laid out or set aside for exclusive use by pedestrians and includes any berm

“hazardous substance” has the same meaning as in the district plan

“LGA 02” means the Local Government Act 2002

“LGA 74” means the Local Government Act 1974

“licence” has the same meaning as “approval”

“mobile advertising device” means an advertising device attached to a vehicle or trailer and includes a motor vehicle if the signwriting on the vehicle advertises goods or services but does not include a motorvehicle if the signwriting on the vehicle is limited to a business name, address, phone number and logo

“nuisance” means anything which is offensive or likely to be injurious to health and includes any of the nuisances deemed to be created by the circumstances listed in s 29 of the Health Act 1956

“occupier” means the person in possession of premises;

“organised event” means an assembly of people at a specific time for a specific purpose;

“owner”, in relation to premises, means the person for the time being entitled to receive the rent of the premises, whether on an own account or as the agent or trustee for any other person, or who would be so entitled if the premises were let at a rent and includes any person for the time being registered under the Land Transfer Act 1952 as the proprietor of the premises

“parking warden” means a person appointed by the Council under s 128D of the Land Transport Act 1998

“person” includes a corporation sole, a body corporate and an unincorporated body

“poultry” means all types of domestic fowls and includes geese, ducks, pigeons, swans, turkeys and roosters

“premises” means any land and/or building comprised in a single certificate of title or any self-contained and separately occupied part of any premises

“public place” means a place that, at any material time, is open to or is lawfully being used by the public, whether free or on payment of a charge, notwithstanding that any owner or occupier of that place is entitled to exclude or eject any person from that place and, for the avoidance of doubt, includes:

- a beach
- a road
- an aircraft, hovercraft, ship, ferry or vehicle carrying passengers for reward
- a cemetery or crematorium
- the foreshore
- a park
- a reserve under the Reserves Act and
- premises used by the Council for the purposes of service delivery, including (but not limited to) an administrative office, community centre, swimming pool, library or art gallery

“public notice” has the same meaning as in s 5 of LGA 02 and “publicly notified” has a corresponding meaning

“RMA” means the Resource Management Act 1991

“road” has the same meaning as in s 315 of the Local Government Act 1974 and includes all land, including any berm, footpath, cycle path or carriageway, within the legal boundaries of the road

“rural area” means those parts of the district defined as “Rural Areas/Zones” in the district plan

“shared zone” means part of a road intended to be used by pedestrians and vehicles

“sports field” means any part of a public place which is laid or set aside for playing organised games or sports and includes an area used for practising a sport or game but, for the avoidance of any doubt, does not include an area beside a sports field used by spectators

“stock” means animal which may be farmed for the production of meat, milk, fibre or hides, extends to include a horse, donkey or mule and, for the avoidance of doubt, includes any animal kept as a pet

“urban area” means those parts of the district defined as “Urban Areas/Zones” in the district plan

“vehicle” has the same meaning as in the Land Transport Act 1998 and, for the avoidance of doubt, includes a bicycle, hovercraft, skateboard, in-line skates and roller skates

“working day” means a day of the week other than:

- a Saturday, Sunday or public holiday as observed throughout New Zealand
- Hawkes Bay Anniversary Day and
- Any day in the period commencing with 20 December in a year and ending with 10 January in the following year

## **1.4 Interpretation**

1.4.1 The Interpretation Act 1999 applies to this Bylaw.

1.4.2 The interpretation rules set out below apply to all parts of the Bylaw.

1.4.3 In this Bylaw:

- (a) Words referring to the masculine, feminine or neuter gender refer also to the other genders;
- (b) Singular words include the plural and vice versa;
- (c) The phrase “part of the Bylaw” refers to a Chapter of the Bylaw or to part of a Chapter, as the context requires;
- (d) In the event of inconsistency or interpretation conflict between this part of the Bylaw and any other part of the Bylaw, the latter prevails;
- (e) In the event of any inconsistency or conflict between the provisions of any part of the Bylaw and any rule in the district plan, the latter shall prevail;
- (f) In the event of any inconsistency or conflict between the conditions of an approval and the conditions of a resource consent granted under RMA relating to the same activity, the latter prevails.

## **1.5 Approvals and dispensations**

1.5.1 A person proposing to do anything or to cause any condition to exist for which a licence, permit, approval or dispensation (however described) is required under the Bylaw must first obtain an approval.

1.5.2 A person seeking an approval must make application on the prescribed form (if any), supply any supporting information that may be required and pay the application fee.

1.5.3 An approval may be granted for a single event, on a temporary basis, for a fixed term or until further notice and upon such terms and conditions as the Council thinks fit.

1.5.4 An application for an approval, or the payment of the application fee, does not confer any right, authority or immunity on the person making that application or payment. The Council shall be under no obligation to grant an approval.

- 1.5.5 If the Council believes that a condition of an approval has been breached or is being breached the Council may, without the need to give any preliminary or warning notice:
- (a) prosecute the person responsible for the breach for an offence under the Bylaw; and
  - (b) suspend the approval for a specified period; or
  - (c) cancel the approval.

1.5.6 A person whose application for an approval was declined, or who is unhappy with a decision made under clause 1.5.3 or clauses 1.5.5(b) or (c) may apply to the Council for a review of that decision.

## **1.6 Service of notices**

1.6.1 Any notice or document required to be given under the Bylaw may be delivered to that person either personally or by sending it to the person's last known address, place or abode or business, and in the case of a company to its registered office, by messenger or by ordinary post.

1.6.2 If the person to whom the notice or document is to be given is:

- (a) deceased; or
- (b) absent from New Zealand,

the notice or document may be sent to that person's personal representative, executor, attorney or other authorised agent .

1.6.3 If the person to whom the notice or document is to be given is not known, or is absent from New Zealand and has no known agent in New Zealand, and the notice or document relates to any premises, the notice or document may be served occupier of those premises or, if there is no occupier, may be affixed to some conspicuous part of the premises.

1.6.4 Where a notice or document is sent by post it shall be deemed to have been served at the time when the letter would be delivered in the ordinary course of post.

## **1.7 Offences**

1.7.1 Every person who acts contrary to any prohibition contained in the Bylaw, or to any condition of an approval, or any requirement or condition made by publicly notified resolution in accordance with the Bylaw, commits an offence against the Bylaw.

## **1.8 Fees and Charges**

1.8.1 The Council may by publicly notified resolution set or vary any fee or charge in respect of any matter provided for in this Bylaw. Where a fee or charge relates to the use of or entry to a public place, payment of the fee or charge shall be a condition of use or entry.

## CHAPTER 6 FOOD SAFETY

### 6.1 AUTHORITY

- 6.1.1 This part of the bylaw is made under s 145 of LGA 02 and s. 64 of the Health Act 1956

### 6.2 DEFINITIONS

- 6.2.1 In this part of the Bylaw

“certificate” means a qualification in food safety approved by the District Environmental Health Officer as issued by the New Zealand Qualifications Authority or an equivalent certificate assessed by the District Environmental Health Officer

“food” has the same meaning as in s 2 of the Food Act 1981

“food handler” means any person employed in or on any food premises who at any time may be involved in the manufacture, preparation, packing or handling of food

“food premises” has the same meaning as in Regulation 2 of the Food Hygiene Regulations 1974 but shall not include occasional food premises as defined in that Regulation or fully exempted premises

“HACCP” means hazard analysis control point

“NZQA” means the New Zealand Qualifications Authority

“occupier” means an owner of food premises or any person, occupying food premises and includes any supervisor, food handler, manager or agent acting or apparently acting in the general management or control of food premises

### 6.3 COMPULSORY TRAINING FOR FOOD HANDLERS

- 6.3.1 All food premises must have food handling staff trained to the appropriate certificate levels as set out under the Schedule A to this part of the Bylaw.
- 6.3.2 The occupier of every food premises must ensure that new, temporary, or replacement staff are already trained to the appropriate level required by Schedule A or will gain the required level within three months of employment.
- 6.3.3 Every food premises must have at least one person employed in a supervisory and staff training capacity who is trained to the level required under Schedule A.
- 6.2.4 In the case of food premises which consist of separate departments or sections, each of which functions more or less in isolation from the others at least one person must be appointed to act in a supervisory position within each separate department or section in accordance with clause 6.2.3.
- 6.2.5 An occupier must ensure that adequate records are kept relating to staff training under Schedule A and that copies of all certificates gained by staff are displayed publicly on the premises for perusal by the Council or the public at all times.

Photocopies or facsimiles of all certificates are to be provided to Hastings District Council for record purposes.

### 6.3 CLOSURE OF PREMISES

6.3.1 Where any food premises or part of any food premises or any appliance, fitting or fixture or other equipment on any food premises by reason of their situation, construction, disrepair, or state are in such a condition that any food in the food premises may be exposed to contamination or taint or become dirty or deteriorated, the Council may serve a notice in writing on the occupier of the premises requiring him/her:

- (a) To cease to use the premises as food premises, and / or to clean or reconstruct, or to repair the premises, or part of the premises, or;
- (b) To cease to use or to clean, reconstruct, or repair any appliance, fittings, fixture or other equipment on those premises

in accordance with the requirements and within the time specified in the notice.

6.3.2 Where an occupier has been directed to cease to use any food premises the occupier shall not recommence use of those food premises until permission has been given in writing by the Council.

SCHEDULE A TO CHAPTER 6

STAFF ACTIVITY ON PREMISES	STAFF TRAINING REQUIRED REQUIRED LEVEL OF TRAINING
<ul style="list-style-type: none"> <li>• Handling of pre-packed, non-readily perishable foods</li> <li>• Fruit and vegetable sales (excluding salads).</li> <li>• Wine makers/bottlers.</li> <li>• Staff working under an NZFSA Food Safety Programme or Food Control Plan</li> </ul>	<p>No training required</p>
<ul style="list-style-type: none"> <li>• Heating of pre-packaged foods.</li> <li>• Preparation of milkshakes and/or ice creams.</li> </ul>	<p><b>Level 1: Basic or Elementary Food Hygiene</b> – must include a basic understanding and the reasons for:</p> <p>(i) Personal hygiene practices; (ii) the prevention of cross contamination; and (iii) temperature control and critical limits.</p> <p>Or such training that may be approved by Council’s Environmental Health Officer.</p>
<ul style="list-style-type: none"> <li>• All other staff involved in food preparation not mentioned above.</li> <li>• Supervisory staff in charge of heating pre-packaged foods or preparation of milkshakes and/or ice creams.</li> </ul>	<p><b>Level 2: An Equivalent Level to NZQA Unit 168 – Food Safety</b> – which must ensure that the food handler can: (i) demonstrate knowledge of the hazards that can cause food-borne illness and food spoilage in a food business; and (ii) demonstrate knowledge of methods used in a food business to control hazards that can cause food-borne illness and food spoilage.</p> <p>Or such training that may be approved by Council’s Environmental Health Officer.</p>
<ul style="list-style-type: none"> <li>• All other supervisory staff not mentioned above.</li> </ul>	<p><b>Level 3: Food Safety Planning</b> – the supervising food handler should be able to:</p> <p><b>1. Identify and understand basic food safety legislation.</b></p> <p><b>(i) Food Hygiene Regulations 1974</b></p>

	<ul style="list-style-type: none"> <li>• Understand the requirements for registration of premises with the Local Authority</li> <li>• Application submitted and approved before opening of premises</li> <li>• Payment of appropriate fee</li> <li>• Renewal of registration</li> <li>• Notification to Council of transfer of ownership within 14 days</li> <li>• First Schedule Requirements – Physical requirements of the building</li> <li>• Conduct of workers</li> <li>• Particular sections of the regulations relating to different kinds of premises: e.g. butchery, bakehouses, delicatessens</li> </ul> <p><b>(ii) Food Act 1981, Amendments for exemption to registration.</b></p> <ul style="list-style-type: none"> <li>• Know that you may register a Food Safety Programme or Food Control Plan with NZFSA and gain exemption from registration under the Food Hygiene Regulations</li> <li>• Recognise what is meant by a Food Safety Programme or Food Control Plan</li> <li>• Understand the requirements for approval of the Food Safety Programme or Food Control Plan</li> <li>• Understand the requirements for audit</li> </ul> <p><b>2. Understand what is meant by HACCP and Risk Management Practice.</b></p> <p><b>(i) The principles of HACCP</b></p> <ul style="list-style-type: none"> <li>• Being able to identify the hazards; Microbiological, Chemical and Physical</li> <li>• Being able to determine control points. Know the difference between control points and critical control points</li> <li>• Establish critical limits</li> <li>• Establish a monitoring system</li> </ul>
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	<ul style="list-style-type: none"> <li>• Establish corrective action</li> <li>• Establish verification procedures</li> <li>• Establish record keeping and documentation requirements</li> </ul> <p><b>(ii) Relate the principles of HACCP to your own food premises.</b></p> <ul style="list-style-type: none"> <li>• Be able to construct a simple flow diagram of the process/es involved in your work place and include the HACCP steps</li> <li>• Know and understand the meaning of Good Hygienic Practice in relation to your own food business. (Knowledge gained from Levels I &amp; II of the Food Safety Bylaw)</li> </ul> <p><b>3. Understand the role of supervisors in achieving and maintaining compliance and good hygienic practice within the workplace.</b></p> <p>Minimum 4-hour course with compulsory assignment on “Designing a HACCP Plan for Food Premises”. Certificate of Achievement required on completion.</p> <p>Or such training qualification that may be approved by Council’s Environmental Health Officer.</p>
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