

Kapiti Coast District Council Food Safety Bylaw 2006

Preamble

1. The Kapiti Coast District Council makes by special consultative procedure the following Bylaw under the powers contained in section 145 of the Local Government Act 2002, section 164 of the Health Act 1956 and any regulations made under that Act.
2. This Bylaw is called the Kapiti Coast District Council Food Safety Bylaw 2006.
3. The purpose of this Bylaw is to:
 - 3.1 ensure that safe food is available in all food premises throughout the district; and
 - 3.2 require that all food premises employ staff who are adequately trained in food hygiene; and
 - 3.3 allow the Council to close premises that are unsanitary; and
 - 3.4 recognise food premises that have exhibited standards of excellence; therefore creating a motivation to improve standards and achieve a higher grading.

4 COMMENCEMENT

- 4.1 This Bylaw comes into force on 1 July 2007.

5 EXEMPTIONS FROM BYLAW

- 5.1 Any premises operating a Food Safety Programme and holding an exemption from the Food Hygiene Regulations 1974 or having a registered Risk Management Plan are exempt from this Bylaw.

6 INTERPRETATION

- 6.1 In this Bylaw, unless the context otherwise requires:

APPLIANCE has the same meaning as it has in section 2 of the Food Act 1981.

APPROVED BASIC FOOD HYGIENE COURSE means a training programme which has been accredited by the New Zealand Qualifications Authority for the purpose of food preparation and handling, or an alternative course in food hygiene approved in

writing by the Team Leader of Monitoring, Enforcement & Licensing.

AUTHORISED OFFICER means an Environmental Health Officer or Environmental Health Trainee appointed by the Council under Health Act 1956 or any other enactment.

BUILDING/RESOURCE CONSENT & MONITORING MANAGER means an Officer appointed to that position or the person for the time being carrying out the duties of Building/Resource Consent & Monitoring Manager at the Council.

CERTIFICATE OF REGISTRATION means a certificate of registration issued by the Council under the Health (Registration of Premises) Regulations 1966.

COUNCIL means the Kapiti Coast District Council.

FOOD means anything that is used or represented for use as food or drink for human beings; and includes:

- (a) Any ingredient or nutrient or other constituent of any food or drink, whether that ingredient or nutrient or other constituent is consumed or represented for consumption by human beings by itself or when used in the preparation of or mixed with or added to any food or drink; and
- (b) Anything that is or is intended to be mixed with or added to any food or drink; and
- (c) Chewing gum, and any ingredient of chewing gum, and anything that is or is intended to be mixed with or added to chewing gum.

FOOD PREMISES means:

- (a) Any premises:
 - (i) On or at which food is manufactured, prepared, packed, stored, or handled, for sale; or
 - (ii) On or from which food is sold: or
 - (iii) That is used in connection with any other food premises, for the purposes of their work, by persons who work on those other food premises:
- (b) Any stall.

FOOD WORKER means any person who manufactures, prepares, packs or otherwise handles food for sale but does not include:

- (a) supermarket checkout operators or persons handling already packaged food at the point of sale; or
- (b) persons only employed in the handling of already packaged goods in storage or the carriage of such goods to or from storage; or
- (c) persons only employed in the delivery of already packaged goods to or from premises; or
- (d) any other person who an Authorised Officer has determined under clause 7.9 will not be treated as a food worker for the purposes of this part of the Bylaw.

GRADE means a grade set out in clause 9.2.

GRADING CERTIFICATE means a certificate issued by the Council under clause 10.2 which shows the grade allocated to a food premises.

NEW ZEALAND QUALIFICATION AUTHORITY means the New Zealand Qualifications Authority established under Part XX of the Education Act 1989.

OCCUPIER means the owner of the food premises or any person or persons occupying the premises and includes any supervisor, food worker, manager or agent acting or apparently acting in the general management or control of the food premises.

REQUISITION means a written order requiring any of the following situations in a food premises or its appliances, fittings, fixtures or equipment to be remedied to the satisfaction of the authorised officer:

- (a) where the food premises or its appliances, fittings, fixtures or equipment are found to be in disrepair or dirty; or
- (b) where any condition or set of conditions on the premises could expose food to contamination or taint, or that could allow food to become dirtied or deteriorated.

SALE or **SELL** has the same meaning as it has in the Food Act 1981 and includes the extended meaning given in regulation 2(5) of the Food Hygiene Regulations 1974.

TEAM LEADER OF MONITORING, ENFORCEMENT AND LICENSING means the officer appointed to that position or the person for the time being carrying out the duties of Team Leader of Monitoring, Enforcement and Licensing at the Council.

UNIT STANDARD 167 means Unit Standard 167 (Produce Safe Food) or equivalent New Zealand Qualifications Authority National Qualifications Standard.

UNIT STANDARD 168 means Unit Standard 168 (Prevent Food Contamination) or equivalent New Zealand Qualifications Authority National Qualifications Standard.

7 STAFF QUALIFICATIONS

- 7.1 All food workers on duty at any food premises must have passed an approved basic food hygiene course.
- 7.2 Every occupier of a food premises must ensure that new, temporary, or replacement staff have passed an approved basic food hygiene course, either:
 - 7.2.1 before beginning employment at the food premises; or
 - 7.2.2 within 3 months of beginning work at those premises.
- 7.3 At least one person must be on duty at a food premises in a supervisory and training capacity who has passed:
 - 7.3.1 Unit Standard 167, or an alternative course in food hygiene approved in writing by the Team Leader of Monitoring, Enforcement & Licensing; and
 - 7.3.2 Unit Standard 168 or an alternative course in food hygiene approved in writing by the Team Leader of Monitoring, Enforcement & Licensing.
- 7.4 Where food premises consist of separate departments or sections, each of which functions primarily independently of the others, at least one person must be appointed to act in a supervisory and training capacity within each department and that person must meet the requirements of clause 7.3.
- 7.5 If an Authorised Officer is satisfied that a food worker in any food premises has insufficient food hygiene and food safety knowledge, then that Authorised Officer may require that person to complete an approved basic food hygiene course.

- 7.6 The holder of the certificate of registration or the occupier of the food premises must keep on the premises where the food workers are employed:
- 7.6.1 adequate records of staff training on food hygiene and food safety; and
 - 7.6.2 copies of all certificates or other qualifications of food workers employed on the premises.
- 7.7 The holder of the certificate of registration or the occupier of the food premises must if requested by an Authorised Officer make available to that Officer the records required to be kept under clause 7.6.
- 7.8 The Team Leader of Monitoring, Enforcement & Licensing may grant an exemption from the requirements of clause 7 if satisfied that it would be unreasonable or impractical to insist on compliance, having regard to:
- a. the type of premises,
 - b. the types of food being packed, stored, handled or sold on the premises, and
 - c. a recommendation from an Authorised Officer.
 - d. Staff employed or in house training conducted and recognised as New Zealand Qualifications Authority standard and approved by the Team Leader of Monitoring, Enforcement & Licensing.
- 7.9 The Team Leader of Monitoring, Enforcement & Licensing may determine that any person who manufactures, prepares, packs or otherwise handles food for sale will not be treated as a food worker for the purposes of this clause if satisfied that it would be reasonable in the circumstances to do so.

8 CLOSURE OF PREMISES

- 8.1 Where any food premises or part of a food premises or any appliance, fitting, fixture or equipment in any food premises are, by reason of their situation, construction, disrepair or state, in such a condition that any food in the premises may be exposed to contamination, taint, deteriorate or become dirty, the Team Leader of Monitoring, Enforcement and Licensing may serve, or cause to serve, a notice in writing on the occupier of the premises requiring the occupier to:

- 8.1.1 cease to use the premises as food premises, and not to subsequently resume the use of the premises as food premises; or
 - 8.1.2 clean, reconstruct, or repair the premises or any appliance, fitting or fixture, or equipment in a manner to be specified in the notice and to cease to use the premises until the cleaning, reconstruction or repair has been completed to the satisfaction of an Authorised Officer.
- 8.2 Where an occupier has been directed to cease operating any food premises under clause 8.1.1, the occupier must not recommence use of those food premises until the Team Leader of Monitoring, Enforcement and Licensing has given permission in writing to do so.
- 8.3 An occupier must not continue to operate any food premises if the Council has revoked the certificate of registration for those premises under regulation 9 of the Health (Registration of Premises) Regulations 1966.

9 GRADING OF FOOD PREMISES

- 9.1 The Council must from time to time by resolution determine the requirements against which food premises will be assessed for grading purposes. Such requirements must:
- 9.1.1 apply any regulatory food hygiene requirements (such as and without limitation, the Food Hygiene Regulations 1974 and the Food Regulations 1984); and
 - 9.1.2 take in account the current state of food safety knowledge, technology, and practice.
- 9.2 For the purposes of this Bylaw, the following grades apply:

New Premises grade means that the food premises were not assessed according to the Council's current requirements in terms of an A to E Grade because the premises are new premises open or there has been a change of ownership in the premises.

A Grade means that the food premises exceeded the Council's current requirements, and displayed a high standard of cleaning and hygiene, and superior food-handling practices.

B Grade means that the food premises met the Council's current requirements, and displayed a satisfactory standard of cleaning and hygiene, and good food-handling practices.

D Grade means that the food premises fell below the Council's current requirements, with improvements in maintenance and/or food-handling practices required.

E Grade means that the food premises fell well below the Council's current requirements, with improvements in cleaning, maintenance and/or food-handling practices required.

10 HOW GRADINGS WILL BE CARRIED OUT

- 10.1 Subject to clause 10.4, before a food premises is registered under the Health (Registration of Premises) Regulations 1966 each year, an Authorised Officer must perform a grading inspection and provide a grading for the food premises.
- 10.2 The Council will issue a grading certificate which shows the grading for the food premises in accordance with clause 9.2 to the occupier of the food premises together with the annual certificate of registration.
- 10.3 A new food premises, or food premises with a new occupier, will not be graded in terms of an A to E Grade until at least two months have passed since the commencement of operation, or taking over the occupancy of the food premises.
- 10.4 The current grading certificate must be conspicuously displayed (so that the grading letter can be clearly seen) in a public part of the food premises to which it relates, so as to be readily visible to members of the public visiting the food premises.
- 10.5 The grading certificate is deemed to be current for a period not exceeding 12 months from the date of issue, or such lesser time if it is amended, cancelled or withdrawn by an Authorised Officer.
- 10.6 The grading certificate must be specific to both the food premises and the occupier of the food premises at the time of the grading inspection. Grading certificates are not transferable.
- 10.7 An occupier of food premises in respect of which a grading certificate has been issued, may contest the grading in writing to the Team Leader of Monitoring, Compliance and Licensing within 14 days of receipt of the grading certificate.
- 10.8 An application for re-grading of the food premises may be made at any time in writing to the Team Leader of Monitoring, Enforcement and Licensing, accompanied by the appropriate fee, but no such application will be considered by the Council until two months has expired since the last grading inspection.

- 10.9 The grading certificate remains the property of the Council.
- 10.10 Occasional food premises and partially exempted premises as defined in regulation 2 of the Food Hygiene Regulations 1974, are exempt from the requirements of this clause.

11 PREMISES GRADED D OR E GRADE

- 11.1 If the food premises receives a D Grade or an E Grade, the Council must issue a requisition in order for the premises to comply with food hygiene legislation and to reduce the risk of food-borne illness or contamination arising from any food prepared, manufactured, stored or sold from the premises.
- 11.2 When the occupier of the food premises has complied with a requisition to the satisfaction of the authorised officer, the occupier may apply for a re-grading under clause 10.9.
- 11.3 Despite clause 11.2, any food premises receiving a D grade or an E Grade may be closed at the discretion of the Team Leader of Monitoring, Enforcement and Licensing in accordance with clause 8.

12 SICKNESS POLICY

- 12.1 Every food premises must have a written sickness policy based on the current New Zealand Food Safety Authority's Sickness Policy Template.
- 12.2 The sickness policy must be on the food premises at all times and be adhered to by all food workers at the premises.

13 INSPECTION

- 13.1 For any of the purposes of this Bylaw, any Authorised Officer may at all reasonable times enter upon any land, building, or premises in order to carry out an inspection.

14 SERVING OF ORDERS AND NOTICES

- 14.1 Except where otherwise expressly provided for in any Act or by this Bylaw, where a notice or order is to be served on any person requiring that person to do or abstain from doing anything required by this Bylaw, it may be delivered to that person either personally or by sending the same by messenger or by post, to the person at his or her last known place of abode or business.

- 14.2 If the person is absent from New Zealand the order or notice may be sent to the person's agent instead of to the person, in any manner mentioned in clause 14.1.
- 14.3 If the person is not known, or is absent from New Zealand and has no known agent in New Zealand, an order or notice relating to any land or building may be addressed to the occupier of the building or land and served on the person in occupation. The notice or order may also be put on some conspicuous part of the building or land. It is not necessary to name the occupier of the building or land in the notice.
- 14.4 Where an order or notice is sent by post it must be sent so as to arrive in the due course of post on or before the latest time on which the order or notice is required to be served.

15 RIGHT OF APPEAL

- 15.1 Any decision of the Team Leader of Monitoring, Enforcement and Licensing made under this Bylaw may be appealed to the Building/Resource Consents & Monitoring Manager provided that any food premises ordered closed must remain closed until the appeal is resolved.
- 15.2 An appeal under clause 15.1 must be made in writing within 14 days of receiving the decision.
- 15.3 On hearing the appeal the Building/Resource Consents & Monitoring Manager may confirm, reverse or modify the decision or requirement made by the Team Leader of Monitoring, Enforcement & Licensing.

16 OFFENCES AND BREACHES

- 16.1 Every person who contravenes or fails to comply with this Bylaw commits an offence and is liable to the penalty set out in section 66 of the Health Act 1956.

17 REVOCATION OF FOOD HYGIENE BYLAW 1993

- 17.1 The Kapiti Coast District Council Food Hygiene Bylaw 1993 is revoked.