
REPORT 4
(1215/11/IM)

Report of the Strategy and Policy Committee
Meeting of Thursday 21 February 2008

Members: Mayor Prendergast (Chair), Councillors Ahipene-Mercer, Best, Cook, Coughlan, Foster, Gill, Goulden, McKinnon, Morrison, Pannett, Pepperell, Ritchie, Wade-Brown and Wain.

THE COMMITTEE RECOMMENDS:

1. **ITEM 027/08P ELECTION SYSTEM FOR FUTURE LOCAL
AUTHORITY ELECTIONS**
(1215/52/IM) (REPORT 2)

THAT Council:

1. *Agree that:*

- (a) a poll of electors be initiated to determine the electoral system to be used at the 2010 and 2013 local authority elections*
- (b) the poll be held on Saturday 27 September 2008 and be conducted using the postal voting method*
- (c) the poll be conducted using the First Past the Post electoral system.*
- (d) a sum of \$185,000 be provided for in the 2008/2009 annual budget allocated to Democratic Services for the costs of running the poll*
- (e) the Electoral Officer be permitted, subject to strict compliance with the provisions of the Local Electoral Act 2001, to progressively process the voting documents during the three week period prior to 12 noon on polling day (Saturday 27 September 2008).*
- (f) the wording of the electoral system proposal, to be included on the voting documents, be as follows:*

“The Local Electoral Act 2001 gives local authorities a choice of two electoral systems for electing its members. The two options are the First Past the Post (FPP) electoral system and the Single Transferable Vote (STV) electoral system.

The Wellington City Council has used the STV electoral system to elect its members, and the members of its two community boards, since 2004. The Council has decided to hold a poll of electors to determine which system will be used to elect its members at the triennial elections to be held in 2010 and 2013.

If a majority of the votes cast in this poll are in favour of the present STV electoral system, as provided for in the Local Electoral Act 2001, the method of electing members of the Wellington City Council and its community boards at the 2010 and 2013 local authority elections will remain by way of the STV electoral system.

If a majority of the votes cast in this poll are in favour of the FPP electoral system, as provided for in the Local Electoral Act 2001, the method of electing members of the Wellington City Council and its community boards at the 2010 and 2013 local authority elections will be by way of the FPP electoral system.

To vote, place a “√” clearly within the box next to the option you wish to vote for. You can vote for only one (1) option.

*I vote for the **Single Transferable Vote (STV)** electoral system*

*I vote for the **First Past the Post (FPP)** electoral system”*

5. *Agree that, if a poll of electors is held and the result of that poll is to revert back to the FPP electoral system, consideration be given to undertaking another representation review in 2009.*

2. **ITEM 029/08P LOCAL PUBLIC HEALTH BYLAW REPORT BACK AFTER CONSULTATION**
(1215/52/IM) (REPORT 4)

THAT Council:

1. *Note that the Strategy and Policy Committee considered the submissions received in response to the Statement of Proposal for the proposed Local Public Health Bylaw.*
2. *Agree that the special consultative procedure has been completed pursuant to sections 86 and 156 of the Local Government Act 2002.*
3. *Agree that the Bill of Rights Act 1990 implications have been considered for the proposed Local Public Health Bylaw and that the bylaw is appropriate in accordance with section 155 of the Local Government Act 2002.*

4. *Agree to revoke the following parts of the Wellington Consolidated Bylaw attached as Appendix 2 to this report - Part 22 – Food Premises (incorporating amendment no 5), Part 9 – Commercial Pools and Saunas, and provisions pertaining to public pools in Part 16 of the Wellington Consolidated Bylaw 1991 –and resolve to make the Local Public Health Bylaw attached as appendix 1 to this officer’s report.*

Kerry Prendergast
Chair

Wellington City Council Proposed Local Public Health Bylaw 2008

Part 1 Introduction

The Wellington City Council is empowered to make bylaws for the improvement, promotion, protection, and maintenance of public health and safety. The authority for the Council to make such bylaws can be found in the Local Government Act 2002 and the Health Act 1956. The Council finds cause to make this bylaw in the interests of public health and safety. The bylaw is made subordinate to and in support of the Acts noted above. The need for a bylaw covering these matters is founded upon addressing perceived problems that are not effectively controlled by any statute or regulation.

This bylaw is made pursuant to Part 8 of the Local Government Act 2002.

1.1 Commencement, Review and Termination

- 1.1.1 The bylaw shall be operative from 1 July 2008.
- 1.1.2 Unless revoked or reviewed sooner, it shall be reviewed no later than 30 June 2018. If not reviewed by 30 June 2018, this bylaw terminates on 1 July 2020.
- 1.1.3 The bylaws specified in schedule 1 are revoked or amended.

Part 2 Food Premises

2.1 Interpretation

‘Certificate of Registration’ also means the Certificate of Hygiene or such term as Council decides on from time to time and has the same meaning as in the Food Hygiene Regulations 1974.

‘Food’ means anything that is used or represented for use as food or drink for human beings.

‘Food Premises’ has the same meaning as in the Food Hygiene Regulations 1974

‘Food Premises Operator’ has the same meaning as ‘Occupier’ in the Food Hygiene Regulations 1974.

‘Grading’ means the allocated grade resulting from an inspection of the Food Premises by the Council assessed according to the grading system determined by the Council.

‘Utensils’ means all utensils (such as cutlery, dishware and glassware) and equipment used in the storage, processing, preparation or serving of food and drink intended for human consumption, with which food or drink comes into contact during such use.

2.2 Grading

2.2.1 The Council shall grade food premises annually following an inspection for grading.

2.2.2 A new food premises or a food premises that has had a change of owners and is registered with the Council will not receive a grading until 3 months of continuous operation has elapsed.

2.2.3 A food premises operator can request a regrading, but not within 2 months of issue of the current grading.

2.2.4 The Council can regrade premises at its discretion, following an inspection of the premises.

2.2.5 Where the Council has a certificate for a grading classification, it shall be issued to the food premises together with an annual certificate of registration where the applicant meets the requirements for the certificates of registration and grading.

2.2.6 The food premises operator shall clearly display in a public area of the premises, the current certificate of registration issued for the premises

and the current grading certificate, where such a certificate has been issued for the premises.

2.2.7 A grading certificate is voided and shall not be displayed when a change of occupier occurs or where the food premises fails to maintain the qualifying standard prescribed for that Grading Certificate as determined by the Council from time to time.

2.2.8 No food premises operator shall display a grading certificate or certificate of registration after the expiration date shown on the certificate.

2.3 Food hygiene training

2.3.1 The Council will not issue a certificate of registration unless there is working on the premises

a) a staff member that has been trained in food safety to NZQA level or equivalent or such other training approved by the Council and has been issued with an appropriate food safety training certificate, and/or;

b) a manager or staff member who is responsible for training others has been trained to NZQA level or equivalent or such other training approved by the Council and has been issued with an appropriate food safety training certificate; and/or;

c) a manager or staff member who has undergone trade training or other training which has a food safety component equivalent to NZQA level or other suitable training approved by the Council

2.4 Food Utensil Hirers

2.4.1 Any premises or place for the hire of any utensil or appliance used in the service or consumption of food shall comply, to the Council's satisfaction, with the requirements of the Health Act 1956 and the Food Hygiene Regulations 1974.

2.4.2 Any utensil or appliance that is let for hire for use in the service or consumption of food must be effectively cleansed and rendered hygienic by one of the methods in the Food Hygiene Regulations 1974 or some other method approved by the Council.

Part 3 Public Pools

3.1 Interpretation

‘Actively supervised’ means watching your child at all times and being able to provide immediate assistance.

‘Certificate of Registration’ means a certificate issued in accordance with 3.2 of this bylaw.

‘Operator’ means the person whose name appears in the record of registration kept by the Council.

‘Premises’ and **‘Public Pool Premises’** has the same meaning as public pool

‘Public Pool’ means any swimming pool, plunge pool, spa pool, tank, or similar structure with the primary purpose of holding a person or persons and includes school pools, Council pools, and commercially operated pools (including but not limited to hotels, motels, and other places of accommodation, fitness centres, gymnasiums, massage parlours) whether or not the primary purpose of the premises is the operation of a public pool, it does not include pools used in conjunction with private residential accommodation.

3.2 Premises to be registered

3.2.1 No premises shall be used for the operation of a public pool unless the operator has obtained a certificate of registration from the Council. The certificate shall be displayed in accordance with 3.3.1.

3.2.2 Every application for annual registration of a public pool shall be made on the form provided by the Council for that purpose and include all information required and be signed by the operator.

3.2.3 The Council shall, following an inspection, issue a certificate of registration, provided the premises comply with this bylaw.

3.2.4 The certificate of registration shall remain in force until the date shown on the certificate

3.2.5 Where the operator of a public pool changes, the new operator shall apply to the Council for registration within 14 days. If no application for registration is received by the Council the registration is deemed void and the public pool shall not be used or operated until such time as the premises comply with this bylaw.

3.2.6 The Council may suspend the registration of a public pool premise in accordance with Part 4.2 of this bylaw.

3.2.7 The Council, at its discretion, may waive the requirement to be registered.

3.3 Certificates to be displayed

3.3.1 The registered operator of the public pool shall clearly display the certificate of registration in a public area of the premises. Certificates of registration shall not be displayed after the expiration shown on the certificate or if the Council has issued a notice to suspend or cancel the certificate.

3.4 Clean premises and equipment

3.4.1 All public pool areas and associated facilities and equipment shall be maintained in a clean and hygienic condition.

3.5 Compliance with Pool Water Quality Standard

3.5.1 All public pool premises shall comply with the New Zealand Standard on Pool Water Quality (NZS 5826:2000) and any updates, additions or amendments to that Standard.

3.6 Training

3.6.1 Any certificate of registration to operate a public pool is conditional upon the operator and person(s) involved in water treatment and testing holding NZQA Unit Standards in swimming pool water quality or equivalent qualification that is to a standard approved by the Council.

3.7 Supervision

3.7.1 Children under 8 years are not permitted in public pool premises unless actively supervised by a caregiver at least 16 years of age.

3.8 Signage

3.8.1 Signage related to conditions of entry and use of the public pool premises covering behaviour, supervision, safety and disease prevention shall be clearly displayed in a public area of the public pool premises.

Part 4 Administration and Enforcement

4.1 Fees

- 4.1.1 The Council may from time to time set fees and charges to be payable on demand, for functions undertaken by the Council under this bylaw. Fees and charges shall be made by resolution of Council.
- 4.1.2 The Council may for such reasons as it thinks fit, refund, remit or waive any fee or portion of fee.

4.2 Notice to cleanse, repair or cease use of premises

- 4.2.1 Where any premises, that are subject to this bylaw, by reason of their situation, construction, defect, or state is unsanitary or unhygienic so as to present risks to public health, the Council may serve a notice in writing on the occupier/operator or owner/proprietor requiring:
 - a) The premises to be cleaned and/or repaired in a manner and timeframe specified in the notice; or
 - b) Cessation from using the premises until the premises are cleaned and/or repaired to the satisfaction of the Council.
- 4.2.2 All such notices provided under this section shall state particulars of any corrective action required to ensure that any risk to public health is removed.

4.3 Objections

- 4.3.1 Any operator of a public pool premises or food premises who has been issued with a notice by a duly authorised Council officer may object to the requirements of the notice. Objections must be in writing and submitted within 14 days of being issued with the notice.
- 4.3.2 Where an objection to a notice is made, the notice remains in force, until complied with or until the recipient is notified that the notice is cancelled or changed following the Council's consideration of the objection, whichever is earlier.
- 4.3.3 The Council may, on considering the objection, confirm or cancel or change the original requirements of the notice issued by the Council officer.

4.4 Offences

- 4.4.1 Everyone commits an offence against this bylaw who :
 - a) Does, or causes to be done, or permits or suffers to be done, or is concerned in doing, anything whatsoever contrary to or otherwise than as provided by this bylaw; or

- b) Omits, or neglects to do, or permits, or suffers to remain undone, anything which according to the true intent and meaning of this Bylaw, ought to be done at the time and in the manner therein provided; or
- c) Refuses or neglects to comply with any notice duly given under this Bylaw; or
- d) Obstructs or hinders any officer of the Council in the performance of any duty to be discharged by such officer under or in the exercise of any power, conferred by this Bylaw.

Schedule 1

Bylaws revoked and amended

From 1 July 2008 the following parts of the Wellington Consolidated Bylaw 1991 are revoked:

- Part 9 Commercial Pools and Saunas
- Part 22 Food Premises

From 1 July 2008, the following part of the Wellington Consolidated Bylaw is amended:

- Part 16 Reserves and Swimming Pools
 - Title is amended to Part 16 – (Reserves)
 - Clauses 16.1 (clauses related to swimming pools only) 16.9, 16.10, 16.11, 16.12, 16.13, 16.14 and 16.15 are revoked

Appendix Two

Bylaw to be revoked

Wellington Consolidated Bylaw 1991: Part 22 - Food Premises (Incorporating Amendment no. 5 Food Hygiene)

PART 22 – FOOD PREMISES

22.1 Interpretation

22.1.1 In This Part

"**Caterer**" means any person who prepares, sells any food in conjunction with any service or otherwise, at any place, not being the registered premises of that person.

"**Chief City Environmental Health Officer**" means any person from time to time appointed by the Council pursuant to the Health Act 1956, sections 23 and 28.

"**Food Premises**" is defined in the Food Hygiene Regulations 1974.

"**Food stall**" includes any movable stand, mobile shop, vehicle, tent, enclosure, place, booth, or structure, on or at or from which food is manufactured, prepared, packed, stored or sold.

"**Hairdressers shop**" is defined in the Health (Hairdressers) Regulations 1980.

"**Offensive Trade**" includes any trade, manufacture or undertaking specified in the Third Schedule of the Health Act 1956.

"**Premises**" includes a food stall.

"**Registered**" means registered with the Council in accordance with this Part.

22.1.2 Expressions defined in the Health Act 1956, the Food Act 1981, Food Hygiene Regulations 1974 and the Health (Hairdressers) Regulations 1980 have the same meaning for the purposes of this Part.

22.2 REGISTRATION OF PREMISES

22.2.1 No person shall use any food premises or premises requiring registration under Regulation 4 of the Food Hygiene Regulations 1974 unless such premises are registered.

22.2.2 No person shall use any hairdressers shop for hairdressing unless the premises are registered.

22.2.3 No person shall establish or carry on an offensive trade or extend, alter the premises or operation in any trade without the prior written consent of the Council and of the Medical Officer of Health and unless the premises are registered.

22.2.4 No person shall use any premises for the storage or sale of confectionery, cordials, syrups, aerated waters or beverages unless such premises are registered.

22.2.5 Registration of any premises shall be evidenced by a Certificate of Registration, which shall be issued by the Chief City Environmental Health

Officer, and shall have endorsed on it the dates of commencement and expiry of registration.

22.3 APPLICATIONS

22.3.1 Every person who wishes to register any premises shall make application to the Chief City Environmental Health Officer in writing on a form provided for that purpose, and shall forward the prescribed application fee.

22.3.2 Application for registration of any such premises shall be signed by the person proposing to use such premises or by his or her authorised agent.

22.3.3 On the receipt of application for the registration of any premises the Environmental Health Officer may register premises by issuing a Certificate of Registration or may request certain requirements to be carried out to the satisfaction of the Environmental Health Officer before the premises are registered.

22.3.4 For every Certificate of Registration issued in accordance with Clause 22.3.3 the applicant shall pay to the Council the prescribed registration fee.

22.3.5 Premises shall remain registered for 12 months from date of issue of the Certificate of Registration or until the expiry date specified on the Certificate.

22.3.6 Where a Certificate of Registration for a food stall has been issued for a period less than a year, the registration fee shall be calculated at the rate of one twelfth the annual registration fee for each calendar month or part thereof during which the food stall is used.

22.3.7 The Certificate of Registration issued in accordance with Clause 22.2.3 (offensive trades) shall expire on 31 December in every year and shall be subject to such conditions as may be prescribed with respect to the issue thereof to be carried out to the satisfaction of the Environmental Health Officer before the premises are registered.

22.3.7 Every Certificate of Registration shall be displayed conspicuously at the front of the premises for public view.

22.4 CHANGE OF OCCUPIER

22.4.1 Within 14 days after any change in the occupation of premises the new occupier shall make application in writing to have the change noted in the record of registration and shall pay the prescribed noting fee.

22.4.2 In place of noting such change on the existing Certificate of Registration the Council may issue a new certificate.

22.4.3 Within 14 days after any change in the occupation of premises the outgoing occupier shall give written notice thereof to the Chief City Environmental Health Officer stating the name of the person taking over the said premises.

22.4.4 No Certificate of Registration issued under the provisions of this Part to any person shall be transferable, whether by operation of law or otherwise howsoever.

22.4.5 A duplicate Certificate of Registration may be issued in any case where the Environmental Health Officer is satisfied that the original has become lost, defaced or destroyed, on payment to the Council of the prescribed fee.

22.5 SUSPENSION OR CANCELLATION

22.5.1 The Council at its discretion after giving notice to the occupier of any premises may cancel, revoke, or suspend for such period as the Council shall think fit any Certificate of Registration if in the Council's opinion the premises contravenes any Regulation made pursuant to the Health Act 1956.

22.5.2 The Council may refuse to issue a Certificate of Registration if the premises contravene any Regulation made pursuant to the Health Act 1956.

22.6 CLOSURE OF PREMISES

22.6.1 Where 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 or taint or deteriorate or become dirty, the Chief City Environmental Health Officer may serve a notice in writing on the Occupier or Owner of the premises requiring him or her:

- a. to clean, reconstruct, or repair the premises in a manner to be specified in the notice within a period to be specified in the notice; or
- b. to clean, reconstruct, or repair the premises in a manner to be specified in the notice and to cease to use the premises as food premises until the cleaning, reconstruction or repair has been completed to the satisfaction of the Chief City Environmental Health Officer; or
- c. to cease to use the premises as food premises, and not to subsequently resume the use of the premises as food premises.

22.7 UNREGISTERED PREMISES

22.7.1 Every occupier of any premises specified in Regulation 4 (4) of the Food Hygiene Regulations 1974 shall pay to the Council in respect of any inspection of the premises carried out by an Environmental Health Officer for the purpose of those Regulations such annual fee as the Council may prescribe.

22.8 FOOD STALLS

22.8.1 No person shall use any food stall for commercial purposes for the sale of food for human consumption unless such food stall is registered in accordance with the provisions of this bylaw and complies in all respects with the Health Act 1956 and Regulations made thereunder.

22.8.2 Food stalls shall comply with such provisions of the First Schedule to the Food Hygiene Regulations 1974 that the Environmental Health Officer shall require and shall operate in accordance within the following requirements:

- a. The food stall shall be located away from any source of contamination of the food therein and it shall be capable of being easily cleaned and kept clean.
- b. It shall be so located and set up that the space around and under the food stall can be readily cleaned and so that it provides no harbourage for birds, vermin or insects.
- c. There shall be provided in a convenient position in the vicinity of the food stall, for the reception and storage of used single service items or other waste matter, a sufficient number of self-closing, portable, watertight litter bins that are suitably labelled.

- d. The receptacles shall be emptied at least once daily and immediately after emptying they shall be effectively washed and cleaned.
- e. Food awaiting sale and all containers used or intended to be used in handling food shall at all times be protected from contamination.
- f. All food offered for sale shall be manufactured, prepared and packed on premises registered under the Health (Registration of Premises) Regulations 1966 for the purpose or on premises specified in Regulation 4(4) or Regulation 39 of the Food Hygiene Regulations 1974 and shall be delivered to the stall in clean, protective containers suitable for the purpose and in such a manner as to protect the food from contamination.
- g. All readily perishable food shall be dispensed in the original container, package, or wrapper into which it was placed at premises defined in sub-clause (f) or, alternatively, shall be dispensed in single service containers.
- h. The name of the occupier of the food stall shall be displayed in a prominent position on every food stall.
- i. The person in charge of a food stall shall at all reasonable times permit any Environmental Health Officer to enter and inspect the same.
- j. Every food stall shall be equipped with a wash-hand basin attached to a sealed container for holding waste water prior to its disposal into a foul water drainage system. The basin shall be provided with a nail brush and an adequate supply of soap or detergent and hand drying facilities. A pipe supply of water to the basin at a minimum temperature in the basin of 38 degrees Celsius shall also be provided.
- k. Every stall shall be equipped with a suitable hygienic dust-proof box or cabinet containing a sufficient supply of first aid requisites for persons working therein including waterproof wound dressings.
- l. The foregoing provisions of this Clause shall not apply in any case where the Chief City Environmental Health Officer is satisfied that compliances therewith would be unreasonable and impracticable having regard to the type of perishable food or readily perishable food that is to be sold.

22.9 CATERERS

22.9.1 Subject to Clause 22.9.2 no person shall carry on the business of a Caterer unless all food is prepared on premises currently registered for that purpose or at the place where the food is consumed, and all food is transported, stored, handled and displayed in accordance with any Regulation pursuant to the Health Act 1956 and to the Food Act 1981.

22.9.2 Any preparation of food or cleaning of utensils at the place where the food is consumed shall be limited to the capacity of facilities available, and in any event to the satisfaction of an Environmental Health Officer.

22.9.3 Any person carrying on the business of Caterer shall be deemed to be an occupier carrying on an eating house for the purpose of Part VI of the Food Hygiene Regulations 1974 and the requirements therein shall apply at his or her registered premises and at the place where the food is consumed, and such

requirements relating to the protection of food shall be maintained during any transportation of food.

22.10 FOOD UTENSIL HIRERS

22.10.1 No person shall use any premises or place for the hire of any utensil or appliance used in the service or consumption of food unless such premises or place complies in all respects with the Health Act 1956 and the Regulations made thereunder to the satisfaction of the Environmental Health Officer.

22.10.2 No person shall let for hire any utensil or appliance for use in the service or consumption of food unless such utensil or appliance shall have been effectively cleansed and rendered hygienic by one of the methods detailed in Regulation 35 of the Food Hygiene Regulations 1974.

22.11 TOILET DOORS

22.11.1 In any food premises where any intervening ventilated compartment is provided in connection with any water closet or urinal as required by Regulations pursuant to the Health Act 1956, the doorways or such intervening ventilated compartment shall be provided with self-closing doors to the approval of the Environmental Health Officer.

22.12 YARDS OF FOOD PREMISES

22.12.1 Every yard or open space attached to any food premises, if so required by an Environmental Health Officer, shall be provided with a hose tap connected to the cold water supply.

The Wellington Consolidated Bylaw 1991 was duly made by the Wellington City Council by a Special Order passed at a meeting of the Council held on the 13th day of March 1991 and (meantime having been publicly notified) confirmed at a subsequent meeting of the said Council held on the 10th day of April 1991.

AMENDMENT No.5 (FOOD HYGIENE)

The Wellington City Council hereby makes the following bylaw by special order pursuant to the Local Government Act 1974, the Health Act 1956, and any amendment thereof, and all other relevant Acts.

- 1 The Title of this Bylaw is the "Wellington Consolidated Bylaw" 1991, Amendment No. 5 (Food Hygiene).
- 2 This Bylaw shall come into force on
- 3 This Bylaw shall be read with and deemed part of Wellington Consolidated Bylaw 1991 ("the principal bylaw").
- 4 The principal bylaw is hereby amended by the addition of the provisions of the Food Hygiene appendix as follows (including an amended version of Grading 2.2).

5 Interpretation

5.1 In this bylaw, unless the context otherwise requires:

"**Council**" means the Wellington City Council.

"**Environmental Health Officer**" means a person appointed as an Environmental Health Officer by the Council under the authority of the Health Act 1956 or any other Act.

&"Manager Environment & Resource Management Services" means the Manager of Environment & Resource Management Services appointed by the Council or the Manager Environmental Health where duly authorised by the Manager of Environment & Resource Management Services.

"Food" has the same meaning as Food in Section 2 of the Food Act 1981.

"Food Premises" has the same meaning as Food Premises in Regulation 2 of the Food Hygiene Regulations 1974.

"Grade and Grading" means the allocated grade resulting from an inspection of the Food Premises by an Environmental Health Officer assessed according to the grading system determined by the Manager Environment & Resource Management Services, from time to time, and which shall take account of the following:

- i. conduct and practices;
- ii. premises;
- iii. cleaning and sanitising;
- iv. training.

"Annual Registration" means annual registration of the Food Premises pursuant to Wellington Consolidated Bylaw 1991 Part 22 (Food Premises).

"The Regulations" means the Food Hygiene Regulations 1974.

- 5.2 This bylaw shall be read in conjunction with the Wellington Consolidated Bylaw 1991 Part 22 (Food Premises).
- 5.3 This bylaw is made pursuant to both the Local Government Act 1974 and the Health Act 1956.

6 Grading

- 6.1 Prior to the annual registration of every Food Premises, the Environmental Health Officer will, following an inspection, produce a Grading.
- 6.2 Subject to the Food Premises meeting the Grading requirements, a certificate of the Grading (the "grading certificate") for the Food Premises resulting from the inspection, noting the appropriate classification of the Grading as determined by the Environmental Health Officer, will be delivered to the applicant together with an annual certificate of registration where the applicant qualified for the annual certificate of registration.
- 6.3 The grading certificate shall remain in place for a period of 2 months from the date of issue before any application for regrading will be considered.
- 6.4 The grading certificate shall remain the property of Council and may be withdrawn if the Food Premises fall below the grading standard prescribed by Council from time to time.
- 6.5 It is an offence under this bylaw to display a grading certificate that is not current.

7 Additional Requirements for Obtaining Certificates of Registration

- 7.1 As from 1 July 1995 no person shall hold a certificate of registration for Food Premises unless they have complied with the requirements set out in the First Schedule of the Regulations; and
- a. that person has been issued by the New Zealand Qualifications Authority either with a certificate of food hygiene or with a certificate in basic food hygiene; or
 - b. there is, working on the Food Premises, a manager or a staff member with specific written responsibility for staff training who has been issued with either a certificate in food hygiene or with a certificate in basic food hygiene; or
 - c. that person has undergone trade training or other training which has a food hygiene component equal to the New Zealand Qualifications Authority, certificate in food hygiene or the certificate in basic food hygiene, or any other suitable qualification approved by the Manager Environment & Resource Management Services.

8 Appeals

- 8.1 Any occupier of Food Premises in respect of which any decision or requirement has been made by the Environmental Health Officer or the Manager Environment & Resource Management Services under this bylaw may appeal in writing to the Council against that decision or requirement within 14 days after being notified in writing of the decision or requirement.
- 8.2 On hearing the appeal, the Council may confirm, reverse or modify the decision or requirement made by the Environmental Health Officer or the Manager Environment & Resource Management Services.
- 8.3 This right of appeal is in addition to any other right made available to the occupier.

9 Offences

- 9.1 Every person commits an offence against this bylaw, and is liable accordingly under Sections 66 and 137 of the Health Act 1956, or Section 683 of the Local Government Act 1974 who contravenes or fails to comply with any of the provisions of this bylaw.

10 Penanlty

- 10.1 The penalty for any breach of this bylaw shall be as set out in Section 66 of the Health Act 1956, or Section 683 of the Local Government Act 1974.

This bylaw was made by the Wellington City Council by special order passed at a Council meeting held on 1 June 1994 and (meantime having been publicly notified) confirmed at a subsequent meeting of the said Council on 6 July 1994.

The common seal of the Wellington City Council was hereto affixed in the presence of:

Mayor:

Councillor:

Chief Executive:

Bylaw to be revoked:

Wellington Consolidated Bylaw 1991: Part 9 -Commercial Pools and Saunas

PART 9 - COMMERCIAL POOLS AND SAUNAS

9.1 Interpretation

9.1.1 In this Part :

"Commercial Pool" means any pool or sauna which is used by persons paying to use the same or to use the premises in which they are situated, whether or not the primary purpose of the premises is the operation of a "commercial pool", and whether or not such premises are primarily designed to provide transient accommodation. It does not include pools used in conjunction with private residential accommodation (unless such pool will be regularly used by persons paying to do so).

"Bathing" means the process of using pools or saunas or associated facilities.

"Premises" means premises containing a commercial pool.

"Pool" means any swimming pool, plunge pool, spa pool, tank, bath or similar structure capable of holding a person or persons.

"Sauna" means a dry sauna or a steam or turkish bath.

9.2 CONSTRUCTION (PREMISES AND EQUIPMENT)

9.2.1 In all premises, the floors, pool surrounds, shower areas and paving, which are liable to become wet shall be constructed of smooth impervious washable materials which can be easily cleaned and dried and shall be adequately graded and drained. All angles between the floor and the walls shall be rounded off to a height of not less than 75 mm from the floor.

9.2.2 In all premises, the walls and ceilings situated in areas subject to wetting, steam or condensation, shall be constructed of smooth, impervious washable surfaces which can be readily cleaned without damage to the surfaces.

9.2.3 The premises shall be provided with such ventilation as is necessary to prevent formation of excess moisture on the floors, walls and ceilings, and to remove objectionable odours, fumes and other impurities from the premises.

9.2.4 All plant and equipment shall be of sufficient size and capacity to prevent their overloading.

9.2.5 Drainage of pool surrounds shall be effected in such a manner that the surround cannot drain directly into the pool.

9.2.6 Commercial Pools, fittings and equipment shall be properly constructed and of approved materials to facilitate maintenance in a hygienic condition.

9.2.7 Commercial Pools shall be provided with the following :

- a. An outlet capable of removing contaminants from the bottom of the pool, or some other approved method of cleaning the pool bottom.
- b. A surface drainage system capable of constantly removing the top layer of water from the pool while it is in use.

9.2.8 Commercial pools (whether emptied daily or not) shall be provided with adequate filtration and pumping systems, incorporating continual chlorine or other approved bactericidal agent dosing equipment.

9.2.9 Where subdued lighting is used on any part of the premises, a fixed secondary lighting system shall be incorporated to provide illumination of not less than 300 lux, at a distance of 900 mm above the floor, for the purpose of cleaning and inspections.

9.2.10 In all premises, the walls and ceiling of sanitary conveniences, changing rooms and any massage rooms shall be constructed of sound materials capable of being easily cleaned. Where condensation and/or moisture is likely, the floor, walls and ceilings shall be constructed of smooth, impervious washable surfaces which can be readily cleaned without damage to the surfaces.

9.3 FACILITIES

9.3.1 A wash-hand basin equipped with a plug and a constant supply of hot and cold water, soap and adequate hand-drying facilities shall be provided in each toilet area and adjacent to massage rooms.

9.3.2 Staff shall be provided with a separate room or suitable facilities for storage of their clothing and personal effects.

9.3.3 Adequate and separate lockers or other facilities shall be provided for each of the following: storage of clean laundry, storage of soiled laundry, cleaning equipment, massage oil and for any other equipment used in the process of bathing and massaging. Such lockers are to be separate from any area used for the manufacture, storage, preparation or sale of food or drink.

9.3.4 Showers shall be provided near each commercial pool in accordance with Table A of the Fourth Schedule of the Drainage and Plumbing Regulations 1978, except where the premises are a hotel or motel and the pool will only be used by guests having showers in their rooms or units.

9.3.5 A cleaner's sink shall be provided on each floor on which a toilet is situated.

9.4 HYGIENIC PRACTICES

9.4.1 All parts of the premises shall be maintained in a clean condition. All tables and benches shall be rendered hygienic after use by each customer.

9.4.2 Where provided, cushions, pillows and mattresses shall be clean, and provided with easily removable covers, and such covers shall be laundered as frequently as necessary to maintain them in a clean and hygienic condition.

9.4.3 All towels, after being used or handled by customers, shall be immediately placed in an area or receptacle provided for that purpose, and separate from clean towels.

9.4.4 No person wearing street footwear shall enter upon or be afforded access to areas liable to become wet, unless for the purpose of inspection, repair or maintenance of premises or equipment.

9.4.5 All floors which become wet shall be dried frequently and shall be cleaned at least once in every 24 hours with a hypochlorite solution or by some other approved method.

9.4.6 Commercial Pools shall be maintained in accordance with the following :

- a. The free available chlorine; bromine, or other approved bacteriocidal agent, readings of any pool shall be maintained between 2 and 6 parts per million (6 g/m³) and shall not be less than 75% of such total available agent.
- b. The pH of any pool shall be maintained at 7.2-8.0.
- c. All pools shall be fitted with precise and suitable equipment for continual measuring and testing the chlorine, or other approved bacteriocidal agent, and pH levels of the water.
- d. The dials or indicators of such equipment shall display clear readings of the measurements at any time and be conspicuously situated so to be easily and readily observed by all persons using the pools.

- e. With the dials or indicators required in paragraph (d), there shall be conspicuously displayed a notice which is easy to read in plain capital letters drawing the attention of all persons using the pool that there is a possible danger to the health of any bather using the pool unless the Free Available Chlorine or other approved bacteriocidal agent is between 2-6 parts per million (2 g/m³) and the pH is between 7.2-8.0.
- f. Records shall be kept of all chlorine, or other approved bacteriocidal agent and pH readings for the period of the preceding three months, and shall be available for inspection.

9.4.7 No commercial pool shall be used when either the filtration system, or the automatic proportional chemical dosing device, is not operating.

9.4.8 No person known or appearing to be suffering from any skin complaint or communicable disease shall be allowed access to or remain on the premises.

9.4.9 Written instructions shall be clearly displayed at or near any sauna room requesting customers to sit or lie on a towel individually issued to each customer when using the sauna, and to use a shower before using any pool.

9.5 SAVING PROVISION

9.5.1 Nothing in this Bylaw shall limit or affect any enactment regulating existing buildings, the erection of new buildings, or the alteration of or addition to existing buildings.

9.6 LICENSING

9.6.1 No premises shall be occupied or used for the operation of a commercial pool unless the same shall have been so licensed by the Council.

9.6.2 Every application for the licensing of premises as a commercial pool shall be signed by the person proposing so to use such premises and shall be accompanied by such fee as the Council may from time to time by resolution determine.

9.6.3 Such application shall be in such form as shall from time to time be provided by the Council and shall supply all information which is required by such form.

9.6.4 On the receipt of an application for the licensing of premises as a commercial pool and on payment of the prescribed fees, the Council shall issue to the applicant a licence, provided the premises comply with this Bylaw.

9.6.5 The licence so issued shall remain in force until the end of the current licensing year as specified by Council resolution.

9.6.6 The Council may suspend or cancel the licence either wholly or for such period as it thinks fit if satisfied that all or any of the provisions of this Bylaw have not been complied with. Before the Council suspends or cancels any licence under this clause the Director of Building and Environmental Health shall give notice in writing to any such licensee giving that person the opportunity to appear before the Council at a time and place fixed in such notice to show cause why such licence should not be cancelled or suspended. The time fixed in such notice shall not be less than three days after service thereof.

9.7 COMMENCEMENT IN TAWA COMMUNITY

9.7.1 The provisions of clauses 9.2, 9.3 and 9.4 that require structural alterations to a commercial pool existing in Tawa Community at the date this bylaw comes into force shall not apply to that pool until the Council so resolves, after consultation with the Tawa Community Board.

9.7.2 In clause 9.7.1, "structural alterations" means building alterations that would require the issue of a building permit under this bylaw.

Bylaw provisions in relation to swimming pools to be revoked:

Wellington Consolidated Bylaw 1991: Part 16 - Swimming Pools and Reserves.

Under section: - 16.1 Interpretation

"Attendant" includes any person for the time being appointed by the Council to assist in the control and management of any swimming pool.

"Swimming Pool" means any baths or swimming pool established and carried on for the time being by the Council for use by the public or any section of it and includes every part of any premises used for such purposes.

16.9 SWIMMING POOLS

16.9.1 Subject to this Part, any swimming pool shall be open for use by the public at such times and at such charges and upon any such conditions as the Council by resolution may prescribe or vary from time to time.

16.10 PROVISIONS FOR SWIMMING INSTRUCTORS

16.10.1 The Council may grant permission to any approved swimming instructor to teach water related skills at any swimming pool nominated by it during such times as the swimming pool shall be open to the public. Part of the pool may be closed off from the public and used exclusively by the instructor and pupils.

16.11 RESTRICTING USE BY OPPOSITE SEX

16.11.1 No person, other than an attendant, over the age of eight years of the one sex shall enter into any swimming pool or part of it for the time being reserved exclusively for the other sex except for the purposes of rendering assistance in case of emergency.

16.12 GENERAL OFFENCES

16.12.1 No person shall :

- a. Use indecent or offensive language or conduct themselves in a disorderly, indecent, reckless or dangerous manner as might, in the reasonable opinion of an attendant, offend, annoy, endanger, or interfere with other persons at the swimming pool or in the near vicinity.
- b. When intoxicated or suffering from any skin or communicable disease, enter, remain in, or use any swimming pool.
- c. When waiting at the swimming pool for admission to the changing rooms, or having dressed after using the swimming pool, enter or remain in any part of the swimming pool intended for the use of persons actually swimming, to the obstruction or annoyance of any such swimmer.
- d. Occupy any shower for more than 5 minutes on any one occasion if requested to leave by an attendant.

- e. Use a swimming pool (apart from the changing facilities) unless wearing a proper and sufficient swimsuit in the reasonable opinion of an attendant, or unless otherwise sufficiently dressed.
- f. Bet or gamble.
- g. Smoke, except where smoking is expressly permitted.
- h. Interfere with any lifesaving apparatus or other Council property except with the consent of an attendant.
- i. Spit.
- j. Use soap in any part of the swimming pool other than in the changing facilities.
- k. Take or permit any animal to be taken into a swimming pool.
- l. Wring any swimsuit, towel, or clothes into the water of the pool.
- m. Place or leave any rubbish or litter of any description, except in a receptacle provided.
- n. Write, draw on, or disfigure the walls, or other Council property.
- o. Take or remove the towels, swimsuits, or other property of the Council from the swimming pool, or take or remove the property of any other person from the swimming pool.
- p. Obstruct any attendant in the exercise of his or her duties.
- q. Gain or attempt to gain admission to any swimming pool without duly paying to the attendant the proper charge set by the Council or producing to the attendant a ticket conferring a right to admission; or gain or attempt to gain admissions when under this Bylaw the swimming pool is not open to such person; or shall use or attempt to use the swimming pool or any part of it or any room, compartment or convenience at the swimming pool contrary in any respect to any provision of this Bylaw.

16.13 EXCLUSION OF OFFENDERS

16.13.1 Any person offending against any provision of this Bylaw relating to swimming pools may be excluded from entering any swimming pool for such period of time as the Director may determine.

16.14 POWER TO REQUIRE NAME

16.14.1 Any person in or about a swimming pool shall upon request give his or her correct name and address to the attendant or any other duly authorised Council employee who has a good reason for requesting such information.

16.15 POWER TO REMOVE PERSONS

16.15.1 Any attendant or any police officer requested by an attendant so to do, may exclude or remove from any swimming pool any person:-

- a. who has acted in an unlawful manner in or near any swimming pool, or
- b. who is not bona fide using the swimming pool for its normal intended purpose, or
- c. who has contravened any of the provisions of this Bylaw, or
- d. for any good and sufficient reason relating