



Health and Hygiene Bylaw 2013 Te Ture ā-Rohe Whakamaru Hauora 2013

(as at 30 October 2014)

Made by the

Governing Body of Auckland Council

by

Resolution in Council

27 June 2013

(amended by minute GB/2014/120 with effect from 1 November 2014 by the Health and Hygiene (Amendment No 1) Bylaw 2014)

Pursuant to the Local Government Act 2002 and the Health Act 1956, the Governing Body of Auckland Council makes the following bylaw.

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1 Title

- (1) This bylaw is the Health and Hygiene Bylaw 2013.

2 Commencement

- (1) This bylaw comes into force on 01 July 2014.

3 Application

- (1) This bylaw applies to the district of the Auckland Council.

**Part 1
Preliminary provisions**

4 Purpose

- (1) The purpose of this bylaw is to promote and protect public health by –
- (a) requiring certain services with the following health risks to comply with minimum standards, including –
 - (i) any commercial service that pierces the skin;
 - (ii) any commercial service that risks breaking the skin;
 - (iii) any commercial service that risks burning the skin;
 - (iv) any commercial service involving colon hydrotherapy; or
 - (v) public swimming pools.
 - (b) requiring a licence for certain services, including –
 - (i) any commercial service that pierces the skin;
 - (ii) any commercial service that risks breaking the skin; or
 - (iii) any commercial service that risks burning the skin.

5 Interpretation

- (1) In this bylaw, unless the context otherwise requires, -

Acupuncture means a practice involving the insertion of filiform (very narrow) needles through the skin and tissues for the intended purpose of alleviating ailments or injuries.

Body piercing means a practice of piercing the skin for decorative purposes, inserting jewellery or implants to alter the appearance of the skin.

Colon hydrotherapy means a practice of introducing liquids into the rectum and colon via the anus and is intended to remove faeces and non-specific toxins from the colon and intestinal tract.

Commercial ear-piercing means a practice of piercing the ear for decorative purposes, inserting jewellery or implants to alter the appearance of the skin.

Explanatory note: Clause 5(1) amended by minute GB2014/120, in force on 1 November 2014

Commercial service means a service (whether from permanent premises, temporary premises or mobile premises) provided by one or more persons for another person for monetary payment or any other consideration.

Council means the governing body of the Auckland Council or any person delegated to act on its behalf.

Customer means a person on whom a service is being, or is to be, carried out.

Derma rolling / stamping means a practice of using micro needles to create tiny punctures in the skin intended to stimulate growth factors to enhance collagen production and better alignment of the collagen fibres.

Electrolysis means a practice involving the insertion of a sterilised needle into individual hair follicles to the root. An electric impulse is passed through the needle to the root area to aid in the removal of hair.

Exfoliation means a practice that intends to remove dead skin and can be performed using microdermabrasion, physical peels that have an abrasive action and chemical peels such as glycolic or enzyme.

Extractions means a practice for the removal of comedones (blackheads), pimples and ingrown hairs by manipulating the pores of the skin, either with fingertips or a tool, to remove sebum. Some extractions can involve penetration of the skin using sharp equipment such as a metal tool or lance.

Hair removal means the removal of hair by waxing (pulling the hair from the skin using soft wax, hot wax or glucose); threading (lifting the hair out from the follicle by entwined thread); or tweezing (grasping hairs and pulling them out of the skin, including epilation - a mechanical means of tweezing).

Health practitioner means a person who is, or is deemed to be, registered under the Health Practitioners Competence Assurance Act 2003 as a practitioner of a particular health profession.

Laser treatment means a practice involving the use of a laser device, which amplifies light and usually produces an extremely narrow beam of a single wavelength (one colour), intended to remove hair or for skin photo-rejuvenation.

Licence means a licence, permit or approval to do something under this bylaw and includes all conditions to which the licence is subject.

Manager means

- (a) in the case of a permanent premises, a person who is usually present and who has specific responsibility for operator supervision; or
- (b) in the case of a temporary premises, a person who has effective control over operators; or
- (c) if no person meets the description in (a) or (b), **manager** the same meaning as **operator**.

Manicure means beautification or enhancement of the hands and fingernails, including shaping and polishing.

Mobile premises means any location other than a permanent premises where any service is undertaken on an ongoing and regular basis by any person.

Operator means a person who carries out a service.

Pedicure means beautification or enhancement of the feet and toenails by shaping and polishing toenails and exfoliation of skin or tissue from the feet.

Permanent premises means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied. All lands, buildings, and places adjoining each other and occupied together are deemed to be the same premises.

Public swimming pool means a water-retaining structure, wholly or partially of artificial construction and generally having a circulation and filtration system, designed for recreational, training or therapeutic use, and includes commercial, school, institutional, club, hospitality, community, and local authority pools. It does not include pools for domestic use only.

Pulsed light means a practice using a powerful flash of broad spectrum, non coherent light intended to remove hair and/or for skin photo-rejuvenation, and may include but is not limited to Intense Pulsed Light and Variable Pulsed Light.

Red vein treatment means a practice of piercing a vein with a needle along the length of a damaged capillary, causing little dams or blockages along the vessel.

Skin piercing means a practice involving piercing, cutting and puncturing the skin or any other part of the human body and includes such services as acupuncture, body piercing, derma rolling/stamping, electrolysis, extractions, red vein treatment, tattooing, and traditional tools tattooing.

Sun-bed (tanning unit) means an electrically-powered device designed to produce tanning of the human skin by the emission of ultra-violet radiation.

Tattooing means a practice of making indelible marks in human skin or tissue by inserting pigments or dyes into punctures made in the skin or tissues. Tattooing includes the process known as pigment implantation and permanent makeup.

Temporary premises means any premises used for a service or any area set up for not more than 5 days to undertake a service.

Traditional tools tattooing means a practice of making indelible marks in the human skin or tissue by inserting pigments or dyes into punctures made in the skin or tissue using tools that are culturally traditional in structure and used in procedures such as ta moko, Tatau, uhi or any other traditional tattooing practice that has recognised cultural significance.

- (2) Explanatory notes and attachments are for information purposes, do not form part of this bylaw, and may be made, amended and revoked without any formality.

- (3) The Interpretation Act 1999 applies to this bylaw.

Part 2

Regulation of certain services for health protection

6 Health protection code of practice

- (1) The council may make, amend or revoke a code of practice that –
- (a) relates to the operation of commercial services that pose an associated health risk to any persons using or accessing their services, products or business operation; and
 - (b) establishes minimum standards with regard to the way premises are constructed, equipped and maintained, and in regard to the way operators conduct themselves when providing services; and
 - (c) includes recommendations on the best practice to be observed with regard to the way premises are constructed, equipped and maintained, and in regard to the way operators conduct themselves when providing services.

7 Procedure for making a code of practice

- (1) The council must, before making, amending or revoking a code of practice in clause 6,—
- (a) comply with the requirements under Subpart 1 of Part 6 of the Local Government Act 2002.
 - (b) consult with –
 - (i) medical officers of health in the Auckland region; and
 - (ii) any affected operators;
 - (c) be satisfied that –
 - (i) the standards are the minimum necessary to ensure that the purpose of the Bylaw will be met; and
 - (ii) the recommendations for best practice (if any) are appropriate.
 - (d) have regard to –
 - (i) the feasibility and practicality of effecting a transition from current practices to new practices and any adverse effects that may result from such a transition; and
 - (i) any other matters considered relevant by the council.
- (2) A code of practice made, amended or revoked under subclause (1) must be publicly notified.

8 Services allowed subject to minimum standards

- (1) The operator of any of the following services must comply with relevant standards set by the council in a code of practice made under clause 6 –
- (a) any commercial service that pierces the skin, including but not limited to, tattooing, traditional tools tattooing, body piercing, acupuncture, electrolysis, extractions, red vein treatment, or derma rolling;
 - (b) any commercial service that risks breaking the skin, including but not limited to, hair removal, manicure, pedicure, or exfoliation;
 - (c) any commercial service that risks burning the skin, including but not limited to, sun-bed (tanning unit), pulsed light, or laser treatment;

- (d) any commercial service involving colon hydrotherapy; or
- (e) public swimming pool.

9 Services requiring a licence

- (1) This clause applies to the following services -
 - (a) any commercial service that pierces the skin, including but not limited to, tattooing, traditional tattooing, body piercing, acupuncture, electrolysis, extractions, red vein treatment, or derma rolling;
 - (b) any commercial service that risks breaking the skin, including but not limited to, hair removal, manicure, pedicure, or exfoliation; or
 - (c) any commercial service that risks burning the skin, including but not limited to, sun-bed (tanning unit), pulsed light, or laser treatment;
- (2) The manager of any service to which this clause applies must -
 - (a) obtain a licence from the council before commencing operation; and
 - (b) hold a valid and unexpired licence from the council at all times that the commercial service is offered.

10 Exemptions

- (1) Clauses 8 and 9 do not apply to –
 - (a) any commercial service undertaken by health practitioners covered by the Health Practitioners Competence Assurance Act 2003 in the practice of their profession;
 - (b) acupuncture undertaken by members of the New Zealand Register of Acupuncturists or members of the New Zealand Acupuncture Standards Authority;
 - (c) traditional and non-commercial ta moko undertaken by artists on, or under the authority of, a marae in the Auckland region under tikanga-maori; or
 - (d) commercial ear-piercing services undertaken in a pharmacy licenced by the Ministry of Health.

Explanatory note: Clause 10(1)(d) amended by minute GB2014/120, in force on 1 November 2014.

Part 3 Licences

11 Health protection licences

- (1) The council may make controls and set fees for the following matters with respect to any licence required by clause 9 –
 - (a) applying for a licence, including forms and information;
 - (b) assessing an application for a licence, including inspection;
 - (c) granting or declining an application for a licence;
 - (d) the conditions that may be imposed on a licence;
 - (e) the duration of the licence;
 - (f) objecting about a decision to decline a licence, including the objection period;
 - (g) objecting about a condition of a licence, including the objection period;

- (h) conducting inspections to ensure that a licence and its conditions are complied with;
 - (i) reviewing a licence or its conditions;
 - (k) refunding or waiving fees;
 - (l) suspending or cancelling a licence; and
 - (m) objecting about a decision to suspend or cancel a licence, including the objection period.
- (2) At the discretion of the council, and having regard to any controls made under subclause (1), licences may be declined, or granted subject to any conditions.
- (3) If no controls are made about the duration of a licence under subclause (1)(e), a licence has a duration of 12 months from the date granted.
- (4) A licence is personal to the holder and is not transferable.

Part 4

Enforcement, offences, penalties

12 Enforcement

- (1) The council may use its powers under the Local Government Act 2002 and the Health Act 1956 to enforce this bylaw.
- (2) Without limiting subclause (1), any person authorised by the council to undertake inspections under this bylaw may take or remove a sample or thing for analysis, for the purpose of determining whether or not this bylaw is being complied with.

13 Offences and penalties

- (1) A person who fails to comply with this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002 and the Health Act 1956.

Part 5

Savings, transitional provisions

14 Savings, transitional provisions

- (1) This clause applies to the former -
- (a) Rodney District Council General Bylaw 1998 Chapter 10: Sanitation and Cleanliness of Buildings and Places of Public Resort;
 - (b) Rodney District Council General Bylaw 1998 Chapter 14: Brothels and Commercial Sex Premises;
 - (c) North Shore City Council Bylaw Part 16: Swimming, Health and Beauty Facilities;
 - (d) North Shore City Council Bylaw Part 11: Safe Piercing of Skin;
 - (e) Auckland City Council Bylaws 2008 05: Bathing, Health and Beauty Facilities;
 - (f) Auckland City Council Bylaws 2008 17: Skin Piercing;
 - (g) Auckland City Council Bylaws 2008 30: Brothels and Commercial Sex Premises;

- (h) Waitakere City Council Sanitation and Hygiene in Commercial Premises Bylaw 2010;
 - (i) Manukau City Consolidated Bylaw 2008 Chapter 18: Tattooing, Beauty Therapy, Skin Penetration and Piercing; and
 - (j) Manukau City Consolidated Bylaw 2008 Chapter 3: Brothels.
- (2) Any licence, consent, permit, dispensation, permission or other form of approval granted under a bylaw referred to in subclause (1) continues in force but –
- (a) expires on the date specified in that approval; or
 - (b) if no expiry date is specified, it expires on the date 12 months after the commencement of this bylaw; and
 - (c) can be renewed only by application made and determined under this bylaw.
- (3) Any application for a consent, permit, dispensation, permission or other form of approval granted under a bylaw referred to in subclause (1) that was filed before the day on which this bylaw commences must be dealt with by the council –
- (a) under the relevant former bylaw in subclause (1); and
 - (b) as if this bylaw had not been made.

Additional Information to Health and Hygiene Bylaw 2013

This document contains matters for information purposes only and does not form part of any bylaw. They include matters made pursuant to a bylaw and other matters to assist in the ease of understanding, use and maintenance.

The information contained in this document may be updated at any time.

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Section 1

History of Bylaw

Action	Description	Date of Decision	Decision Reference	Commencement
Make	<p>Following health and hygiene bylaws in force on 31 Oct 2010 deemed to have been made by Auckland Council</p> <ul style="list-style-type: none"> • Rodney District Council General Bylaw 1998 Chapter 10: Sanitation and Cleanliness of Buildings and Places of Public Resort; • Rodney District Council General Bylaw 1998 Chapter 14: Brothels and Commercial Sex Premises; • North Shore City Council Bylaw Part 16: Swimming, Health and Beauty Facilities; • North Shore City Council Bylaw Part 11: Safe Piercing of Skin; • Auckland City Council Bylaws 2008 05: Bathing, Health and Beauty Facilities; • Auckland City Council Bylaws 2008 17: Skin Piercing; • Auckland City Council Bylaws 2008 30: Brothels and Commercial Sex Premises; • Waitakere City Council Sanitation and Hygiene in Commercial Premises Bylaw 2010; • Manukau City Consolidated Bylaw 2008 Chapter 18: Tattooing, Beauty Therapy, Skin Penetration and Piercing; and • Manukau City Consolidated Bylaw 2008 Chapter 3: Brothels 	01 Nov 2010	Section 63 Local Government (Auckland Transitional Provisions) Act 2010	01 Nov 2010
Revoke	<ul style="list-style-type: none"> • Rodney District Council General Bylaw 1998 Chapter 10: Sanitation and Cleanliness of Buildings and Places of Public Resort (clauses 4 and 5); • Rodney District Council General Bylaw 1998 Chapter 14: Brothels and Commercial Sex Premises (clause 9); • North Shore City Council Bylaw Part 16: Swimming, Health and Beauty Facilities; • North Shore City Council Bylaw Part 11: Safe Piercing of Skin; • Auckland City Council Bylaws 2008 05: Bathing, Health and Beauty Facilities; • Auckland City Council Bylaws 2008 	27 June 2013	GB/2013/66	01 July 2014

	<p>17: Skin Piercing;</p> <ul style="list-style-type: none"> • Auckland City Council Bylaws 2008 30: Brothels and Commercial Sex Premises (clause 30.7); • Auckland City Council Bylaws 2008 13: Environmental Protection (clause 13.4.5); • Waitakere City Council Sanitation and Hygiene in Commercial Premises Bylaw 2010; • Manukau City Consolidated Bylaw 2008 Chapter 18: Tattooing, Beauty Therapy, Skin Penetration and Piercing; and • Manukau City Consolidated Bylaw 2008 Chapter 3: Brothels (clause 7) 			
Make	Health and Hygiene Bylaw 2013	27 June 2013	GB/2013/66	01 July 2014
Amend	Health and Hygiene (Amendment No 1) Bylaw 2014	30 October 2014	GB/2014/120	01 November 2014

Section 2

Related Documents

Document Title	Description of Document	Location of Document
Health and Hygiene Code of Practice	Sets standards to promote public health	www.aucklandcouncil.govt.nz
Decision Minutes and Agenda	Decisions on submissions to proposed health and hygiene bylaw	www.aucklandcouncil.govt.nz
Hearings Report	Background and summary of submissions to proposed health and hygiene bylaw	www.aucklandcouncil.govt.nz
Health and Hygiene Bylaw Review Statement of Proposal	Provides background to the health and hygiene code of practice and bylaw	www.aucklandcouncil.govt.nz
Long Term Plan	Outlines financial plans	www.aucklandcouncil.govt.nz
Annual Plan	Sets environmental health fees	www.aucklandcouncil.govt.nz
The Local Government Act 2002	Provides certain functions, duties, powers and penalties to make and enforce this bylaw	www.legislation.govt.nz
The Health Act 1956	Provides certain functions, duties, powers and penalties to make and enforce this bylaw	www.legislation.govt.nz
Local Government (Auckland Transitional Provisions) Act 2010	Provides certain functions, duties, powers and penalties to make and enforce this bylaw	www.legislation.govt.nz
Bylaws Act 1910	Provides for certain matters related to the validity of bylaws	www.legislation.govt.nz
Interpretations Act 2009	Provides for certain matters related to the interpretation of bylaws	www.legislation.govt.nz

Section 3

Delegations

Clause	Function, Duty, Power to be Delegated	Delegated Authority	Date of Delegation Decision	Decision Reference	Commencement of Delegation
All	All powers, duties and functions.	Licensing and Compliance Department - Tier 6 (Environmental Health Officers)	27 June 2013	GB/2013/66	01 July 2014
11	Make controls for health protection licence	Licensing and Compliance Department - Tier 3 (Manager Licensing and Compliance)	27 June 2013	GB/2013/66	01 July 2014
6	Make, amend, revoke codes of practice	Regulatory and Bylaws Committee (set regulatory policy)	16 Dec 2010 (updated 2 July 2012)	GB/2010/54	16 Dec 2010

Section 4

Enforcement Powers

Legislative Provision	Description of Legislative Provision
Part 8 of Local Government Act 2002	<p>162 Injunctions restraining commission of offences and breaches of bylaws</p> <p>163 Removal of works in breach of bylaws</p> <p>164 Seizure of property not on private land</p> <p>165 Seizure of property from private land</p> <p>168 Power to dispose of property seized and impounded</p> <p>171 General power of entry</p> <p>172 Power of entry for enforcement purposes</p> <p>173 Power of entry in cases of emergency</p> <p>175 Power to recover for damage by wilful or negligent behaviour</p> <p>176 Costs of remedying damage arising from breach of bylaw</p> <p>178 Enforcement officers may require certain information</p> <p>183 Removal of fire hazards</p> <p>185 Occupier may act if owner of premises makes default</p> <p>186 Local authority may execute works if owner or occupier defaults</p> <p>187 Recovery of cost of works by local authority</p> <p>188 Liability for payments in respect of private land</p>
Health Act 1956	<p>23 General powers and duties of local authorities in respect of public health</p> <p>30 Penalties for permitting or causing nuisances</p> <p>33 Proceedings in respect of nuisances</p> <p>34 Power to abate nuisance without notice</p> <p>41 Owners or occupiers may be required to cleanse premises</p> <p>42 Local authority may require repairs and issue closing order</p> <p>65 General provisions as to bylaws</p> <p>66 Penalties for breach of bylaws</p> <p>137 Offences punishable on summary conviction</p>

Section 5

Offences and Penalties

Clause	Description of Offence	Fine	Infringement Fee	Other Penalty
All	A person who fails to comply with Part 2 or Part 3 of this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002 and/or the Health Act 1956.	<p>Under section 242 of the Local Government Act 2002 person who is convicted of an offence against a bylaw is liable to a fine not exceeding \$20,000.</p> <p>Under section 66 of the Health Act 1956, any person who breaches a bylaw is liable to a fine not exceeding \$500 and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day on which the offence has continued.</p>	nil	