

# HOROWHENUA DISTRICT COUNCIL

## FOOD HYGIENE BYLAW 2004

The Horowhenua District Council, acting in pursuance and exercise of the powers and authorities conferred on it by the Local Government Act 2002, the Health Act 1956, the Bylaws Act 1910, their respective amendments, and all other powers and authorities in any way enabling it HEREBY RESOLVES to make the following bylaw:

### 1. TITLE

The title of this Bylaw shall be the Horowhenua District Council Food Hygiene Bylaw 2004.

### 2. SCOPE

- 2.1 The purpose of this Bylaw is to set requirements, so that all premises where food is prepared for sale, employ staff who are adequately trained in food hygiene. The Bylaw also allows an Authorised officer of Council to close premises that are unsanitary or to award premises that have exhibited standards of excellence with an 'A' Grade premise status.
- 2.2 The aim of this Bylaw is to ensure that safe food is available in all food premises throughout the District.

### 3. COMMENCEMENT

- 3.1 This Bylaw shall come into force on 18 March 2004.

### 4. DEFINITIONS AND INTERPRETATION

- 4.1. In this Bylaw, unless the context otherwise requires:

- (a) District means the District of Horowhenua.
- (b) Authorised officer means an Environmental Health Officer appointed by the Horowhenua District Council under the authority of the Health Act 1956 or any other Act, to inspect food premises, and carry out the requirements including the enforcement of this Bylaw.
- (c) Food has the same meaning as "food" as defined in Section 2 of the Food Act 1981.
- (d) Food Premises has the same meaning as Food Premises in Regulation 2 of the Food Hygiene Regulations 1974, but shall not include occasional food premises as defined in that Regulation, or premises with an approved Exemption under the Food Act 1981 from the Food Hygiene Regulations 1974. Food premises also includes Mobile Food Shops and Itinerant Traders handling food, *and Taverns which sell meals/food for consumption on the premises.*
- (e) Grade and Grading means the grade resulting from an inspection of the Food Premises, by an authorised Officer, assessed according to the system described in Appendix 1 of the Report of the Audit Office on the audit of territorial local authority health inspection services (see Second Schedule).
- (f) "Food Handler" means any person employed in or on any food premises that at any time may be involved in the manufacture, preparation or packing of food for sale.

- (g) "Occupier" shall mean the owner of the food premises or any person or persons occupying the premises and includes any supervisor, food handler, manager or agent acting or apparently acting in the general management or control of the food premises.

## **5. TRAINING FOR FOOD HANDLERS**

- 5.1 It shall be the duty of the occupier of every food premise to ensure that all new, temporary or replacement staff who are food handlers, are trained to the level required by this Bylaw within six weeks of the commencement of their employment.
- 5.2.1 Every food premise shall have at least one person, (employed on the premises), being the manager, owner or employed in a supervisory or staff training capacity, who is the holder of a NZQA advanced certificate as defined in the First Schedule. All other food handlers shall be the holders of a basic food-handling certificate as defined in the First Schedule.
- 5.2.2 All certificates are to be updated at no longer than five year intervals from the date they were issued.
- 5.2.3 An exemption from the requirements of this clause may be granted by the Council where full compliance may be unreasonable having regard to:
- (i) The site and/or nature of the business and
  - (ii) A recommendation from an Authorised Officer.
- 5.3 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 shall be appointed to act in a supervisory position within each separate department or section.
- 5.4 Staff employed exclusively in the handling of pre-packed foodstuffs during storage or transport or at the point of sale are exempt from the training requirements of the Bylaw. This includes checkout operators.
- 5.5 The occupier of every food premise shall ensure that adequate records are kept relating to staff training under the First Schedule and that copies of all certificates gained by staff are kept on the premises for perusal by any Authorised Officer upon request.

## **6. LICENSING OF FOOD PREMISES**

- 6.1 As and from the effective date of this Bylaw, no Food Premise, or person, shall hold an Annual Certificate of Registration unless - There is working on the premises a manager, owner, or an employee with specific written responsibility for staff training, who is the holder of the New Zealand Qualifications Authority approved certificate in food handling, Units 167 and 168 or equivalent.

## **7. CLUBS AND OTHER ORGANISATIONS PROVIDING FOOD**

- 7.1 Clubs that hold 'Club Licences' for liquor purposes are required to hold an annual Certificate of Registration for food purposes.
- 7.2 Clubs and other organisations that prepare food on site for sale to patrons are required to have at least one person as a member of that club who is the holder of a New Zealand Qualifications Authority approved certificate in food handling, Unit 167 or equivalent (Basic). This is to ensure responsibility for food safety requirements on the premise where food is prepared for sale.

- 7.3 Clubs and other organisations that do not prepare food on site for sale to patrons are exempt from the requirements of Clause 7.2, but are required to demonstrate safe food handling and storage practices are place.
- 7.4 Specifically, pre-packaged food, Bar-b-que and Hangi meals, bring a plate, pot luck meals and the like, are not affected by the requirements of the Food Handling qualification requirements of Clause 7.2

## **8.0 CLOSURE OF PREMISES**

- 8.1 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 become unfit for human consumption, an Authorised Officer may serve a notice in writing on the occupier of the premises requiring him/her:
- (i) To cease to use the premises as food premises, or to clean or reconstruct, or to repair the premises, or part of the premises; or
  - (ii) 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.

- 8.2 Where the requirements of Clauses 6 & 7 of this Bylaw are not met, a premise will be closed until such time as compliance is met.
- 8.3 Where an occupier has been directed to cease to use any food premises the occupier shall not recommence use of those food premises until an Authorised Officer has given permission in writing.
- 8.4 Premises that obtain a Risk Factor score between 16 to 25, calculated in accordance with the Second Schedule to this Bylaw, will be closed immediately, and remain closed until such time as all remedial actions required have been completed.

## **9.0 GRADING**

- 9.1 Every occupier of food premises shall display prominently in a public part of their premises the grading issued by an Authorised Officer until such time as a new grading is issued.
- 9.2 The Horowhenua District Council grades premises as either 'A' or 'B' grade as defined according to the system described in Appendix 1 of the Report of the Audit Office on the audit of territorial local authority health inspection services, and attached to this Bylaw as the Second Schedule.
- 9.3 Premise gradings are calculated and defined as follows in accordance with the Second Schedule to this Bylaw:
- (i) 'A' Grade premises are those that obtain a Risk Factor between 1 and 5.
  - (ii) 'B' Grade premises are those that obtain a Risk Factor between 6 and 10
  - (iii) Premises that obtain a risk factor of 11 to 15 will not be issued with a Grading and are required to take all remedial actions within 30 working days to allow a further inspection to take place. In the event there is no improvement, the premise will be closed until such time as all remedial actions have been completed (see Clause 8.1 above).

## **10. MERIT PREMISES (A GRADE PREMISES)**

10.1 A merit premise shall be a food premise which has a record with Council that shows the premise consistently maintains excellent standards of food handling and preparation and:

- (i) does not require or justify more than one inspection per year;
- (i) meets the requirements of good hygienic practices and food safety awareness;
- (iii) employs staff that meet the training requirements set out in this Bylaw;
- (iv) pays annual licensing fees by the due date

10.2 Merit premise status may be conferred by an Authorised officer on named occupier of a particular food premise that meets the standards set out in clause 10.1.

10.3 Merit premise status is not transferable from one occupier to another or from one premise to another.

10.4 An Authorised Officer may revoke merit premise status from a particular food premise at any time if the premise ceases to comply with the standards set out in clause 10.1.

## **11. EXEMPTIONS**

Exemptions from any part of this Bylaw may be granted by an Authorised Officer, after due consideration of all aspects for such exemption, and any exemption will then only apply whilst such aspects continue.

## **12. APPEALS**

Any occupier of food premises in respect of which any decision or requirement has been made by an Authorised Officer under this Bylaw may appeal to the Council against that decision or requirement. On hearing the appeal, the Council may confirm, reverse, or modify the decision or requirement made by the Authorised Officer. This right of appeal is in addition to any other statutory right made available to the occupier.

## **13. OFFENCES**

Every person commits an offence against the Bylaw and is liable accordingly under Sections 66 and 137 of the Health Act 1956, who contravenes or fails to comply with any of the provisions of this Bylaw.

## **14. PENALTY**

The penalty for any breach of this Bylaw shall be as set out in Section 66 of the Health Act 1956.

## **SCHEDULES**

First Schedule - Food Handlers Qualifications

Second Schedule - Grading Assessment System for Food Premises

**ATTESTATION**

The foregoing Bylaw was made at the Ordinary Meeting of the Horowhenua District Council held on the 3<sup>rd</sup> day of September 2003 and meanwhile having been publicly notified in the Chronicle newspaper by advertisements appearing on the 13<sup>th</sup> day of September 2003 and the 17<sup>th</sup> day of September 2003 was duly confirmed at a subsequent Ordinary Meeting of the Council held on the 17<sup>th</sup> day of March 2004.

In Witness hereof the Common  
seal of the Horowhenua District Council  
was here unto affixed  
in the presence of:

Mayor: \_\_\_\_\_

Chief Executive:\_\_\_\_\_

# HOROWHENUA DISTRICT COUNCIL FOOD HYGIENE BYLAW 2004

## FIRST SCHEDULE

### Food Handlers Qualifications

NZQA Advanced Certificate means a New Zealand Qualifications Authority approved certificate in food handling, units 167 and 168 or equivalent.

NZQA Basic Certificate means a New Zealand Qualifications Authority approved certificate in food handling, unit 167 or equivalent.

#### Unit Standards

##### Level 2:

167

15274

Practise food safety methods in a food business  
Work in a food business under a food safety programme

##### Level 3:

168

Demonstrate knowledge of food contamination hazards,  
and control methods used in a food business

##### Level 4:

15276

15275

Develop, implement and verify the operation of a food  
safety programme for a food business.  
Supervise a food business under a food safety  
programme

# HOROWHENUA DISTRICT COUNCIL FOOD HYGIENE BYLAW 2004

## SECOND SCHEDULE

### Grading of Premises

#### METHOD OF ASSESSMENT

#### 1. Premises

##### Score

- 5 *Premises in all respects suitable for the purpose.*
- 4 *Adequate facilities with no serious deficiencies in layout, construction and repair*
- 3 *Acceptable conditions within the limitations of the premises.*
- 2 *Areas of disrepair and/or inadequate facilities.*
- 1 *Premises in many respects unsuitable to maintain hygienic systems of work.*

#### 2. Practices

##### Score

- 5 *Minimal risk of contamination, particularly as a result of human error.*
- 4 *Contamination unlikely, provided all personnel consistently adhere to present operating arrangements.*
- 3 *Insufficient safeguards to be reasonably confident that contamination could not occur.*
- 2 *High degree of risk of contamination.*
- 1 *Food found to be contaminated.*

#### 3. Cleaning

##### Score

- 5 *An effective written cleaning plan in use.*
- 4 *No written plan but premises in a very clean condition.*
- 3 *Cleanliness just acceptable.*
- 2 *Evidence of lack of regular cleaning.*
- 1 *Premises in a filthy condition.*

#### 4. Training

##### Score

- 5 *At least 75 percent of food handling staff have attended an approved training course in food hygiene.*
- 4 *At least 50 per cent of food handling staff have attended an approved training course in food hygiene.*
- 3 *At least 25 per cent of food handling staff have attended an approved training course in food hygiene.*
- 2 *Less than 25 per cent of food handling staff have attended an approved training course in food hygiene.*
- 1 *No food handling staff have attended an approved training course in food hygiene.*

**5. Weighting**

100	<i>Manufacture/preparation and heat treatment of food conducive to bacterial growth</i>
80	<i>Manufacture/preparation, excluding heat treatment of food conducive to bacterial growth. Heat treatment only, of any food conducive to bacterial growth.</i>
60	<i>Sale/storage of food conducive to bacterial growth.</i>
40	<i>Manufacture/preparation of food products not conducive to bacterial growth.</i>
20	<i>Sale/storage of foods not conducive to bacterial growth</i>
<i>NOTE: Preparation includes handling of open food</i>	

**6. Risk Factor**

*The result of the risk factor equation may be regarded with varying degrees of severity in the following manner -*

*1-5 Acceptable Risks*

*6 - 10 Some concern*

*11-15 Urgent Action Required*

*16-25 Closure of Premises should be considered*

The Risk Factor is calculated by applying the relevant weighting (see Box 5), and dividing this by the rating applied (1 to 4 above), to obtain the relevant factor score for a premise.