

Looking after the health of Aucklanders

Reducing the risk of foodborne illness

display of food safety information certificates



Statement of Proposal to make a new Auckland Council Food Safety Information Bylaw 2020.
Public consultation takes place from **2 December 2019** to **2 February 2020**.

1 Have your say

Looking after the health of Aucklanders

Every day Aucklanders choose to purchase food from a wide range of food businesses such as cafés, restaurants, takeaways, caterers and supermarkets.

Consumption of contaminated food and beverages purchased at a food business may result in foodborne illnesses such as campylobacteriosis, listeriosis, yersiniosis and salmonellosis.

Food and beverages can become contaminated due to improper storage, preparation or cooking, mixing raw meat with uncooked fruit and vegetables, food prepared by people infected with a virus or from contaminated water.

How Auckland Council keeps you safe

Alongside the Ministry for Primary Industries, we help administer the Food Act 2014 which ensures food businesses sell safe and suitable food.

We also require most food businesses that serve the public (for example most Auckland-only cafés, restaurants, bars and takeaways) to display a food safety grade certificate (food grade) to:

- incentivise businesses to achieve high food safety standards
- empower you to make informed decisions about where you purchase food.

To make sure we are consistent with the Food Act, council only gives food grades to businesses that we register and verify.

The current rules are in the Tāmaki Makaurau Whakapai Kai 2013, [Auckland Council Food Safety Bylaw 2013](#).

Improving food grade display rules

We recently checked how the rules are working and identified improvements. We propose a new bylaw that:

- requires most Auckland-only food businesses that serve the public (for example cafés, restaurants, bars and takeaways) to display a food grade. Specifically, this means Auckland food businesses that operate under a Template Food Control Plan, serve the public, and are registered and verified by council
- requires the food grade to be displayed until it expires or a new certificate is issued (whichever occurs first)
- requires the food grade to be displayed in specified locations visible to the public, depending on whether it is a physical and/or online site.

We want to know what you think

Starting on **2 December 2019** through to **2 February 2020**, we want you to tell us what you think about the proposed new Auckland Council Food Safety Information Bylaw 2020. Visit www.aucklandcouncil.govt.nz/have-your-say for more information, give your feedback and find out where you can drop in to a 'have your say' event.

2 What is the Bylaw

The Tamaki Makaurau Whakapai Kai 2013, [Auckland Council Food Safety Bylaw 2013](#) was made on 23 May 2013.

The purpose of the Bylaw is to protect public health by requiring most Auckland-only food businesses (for example Auckland-only cafés, restaurants, bars and takeaways) to display a food grade at the main entrance to the premises.

Specifically, this means food businesses in Auckland that operate under a Template Food Control Plan and are registered and verified by council.

Food Safety Bylaw 2013 framework

FOOD SAFETY BYLAW 2013 FRAMEWORK	
Food grade display location <ul style="list-style-type: none"> conspicuous at principal entrance of premises in full and unobscured view 	Regrading <ul style="list-style-type: none"> regrading applications in certain circumstances
Food grade display relocation <ul style="list-style-type: none"> council may require relocation to more visible place 	Certificate ownership <ul style="list-style-type: none"> remains property of council may be removed by council if standard falls below grade
Exemptions <ul style="list-style-type: none"> food businesses not required to be registered by the council under the former Food Hygiene Regulations 1974 exempt food businesses may choose to waive the exemption. 	

3 What council proposes to change

Improving food grade display rules

We recently checked how the rules are working and identified improvements.

Council is proposing to better reduce the risk of foodborne illness by making a new Food Safety Information Bylaw 2020.

The major proposals are to:

Major proposals	Reasons for proposals
<ul style="list-style-type: none"> require operators of food businesses to clearly display a valid food safety information certificate if they – <ul style="list-style-type: none"> operate under a template food control plan serve the public are registered and verified by council. require food safety information certificates to be displayed in specified locations depending on whether the food business has a physical and/or online site. 	<ul style="list-style-type: none"> better protects public health from foodborne illness continues to require most food businesses that serve the public (estimated 6,711 or 70 per cent) to display a food safety information certificate, for example most Auckland-only based cafes, restaurants, bars and takeaways incentivises most food businesses that serve the public to achieve high food safety standards empowers the public to make informed decisions about where they purchase food requires food safety information to be displayed in locations that are visible to the public at stores, market stalls, food trucks and online prior to entering a premises or making a purchase rules are clearer and easier to understand.

If you want to know more, **Appendix A** shows what the proposed new food safety information bylaw would look like. **Appendix B** provides a copy of the existing Food Safety Bylaw 2013. **Appendix C** provides a summary of the differences between the existing and proposed bylaw.

4 How we implement the Bylaw

Council uses a Voluntary, Assisted, Directed and Enforced (VADE) graduated response to bylaw complaints. This means that the response is based on the individual circumstances of the case including the seriousness of the harm and attitude to compliance.

We respond to lower risk issues in the first instance with education, advice and informal warnings. If this doesn't work, council may issue formal warnings. For serious or ongoing bylaw breaches, council may prosecute offenders. Penalties could include a fine of up to \$20,000.

Voluntary, Assisted, Directed and Enforced (VADE) approach to compliance

Voluntary – 'willing and able to comply'

Influence behaviours by making it easy for voluntary compliance to happen by ensuring people know what they need to do and how.

Understanding that the consequences of non-compliance are proportionate.

Compliance outcomes are achieved through education, training, engagement and communication of expectations and obligations.

Assisted – 'try to comply but don't always succeed'

Assist people to comply by reinforcing expectations and obligations.

Interventions are shaped by information gathered through monitoring, inspection and business intelligence activities.

Feedback loops help form a picture to determine if stakeholders are attempting to comply, are aware of their obligations or indeed choosing not to comply.

Assisted compliance remains heavily focused on reminding stakeholders that they are being monitored and if no discernible behaviour change can be observed, formal direction or sanction will occur.

Directed – 'don't want to comply'

Directed compliance is a range of tools that can be applied to direct a desired behaviour change, ranging from Notices of Direction, Formal Warnings, Infringement Notices and when appropriate lower threshold prosecutions.

Deter by detection, convince people there is value in complying.

Enforced – 'deliberate decisions not to comply'

Enforced compliance is where the full extent of the law is applied.

Can be as a consequence of no noticeable behaviour change despite V, A and D interventions.

Is also for stakeholders who deliberately choose to break the law and where a lesser intervention is inappropriate; can be for serious offending or where legislation requires an enforcement action.

Cases are generally referred for formal investigation with a view to prosecution.

If someone breaches the rules

Council responds to complaints as soon as possible depending on the nature of the issues.

5

How we got here

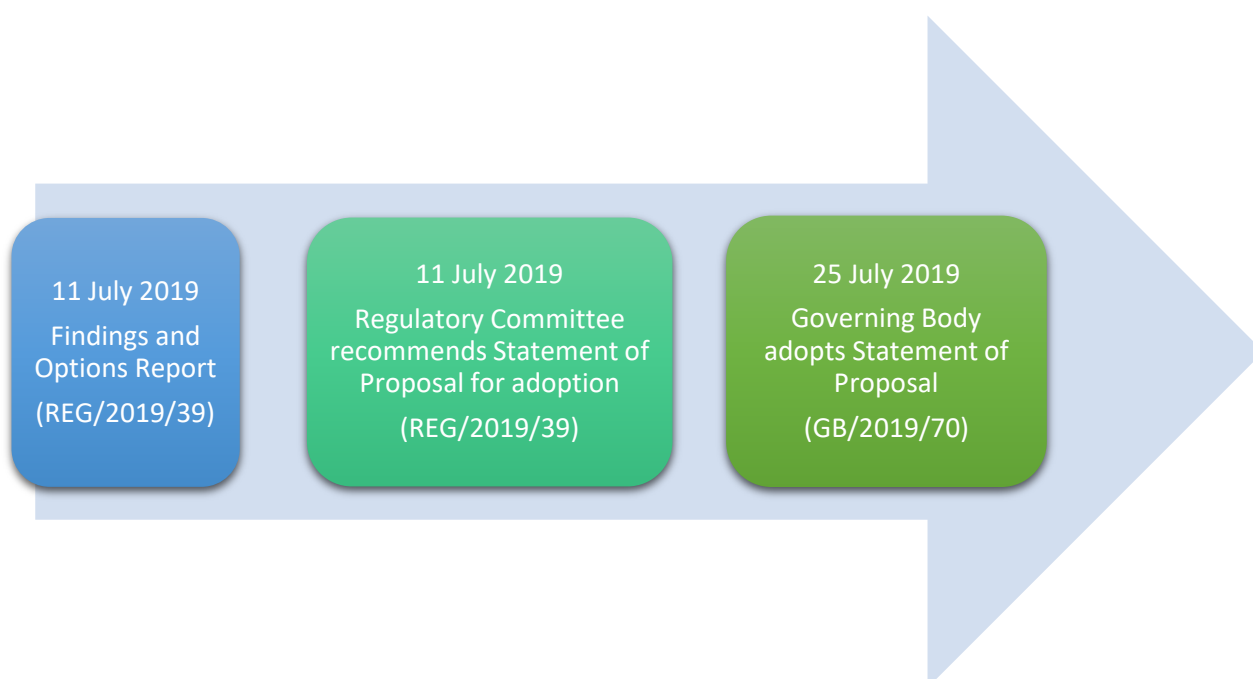
Decisions leading to the proposed changes

The [Local Government Act 2002](#) requires council to review its bylaws to determine whether they are effective, efficient and still necessary. The Bylaw must not be inconsistent with the [Food Act 2014](#)¹ or the [New Zealand Bill of Rights Act 1990](#).

The existing Food Safety Bylaw 2013 is due to expire on 23 May 2020.

Auckland Council reviewed the existing bylaw, reported its findings and considered the options in July 2019.

Bylaw review and approval process



This statement of proposal was approved for public consultation by the Governing Body in July 2019 to commence the process to make a new Food Safety Information Bylaw 2020.

Go to: www.aucklandcouncil.govt.nz/have-your-say for copies of the above decisions including a summary of options considered.

¹ Food Act 2014, section 446.

6 We want your input

You have an opportunity to tell us your views.

We would like to know what you think about the proposed new food safety information bylaw.

Give us your feedback

Starting on **2 December 2019** through to **2 February 2020** we are asking for feedback on the proposed new Auckland Council Food Safety Information Bylaw 2020.

You can give your feedback:

- in person at one of our 'Have your say' events – visit our website for details
- online at our website www.aucklandcouncil.govt.nz/have-your-say

Visit www.aucklandcouncil.govt.nz/have-your-say for more information.

Online services are available at our libraries.

Your name and feedback will be available to the public in our reports and online. All other personal details will remain private.

Appendix A: Proposed new Auckland Council Food Safety Information Bylaw 2020



Whakapai kai 2020

Food Safety Information Bylaw

2020

(as at 23 May 2020)

made by the Governing Body of Auckland Council

in resolution **GB/2020/##**

on 19 March 2020

Bylaw made under [section 145](#) of the Local Government Act 2002 and [section 64](#) of the Health Act 1956.

Summary

This summary is not part of the Bylaw but explains the general effects.

The purpose of this Bylaw is to protect public health by requiring operators of certain food businesses to display a valid food safety information certificate (clause 6).

This means all food businesses in Auckland who operate using a Template Food Control Plan registered and verified by council under the Food Act 2014. For example, Auckland-only restaurants, cafés and takeaways.

The certificate (more commonly known as a 'food grade') must be displayed for specified durations and in specified locations. This must be in a way that is clearly visible to the public before they enter the premises or decide to make a purchase in person or online (clause 7).

Other parts of this Bylaw assist with its administration by –

- stating the name of this Bylaw, when it comes into force and where it applies (clauses 1, 2 and 3)
- stating the purpose of this Bylaw and defining terms (clauses 4 and 5)
- referencing council's powers to enforce this Bylaw and seek up to \$20,000 in penalties (Part 3).

About Auckland Council's food grading scheme

Food safety information certificates (or food grades) are issued through council's Eatsafe Auckland food grading scheme, currently –

- food grades are based on the outcome of verification or inspection of food businesses under the Food Act 2014
- food grades range from A to E where council verification officers issue A to C grades (pass) and council food safety officers issue D and E grades (fail)
- all food businesses who are required in this Bylaw to display a food grade are automatically issued a grade at no additional cost
- other food businesses (for example Auckland-only dairies and superettes) registered and verified by council can choose to receive a food grade and whether to display it at no additional cost
- lower pass grades can be reassessed within an agreed timeframe by the verifier
- fail grades can only be reassessed by appealing to council about the action taken under the Food Act 2014 which resulted in a lower food grade.

The scheme does not form part of the Bylaw or the registration, verification and inspection processes under the Food Act 2014 and may be changed at any time.

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1 Title

- (1) This Bylaw is the Whakapai kai 2020, Food Safety Information Bylaw 2020.

2 Commencement

- (1) This Bylaw comes into force on 23 May 2020.

3 Application

- (1) This Bylaw applies to Auckland.

Part 1

Preliminary provisions

4 Purpose

- (1) The purpose of this Bylaw is to protect public health by requiring operators of certain food businesses to publicly display a food safety information certificate to –
- (a) incentivise food businesses to achieve high food safety standards
 - (b) raise public awareness to enable people to make informed decisions about where to purchase food.

5 Interpretation

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

Auckland has the meaning given by [section 4\(1\)](#) of the Local Government (Auckland Council) Act 2009.

Related information

The Local Government (Auckland Council) Act 2009 enabled the Local Government Commission to determine Auckland's boundaries in a map titled [LGC-Ak-R1](#). The boundaries were formally adopted by [Order in Council](#) on 15 March 2010, and came into effect on 1 November 2010.



Council, for the purposes of this Bylaw, means the Governing Body of the Auckland Council or any person delegated or authorised to act on its behalf.

Related information

Council's Environmental Health Unit has delegated authority to administer and enforce this Bylaw as at June 2019.

Registered means the process of registration under the Food Act 2014.

Valid food safety information certificate means an unexpired certificate issued by council and used by the food business to which it was issued.

Verified means the process of verification under the Food Act 2014.

- (2) A term or expression defined in the Food Act 2014 and used in this Bylaw has the same meaning as it has in that Act, unless defined differently in this Bylaw.
- (3) Related information does not form part of this Bylaw and may be inserted, changed or removed without any formality.
- (4) The [Interpretation Act 1999](#) applies to this Bylaw.

Part 2

Display of food safety information certificates

6 Certain food businesses must display a food safety information certificate

- (1) The operator of a food business must display a valid food safety information certificate in a manner specified in clause 7 if that business –
 - (a) operates under a Template Food Control Plan in the Food Act 2014;
 - (b) directly serves the public; and
 - (c) is registered and verified by council.

Related information about food businesses subject to this Bylaw

The Food Act 2014 establishes a regulatory framework in which

- high-risk food businesses that operate only in Auckland (for example Auckland-only restaurants, bars, cafés and takeaways) must register and be verified by council
- high-risk food businesses with stores both in Auckland and other locations in New Zealand (for example fast food and supermarket chains) can register with the Ministry of Primary Industries and be verified by third-party verifiers (instead of council)
- medium to low risk food businesses must be registered and verified (for example bread bakeries, coffee carts and dairies or superettes)
- exempt and lower risk food businesses have a general responsibility to provide safe and suitable food (for example fundraisers, customary food at marae and farm gate sales)

This Bylaw applies to all high-risk food businesses that operate in Auckland-only and any food chains that choose to register and be verified by council. This Bylaw does not apply to:

- high-risk food businesses that are not registered and verified by council because council does not hold the information necessary to administer the Eatsafe Auckland food grading scheme
- medium or lower risk food businesses due to their lower risk to public health
- kai prepared and served on marae for customary activities such as tangi because food is not sold or traded
- marae that sell or trade food to fundraise for a charitable, benevolent or cultural purpose if the fundraising takes place no more than 20 times per year. If food is sold or traded more frequently, the marae will need to register with council and this Bylaw may apply.

7 Food safety information certificates must be displayed for specified durations and in specified locations

- (1) The operator of a food business specified in clause 6(1) must display a valid food safety information certificate –
- (a) no later than the first business open day after the business receives the certificate, until the date the certificate expires or a new certificate is issued, whichever occurs first; and
 - (b) in one or more locations as specified in the below table; or
 - (c) in any other location directed by council.

Food business site type	Food safety information certificate display location
Any physical sites ¹ – (i) used in connection with the food business; (ii) at which food is sold directly to the public; and (iii) that operate under the same Food Control Plan.	The certificate must be displayed in a manner that is clearly visible to the public (in order of preference) – (i) on all doors used by the public and clearly visible in the direction of entry; or if this is not possible (ii) on windows adjacent to doors in (i) and clearly visible in the direction of entry; or if this is not possible (iii) at the main counter; or if this is not possible (iv) on a wall behind the main counter; or if this is not possible (v) on any other external surface facing the public.
Any online site ² – (i) related to the food business; and (ii) that the business has control over.	An image of the certificate must be clearly visible on the food business homepage or similar landing page or screen.

¹ For example any building, structure or similar site, food truck, food stall, including restaurant, café, takeaway.

² For example a website, app, social media or similar medium.

- (2) The operator of the food business may copy a valid food safety information certificate for the purposes of complying with clause 7(1)(b).

8 Food safety information certificates remain the property of council

- (1) Food safety information certificates, including any copies, remain the property of council.
- (2) The operator of a food business must not display an invalid food safety information certificate.

Part 3

Enforcement powers, offences and penalties

9 Council can use statutory powers and other methods to enforce this Bylaw

- (1) Council may use its powers under the [Local Government Act 2002](#) and [Health Act 1956](#) or its powers as a service provider to enforce this Bylaw.

Related information about powers

- Relevant enforcement powers under the [Local Government Act 2002](#) (as reprinted on 1 July 2018) include court injunction (section [162](#)), powers of search and seizure (sections [164](#), [165](#), [166](#), [167](#), [168](#)), powers of entry (sections [171](#), [172](#), [173](#)), and power to request name and address (section [178](#)).
- Relevant enforcement powers under the [Health Act 1956](#) (as reprinted on 2 March 2018) include court orders (section [33](#)) and powers of entry and inspection (section [128](#)).
- Council can also use other methods to encourage compliance, for example providing advice, information or warnings.

10 A person can be penalised for not complying with this Bylaw

- (1) A person who fails to comply with Part 2 of this Bylaw commits an offence and is liable to a penalty under the [Local Government Act 2002](#) or the [Health Act 1956](#).

Related information about penalties

A person who is convicted of an offence against a bylaw is liable to a fine not exceeding \$20,000 under [section 242](#) of the Local Government Act 2002 (as reprinted on 1 July 2018) or a fine not exceeding \$500 and a further \$50 per day for a continuing offence under [section 66](#) of the Health Act 1956 (as reprinted on 2 March 2018).

Part 4

Savings and transitional provisions

11 Existing inquiries to be completed under the Food Safety Bylaw 2013

- (1) Any compliance or enforcement action by council under the Whakapai kai 2013, Auckland Council Food Safety Bylaw 2013 that was not completed before the date this Bylaw commences, will continue to be actioned under that bylaw as if it were still in force and as if this Bylaw had not been made.

Related information, Bylaw history

Date	Description
01 November 2010	Made legacy bylaws about food safety ¹ (Section 63 Local Government (Auckland Transitional Provisions) Act 2010)
01 November 2010	Commencement of legacy bylaws about food safety (Section 63 Local Government (Auckland Transitional Provisions) Act 2010)
14 December 2012	Review of legacy bylaws about food safety completed (REG/2012/##)
20 December 2012	Proposal to make new bylaw about food safety and to revoke legacy bylaws (GB/2012/177)
23 May 2013	Made the Auckland Council Food Safety Bylaw 2013 (GB/2013/48)
25 June 2013	Public notice of making of the Auckland Council Food Safety Bylaw 2013 and revocation of legacy bylaws
01 July 2013	Commencement of Auckland Council Food Safety Bylaw 2013 and revocation of legacy bylaws (GB/2013/48)
18 February 2016	Amendment to Auckland Council Food Safety Bylaw 2013 (GB/2016/8)
01 March 2016	Commencement of amendment to Auckland Council Food Safety Bylaw 2013 (GB/2016/8)
11 July 2019	Review of Auckland Council Food Safety Bylaw 2013 completed (REG/2019/39)
25 July 2019	Proposal to make a new bylaw about food safety (GB/2019/70)
[TBC]	Made the Auckland Council Food Safety Information Bylaw 2020 (GB/2019/###)
[TBC]	Public notice of making of the Auckland Council Food Safety Information Bylaw 2020
23 May 2020	Commencement of the Auckland Council Food Safety Information Bylaw 2020 (GB/2019/###) and expiry of the Auckland Council Food Safety Bylaw 2013 (section 160A Local Government Act 2002)

¹ Legacy bylaws made: Auckland City Council Food Premises Bylaw 2008, Auckland City Council Food Stalls Bylaw 2008, Franklin District Council Food Hygiene Bylaw 2010, Manukau City Council Food Hygiene and Food Handlers Training Bylaw 2008 (chapter 8), North Shore City Council Food Safety Bylaw 2000 (part 17), Rodney District Council Food Premises Bylaw 1998 (chapter 24) and Waitakere City Council Food Safety Bylaw 2005.

Find out more: **phone 09 301 0101**
or visit **aucklandCouncil.govt.nz**



Food Safety Bylaw 2013 Whakapai kai 2013

(as at 28 February 2019)

Made by Governing Body of Auckland Council

Resolution in Council

23 May 2013

(amended by minute GB/2016/8 with effect from 1 March 2016)

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 Food Safety Bylaw 2013.

2 Commencement

- (1) This bylaw comes into force on 1 July 2013.

Explanatory notes:

Clauses 4, 5, 7, 8, 10, 11, 12 amended and Clauses 6, 9, 13, Schedules 1 and 2 have been revoked for consistency with the Food Act 2014 and the Food Regulations 2015 by minute GB/2016/8, in force on 01 March 2016.

Clause 5 and Part 3 amended to reflect expiry of Part 3 on 28 February 2019.

3 Application

- (1) This bylaw applies to Auckland.

Part 1

Preliminary provisions

4 Purpose

- (1) The purpose of this bylaw is to promote and protect public health by -
- (a) requiring food businesses registered with the council that operate subject to a Food Control Plan to display a food safety grade certificate for public information;
 - (b) *[consequential editorial deletion]*

Explanatory note: clause 4(1)(b) removed for ease of reading because it relates to expired Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974.

5 Interpretation

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

Approved basic food hygiene course *[consequential editorial deletion]*

Explanatory note: definition removed for ease of reading because it relates to expired Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974.

Auckland has the meaning given by the Local Government (Auckland Council) Act 2009.

Explanatory note: As at 22 September 2009, the definition in Section 4(1) of the Local Government (Auckland Council) Act 2009 states: "Auckland means the area within the boundaries determined by the Local Government Commission under Section 33(1) (as that determination is given effect to by Order in Council under Section 35(1))".

Certificate of registration *[consequential editorial deletion]*

Explanatory note: definition removed for ease of reading because it relates to expired Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974.

Council means the Governing Body of the Auckland Council or any person delegated to act on its behalf.

Food has the meaning given by the Food Act 2014.

Explanatory note: As at 1 June 2014, Section 9 of the Food Act 2014 includes the following definition: “food means anything that is used, capable of being used, or represented as being for use, for human consumption (whether raw, prepared, or partly prepared)”.

Food business has the meaning given by the Food Act 2014.

Explanatory note: As at 1 June 2014, the definition in Section 10 of the Food Act 2014 states: “food business means -

- (a) a business, activity, or undertaking that trades in food (whether in whole or in part); and*
- (b) includes a business, activity, or undertaking that—*
 - (i) sells food on the internet; or*
 - (ii) is declared by the Governor-General, by Order in Council made under Section 393, to be a food business for the purposes of this Act; but*
- (c) does not include a business, activity, or undertaking—*
 - (i) merely because it carries on a business other than trading in food and, in the course of doing so, acts as an intermediary between persons who trade in food by providing, for reward, a place (including mobile premises) or services (for example, an internet service provider or an auction site on the internet); or*
 - (ii) that is declared by the Governor-General, by Order in Council made under Section 393, not to be a food business for the purposes of this Act”.*

Food Control Plan has the meaning given by the Food Act 2014.

Explanatory note: As at 1 June 2014, the definition in Section 36 of the Food Act 2014 states: “food control plan is a plan designed for a particular food business to identify, control, manage, and eliminate or minimise hazards or other relevant factors for the purpose of achieving safe and suitable food, taking into account—

- (a) each type of food that the food business trades in; and*
- (b) each type of process or operation that is applied to the food; and*
- (c) each place in which the food business trades in food.*

As at 1 June 2014, the definition in Section 414 of the Food Act 2014 states: “deemed food control plan means a registered food safety programme that is deemed to be a registered food control plan”.

As at 7 December 2015, the definition in Section 3 of the Food Regulations 2015 states: “template food control plan means a registered food control plan that is based on an official template or model”.

Food handler [consequential editorial deletion]

Explanatory note: definition removed for ease of reading because it relates to expired Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974.

Food premises [consequential editorial deletion]

Explanatory note: definition removed for ease of reading because it relates to expired Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974.

Food stall or mobile food shop [consequential editorial deletion]

Explanatory note: definition removed for ease of reading because it relates to expired Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974.

Grade and Grading means the allocated grade resulting from an inspection of the food premises or assessment of a food business' compliance with their Food Control Plan by the council according to the grading system determined by the council from time to time.

Explanatory note: For further information on the Auckland Council Food Safety Grading System refer to Section 7 of Additional Information to the Food Safety Bylaw 2013 – Guidelines to the Auckland Council Food Grading System.

Marae has the meaning given by the Food Act 2014.

Explanatory note: As at 1 June 2014, the definition in Section 8 of the Food Act 2014 states: "marae includes the area of land on which all buildings such as wharenuī (meeting house), wharekai (dining room), ablution blocks, and any other associated buildings are situated".

Occupier [consequential editorial deletion]

Explanatory note: definition removed for ease of reading because it relates to expired Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974.

Operator of a food business has the meaning given by the Food Act 2014.

Explanatory note: As at 1 June 2014, the definition in Section 8 of the Food Act 2014 states: "operator of a food business means the owner or other person in control of the business".

Operator of a Food Control Plan has the meaning given by the Food Act 2014.

Explanatory note: As at 1 June 2014, the definition in Section 8 of the Food Act 2014 states: "operator of a food control plan or operator of a registered food control plan means—

- (a) if the plan applies to only one food business, the operator of the food business; or*
- (b) if the plan applies to more than one food business, the person responsible for the plan".*

Operator verification has the meaning given by the Food Act 2014 and the Food Regulations 2015.

Explanatory note: As at 1 June 2014, the definition in Section 8 of the Food Act 2014 states: "operator verification means a process to ensure that internal practices, procedures, and activities comply with the applicable requirements of this Act". As at 7 December 2015, in Section 32 of the Food Regulations 2015, the process for operator verification includes regular checks of:

- (a) places of food business, facilities, and equipment; and*
- (b) staff and visitors; and*
- (c) practices, procedures, and activities".*

Place of food business has the meaning given by the Food Regulations 2015.

Explanatory note: As at 7 December 2015, the definition in Section 3 of the Food Regulations 2015 states: "place of food business means a place where a food business does either or both of the following:

- (a) produces food*
- (b) processes and handles food; and*
- (c) that is covered by a food control plan or subject to a national programme".*

Processing and handling has the meaning given by the Food Act 2014.

Explanatory note: As at 1 June 2014, the definition in Section 11 of the Food Act 2014 states: "processing and handling in relation to food for sale, includes any one or more of the following:

- (a) preparing the food*
- (b) manufacturing the food*
- (c) packing the food*
- (d) labelling the food*
- (e) transporting the food*
- (f) storing the food*
- (g) displaying the food*
- (h) serving the food".*

Readily perishable food [consequential editorial deletion]

Explanatory note: definition removed for ease of reading because it relates to expired Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974.

Safety and suitability has the meaning given by the Food Act 2014.

Explanatory note: As at 1 June 2014, the definition in Section 12 of the Food Act 2014 provides that: "safety" means a condition in which food, in terms of its intended use, is unlikely to cause or lead to illness or injury to human life or public health. "Suitability" means that the composition, labelling, identification, and condition of the food are appropriate in terms of its intended use; but does not include matters of quality or presentation of the food that relate to a purely commercial decision by the person trading in the food. Food is unsuitable if it—

- (a) is in a condition that is offensive;*
- (b) is damaged, deteriorated, or perished to the extent of affecting its reasonable intended use;*
- (c) contains, or has attached to it or enclosed with it, any damaged, deteriorated, perished, or contaminated substance to the extent of affecting its reasonable intended use;*
- (d) contains a biological or chemical agent, or other substance, that is foreign to the nature of the food and the presence of which would be unexpected and unreasonable in food prepared or packed for sale in accordance with good trade practice;*
- (e) has packaging that is damaged, deteriorated, perished, or contaminated to the extent of affecting the food's reasonable intended use.*

Food is not unsafe or unsuitable merely because—

- (a) any part of the community objects to it on moral, ethical, cultural, spiritual, or religious grounds; or*
- (b) any person objects to it because of personal preference; or*
- (c) its consumption of inappropriate quantities may damage a person's health; or*
- (d) its presence or consumption is unhealthy for any person who has an allergy or other personal health condition".*

Sale has the meaning given by the Food Act 2014.

Explanatory note: As at 1 June 2014, the definition in Section 13 of the Food Act 2014 states: “sale means—

- (a) *selling food for processing and handling or for human consumption; and*
- (b) *includes reselling food for processing and handling or for human consumption; and*
- (c) *includes the following activities relating to food for human consumption;*
 - (i) *(offering food for sale or attempting to sell food, or receiving or having food in possession for sale, or exposing food for sale, or sending or delivering food for sale, or causing or permitting food to be sold, offered for sale, or exposed for sale:*
 - (ii) *bartering food;*
 - (iii) *supplying food, together with any accommodation, service, or entertainment, as part of an inclusive charge;*
 - (iv) *supplying food in exchange for payment or in relation to which payment is to be made in a shop, hotel, or restaurant, at a stall, in or on a craft or vehicle, or in any other place:*
 - (v) *supplying food to an employee or other person in accordance with an employment agreement or an agreement for services;*
 - (vi) *for the purpose of advertisement or to promote any trade or business, giving away food or, whether or not on payment of money, offering food as a prize or reward to the public;*
 - (vii) *exporting food;*
 - (viii) *every other method of disposition of food for valuable consideration; but*
- (d) *does not include—*
 - (i) *exchanging food for food or other goods or services as part of a personal relationship between individuals that is not commercial in nature; or*
 - (ii) *supplying food together with accommodation to a person residing at a private dwelling or farm in exchange for services or labour by the person; or*
 - (iii) *supplying drinking water by network reticulation to the point of supply of any dwelling or commercial premises”.*

- (2) A term or expression that is defined in the Food Act 2014 and Food Regulations 2015 and is used in this bylaw but not defined by this bylaw, has the meaning given by the legislation.

Explanatory note: consequential editorial amendment to clause 5(2) to remove reference to Food Hygiene Regulations 1974 for ease of reading because it relates to expired Part 3.

- (3) Any explanatory notes and attachments are for information purposes only, but do not form part of this bylaw, and may be made, amended, revoked or replaced by the council at any time.
- (4) The Interpretation Act 1999 applies to this bylaw.

Part 2

Grading of food businesses registered pursuant to the Food Act 2014

6 Display of food safety grade certificates

- (1) The council will assess the following food businesses that operate subject to a deemed or template Food Control Plan registered with the council to provide a grading for those businesses:
 - (a) the food retail sector where food businesses prepare or manufacture and sell food, and
 - (b) the food service sectors specified in Schedule 1 of the Food Act 2014.
- (2) The current food safety grade certificate issued by the council must be conspicuously displayed at the principal entrance to the place of food business in full and un-obscured view. The council may require an alternative display position in situations where the council deems it necessary to ensure that the grading certificate can be seen before a person enters the place of food business.
- (3) The current food safety grade certificate issued by the council must be displayed at every site where food is sold directly to the public, including food stalls and mobile shops.
- (4) Applications for re-grading must be made in writing and subject to the prescribed fee.
- (5) The grading certificate will remain the property of the council and may be withdrawn and removed by the council if the performance of the food business falls below the grading standard prescribed by the council.
- (6) Clauses 6(1) to 6(5) do not apply to any food business:
 - (c) that was operating prior to 1 March 2016, and that was not required to be registered by the council pursuant to the Food Hygiene Regulations 1974; or
 - (d) that is established from 1 March 2016, and that would not have been required to be registered by the council pursuant to the Food Hygiene Regulations 1974 had it been operating prior to 1 March 2016.

Explanatory note: The Food Act 2014 introduces regulatory requirements for food sectors that were not subject to registration under the Food Hygiene Regulations 1974, such as businesses that sell food from marae, school tuckshops and work cafeterias. The grading requirements of this bylaw are not intended to apply to those businesses that would not have been subject to grading under the bylaw prior to 1 March 2016.

- (7) Notwithstanding Clause 6(6), the operator of any food business that would otherwise be exempt from grading may notify the council in writing that the food business elects to waive the exemption, in which case Clauses 6(1) to 6(5) will apply to that food business.

Explanatory note: For further information on the Auckland Council Food Safety Grading System refer to Section 7 of Additional Information to the Food Safety Bylaw 2013.

Part 3

Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974

[Expired]

7 Display of food safety grade certificates

[Expired]

Explanatory note: clause 7 expired as all food businesses now regulated under the Food Act 2014.

8 Training of staff at food premises

[Expired]

Explanatory note: clause 8 expired as all food businesses now regulated under the Food Act 2014.

9 Food stalls and mobile food shops

[Expired]

Explanatory note: clause 9 expired as all food businesses now regulated under the Food Act 2014.

Part 4

Enforcement, offences and penalties

10 Non-compliance with bylaw

- (1) The council may use its powers under the Health Act 1956 and the Local Government Act 2002 to enforce this bylaw.

11 Offences and penalties

- (1) A person who fails to comply with this bylaw commits an offence against Section 239 of the Local Government Act 2002 and is liable on conviction to the penalties set out in Section 242(4) of the Local Government Act 2002.

Additional Information to the Food Safety Bylaw 2013

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

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 food safety bylaws in force on 31 Oct 2010 deemed to have been made by Auckland Council</p> <ul style="list-style-type: none"> Auckland City Council Food Premises Bylaw 2008 Auckland City Council Food Stalls Bylaw 2008 Franklin District Council Food Hygiene Bylaw 2010 Manukau City Council Food Hygiene and Food Handlers Training Bylaw 2008 (chapter 8) North Shore City Council Food Safety Bylaw 2000 (part 17) Rodney District Council Food Premises Bylaw 1998 (chapter 24) Waitakere City Council Food Safety Bylaw 2005 	01 Nov 2010	Section 63 Local Government (Auckland Transitional Provisions) Act 2010	01 Nov 2010
Revoke	<ul style="list-style-type: none"> Auckland City Council Food Premises Bylaw 2008 Auckland City Council Food Stalls Bylaw 2008 Franklin District Council Food Hygiene Bylaw 2010 Manukau City Council Food Hygiene and Food Handlers Training Bylaw 2008 (chapter 8) North Shore City Council Food Safety Bylaw 2000 (part 17) Rodney District Council Food Premises Bylaw 1998 (chapter 24) Waitakere City Council Food Safety Bylaw 2005 	23 May 2013	GB/2013/48	01 July 2013
Make	Auckland Council Food Safety Bylaw 2013	23 May 2013	GB/2013/48	01 July 2013
Amend	Auckland Council Food Safety Bylaw 2013	18 Feb 2016	GB/2016/8	01 March 2016
Update	Auckland Council Food Safety Bylaw 2013	28 Feb 2019	n/a	n/a

Section 2 Related documents

Document Title	Description of Document	Location of Document
Decision Minutes and Agenda of the Governing Body for 18 February 2016	Decision on amendments to the Food Safety Bylaw 2013	www.aucklandcouncil.govt.nz
Decision Minutes and Agenda of the Governing Body for 23 May 2013	Decisions on submissions to proposed food safety bylaw	www.aucklandcouncil.govt.nz
Background report for the hearing of submissions to	Background and summary of submissions to proposed food safety bylaw	www.aucklandcouncil.govt.nz

Document Title	Description of Document	Location of Document
the proposed Food Safety Bylaw 2013 - 19 April 2013		
Food Safety Bylaw Review Statement of Proposal - Decision Minutes and Agenda of the Governing Body for 20 December 2012	Provides background to the proposed food safety bylaw	www.aucklandcouncil.govt.nz
Long Term Plan	Outlines financial plans	www.aucklandcouncil.govt.nz
Annual Plan	Sets fees for food operators	www.aucklandcouncil.govt.nz
Local Government Act 2002	Provides certain functions, duties, powers and penalties to make and enforce this bylaw	www.legislation.govt.nz
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
Health (Registration of Premises) Regulations 1966	Provides for the registration of premises	www.legislation.govt.nz
Food Act 1981	Provides for exemptions to the Food Hygiene Regulations 1974, food standards and enforcement	www.legislation.govt.nz
Food Hygiene Regulations 1974	Provides regulations for registration, conduct, maintenance, application to food premises, workers, manufacturers and specific provisions for types of premises and types of food sold	www.legislation.govt.nz
Food Act 2014	Provides for the regulation of food businesses through risk-based measures to achieve the safety and suitability of food for sale and minimise and manage risks to public health	www.legislation.govt.nz
Food Regulations 2015	Provides regulations for food businesses subject to risk-based measures under the Food Act	www.legislation.govt.nz

Section 3 Delegations for matters contained in the bylaw

Clause	Function, duty, power to be delegated	Delegated authority	Date of delegation decision	Decision reference	Commencement of delegation
Clause 5(1)	Determining the grading system.	Tier 4 Manager Environmental Health	23 May 2013	Resolution number GB/2013/48	1 July 2013
Clause 5(3)	Amending explanatory notes and attachments to the bylaw.	Tier 5 Manager Social Policy and Bylaws	23 May 2013	Resolution number GB/2013/48	1 July 2013
Clause 6(5) and 7(5)	Prescribing standards relating food safety for businesses that operate at a lower standard than the issued grade.	Tier 4 Manager Environmental Health	23 May 2013	Resolution number GB/2013/48	1 July 2013

Clause	Function, duty, power to be delegated	Delegated authority	Date of delegation decision	Decision reference	Commencement of delegation
Clause 9	Determining the appropriate controls for food stalls.	Tier 4 Manager Environmental Health	23 May 2013	Resolution number GB/2013/48	1 July 2013

Section 4 Register of controls

Action	Description	Date of decision	Decision reference	Commencement
None	N/A	N/A	N/A	N/A

Section 5 Enforcement powers

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

Section 6 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.	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. 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.	nil	

Appendix C: Summary of the differences between the existing and proposed bylaw

Table 1 shows a comparison of the existing and proposed food safety bylaws.

In general, the new food safety bylaw uses a different structure to make the bylaw easier to understand.

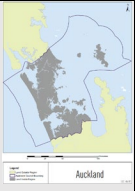
The differences between the structures make a comparison difficult for some clauses. To mitigate this Table 1 –

- follows the order of the proposed new food safety information bylaw
- equivalent clauses from the existing bylaw in the first column may appear out of sequence or are repeated
- differences that are less significant are referenced as opposed to stated.

IMPORTANT: The proposed new bylaw in Appendix A prevails in the event of any differences between the proposed bylaw in Appendix A and Table 1.

Table 1: Summary of differences between the existing Food Safety Bylaw 2013 and proposed new Food Safety Information Bylaw 2020

Existing Bylaw	Proposed Bylaw	Reasons
Bylaw made pursuant to section 145 of the Local Government Act 2002 and section 64 of the Health Act 1956.	Bylaw made pursuant to section 145 of the Local Government Act 2002 and section 64 of the Health Act 1956.	
Contents [Not shown]	Summary and Contents [Not shown because differences only relevant to that bylaw]	
1 Title (1) This bylaw is the Food Safety Bylaw 2013.	1 Title (1) This Bylaw is the Whakapai kai 2013, Food Safety Information Bylaw 2020.	<ul style="list-style-type: none"> • New bylaw has clearer focus on the display of food grades.
2 Commencement [Not shown]	2 Commencement [Not shown because differences only relevant to that bylaw]	
3 Application (1) This bylaw applies to Auckland.	3 Application (1) This Bylaw applies to Auckland.	
Part 1 Preliminary provisions	Part 1 Preliminary provisions	
4 Purpose (1) The purpose of this bylaw is to promote and protect public health by – (a) requiring food businesses registered with the council that operate subject to a Food Control Plan to display a food safety grade certificate for public information; (b) <i>[consequential editorial deletion]</i>	4 Purpose (1) The purpose of this Bylaw is to protect public health by requiring operators of certain food businesses to publicly display a food safety information certificate to – (a) incentivise food businesses to achieve high food safety standards (b) raise public awareness to enable people to make informed decisions about where to purchase food.	<ul style="list-style-type: none"> • New bylaw better reflects its purpose and methods to protect public health.

Existing Bylaw	Proposed Bylaw	Reasons
<i>Explanatory note: clause 4(1)(b) removed for ease of reading because it relates to expired Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974.</i>		
5 Interpretation (1) In this bylaw, unless the context otherwise requires, –	5 Interpretation (1) In this Bylaw, unless the context otherwise requires, –	
Approved basic food hygiene course [consequential editorial deletion] <i>Explanatory note: definition removed for ease of reading because it relates to expired Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974.</i>		<ul style="list-style-type: none"> Term not used in new bylaw.
Auckland has the meaning given by the Local Government (Auckland Council) Act 2009. <i>Explanatory note: As at 22 September 2009, the definition in Section 4(1) of the Local Government (Auckland Council) Act 2009 states: “Auckland means the area within the boundaries determined by the Local Government Commission under Section 33(1) (as that determination is given effect to by Order in Council under Section 35(1))”.</i>	Auckland has the meaning given by section 4(1) of the Local Government (Auckland Council) Act 2009. <div> Related information The Local Government (Auckland Council) Act 2009 enabled the Local Government Commission to determine Auckland’s boundaries in a map titled LGC-Ak-R1. The boundaries were formally adopted by Order in Council on 15 March 2010, and came into effect on 1 November 2010.  </div>	<ul style="list-style-type: none"> New bylaw definition improves certainty. New bylaw provides related information for clarity.
Certificate of registration [consequential editorial deletion] <i>Explanatory note: definition removed for ease of reading because it relates to expired Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974.</i>		<ul style="list-style-type: none"> Term not used in new bylaw.
Council means the Governing Body of the Auckland Council or any person delegated to act on its behalf.	Council , for the purposes of this Bylaw, means the Governing Body of the Auckland Council or any person delegated or authorised to act on its behalf. <div> Related information Council’s Environmental Health Unit has delegated authority to administer and enforce this Bylaw as at June 2019. </div>	<ul style="list-style-type: none"> New bylaw definition improves certainty. New bylaw provides related information for clarity.
Food has the meaning given by the Food Act 2014. <i>Explanatory note: As at 1 June 2014, Section 9 of the Food Act 2014 includes the following definition: “food means anything that is used, capable of being used, or represented as being for use, for human consumption (whether raw, prepared, or partly prepared)”.</i>		<ul style="list-style-type: none"> New bylaw clarifies that terms or expressions defined in the Food Act 2014 and used in this Bylaw have the same meaning as in that Act

Existing Bylaw	Proposed Bylaw	Reasons
		(unless defined differently in this Bylaw).
<p>Food business has the meaning given by the Food Act 2014. <i>Explanatory note: As at 1 June 2014, the definition in Section 10 of the Food Act 2014 states: “food business means -</i> <i>(a) a business, activity, or undertaking that trades in food (whether in whole or in part); and</i> <i>(b) includes a business, activity, or undertaking that—</i> <i>(i) sells food on the internet; or</i> <i>(ii) is declared by the Governor-General, by Order in Council made under Section 393, to be a food business for the purposes of this Act; but</i> <i>(c) does not include a business, activity, or undertaking—</i> <i>(i) merely because it carries on a business other than trading in food and, in the course of doing so, acts as an intermediary between persons who trade in food by providing, for reward, a place (including mobile premises) or services (for example, an internet service provider or an auction site on the internet); or</i> <i>(ii) that is declared by the Governor-General, by Order in Council made under Section 393, not to be a food business for the purposes of this Act”.</i></p>		<ul style="list-style-type: none"> • New bylaw clarifies that terms or expressions defined in the Food Act 2014 and used in this Bylaw have the same meaning as in that Act (unless defined differently in this Bylaw).
<p>Food Control Plan has the meaning given by the Food Act 2014. <i>Explanatory note: As at 1 June 2014, the definition in Section 36 of the Food Act 2014 states: “food control plan is a plan designed for a particular food business to identify, control, manage, and eliminate or minimise hazards or other relevant factors for the purpose of achieving safe and suitable food, taking into account—</i> <i>(a) each type of food that the food business trades in; and</i> <i>(b) each type of process or operation that is applied to the food; and</i> <i>(c) each place in which the food business trades in food.</i> <i>As at 1 June 2014, the definition in Section 414 of the Food Act 2014 states: “deemed food control plan means a registered food</i></p>		<ul style="list-style-type: none"> • New bylaw clarifies that terms or expressions defined in the Food Act 2014 and used in this Bylaw have the same meaning as in that Act (unless defined differently in this Bylaw).

Existing Bylaw	Proposed Bylaw	Reasons
<p><i>safety programme that is deemed to be a registered food control plan”.</i></p> <p><i>As at 7 December 2015, the definition in Section 3 of the Food Regulations 2015 states: “template food control plan means a registered food control plan that is based on an official template or model”.</i></p>		
<p>Food handler [consequential editorial deletion]</p> <p><i>Explanatory note: definition removed for ease of reading because it relates to expired Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974.</i></p>		<ul style="list-style-type: none"> Term not used in new bylaw.
<p>Food premises [consequential editorial deletion]</p> <p><i>Explanatory note: definition removed for ease of reading because it relates to expired Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974.</i></p>		<ul style="list-style-type: none"> Term not used in new bylaw.
<p>Food stall or mobile food shop [consequential editorial deletion]</p> <p><i>Explanatory note: definition removed for ease of reading because it relates to expired Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974.</i></p>		<ul style="list-style-type: none"> Definition of term unnecessary in new bylaw.
<p>Grade and Grading means the allocated grade resulting from an inspection of the food premises or assessment of a food business’ compliance with their Food Control Plan by the council according to the grading system determined by the council from time to time.</p> <p><i>Explanatory note: For further information on the Auckland Council Food Safety Grading System refer to Section 7 of Additional Information to the Food Safety Bylaw 2013 – Guidelines to the Auckland Council Food Grading System.</i></p>		<ul style="list-style-type: none"> New bylaw clarifies definition of food grades in Summary.
<p>Marae has the meaning given by the Food Act 2014.</p> <p><i>Explanatory note: As at 1 June 2014, the definition in Section 8 of the Food Act 2014 states: “marae includes the area of land on which all buildings such as wharehau (meeting house), wharekai (dining room), ablution blocks, and any other associated buildings are situated”.</i></p>		<ul style="list-style-type: none"> Term not used in new bylaw.
<p>Occupier [consequential editorial deletion]</p>		<ul style="list-style-type: none"> Term not used in new bylaw.

Existing Bylaw	Proposed Bylaw	Reasons
<p><i>Explanatory note: definition removed for ease of reading because it relates to expired Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974.</i></p>		
<p>Operator of a food business has the meaning given by the Food Act 2014.</p> <p><i>Explanatory note: As at 1 June 2014, the definition in Section 8 of the Food Act 2014 states: “operator of a food business means the owner or other person in control of the business”.</i></p>		<ul style="list-style-type: none"> • New bylaw clarifies that terms or expressions defined in the Food Act 2014 and used in this Bylaw have the same meaning as in that Act (unless defined differently in this Bylaw).
<p>Operator of a Food Control Plan has the meaning given by the Food Act 2014.</p> <p><i>Explanatory note: As at 1 June 2014, the definition in Section 8 of the Food Act 2014 states: “operator of a food control plan or operator of a registered food control plan means—</i> <i>(a) if the plan applies to only one food business, the operator of the food business; or</i> <i>(b) if the plan applies to more than one food business, the person responsible for the plan”.</i></p>		<ul style="list-style-type: none"> • Term not used in new bylaw.
<p>Operator verification has the meaning given by the Food Act 2014 and the Food Regulations 2015.</p> <p><i>Explanatory note: As at 1 June 2014, the definition in Section 8 of the Food Act 2014 states: “operator verification means a process to ensure that internal practices, procedures, and activities comply with the applicable requirements of this Act”. As at 7 December 2015, in Section 32 of the Food Regulations 2015, the process for operator verification includes regular checks of:</i> <i>(a) places of food business, facilities, and equipment; and</i> <i>(b) staff and visitors; and</i> <i>(c) practices, procedures, and activities”.</i></p>		<ul style="list-style-type: none"> • Term not used in new bylaw.
<p>Place of food business has the meaning given by the Food Regulations 2015.</p>		<ul style="list-style-type: none"> • Term not used in new bylaw.

Existing Bylaw	Proposed Bylaw	Reasons
<p><i>Explanatory note: As at 7 December 2015, the definition in Section 3 of the Food Regulations 2015 states: “place of food business means a place where a food business does either or both of the following:</i></p> <p><i>(a) produces food</i></p> <p><i>(b) processes and handles food; and</i></p> <p><i>(c) that is covered by a food control plan or subject to a national programme”.</i></p>		
<p>Processing and handling has the meaning given by the Food Act 2014.</p> <p><i>Explanatory note: As at 1 June 2014, the definition in Section 11 of the Food Act 2014 states: “processing and handling in relation to food for sale, includes any one or more of the following:</i></p> <p><i>(a) preparing the food</i></p> <p><i>(b) manufacturing the food</i></p> <p><i>(c) packing the food</i></p> <p><i>(d) labelling the food</i></p> <p><i>(e) transporting the food</i></p> <p><i>(f) storing the food</i></p> <p><i>(g) displaying the food</i></p> <p><i>(h) serving the food”.</i></p>		<ul style="list-style-type: none"> Term not used in new bylaw.
<p>Readily perishable food [consequential editorial deletion]</p> <p><i>Explanatory note: definition removed for ease of reading because it relates to expired Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974.</i></p>		<ul style="list-style-type: none"> Term not used in new bylaw.
	Registered means the process of registration under the Food Act 2014.	<ul style="list-style-type: none"> New bylaw definition improves clarity.
<p>Safety and suitability has the meaning given by the Food Act 2014.</p> <p><i>Explanatory note: As at 1 June 2014, the definition in Section 12 of the Food Act 2014 provides that: “safety” means a condition in which food, in terms of its intended use, is unlikely to cause or lead to illness or injury to human life or public health. “Suitability” means that the composition, labelling, identification, and condition of the food are appropriate in terms of its intended use; but does not include matters of quality or presentation of the food that</i></p>		<ul style="list-style-type: none"> Term not used in new bylaw.

Existing Bylaw	Proposed Bylaw	Reasons
<p><i>relate to a purely commercial decision by the person trading in the food. Food is unsuitable if it—</i></p> <ul style="list-style-type: none"> <i>(a) is in a condition that is offensive;</i> <i>(b) is damaged, deteriorated, or perished to the extent of affecting its reasonable intended use;</i> <i>(c) contains, or has attached to it or enclosed with it, any damaged, deteriorated, perished, or contaminated substance to the extent of affecting its reasonable intended use;</i> <i>(d) contains a biological or chemical agent, or other substance, that is foreign to the nature of the food and the presence of which would be unexpected and unreasonable in food prepared or packed for sale in accordance with good trade practice;</i> <i>(e) has packaging that is damaged, deteriorated, perished, or contaminated to the extent of affecting the food's reasonable intended use.</i> <p><i>Food is not unsafe or unsuitable merely because—</i></p> <ul style="list-style-type: none"> <i>(a) any part of the community objects to it on moral, ethical, cultural, spiritual, or religious grounds; or</i> <i>(b) any person objects to it because of personal preference; or</i> <i>(c) its consumption of inappropriate quantities may damage a person's health; or</i> <i>(d) its presence or consumption is unhealthy for any person who has an allergy or other personal health condition".</i> 		
<p>Sale has the meaning given by the Food Act 2014. <i>Explanatory note: As at 1 June 2014, the definition in Section 13 of the Food Act 2014 states: "sale means—</i></p> <ul style="list-style-type: none"> <i>(a) selling food for processing and handling or for human consumption; and</i> <i>(b) includes reselling food for processing and handling or for human consumption; and</i> <i>(c) includes the following activities relating to food for human consumption;</i> <ul style="list-style-type: none"> <i>(i) offering food for sale or attempting to sell food, or receiving or having food in possession for sale, or exposing</i> 		<ul style="list-style-type: none"> • Term not used in new bylaw.

Existing Bylaw	Proposed Bylaw	Reasons
<p><i>food for sale, or sending or delivering food for sale, or causing or permitting food to be sold, offered for sale, or exposed for sale:</i></p> <p>(ii) <i>bartering food;</i></p> <p>(iii) <i>supplying food, together with any accommodation, service, or entertainment, as part of an inclusive charge;</i></p> <p>(iv) <i>supplying food in exchange for payment or in relation to which payment is to be made in a shop, hotel, or restaurant, at a stall, in or on a craft or vehicle, or in any other place:</i></p> <p>(v) <i>supplying food to an employee or other person in accordance with an employment agreement or an agreement for services;</i></p> <p>(vi) <i>for the purpose of advertisement or to promote any trade or business, giving away food or, whether or not on payment of money, offering food as a prize or reward to the public;</i></p> <p>(vii) <i>exporting food;</i></p> <p>(viii) <i>every other method of disposition of food for valuable consideration; but</i></p> <p>(d) <i>does not include—</i></p> <p>(i) <i>exchanging food for food or other goods or services as part of a personal relationship between individuals that is not commercial in nature; or</i></p> <p>(ii) <i>supplying food together with accommodation to a person residing at a private dwelling or farm in exchange for services or labour by the person; or</i></p> <p>(iii) <i>supplying drinking water by network reticulation to the point of supply of any dwelling or commercial premises”.</i></p>		
	<p>Valid food safety information certificate means an unexpired certificate issued by council and used by the food business to which it was issued.</p>	<ul style="list-style-type: none"> • New bylaw definition improves clarity.
	<p>Verified means the process of verification under the Food Act 2014.</p>	<ul style="list-style-type: none"> • New bylaw definition improves clarity.

Existing Bylaw	Proposed Bylaw	Reasons
<p>(2) A term or expression that is defined in the Food Act 2014 and Food Regulations 2015 and is used in this bylaw but not defined by this bylaw, has the meaning given by the legislation.</p> <p><i>Explanatory note: consequential editorial amendment to clause 5(2) to remove reference to Food Hygiene Regulations 1974 for ease of reading because it relates to expired Part 3.</i></p> <p>(3) Any explanatory notes and attachments are for information purposes only, but do not form part of this bylaw, and may be made, amended, revoked or replaced by the council at any time.</p> <p>(4) The Interpretation Act 1999 applies to this bylaw.</p>	<p>(2) A term or expression defined in the Food Act 2014 and used in this Bylaw has the same meaning as it has in that Act, unless defined differently in this Bylaw.</p> <p>(3) Related information does not form part of this Bylaw and may be inserted, changed or removed without any formality.</p> <p>(4) The Interpretation Act 1999 applies to this Bylaw.</p>	<ul style="list-style-type: none"> • New bylaw subclauses remove unnecessary detail to improve certainty.
<p style="text-align: center;">Part 2</p> <p style="text-align: center;">Grading of food businesses registered pursuant to the Food Act 2014</p>	<p style="text-align: center;">Part 2</p> <p style="text-align: center;">Display of food safety information certificates</p>	
<p>6 Display of food safety grade certificates</p> <p>(1) The council will assess the following food businesses that operate subject to a deemed or template Food Control Plan registered with the council to provide a grading for those businesses:</p> <p style="margin-left: 20px;">(a) the food retail sector where food businesses prepare or manufacture and sell food, and</p> <p style="margin-left: 20px;">(b) the food service sectors specified in Schedule 1 of the Food Act 2014.</p> <p>(2) The current food safety grade certificate issued by the council must be conspicuously displayed at the principal entrance to the place of food business in full and un-obscured view. The council may require an alternative display position in situations where the council deems it necessary to ensure that the grading certificate can be seen before a person enters the place of food business.</p> <p>(3) The current food safety grade certificate issued by the council must be displayed at every site where food is sold directly to the public, including food stalls and mobile shops.</p>	<p>6 Certain food businesses must display a food safety information certificate</p> <p>(1) The operator of a food business must display a valid food safety information certificate in a manner specified in clause 7 if that business –</p> <p style="margin-left: 20px;">(a) operates under a Template Food Control Plan in the Food Act 2014;</p> <p style="margin-left: 20px;">(b) directly serves the public; and</p> <p style="margin-left: 20px;">(c) is registered and verified by council.</p>	<ul style="list-style-type: none"> • New bylaw clarifies that operators of food businesses are responsible for the display of food safety information certificates. • New bylaw clarifies which food businesses are required to display a food safety information certificate. • New bylaw provides related information for clarity about which food businesses are subject to this Bylaw. • New bylaw provides Summary section at

Existing Bylaw	Proposed Bylaw	Reasons
<p>(4) Applications for re-grading must be made in writing and subject to the prescribed fee.</p> <p>(6) Clauses 6(1) to 6(5) do not apply to any food business:</p> <p>(a) that was operating prior to 1 March 2016, and that was not required to be registered by the council pursuant to the Food Hygiene Regulations 1974; or</p> <p>(b) that is established from 1 March 2016, and that would not have been required to be registered by the council pursuant to the Food Hygiene Regulations 1974 had it been operating prior to 1 March 2016.</p> <p><i>Explanatory note: The Food Act 2014 introduces regulatory requirements for food sectors that were not subject to registration under the Food Hygiene Regulations 1974, such as businesses that sell food from marae, school tuckshops and work cafeterias. The grading requirements of this bylaw are not intended to apply to those businesses that would not have been subject to grading under the bylaw prior to 1 March 2016.</i></p> <p>(7) Notwithstanding Clause 6(6), the operator of any food business that would otherwise be exempt from grading may notify the council in writing that the food business elects to waive the exemption, in which case Clauses 6(1) to 6(5) will apply to that food business.</p> <p><i>Explanatory note: For further information on the Auckland Council Food Safety Grading System refer to Section 7 of Additional Information to the Food Safety Bylaw 2013.</i></p>	<p>Related information about food businesses subject to this Bylaw</p> <p>The Food Act 2014 establishes a regulatory framework in which</p> <ul style="list-style-type: none"> high-risk food businesses that operate only in Auckland (for example Auckland-only restaurants, bars, cafés and takeaways) must register and be verified by council high-risk food businesses with stores both in Auckland and other locations in New Zealand (for example fast food and supermarket chains) can register with the Ministry of Primary Industries and be verified by third-party verifiers (instead of council) medium to low risk food businesses must be registered and verified (for example bread bakeries, coffee carts and dairies or superettes) exempt and lower risk food businesses have a general responsibility to provide safe and suitable food (for example fundraisers, customary food at marae and farm gate sales) <p>This Bylaw applies to all high-risk food businesses that operate in Auckland-only and any food chains that choose to register and be verified by council. This Bylaw does not apply to:</p> <ul style="list-style-type: none"> high-risk food businesses that are not registered and verified by council because council does not hold the information necessary to administer the Eatsafe Auckland food grading scheme medium or lower risk food businesses due to their lower risk to public health. 	<p>the beginning of the Bylaw to clarify the council food grading scheme and opportunity to opt-in to the Bylaw.</p>
<p>6 Display of food safety grade certificates</p> <p>(2) The current food safety grade certificate issued by the council must be conspicuously displayed at the principal entrance to the place of food business in full and un-obscured view. The council may require an alternative display position in situations where the council deems it necessary to ensure that the grading certificate can be seen before a person enters the place of food business.</p>	<p>7 Food safety information certificates must be displayed for specified durations and in specified locations</p> <p>(1) The operator of a food business specified in clause 6(1) must display a valid food safety information certificate –</p> <p>(a) no later than the first business open day after the business receives the certificate, until the date the certificate expires or a new certificate is issued, whichever occurs first; and</p> <p>(b) in one or more locations as specified in the below table; or</p> <p>(c) in any other location directed by council.</p>	<ul style="list-style-type: none"> New bylaw clarifies duration and location of display of food safety information certificates depending on the type of food business site. New bylaw clarifies that a valid food safety information

Existing Bylaw	Proposed Bylaw		Reasons
<p>(3) The current food safety grade certificate issued by the council must be displayed at every site where food is sold directly to the public, including food stalls and mobile shops.</p>	Food business site type	Food safety information certificate display location	<p>certificate may be copied to display at multiple food business sites.</p>
	<p>Any physical sites¹ –</p> <ul style="list-style-type: none"> (i) used in connection with the food business; (ii) at which food is sold directly to the public; and (iii) that operate under the same Food Control Plan. 	<p>The certificate must be displayed in a manner that is clearly visible to the public (in order of preference) –</p> <ul style="list-style-type: none"> (i) on all doors used by the public and clearly visible in the direction of entry; or if this is not possible (ii) on windows adjacent to doors in (i) and clearly visible in the direction of entry; or if this is not possible (iii) at the main counter; or if this is not possible (iv) on a wall behind the main counter; or if this is not possible (v) on any other external surface facing the public. 	
	<p>Any online site² –</p> <ul style="list-style-type: none"> (i) related to the food business; and (ii) that the business has control over. 	<p>An image of the certificate must be clearly visible on the food business homepage or similar landing page or screen.</p>	
<p>6 Display of food safety grade certificates</p> <p>(5) The grading certificate will remain the property of the council and may be withdrawn and removed by the council if the performance of the food business falls below the grading standard prescribed by the council.</p>	<p>8 Food safety information certificates remain the property of council</p> <ul style="list-style-type: none"> (1) Food safety information certificates, including any copies, remain the property of council. (2) The operator of a food business must not display an invalid food safety information certificate. 		<ul style="list-style-type: none"> • New bylaw clarifies that food safety information certificates (including

¹ For example any building, structure or similar site, food truck, food stall, including restaurant, café, takeaway.

² For example a website, app, social media or similar medium.

Existing Bylaw	Proposed Bylaw	Reasons
		<ul style="list-style-type: none"> any copies) remain property of council. New bylaw clarifies that an invalid food safety information certificate must not be displayed.
Part 3 Regulation of food businesses registered pursuant to the Food Hygiene Regulations 1974 <i>[Expired]</i>		
7 Display of food safety grade certificates <i>[Expired]</i> <i>Explanatory note: clause 7 expired as all food businesses now regulated under the Food Act 2014.</i>		<ul style="list-style-type: none"> Bylaw clause unnecessary in new bylaw.
8 Training of staff at food premises <i>[Expired]</i> <i>Explanatory note: clause 8 expired as all food businesses now regulated under the Food Act 2014.</i>		<ul style="list-style-type: none"> Bylaw clause unnecessary in new bylaw.
9 Food stalls and mobile food shops <i>[Expired]</i> <i>Explanatory note: clause 9 expired as all food businesses now regulated under the Food Act 2014.</i>		<ul style="list-style-type: none"> Bylaw clause unnecessary in new bylaw
Part 4 Enforcement, offences and penalties	Part 3 Enforcement powers, offences and penalties	
10 Non-compliance with bylaw (1) The council may use its powers under the Health Act 1956 and the Local Government Act 2002 to enforce this bylaw.	9 Council can use statutory powers and other methods to enforce this Bylaw (1) Council may use its powers under the Local Government Act 2002 and Health Act 1956 or its powers as a service provider to enforce this Bylaw.	<ul style="list-style-type: none"> New bylaw clarifies enforcement powers under the Local Government Act 2002 and the Health Act 1956. New bylaw provides related information for clarity.

Existing Bylaw	Proposed Bylaw	Reasons
	<p>Related information about powers</p> <ul style="list-style-type: none"> Relevant enforcement powers under the Local Government Act 2002 (as reprinted on 1 July 2018) include court injunction (section 162), powers of search and seizure (sections 164, 165, 166, 167, 168), powers of entry (sections 171, 172, 173), and power to request name and address (section 178). Relevant enforcement powers under the Health Act 1956 (as reprinted on 2 March 2018) include court orders (section 33) and powers of entry and inspection (section 128). Council can also use other methods to encourage compliance, for example providing advice, information or warnings. 	
<p>11 Offences and penalties</p> <p>(1) A person who fails to comply with this bylaw commits an offence against Section 239 of the Local Government Act 2002 and is liable on conviction to the penalties set out in Section 242(4) of the Local Government Act 2002.</p>	<p>10 A person can be penalised for not complying with this Bylaw</p> <p>(1) A person who fails to comply with Part 2 of this Bylaw commits an offence and is liable to a penalty under the Local Government Act 2002 or the Health Act 1956.</p> <p>Related information about penalties</p> <p>A person who is convicted of an offence against a bylaw is liable to a fine not exceeding \$20,000 under section 242 of the Local Government Act 2002 (as reprinted on 1 July 2018) or a fine not exceeding \$500 and a further \$50 per day for a continuing offence under section 66 of the Health Act 1956 (as reprinted on 2 March 2018).</p>	<ul style="list-style-type: none"> New bylaw clarifies penalties for non-compliance under the Local Government Act 2002 and Health Act 1956. New bylaw provides related information for clarity.
	<p>Part 4</p> <p>Savings and transitional provisions</p>	
	<p>11 Existing inquiries to be completed under the Food Safety Bylaw 2013</p> <p>(1) Any compliance or enforcement action by council under the Whakapai kai 2013, Auckland Council Food Safety Bylaw 2013 that was not completed before the date this Bylaw commences, will continue to be actioned under that bylaw as if it were still in force and as if this Bylaw had not been made.</p>	<ul style="list-style-type: none"> New bylaw clarifies that existing compliance or enforcement action by council will be completed under the Food Safety Bylaw 2013 as if it were still in force.

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