



Whakapai Kai 2020 Food Safety Information Bylaw 2020

(as at 30 April 2020)

made by the Governing Body of Auckland Council

in resolution GB/2020/36

on 30 April 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 Bylaw has.

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 on a digital platform (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 Eatsafe Auckland food grading 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.

Contents

1	Title	4
2	Commencement	4
3	Application	4
Part 1		
Preliminary provisions		
4	Purpose	4
5	Interpretation	4
Part 2		
Display of food safety information certificates		
6	Certain food businesses must display a food safety information certificate	5
7	Food safety information certificates must be displayed for specified durations and in specified locations	6
8	Food safety information certificates remain the property of council	7
Part 3		
Enforcement powers, offences and penalties		
9	Council can use statutory powers and other methods to enforce this Bylaw	7
10	A person can be penalised for not complying with this Bylaw	7
Part 4		
Savings and transitional provisions		
11	Existing inquiries to be completed under the Food Safety Bylaw 2013	7

1 Title

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

2 Commencement

- (1) Digital food grade display requirements in clause 7 come into force on 31 December 2020.
- (2) The rest of 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 of 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 for Primary Industries and be verified by third-party verifiers (instead of council)
- medium to low risk food businesses (for example bread bakeries, coffee carts and dairies or superettes) must be registered by council or the Ministry for Primary Industries and verified by council or third-party verifiers
- 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, individuals or organisations 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, they will need to register with council and this Bylaw may apply
- businesses which only import food as they have different obligations under the Food Act 2014.

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 – (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 digital platform – (i) related to the food business; and (ii) that the business has control over.	An image of the certificate, or a statement of the food grade and a link to council's food grade webpage, must be clearly visible on the food business homepage or similar landing page or screen.

- (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).

Related information about implementation of food grade display

- The term 'physical site' includes any building, structure or similar site, for example a food truck, food stall, restaurant, café or takeaway.
- The term 'digital platform' includes any website, app, social medium or similar medium.

In relation to food grade display at physical sites:

- 'clearly visible to the public' relates to the placement of a food grade where it is easy for all members of the public to see and is not obscured in any way
- a location is 'possible' for display where it allows a food grade to be clearly visible to the public.

In relation to food grade display on digital platforms:

- a digital platform that a business has 'control' over refers to where the food business has authority over the content about their business
- council's food grade webpage can be found at www.aucklandcouncil.govt.nz/licences-regulations/business-licences/food-businesses-quality-grading/Pages/find-food-grade-restaurant-cafe.aspx
- examples include display on a website, social media page or listing on a food business review platform for a food business, that is managed by the food business operator.

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 (RB/2012/32)
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)
30 April 2020	Made the Auckland Council Food Safety Information Bylaw 2020 (GB/2020/36)
05/05/2020	Public notice of the making of the Auckland Council Food Safety Information Bylaw 2020 given online due to COVID-19 in accordance with section 5A of the Local Government Act 2002.
23 May 2020	Commencement of the Auckland Council Food Safety Information Bylaw 2020 (GB/2020/36) 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**