



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

**(as at 1 March 2019)**

**made by the Governing Body of Auckland Council**

**in resolution GB/2013/66**

**on 27 June 2013**

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.

Services that contact the skin can cause infection or injury if operators have poor health and hygiene practices. Services include beauty and health treatments, tattoo, body piercing and swimming pools.

The purpose of this Bylaw is to require people who provide you with these services to meet minimum health and hygiene standards by–

- **identifying** which services must comply with **minimum standards**, including services that pierce, risk breaking or risk burning the skin or tissue, therapeutic massage, colon hydrotherapy, swimming pools, water play parks and splash pads in clause 6
- **identifying** which services must be **licensed**, including services that pierce, risk breaking or risk burning the skin or tissue (e.g. dermal filler, hair removal, manicure/pedicure, sunbeds) in clause 7
- **requiring the display** of health protection licences in clause 7
- **restricting** provision of eyeball tattoo services to qualified health practitioners (ophthalmologists) in clause 8
- **exempting** certain practitioners from the Bylaw, for example pharmacists that provide ear piercing in clause 9
- **enabling** the development of the Health and Hygiene Code of Practice 2013, which contains minimum standards for all services covered by the Bylaw in clauses 10 and 11.

Other parts of this Bylaw assist with its administration by –

- stating the purpose of this Bylaw and defining terms used in clauses 4 and 5
- referencing Council's powers to enforce this Bylaw, including powers to take property and penalties up to \$20,000 in clauses 12 and 13.

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### **Part 5 [repealed]**

## 1 Title

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

## 2 Commencement

- (1) This bylaw comes into force on 01 July 2014.
- (2) Amendments to clause 7 by resolution GB/2018/187 come into force on 01 March 2019.
- (3) All other amendments by resolution GB/2018/187 come into force on 22 November 2018.

Clause 2 amended by minute GB/2018/187, in force on 22 November 2018 to insert subclause (2) and (3).

## 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 certain services with the following health risks to comply with minimum standards, including —
    - (i) any commercial service that pierces the skin or tissue;
    - (ii) any commercial service that risks breaking the skin or tissue;
    - (iii) any commercial service that risks burning the skin or tissue;
    - (iv) any tattooing or traditional tools tattooing that has recognised cultural significance;
    - (v) any commercial service involving colon hydrotherapy;
    - (vi) public swimming pools, public water play park or splash pad; or
    - (vii) any commercial services involving therapeutic massage.
  - (b) requiring a licence for certain services, including —
    - (i) any commercial service that pierces the skin or tissue;
    - (ii) any commercial service that risks breaking the skin or tissue;
    - (iii) any commercial service that risks burning the skin or tissue; or
    - (iv) any tattooing or traditional tools tattooing that has recognised cultural significance.

Clause 4 amended by minute GB/2018/187, in force 22 November 2018 to include reference to tissue, culturally significant tattoo, public water play park or splash pad and therapeutic massage.

## 5 Interpretation

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

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

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

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

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

Definition inserted by minute GB2014/120, in force on 1 November 2014.

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

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

### Related information

Regulatory Committee has delegated authority to make a code of practice under clause 10 (GB/2016/237, as at 26 July 2018).

Council's Environmental Health Unit has delegated authority to administer and enforce this Bylaw (excluding clause 10, as at August 2018).

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

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

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

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

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

**Eyeball Tattooing** means a practice of piercing any part of the eye (including but not limited to the sclera and surrounding tissues) and inserting pigments, dyes or any object.

Definition inserted by minute GB/2018/187, in force on 22 November 2018 .

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

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

**Related information**

Health practitioners include professionals working as doctors, nurses, physiotherapists, ophthalmologists, optometrists, podiatrists, chiropractors and osteopaths.

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

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

**Manager** means

- (a) a person who has effective control over operators; or
- (b) if no person meets the description in (a), **manager** has the same meaning as **operator**.

Definition amended by minute GB/2018/187, in force on 22 November 2018.

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

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

**Operator** means a person who carries out a service.

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

**Permanent premises** means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied where any service is undertaken on an on-going and regular basis by any person. All lands, buildings, and places adjoining each other and occupied together are deemed to be the same premises.

Definition amended by minute GB/2018/187, in force on 22 November 2018.

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

**Public water play park or splash pad** means a recreation area that is a permanent construction to be used for water play (including sprinklers, fountains and nozzles) and is drained to allow for little or no standing water. It includes commercial, school, institutional, club, hospitality, community, and local authority water play parks and splash pads. It does not include water play parks and splash pads for domestic use only or temporary structures such as portable water slides and portable paddling pools.

Definition inserted by minute GB/2018/187, in force on 22 November 2018.

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

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

**Skin piercing** [repealed]

Definition repealed by minute GB/2018/187, in force on 22 November 2018.

**Skin** is included in the definition of **tissue** and means the outer surface covering the body and is made up of the outer epidermis, middle dermis and deep subcutaneous tissue.

Definition inserted by minute GB/2018/187, in force on 22 November 2018.

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

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

**Temporary premises** means any location where any service is undertaken by any person on an irregular basis and the primary purpose of that location is not ordinarily the provision of that service.

#### **Related information**

Temporary premises include, for example, residential dwellings, apisā at a fale or maota, events or markets.

Definition inserted by minute GB/2018/187, in force on 22 November 2018.

**Therapeutic massage** means the rubbing and kneading of muscular tissue to relieve tension or pain, and excludes commercial sexual services as defined in the Prostitution Reform Act 2003.

Definition inserted by minute GB/2018/187, in force on 22 November 2018.

**Tissue** means a collection of similar cells that together carry out a specific function. It includes connective tissue, such as blood, bones and ligaments, muscular tissue, nervous tissue, membranes and skin.

Definition inserted by minute GB/2018/187, in force on 22 November 2018.

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

- (2) Related information does not form part of this Bylaw and may be inserted, changed or removed without any formality.

Clause 5(2) amended by minute GB/2018/187, in force on 22 November 2018 to use terms that make it clear what text does not form part of this Bylaw.

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

## Part 2

### Regulation of certain services for health protection

#### 6 Services allowed subject to minimum standards

- (1) The operator of any of the following services must comply with relevant standards set by the council in a code of practice made under clause 10 —
- (a) any commercial service that pierces the skin or tissue, including but not limited to tattooing, traditional tools tattooing, body piercing, acupuncture, electrolysis, extractions, red vein treatment, or derma rolling;
  - (b) any commercial service that risks breaking the skin or tissue, including but not limited to hair removal, manicure, pedicure, or exfoliation;
  - (c) any commercial service that risks burning the skin or tissue, including but not limited to sun-bed (tanning unit), pulsed light, or laser treatment;
  - (d) any tattooing or traditional tools tattooing that has recognised cultural significance;
  - (e) any commercial service involving colon hydrotherapy;
  - (f) public swimming pool, public water play park or splash pad; or
  - (g) any commercial services involving therapeutic massage.

Clause 6 amended by minute GB/2018/187, in force on 22 November 2018 to renumber it (previously clause 8), to refer to renumbered clause 10 (previously clause 6) and to include reference to tissue, culturally significant tattoo, public water play park or splash pad and therapeutic massage.

#### 7 Services requiring a licence

- (1) This clause applies to the following services -
- (a) any commercial service that pierces the skin or tissue, including but not limited to, tattooing, traditional tools tattooing, body piercing, acupuncture, electrolysis, extractions, red vein treatment, or derma rolling;

- (b) any commercial service that risks breaking the skin or tissue, including but not limited to, hair removal, manicure, pedicure, or exfoliation;
  - (c) any commercial service that risks burning the skin or tissue, including but not limited to, sun-bed (tanning unit), pulsed light, or laser treatment; or
  - (d) any tattooing or traditional tools tattooing that has recognised cultural significance.
- (2) The manager of any service to which this clause applies must -
- (a) obtain a licence from the council before commencing operation; and
  - (b) hold a valid and unexpired licence from the council at all times that the commercial service is offered;
  - (c) conspicuously display a copy of a valid licence at the principal entrance or reception of any permanent premises or mobile premises in full and unobscured view to the satisfaction of the council; and
  - (d) ensure operators carry a copy of a valid licence on their person at all times when providing a service at a temporary premises and show the licence to the customer prior to providing a service.

Clause 7 amended by minute GB/2018/187, in force on 01 March 2019 to renumber it (previously clause 9) and to include reference to tissue, culturally significant tattoo and display of licences.

## 8 Restricted services

- (1) Commercial services that pierce the eyeball (including eyeball tattooing) are prohibited unless undertaken by appropriately qualified health practitioners covered by the Health Practitioners Competence Assurance Act 2003 in the practice of their profession.

### Related information

Ophthalmologists (eye specialists) are the only health practitioners that can currently carry out eyeball tattoo.

New clause 8 inserted by minute GB/2018/187, in force on 22 November 2018.

## 9 Exemptions

- (1) Clauses 6 and 7 do not apply to —
- (a) any commercial service undertaken by health practitioners covered by the Health Practitioners Competence Assurance Act 2003 in the practice of their profession;
  - (b) acupuncture undertaken by members of the New Zealand Register of Acupuncturists or members of the New Zealand Acupuncture Standards Authority;
  - (c) commercial ear-piercing services undertaken in a pharmacy licenced by the Ministry of Health.

- (2) Ko ngā mahi tā moko a te kaitāmoko me whakamana e tētahi marae nō roto i te rohe o Te Kaunihera o Tāmaki Makaurau he ai ki te tikanga Māori ka noho wātea i ngā here o tēnei ture ā-rohe. Heoi anō rā me whaiwhakaaro tonu pea te marae ki te itinga rawa o ngā paerewa takinga ā-mahi i raro i te whiti 10, me te whakawhāiti i te roanga o te wā e mau ai te whakamana.

**Related information**

Clause 9(2) in English means tā moko (traditional Māori tattooing) undertaken by artists authorised by a marae in Auckland and in accordance with tikanga-Māori (traditional Māori customs) is exempt from compliance with this bylaw. Marae should consider the minimum standards in the code of practice made under clause 10 and a limit to the duration of the authorisation. Tā moko are a taonga (or cultural treasure) and are protected under the Treaty of Waitangi Principles.

Clause 9(1) (previously clause 10) amended by minute GB2014/120, in force on 1 November 2014 to include subclause (1)(c) about commercial ear-piercing services.

Clause 9 amended by minute GB/2018/187, in force on 22 November 2018 to renumber it (previously clause 10), to refer to renumbered clause 6 (previously clause 8) and clause 7 (previously clause 9) and to more clearly reflect current traditional Māori tattooing practice.

### Part 3 Controls and licences

Part 3 heading amended by minute GB/2018/187, in force on 22 November 2018 to include provisions about controls previously in clauses 6 and 7 of Part 2.

#### 10 Health protection code of practice

- (1) The council may make, amend or revoke a code of practice about any services in clause 6.
- (2) Every code of practice adopted under (1) may specify —
- (a) minimum standards for the operation of those services, including (but not limited to):
    - (i) operator conduct, training and qualifications;
    - (ii) premises construction, facilities and maintenance;
    - (iii) equipment, supplies and products used;
    - (iv) cleaning, sterilisation and disposal of waste products;
    - (v) customer age restrictions, consent and after care advice;
    - (vi) record keeping; and
  - (b) recommended best practice for the operation of those services.

**Related information to clause 10**

Council made the Health and Hygiene Code of Practice 2013 by minute GB/2013/66 on 27 June 2013, in force on 1 July 2014.

Clause 10 amended by minute GB/2018/187, in force on 22 November 2018 to renumber it (previously clause 6) and make it easier to understand.

## 11 Procedure for making a code of practice

- (1) The council must, before making, amending or revoking a code of practice in clause 10 —
  - (a) comply with the requirements under Subpart 1 of Part 6 of the Local Government Act 2002.
  - (b) consult with —
    - (i) medical officers of health in the Auckland region; and
    - (ii) any affected operators;
  - (c) be satisfied that —
    - (i) the standards are the minimum necessary to ensure that the purpose of the Bylaw will be met; and
    - (ii) the recommendations for best practice (if any) are appropriate.
  - (d) have regard to —
    - (i) the feasibility and practicality of effecting a transition from current practices to new practices and any adverse effects that may result from such a transition; and
    - (i) any other matters considered relevant by the council.
- (2) A code of practice made, amended or revoked under subclause (1) must be publicly notified.

Clause 11 amended by minute GB/2018/187, in force on 22 November 2018 to renumber it (previously clause 7) and to refer to renumbered clause 10 (previously clause 6).

## 12 Health protection licences

- (1) The Council may make controls and set fees for the following matters with respect to any licence required by clause 7 —
  - (a) applying for a licence, including forms and information;
  - (b) assessing an application for a licence, including inspection;
  - (c) granting or declining an application for a licence;
  - (d) the conditions that may be imposed on a licence;
  - (e) the duration of the licence;
  - (f) objecting about a decision to decline a licence, including the objection period;
  - (g) objecting about a condition of a licence, including the objection period;
  - (h) conducting inspections to ensure that a licence and its conditions are complied with;

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

Clause 12 amended by minute GB/2018/187, in force on 22 November 2018 to renumber it (previously clause 11).

## Part 4

### Enforcement powers, offences, penalties

#### 13 Compliance with the bylaw

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

#### Related information

Local Government Act 2002 enforcement powers include: court injunction ([section 162](#)), seizure and disposal of property (sections [164](#), [165](#), [168](#)), powers of entry (sections [171](#), [172](#), [173](#)), and power to request name and address ([section 178](#)) (as reprinted on 1 July 2018).

Health Act 1956 enforcement powers include: court orders ([section 33](#)), cost recovery for council to abate nuisance ([section 34](#)), requiring the cleaning of premises ([section 41](#)), powers of entry ([section 128](#)), and power to request name and address ([section 134](#)) (as reprinted on 2 March 2018).

#### 14 Bylaw breaches

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

### Related information

A person who is convicted of an offence against a bylaw can be:

- fined a maximum of \$20,000 under the Local Government Act 2002 (section 242, as reprinted on 1 July 2018)
- fined a maximum of \$500 under the Health Act 1956 (section 66, as reprinted on 2 March 2016)
- where the offence is continuing, fined a maximum of \$50 every day the offence continues under the Health Act 1956 (section 66, as reprinted on 2 March 2016)
- where a person provides artificial tanning services to a person under 18, fined a maximum of \$2,000 for an individual or \$10,000 for a body corporate under the Health Act 1956 (section 114, as reprinted on 2 March 2018).

Part 4 amended by minute GB/2018/187, in force on 22 November 2018 to amend the Part and Clause headings and numbers (previously clauses 12 and 13). Hyperlinks and related information to clause 13 and clause 14 was also added.

## Part 5

### [repealed]

Part 5 amended by minute GB/2018/187, in force on 22 November 2018 to repeal matters no longer required that were related to legacy bylaws revoked in 2013.

### Related information, Bylaw history

Date	Description
01 November 2010	<b>Made</b> legacy bylaws about health and hygiene <sup>1</sup> (Section 63 Local Government (Auckland Transitional Provisions) Act 2010)
01 November 2010	<b>Commencement</b> of legacy bylaws about health and hygiene (Section 63 Local Government (Auckland Transitional Provisions) Act 2010)
14 December 2012	<b>Review</b> of legacy bylaws about health and hygiene completed (RB/2012/33)
20 December 2012	<b>Proposal</b> to make new bylaw about health and hygiene and to revoke legacy bylaws (GB/2012/178)
27 June 2013	<b>Made</b> Auckland Council Health and Hygiene Bylaw 2013 and <b>decided</b> to revoke legacy bylaws (GB/2013/66)
27 September 2013	<b>Public notice</b> of new Auckland Council Health and Hygiene Bylaw 2013 and revocation of legacy bylaws
01 July 2014	<b>Commencement</b> of new Auckland Council Health and Hygiene Bylaw 2013 and revocation of legacy bylaws (GB/2013/66)
31 July 2014	<b>Proposal</b> to amend Auckland Council Health and Hygiene Bylaw 2013 to exempt pharmacists for ear piercing (GB/2014/69)
30 October 2014	<b>Made</b> amendments to Auckland Council Health and Hygiene Bylaw 2013 to exempt pharmacists for ear piercing (GB/2014/120)

19 November 2014	<b>Public notice</b> of amendments to Auckland Council Health and Hygiene Bylaw 2013 to exempt pharmacists for ear piercing
01 November 2014	<b>Commencement</b> of amendment to Auckland Council Health and Hygiene Bylaw 2013 to exempt pharmacists (GB/2014/120)
10 May 2018	<b>Review</b> of Auckland Council Health and Hygiene Bylaw 2013 completed (REG/2018/36)
26 July 2018	<b>Proposal</b> to amend Auckland Council Health and Hygiene Bylaw 2013 (GB/2018/120)
22 November 2018	<b>Made</b> amendments to Auckland Council Health and Hygiene Bylaw 2013 (GB/2018/187) <b>Public notice</b> of amendments to Auckland Council Health and Hygiene Bylaw 2013
22 November 2018	<b>Commencement</b> of amendments (except to clause 7) of the Auckland Council Health and Hygiene Bylaw 2013 GB/2018/187)
01 March 2019	<b>Commencement</b> of amendments to clause 7 of the Auckland Council Health and Hygiene Bylaw 2013 (GB/2018/187)

<sup>1</sup> Legacy bylaws made: Rodney District Council General Bylaw 1998 Chapter 10: Sanitation and Cleanliness of Buildings and Places of Public Resort; Rodney District Council General Bylaw 1998 Chapter 14: Brothels and Commercial Sex Premises; North Shore City Council Bylaw Part 16: Swimming, Health and Beauty Facilities; North Shore City Council Bylaw Part 11: Safe Piercing of Skin; Auckland City Council Bylaws 2008 05: Bathing, Health and Beauty Facilities; Auckland City Council Bylaws 2008 17: Skin Piercing; Auckland City Council Bylaws 2008 30: Brothels and Commercial Sex Premises; Waitakere City Council Sanitation and Hygiene in Commercial Premises Bylaw 2010; Manukau City Consolidated Bylaw 2008 Chapter 18: Tattooing, Beauty Therapy, Skin Penetration and Piercing; and Manukau City Consolidated Bylaw 2008 Chapter 3: Brothels

**Related information, next bylaw review**

This Bylaw must be reviewed by 10 May 2028. If not reviewed by this date, the Bylaw will expire on 10 May 2030.

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