



Maritime Transport (Infringement Fees for Offences— Auckland Council Navigation Bylaw 2021) Regulations 2021

Patsy Reddy, Governor-General

Order in Council

At Wellington this 12th day of July 2021

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 330 of the Maritime Transport Act 1994 on the advice and with the consent of the Executive Council.

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Regulations

1 Title

These regulations are the Maritime Transport (Infringement Fees for Offences—Auckland Council Navigation Bylaw 2021) Regulations 2021.

2 Commencement

These regulations come into force on 14 August 2021.

3 Interpretation

- (1) In these regulations, unless the context otherwise requires, **provision** means a provision of Te Kaunihera o Tāmaki Makarau Ture ā-Rohe Urungi Āhuru 2021 / Auckland Council Navigation Bylaw 2021.
- (2) The descriptions in the second column of Schedule 1 are intended only to be an indication of the content of the provisions they describe, and are not intended to be used in the interpretation of those provisions.

4 Infringement offences and fees

- (1) A breach of a provision in the first column of Schedule 1 is an infringement offence under the Maritime Transport Act 1994.
- (2) The infringement fee for an offence referred to in subclause (1) is the fee specified in relation to that offence in the third column of Schedule 1.

5 Infringement notices

Every infringement notice in respect of an infringement offence against a provision specified in the first column of Schedule 1 must be in the form set out in Schedule 2.

6 Regulations revoked

The Maritime Transport (Infringement Fees for Offences—Auckland Council Navigation Safety Bylaw 2014) Regulations 2015 (LI 2015/287) are revoked.

**Schedule 1
Infringement offences and fees under Te Kaunihera o Tāmaki
Makaraua Ture ā-Rohe Urungi Āhuru 2021 / Auckland Council
Navigation Bylaw 2021**

Provision	Description of offence	Fee (\$)
cl 6(1)	Failing to nominate a person in charge of the vessel	\$200
cl 7(1) and (2)	Allowing a person under the age of 15 years to operate a power-driven vessel capable of exceeding a speed of 10 knots	\$200
cl 8(1)	Operating a vessel at a speed exceeding 5 knots within a specified area	\$200
cl 8(2)	Operating a vessel at a speed exceeding 5 knots while a person has any portion of their body outside the vessel	\$200
cl 9	Operating a vessel in breach of Maritime Rules about collision prevention, including Part 22 (Collision Prevention)	\$200
cl 10(1)	Failing to report an accident or incident on navigable water	\$200
cl 11(1)	Failing to obtain prior approval to berth, moor, anchor, or leave a vessel in certain circumstances	\$200
cl 12(1)(a)	Failing to ensure a vessel that is not underway is securely berthed, anchored, or moored	\$200
cl 12(1)(b)	Failing to maintain a person on board to keep watch of a vessel that is not underway, contrary to requirement from the Harbourmaster	\$200
cl 13	Failing to ensure a vessel does not cause a danger or risk to public safety when unoccupied on any navigable water	\$200
cl 14(1)(a)	Obstructing the navigation of navigable waters	\$200
cl 14(1)(b)	Detaching a vessel from its secured location	\$200
cl 14(1)(c)	Impeding the passage of an aircraft landing on, or taking off from, navigable waters	\$200
cl 14(3)	Causing or allowing any thing to be placed, left, dropped, or discharged in, over, or near any navigable waters that may cause danger, hazard, injury, or damage, or that may restrict the use of a mooring	\$200
cl 15(1)	Failing to ensure wake from a recreational vessel or person or object being towed does not prevent the safe use of navigable water, cause danger or risk of damage to other vessels or structures, or risk harming any other person	\$200
cl 16(1)	Operating a vessel's propulsion system around berthing structures and ramps in a way that may cause damage, affect navigation safety, affect the navigation of any other vessel, or harm any person	\$200
cl 16(3)	Testing a large vessel's propulsion system without ensuring a crew member is stationed to warn others of the test	\$200

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**Maritime Transport (Infringement Fees for Offences—
Auckland Council Navigation Bylaw 2021) Regulations
2021**

Schedule 1

2021/189

Provision	Description of offence	Fee (\$)
cl 17(1)(a), (b), and (d)	Erecting a navigation aid, erecting a light or structure that may be mistaken as a navigation aid, or tying a vessel to a navigation aid	\$200
cl 17(1)(c)	Damaging, removing, defacing, or interfering with a navigation aid	\$300
cl 18(1)	Failing to have sufficient personal flotation devices for each person on board a recreational vessel that are readily accessible, of appropriate size for each person on board, and in good working condition	\$200
cl 19(1)	Failing to ensure that every person on board a recreational vessel is wearing a properly secured personal flotation device of an appropriate size for that person in situations of heightened danger or risk	\$200
cl 20(1)	Failing to wear a properly secured personal flotation device of an appropriate size when on board a recreational vessel of 6 metres or less in length	\$200
cl 21(1)	Failing to ensure that any person being towed by a vessel is wearing a properly secured personal flotation device of an appropriate size for that person	\$200
cl 22(1)	Swimming, jumping, or diving in certain areas in breach of requirements	\$200
cl 24	Failing to operate a paddle craft of 6 metres or less in length beyond sheltered waters in a manner that is clearly visible to any other water user more than 200 metres away	\$200
cl 25(1)(a)	Failing to have a person responsible for notifying the person in charge of a vessel, of a mishap to a person being towed by the vessel	\$200
cl 25(1)(b)	Towing a person behind a vessel when required not to operate the vessel at a speed of over 5 knots	\$200
cl 25(1)(c)	Towing a person behind a vessel between sunset and sunrise	\$200
cl 25(1)(d)	When towing a person behind a vessel, failing to immediately recover an object that has been dropped	\$200
cl 25(3)	Allowing yourself to be towed in circumstances other than those described in cl 25(1) or (2)	\$200
cl 26(1)	Failing to ensure, as a diver, that flag A (diver flag) is properly displayed when diving is in progress	\$200
cl 26(2)	Failing to ensure, as a person in charge of a vessel from which a person is diving, that flag A (diver flag) is displayed	\$200
cl 26(3)	Failing to display flag A (diver flag) on a buoy when diving without a vessel	\$200
cl 28(2)	Failing to obtain the Harbourmaster's prior approval for certain organised water activities	\$200
cl 29(1)	Failing to obtain the Harbourmaster's approval to take off or land, or attempt to take off or land, an aircraft in certain circumstances	\$500
cl 31(1)(a), (c), (d), and (f)	Failing to comply with conditions of use of a restricted area, prohibited anchorage, restricted anchorage, or special reserved area	\$300
cl 31(1)(b) and (e)	Failing to comply with conditions of use of an access lane or a reserved area	\$200

**Maritime Transport (Infringement Fees for Offences—
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2021**

2021/189

Schedule 1

Provision	Description of offence	Fee (\$)
cl 32(1)	Failing to ensure a vessel that is anchored or moored in navigable waters is seaworthy	\$300
cl 32(2)	Operating an unseaworthy vessel in navigable waters	\$300
cl 33(1), (2), (3), and (4)	Failing to ensure vessel displays appropriate identification in accordance with requirements	\$200
cl 34(1)	Failing to have appropriate navigational and communication equipment on board a vessel	\$200
cl 34(2)	Failing to ensure navigational and communication equipment on board a vessel is in good working order	\$200
cl 35(1)	Using a light, or a siren or other sound, for a purpose not prescribed	\$200
cl 35(3)	Failing to display an orange flashing light on a fast passenger ferry	\$500
cl 36(1)	Failing to register a personal watercraft	\$200
cl 36(2)	Operating a personal watercraft on navigable waters without displaying a current identification	\$200
cl 37	Failing to advise the Harbourmaster of the sale or disposal of a personal watercraft	\$200
cl 38(1)	Failing to obtain the Harbourmaster's prior approval to lay, use, transfer approval for, or leave unoccupied any mooring	\$300
cl 39(1) and (2)	Failing to maintain a mooring, ensure the mooring complies with relevant controls, ensure the mooring is certified to be in good condition in accordance with requirements, and pay for any costs associated with maintaining the mooring	\$300
cl 40	Failing to remove a mooring after the cancellation of approval and notification from the Harbourmaster	\$200
cl 41(1), (2), and (3)	Failing to install and use an Automatic Identification System on board a commercial fast vessel in accordance with requirements	\$500
cl 41(4)	Failing to have a fitted and operational Automatic Identification System on a large vessel	\$500
cl 42(1) and (2)	Failing to notify the Harbourmaster, in a manner required by the Harbourmaster, of any inoperative or faulty navigational or manoeuvring equipment on a large vessel	\$500
cl 43	Failing to obtain the Harbourmaster's approval to operate a large vessel with inoperative or faulty navigational or manoeuvring equipment in a pilotage area	\$500
cl 45	Allowing a large vessel to cross the Manukau Harbour bar between sunset and sunrise	\$500
cl 46(1)	Failing to obtain the Harbourmaster's approval for a large vessel to enter a restricted area or to anchor in any navigable waters in Auckland	\$500
cl 47(1)	Failing to notify the berth operator and Harbourmaster of the expected arrival of a vessel carrying an explosive substance or bulk oil in accordance with requirements	\$500
cl 48(1)	Failing to display code flag B (taking on or discharging explosive substance) and a red light on a vessel that has on board, or intends to load or discharge, an explosive, bulk	\$300

**Maritime Transport (Infringement Fees for Offences—
Auckland Council Navigation Bylaw 2021) Regulations
2021**

Schedule 1

2021/189

Provision	Description of offence	Fee (\$)
	oil, or an empty receptacle that contained an explosive or bulk oil	
cl 49(1)	Allowing a vessel carrying an explosive substance to approach within 200 metres of another vessel	\$300
cl 49(2)	Allowing a tanker to be berthed within 30 metres of any other vessel	\$300
cl 50(1)	Failing to berth or anchor vessel at an approved location, or comply with any directions of the Harbourmaster, if the vessel has on board, or intends to load or discharge, an explosive substance	\$300
cl 50(2)	Failing to obtain the Harbourmaster's approval to berth or anchor a tanker	\$300
cl 51(1)(b)	Failing to berth or anchor a tanker at locations specified in clause 50	\$500
cl 51(1)(c)	Failing to ensure any tanks containing products are closed except when opened for loading or discharging	\$500
cl 51(1)(d)	Failing to ensure sufficient motive power and minimum safe manning to enable a tanker to be moved immediately from its berth in case of fire or other emergency	\$500
cl 52(1)(a)	Failing to notify the Harbourmaster at least 24 hours before commencing bunkering operations	\$500
cl 52(2)	Commencing or failing to stop bunkering operations contrary to the Harbourmaster's requirements imposed due to safety concerns	\$500
cl 52(3)	Failing to obtain the Harbourmaster's approval to commence or recommence bunkering operations	\$500
cl 53(2) and (3)	Failing to carry out hot works operations in accordance with requirements	\$500
cl 54(1)	Impeding the navigation of a large vessel in a pilotage area contrary to requirements	\$300
cl 54(2)	Navigating a vessel within the moving prohibited zone of a large vessel in a pilotage area	\$300
cl 56(1)	Failing to obtain the Harbourmaster's written approval before a vessel enters an Explosives Safety Zone in certain circumstances	\$200
cl 57	Failing to navigate a large vessel within marked channels in a pilotage area	\$500
cl 58(1)	Failing to agree and use a passage plan for a large vessel	\$500
cl 58(2)	Failing to ensure the bridge team of a large vessel is sufficient to safely carry out a passage plan	\$500
cl 58(3)	When determining a bridge team for a large vessel, failing to have regard to requirements	\$500
cl 59(1), (2), and (3)	Failing to keep a log of conducting a vessel in a pilotage area, and submit it to the Harbourmaster, in accordance with requirements	\$200

Schedule 2

Form of infringement notice for Te Kaunihera o Tāmaki Makarau Ture ā-Rohe Urungi Āhuru 2021 / Auckland Council Navigation Bylaw 2021 infringement offences

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Form

Te Kaunihera o Tāmaki Makarau Ture ā-Rohe Urungi Āhuru 2021 / Auckland
Council Navigation Bylaw 2021 infringement notice

Section 330, Maritime Transport Act 1994

Infringement notice No:

Enforcement authority

This infringement notice is issued by [*enforcement officer, the enforcement authority,
or other person authorised to issue an infringement notice*]

Address for correspondence:

Details of person infringement notice served on

Full name:

Full address:

†Date of birth:

*†Gender:

*†Occupation:

*Telephone number:

Maritime document No (if applicable):

† Omit if the notice is served on a company or other body corporate.

* Specify only if known.

Service details

This infringement notice was served by [*method of service*] on [*date*].

Details of alleged infringement offence(s)

Date:

Time:

Place:

Vessel name:

Vessel description:

For each offence, specify the following:

Bylaw offence provision:

Nature of alleged infringement:

Infringement fee payable:

Payment of infringement fee(s)

The infringement fee(s) is/are* payable within 28 days after [*date infringement notice is delivered personally, or served by post*].

The infringement fee(s) may be paid to [*specify address of enforcement authority*] by [*specify method(s)*].

*Select one.

Please present this notice, or a copy of this notice, when making payment.

Cheques or money orders must be made out to [*specify enforcement authority*] and must be crossed and marked not transferable or account payee only.

Issued by: [*full name*], who is a person duly authorised by the Auckland Council.

Important

Please read the following statement of rights.

What you need to know

If you pay the infringement fee in full as shown above, no further action will be taken. For a more detailed statement of your rights, *see* below. This includes—

- what happens if you are late paying the fee or don't pay the fee at all (*see* paragraphs 4 to 6):
- what to do if you want to query this notice (*see* paragraphs 8 to 14).

Statement of rights

If there is anything in this statement you do not understand, you should consult a lawyer.

- 1 This notice sets out 1 or more alleged infringement offences. Each offence that is identified by a number is a separate infringement offence. You may decide what to do in respect of each alleged offence individually, and may act in the same way in respect of all alleged offences or in different ways in respect of different alleged offences, as set out below.

Note: If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into a time-to-pay arrangement with an informant in respect of an infringement fee payable by you, paragraphs 8(b) and (c), 10, and 11 do not apply and you are entitled either to request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

Payments

- 2 If you pay the infringement fee for an alleged offence in full as shown above in **Payment of infringement fee**, no further enforcement action will be taken for the offence. Payments may be made at the place indicated on the front page of this notice. Please note that unless you have an arrangement as described in paragraph 3, part payment of an infringement fee is not sufficient to avoid further enforcement action for the offence.
- 3 If [*name of enforcement authority*] offers the ability to pay an infringement fee by instalments and you enter into an instalment arrangement,—
- (a) the time to pay will be agreed with the enforcement authority;
 - (b) the enforcement action in paragraphs 4 to 6 may be taken if you default on a payment;
 - (c) you can't request a court hearing about the infringement offence (*see* paragraph 13).

What happens if you do not pay on time

- 4 If you do not pay the infringement fee on time as shown above and do not request a hearing (*see* paragraph 8 for your ability to do this), you will be served with a reminder notice (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence). Please note that in some circumstances, if you do not receive a reminder notice, you may still become liable to pay a fine and court costs as set out in paragraph 5.
- 5 If you do not pay the infringement fee and do not request a hearing within 28 days after being served with the reminder notice,—
- (a) [*name of enforcement authority*] may, unless it decides to take no further action to require payment for the alleged offence, provide particulars of the reminder notice for filing in the District Court; and
 - (b) if so, you will become liable to pay court costs as well as a fine.
- 6 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Defence

- 7 You have a complete defence against proceedings for the alleged infringement offence if the infringement fee for that offence has been paid in full to the enforcement authority in the manner specified in this notice before, or within 28 days after, a reminder notice for the alleged offence is served on you. Late payment or payment made in any other manner is not a defence.

Further action you may take

- 8 You may—
- (a) ask [*name of enforcement authority*] to consider any matter relating to the circumstances of the alleged offence; or

- (b) deny liability for the alleged offence and request a court hearing; or
 - (c) admit liability for the offence, but have a court consider written submissions as to penalty or otherwise.
- 9 To take an action listed in paragraph 8, you must write to [*name of enforcement authority*] at the address shown on this notice. You must sign the written communication and it must be delivered within 28 days after you have been served with this notice, or within any further time that [*name of enforcement authority*] allows.
- 10 If, in your written communication to the enforcement authority referred to in paragraph 8, you deny liability for the alleged offence and request a court hearing, [*name of enforcement authority*] will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence.
- Note:** If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, if the court finds you guilty of the offence, costs will be imposed in addition to any penalty and you will be required to pay a hearing fee. You cannot get a conviction for an infringement offence.
- 11 If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you must, in your written communication to the enforcement authority,—
- (a) request a hearing; and
 - (b) admit liability for the offence; and
 - (c) set out the submissions you wish the court to consider.
- 12 If you take the action in paragraph 11, [*name of enforcement authority*] will file your written communication with the court (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence). If you follow this process, there will be no oral hearing before the court.
- Note:** The court is entitled to take into account any maximum fine for the offence, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, costs will be imposed in addition to any penalty. You cannot get a conviction for an infringement offence.
- 13 If [*name of enforcement authority*] offers the ability to pay an infringement fee by instalments and you enter into an instalment arrangement, paragraphs 8 (b) and (c) and 9 to 12 do not apply, and you are not entitled to request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise).

Contacting the enforcement authority

- 14 When writing, please specify—
- (a) the date of the alleged infringement offence; and
 - (b) the infringement notice number; and
 - (c) your full name and address for replies; and
 - (d) the identifying number of each alleged offence and the course of action you are taking in respect of each alleged offence (if this notice sets out more than 1 offence and you are not paying all the infringement fees for the alleged offences).

Note: All correspondence regarding the infringement offence must be directed to [*name of enforcement authority*] at the address shown on this notice. If it is not clear which alleged offence any payment relates to, your payment may be treated as relating to the alleged offences in the order in which they are set out on the front of this notice.

Further details of your rights and obligations

- 15 Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 14 August 2021, specify in *Schedule 1* which breaches of Te Kaunihera o Tāmaki Makarau Ture ā-Rohe Urungi Āhuru 2021 / Auckland Council Navigation Bylaw 2021 are infringement offences for the purposes of section 330 of the Maritime Transport Act 1994. These regulations also prescribe the infringement fees for those infringement offences. An infringement notice must be in the form set out in *Schedule 2*.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 15 July 2021.
These regulations are administered by the Ministry of Transport.