

# WAIROA DISTRICT COUNCIL



## POLICY ON DANGEROUS AND INSANITARY BUILDINGS

Adopted 25 May 2006

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## 1 INTRODUCTION AND BACKGROUND

Section 131 (Refer Appendix B) of the Building Act 2004 requires territorial local authorities to adopt a policy on dangerous and insanitary buildings by **31 May 2006**.

This document sets out the policy adopted by Wairoa District Council (herein after referred to as the "Council") in accordance with the requirements of the Building Act 2004 ("the Act").

This policy must state

- Council's approach to performing its functions under the Act
- Council's priorities in performing those functions
- How the policy will apply to heritage buildings.

Council will consult with its communities in developing this policy and ensure it strikes a balance between the threats that dangerous and insanitary buildings may present, other factors within the district and the broader economic issues of implementing the policy.

## 2 DEFINITIONS

The following definitions set out in sections 121(1) and 123 of the Act, will be used to determine whether a building is dangerous or insanitary. The terms "building" and "dam" are defined in the Building Act 2004.

### A) Dangerous:

*"A building is dangerous for the purpose of the Act if*

- *in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or damage to other property;*
- *or in the event of fire, injury or death to any persons in the building or to persons another property is likely because of fire hazard or the occupancy of the building."*

### B) Insanitary:

*"A building is insanitary for the purpose of the Act if the building-*

- *Is offensive or likely to be injurious to health because of how a building is situated or constructed; or in a state of disrepair; or*
- *has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or*
- *does not have a supply of potable water or sanitary facilities that are adequate for its intended use or*
- *does not have a sanitary facilities that are adequate for its intended use."*

A building could also be insanitary if it has been used for purposes causing or likely to cause the generation of substances whether organic or being injurious to the health of occupiers or those entering the building.

### 3 POLICY PRINCIPLES

- 1) The purpose of this Policy is primarily to ensure that Council appropriately discharges its statutory obligations under the Building Act 2004 in relation to buildings in the Wairoa District that are suspected or confirmed as dangerous or insanitary.
- 2) This Policy shall be consistent with the Community Outcomes set out in the Long Term Council Community Plan and contribute to establishing a **Safe and Secure Community, a Lifetime of Good Health and Wellbeing, and an Environment that is Appreciated, Protected and Sustained for Future Generations**. This policy contributes by ensuring homes and other structures are safe to live in or visit and aren't injurious to occupant's health.
- 3) There exists a need to balance the benefits to the community in upgrading a building that is dangerous or insanitary against the ability of the community to meet the costs involved to fund improvements to its building stock.
- 4) Action under the Policy shall focus on dialogue between building owners and Council. Where possible a course of action and timeframe that is mutually agreed will be sought. Formal action will only be taken when further dialogue cannot be achieved or will not advance the situation and there is a clear need for further action to ensure community wellbeing.

### 4 POLICY

#### 4.1 OVERALL POLICY APPROACH

One of the key purposes of the Act, as set out in Part 1, subpart 1 (3), is to ensure "people who use buildings can do so safely and without endangering their health". Refer Appendix B.

The success of this policy on dangerous and insanitary buildings will depend in large part upon the support and goodwill of building owners and, to an extent, building occupiers. Owners will have to bear the costs of any required improvements and occupiers will bear much of the inconvenience associated with building work required to reduce or remove danger.

Council will take a passive approach and act only –

- when the state of a building has been brought to its attention.
- or an application for building consent has been received.

Council will respond and investigate all building complaints or notification from internal sources or third parties. However Council may not respond to anonymous complaints.

## **A) Dangerous Buildings**

Dangerous buildings may come about due to a change of use (for example commercial building used for residential purposes), or unauthorised alterations being made, or as a result of its use by an occupant. Once buildings that are dangerous come to the attention of the Council, either via notification by other parties such as building tenants or following the receipt of a building consent application or during any other process such as an audit of an Independent Qualified Person's (IQP) inspection, the Council is to immediately act to ensure the safety of persons and property. Council will follow the process laid down in sections 124-130 of the Building Act 2004 in dealing with dangerous buildings ( Refer Appendix B).

### **Clandestine Laboratories (Clan Lab)**

The manufacturing process of illicit substances such as methamphetamine presents its own hazards. The production requires the use of hazardous chemicals, which are often corrosive (acids), explosive, flammable (solvents) and toxic. The clan lab operators often have limited knowledge of the chemical hazards and little concern for public safety or the environment. Council will follow processes as advised by their Environmental Health Department.

## **B) Insanitary Buildings**

Buildings may become insanitary due to a number of reasons, such as following a natural disaster e.g. flooding or as a result of poor maintenance, or misuse by the occupant. Once buildings that contain insanitary conditions come to the attention of the Council, Council is to act to ensure the health and wellbeing of the occupants. Council will follow the process laid down in sections 124 – 130 of the Building Act 2004 in dealing with insanitary conditions.

## **4.2 IDENTIFICATION OF DANGEROUS AND INSANITARY BUILDINGS**

### **4.2.1 General**

It is very likely that in many, but not all, cases a building's dangerous and Insanitary status will not be readily apparent. For this reason, any attempt to identify these buildings proactively is unlikely to be successful as this would require considerable resources to undertake inspections and evaluations of buildings.

Therefore Council will take a necessarily passive approach to the identification of dangerous buildings in the District relying on complainants to provide information concerning potentially dangerous or insanitary buildings as the only practical way to identify these buildings. The most likely sources of information concerning dangerous or insanitary buildings will be :

- building occupants, tenants, users, neighbours, members of the public who believe that their amenity is threatened by the state of the building, or
- as a result of an inspection by the police, fire service or other government agency authorised to inspect buildings.
- or following the receipt of a building consent application or during any other process e.g. an audit of an Independent Qualified Person's inspection.

For the purpose of determining whether a building is dangerous Council may also seek advice from the New Zealand Fire Service who have been notified to the territorial authority by the fire Service National Commander as being competent to give advice and if the advice is sought, must have due regard to the advice.

#### **4.2.2 Warning signs of Clan Labs:**

Unusual chemical smells that are not normally present in the area.

- Numerous chemical containers stored or stockpiled often with labels removed.
- Stained glass equipment and cookware.
- Plastic or glass containers fitted with glass or rubber tubing.
- Numerous cold medication or tablet packages lying around or in the rubbish.
- Portable gas tanks or cylinders not normally seen in the area.
- Chemical stains or etching marks around household kitchen oven, bench, sinks, laundry, toilet, bath or stormwater drains.
- Yellow/brown or red staining of interior floor wall ceiling, furnishings and appliance surfaces.
- Boarded or blacked out windows.
- Added ventilation or plumbing.
- Excessive security.

#### **4.3 RESPONSE TO COMPLAINTS**

The appropriate response to a complaint is to inspect the building and determine whether it is a dangerous or insanitary building. It is expected that inspections would take place promptly, within 24 hours on the receipt of a complaint, but resources available will determine this at the time. Priority will be given to dangerous buildings to remove the danger as soon as practicable.

#### **4.4 ASSESSMENT CRITERIA**

Council will investigate the matter by inspecting the building to determine whether it is dangerous or insanitary. A Check sheet (Appendix A) will be used assess whether a building is dangerous or insanitary. Where the necessary work required on a building is complex, it is appropriate for Council to determine the nature of any remedial work in consultation with building owners.

#### **4.5 ACTION TO BE TAKEN ON DANGEROUS OR INSANITARY BUILDINGS**

Council will take appropriate action in regard to dangerous and insanitary buildings based on the specific issues and dangers arising from the building in question and the requirements of the legislation. Each case is to be assessed at the time and Council will exercise their judgement as to the most appropriate action under the Act e.g. if a derelict building has a history of squatters who place themselves at risk, a notice will be served on the owner to remove or reduce the danger, possibly through demolition.

##### **4.5.1 Where the danger is assessed as immediate:**

Due to the urgent nature of the risk that dangerous and insanitary buildings pose to users, Council will in the first instance act to ensure no person uses or occupies the building or permits another person to use or occupy the building until such work is undertaken to reduce or remove the danger or to fix the insanitary conditions. Council may undertake any of those measures outlined in Section 129 of the Act (Refer Appendix B) to mitigate or remove the danger or fix insanitary conditions. Council may

undertake those measures in section 129 of the Act without first serving notice on owners.

#### **4.5.2 Where the danger is assessed as not being immediate:**

In accordance with sections 124 and 125 of the Act Council may:

- Advise and liaise with the owner (s) of the building(s).
- Request a written report on the building from the NZ Fire Service.
- If the building is found to be insanitary or dangerous, attach a written notice to the building requiring remedial work to be carried out within a time stated in the notice being not less than 10 days, to reduce or remove the danger or conditions contributing to the insanitary state. Copies of the notice will be provided to the building owner, the occupier and every person who has an interest in the land, or is claiming interest in the land, as well as the NA Historic Places Trust if the building is a heritage building.
- Consider enforcement action under the Act if the requirements of the notice are not met as set out in the notice as well as any other non-compliance matters.

The timeframes for building owners to undertake work to fix dangerous or insanitary buildings is as follows:

##### **A) Dangerous Buildings**

All building owners will have ten days to remove the danger following the date notice is given under Section 125 of the Building Act 2004.

##### **B) Insanitary Buildings**

All building owners will have thirty days to fix insanitary conditions following the date notice is given under Section 125 of the Building Act 2004.

#### **4.5.3 If a clan lab is suspected:**

- The premises must not be entered or approached.
- The Police are to be notified immediately.
- Environmental Health Officer to initiate appropriate action to minimise or eliminate any risk to public health and for clean up.

#### **4.5.4 Powers of Council**

Defined under Section 124 (Refer to Appendix B)

Council will attempt to consult with building owners prior to taking action on a dangerous or insanitary building but this will not delay taking necessary action within the provisions of the Act, especially when the danger posed by the building is significant.

Section 116B of the Act states it is an offence to use building for use for which it is not safe or not sanitary, or it has inadequate means of escape from fire. Council is able to take action, when appropriate, against owners and occupiers of buildings when the Council has not taken or has not been able to take, any of the actions provided under section 124.

All owners have a right to apply to object to Council for a review of its decision or to apply to the Department of Building and Housing for a determination under Section 177(e) of the Act (Refer Appendix B).

#### **4.5.5 Requirements for Serving Notice**

Where possible Council will discuss with building owners issues relating to a dangerous and /or insanitary building's status in advance of any notice.

The process for serving notices on owners will be transparent. Notices must:-

- be fixed to the building concerned and
- state whether the owner of the building must obtain a building consent in order to carry out the work required by the notice.

A copy of the notice must be given to

- the owner of the building
- an occupier of the building and
- every person who has an interest in the land on which the building is situated under a mortgage or other encumbrance registered under their Land Transfer Act 1952 and
- every person claiming an interest in the land that is protected by a caveat lodged and in force under section 137 of the Land transfer Act 1952 and
- any statutory authority, if the land or building has been classified: and
- the New Zealand Historic Places Trust, if the building is a heritage building.

However, the notice, if fixed on the building, is not invalid because a copy of it has not been given to any or all of the persons referred to in subsection 2. Refer section 125(3) Appendix B.

#### **4.5.6 Council may carry out work**

Where owners may not be cooperative or cannot be located Council may apply to the District Court, under section 126, (Refer Appendix B) for an order authorising the Council to carry out building work if any work required under a notice is not completed within the time stated or any further time that the Council may allow. The Council must give the owner of the building not less than 10 days' written notice of its intention to apply to the District Court. If the Council carries out work under the authority of a Court order the owner of the building is liable for the costs of the work and the Council may recover those costs from the owner and the amount recoverable becomes a charge on the land on which the work was carried out (Refer s126 Appendix B.) Any work required or authorised may include the demolition of all or part of a building.

### **4.6 INTERACTION BETWEEN THIS POLICY AND OTHER PROVISIONS OF THE BUILDING ACT 2004**

When the owner of a building seeks consent to undertake building work Council will inspect the building file to determine whether or not the building in its current state has been classified as dangerous or insanitary.

When the owner of a dangerous or insanitary building on whom notice has been served, but who has not yet undertaken the required remedial work, applies for building consent for action covered by sections 112 to 116A,(Appendix B),

Council is to require that the action necessary to reduce or remove danger be undertaken at the same time (or before if appropriate) the building work set out in the consent application.

#### **4.6.1 Section 112: Alterations to existing building**

When ever a building consent application is received for significant upgrading or alteration of a building that is dangerous or insanitary then, irrespective of the general priorities set by Council for dealing with dangerous or insanitary buildings, Council will not issue a building consent unless it is satisfied that the building is not dangerous or insanitary and that the building work will not detrimentally affect the buildings' compliance with the Building Code.

If the building is shown to be dangerous or insanitary, then the Council will require that the situation be rectified as necessary to comply as nearly as is reasonably practicable with the provisions of the Building Code and that the building be made safe.

#### **4.6.2 Section 115: Change of Use**

Whenever a building consent application is received for change of use of a building that is dangerous or insanitary then the Council will require that the building be strengthened/altered/modified to comply as nearly as is reasonably practicable with every provision of the Building Code that relates to structural performance as is required by Section 115(b)(i)(a). (In this instance the requirement for earthquake-prone buildings would be the same as that for non-earthquake-prone buildings).

### **4.7 RECORDING THE STATUS OF A DANGEROUS AND INSANITARY BUILDING AND ACCESS TO THIS INFORMATION**

If a building has been assessed as being dangerous and/or insanitary its status as such will be recorded on Council's property files.

In addition the following information will be placed on the Land Information Memorandum (LIM) for each identified building:

- Statement that the building is on the Council's register of dangerous and insanitary buildings.
- Date when deemed to be dangerous or insanitary or when work/demolition of the building is required (if known).
- Statement that further details are available from the Council to those who can demonstrate a genuine interest in the property. In granting access to information concerning identified buildings Council will conform to the requirements of any relevant legislation by which it may be bound e.g. Privacy Act.

This information is to be also placed on Project Information Memorandum (PIM) where it affects any proposed building work.

## **5 IMPACT OF POLICY**

### **5.1 Social, Economic, Cultural and Environmental**

Council is to consider the costs of any action required to reduce or remove dangerous or insanitary conditions in affected buildings in the broader social and economic context of the community.

The main focus of this policy on dangerous and insanitary buildings is to improve health and safety for people who use buildings.

Council believes the safety of people is of paramount importance and this policy reflects this.

While this policy seeks to make special provision for heritage buildings and maintaining the character of townships, the primary consideration at all times will be for the safety and health of people and property.

If this policy is adhered to impact to the environment should be limited.

## **6. PRIORITIES FOR ACTION**

No specific forms of danger within the district have been identified as more likely to require speedier action than others.

## **7. HERITAGE BUILDINGS**

Heritage buildings play an important role in the social and cultural fabric of New Zealand society, but their nature and age mean that even simple rectification requirements may present design and cost challenges for owners.

Heritage buildings identified in the District Plan Schedule of Heritage Items will be assessed in the same way as other dangerous or insanitary buildings. Special efforts will be made to meet heritage objectives specified in the District Plan. In particularly important cases, public consultation will be undertaken.

Where a heritage building is dangerous or insanitary Council will consult with the building owner and consider seeking advice from the Historic Place Trust. Council will exercise their judgement concerning the nature and importance of the building and the level of risk it poses to the community. However, the fact that a building has a heritage status does not mean it can be left in a dangerous or insanitary condition. The provisions of the Act will continue to apply.

Following the above consultation process, notice will be served requiring improvement or demolition within a stated and preferably agreed timeframe. Should a notice be served on a heritage building, a copy of the notice is to be sent to the Historic Places Trust.

## **8. ADOPTION AND REVIEW OF POLICY**

- This policy under section 131 must be adopted in accordance with the special consultative procedure in section 83 of the Local Government Act 2002.
- This policy may be amended or replaced only in accordance with the special consultative procedure.
- As soon as practicable after this policy is adopted Council must provide a copy to the Chief Executive of the Department of Building and Housing (DBH). When reviewed or amended Council may be required to provide a copy to DBH and this is to be ascertained at the time.
- To ensure the policy remains relevant and appropriate to our district Section 132 of the Act states the policy must be reviewed within 5 years after the policy is adopted.
- This policy does not cease to have effect because it is due for review or being reviewed.



# WAIROA DISTRICT COUNCIL

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## DANGEROUS & INSANITARY BUILDING INSPECTION APPENDIX A

DANGEROUS AND/OR INSANITARY BUILDING INSPECTION RECORD		
Address of building		
Building name		
Name of person allowing access		
Relationship to building		
Time and date of inspection		
Contact details of at least two tenants (continue on reverse if necessary)		
Name		
Relationship		
Address (Other than the address of the building)		
Phone (Home)		
Phone (Work)		
Phone (Mobile)		
<b>Building warrant of fitness – current</b>		yes/no
Displayed:		yes/no
Current use described as?		
Is current use and described use the same?		yes/no
Number:		
List fire protection/detection system(s) present	Operational?	
	yes/no	
	yes/no	
	yes/no	
*Note on rear of page if system has obvious defects in relation to relevant New Zealand Standards.		
<b>Building features</b>		
1. Number of floors	8. Adequate potable water supply?	yes/no
2. How many flats?	9. Adequate sanitary facilities for intended use?	yes
3. How many beds (total)?	10. Has the cladding failed?	yes/no
4. How many means of escape?	11. Is the nature of the building likely to be offensive or injurious to health?	yes
5. Can you identify safe paths?      yes/no	12. Do safe paths lead to exterior ground?	yes
6. Have you walked the escape routes?      yes/no	13. Are any escape doors fitted with locks?	yes
7. Any uncontrolled sources of ignition?      yes/no	14. Is any other building affected/likely to be affected by these building defects?      Yes/no	



# **Appendix B:**

## **Relevant Sections of the Building Act 2004**

### **Part 1, Subpart 1, 3 Purpose**

*The purpose of this Act is to provide for the regulation of building work, the establishment of a licensing regime for building practitioners, and the setting of performance standards for buildings, to ensure that—*

- (a) people who use buildings can do so safely and without endangering their health; and*
- (b) buildings have attributes that contribute appropriately to the health, physical independence, and well-being of the people who use them; and*
- (c) people who use a building can escape from the building if it is on fire; and*
- (d) buildings are designed, constructed, and able to be used in ways that promote sustainable development.*

### **Section 12(2)(j)**

*Role of building consent authority and territorial authority—*

- a. Under this Act, a territorial authority—*
  - (j) performs functions relating to dangerous, earthquake prone, or insanitary buildings;*

### **Section 121(1)**

*“A building is dangerous for the purposes of this Act if, -*

- (a) In the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause-*
  - (i) Injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or*
  - (ii) Damage to another property; or*
- (b) In the event of a fire, injury or death to any person in the building or to persons on other property is likely because of fire hazard or the occupancy of the building.”*

### **Section 124**

*Powers of territorial authorities in respect of dangerous, earthquake-prone, or insanitary buildings—*

- (1) If a territorial authority is satisfied that a building is dangerous, earthquake prone, or insanitary, the territorial authority may—*
  - (a) put up a hoarding or fence to prevent people from approaching the building nearer than is safe:*
  - (b) attach in a prominent place on, or adjacent to, the building a notice that warns people not to approach the building:*

- (c) *give written notice requiring work to be carried out on the building, within a time stated in the notice (which must not be less than 10 days after the notice is given under Section 125), to—*
  - (i) *reduce or remove the danger; or*
  - (ii) *prevent the building from remaining insanitary.*
- (4) *Any person who fails to comply with a notice given under Subsection (1)(c) is committing an offence and is liable to a fine not exceeding \$200,000.*

## **Section 125**

*Requirements for notice given under Section 124—*

- (1) *A notice given under Section 124(1)(c) must—*
  - (a) *be fixed to the building concerned; and*
  - (b) *state whether the owner of the building must obtain a building consent in order to carry out the work required by the notice.*
- (2) *A copy of the notice must be given to—*
  - (a) *the owner of the building; and*
  - (b) *an occupier of the building; and*
  - (c) *every person who has an interest in the land on which the building is situated under a mortgage or other encumbrance registered under the Land Transfer Act 1952; and*
  - (d) *every person claiming an interest in the land that is protected by a caveat lodged and in force under Section 137 of the Land Transfer Act 1952; and*
  - (e) *any statutory authority, if the land or building has been classified; and*
  - (f) *the New Zealand Historic Places Trust, if the building is a heritage building.*
- (3) *However, the notice, if fixed on the building, is not invalid because a copy of it has not been given to any or all of the persons referred to in subsection (2).*

## **Section 126**

*Territorial authority may carry out work*

- (1) *A territorial authority may apply to a District Court for an order authorising the territorial authority to carry out building work if any work required under a notice given by the territorial authority under section 124(1)© is not completed, or not proceeding with reasonable speed, within-*
  - (a) *the time stated in the notice; or*
  - (b) *any further time that the territorial authority may allow.*
- (2) *Before the territorial authority applies to a District Court under subsection (1), the territorial authority must give the owner of the building not less than 10 days' written notice of its intention to do so.*
- (3) *If a territorial authority carries out the building work under the authority of an order made under subsection (1),-*
  - (a) *the owner of the building is liable for the costs of the work; and*
  - (b) *the territorial authority may recover those costs from the owner; and*

- (c) *the amount recoverable by the territorial authority becomes a charge on the land on which the work was carried out.*

### **Section 127**

*Building work includes demolition of a building any work required or authorised to be done under section 1324(1)© or section 126 may include the demolition of all or part of the building.*

### **Section 128**

*Prohibition on using dangerous, earthquake-prone or insanitary building*

- (1) *If a territorial authority has put up a hoarding or fence in relation to a building or attached a notice warning people not to approach a building under section 124(1), no person may-*
  - (a) *use or occupy the building; or*
  - (b) *permit another person to use or occupy the building.*

### **Section 129**

*Measures to avoid immediate danger or to fix insanitary conditions—*

- (1) *This Section applies if, because of the state of a building,—*
  - (a) *immediate danger to the safety of people is likely in terms of Section 121 or Section 122 or Section 123; or*
  - (b) *immediate action is necessary to fix insanitary conditions.*
- (2) *The chief executive of a territorial authority may, by warrant issued under his or her signature, cause any action to be taken that is necessary in his or her judgment to—*
  - (a) *remove that danger; or*
  - (b) *fix those insanitary conditions.*
- (3) *If the territorial authority takes action under sub Section (2),—*
  - (a) *the owner of the building is liable for the costs of the action; and*
  - (b) *the territorial authority may recover those costs from the owner; and*
  - (c) *the amount recoverable by the territorial authority becomes a charge on the land on which the building is situated.*
- (4) *The chief executive of the territorial authority and the territorial authority are not under any liability arising from the issue, in good faith, of a warrant under sub Section (2).*

### **Section 130**

*Territorial authority must apply to District Court for confirmation of warrant*

- (1) *If the chief executive of a territorial authority issues a warrant under section 129(2), the territorial authority, on completion of the action stated in the warrant, must apply to a District Court for confirmation of the warrant.*
- (2) *On hearing the application, the Distinct Court may –*

- (a) *confirm the warrant without modification; or*
    - i the owner does not dispute the entry in to the owner's land; and*
    - ii confirmation of the warrant by a District Court is not required; and*
  - (a) *Confirm the warrant subject to modification; or*
  - (b) *set the warrant aside.*
- (3) *Subsection (1) does not apply if-*
- (a) *the owner of the building concerned notifies the territorial authority that-*
  - (b) *the owner pays the costs referred to in section 129(3)(a).*

### **Section 131**

*Territorial authority must adopt policy on dangerous, earthquake-prone, and insanitary buildings—*

- (1) *A territorial authority must, within 18 months after the commencement of this Section, adopt a policy on dangerous, earthquake-prone, and insanitary buildings within its district.*
- (2) *The policy must state—*
  - (a) *the approach that the territorial authority will take in performing its functions under this Part; and*
  - (b) *the territorial authority's priorities in performing those functions; and*
  - (c) *how the policy will apply to heritage buildings.*

### **Section 132**

*Adoption and review of Policy*

- (1) *A policy under section 131 must be adopted in accordance with the special consultative procedure in section 83 of the Local Government Act 2002.*
- (2) *A policy may be amended or replaced only in accordance with the special consultative procedure, and this section applies to that amendment or replacement.*
- (3) *A territorial authority must, as soon as practicable after adopting or amending a policy, provide a copy of the policy to the chief executive.*
- (4) *A territorial authority must complete a review of the policy within 5 years after the policy is adopted and then at intervals of not more than 5 years.*
- (5) *A policy does not cease to have an effect because it is due for review or being reviewed.*

**Section 177(e)**

*Application for determination—*

A party may apply to the chief executive for a determination in relation to 1 or more of the following matters:

- e) *the exercise by a territorial authority of its powers under Section 124 or Section 129 (which relate to dangerous, earthquake-prone, and insanitary buildings) or the failure to exercise those powers:*