

# **Draft Waste Management and Minimisation Bylaw 2021**

October 2021

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# **1. Authority**

- 1.1 This Bylaw is made pursuant to section 56 of the Waste Minimisation Act 2008, sections 145 and 146 of the Local Government Act 2002, section 64 of the Health Act 1956, and section 12 of the Litter Act 1979.

# **2. Title**

- 2.1 The title of this Bylaw is the [Draft] Western Bay of Plenty District Council Waste Management and Minimisation Bylaw 2021.
- 2.2 This Bylaw applies within the boundaries of the Western Bay of Plenty District.
- 2.3 This Bylaw comes into force on [XXX].

# **3. Revocation**

- 3.1 This Bylaw revokes and replaces the Western Bay of Plenty District Council Waste Management and Minimisation Bylaw 2013.

# **4. Validation**

- 4.1 The Western Bay of Plenty Waste Management and Minimisation Bylaw 2021 was duly made at a meeting of the Western Bay of Plenty District Council on [XXX].

# **5. Savings**

- 5.1 All approvals, permits, and other acts of authority (including any resolutions of the Council) which originated under the Western Bay of Plenty District Council Waste Management and Minimisation Bylaw 2013, and all applications, and other acts of parties and generally all documents, matters, acts, and things which so originated and are continuing at the commencement of this Bylaw, continue for the purposes of this Bylaw to have full force and effect.
- 5.2 The revocation of the Western Bay of Plenty District Council Waste Management and Minimisation Bylaw 2013 does not prevent any legal proceedings, criminal or civil, being taken to enforce that Bylaw and such proceedings continue to be dealt with and completed as if the Bylaw had not been revoked.

## 6. Interpretation

6.1 In this Bylaw, unless the context requires otherwise, the following definitions apply:

<b>Term:</b>	<b>Definition:</b>
Accessway	Has the same meaning as in section 315 of the Local Government Act 1974.
Act (the Act)	Waste Minimisation Act 2008.
Approved	Authorised in writing by the Council.
Approved container	Any container (including bags) that has been approved by the Council for the collection of any type of waste, with approval based on the following criteria: the prevention of nuisance, the protection of the health and safety of waste collectors and the public, and the achievement of effective waste management and minimisation.
Authorised officer	Any officer of the Council or other person authorised by the Council to administer and enforce its Bylaws, and any person appointed especially or generally by the Council to enforce the provisions of this Bylaw.
Building work	As defined in the Building Act 2004 and includes any work for, or in connection with, the construction, alteration, demolition, or removal of a building. It can include sitework and design work relating to the building work.
Cleanfill material	Waste that:  (a) does not undergo any physical, chemical or biological transformation that, when deposited or with the effluxion of time, is likely to have adverse effects on

the environment or human health; and

(b) is not diverted material; and

(c) includes materials such as clay, soil and rock, and other inert materials such as concrete or brick that are free of:

(i) combustible, putrescible, degradable or leachable components;

(ii) hazardous waste;

(iii) products or materials derived from hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices;

(iv) materials that may present a risk to human health or the environment; and

(v) liquid waste; and

(d) has less than two percent by volume by load of tree or vegetable matter.

Cleanfill site	The facility used for the disposal of cleanfill material.
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Commercial Property	Any property used for business, manufacture, process, trade, market or other undertakings.
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Commercial waste	Waste that results from a commercial enterprise and includes waste generated by the carrying on of any business, manufacture, process, trade, market, or other undertakings
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Construction and demolition waste	Waste generated from any building work (including construction, renovation, repair or demolition); and includes but is not limited to concrete, plasterboard, insulation, nails, wood, steel, brick, paper, roofing materials, wool/textiles, cardboard, metals, plastic or glass, as well as any waste originating from site preparation, such as dredging materials, tree stumps,
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asphalt and rubble.

Council or District Council	The Western Bay of Plenty District Council or any person delegated or authorised to act on its behalf.
Council collection points	Places or containers where approved containers may be left for collection or waste may be deposited if collection from a public place is unfeasible or impractical.
Deposit	To cast, place, throw or drop any waste or diverted material.
Dispose or Disposal	As defined in the Waste Minimisation Act 2008
Disposal facility	A facility, including a landfill, at which waste is disposed of and which operates, at least in part, as a business to dispose of waste, but does not include a cleanfill site.
District	The area administered by the Western Bay of Plenty District Council.
Diverted material	As defined in the Waste Minimisation Act 2008.
Domestic waste	Waste consisting of refuse, recyclable material or organic matter (food waste and/or greenwaste) originating from any household or from the cafeteria, lunchroom or canteen of any commercial enterprise.
Donation collection point	Place where approved types of waste may be deposited for the purposes of raising funds from the waste items.
Estimated value	As defined in the Building Act 2004.
Event	Any organised temporary activity of significant scale that is likely to create litter and includes (but is not

limited to) an organised gathering, open-air market, parade, sporting event, protest, festival, film shoot, concert or celebration. An event will be considered significant if it has an expected attendance of 500 or more people across the duration of the event, whether it be a single or multi-day event. Events involve large groups of people either as participants or spectators. For the purpose of this Bylaw 'event' excludes:

- Indoor private functions
- Indoor tasting and sampling activities
- Indoor performances, markets, displays, exhibitions or conferences
- Any regularly occurring recreational activities such as weekly sporting events.
- Open-aired events that are enclosed within a building or structure.

This definition applies only where the activity is not covered by another definition/activity in the District Plan.

Food waste	Waste that is derived from any item of food and is organic in origin and free of contamination and includes fruit and vegetable scraps, meat, fish and bone discards, and any other similar food waste.
Footpath	The same meaning as in section 315 of the Local Government Act 1974.
Green waste	Compostable plant material including lawn clippings, weeds, plants and other soft vegetable matter, which by nature or condition, and being free of any contaminants will degenerate into compost. This does not include flax, bamboo, pampas, flowering gorse, palm trees or cabbage trees.
Handling waste	Removing, collecting, transporting, storing, treating, processing or disposing of waste.

Hazardous waste	Waste that is reasonably likely to be or contain a substance that meets 1 or more of the classification criteria for substances with explosive, flammable, oxidising, toxic, corrosive or ecotoxic properties under the Hazardous Substances (Classification) Notice 2017. Hazardous waste does not include household waste, inorganic material, construction and demolition waste, or commercial or industrial waste.
Home composting	The activity of creating decaying organic matter from domestic green waste and/or food waste into compost.
Household waste	Waste consisting of recyclable material, organic waste or residual waste originating from any residential household but does not include, commercial or industrial waste, prohibited waste, hazardous waste, trade waste, liquid waste, or construction and demolition waste.
Illegal dumping	The disposal of waste in an unauthorised or non-dedicated area.
Inorganic waste	Waste consisting of household equipment, furniture, appliances and material of a similar type that due to its nature or size cannot be collected as domestic waste in an approved container, and that is specified by the Council as suitable for: <ul style="list-style-type: none"> <li>(a) collection from a public place by the Council;</li> <li>(b) collection from any premises by the Council; or</li> <li>(c) delivery to a resource recovery facility</li> </ul>
Licence	A licence, consent, permit or approval to do something under this Bylaw and includes any conditions to which the licence is subject.
Litter	Includes any refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth, or waste matter, or any other thing of a like nature.



Litter container	A container provided for the collection of litter.
Manager	A person who controls or manages any premises, activity, or event, regardless of whether that person has a proprietary interest in those premises or that activity or event. This includes a Body Corporate.
Multi-unit development	A development consisting of two or more separately occupied residential units, whether in the same building or in separate buildings, and held either in common ownership or in separate ownership. This includes a unit title development, a mixed-use premises with business activities, and any development with controlled or restricted access, such as a gated community.
Nuisance	A nuisance in terms of the Health Act 1956.
Occupier	In relation to any property or premises, the inhabitant occupier of that property or premises and, in any case where any building, house, tenement, or premises is unoccupied includes the owner.
Organic matter	Food waste and/or green waste that is specified by the Council under clause 6 of this Bylaw as organic matter
Owner	In relation to any property or premises, the person entitled to receive the rack rent of the property or premises, or who would be so entitled if the property or premises were let to a tenant at a rack rent.
Person	An individual, a corporation sole, a body corporate, and an unincorporated body.
Premises	Any separately occupied land, dwelling, building, or part of the same.

Prohibited waste    Waste containing:

- (a) any material capable of causing injury to any person or animal unless the material is sufficiently contained to prevent injury;
- (b) any material capable of causing damage to the approved container or likely to shatter in the course of collection material unless the material is sufficiently contained to prevent damage to the approved container or to prevent injury;
- (c) any material that may endanger any person, animal or vehicle which may come in to contact with it prior to, during or following collection, transportation or disposal;
- (d) any radioactive wastes, but excluding domestic smoke detectors;
- (e) any used oil and lead-acid batteries;
- (f) any hazardous waste;
- (g) medical waste;
- (h) any material identified by the Council under clause 6 of this Bylaw as posing an unacceptable risk of nuisance to the public or to public health and safety, subject to a control made under clause 9 below.

Public place

As defined in the Litter Act 1979

Recovery

As defined in the Waste Minimisation Act 2008

Recyclable material

The types of waste that are able to be recycled and that may be specified by the Council from time to time under this Bylaw.

Recycling

As defined in the Waste Minimisation Act 2008

Reserve

Any open space, playing field, plantation, park, garden or ground set apart for public recreation or enjoyment which is under the management or control of the

	Council and includes any Facility, structure or building within those reserves.
Road	The same meaning as in section 315 of the Local Government Act 1974.
Rural	Any areas zoned and/or defined in the Western Bay of Plenty District Plan as rural.
Site	For the purposes of this Bylaw means an area of land that is the subject of an application for a building consent or an area of land where a specific development or activity is located or is proposed to be located.
Specified intended life	As defined in the Building Act 2004.
Treatment	As defined in the Waste Minimisation Act 2008.
Waste	As defined in the Waste Minimisation Act 2008.
Waste collector	A person or entity who collects or transports waste and includes commercial and non-commercial collectors and transporters of waste (for example, community groups and not-for-profit organisations); but does not include individuals who collect and transport waste for personal reasons (for example, a person taking household garden waste to a waste management facility).
Waste Container	Container utilised for the collection of waste.
Waste management facility	A facility, authorised by Council, which primarily provides waste management and disposal services or waste remediation and materials recovery services, in relation to solid waste. Includes but is not limited to waste transfer stations, resource recovery stations, recycling

centres, composting facilities, landfills or cleanfill sites, or hazardous waste facilities.

**Waste management facility operator** A person who owns or manages a waste management facility.

**Waste management and minimisation plan** A waste management and minimisation plan adopted by the Council under section 43 of the Waste Minimisation Act 2008.

**Waste operator** A person who is a waste operator or operates a waste management facility.

**Waste remediation and materials recovery services** The remediation and clean up of contaminated buildings and mine sites, mine reclamation activities, removal of hazardous material and abatement of asbestos, lead paint and other toxic material. This also includes recovery, sorting, and/or storage services in relation to waste.

**Waste treatment and disposal services** The treatment or disposal of waste (including hazardous waste), including the operation of landfills, combustors, incinerators, compost dumps and other treatment facilities (except sewage treatment facilities), and waste transfer stations.

## **7. Purpose**

7.1 The purpose of this Bylaw is to support the management and minimisation of waste by:

- (a) The promotion and delivery of effective and efficient waste management and minimisation in the Western Bay of Plenty District as required under the Waste Minimisation Act 2008;
- (b) Supporting the implementation of Council's Waste Management and Minimisation Plan;

- (c) Upholding the purpose of the Waste Minimisation Act and the goals in the New Zealand Waste Strategy;
- (d) The regulation of waste collection, removal, transport, disposal and processing of waste;
- (e) The protection of the health and safety of waste collectors, waste operators and the public; and
- (f) The management of litter and nuisance relating to waste in public places.

## **8. Compliance with Bylaw**

- 8.1 No person may deposit, collect, transport, sort, store, process or dispose of waste other than in accordance with this Bylaw.
- 8.2 To avoid doubt, compliance with this Bylaw does not remove the need to comply with all other applicable Acts, regulations, Bylaws, and rules of law.

## **9. Controls**

- 9.1 The Council may make, amend or revoke controls for the safe and efficient operation of waste collections services from a public place.
- 9.2 The controls made by Council in clause 9.1 may only relate to the following matters:
  - a) The type, size, capacity/volume, weight, number, colour and construction of approved containers that may be used for the disposal, storage and collection of waste and recyclable material;
  - b) The types of household waste that may be treated for all purposes (including deposit, collection, transportation and disposal) as recyclable, organic waste, or other residual waste;
  - c) The types and categories of waste that may be deposited in approved containers;
  - d) The conditions applicable to any collection service from a public place, including the placement and retrieval of approved containers for collection, collection days and times, and restrictions on the number and weight of approved containers;

- e) Requirements to ensure the correct separation of wastes into approved containers, including content control messaging and symbology on an approved container that specifies the permitted and prohibited content;
- f) Maximum allowable limits of a specified waste type that may be deposited, collected or transported from a public place in an approved container;
- g) Maximum allowable limits of a waste type that may be placed in a container that is approved for another type of waste;
- h) Types of waste that are prohibited;
- i) The locations, access times and conditions of use of approved collection points;
- j) Requirements relating to the safe and secure transportation of waste;
- k) Requirements applicable to waste service users and/or to waste handling and collection if traffic or pedestrian safety have the potential to be adversely impacted by the deposit of material in a public place or by waste servicing operations; and
- l) Any other operational matter required for the safe and efficient operation of a waste collection service from a public place.

9.3 Any control made, amended or revoked under clause 9.1:

- a) Must be made by a resolution of Council that is publicly notified; and
- b) May:
  - i. prohibit, restrict, or control any matter or thing generally, for any specific category or case, or in a particular case;
  - ii. apply to all waste or to any specified category of waste; and
  - iii. apply to the District or to a specified part of the District; and/or
  - iv. apply at all times or at any specified time or period of time.

## **10. Collection, transportation, processing, and disposal of waste**

## 10.1 General responsibilities

- 10.1.1 The occupier and/or the manager of a premises must ensure that the domestic waste from the premises is separated into waste types as determined by the Council, and deposited for collection in the correct approved container. No person may deposit material in a container that is not approved for that type of container.
- 10.1.2 The occupier and/or the manager of any premises must ensure that:
- (a) reasonable steps are taken to prevent waste or recycling escaping from any container;
  - (b) waste from the premises has no more than a minimal adverse effect on neighbouring occupiers;
  - (c) any waste container is regularly emptied when it is full;
  - (d) the contents of any waste container, excluding containers for green waste and glass recycling, are protected from rain or ingress or egress of flies and animals; and
  - (e) steps are taken to ensure that no waste is deposited in or about any building or its surrounding area (including kerbside) except in accordance with this Bylaw.
- 10.1.3 The occupier and/or the manager of any premises who is in control of an approved container must ensure that:
- (a) the container is kept in a safe location, hygienic, in good repair, and without any modifications or alterations to its appearance;
  - (b) the contents of any approved container do not seep or escape so as to be injurious or dangerous to health, cause an offensive smell or be a source of litter;
  - (c) if required, waste is deposited in the container in a manner that allows the whole of the contents to fall out easily and cleanly when the container is emptied;
  - (d) the container is placed upright either at an approved collection point, in front of the premises from which the waste originated and as close to the kerbside as possible;
    - i. from time to time, the Council and/or the waste operator may advise the occupier and/or manager of a different collection point to the one in front of their premises due to safety of collection or for ease of access.

- (e) reasonable steps are taken to prevent the container disrupting or obstructing pedestrian and vehicular traffic and to preserve access to the premises; and
- (f) the container is placed for the collection of waste and retrieved in accordance with any applicable control specified by the Council.

10.1.4 No person may:

- (a) put waste into an approved container provided to any other person, without that other person's consent;
- (b) remove waste from, or interfere with any waste deposited in an approved container, except the Council, a licensed waste collector or the person who deposited the waste;
- (c) remove or interfere with any mode of identification of any approved container;
- (d) remove a container provided by the Council from the premises to which it has been allocated, except with the prior written approval of the Council.

10.1.5 The occupier and/or the manager of any premises is responsible for any waste generated on the premises until it has been collected.

10.1.6 The occupier and/or the manager of any premises is responsible for any waste not collected because of non-compliance with this Bylaw. Any waste or recyclables shall be returned to the occupier's premises by noon on the day following collection day and alternative arrangements for disposal shall be made by the occupier and/or manager as soon as practicable.

10.1.7 The occupier and/or the manager is responsible for approved containers. If the occupier and/or manager's waste collection service is withdrawn or suspended then the waste container provided for the purposes of kerbside waste collection will remain the property of the kerbside waste operator. The waste containers must remain with the property unless Council and/or the waste operator advises otherwise. Council reserves the right to charge to replace any containers that are lost, stolen or damaged.

## 10.2 Licensing waste collection and waste management facility operators



- 10.2.1 The following waste operators must have a waste operator licence issued by the Council and must not collect waste if they do not hold such a licence:
- a) Any waste collector who collects and/or transports waste from land in the District:
    - i. in a quantity of at least 30 tonnes of waste in any one twelve month period in, around or out of the Western Bay of Plenty District; and/or
    - ii. waste management facility operator with a facility in the District of Western Bay of Plenty that handles more than 30 tonnes of waste in any one twelve month period.
- 10.2.2. An application for a waste operator licence must be made on the application form which is available from the Council, and must be accompanied by any application fee and the information required by the Council to process the application.
- 10.2.3. The holder of an existing licence may apply to the Council for a renewal of that licence. A licence is personal to the holder and is not transferable.
- 10.2.4. A licence may be granted or refused at the discretion of the Council, and if granted may be on such terms and conditions as the Council deems appropriate.
- 10.2.5. When considering a licence application, the Council may take into account matters including but not limited to:
- (a) The extent to which the licenced activities will promote public health and safety, and support achievement of the Council's waste management and minimisation plan, including goals and initiatives within that plan;
  - (b) The quantity and type of waste to be handled;
  - (c) The methods employed for the handling of the waste;
  - (d) The frequency and location of the waste collection, removal and transportation services;
  - (e) The specifications of the vehicles, equipment, and containers to be used for the handling of waste;

- (f) The applicant's experience, reputation, and track record in the waste and diverted material industry, including any known past operational issues which may affect the applicant's performance, and any breaches of previous licence conditions; and
- (g) The terms and conditions under which any disposal of waste is permitted and the existence of, or need for, any statutory approvals, authorisations, or consents required to be held or complied with in respect of such disposal.

10.2.6. A licenced waste operator must comply with all terms and conditions of the licence. These conditions may include, but are not limited to, the following matters:

- (a) Term – a licence may be granted for a term of up to 5 years;
- (b) Licence fee – the licensee must pay an annual licence fee in an amount determined by the Council's annual fees and charges;
- (c) Bond – the Council may, on a case by case basis, require a licence holder to post a bank-guaranteed bond;
- (d) Compliance with standards – the licence holder must comply with any standards or policies the Council has set for waste handling including but not limited to:
  - i. Provision of waste collection services within reasonable times specified by Council;
  - ii. Provision of appropriate approved containers for waste collection which clearly identify the waste collector's name and contact details;
  - iii. The collection of any litter within a specified distance of an approved container awaiting collection and any litter spillage from the licence holder's vehicle during the collection, transportation or disposal process; and
- (e) Provision of information – the licence holder must provide data relating to waste they have handled to the Council during the term of their licence, in the form and at the times determined by the Council, which may include:
  - i. The quantities of various waste categories that have been handled by the waste operator during a period of time;
  - ii. Weighbridge receipts;
  - iii. Gate records of waste tonnage.

- 10.2.7. The Council will take all reasonable steps to keep commercially sensitive information confidential, for example by aggregating such information for reporting purposes.
- 10.2.8. The Council may suspend or revoke a licence if the licence holder fails to comply with this Bylaw, any of the terms or obligations of the licence, any relevant controls made under this Bylaw, or acts in a manner which the Council considers, on reasonable grounds and in light of the purpose of this Bylaw, is not suitable for the holder of a waste operator licence.

### **10.3 General controls on the collection, transportation, and disposal of waste**

#### **10.3.1 Collections from a public place**

- 10.3.1.1. Any person providing or using a waste collection service in or from a public place must comply with this Bylaw.
- 10.3.1.2. Waste collection with a collection service may not be placed on a public place for collection unless it is:
- (a) domestic waste;
  - (b) green waste; or
  - (c) any other type of waste determined by the Council as able to be placed on a public place for collection.
- 10.3.1.3. Prohibited waste, diverted material, construction and demolition waste or commercial waste may not be placed in a public place for collection unless authorised by the Council under this Bylaw.
- 10.3.1.4. Any waste operator who collects or transports waste from a public place must ensure waste containers provided clearly differentiate the waste operators' containers from the containers of other operators.
- 10.3.1.5. Any waste operator who collects or transports waste from a public place must:
- (a) make available to the occupier and/or manager of a premises one or more approved containers to enable separate collection of each of the waste types required to be separately collected from the premises;
  - (b) not collect any prohibited or domestic waste that is prohibited from being collected. This includes:

- i. Any explosives, hot ashes, flammable material or other dangerous objects;
  - ii. Any liquid, whether in a container or otherwise, or any viscous fluid included used oil;
  - iii. Any radioactive waste, but excluding domestic smoke detectors;
  - iv. Any lead-acid batteries (car/boat/truck batteries);
  - v. Any compressed gas cylinders, excluding aerosol cans;
  - vi. Any hazardous or toxic waste;
  - vii. Any hazardous or Controlled Healthcare Waste as defined in NZS 4304:2002.
- (c) not collect any waste container that exceeds the maximum allowable weight limits specified by the Council;
  - (d) following collection, ensure that any container is placed so that it does not disrupt or obstruct pedestrian, wheelchair or vehicular traffic, and so that access to the premises is preserved.

10.3.1.6. The Council may specify controls for the following matters in relation to the collection or transportation of waste from a public place:

- (a) the area to which the control applies;
- (b) the type, size, colour, and construction of approved containers that may be used for the storage and collection of waste;
- (c) the types of waste that may be collected in various types of approved container;
- (d) the categories of wastes that may be deposited at or collected from a public place;
- (e) the placement and retrieval of approved containers for collection, collection days and times, and restrictions on the number and weight of approved containers;
- (f) requirements to ensure the correct separation of categories of wastes into approved containers;
- (g) the locations, access times and conditions of use of Council waste collection points;
- (h) any other operational matter required for the safe and efficient operation of a collection service from a public place.

10.3.1.7. Any person providing or using a waste collection service in or from a public place must comply with all controls made by the Council relating to that collection.

### **10.3.2 General Controls**

10.3.2.1. The Council may specify controls for the following matters in relation to the collection, transportation or disposal of waste from any property:

- (a) Types of domestic waste that may be treated for all purposes (including deposit, collection, transportation, and disposal) as recyclable material, organic matter, or refuse;
- (b) maximum allowable limits of a specified waste type that may be collected or transported from a public place in an approved container for refuse and that subsequently may be disposed of;
- (c) maximum allowable limits of a waste type that may be placed in an container approved for another waste type;
- (d) types of waste that may be handled at any class 1 – 4 landfill and material that may be used as cover material at any such site;
- (e) materials that may be used as natural or other hardfill material at a clean fill site;
- (f) types of waste that are prohibited.

### **10.3.3 Council collection points**

10.3.3.1. No person may deposit waste at a Council collection point other than in accordance with any applicable Council control.

10.3.3.2. The Council may specify:

- (a) any place, or container in a public place or on a barge in a marine area, as a Council collection point for the collection of domestic waste; and
- (b) controls relating to the deposit of waste at the Council collection point including the use of specified containers.

### **10.3.4 Multi-unit developments**

10.3.4.1. The owner and/or manager of a multi-unit development must make adequate provision for the management of all waste and recycling generated within the premises. This includes arrangements for the regular collection of waste to the satisfaction of Council.

10.3.4.2. For any multi-unit development for which building consent is granted must be accompanied by a development waste management and minimisation plan supplied by the owner and/or manager to the satisfaction of Council, which must include:

- (a) identification of an adequate area on the premises for the storage of containers that is readily accessible to the occupiers of units and to a licensed waste operator to enable separate collection and transportation of refuse, recyclable material and/or organic matter;
- (b) the methods to be used to minimise noise and odour and to keep the area hygienic, free from vermin or other infestations and protected from theft and vandalism;
- (c) identification of the means and route of access and egress to the waste storage area;
- (d) an estimate of the volumes of refuse, recyclable material and organic matter that will be generated; and
- (e) any relevant further steps taken to achieve the objective of waste minimisation.

10.3.4.3. Any person who owns, occupies or manages a multi-unit development must comply with the approved development waste management and minimisation plan for that development.

10.3.4.4. The Council may, on application, grant a written exemption from compliance if:

- (a) in the opinion of the Council, the costs of full compliance would be disproportionate to any resulting waste management and minimisation benefits; or
- (b) the manager or owner demonstrates to the satisfaction of the council that refuse, recyclable material and organic waste are separately and regularly collected.

10.3.4.5. The Council may specify controls for the following matters in relation to the collection or transportation of waste from multi-unit developments:

- (a) the categories of recyclable material, organic matter and refuse that may be deposited at or collected from a multi-unit development;
- (b) the times, locations and conditions applicable to any collection service from a multi-unit development, including the placement and retrieval of containers for collection, collection times and restrictions on the number and weight of approved containers;
- (c) requirements to ensure the correct separation of refuse, organic matter and recyclable materials into containers; and/or

- (d) any other operational matter required for the safe and efficient operation of a collection service from a multi-unit development.

10.3.4.6. Any person who manages a multi-unit development or owns or occupies a unit in a multi-unit development must comply with any controls for the deposit, collection, transportation and management of waste in the multi-unit development made by the Council.

### **10.3.5 Events**

10.3.5.1. Any organiser of an event must obtain prior approval from the Council for an Event Waste Management and Minimisation Plan for the event.

10.3.5.2. The Event Waste Management and Minimisation Plan must set out:

- (a) an estimate of the types and amounts of waste to be generated by the event;
- (b) how waste generated by the event is to be minimised;
- (c) the steps to maximise the collection and use of recyclables and reusable material;
- (d) the equipment to be provided for the storage, collection and transportation of waste and diverted material;
- (e) the person responsible for the collection and disposal of waste and the methods to be used;
- (f) the requirement to provide a waste analysis following the conclusion of the event;
- (g) the timing and frequency of the collection of waste, during or after the event; and
- (h) any other matters relating to event waste management and minimisation that may be specified by the Council.

10.3.5.3. The organiser of an event must comply with the approved event waste management and minimisation plan approved by Council for the event.

10.3.5.4. On completion of the event, the organiser must provide the Council with a report on the implementation of the Event Waste Management and Minimisation Plan, including:

- (a) a waste analysis which sets out the predicted and actual types and amounts of waste generated by the event; and
- (b) which waste management facility was used to recover, recycle, treat or dispose of this waste.

### 10.3.6 Construction site and demolition waste

10.3.6.1. Council may make a control under this Bylaw to require any person that is applying for a building consent for building work exceeding a set estimated value to submit a site waste management plan to the Council for approval as part of the building consent application process and prior to the commencement of any building work.

10.3.6.2. All site waste management plans must set out:

- (a) The name of the client, principal contractor, and person who prepared the site waste management plan;
- (b) The location of the site;
- (c) The estimated total cost of the building work;
- (d) A description of each type of waste expected to be produced;
- (e) An estimate of the quantity of each type of waste; and
- (f) The proposed method of waste management for each type of waste (e.g. recovery, recycling, disposal).

10.3.6.3. While the building work is being carried out, the principal contractor will:

- (a) Ensure that:
  - i. Reasonable steps are taken to prevent waste escaping from any waste container;
  - ii. Waste does not go onto the property of neighbouring occupiers;
  - iii. Waste from the site has no more than a minimal adverse effect on neighbouring occupiers;
  - iv. Any waste container is regularly emptied when it is full.
- (b) Review the site waste management plan as necessary;
- (c) Record quantities and types of waste produced; and
- (d) Record the types and quantities of waste that have been:
  - i. Reused (on or off site)
  - ii. Recycled (on or off site)
  - iii. Sent to other forms of recovery (on or off site)
  - iv. Sent to landfill
  - v. Otherwise disposed of.



10.3.6.4. Within 90 days of completion of the building work, the principal contractor must add to the site waste management plan:

- (a) Confirmation that the plan has been monitored and updated;
- (a) A comparison of estimated quantities of each type of waste generated against the actual quantities of each waste type;
- (b) An explanation of any deviation from the plan;
- (c) Forward a waste data diversion report to Council.

10.3.6.5. Where a site waste management plan is required, the principal contractor must ensure that a copy of the site waste management plan is kept on site, and that every contractor knows where it can be found. It must be available to any contractor carrying out any work described in the plan.

### **10.3.7 Inorganic waste**

10.3.7.1. The Council may specify controls for the following matters in relation to the collection of inorganic waste from a public place:

- (a) the weight, size and nature of inorganic materials that may be deposited for collection;
- (b) the categories of inorganic waste that may be deposited for collection;
- (c) the times, locations and conditions applicable to the collection of inorganic waste from a public place;
- (d) the methods by which the inorganic waste may be collected; and
- (e) any other operational matters required for the safe and efficient collection of inorganic material from a public place.

10.3.7.2. Any person who deposits inorganic waste for collection on, or collects or transport inorganic waste from, a public place must comply with the controls made by the Council under this Bylaw.

10.3.7.3. No member of the public may place inorganic waste for collection in a public place or kerbside without written prior approval from Council.

### **10.3.8 Nuisance and litter**

10.3.8.1. No person may:

- (a) allow any accumulation of waste or diverted material on any premises they own, occupy or manage to become offensive, a nuisance or likely to be injurious to health;

- (b) use an approved container in a manner that creates a nuisance, is offensive or is likely to be injurious to health.

10.3.8.2. Except as provided for under this Bylaw, no person may:

- (a) burn or allow to be burnt on any property they own, occupy or manage any waste except in accordance with any Bay of Plenty Regional Council Plan or Fire and Emergency New Zealand requirements;
- (b) bury or allow to be buried any waste on any property they own, occupy or manage any waste except:
  - i. organic waste, including dead farm animals in rural areas;
  - ii. dead companion animals and nuisance pests; or
  - iii. for the purposes of home composting.
- (c) dispose of any waste on any premises except at:
  - i. a class 1-4 landfill, or
  - ii. any premises they own, occupy or manage, for the purposes of home composting.

10.3.8.3. No person may:

- (a) deposit any waste arising from that person's household or that person's business activities in any litter container provided by the Council in any public place;
- (b) remove any waste from any litter container provided by the Council in any public place, where this results in any waste being deposited outside the container, unless authorised by the Council to do so;
- (c) deposit or attempt to deposit any litter in any container provided by the Council in any public place if:
  - i. the container is full; or
  - ii. the litter is likely to escape.
- (d) fix or attach any flag, banner, bunting, balloon, sign, poster, leaflet or similar thing to any litter container provided by the Council in any public place; or
- (e) damage any litter container provided by the Council in any public place.

10.3.8.4. The owner, occupier or manager of any premises on which any flag, banner, bunting, balloon, sign, poster, leaflet or similar device is displayed that is likely to become litter, must take all steps to the

satisfaction of the Council to prevent it becoming litter and to clean it up in the event that it does become litter.

### **10.3.9 Donation collection points**

10.3.9.1. Anyone intending to establish a donation collection point in or on a public place must notify the Council in advance and must operate the donation collection point in compliance with any requirements the Council specifies including but not limited to:

- (a) Location;
- (b) vehicle access;
- (c) type of waste which may be deposited; and
- (d) use of approved containers.
- (e) removal of deposited waste from the collection point;
- (f) clean up of any litter or illegal dumping; and
- (g) clean up or removal of any graffiti.

## **10.4 Recycling and green waste facilities**

10.4.1 Council may, by resolution, specify the type of materials acceptable for deposit at any Recycling and Green Waste Facilities and no person may deposit any material other than that specified at any Recycling or Green Waste Facility.

10.4.2. No person may use a Recycling or Green Waste Facility or enter upon any portion of it except for the purpose of depositing and leaving waste, recyclable materials or things as specified by the Council in accordance with Clause 6 and such depositing and leaving constitutes "using" for the purpose of this Bylaw.

10.4.3. All waste and recyclable materials or things deposited and left at any Recycling or Green Waste Facility by any person are deemed then and there to have been abandoned by that person who from that time onwards has no rights of ownership but such abandonment does not relieve that person from liability for damage flowing in any way from such action nor from the penalties provided for Offences against this Bylaw.

10.4.4. No person may move or remove any item, material or waste found in the Recycling and Green Waste Facilities without the permission of an Authorised Officer of the Council.

- 10.4.5. Every person using the Recycling and Green Waste Facilities or entering any portion of it must comply in all respects with any direction or instructions given verbally by any Authorised Officer, or appearing in any signs erected at the area for that purpose, and any such direction or instructions may include a requirement for the person depositing material to sort the same into separate classes (for example but not to be taken as exclusive: glass, ferrous metal, non ferrous metal), to facilitate reuse, recycling and recovery of materials.
- 10.4.6. Persons using any Recycling and Green Waste Facilities must pay such amounts as set through Council's annual Schedule of Fees and Charges.
- 10.4.7. Council may from time to time by resolution prescribe the period or periods during which the Recycling and Green Waste Facilities will be open for use by the public and no person may use the Recycling and Green Waste Facilities during any other hours.
- 10.4.8. Every person committing any breach of the provisions of this Bylaw:
- (a) must on request by an Authorised Officer of the Council immediately leave any Recycling or Green Waste Facility taking with them the material which they brought there and as the Authorised Officer considers to be of a kind which is prohibited under this Bylaw; and
  - (a) is also liable to be prosecuted for that breach; and any person failing with all reasonable speed to comply with such request commits a further Offence.
- 10.4.9. No person may in any Recycling and Green Waste Facilities:
- (a) Light any fire; or
  - (b) Cause any fire to be lit; or
  - (c) Spread or increase any fire already alight; or
  - (d) Deposit any combustible material within 12 metres of any apparent fire; or
  - (e) Deposit any prohibited or hazardous waste; or
  - (f) Deposit any Household Hazardous Waste unless authorised to do so by the operator of that facility.

## **11. General offences and penalties**

- 11.1. Any person who fails to comply with this Bylaw and the decisions and controls made under this Bylaw commits an offence under section 239 of the Local Government Act 2002 and is liable to a fine as specified in section 242(4) of the Local Government Act 2002.
- 11.2. A person who commits a breach of this Bylaw that is an offence under the Litter Act 1979, the Waste Minimisation Act 2008 or the Health Act 1956 is liable to a penalty under those Acts, as relevant.

## **12. Other enforcement powers**

12.0.1. Where a licence holder does not comply with the terms and conditions of a waste operator licence, the Council may take one or more of the following steps:

- (a) Issue a written warning to the licence holder, which may be treated as evidence of a prior breach of a licence condition during any subsequent review of the licence;
- (b) Review the licence, which may result in:
  - i. amendment of the licence; or
  - ii. suspension of the licence; or
  - iii. withdrawal of the licence.
- (c) Have recourse to any bond where the Council has incurred any cost as a result of the breach of the licence condition, including where the Council has itself performed or arranged for the performance of any licensed activity on the default of the licence holder;
- (d) Review the amount and nature of the bond, which may result in:
  - i. an increase of the amount of the performance bond or security;
  - ii. a change to the nature of the security that has been provided.
- (e) Enforce any offence that may have been committed under the Litter Act 1979; and
- (f) Enforce any breach of this Bylaw, as provided for in the Health Act 1956, the Local Government Act 2002 and the Waste Minimisation Act 2008.

12.0.2. Where a person does not comply with the requirements of this Bylaw and/or any controls made under the Bylaw in relation to the waste and diverted materials collection service that applies to them, the Council (or licensed waste operator where applicable) may take the following action(s) against the person:

- (a) Reject (i.e. not collect) the contents of any approved container left out by that person for collection from a public place, if the contents or placement of the container is non-compliant;
- (b) Remove the non-compliant contents in a container with the owner/occupier subject to payment of the costs of removal, administrative costs and an additional penalty specified by Council. If payment is not made within the specified period, the service may be withdrawn or suspended as below.
- (c) Withdraw or suspend the collection service provided to that owner/occupier. The suspension can be for a set period of time or indefinite, depending on the severity, at the discretion of Council (or licensed waste operator where applicable). The set targeted rate will continue to apply throughout the withdrawn or suspended collection service period.

12.0.3. Where a person does not comply with a controls made by the Council under the title collections from a public place the Council may:

- (a) Suspend that person's use of any service provided by the Council at any or every waste collection service;
- (b) Enforce any offence that may have been committed under the Litter Act 1979;
- (c) Enforce any breach of this Bylaw, as provided for in the Health Act 1956, the Local Government Act 2002 and the Waste Minimisation Act 2008.

## **12.1 Site waste management plans**

12.1.1. Where a person does not comply with any of the requirements under this Bylaw and/or any controls made under the Bylaw, the Council may take one or more of the following steps:

- (a) Enforce any offence that may have been committed under the Litter Act 1979; and
- (b) Enforce breach of this Bylaw, as provided for in the Health Act 1956, the Local Government Act 2002 and the Waste Minimisation Act 2008.

## **12.2 Inorganic material**

12.2.1. Where a person does not comply with a control made by the Council, the Council (or a licensed waste operator where applicable) may:

- (a) Reject (i.e. not collect) the inorganic material, if the inorganic material or placement is non-compliant;
- (b) Remove the inorganic material, where the inorganic material or placement is non-compliant, subject to payment of the costs of removal, administrative costs and an additional penalty specified by the Council;
- (c) Enforce any offence that may have been committed under the Litter Act 1979; and/or
- (d) Enforce any breach of this Bylaw, as provided for in the Health Act 1956, the Local Government Act 2002 and the Waste Minimisation Act 2008.

### **13. Exceptions and saving provisions**

- 13.1. A person is not in breach of this Bylaw if that person proves that the act or omission was in compliance with the directions of an Authorised Officer.
- 13.2. A product stewardship scheme accredited under the Act may be exempted from the requirements of this Bylaw.

### **14. Fees and charges**

- 14.1. Pursuant to section 150 of the Local Government Act 2002, Council may charge fees in relation to licences or Waste Management Plans, including fees to process an application or carry out inspections as part of any waste collection or facility operator licence; or Waste Management Plan.
- 14.2. The Council may recover costs associated with enforcement of this Bylaw in accordance with the Local Government Act 2002 or other legislation