



*Western Bay of Plenty  
District Council*

# **Waste Management and Minimisation Bylaw 2013**

## **Explanatory Note**

The purpose of this Bylaw is:

- (a) To promote waste minimisation and management objectives and to support the implementation of the Joint (Tauranga City Council and Western Bay of Plenty District Council) Waste Management and Minimisation Plan 2010, particularly where Western Bay of Plenty District Council does not have direct control of the waste stream;
- (b) To promote safe kerbside collection of waste, including recyclables, so that it does not accumulate and become offensive

This Bylaw is made pursuant to section 56 of the Waste Minimisation Act 2008 and sections 145 and 146 of the Local Government Act 2002.



# Western Bay of Plenty District Council

## Waste Management and Minimisation Bylaw 2013

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## Title

This Bylaw is the Waste Management and Minimisation Bylaw 2013 for the Western Bay of Plenty District Council and shall come into force on \_\_\_\_\_ 2013

## Bylaw Structure

This Bylaw comprises this document and attached schedules.

## Revocation

At the coming into force of this Bylaw, the Western Bay of Plenty District Council General Bylaw 2008 Chapter 6 is revoked.

## Scope

This bylaw shall apply to the whole of the district administered by Western Bay of Plenty District Council, and other locations that are controlled by Western Bay of Plenty District Council, now and in the future.

## Validation

The Western Bay of Plenty District Council Waste Management and Minimisation Bylaw 2013 was duly made at a meeting of the Western Bay of Plenty District Council held after completion of the Special Consultative Procedure and will come into force on \_\_\_\_\_ 2013

The Common Seal of the Western Bay of Plenty District Council was affixed pursuant to a resolution of Council at the adoption meeting in the presence of:

\_\_\_\_\_  
**Chief Executive Officer**

**Seal**

Date \_\_\_\_\_

# Western Bay of Plenty District Council

## Waste Management and Minimisation Bylaw 2013

### 1. Introduction

#### 1.1 Interpretation

- i. This Bylaw applies to the whole of the Western Bay of Plenty district unless expressly provided otherwise.
- ii. The term "includes" or "including" (or any similar expression) is deemed to be followed by the words "without limitation".
- iii. References to the singular include the plural and vice versa.
- iv. References to any legislative provision include any legislative provision which amends or replaces it.

References to any plan, policy, or guidelines include any amendment or replacement to it.

#### 1.2 Definitions

**Accessway** - has the same meaning as in section 315 of the Local Government Act 1974.

**Approved container** - means a container, bin or bag of a type approved by the Council for the purpose.

**Authorised Officer** – means an officer or other person appointed by the Council to perform duties required under this bylaw, irrespective of the designation given to that officer or person and includes any Police Officer.

**Business** - means any undertaking involving waste that is carried out for gain or reward.

**Bylaw** – means a bylaw of the Local Authority for the time being in force, made under the provisions of any Act or authority enabling the Local Authority to make Bylaws.

**Cleanfill** – means a facility at which only cleanfill material is accepted.

**Cleanfill material** - means material that when buried will have no adverse effect on people or the environment. Cleanfill material includes virgin natural materials such as clay, soil and rock, and other inert materials such as concrete or brick that are free of:

- (a) Combustible, putrescible, degradable or leachable components;
- (b) Hazardous substances;
- (c) Products or materials derived from hazardous waste treatment, hazardous
- (d) Waste stabilisation or hazardous waste disposal practices;
- (e) Materials that may present a risk to human or animal health such as
- (f) Medical and veterinary waste, asbestos or radioactive substances;
- (g) Liquid waste.

**Commercial Property** – means any property used for business, manufacture, process, trade, market or other undertakings.

**Council or District Council** - means the Western Bay of Plenty District Council or a duly Authorised Officer of the Council.

**District** – means the area administered by the Western Bay of Plenty District Council

**Disposal facility** - means 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.

**Diverted material** - means anything that is no longer required for its original purpose and, but for commercial or other waste minimisation activities, would be disposed of or discarded.

**Footpath** - has the same meaning as in section 315 of the Local Government Act 1974.

**Green Waste** – means vegetative organic matter that is free of other waste and does not include flax, bamboo, pampas, flowering gorse, palm trees or cabbage trees.

**Green Waste Facility** – means a facility at which only green waste material is accepted.

**Household Hazardous Waste** – means waste arising from or resulting from domestic house keeping operations that is potentially flammable, corrosive, chemically reactive, toxic, ecotoxic or radioactive.

**Household Waste** – means wrapped cold ashes, sweepings, dust, paper, bottles,, wrapped bone and waste food, cans, cartons, other food containers, disposable nappies, or any other waste arising or resulting from domestic house-keeping operations.

**Licensed kerbside collector** - means any person granted a licence to collect and transport waste (including recyclables) from a road under this Bylaw or the Waste Bylaw 2008.

**Multi unit Property** – means a property comprising two or more separately occupied residential units or businesses, whether in the same building or in separate buildings, and held either in common ownership or separate ownership

**Occupier** - in relation to any land or premises, means any lessee, licensee, or other occupant of the land or premises, and includes the owner where there is no apparent occupier of the land or premises.

**Offence** – includes any act or omission in relation to the this Bylaw for which any Person can be punished either on indictment or by summary process.

**Person** - includes an individual, a corporation sole and a body of persons (whether corporate or un-incorporate).

**Public Place** – includes every Road, Street, public highway, footpath, Footway, court, alley, lane, accessway, and thoroughfare of a public nature or open to or used by the public as of right; and every place of public resort or place to which the public have access, so open or used; and every reserve, park, domain, beach, foreshore and recreational ground under the control of Council, whether admission is free or on payment of a charge.

**Recyclable** - means waste of any type that the Council may specify and publicly notify from time to time, that is able to be recycled.

**Recycling** - means the reprocessing of waste or diverted material to produce new materials, and recycled has a corresponding meaning.

**Reserve** – means 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** - has the same meaning as in section 315 of the Local Government Act 1974.

**Treatment** -

- (a) means subjecting waste to any physical, biological, or chemical process to change its volume or character so that it may be disposed of with no or reduced adverse effect on the environment; but
- (b) does not include dilution of waste.

**Vehicle** – has the same meaning as in the Land Transport Act 1998.

**Waste** -

- (a) means anything disposed of or discarded; and
- (b) includes a type of waste that is defined by its composition or source (for example, organic waste, electronic waste, or construction and demolition waste); and
- (c) To avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded.

## 2. Cleanfills

- 2.1 No person shall deposit at a Cleanfill any material other than Cleanfill Material.
- 2.2 No operator of a Cleanfill shall accept for deposit any material other than Cleanfill Material.
- 2.3 Clauses 2.1 and 2.2 do not apply to a Cleanfill that:
  - (a) Is lawfully established under a resource consent in force on 1 July 2012; and
  - (b) Under the terms of that resource consent, is permitted to accept material other than Cleanfill Material.
- 2.4. The operator of a Cleanfill shall place at the entrance to the Cleanfill a notice describing both the materials that will be accepted and the materials that will not be accepted.



### **3. Waste Management for Events**

- 3.1 The organiser of a public or private event held in or on a Public Place must at the time of making application to Council for consent to use that Public Place provide, to the satisfaction of Council, a waste management plan produced for the special event.
- 3.2 The waste management plan must identify:
- (a) An estimate of the types and volumes of waste to be generated by the event; and
  - (b) Any opportunities for waste minimisation; and
  - (c) The steps to be taken to maximize the use and collection of recyclable and reusable materials; and
  - (d) The method of collection and disposal of waste and recyclable materials generated by the event; and
  - (e) The person responsible for implementing the waste management plan.

### **4. Kerbside Collection**

#### **4.1 Obligations on occupiers and other users of kerbside collection services**

- 4.1.1 No Occupier or other Person may put waste (including recyclables) out for collection from the road unless:
- (a) The waste is contained in an approved container; and
  - (b) The waste is household waste (including recyclables); and
  - (c) The approved container is placed in an approved place on the day for collection; and
  - (d) The Approved Container is not overfilled and is shut to prevent spillage or scattering of any waste;
  - (e) The Occupier or other Person has a contractual arrangement for the collection of the waste, or reasonable expectation that a licensed kerbside collector will collect the waste; and
  - (f) The Occupier or other Person complies with any other condition relating to the collection of kerbside waste that the Council may, by resolution, determine from time to time, including any condition regarding.
    - Separation of recyclables from other waste;
    - Use of Approved Containers for particular types of waste such as recyclables;
    - Approved Containers must be put out for collection only on the allocated collection day, and no later than 7.30am on that day unless otherwise directed from time to time by Council;





- Waste which is not collected on the day for collection must be removed from the kerbside by 6pm by the Occupier of the property from which the waste was generated;
- Waste which is not collected on the day for collection and still remains on the kerbside after 8.30am on the following day may be removed by or on behalf of Council, and the Occupier of the property from which the waste was generated is liable for the costs of disposal of that uncollected waste;
- Reusable approved containers, whether full or empty, must be removed from the kerbside by 6pm of the day for collection by the Occupier of the property from which the reusable approved container came;
- Permitted weight of loaded approved containers.

4.1.2 No Occupier or other Person shall place any approved container, whether full or empty, on a footpath, carriage-way, cycleway or pedestrian-way or other location which would endanger public safety or restrict visibility for road users to such an extent as to affect road safety.

4.1.3 No Occupier or other Person shall put out or allow to be put out for collection whether or not in an approved container:

- (a) Any explosive, hot ashes, highly flammable material;
- (b) Any liquid and/or other fluid;
- (c) Any sharp material and/or thing unless such material or thing is wrapped so as to prevent injury to any person engaged in collection work;
- (d) Any machinery, metal or other materials that could damage collection or disposal equipment, or the approved container;
- (e) Any sharp healthcare waste.

4.1.4 No Person shall remove or interfere with any waste (including recyclables) in an approved container that is awaiting collection other than:

- (a) The council or any Person authorised by the Council; or
- (b) The Licensed Kerbside Collector; or
- (c) The Occupier of the property from which the waste has come.

## **4.2 Multi Unit and Commercial Property**

4.2.1 Every owner of any Multi Unit or Commercial Property for which building consent is granted after 1 July 2008 must make adequate provision for Household Waste within the property to the satisfaction of the Council. Any Multi Unit or Commercial Property

for which building consent is granted after 1 July 2008 must be accompanied by a Waste Management Plan which identifies:

- (a) An adequate area for the storage of Approved Containers which is accessible to Occupiers and Licensed Kerbside Collectors;
- (b) The methods to be employed to minimize noise and odour and to keep the area hygienic, free from vermin or other infestations and protected from theft and vandalism.

### **4.3 Kerbside Collectors to be licensed**

4.3.1 No person shall, without a licence from Council, carry on any business that involves the collection of waste (including recyclables) from a road.

### **4.4 Obligations on Licensed Kerbside Collectors**

4.4.1 A Licensed Kerbside Collector shall inform its customers of what materials can and cannot be put out for collection as waste (including recyclables).

4.4.2 Except in the case of litter resulting from the failure of an occupier or other Person to comply with clauses 4.1.1 to 4.1.3 of this Bylaw, a Licensed Kerbside Collector must ensure that all waste (including recyclables) put out for collection is collected and that no consequent litter remains once the relevant waste collection has been completed.

4.4.3 Where a person fails to comply with any of clauses 4.1.1 to 4.1.3, a Licensed Kerbside Collector has the following options:

- (a) Empty the Approved Container and remove all items including noncompliant items; or
- (b) Refuse to empty the Approved Container giving reasons to the customer; or
- (c) Remove compliant items and return non-compliant items to the empty Approved Container.



## **5. Collectors of waste from private property to be licensed**

- 5.1 No Person shall, without a licence from Council, carry on any business that involves the collection, in any one year period, of more than 100 tonnes of waste from private land.

## **6. Licences**

### **6.1 Application for licence**

- 6.1.1 Any application for a licence under this Bylaw must be made in the form the Council may prescribe from time to time, and be accompanied by any application fee and supporting information the Council may require to enable processing of the application.
- 6.1.2 No application for a licence under this Bylaw, and no payment or receipt of any application fee, confers any right, authority or immunity on the applicant.
- 6.1.3 The Council may in its discretion:
- (a) Grant or renew a licence (in whole or in part); or
  - (b) Refuse to grant or renew a licence.
- 6.1.4 Where the Council refuses to grant or renew a licence, or only partially grants or renews a licence, it will provide the applicant with reasons for its decision.

### **6.2 Consideration of application for licence to collect waste from private land**

- 6.2.1 If an application to grant or renew a licence to collect waste from private land complies with clause 6.1.1, the Council must grant the application.

### **6.3 Conditions of licence to collect waste from private land**

- 6.3.1 The conditions upon which the Council may grant or renew a licence to collect waste from private land are limited to:
- (a) The term of the licence;
  - (b) The payment of a licence fee in the amount determined by the Council from time to time and publicly notified;
  - (c) The provision to the Council, by 28 February in each year, of a report specifying the quantity, composition and destination of waste collected and transported by the licensee over the previous calendar year.

## **6.4 Consideration of application for licence for kerbside waste collection**

6.4.1 In considering whether to grant or renew a licence to carry on a business that involves the collection of Waste (including recyclables) from a road, the Council may take into account any relevant matters bearing on the suitability of the applicant to hold the licence and the need for and suitability of the collection, including:

- (a) The extent to which the licensed activities uphold or achieve the objectives of the Waste Minimisation Act 2008, promote public health and safety, and support the Joint (Tauranga City Council and Western Bay of Plenty District Council) Waste Management and Minimisation Plan 2010;
- (b) The type of Waste proposed to be collected;
- (c) The type and specification of vehicles, equipment and containers proposed to be used for the collection services;
- (d) Whether the applicant provides or intends to provide to each customer a recyclables collection service or other Waste minimisation service;
- (e) The frequency and location of the proposed services;
- (f) The scale of the proposed service, including the customer base and anticipated volume of Waste (including recyclables) for collection;
- (g) The proposed manner of treatment (if any) and disposal of Waste collected;
- (h) The applicant's experience, reputation and track record in the Waste industry;
- (i) The applicant's financial position;
- (j) The terms of any contracts or proposed contracts between the applicant and the occupiers of premises, and in particular contractual provisions relating to:
  - Waste minimisation;
  - Approved Containers not obstructing footpaths, carriageways, cycleways or pedestrian ways, or otherwise causing an obstruction that would endanger the public.

## **6.5 Conditions of licence for kerbside waste collection**

6.5.1 The conditions upon which the Council may grant or renew a licence to carry on a business that involves the collection of Waste (including recyclables) from a road include:

- (a) The term of the licence, up to a maximum of 5 years;
- (b) The payment of a licence fee in the amount determined by the Council from time to time and publicly notified;
- (c) The provision to the Council, by 28 February in each year, of a report specifying the quantity, composition and destination of waste collected and transported by the licensee over the previous calendar year. However, no reporting condition may be imposed where the Council believes on reasonable grounds that the volume of waste to be collected annually by the applicant is less than 100 tonnes;
- (d) The provision to the Council of a performance bond or security, or both, for the performance of the work licensed for an amount as determined by Council from time to time and publicly notified;
- (e) Compliance with any relevant Council standards and policies for the collection, transportation, deposit, or disposal of Waste;
- (f) Provision of services on the days and times (including public holidays, long weekends, school holiday periods and general vacation periods), and at the locations, specified in the licence;
- (g) Provision of a recyclables collection service as part of its Waste collection service;
- (h) Display on collection vehicles and approved containers of a telephone number that is free of charge to callers from the Western Bay of Plenty District;
- (i) The holding of public liability insurance cover acceptable to the Council.



## **7. Suspension or revocation of licence for kerbside waste collection**

- 7.1 Any consistent and/or material breach of the terms and conditions of a licence to carry on a business that involves the collection of waste (including recyclables) from the road granted under this Bylaw shall entitle the Council to suspend or cancel the licence for such period as it considers appropriate.
- 7.2 Before suspending or cancelling a licence under clause 7.1, the Council will notify the licensee of its proposed decision and the reasons for its decision, and give the licensee five working days from date of receipt of such notice to provide written and oral submissions on the proposed decision.
- 7.3 Despite clause 7.2, if, in the Council's reasonable opinion, the licensee has committed a serious breach of any of the conditions of the licence then the Council may immediately suspend the licence by giving the licensee notice of that suspension ("interim suspension notice"). The licensee has 5 working days from the date of receipt of the interim suspension notice to make submissions to the Council in relation to the suspension. Within 5 working days of receipt of any such submissions the Council will decide whether to lift the suspension or extend the suspension for a specified period of time, or cancel the licence, and will notify the licensee of its decision.
- 7.4 The Council may suspend any licence granted under this Bylaw for a period not exceeding 72 hours during the staging of any special event, by giving the licence holder 15 days notice in writing. The Council may suspend any such licence for the purposes of protecting the public from nuisance or for protecting, promoting or maintaining public health and safety.

## **8. Notices**

- 8.1 The Council may give notice to any person in breach of this Bylaw to carry out any remedial action in order to comply with the Bylaw. Every such notice shall state the time within which the remedial action is to be carried out, and may be extended from time to time.

## **9. Power to waive compliance**

- 9.1. The Council may waive full compliance with any provision of this Bylaw in a case where the Council is of the opinion that full compliance would needlessly cause harm, loss or inconvenience to any person without any corresponding benefit to the community. The Council may in its discretion impose conditions of any such waiver.

## **10. Recycling and Green Waste Facilities**

- 10.1 This clause applies to all Recycling and Green Waste Facilities under the control of the Council.
- 10.2 The 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.
- 10.3 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 10.2 above and such depositing and leaving constitutes "using" for the purpose of this Bylaw.
- 10.4 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.
- 10.5 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.
- 10.6 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.



- 10.7 Persons using any Recycling and Green Waste Facilities must pay such amounts as the Council by resolution may from time to time determine.
- 10.8 The 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.
- 10.9 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 him or her the material which he or she brought there and as the Authorised Officer considers to be of a kind which is prohibited under this Bylaw; and
  - (b) 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.
- 10.10 No person may in 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. Commencement**

- 11.1 This Bylaw comes into force on \_\_\_\_\_2013.

## **12. Western Bay of Plenty District Council General Bylaw**

- 12.1 The provisions of Chapter 1 of the Western Bay of Plenty District Council General Bylaw 2008 and any bylaw passed in amendment or substitution are implied into and form part of this bylaw.