

ROTORUA DISTRICT COUNCIL WASTE COLLECTION BYLAW 2011

This Bylaw is made pursuant to section 56 of the Waste Minimisation Act 2008, the powers contained in the Local Government Act 2002 and any other authority vested in the Council.

1. Scope and Purpose

- 1.1 The purpose of this Bylaw is to promote the safe collection and disposal of waste material so that:
- a. Such waste material does not accumulate and become offensive or harbour vermin;
 - b. Such collection and disposal is complementary to the Waste Management and Minimisation Plan; and
 - c. Such collection and disposal is not carried out by multiple service providers.
- 1.2 This Bylaw applies to private kerbside collections of solid waste. It does not apply to waste collection involving waste receptacles on private property, or publically provided services.

2. Interpretation

- 2.1 Except as herein expressly provided this Bylaw shall apply to the whole of the District.
- 2.2 Words importing the singular number include the plural number, and words importing the plural number include the singular number; and words importing the masculine gender include the feminine gender.

DEFINITIONS

Annual Plan means an annual plan adopted by the Council under section 95 of the Local Government Act 2002.

Approved means approved by the Council or by any officer of the Council appointed or authorised for the purpose.

Approved container includes approved bins, approved pre-paid rubbish bags, and approved rubbish bags with a pre-paid sticker attached.

Council means the Rotorua District Council or any committee, sub-committee, or Council officer or other person authorised to exercise the authority of the Council.

District means the district of the Rotorua District Council.

Footpath and **accessway** have the respective meanings given to them by Section 315 of the Local Government Act 1974.

Licence means a licence granted by the Council pursuant to this Bylaw.

Licensed collector means any person who has been granted a licence by the Council to collect refuse or recyclables from the street.

Material means refuse or recyclables.

Occupier means the occupier of any property, and in any case where any building, house, tenement, or premises is or are unoccupied shall be deemed to include the owner of such building, house, tenement, or premises.

Person includes a corporation sole and also a body of persons, whether corporate or unincorporated.

Premises means any land, house, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied; and all lands, buildings, and places adjoining each other and occupied together shall be deemed to be the same premises.

Public place includes and applies within the District to every road, street, footpath, courtyard, alley, pedestrian mall, walkway, cycle track, lane, accessway, and thoroughfare of a public nature or open to or used by the public as of right; and every park, reserve, cemetery, marina, jetty, boat ramp, hall, stadium, toilet, swimming pool or hot water pool, foreshore, beach or place of public resort or place to which the public has access, and under the control of the Council.

Refuse means any solid, material, or thing that is discarded, discharged or selected for disposal.

Recyclables means any material that a licensed collector will collect for recycling or re-use.

Road has the meaning given to it by the Land Transport (Road User) Rule 2004.

Sharp healthcare waste means any waste generated by healthcare services that is also sharp. Sharp healthcare waste includes sharp home healthcare waste as defined by NZS4304:2002, and specifically includes needles. The meaning of "sharp" shall be the same as included in NZS4304:2002 under the definition of "sharp".

Service Lane shall have same meaning as "Road" herein.

Street shall have the same meaning as "Road" herein and vice versa.

Ten Year Plan means a long-term council community plan adopted by the Council pursuant to section 93 of the Local Government Act 2002.

Waste Management and Minimisation Plan means a plan adopted from time to time by the Council pursuant to section 43 of the Waste Minimisation Act 2008.

Writing, written or any term of like import means and includes words printed, painted, engraved, lithographed, or otherwise traced or copied, and where anything is required to be written it may be partly in writing and partly in printing.

3. Collection of refuse and recyclables

Obligation on licensed collectors

- 3.1 No person other than a licensed collector shall carry on any trade or business that involves the collection of any material from the street.

Obligation on the occupier of any premises

- 3.2 No occupier of any premises shall cause or allow to be put out for collection from the street any material unless:
- a) The material is contained in an approved container; and
 - b) The approved container is placed in an approved location on the day and not later than the time specified by the licensed collector for the collection of the material; and
 - c) The approved container is secured shut to prevent spillage or scattering of any material.
 - d) The occupier of the premises has a contractual arrangement for the collection of the material with a licensed collector.

4. Obstruction of footpath

- 4.1 No person shall place any approved container, whether full or empty, on a footpath, carriage-way, cycleway or pedestrian-way or at any location:
- a. Which would endanger the public and/or restrict visibility; and/or
 - b. In a manner which is in breach of the conditions of a licence.

5. Deposit of certain materials in approve containers prohibited

Obligation on licensed collectors

- 5.1 A licensed collector shall inform its customers of what materials can and cannot be put out for collection.

Obligation on the occupier of any premises

- 5.2 No person shall put out or cause or allow to be put out for collection, whether or not in an approved container:
- a) Any explosive, hot ashes, highly flammable material, sharp healthcare waste or any other matter or thing other than household garden material or approved commercial waste.
 - b) Any liquid or other fluid.
 - c) Any sharp material 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 refuse that could damage collection or disposal equipment.

6. Responsibility to ensure road corridor is free of litter post-collection

Obligation on licensed collectors

- 6.1 Except in the case of any litter resulting from an occupier's failure to comply with Clauses 3.2 and/or 5.2 of this Bylaw, a licensed collector must ensure that all of the material put out for collection by that collector is collected and that no consequent litter remains once the relevant collection has been completed.
- 6.2 Where a licensed collector legitimately refuses to collect items put out for collection due to non-compliance with Clauses 3.2 or 5.2, the licensed collector shall return such items to the emptied approved container or to the premises if no approved container is available.

7. Offences and Breaches

Every person breaches this Bylaw and commits an offence who:

- a) Does, or allows to be done, anything which is contrary to this Bylaw or any part of it; or
- b) Fails to do, or allows to remain undone, anything which ought to be done by him or her within the time and in the manner required by this Bylaw or any part of it; or
- c) Does anything which this Bylaw prohibits; or
- d) Fails to comply with any notice given to him or her under this Bylaw or any part of it or fails to comply with any condition of a licence granted by the Council; or
- e) Obstructs or hinders any Council officer or other Council appointed person in performing any duty or in exercising any power under this Bylaw.

8. Licences

- 8.1 Applications for licences under this Bylaw must be made in the prescribed form as determined by the Council from time to time, and be accompanied by any application or processing fee and such further supporting information as the Council requests.
- 8.2 No application made under Clause 8.1, and no payment of or receipt for any fee paid in connection with such an application, shall confer any right, authority or immunity on the person making the application.
- 8.3 Licences, permissions or approvals shall be granted at the discretion of the Council, and may be subject to such terms and conditions as the Council thinks fit.
- 8.4 In considering whether to grant a licence to any person to carry on a trade or business that involves the collection of any material from the street, the Council may take into account any matters bearing on the suitability of the applicant to hold the licence and the need for and suitability of the collection including but not limited to the following matters:
 - a) The extent to which the licensed activities will promote public health and safety, the achievement of the Waste Management and Minimisation Plan and the meeting of public demand.
 - b) The type of material proposed to be collected;
 - c) The type and specification of vehicles, equipment and containers proposed to be used for the collection services;
 - d) The frequency and location of the proposed services;
 - e) The proposed manner of treatment (if any) and disposal of the material.
 - f) The applicant's experience, reputation and track record in the waste industry;
 - g) The applicant's financial position;

- h) The terms of any contracts or proposed contracts between the applicant and the occupiers of premises, and in particular contractual provisions relating to:
 - i. Waste minimisation;
 - ii. Containers not obstructing footpaths, carriageways, cycleways or pedestrian ways, or otherwise causing an obstruction that would endanger the public.
- i) Council's wish to limit the number of operators for a particular service.

8.5 The terms and conditions upon which a licence may be granted shall include, but are not limited to, the following matters:

- a) The term of the licence.
- b) The licence fee;
- c) The provision to the Council of a works performance bond or security for the performance of the work licensed in an amount publicly notified by the Council from time to time;
- d) Compliance with any relevant Council standards and policies for the collection, transportation and/or disposal of material.
- e) Provision of services on the days and times, and at the locations, specified in the licence;
- f) The identification and display by the licensed collector of a telephone number which enables callers from Rotorua to establish contact with the collector free of charge.
- g) The holding of public liability insurance acceptable to the Council;
- h) Mandatory provision to the Council of information as specified by it relating to:
 - i. The quantities and types of material collected; and
 - ii. The source and destination of the material collected.

8.6 Suspending or Revoking Licences

- a) The Council may revoke or suspend a licence granted under this Bylaw if it reasonably believes the licence holder:
 - i. Has acted or is acting or is proposing to act in breach of the licence; or
 - ii. Is unfit in any way to hold or retain such a licence.
 - iii. Is in breach of Council policy.
- b) The Council may require the licence holder to attend a hearing to explain why the licence should not be revoked or suspended. The Council may revoke or suspend the licence at its discretion, if either:
 - i. The licence holder does not attend the hearing; or

- ii. If after the hearing the Council is satisfied that any of the grounds in the previous clause is satisfied.
- c) The Council may suspend any licence granted under this Bylaw:
 - i. For a period not exceeding 72 hours during the staging of any special event, by giving the licence holder not less than 15 days notice in writing.
 - ii. For such period as the Council deems necessary for the purposes of protecting the public from nuisance or for protecting, promoting or maintaining public health and safety.

9. Fee

- 9.1 The Council may, in accordance with section 150 of the Local Government Act 2002, prescribe fees or charges payable for any certificate, licence, approval, permit or consent form or inspection made by the Council under this Bylaw.
- 9.2 For the avoidance of doubt fees or charges will be set in the Annual Plan or Ten Year Plan.

10. Notices

- 10.1 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.
- 10.2 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.

11. Penalties/Powers of Council

- a) Subject to anything to the contrary, every person who commits an offence against this Bylaw shall be subject to the penalties set out in section 242(4) of the Local Government Act 2002.
- b) Under section 163 of the Local Government Act 2002 the Council or an authorised agent appointed by it may remove or alter any work or thing that is or has been constructed in breach of this Bylaw.
- c) The Council may recover the costs of removing or altering the work or thing that is in breach of this Bylaw from the person who committed the breach. This does not relieve that person from any other liability for the breach.
- d) Under section 162 of the Local Government Act 2002 the Council may apply to the District Court for the grant of an injunction restraining a person from committing a breach of this Bylaw.

- e) The Council may seize and impound property materially involved in the commission of an offence, under and in accordance with sections 164 and 165 of the Local Government Act 2002.
- f) The Council, in accordance with sections 167 and 168 of the Local Government Act 2002, will return and may dispose of property seized and impounded.

12. Commencement

This Bylaw comes into force on 1st July 2011.