This Bylaw is made under Sections 145 and 146 of the Local Government Act 2002

1. **Scope and Purpose**

   The purpose of this Bylaw is to prevent the misuse of Council's public stormwater network by:
   - Controlling the discharge of contaminants into the network;
   - Requiring the use of the network for the drainage of stormwater only;
   - Protecting the network from damage or alteration.

   Nothing in this Bylaw shall override any conditions of a resource consent granted by the Bay of Plenty Regional Council which specifically addresses the quality of discharges into the stormwater network.

2. **Interpretation**

   2.1 In this Bylaw, unless the context otherwise requires:

   **Contaminant** is as defined by the Resource Management Act 1991 and means any substance (including gases, odorous compounds, liquids, solids, and micro-organisms) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy, or heat:

   a) When discharged into water, changes or is likely to change the physical, chemical, or biological condition of water; or
   b) When discharged onto or into land or into air, changes or is likely to change the physical, chemical or biological condition of the land or air onto or into which it is discharged.

   **Council** means Tauranga City Council or any Committee, Sub-committee, or Elected Member of Council or any officer or other person authorised to exercise the authority of Council.

   **Discharge** is as defined by the Resource Management Act 1991 and means to emit, deposit, and allow to escape.

   **Management options** mean a process or procedure for controlling the discharge of contaminants to the public stormwater network to protect Council’s infrastructural assets.
**Occupier** is as defined by the Resource Management Act 1991 and means the inhabitant occupier of any property. In relation to any land (including any premises and any coastal marine area) this includes any agent, employee, or other person acting or apparently acting in the general management or control of the land, or any plant or machinery on that land.

**Owner** in relation to any land or premises means any person for the time being entitled to the rent of the land or premises or who would be so entitled if the land or premises were let to a tenant whether on his/her own account or as the agent of a trustee for any other person and includes any person registered and the proprietor of the land or premises.

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

**Pollution Prevention Plan** means a Council-approved plan which identifies actual or potential risks relating to the discharge of contaminants from a specific site or operation, and the management strategies implemented or proposed to mitigate against these risks. The plan identifies the mechanisms to reduce the potential for breaching the minimum water quality standards as specified in this Bylaw or The Water and Land Plan.

**Public Stormwater Network** includes:

a) Any pipe, drain, drainage channel, land drainage work or treatment facility, vested in or under the control of Council, which serves more than one freehold lot; and,

b) Any drain, drainage channels, land drainage works or treatment facilities within a legal road reserve or other public places; and any drain, drainage channel, land drainage work or treatment facility over which the Council has exercised control for a period of not less than 20 years; and Any drain, drainage channel, land drainage work or treatment facility declared to be a public drain under section 462 of The Local Government Act 1974.

**Stormwater** means surface water run-off resulting from rainfall

**Water and Land Plan** means the Bay of Plenty Regional Council’s Operative Bay of Plenty Regional Water and Land Plan.

2.2 References to any legislative provision include any legislative provision that amends or replaces it.

2.3 References to any regional plan (including any schedule in a regional plan) include any amendment or replacement to it.

3. **Minimum Water Quality Standards**

3.1 No person shall allow the discharge of contaminants, either directly or indirectly, into any part of the stormwater network unless:

- The discharge is permitted by a rule in a regional plan; OR

- Is authorised by a resource consent.
4. **Treatment or Works to be Undertaken**

4.1 Council may require the owner or occupier to implement management options, treatment or works in order to prevent the discharge of contaminants into the public stormwater network or otherwise protect the network from damage or alteration.

4.2 Any management options, treatment or works shall be implemented in a timeframe stipulated by Council and shall be undertaken and / or maintained at the owner or occupier’s expense.

5. **Monitoring Discharges**

5.1 Council may inspect private and public stormwater networks in order to ensure compliance with clauses 3 and 4 of this Bylaw.

6. **Pollution and Prevention Plans**

6.1 Where a site is deemed to be a high risk under Schedule 4 of the Water and Land Plan and discharges to the public stormwater network, the owner or occupier of the site may be required to prepare a Pollution Prevention Plan and submit the plan to Council for approval. The Plan must include:

- A suitably scaled drawing showing the site layout, boundaries, all private stormwater and wastewater drainage including the point of connection to the public networks, relevant buildings and outdoor spaces (including their use); and
- A site assessment identifying all actual and potential sources of stormwater pollution; and
- Methods in place to control contamination of the public stormwater network; and
- Methods and timeframes proposed to control contamination of the public stormwater network; and
- A description of the maintenance procedures in place and proposed; and
- Spill prevention and spill response procedures.

If another plan has been prepared which addresses these issues, it may be used in place of a Pollution Prevention Plan.

6.2 Within three months of being requested to do so, the owner / occupier must provide a Pollution Prevention Plan to Council for review and approval.

6.3 Once the Pollution Prevention Plan has been approved by Council, the owner / occupier must comply with all provisions, including timeframes specified, of the Pollution Prevention Plan.

6.4 The owner / occupier must review the Pollution Prevention Plan every three years and provide it to Council for review and approval.
6.5 Notwithstanding Clause 6.4, Council may require that any Pollution Prevention Plan be revised where there have been significant changes in the facility concerned or its operational procedures.

7. **Offences and Breaches**

Every person breaches this Bylaw and commits an offence who:

1. Does, or allows anything to be done, which is contrary to this Bylaw or any part of it; or

2. Fails to do, or allows anything to remain undone, which ought to be done by that person within the time and in the manner required by this Bylaw or any part of it; or

3. Does anything which this Bylaw prohibits; or

4. Fails to comply with any notice given to that person under this Bylaw or any part of it or any condition of a licence granted by the Council; or

5. Obstructs or hinders any Council officer or other Council appointed person in performing any duty or in exercising any power under this Bylaw.

8. **Fees**

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 Council under this Bylaw.

9. **Notices**

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 and 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.

10. **Penalties**

10.1 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.

10.2 Under section 163 of the Local Government Act 2002 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.

10.3 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 of liability for the breach.
10.4 Under section 162 of the Local Government Act 2002 Council may apply to the District Court for the grant of an injunction restraining a person from committing a breach of this Bylaw.

10.5 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.

10.6 Council will return and may dispose of property seized and impounded in accordance with sections 167 and 168 of the Local Government Act 2002.

11. Dispensing Powers

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

12. Commencement

This Bylaw comes into force on 28 September 2015.