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.

1. Purpose

1.1 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 Tauranga City 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 or harbour vermin.

2. Interpretation

2.1 In this Bylaw, unless the context otherwise requires:

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.

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

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 waste stabilisation or hazardous waste disposal practices;

(d) Materials that may present a risk to human or animal health such as medical and veterinary waste, asbestos or radioactive substances;

(e) Liquid waste.
**Council** means the Tauranga City Council or any committee, subcommittee, elected member of the Council, or officer or other person authorised to exercise authority of the 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.

**Licensed kerbside collector** means any person granted a licence to collect and transport waste (including recyclables) from a road under this Bylaw or the Solid Waste Bylaw 2007.

**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.

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

**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.

**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.

**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.

2.2 This Bylaw applies to the whole of the Tauranga City Council district unless expressly provided otherwise.

2.3 The term “includes” or “including” (or any similar expression) is deemed to be followed by the words “without limitation”.
2.4 References to the singular include the plural and vice versa.

2.5 References to any legislative provision include any legislative provision which amends or replaces it.

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

3. **Cleanfills**

3.1 No person shall deposit at a cleanfill any material other than cleanfill material.

3.2 No operator of a cleanfill shall accept for deposit any material other than cleanfill material.

3.3 Clauses 3.1 and 3.2 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.

3.4 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.

4. **Events**

4.1 Organisers of events sponsored by Council or taking place on council owned, administered or controlled land or roads shall consider the waste implications of the event. The event organiser must submit a completed waste minimisation questionnaire (in the form prescribed by Council from time to time) at the time of making the organiser’s application to Council for permission to use the land or road for the event. The completed questionnaire (and any further information Council may reasonably request from the organiser relating to the proposed event) will form the basis of Council advice to the event organisers about how to minimise and manage waste.

5. **Kerbside collection**

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

5.1 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 approved container is placed in an approved place on the day for collection; and

   (c) The approved container is not overfilled and is shut to prevent spillage or scattering of any waste; and

   (d) 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
(e) 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;
- The time before and after collection an approved container may be placed or allowed to remain on the road;
- Permitted weight of loaded approved containers.

5.2 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.

5.3 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.

5.4 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.

Kerbside collectors to be licensed

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

Obligations on licensed kerbside collectors

5.6 A licensed kerbside collector shall inform its customers of what materials can and cannot be put out for collection as waste (including recyclables).

5.7 Except in the case of litter resulting from the failure of an occupier or other person to comply with clauses 5.1 to 5.3 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.
5.8 Where a person fails to comply with any of clauses 5.1 to 5.3, a licensed kerbside collector has the following options:

(a) empty the approved container and remove all items including non-compliant 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.

6. Collectors of waste from private property to be licensed

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

7. Licences

Application for licence

7.1 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.

7.2 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.

7.3 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.

7.4 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.

Consideration of application for licence to collect waste from private land

7.5 If an application to grant or renew a licence to collect waste from private land complies with clause 7.1, the Council must grant the application.

Conditions of licence to collect waste from private land

7.6 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.

Consideration of application for licence for kerbside waste collection

7.7 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;
- containers not obstructing footpaths, carriageways, cycleways or pedestrian ways, or otherwise causing an obstruction that would endanger the public.

Conditions of licence for kerbside waste collection

7.8 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 100t;

(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, 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 Tauranga;

(i) The holding of public liability insurance cover acceptable to the Council.

8. Suspension or revocation of licence for kerbside waste collection

8.1 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.

8.2 Before suspending or cancelling a licence under clause 8.1, 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.

8.3 Despite clause 8.2, 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.

8.4 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.

9. Notices

9.1 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.

10. **Power to waive compliance**

10.1 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.

11. **Commencement**

11.1 This Bylaw comes into force on 1 July 2012.