

THE OPOTIKI DISTRICT COUNCIL SOLID WASTE BYLAW 2008

EXPLANATORY NOTE

The Opotiki District Council Solid Waste Bylaw 2008 was made in accordance with the Local Government Act 2002 and Local Government Act 1974. The purpose of the Opotiki District Council Solid Waste Bylaw 2008 is to promote the safe collection and disposal of rubbish and recyclables (solid waste) in the interest of public health and at the same time ensuring that any obstruction of streets is kept to a minimum.

This Bylaw applies to kerbside collection of solid waste.

CONTENTS

1	Title
2	Commencement
3	Repeals
4	Interpretations
5	Collection of rubbish and recyclables
6	Obstruction of footpath
7	Deposit of certain materials in approved containers
8	Responsibility to ensure road corridor is free of litter post collection
9	Refuse disposal areas and transfer stations
10	Interference with and removal of refuse or recyclable material
11	Licences
12	Fees
13	Notices
14	Dispensing powers
15	Serving of Orders and Notices
16	Offences and Breaches
17	Penalties for Breaches of Bylaw

This Bylaw was made in accordance with the Local Government Act 2002.

1. Title

This Bylaw shall be known as the Opotiki District Council Solid Waste Bylaw 2008.

2. Commencement

This Bylaw shall come into force on the 1st day of July 2008.

3. Repeals

As from the date that this Bylaw comes into force the Opotiki District Council Bylaw 1990 Chapter 6 Removal of Refuse shall be repealed.

4. Interpretations

For the purposes of this Bylaw the following interpretations shall apply:

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 prepaid stickers attached.

Authorised officer means any person appointed by the Council to act on its behalf and with its authority and includes an agent of Council.

Council means the Opotiki District Council.

District means the district of the Opotiki District Council.

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

Collection day means the day nominated by the Council for the collection of refuse and recyclables from the street Kerb.

Licensed collector means any person that has been granted a licence by the Opotiki District Council to collect rubbish or recyclables from the street.

Litter includes any rubbish or any other thing of a like nature not deposited in an approved container.

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, court, 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.

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

Recyclables means any material that are specifically identified and advertised that a licensed collector will collect for recycling or re-use and shall include situations:

- Where the occupier has a contract with a licensed collector for the collection of recyclables, and/or
- Where a licensed collector has provided a bag or container for the purpose of collecting particular recyclables, and/or
- Where a licensed collector has publicly announced they will collect a particular type of recyclable material.

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 a sharp home healthcare waste as defined by NZS 4304:2002 and specifically includes needles. The meaning of "sharp" shall be the same as included in NZS 4304:2002 under the definition of "sharps".

Street shall have the same meaning as "Road" herein.

Recycle bin means a Council approved bin or other container for the placement of recyclables only for collection.

Transfer station means a facility that receives material for possible segregation consolidation or compaction for bulk transport for resource recovery, treatment, or disposal facilities.

5. Collection of rubbish and recyclables

5.1 **Obligation on licensed collectors**

5.1.2 No person shall without a licence from the Council carry on any trade or business that involves the collection of any rubbish or recyclables, whether or not in an approved container from the street.

5.2 **Obligation on the occupier of any premises**

5.2.1 No occupier of any premises shall cause or allow to be put out for collection from the street any rubbish unless:

- (a) The rubbish is contained in an approved container; and
- (b) The approved container is placed in an approved situation on the day and not later than the time specified by Council for the collection of the refuse; and

5.2.2 No occupier of any premises shall cause or allow to be put out for collection from the street any recyclables unless:

- (a) The recyclables are contained in an approved container, except that paper and cardboard need only be secured as a package; and
- (b) The occupier of the premises has a contractual arrangement for the collection of the recyclables, or reasonable expectation that a licensed collector will collect the recyclables; and
- (c) The recyclables are placed in an approved location on the day and not later than the time specified by Council for the collection of the recyclables; and
- (d) The recyclables are secured so as to prevent spillage or scattering.

6. Obstruction of Footpath

6.1 No person shall place any receptacle for rubbish or recyclables, whether full or empty, on a footpath, carriage-way, cycleway or pedestrian way or at any location which would endanger the public and/or restrict visibility.

7. Deposit of certain materials in approved containers prohibited

7.1 **Obligation on licensed collectors**

7.1.1 A licensed collector shall inform its customers of what can and cannot be put out for collection as rubbish and as recyclables.

7.2 **Obligation on the occupier of any premises**

7.2.1 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 or garden rubbish.
- (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.

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

8.1 **Obligation on licensed collectors**

8.1.1 Except in the case of any litter resulting from an occupier's failure to comply with sections 5.2.1, 5.2.2 and/or 7.2.1 of this Bylaw, the licensed collector must ensure that all of the rubbish or recyclables put out for collection by that collector is collected and that no consequent litter remains once the relevant rubbish collection or recyclables collection has been completed.

8.1.2 Where a licensed collector legitimately refuses to collect items put out for collection due to non-compliance with sections 5.2.1, 5.2.2 or 7.2.1 the licensed collector shall return such items to the emptied approved container or to the premises if no approved container is available.

9. Refuse disposal areas and transfer stations

9.1 No person shall without the prior written consent of the Council:

- (a) Loiter on any rubbish disposal site or rubbish transfer station.
- (b) Disturb or remove any article or material of any kind from any rubbish disposal site or rubbish transfer station.
- (c) Light any fire on or near any rubbish disposal site or rubbish transfer station.
- (d) Enter any rubbish disposal site or rubbish transfer station when the area is closed.

10. Interference with an Removal of refuse or recyclable materials

- 10.1 The interference with or removal of refuse or recyclables from any public place by anyone other than either the occupier or owner of the property from which the refuse or recyclables were generated, or a person authorised by the Council to remove such refuse or recyclables, is prohibited.

11. Licences

- 11.1 Applications for licences, permissions or approvals 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.
- 11.2 No application made under Section 11.1 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.
- 11.3 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.
- 11.4 In considering whether to grant a licence to any person to carry on a trade or business that involves the collection of any rubbish or recyclables 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 and achievement of the Council's waste management plan and zero waste philosophy;
 - (b) The type of rubbish or recyclables 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 rubbish and recyclables.
 - (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.

- 11.5 The terms and conditions upon which a licence to carry on a trade or business that involves the collection of any rubbish or recyclables from the street may be granted will 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, of 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 rubbish or recyclables;
 - (e) Provision of services on the days and times and at the locations, specified in the licence;
 - (f) The identification and display by the collector of a telephone number free of charge to callers from Opotiki;
 - (g) The holding of public liability insurance acceptable to the Council;
 - (h) Provision to the Council of information as specified by the Council from time to time relating to:
 - (i) The quantities and types of rubbish and recyclables collected; and
 - (ii) The source and destination of the rubbish and recyclables collected.

11.6 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.
- (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 either of the grounds in the previous clause is satisfied.
- (c) 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.

12. Fees

- 12.1 The Council may in accordance with the Local Government Act 2002 prescribe fees or charges payable for any licence, approval, permit or consent made by the Council under this Bylaw.
- 12.2 For the avoidance of doubt, all fees or charges will be set using the special consultative procedure.

13. Notices

- 13.1 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 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.

14. Dispensing Powers

- 14.1 Where in the opinion of the Council full compliance with any of the provisions of this Bylaw would needlessly or injuriously affect any person, or the course or operation of the business of, or bring loss or inconvenience to any person without any corresponding benefit to the community, the Council may, on the special application of that person, dispense with the full compliance with the provisions of the Bylaw; provided that any other terms and conditions (if any) that Council may deem fit to impose shall be complied with by that person.

15 Serving of Orders and Notices

- 15.1 Except as otherwise provided for in any other enactment, where any notice, order, or other document is required to be served on any person for the purposes of this Bylaw, service may be effected by delivering it personally to the person or by sending it by registered post to that person's last known residential or business address.
- 15.2 If the person is absent from New Zealand the order, notice, or other document may be served on the person's agent in the manner referred to in 15.1.
- 15.3 If the order, notice, or other document relates to land or buildings, then the order, notice, or other document should be served on the person who owns that land or buildings. However, if that person is not known or is absent from New Zealand, or has no known agent in New Zealand, the order or notice may be:
- (a) Served on the person who is occupying the land or buildings; or
 - (b) If there is no person in occupation, put up on some conspicuous part of the land or buildings.
- It is not necessary in that notice to name the occupier or the owner of that land or buildings.
- 15.4 Where an order or notice is sent by registered post, the order or notice shall be sent so as to arrive no later than the latest time on which such order or notice is required to be served.
- 15.5 Any order or notice issued shall state the time within which the remedial action is to be carried out, and may be extended from time to time by written authority of an authorised officer.

16. Offences And Breaches

- 16.1 Any person commits a breach of this Bylaw who:
- (a) Does, or causes to be done, or knowingly permits or suffers to be done anything whatsoever contrary to or otherwise than as provided by this Bylaw;
 - (b) Omits or neglects to do, or knowingly permits or suffers to remain undone, anything which according to the true intent and meaning of this Bylaw, ought to be done by that person at the time and in the manner provided by this Bylaw;
 - (c) Does not refrain from doing anything which under this Bylaw they are required to abstain from doing;
 - (d) Knowingly permits or suffers any condition of or things to exist contrary to any provision contained in this Bylaw;
 - (e) Refuses or neglects to comply with any notice given to that person under this Bylaw;
 - (f) Obstructs or hinders any authorised officer of Council in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred upon that officer under this Bylaw; or
 - (g) Fails to comply with any notice or direction given under this Bylaw.
- 16.2 Where it is suspected that any person has committed a breach of this Bylaw, that person shall, on the direction of an authorised officer, provide their full name and address.

17 Penalties for Breach of Bylaw

17.1 Every person who commits an offence against this Bylaw is liable to:

- (a) The penalty set out in the Local Government Act 2002.
- (b) Where another enactment specifies the penalty for a breach of the Bylaw, that other penalty.


17.2 In accordance with the Local Government Act 2002 the Council may apply to the District Court for an injunction to restrain a person from committing a breach of this Bylaw.

This Bylaw was duly made by the Opotiki District Council by a Resolution passed on the 11th day of March 2008 and was confirmed following consideration of community submissions during a special consultative procedure by a resolution {No 461} passed on the 17th day of June 2008.

The common Seal of the Opotiki District Council
was here to affixed in the presence of



Mayor



Chief Executive

