



PALMERSTON NORTH

**WASTE MANAGEMENT AND MINIMISATION
BYLAW**

2016

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PALMERSTON NORTH WASTE MANAGEMENT AND MINIMISATION BYLAW 2016

PART ONE - INTRODUCTION

1. TITLE

- 1.1 The title of this Bylaw is the “Palmerston North City Council Waste Management and Minimisation Bylaw 2016”.

2. PURPOSE

- 2.1 This Bylaw is made pursuant to sections 145 and 146 of the Local Government Act 2002, section 56 of the Waste Minimisation Act 2008, sections 64 and 65 of the Health Act 1956, and section 12 of the Litter Act 1979. The purpose of this Bylaw is to:
- (a) Protect, promote and maintain public health and safety, by regulating the collection and disposal of Waste and Diverted Material;
 - (b) Promote effective, efficient and safe collection, transportation, management, storage and disposal of Waste and Diverted Material;
 - (c) Regulate and monitor Waste and Diverted Material Operators within the City through a licensing process, to support Council’s Waste Minimisation Plan.

3. COMMENCEMENT

- 3.1 This Bylaw comes into force on 17 October 2016, except for Part Three which comes into force on 1 July 2017.

4. REPEAL

- 4.1 This Bylaw repeals the Palmerston North City Council Nuisance Bylaw 2011 Part 6: Clauses 15-20, Part 7: Clauses 21-26 and Part 8: Clauses 27-28 with effect from midnight on 16 October 2016.

5. DEFINITIONS

5.1 In this Bylaw, unless the context requires otherwise, the following definitions apply:

Administration Manual means the Waste Management and Minimisation Bylaw Administration Manual passed by resolution of the Council at the same time as making this Bylaw and as amended from time to time under this Bylaw.

Approved means authorised in writing by the Council.

Approved collection bag means a bag approved for use in the Council kerbside collection service for approved waste. The characteristics of an approved collection bag are contained in Part 2 of the Administration Manual.

Approved collection container means a collection container approved for use in the Council kerbside collection service for approved diverted materials. The characteristics of an approved collection container are contained in Part 2 of the Administration Manual.

Approved diverted material means a material or class of material that has been approved for recycling at a waste and diverted materials facility or in the Council kerbside collection service. The types of approved diverted materials are listed in Part 3 of the Administration Manual, including whether they are accepted for collection through the Council kerbside collection service or at a waste and diverted materials facility.

Approved waste means waste which has been approved for collection through the Council kerbside collection service. The types of approved waste are listed in Part 3 of the Administration Manual.

Authorised officer means a person appointed or authorised in writing by the Council to act on its behalf in relation to this Bylaw.

Bylaw means the Palmerston North Waste Management and Minimisation Bylaw 2016.

City		means the area within the boundary of Palmerston North City Council.
Collection day		means, the day allocated to the eligible property as shown on the Council kerbside collection service area maps in Part 3 of the Administration Manual.
Commercial waste		means any scrap, waste material or refuse resulting from the conduct of any business, manufacture, process, trade, market or other industrial operation or undertaking.
Commercial collector	waste	means a person who collects, transports, and deposits for treatment or disposal any waste and/or diverted material.
Commercial collector licence holder	waste	means a commercial waste collector who holds a current commercial waste collector licence issued under this Bylaw.
Controlled waste		means waste which has been approved for collection through the Council kerbside collection service provided it meets the controlled waste conditions listed in Part 3 of the Administration Manual. The types of controlled waste are listed in Part 3 of the Administration Manual.
Council		means the Palmerston North City Council.
Council collection service	kerbside	means any collection service provided by, or under contract to, the Council for the collection of any approved or controlled waste or diverted material from eligible properties within the City.
Council kerbside collection service area		means the area highlighted on the Council kerbside collection service area maps in Part 3 of the Administration Manual.
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. This includes material able to be recycled.

Eligible property	means a property within the City that is on the collection route of any of the Council kerbside collection services as shown on the Council kerbside collection service area maps in Part 3 of the Administration Manual.
Green waste	means garden waste such as lawn clippings, weeds and tree prunings but does not include food or kitchen waste.
Hazardous waste	means waste containing substances defined in Section 2 of the Hazardous Substances and New Organisms Act 1996, which exceed the minimum degree of hazard specified by the Hazardous Substances (Classes 1 to 5 controls) Regulations 2001.
Household waste	means waste resulting from domestic housekeeping operations. It includes waste similar to domestic waste that the Council has agreed to take from retail premises, businesses and offices where the Council provides a kerbside collection service.
Licence	means a licence issued by the Council in accordance with this Bylaw.
Litter	means any refuse, rubbish, animal remains, building materials, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth, or waste matter, or any other thing of a like nature, but does not include waste or diverted materials placed for collections through the Council kerbside collection service or for collection by a commercial waste collector.
Nuisance	has the meaning given in section 29 of the Health Act 1956 and includes anything obnoxious, offensive or injurious to the community or any member of it.
Occupier	means any person or company who occupies any land or building (including commercial premises) and, if the land or building is unoccupied, includes the owner or the owner's agent.
Owner	is the person or company whose name is on the certificate of title for the premises.

Permit	means a permit issued by the Council in accordance with this Bylaw.
Person	includes a corporation sole, and also a body of persons, whether corporate or unincorporated.
Prohibited waste	means waste which has been prohibited for collection through the Council kerbside collection service. The types of prohibited waste are listed in Part 3 of the Administration Manual.
Property or Premises	means land or buildings which are separately occupied.
Public place	means an area that is open to or used by the public and that is under the control of the Palmerston North City Council, or one of its Council Controlled Organisations and includes a road (whether under the control of Council or otherwise).
Public litter bin	means a bin placed in a public place that is under the control of the Council into which litter (other than those items prohibited by clause 8 of the Bylaw) may be placed.
Public recycling bin	means a bin placed in a public place that is under the control of the Council into which glass, plastics, tins, cans, clean paper and cardboard may be placed.
Unsolicited mail	means any printed material which is not addressed to a named person and includes any circular, leaflet, brochure, or flyer. For the avoidance of doubt 'named person' does not include 'the householder', 'the owner', 'the occupier', or similar phrases that do not use the intended recipient's given or family name.

Waste

means

- (a) Anything disposed of or discarded;
- (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);
- (c) To avoid doubt, includes any component or element of diverted material if the component or element is disposed of or discarded; and
- (d) Litter.

Waste and diverted material facility

means any land and associated improvements used for the handling, storage, processing and/or disposal of waste, diverted material or both by, or on behalf of the Council, and includes, but is not limited to, resource recovery parks, landfills and transfer stations.

Waste Management and Minimisation Plan

means the operative Waste Management and Minimisation Plan adopted by the Council under the Waste Minimisation Act 2008.

PART TWO – COUNCIL WASTE AND DIVERTED MATERIAL SERVICES

6. COUNCIL KERBSIDE COLLECTION

- 6.1 The Council may identify kerbside collection areas within which the Council will provide to eligible properties a kerbside collection for household waste and diverted materials. The Council's kerbside collection areas are shown in the Administration Manual.
- 6.2 The kerbside collection of household waste and diverted materials from eligible properties are subject to the terms and conditions for the Council's kerbside collection service as contained in the Administration Manual. These terms and conditions must be complied with, including terms and conditions relating to the use of the Council berm for this service.
- 6.3 No commercial waste will be collected by the Council unless the Council has given prior written agreement and subject to such conditions as Council sees fit, including, but not limited to, collection times, collection fees, waste type, and the form, manner or position in which the commercial waste shall be placed for collection.

7. COUNCIL WASTE AND DIVERTED MATERIAL FACILITIES

- 7.1 The Council may provide facilities where users may deposit waste or diverted materials.
- 7.2 The use of such waste or diverted material facilities is subject to the terms and conditions for that facility contained in the Administration Manual.

8. PUBLIC RECYCLING BINS AND PUBLIC LITTER BINS

- 8.1 The Council may provide public litter bins or public recycling bins for collecting litter or the diverted materials identified by signs placed on the public recycling bins.
- 8.2 No person may deposit in any public litter bin any offensive matter (excluding domestic animal waste), household waste, hazardous waste or any material which may be placed in a public recycling bin, if a public recycling bin is located in the same area.
- 8.3 No person may deposit in any public recycling bin any litter or any other material other than glass, plastics, tins, cans, clean paper or cardboard.

The correct type of bin must be used for the type of material being deposited, as designated on that bin.

- 8.4 The following conditions apply to public litter bins and public recycling bins:
- (a) No person may deposit into the bins any waste or diverted material that is generated from residential, commercial or industrial premises, or which would ordinarily be put out for collection by either the Council kerbside collection service or a similar non-Council collection service.
 - (b) No person may deposit or attempt to deposit any material into the bin if the bin is full or if depositing any material is likely to cause the bin to overflow.
 - (c) No person may remove anything from the bin unless authorised to do so by the Council or unless it represents an immediate threat to the health and safety of any person.
 - (d) No person may interfere with, damage or destroy any bin.

PART THREE - LICENSING OF WASTE AND DIVERTED MATERIAL TRANSPORTERS AND COLLECTORS

9. LICENSING OF WASTE AND DIVERTED MATERIAL COLLECTORS

- 9.1 Any person involved in the removal, collection or transportation of more than ten (10) tonnes of approved waste or diverted material in any one twelve (12) month period within the City must have a commercial waste collector licence issued by the Council.
- 9.2 The application form for a commercial waste collector licence, and the information required on that form, will be in the Administration Manual.
- 9.3 A commercial waste collector licence may be granted subject to conditions, including, but not limited to, the conditions listed in the Administration Manual.
- 9.4 When exercising its discretion to grant a Licence and determining the conditions to be imposed in respect of it, the Council may take into account the following non-exhaustive list of factors:
- (a) The quantity and type of waste or diverted material to be removed, collected, transported, treated or disposed;
 - (b) The methods employed for the removal, collection, transportation, storage, treatment or disposal of waste or diverted material including the identity of the waste and diverted material facility at which it is proposed that treatment or disposal will occur;
 - (c) The frequency and location of the waste or diverted material collection, removal, and transportation services;
 - (d) The specifications of the vehicles, equipment and containers to be used for the collection, removal, transportation, treatment or disposal of waste or diverted material;
 - (e) The applicant's experience, reputation and track record in the waste and diverted material industry, including any known past operational issues which may affect the applicant's performance, and any breaches of previous licence conditions;
 - (f) The terms and conditions under which such disposal of waste or diverted material is permitted and the existence of, or need for, any statutory approvals, authorisations or consents required to be held or complied with in respect of such disposal.
- 9.5 A licenced collector must comply with all terms and conditions of the licence.

- 9.6 The Council may suspend or revoke a licence if the licence holder fails to comply with this Bylaw, any of the terms and obligations of the licence or acts in a manner which the Council reasonably considers is not suitable for a commercial waste collector.

PART FOUR - WASTE CAUSING HAZARD OR NUISANCE

10. ACCUMULATED WASTE OR LITTER

- 10.1 No occupier of any land or building (or in the case of unoccupied land or buildings, the owner) may permit or allow any waste to accumulate or remain in or upon any building or land which is, in the opinion of an authorised officer, likely to be a nuisance, injurious to health, a fire risk, cause an offensive smell or is otherwise offensive, or be a source of litter or harbour vermin.
- 10.2 Where an occupier or owner is in breach of clause 10.1, an authorised officer may issue to the occupier or owner of the premises on which the waste or litter has accumulated a Notice of Removal. The notice must specify the manner and time by which the waste must be disposed of.
- 10.3 If the owners or occupiers of the property fail to comply with the notice, or where in the opinion of the authorised officer removal and disposal of the waste is urgent, then an authorised officer may remove the accumulated waste and recover the costs of the removal and disposal of the waste from the owners or occupiers.

11. BURIAL OF WASTE

- 11.1 No person shall bury any non-biodegradable waste of any kind without the appropriate consents from Manawatu-Wanganui Regional Council and Palmerston North City Council.
- 11.2 For the avoidance of doubt, a consent from Manawatu-Wanganui Regional Council may also be required before burying biodegradable waste.

12. INTERFERENCE WITH AND REMOVAL OF WASTE OR RECYCLABLES

- 12.1 The interference with or removal of waste or recyclables from any public place is prohibited by anyone other than either the Occupier or Owner of the property from which the waste or recyclables were generated, or a person authorised by that Owner or Occupier, or an Authorised Officer.

PART FIVE – UNSOLICITED MAIL

13. UNSOLICITED MAIL RESTRICTED

- 13.1 No person may deposit, cause, permit or authorise the deposit of any unsolicited mail:
- (a) in any letterbox which is clearly marked "no circulars", "no junk mail", "addressed mail only" or with words of similar effect, or around or near any such letterbox or associated vehicle accessway;
 - (b) on any vehicle parked in a public place;
 - (c) in a letterbox that is already full of mail and/or advertising materials.

14. EXCEPTIONS TO UNSOLICITED MAIL RESTRICTIONS

- 14.1 Clause 13 shall not apply to any:
- (a) material from any government department or agency, crown entity, local authority, material from a network utility relating to the maintenance, repair, servicing or administration of that network utility, political party or political candidate, charity, or community newsletter;
 - (b) newspaper or community newspaper, unless the letterbox is clearly marked "no community newspapers" or with words of similar effect.

PART SIX – EVENTS

15. EVENTS WASTE MANAGEMENT AND MINIMISATION

- 15.1 All events held on Council land or with Council funding must comply with the terms and conditions for Events Waste Management and Minimisation contained in the Administration Manual.
- 15.2 The Council may require an event organiser to prepare an Events Waste Management and Minimisation Plan for the event and submit it to the Council for approval, and adhere to that approved Events Waste Management and Minimisation Plan.
- 15.3 If the Council requires an event organiser to prepare an Events Waste Management and Minimisation Plan, then the Council will:
 - (a) Give the event organiser as much notice as possible but at least 20 working days' notice prior to the event being held of the need to prepare an Events Waste Management and Minimisation Plan; and
 - (b) Provide assistance and advice to the event organiser to develop the Events Waste Management and Minimisation Plan.
- 15.4 The Council reserves the right to monitor and assess any event for compliance with the requirements of this section, and the effectiveness of any waste minimisation plan at minimising the amount of waste generated at the event. The outcomes of that assessment may be considered when determining whether the event organiser is given permission to use Council land for that event, or whether Council funding is granted for that event, in the future.

PART SEVEN - ADMINISTRATION

16. ADMINISTRATION MANUAL AND DELEGATIONS

- 16.1 The Council has passed a resolution at the same time as making this Bylaw adopting the Administration Manual. The Administration Manual may from time to time be amended by resolution of the Council and all matters over which the Administration Manual defines, regulates, control or prohibits related to this Bylaw, are matters that this Bylaw leaves to be addressed by resolution of the Council under section 151(2) of the Local Government Act 2002.
- 16.2 Before amending the Administration Manual the Council will consult in accordance with the decision-making requirements of S82 of the Local Government Act 2002.
- 16.3 The following people are authorised delegates under this Bylaw:
- (a) The Council by resolution;
 - (b) The Chief Executive of the Council;
 - (c) The person holding the office identified in Council's Delegations Manual as responsible for the administration of this Bylaw;
 - (d) Any other person authorised to exercise a power under this Bylaw, pursuant to the Council's Delegations Manual or resolution of the Council.
- 16.4 Authorised delegated persons may exercise any power, function or duty under this Bylaw, or carry out any act in order to achieve its effective administration, on behalf of the Council other than those expressly required to be by Council resolution including the following without limitation:
- (a) Specify forms and procedures for the effective administration of the bylaw;
 - (b) Make any decision or determination required in this Bylaw in order to administer it;
 - (c) Make decisions regarding whether or not a permit or licence should be granted, and the terms and conditions of that permit or licence including standard conditions and variations
 - (d) Make decisions regarding suspension, withdrawal or removal of a permit or licence.
- 16.5 All forms, specifications, conditions or methods for this Bylaw must be in writing and kept in the Administration Manual for this Bylaw called the Waste Management and Minimisation Bylaw Administration Manual, and shall be available to the public.
- 16.6 Every exercise of a power of delegation under this clause must be publicly reported to Council at least annually, if not exercised by Council by resolution, provided that failure to report does not invalidate the exercise of the delegate's power.

17. PERMITS AND LICENCES

- 17.1 Where an activity under this Bylaw requires a permit or licence from the Council, the person seeking a permit or licence must:
- a) Complete the required application form;
 - b) Pay the applicable fee;
 - c) Comply with any requirements set as conditions of that permit or licence.
- 17.2 A permit or licence may include, in addition to conditions incorporated by this Bylaw, conditions that the Council considers are necessary to manage the effects of the activity, achieve the objectives of this Bylaw and minimise the risk of nuisance.
- 17.3 For the avoidance of doubt and only in exceptional circumstances, the Council may grant a permit for an activity that would otherwise contravene this Bylaw.
- 17.4 A permit or licence is personal to the applicant and is not transferable.
- 17.5 An authorised officer may revoke or suspend any permit or licence issued under this Bylaw at any time, or suspend for such periods of time, on such terms and conditions as the authorised office may consider appropriate in the circumstances to protect public health and safety or to minimise nuisance.

18. FEES

- 18.1 The Council may charge a fee for receiving and processing an application for a licence or permit, and for issuing that licence or permit.
- 18.2 The Council may set fees payable for the use of services provided through this Bylaw (including the use of Council waste and diverted material services).
- 18.3 The Council must prescribe a fee for any permit or licence issued under this Bylaw in accordance with section 150 of the Local Government Act 2002.

PART EIGHT - ENFORCEMENT

19. NON-COMPLIANCE WITH TERMS AND CONDITIONS FOR COLLECTION OF WASTE AND DIVERTED MATERIAL

- 19.1 Where an owner or occupier of an eligible property does not comply with clause 6 of the Bylaw then the Council may, in its discretion, choose not to collect the bag or choose not to empty material from the collection container. The Administration Manual contains the current policies of the Council that will inform the exercise of the Council's discretion.
- 19.2 The Council may choose to suspend a kerbside collection service to any premises as a result of a serious, repeated, or ongoing breach of clause 6 of the Bylaw. The service to the premises may be suspended until the owner or occupier of that premises satisfies the Council on reasonable grounds that the Bylaw will be complied with. The Administration Manual contains the current policies of the Council that will inform the exercise of the Council's discretion. The targeted rate charged by the Council for any kerbside collection service will continue to be payable for that premises while the service is suspended.

20. NON-COMPLIANCE WITH TERMS AND CONDITIONS FOR COUNCIL WASTE AND DIVERTED MATERIAL FACILITIES

- 20.1 Where a person does not comply with clause 7 of the Bylaw the Council may:
- (a) Refuse to accept any or all of the items intended to be deposited at that facility;
 - (b) Issue a trespass notice against that person to prevent them from using the facility;
 - (c) Suspend that person's use of any service provided by the Council at any or every waste collection service or facility

21. NON-COMPLIANCE WITH CONDITIONS OF A LICENCE

- 21.1 Where a licence holder does not comply with the terms and conditions of the licence, the Council may take one or more of the following steps:
- (a) Issue a written warning to the licence holder, which may be considered as evidence of a prior breach of a licence condition during any subsequent review of the licence;
 - (b) Review the licence, which may result in:
 - (i) amendment of the licence; or
 - (ii) suspension of the licence; or
 - (iii) withdrawal of the licence.
 - (c) Have recourse to any performance bond or security where the Council has incurred any cost as a result of the breach of the licence condition, including where the Council has itself performed or arranged for the performance of any licensed activity on the default of the licence holder;

- (d) Review the amount and nature of the performance bond or security, which may result in:
 - (i) an increase of the amount of the performance bond or security;
 - (ii) a change to the nature of the security that has been provided.

22. BYLAW BREACHES

- 22.1 Notwithstanding clauses 19-21 of the Bylaw, a person who fails to comply with the Bylaw commits an offence under section 239 of the Local Government Act 2002 and is liable to a fine as specified in section 242 of the Local Government Act 2002.
- 22.2 A person who commits a breach of this Bylaw that is an offence under the Litter Act 1979, the Waste Minimisation Act 2008, or the Health Act 1956 is liable to a penalty under that Act.
- 22.3 The Council may issue infringement notices, in such forms and for such amounts as are authorised in any regulations made under section 259 of the Local Government Act 2002, the Litter Act 1979, the Waste Minimisation Act 2008, and the Health Act 1956.