

Waste Bylaw 2017

Marlborough District Council is committed to reducing waste. This bylaw is only one part of this commitment. For further information, see <http://www.marlborough.govt.nz/Environment/Environmental-Education/School-Education-Programmes/Waste-Minimisation.aspx> containing links to our 'Waste Kit' and Recycling Guide.

This bylaw is made under the Local Government Act 2002, the Waste Minimisation Act 2008 and the Litter Act 1979.

1. Title

This bylaw is the **Marlborough District Council Solid Waste Bylaw 2017**.

2. Commencement

This bylaw comes into force on 25 May 2017.

3. Application

This bylaw applies to the collection, transport and disposal of waste and the control of litter within the Marlborough District.

Part 1—Preliminary provisions

4. Purpose

The purpose of this bylaw is to contribute to:

- (a) the promotion and delivery of effective and efficient waste management and minimisation in Marlborough:
- (b) the implementation of the council's waste management and minimisation plan:
- (c) the regulation of the collection and disposal of waste by Council from public places:
- (d) the protection of the health and safety of waste collectors, waste operators and the public:
- (e) the management of litter in public places.

5. Interpretation

- (1) In this bylaw, unless the context otherwise requires,—

Act means the Waste Minimisation Act 2008:

approved container means any container approved by the council for the collection of waste and includes rubbish bags, reusable containers for recyclables, and flexible skip bins:

commercial waste means waste that results from a commercial enterprise and includes waste generated by the carrying on of any business, trade, market, or other commercial undertaking:

Council means the Marlborough District Council:

Council collection point means those places or containers in locations where approved containers may be left for collection or waste may be deposited as directed by Council:

Council waste facility means a waste management and recycling facility owned and operated by Council or through a Council contractor:

event includes an open-air market, parade, protest, festival, commercial film shoot, or concert:

inorganic material means waste consisting of household equipment, furniture, appliances and material of a similar type that due to its nature or size is not approved by Council for collection as domestic waste in an approved container:

litter receptacle means a receptacle placed by Council in a public place for the deposit by the public of litter:

prohibited material means any material specified by Council as prohibited material by resolution under bylaw 15 and includes the materials described in Schedule 1.

- (2) Unless the context requires another meaning, a term or expression that is defined in the Act and used, but not defined, in this bylaw has the meaning given by the Act.

Part 2— Collection of waste

6. Regulation of kerbside or other waste collection services

- (1) The Council may by resolution, publicly notified, regulate the collection or transportation of waste regarding:
- (a) different categories of collection, transport and deposit services that may apply to different geographic areas ;
 - (b) the type, size and construction of containers for the collection of waste;
 - (c) collection days, times and places;
 - (d) retrieval of approved containers;
 - (e) the provision of on-site space for approved containers for multi-unit buildings; and
 - (f) restrictions on the weight of approved containers.
- (2) Any person using a kerbside or other waste collection service must:
- (a) ensure that the recycling is cleaned and all the waste from their premises is separated and deposited for collection in the correct approved container; and
 - (b) comply with any resolutions made by Council under this bylaw, from time to time.

7. Approved containers to be kept clean and in good repair

Every person must keep the approved container assigned to them clean and must maintain it in good repair.

8. Collection of commercial waste

Where Council has reached an agreement with any person to remove commercial waste, such waste will be removed or disposed of by Council, only when the waste is contained within an approved container and in accordance with any applicable terms and conditions set by Council for the collection.

9. Deposit or removal of waste from collection places

- (1) No person may put waste into an approved container provided to any other person, without that other person's consent.
- (2) No person may remove waste from, or interfere with any waste deposited in, an approved container, except the Council, a Council-contracted waste collector or the person who deposited the waste.
- (3) No person may remove an approved container provided by Council from the premises to which it has been allocated.
- (4) The manager, the owner, and the occupier, of any premises is responsible for all waste generated on the premises until it has been collected.
- (5) The manager, the owner, and the occupier of any premises is responsible for all waste placed at the collection place that is not collected by Council.

10. Obstruction of waste collectors

No person may obstruct or otherwise interfere with any person engaged in a Council waste collection service.

Part 3—Disposal of waste and recovery of resources at a Council waste facility

11. Terms and conditions for disposal at a Council waste facility

- (1) Council may, by resolution, publicly notified, set, in relation to any Council waste facility,--
 - (a) the hours of opening and closing;
 - (b) the nature of the waste which may be disposed of including material that may be prohibited;
 - (c) the charges to be paid for the disposal; and
 - (d) the position in any such facility, in which waste may be placed.
- (2) Any person who enters any Council waste facility must comply with any resolutions set by Council under this bylaw.

12. Disposal of waste, generally

- (1) No person may deposit waste at any Council waste facility which originates from outside the Marlborough District, except with the prior written permission of Council.
- (2) Council may inspect all waste presented for disposal.
- (3) All persons present at a Council waste facility must comply with the directions of Council and the Council-contracted operator of the facility and with any signs erected at the facility.

13. Non-compliance with requirements for Council waste facilities

Any person who does not comply with these bylaws or any resolution made by Council under these bylaws in relation to a Council waste facility may be:

- (a) denied entry to the facility;
- (b) refused permission to deposit their waste;
- (c) required to leave the facility; and
- (d) issued a trespass notice for that facility and other Council land.

14. Activities at a Council waste facility

- (1) No person may fossick, forage, or remove material from any Council waste facility without the prior written permission of Council unless it is obtained from a recycle or reuse shop.
- (2) Any waste deposited at a Council waste facility will become the property of Council once any fee for the deposit is paid or the waste is accepted by Council.

15. Certain materials prohibited

- (1) Council may, by resolution, publicly notified, specify materials that are prohibited from being placed in an approved container for collection, in a public receptacle or deposited at a waste facility.
- (2) No person may place for collection in any approved container any prohibited material.
- (3) No person may place in a public receptacle any prohibited material.
- (4) No person may deposit at any waste facility any prohibited material.

16. Unauthorised Entrance

- (1) No person may enter any Council waste facility except on business associated with the facility.
- (2) No person may enter a Council waste facility outside the operating hours of that facility without the prior permission of Council.

17. Waste Plans for events

- (1) Any organiser of an event must obtain prior approval from the Council of a waste plan for the event.
- (2) The waste plan must be in line with the purpose of this bylaw and the WMMP.
- (3) The waste plan must set out:
 - (a) an estimate of the types and amounts of waste to be generated by the event;
 - (b) how waste generated by the event is to be minimised;
 - (c) the steps to maximise the collection and use of recyclables and reusable material;
 - (d) the equipment to be provided for the storage, collection and transportation of waste and diverted material;
 - (e) the person responsible for the collection and disposal of waste and the methods to be used;
 - (f) the timing and frequency of the collection of the waste, during or after the event;
 - (g) a waste analysis following the conclusion of the event.
- (4) The organiser of an event must comply with the waste plan approved by Council.

18. Areas specified for inorganic collection

- (1) The Council may by resolution, publicly notified, specify areas where inorganic material may be deposited on a public place for collection by the Council on specified days and times.
- (2) No person may deposit inorganic material on a public place for collection by the Council, as allowed for in bylaw 18(1), if the inorganic material is likely to cause:
 - (a) injury to any person; or
 - (b) dispersal of inorganic material or any element or component thereof; or
 - (c) damage to or destruction of any items placed for collection.

19. Controls for inorganic material collection

- a. The Council may, by resolution, publicly notified, specify, in relation to the collection of inorganic material from a public place,--
 - i. the weight, size and nature of inorganic materials that may be deposited for collection by the council;
 - ii. the categories of inorganic waste that may be deposited for collection by the council;
 - iii. the times, locations and conditions applicable to the collection by the council of inorganic material from a public place;
 - iv. the collection methods that cause health and safety risks;
 - v. any other operational matter required for the safe and efficient collection by the council of inorganic material from a public place.
- b. Any person who deposits inorganic material for collection in, or collects and transports inorganic material from, a public place must comply with the controls made by the council.

Part 4—Litter

20. Dumping of waste

No person may deposit or dump any waste or refuse in any public place, other than a place determined by Council as suitable for the deposit or dumping.

21. Litter

- (1) No person may-
 - (a) deposit any domestic, commercial or industrial litter, any litter from a vehicle or any prohibited material in any litter receptacle;
 - (b) remove any litter from any litter receptacle, unless authorised by Council to do so;
 - (c) deposit or attempt to deposit any litter in, on, under, or beside, any litter receptacle if:
 - i. the receptacle is full; or
 - ii. the litter is likely to escape;
 - (d) fix or attach any flag, banner, bunting, balloon, sign, poster, leaflet or similar thing to any litter receptacle; or
 - (e) damage any litter receptacle.
- (2) The owner, occupier or manager of any premises on which any flag, banner, bunting, balloon, sign, poster, leaflet or similar device is displayed that is likely to become litter, must take all reasonable steps to prevent it becoming litter and to clean up any litter caused by the display.
- (3) Every commercial or business property owner, occupier or manager, must provide sufficient waste receptacles for the use of their staff and patrons.

22. Unaddressed mail

- (1) No person may deposit or cause to be deposited any unaddressed mail, advertising material, community newspapers, clothing donations bags, circulars, leaflets, brochures, samples or flyers in any letterbox which is clearly marked "addressed mail only" "no circulars", "no junk mail" or words with similar effect.
- (2) Subclause (1) does not apply to:
 - (a) public notices or referendum material from government bodies or local authorities or New Zealand Post;
 - (b) election material during the period beginning two months before polling day and ending with the close of the day before polling day.

23. Donation collection points

Any person who places a container on a public place or on private premises under this clause, must take all steps to the satisfaction of Council to prevent the donated goods from

- (a) being carried from or otherwise escaping from the approved container onto a public place or from becoming litter;
- (b) accumulating on a public place within a radius of 10 metres from the container.

24. Shopping trolleys

- (1) No person in control of a shopping trolley may leave it unattended on a public place other than the premises of the commercial enterprise that provided the shopping trolley.
- (2) No owner or manager of a commercial enterprise that provides shopping trolleys for customer use may allow a person to leave a shopping trolley unattended on a public place other than the premises of that commercial enterprise.
- (3) Any owner or manager of a commercial enterprise must take reasonable measures to prevent the removal of any shopping trolley from any premises occupied by the commercial enterprise onto any public place. Such measures include, but are not

limited to, the erecting of signage to prevent the removal of a shopping trolley from the premises.

- (4) Within six months of the commencement of this bylaw, shopping trolleys provided by a commercial enterprise to its customers for the conveyance of goods obtainable from its commercial premises must be legibly marked in a manner that enables Council to identify the commercial enterprise responsible for providing the shopping trolley. Identification may be by way of a toll free number or address. The commercial enterprise must then retrieve the trolley within 10 working days of being notified of its whereabouts.

Part 5—Administration, Enforcement & Miscellaneous provisions

25. Permission of Council

- (1) Where, in these bylaws, the prior permission of Council is required, a person must apply to Council in writing, providing all of the information identified by Council as necessary and paying the required fee. Council will consider the application and may grant, with conditions, or decline the permission.
- (2) Where Council has determined (whether by resolution otherwise) that a specified activity at a specified place at specified times is permitted, any person who would otherwise require prior written permission under these bylaws need not obtain that permission if they comply with the determination and any terms and conditions imposed by Council in relation to that determination.

26. Fees

- (1) Council may, by resolution, publicly notified, fix fees for an application for a permission, for collection, transport and disposal of waste, and for any other matter under this bylaw and the Acts.
- (2) The fees may be reviewed and amended from time to time.
- (3) Council may set different fees for different activities, locations, or types of waste.

27. Breach of bylaws made under the Waste Minimisation Act

A person who fails to comply with these bylaws commits an offence and is liable to a fine not exceeding \$20,000.00.

28. Breach of bylaws made under the Litter Act 1979

- (1) A person who fails to comply with these bylaws commits an offence and is liable to a fine, in the case of an individual, not exceeding \$5,000 or, in the case of a body corporate, not exceeding \$20,000,
- (2) Where any person fails to comply with these bylaws and the litter deposited is of such a nature as is likely to endanger any person or to cause physical injury or disease or infection to any person coming into contact with it (being in particular any bottle whether broken or not, glass, article containing glass, sharp or jagged material, or any substance of a toxic or poisonous nature) that person is liable—
 - (a) In the case of an individual, to imprisonment for a term not exceeding 1 month, or to a fine not exceeding \$7,500, or to both; or
 - (b) In the case of a body corporate, to a fine not exceeding \$30,000.

Council has adopted an infringement offence process under the Litter Act 1979. This means that Council can, as an alternative to filing charges in Court, issue an infringement notice for the above offence. An infringement fee may be up to \$400.00.

29. Consequences of breach of bylaws

- (1) Waste that is placed for collection other than—
 - (a) in an approved container;

- (b) on the applicable day or time;
- (c) at the applicable place; or
- (d) in accordance with the Act, these bylaws and any resolution made by Council under this bylaw.

may not be collected.

- (2) Continued non-compliance by any person may result in the Council:
 - (a) withdrawing or suspending collection of the waste from that person;
 - (b) removing the approved receptacle supplied to that person;
 - (c) enforcing any offence that may have been committed under the Litter Act 1979; and/or
 - (d) enforcing the breach of this bylaw, as provided for in the Health Act 1965, the Local Government Act 2002 and the Waste Minimisation Act 2008.
- (3) Council may, under section 163 of the Local Government Act 2002—
 - (a) remove or alter a work or thing that is, or has been, constructed in breach of this bylaw; and
 - (b) recover the costs of removal or alteration from the person who committed the breach.

Note— Section 163 provides that nothing done under section 163 or this bylaw relieves the person who committed the breach from any other liability for the breach of the bylaw.

30. Bylaws not to limit or affect other enactments

These bylaws do not limit or affect the requirements in or under any other enactment.

Part 6—Revocation & Savings

31. Revocation

Chapter 5 of the Marlborough District Council General Bylaws 2010 is revoked.

32. Savings

Any lease, licence, or other permission, still in force, granted to any person under Chapter 5 of the Marlborough District Council General Bylaws 2010 remains in force until reviewed by Council.

Schedule 1—Prohibited Materials

<i>Deposit at landfill</i>	<i>Deposit for collection</i>
Dangerous or noxious drugs (excluding material contaminated by such drugs)	Any explosive ammunition
Toxic waste	Hot ashes
	Highly flammable material
Caustic waste	Infectious matter
Oil	Liquid
Resins	Acid
Paints	Paint
Acids or alkali	Printers ink

<i>Deposit at landfill</i>	<i>Deposit for collection</i>
Agricultural chemicals	Poison
Industrial chemicals	Other viscous fluid
Flammable goods	Unwrapped glass, whether broken or unbroken
Medical waste	Any other matter likely to endanger the health of or cause injury to waste collection and disposal workers
Live animals or animal carcasses	
Treated sawdust	
Other hazardous items	

Explanatory notes

At the time of promulgation of this bylaw, section 46 of the Waste Minimisation Act provided—

- (1) *A territorial authority is not limited to applying strict cost recovery or user pays principles for any particular service, facility, or activity provided by the territorial authority in accordance with its waste management and minimisation plan.*
- (2) *Without limiting subsection (1), a territorial authority may charge fees for a particular service or facility provided by the territorial authority that is higher or lower than required to recover the costs of the service or facility, or provide a service or facility free of charge, if—*
 - (a) *it is satisfied that the charge or lack of charge will provide an incentive or disincentive that will promote the objectives of its waste management and minimisation plan; and*
 - (b) *the plan provides for charges to be set in this manner.*