

## **Franklin District Council Waste Bylaw 2009**

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### **Part 1**

#### **Introduction and Interpretation**

##### **1. Title and Commencement**

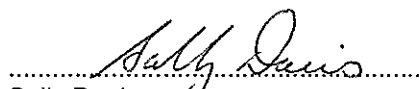
- (1) This Bylaw may be cited as the Franklin District Council Waste Bylaw 2009 and shall come into force on 10 August 2009.
- (2) This Bylaw applies to the Franklin District.

##### **2. Franklin District Council Waste Bylaw Validation**

- (1) The Franklin District Council Waste Bylaw 2009 was duly made at a meeting of the Franklin District Council held on 30 July 2009 after completion of the special consultative procedure under section 86 of the Local Government Act 2002.
- (2) The Common Seal of the Franklin District Council was affixed hereto, pursuant to a resolution of Council on 30 July 2009 in the presence of:



.....  
Mark Ball  
**Mayor**



.....  
Sally Davis  
**Chief Executive**



..... 30 July 2009 .....

**Date**

### 3. Scope

- (1) This Bylaw is made pursuant to section 56 of the Waste Minimisation Act 2008, section 145 of the Local Government Act 2002, section 12 of the Litter Act 1979 and sections 64(1) and 65 of the Health Act 1956.
- (2) The objectives of this Bylaw are:
  - (a) To monitor and regulate the collection, transportation, disposal and management of Waste in such a way as to encourage minimisation of Waste being generated and disposed of in Franklin District.
  - (b) To promote Council's Waste minimisation and Waste reduction objectives in accordance with the provision of the Waste Minimisation Act 2008.
  - (c) To assist in the implementation of Council's Waste Management Plan and the New Zealand Waste Strategy.
  - (d) To ensure effective and efficient Waste management in the Council's area.
  - (e) To impose specific performance standards and requirements for Waste collection, transportation and disposal and treatment services for the benefit of the public.

### 4. Definitions

**Addressed** means any mail or material that has a street address (i.e. street/road name and number or Rural Delivery address).

**Advertising Material** is any material which predominantly:

- (a) offers to supply goods or services; or
- (b) advertises or promotes goods or services; or
- (c) advertises or promotes a supplier, or prospective supplier of goods or services; or
- (d) offers to supply land, property or buildings; or an interest in land, Property or buildings; or
- (e) advertises or promotes a supplier, or prospective supplier, of land, property or buildings or an interest in land, property or buildings; or
- (f) advertises or promotes a business opportunity or investment opportunity; or
- (g) advertises or promotes a provider, or prospective provider, of a business opportunity or investment opportunity;
- (h) includes circulars, leaflets, brochures, magazines or flyers;

Advertising material does not include:

- (i) any newspaper, community newspaper, community newsletter;
- (ii) public notices from government bodies or territorial authorities;
- (iii) public notices from charities or charitable institutions;
- (iv) election flyers by individual candidates.

**Approved Receptacle** means a container or bag used for the keeping of Waste and approved by Council and Publicly Notified, and:

In relation to Household Waste and Commercial Waste means:

- (a) Plastic bag or receptacle approved by Council and Publicly Notified and stickered with an official Council Waste collection sticker sold by or on behalf of Council or Licensed Waste Collectors;
- (b) Mobile bin approved by Council and Publicly Notified and provided by or on behalf of Council or Licensed Waste Collectors;
- (c) Any other receptacle provided by or on behalf of Council from time to time for the purpose of collecting Household Waste and Commercial Waste.

In relation to Recyclable Material means:

- (a) Plastic crate approved by Council and Publicly Notified and provided by or on behalf of Council or other Licensed Waste Collectors;
- (b) Any receptacle approved by Council and Publicly Notified for the purpose of collecting Recyclable Material and which is sturdy, not capable of being sodden in the event of rain, and of a size, weight and volume so that it is able to be easily and safely lifted.

In relation to Green Waste means receptacles approved by the Council and Publicly Notified and provided by Licensed Waste Collectors or Council if notified.

In relation to Hazardous Waste a receptacle with distinctive colours or symbols to distinguish it from other Approved Receptacles; and which contains the Hazardous Waste in a safe and secure manner so that no Hazardous Waste is able to spill or leak out of the receptacle.

**Chief Executive** means for the time being the Chief Executive of the Franklin District Council or any person delegated by the Chief Executive to perform functions under this Bylaw.

**Cleanfill** means any material that has no potential or actual ability to adversely affect the environment. This material should be of a natural origin such as clay, rock and soil, and other material, such as clean concrete, brick and demolition products that are free of combustible and organic materials, substantially free of voids, and not subject to biological breakdown.

**Commercial Waste** means any Solid Waste resulting from the carrying on of any business, manufacture, process, trade, market, or other undertaking; and includes Recyclable Material which is not accepted by the Council for separate collection, or Inorganic Waste but does not include Prohibited Waste, Hazardous Waste or Trade Waste.

**Council** means Franklin District Council and shall include any person or Council officer authorised to act on Council's behalf.

**Deposit** means in relation to Waste to:

- (a) cast, place, throw or drop; and
- (b) to cause or permit Waste or other material or thing to be cast, placed, thrown or dropped.

**Green Waste** means compostable plant material but does not include Household Waste, Commercial Household Waste, Paper Waste, Inorganic Waste, Prohibited Waste, Hazardous Waste, Trade Waste or liquid waste of any nature.

**Hazardous Waste** means any waste that:

- (a) contains hazardous substances at sufficient concentrations to exceed the minimum degrees of hazard specified by Hazardous Substances (Minimum Degrees of Hazard) Regulations 2000 under the Hazardous Substances and New Organisms Act 1996; or
- (b) meets the definition for infectious substances included in the Land Transport Rule: Dangerous Goods 2005 and NZ Standard 5433: 2007 – Transport of Dangerous Goods on Land; or
- (c) meets the definition for radioactive material included in the Radiation Protection Act 1965 and Radiation Protection Regulations 1982; or

is Publicly Notified by the Council from time to time to be hazardous and to require special handling for the purposes of collection transportation or disposal.

**Household Waste** means Solid Waste resulting from domestic or commercial premises housekeeping operations. Household Waste does not include Recyclable Material, Green Waste, Paper Waste, Inorganic Waste, Commercial Waste, Prohibited Waste, Hazardous Waste, Trade Waste or liquid waste of any nature.

**Inorganic Waste** means domestic Solid Waste that will not fit within an Approved Receptacle and if the Council so elects and notifies, may include polystyrene, builder's waste or Prohibited Waste of a particular class but does not include Household Waste, kerbside recyclables, Green Waste, Paper Waste, Commercial Waste, Prohibited Waste, Hazardous Waste, Trade Waste or other liquid waste of any nature.

**Landfill** means land upon which the Deposit and disposal of Solid Waste can lawfully occur.

**Licence** means a licence granted by the Chief Executive under this bylaw.

**Licensed Waste Collector** means a person which has a Licence to collect and/or transport and/or dispose of Waste.

**Licensed Waste Operator** means a person which has a Licence to operate a Waste Management Facility.

**Litter** includes refuse, rubbish, animal remains, glass, metal, garbage, plastic, debris, dirt, filth, rubble, ballast, stones, earth, or waste matter, or any other thing of a like nature.

**Multi Unit Property** means:

A Property with five or more residential units or business occupancies, whether in the same building or in separate buildings; or

Five or more unit titles at the same location, whether in the same building or in separate buildings.

**Occupier** means any person who occupies any land or building and, if the land or building is unoccupied, includes the owner.

**Paper Waste** means any paper, cardboard, or any other paper based Waste but does not include Household Waste, , Green Waste, Inorganic Waste, Commercial Waste, Prohibited Waste, Hazardous Waste or Trade Waste.

**Person** includes an individual, company or other corporate body.

**Prohibited Waste** means:

- (a) any broken glass, broken china, broken plastic, hacksaw blade, razor blade, skewer, syringe, knife or any other object or material capable by reason of its shape or sharpness of causing injury unless any such Waste is properly and sufficiently contained so as to prevent injury damage or loss;
- (b) any sharp object or material capable of puncturing the Approved Receptacles or capable by reason of its brittleness of shattering in the course of collection; unless such Waste is properly and sufficiently wrapped or contained so as to prevent injury damage or loss;
- (c) any explosive, hot ashes, flammable material, infectious material, or any other matter, thing or Waste of any kind whatsoever that may endanger any person, animal or vehicle which may come in to contact with it at any time prior to during or following collection before or during collection or during or after disposal;
- (d) any liquid or any viscous fluid;
- (e) any radioactive wastes, but excluding domestic smoke detectors;

- (f) any used oil, lead-acid batteries, refrigerators and/or freezers that have not been degassed;
- (g) any Hazardous Waste.

**Property** means land and buildings held under the same allotment or title, with a defined boundary, and excludes any Public Place.

**Public Place** means every road, footpath, court, alley, pedestrian mall, lane, access way, reserve, park, sportsfield, recreation ground, domain, beach, river, lake, foreshore and building which is open or used by the public as of right, and every place to which the public has access and as further defined in the Franklin District Council Public Places bylaw 2007.

**Publicly Notified** means published in a notice published in a newspaper or newspapers circulating in the district to which the notice relates.

**Recyclable Material** means any rags, second hand or used clothing, textiles, wood, concrete, steel, oil, Paper Waste, Green Waste, steel cans, tin cans, aluminium cans, glass, plastic products including plastic containers and other material Publicly Notified by Council from time to time. Recyclable Material does not include Household Waste, Commercial Waste, Inorganic Waste, Prohibited Waste, Hazardous Waste, Trade Waste or liquid waste of any nature.

**Solicited** means invited, sought or requested, whether expressly or implicitly.

**Solid Waste** means any Waste generated as a solid or converted to a solid for disposal.

**Trade Waste** means any sewage or liquid, with or without matters in suspension or solution, produced in the course of any trade or industrial process. Trade Waste in the Franklin District is governed by the Trade Waste Bylaw 2007.

**Transfer Station** means land or buildings to which Waste is delivered for sorting or consolidation before being taken away for treatment, processing, recycling or disposal.

**Trolley** means any movable receptacle on wheels, and includes a shopping trolley.

**Unaddressed** means any mail or material that does not have a street address i.e. street/road name and number or Rural Delivery address.

**Waste** means any solid, material or thing that is discarded, discharged or selected for disposal and includes:

- Commercial Waste, Household Waste, Commercial Household Waste, Green Waste, Hazardous Waste, Inorganic Waste, Kitchen Food Waste, Paper Waste, Prohibited Waste, Recyclable Material and Special Waste.
- An object which has been abandoned.
- Litter.

**Waste Collection Area** means the area on the road reserve outside the Property from which the Waste originates immediately adjacent to the kerb and limited in size so that the placement of the Waste does not unduly interfere with the free passage of pedestrians or access to any service utility installations, or such other place approved by Council and/or Publicly Notified as a Waste Collection Area.

**Waste Management Facilities** means land or buildings used for the management, treatment or disposal of Waste and includes a Landfill, cleanfills with a volume of more than 1,000m<sup>3</sup>, commercial composting operations, recovery operations (scrap metal merchants), Transfer Stations, tips, recycling centres, resource recovery centres, transfer points, waste pads, transportation points, and waste consolidation points.

## Part 2

### General Waste Collection provisions

**Part 2 of the Bylaw applies only to Waste collected from a Waste Collection Area.**

#### **5. Approved Receptacles**

- (1) Every Occupier must use the appropriate Approved Receptacle for any Waste collection.
- (2) All Approved Receptacles must be clean, safe and secured to prevent the contents from escaping at all times and the contents protected from rain and ingress or egress of flies or vermin.
- (3) Approved Receptacles must not contain Prohibited Waste or be overloaded or overflowing. The maximum permitted weight of a stickered plastic bag will be publicly notified by Council.
- (4) Approved Receptacles (excluding Hazardous Waste Approved Receptacles) must be placed in an upright position within the Waste Collection Area.
- (5) Approved Receptacles must be used in a manner which minimises any adverse effects of the storage of Waste in that receptacle to surrounding Occupiers.
- (6) Reusable Approved Receptacles must be kept clean, safe and in good repair, covered at all times with a close-fitting lid where provided or securely tied and the contents protected from rain or ingress or egress of flies or vermin.
- (7) Waste placed in a reusable Approved Receptacle must be placed in a manner which allows the whole of the contents to fall out easily and cleanly when the receptacle is emptied.
- (8) Any Waste may only be placed in the Waste Collection Area where the Approved Receptacle is capable of holding a volume of Waste equal to or less than 240 litres unless otherwise Publicly Notified. Any Approved Receptacle capable of holding a volume of Waste of more than 240 litres must be collected from within the Property.

#### **6. Placement of Waste for collection**

- (1) Household Waste, Commercial Waste and Recyclable Material must be put out for collection no earlier than 5.30 pm the evening before, and should be put out no later than 7.30 am on the morning of the day for collection unless otherwise directed from time to time by Council and Publicly Notified.
- (2) The number of Approved Receptacles put out from each Property for collection or emptying must not exceed the maximum number determined by the Council from time to time (if any) and Publicly Notified.
- (3) Provided that the Chief Executive may, on application, grant permission for any receptacle to be placed in a Waste Collection Area subject to appropriate conditions. Such permission will only be granted where extenuating circumstances exist that make it difficult for the receptacle to be uplifted from within a property.

**7. Retrieval of uncollected Waste and reusable Approved Receptacles**

- (1) Waste which is not collected on the day for collection must be removed from the Waste Collection Area by 6.00 pm on the day following the day for collection by the Occupier of the Property from which the Waste was generated.
- (2) Waste left in the Waste Collection Area after 6.00 pm on the day following the day for collection may be removed by the Council and the fee for collection and disposal of that uncollected Waste as specified in Council's Fees and Charges Manual (except in any case where the missed collection was to be undertaken by the Council) shall be borne by the Occupier of the Property from which the Waste was generated.
- (3) Reusable Approved Receptacles, whether full or empty, must be removed from the Waste Collection Area by 6pm on the day following the day for collection by the Occupier of the Property from which the reusable Approved Receptacle came.

**8. Multi Unit and Right of Way properties**

- (1) Every owner or body corporate of a Multi Unit Property is to provide Approved Receptacles for Household Waste and Recyclable Material (and Commercial Waste if appropriate) to the Occupiers in that Multi Unit Property.
- (2) Every owner or body corporate of any Multi Unit Property for which building consent is granted after 10 November 2009 must:
  - (a) Make adequate provision for Household Waste, Recyclable Material (and Commercial Waste if appropriate) within the Property to the satisfaction of the Council.
  - (b) Accompany any application for building consent with a waste management plan which identifies:
    - (i) an adequate area for the storage of Approved Receptacles which is accessible to Occupiers and waste collectors;
    - (ii) the methods to be employed to minimise noise and odour and to keep the area hygienic, and free from vermin or other infestations and protected from theft and vandalism.
- (3) Every applicant for a resource consent with five or more separately used or inhabited residences with access from the same right of way or jointly owned access way must set aside a Waste Collection Area for Approved Receptacles to be left in a tidy and non-obstructive fashion that does not obstruct pedestrians or vehicular traffic.

**Part 3**

**Household Waste and Commercial Waste**

**9. Household and Commercial Waste disposal at Waste Management Facility**

- (1) In addition to the clauses of this bylaw that relate to Waste collection, Household Waste and Commercial Waste may also be disposed of at a Waste Management Facility for the applicable charge.

## **Part 4**

### **Recyclable Material**

#### **10. Kerbside Recyclable Material Collections Operated by Council**

- (1) Not all Recyclable Material is able to be put out for collection by Council in its kerbside Recycling Waste Collections.

For the purposes of this bylaw, only the following Recyclable Material may be placed in the Waste Collection Area for Council Kerbside Recyclable Collections:

- (a) cleaned aluminium cans, steel cans, glass bottles (clear, amber and green) and plastic recyclable containers of a type Publicly Notified by Council from time to time; and
- (b) any other recyclable items as Publicly Notified by the Council from time to time; which arise from, or result from residential housekeeping activities, or housekeeping activities undertaken on commercial premises for and on behalf of staff who work at those commercial premises.

## **Part 5**

### **Green Waste**

#### **11. Collections of Green Waste**

- (1) Only Green Waste in an Approved Receptacle may be placed in the Waste Collection Area.
- (2) Green Waste may be placed in the Waste Collection Area and collected by Green Waste Collectors or by Council if collections are Publicly Notified.
- (3) Green Waste may only be put out for collection in accordance with the Green Waste collection contract between the Occupier/owner and the Licensed Waste Collector, and in accordance with the terms of the Licensed Waste Collectors license; and in accordance with the conditions of any collection Publicly Notified by Council.

#### **12. Green Waste not to be disposed of in Landfill**

- (1) Any Waste consignment that is exclusively Green Waste must not be disposed of in a Landfill, provided that where Green Waste forms part of a Waste consignment, disposal at a Landfill is authorised.

## **Part 6**

### **Paper Waste**

#### **13. Kerbside Collections of Paper Waste**

- (1) Only clean Paper Waste of a type, quality or from a source that is Publicly Notified by Council as suitable for separate collection from time to time may be placed in the Waste Collection Area.
- (2) For the sake of clarity, this clause does not seek to prevent private collections of Paper Waste from the Waste Collection Area.

#### **14. Placement of Paper Waste for collection**

- (1) Paper must be bound together or contained in a manner so that paper does not blow away and that can be lifted easily and safely, or as approved by Council and Publicly Notified from time to time, and placed as close to the kerb as possible within the Waste Collection Area.

## **Part 7**

### **Inorganic Waste**

#### **15. Inorganic Waste Drop off days**

- (1) Council will Publicly Notify the times and places for the drop off of Inorganic Waste.
- (2) Inorganic Waste may be dropped off within the times Publicly Notified by Council.
- (3) Inorganic Waste placed in the drop off area must not be placed so as to create a nuisance, hazard, or obstruction or to cover service access points or service utility installations.
- (4) This bylaw does not prevent the collection of Inorganic Waste from a Property by a Licensed Waste Collector in accordance with any contract for the collection of Inorganic Waste.
- (5) This bylaw does not allow the placement of Inorganic Waste for private collection in a Waste Collection Area or a Public Place.

#### **16. Delivery of Inorganic Waste**

- (1) Inorganic Waste may be delivered to a Waste Management Facility in accordance with the facility's terms and conditions.

## **Part 8**

### **Hazardous Waste**

#### **17. Contract for Removal**

- (1) A Licensed Waste Collector shall not collect, transport or dispose of Hazardous Waste unless it does so in accordance with the terms of its Licence and the terms of its contract with its customer.
- (2) The delivery of Hazardous Waste to a Council operated service or Council approved facility for collection and disposal of Hazardous Waste shall not be an offence under this bylaw.
- (3) The provisions of a contract for the collection of Hazardous Waste shall not be inconsistent with the provisions of any Hazardous Waste collection Licence, and shall include the following terms:
  - (a) Hazardous Waste must be placed in an Approved Receptacle;
  - (b) Only Hazardous Waste may be placed in a Hazardous Waste Approved Receptacle;
  - (c) The dates and times for collection of Hazardous Waste;
  - (d) The place for collection.

## **Part 9**

### **Deposited Waste on Public Land**

#### **18. Depositing Waste on Public Land**

- (1) No person shall Deposit, or permit or suffer the Deposit of any Waste or Litter in a Public Place other than in a manner provided for by this bylaw.
- (2) Without limiting the generality of clause 18(1), no person shall:
  - (a) place or leave or abandon any Trolley, or shopping basket in any Public Place; or
  - (b) being the Occupier of a Property, allow or fail to take reasonable steps to prevent the escape of any Waste, Trolley, or shopping basket from that Property into, on or upon any Public Place, waterway or channel.

#### **19. Removal, impounding and disposal of Trolleys and Receptacles found on Public Land**

- (1) In any case where a Trolley or shopping basket has been found in a Public Place, waterway or channel:
  - (a) If reasonable and the owners identity is known, Council will notify the owner to remove the Trolley or shopping basket from the Public Place, waterway or channel within 24 hours of notification.
  - (b) Where the owner fails to collect the Trolley or shopping basket within 24 hours of notification by Council; or where in the reasonable opinion of Council immediate removal and impoundment is required; the Council may remove and impound the Trolley or shopping basket.
- (2) Where any Trolley or shopping basket is impounded:
  - (a) Council shall as soon as practicable after the impounding, if the owner's identity is known or reasonably ascertained, give notice to the owner that the Trolley or shopping basket has been impounded.

- (b) If the owner requests the return of the Trolley or shopping basket, can prove that they are the owner of the Trolley or shopping basket and they meet Council's reasonable fee as prescribed by Council for seizing, impounding, transporting and storing the property, Council shall make the Trolley or shopping basket available for collection.
  - (c) Council may dispose of it by way of sale or otherwise as it thinks fit where if the owner's identity is known or reasonably ascertained, after giving the owner at least 14 working days' notice of the Council's intention to do so, or it has been impounded for 2 months or more.
- (3) Any proceeds from Council's disposal of the Trolley or receptacle must be applied as follows:
- (a) To pay the reasonable costs incurred by Council in seizing, impounding, transporting, storing and disposing of the Trolley or shopping basket;
  - (b) Thereafter any surplus shall be returned to the owner of the Trolley or shopping basket.
  - (c) Where the proceeds from Council's disposal of the Trolley or shopping basket do not meet Council's costs in seizing, impounding, transporting, storing and disposing of the Trolley or shopping basket, these costs shall remain a debt due by the owner of the receptacle or shopping basket to Council.

## **Part 10**

### **Public Litter and Recyclable Bins**

#### **20. Public Litter and Recyclable Bins**

- (1) No person shall:
- (a) Place any Household Waste, Green Waste, Inorganic Waste, Commercial Waste, Prohibited or Hazardous Waste in any public Litter bin or public Recyclable Material collection bin; or
  - (b) Put or attempt to put any Waste into a public Litter bin or Recyclable Material collection bin if the bin is already full; or
  - (c) Remove any Waste from a public Litter bin or Recyclable Material collection bin unless authorised by Council to do so; or
  - (d) Attach any Advertising Material (including but not limited to stickers and posters) to, or paint or vandalise any public Litter bins or public Recyclable Material collection bins unless authorised by Council to do so.

#### **21. Maintenance of Public Litter Bins**

- (1) Any Occupier required by Council to provide public Litter bins in any Public Place in the vicinity of those premises for the Deposit of Litter shall maintain the Litter bins and empty and dispose of all Litter Deposited therein, to Council's satisfaction.
- (2) The owner of Litter bins provided under clause 23(1) shall ensure that such Litter bins are regularly emptied so that they do not become full or overflow; and regularly thoroughly cleaned and sanitised.

## **22. Litter collection**

- (1) All Litter from Council owned public Litter bins must be collected and disposed of by a Licensed Waste Collector.

## **Part 11**

### **Special Events**

## **23. Obligation of organisers of special events**

- (1) The organiser of an event held in or on a Public Place shall at the time of making application to Council for consent to use of that Public Place provide, to the sole satisfaction of Council, a waste management plan produced for the special event.
- (2) The absence of a satisfactory waste management plan may affect the organiser's ability to obtain consent from Council to hold the special event.
- (3) The waste management plan shall identify:
  - (a) an estimate of the types and volumes of Waste to be generated by the event;
  - (b) any opportunities for Waste minimisation;
  - (c) the steps to be taken to maximise the use and collection of Recyclable Material or re-usable materials;
  - (d) the Waste and Recyclable Material collection, storage and transportation equipment to be provided;
  - (e) the method of and person responsible for the collection and disposal of Waste generated by the event;
  - (f) the arrangements made for the provision of post-event Waste analysis and reporting of that information to the Council.

## **Part 12**

### **Offences**

## **24. The following are offences pursuant to this bylaw:**

- (1) The Occupier or the owner of a Property, must not permit or suffer any accumulation of Waste in or about that Property to be or become unsightly, offensive, a nuisance or likely to be injurious to health or cause a fire hazard.
- (2) No person other than the Occupier of the Property from which the Waste was generated shall remove Waste from a Waste Collection Area or from a Property, unless licensed to collect Waste under this bylaw.
- (3) No person shall obstruct or hinder any Licensed Waste Collector from removing Waste in accordance with a Licence under this bylaw.
- (4) Every licensee breaches this bylaw who fails to act in full compliance with the terms and conditions of its Licence.
- (5) Prohibited Waste must not be put out for collection in the Waste Collection Area or any other Public Place.

- (6) It is an offence to remove Inorganic Waste placed in a drop off area without the permission of Council.
- (7) No person shall:
  - (a) Deposit or dispose of at a Waste Management Facility any Waste which is not permitted to be disposed of at that facility;
  - (b) Deposit or dispose of at any location within a Waste Management Facility which has been marked off, and designated for a particular type of Waste, any other Waste type;
  - (c) Deposit or dispose of any Hazardous Waste, Prohibited Waste, Special Waste, or Trade Waste at a Waste Management Facility unless authorised to do so by the operator of that facility.
  - (d) Enter a Waste Management Facility without authorisation from the operator of that facility, except to use recycling facilities where recycling facilities are open for public use; or
  - (e) Move or remove any article, material or Waste found in a Waste Management Facility without the permission of the operator of that facility.

**25. Further offences**

- (1) Every person breaches this bylaw who fails to comply with the following sections: 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 26, 28, 29 and 32.

**26. Penalty**

- (1) Every person who breaches this bylaw commits an offence and may be liable on summary conviction to the penalty set out in section 242(4) of the Local Government Act 2002 and section 66 of the Waste Minimisation Act 2008 being a fine not exceeding \$20,000.00.

**Part 13**

**Licensing of Waste Collectors and Transporters**

**27. Waste Collectors and Transporters to be Licensed**

- (1) Any person involved in the collection and/or transportation of Household Waste, Commercial Waste, Hazardous Waste or Inorganic Waste from, within or to, the Council's district where the total amount of to be collected and/or transported in any 12 month period will exceed 20 tonnes; must obtain a Licence to operate from Council.
- (2) Licenses will be required to be obtained by 10 February 2010.

**28. Licenses**

- (1) Applications for Licences must describe the activities in respect of which the Licence is sought and be accompanied by payment for the amount of the application and processing fees and such further supporting information as the Chief Executive may require to enable processing of the application.
- (2) The Chief Executive will process the application with all due speed and diligence.

- (3) Licences shall be granted at the discretion of the Chief Executive, upon and subject to, such terms and conditions as the Chief Executive thinks fit, and subject to review during the term of the Licence.
- (4) A Licence is specific to the holder and is not transferable.
- (5) Waste Collectors and Transporters required to be licensed under clause 29(1) must apply for a Licence within 21 working days of commencing operation in the Franklin District. In instances where a new Licence is required as a result of the sale or other disposition of a business, the new operator will be permitted to operate under an existing Licence provided application for a new Licence has been made.
- (6) Where any applicant or Licence holder wishes to have a decision of the Chief Executive under this clause reviewed, they may do so in writing. The Chief Executive will then be required to place the matter before a meeting of the Franklin District Council or a delegated Committee. The decision of this body will be full and final and binding on all parties.

#### **29. Matters to be considered**

- (1) When exercising its discretion to grant a Licence and the conditions to be imposed under it, the Chief Executive may take into account such matters including but not limited to the following:
  - (a) The extent to which the licensed activities will promote public health and safety and achievement of the Council's waste management plan and Waste reduction initiatives.
  - (b) The type of Waste to be collected and/or transported.
  - (c) The manner of treatment (if any) and disposal of the Waste type, and the identity of the Waste Management Facility at which it is proposed that treatment or disposal will occur.
  - (d) The frequency, timing and location of the Waste collection, removal, transportation or disposal services.
  - (e) An indication of the types of vehicles, equipment and Approved Receptacles to be used for the collection, removal, transportation or disposal of Waste.
  - (f) The applicant's experience and track record in the waste industry, including any known past operational issues which may affect, or may in the future affect the applicant's performance.
  - (g) The applicant's financial position.
  - (h) The terms and conditions under which such disposal of Waste 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.

#### **30. Licence conditions**

- (1) The terms and conditions upon which a Licence may be granted include, but are not limited to the following:
  - (a) A Licence may be granted for a term of no less than three years, but up to five years. The licensee must pay an application Licence fee in an amount determined and specified by the Chief Executive.
  - (b) A Licence may be only be renewed (at the Chief Executive's total discretion) provided the terms of the Licence have substantially been complied with previously, and are to be substantially similar for the renewal term.
  - (c) The licensee must post a bank guarantee (or cash, at the licensee's election) performance bond for an amount not exceeding \$10,000.00, or such amount as

determined by the Chief Executive from time to time on an individual case by case basis and Publicly Notified.

The conditions for the recovery of the bond are as follows:

- (i) When a licensee has not fulfilled the terms of his contract in a satisfactory manner, e.g. when litter or other debris has been left strewn in a street after a waste collection or whilst being transported.
- (ii) Due to the inaction of a licensee, e.g. rubbish put out for collection has not been collected.
- (iii) Any other types of action or inaction which contravene the terms of the licence and/or the contract held by the licensee.

In any of the above situations, Council may recover, from the bond, the cost of collection or recovery of waste which Council has incurred through the inappropriate actions or inaction of the licensee.

- (d) Limits on the type of Waste to be removed, collected or transported from a Waste Collection Area.
- (e) The manner of treatment (if any) and disposal of the Waste type, and the identity of the Waste Management Facility at which it is proposed that treatment or disposal will occur.
- (f) The frequency, timing and location of the Waste collection, removal, transportation or disposal services.
- (g) The specifications of the vehicles, equipment and Approved Receptacles to be used for the collection, removal, transportation or disposal of Waste.
- (h) The collection of any Litter within five (5) metres of an Approved Receptacle awaiting collection and any Litter spillage from the licensee's vehicle during the collection, removal, transportation or disposal process.

The licensee must provide Waste data to the Council during the term of the Licence in the form and at the times consistent with the Waste Minimisation Act 2008 or any regulations promulgated under that Act, or as determined by the Ministry for the Environment.