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## HAMILTON CITY WASTE MANAGEMENT AND MINIMISATION BYLAW 2019

This Bylaw is made by the Hamilton City Council under the powers given to it by the Waste Minimisation Act 2008, Local Government Act 2002, Heath Act 1956, and the Litter Act 1979.

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### 1. PURPOSE

- 1.1. The purpose of this Bylaw is to support the management and minimisation of waste by:
- a) promoting and delivering effective and efficient waste management and minimisation in Hamilton City as required under the Waste Minimisation Act 2008;
  - b) supporting the implementation of the Council's Waste Management and Minimisation Plan;
  - c) upholding the purpose of the Waste Minimisation Act and the goals in the New Zealand Waste Strategy;
  - d) regulating the deposit, removal, collection, transport, and processing of waste;
  - e) enabling fees and charges for use of waste management and minimisation services and facilities provided, owned, or operated by the territorial authority;
  - f) protecting the health and safety of waste collectors, waste operators and the public; and
  - g) enabling the management of litter and nuisance in public places.

### 2. APPLICATION

- 2.1. This Bylaw applies to the City of the Hamilton Council.

### 3. DEFINITIONS

- 3.1. The following definitions apply to this Bylaw, except where inconsistent with the context:

Term -	means:
Approved	Written authorisation from the Council
Approved container	Any container (including bags) that has been approved by the Council for the collection of any type of waste, with approval based on the following criteria: the prevention of nuisance, the protection of the health and safety of waste collectors and the public, and the achievement of effective waste management and minimisation.
Authorised Council officer	A person appointed by Hamilton City Council for the purposes of ensuring compliance with the Bylaw, as defined as an Enforcement Officer in the Waste Minimisation Act 2008 section 76, Local Government Act 2002 section 177 and as defined as Litter control officers under the Litter Act 1979 section 5.
Building work	means work— (a) for, or in connection with, the construction, alteration, demolition, or removal of a building; and (b) on an allotment that is likely to affect the extent to which an existing building on that allotment complies with the building code; and (c) includes sitework.
Bylaw	This Solid Waste Bylaw

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Class 1-5 landfills	Class	Common Name	Accepted Waste Material	Material Source
	1	Municipal Solid Waste Landfill	Non-hazardous waste. Typically, mixed waste from multiple sources and containing a high content of organic material; may include waste cited for classes 2, 3, 4 and 5. May be developed for specific industrial wastes (for example, monofills or residual waste sites)	Households, industry, institutions, construction sites, contaminated sites
	2	C&D Landfill	Unsorted/uncontrolled construction and demolition material. May be developed for specific industrial wastes (for example, monofills or residual waste sites)	Construction sites, demolition material, soil from areas with significantly different chemical properties
	3	Managed Fill	Inert material (e.g. selected inert construction or demolition material) or soils with specified maximum contaminant concentrations greater than applicable local background concentrations.	Selected materials from construction and demolition sites, earthworks and site remediation
	4	Controlled Fill	Inert material (e.g. selected inert construction or demolition material) or soils with trace element concentrations greater than applicable regional background concentrations	Selected materials from construction sites and demolition sites and earthworks
	5	Clean Fill	<p>Virgin excavated natural materials (VENM) such as clay, soil and rock that are free of:</p> <ul style="list-style-type: none"> <li>combustible, putrescible, degradable or leachable components;</li> <li>hazardous substances or materials (such as municipal solid waste) likely to create leachate by means of biological breakdown;</li> <li>products or materials derived from hazardous waste treatment, stabilisation or disposal practices;</li> <li>materials such as medical and veterinary waste, asbestos, or radioactive substances that may present a risk to human health if excavated;</li> <li>contaminated soil and other contaminated materials; and</li> <li>liquid waste.</li> </ul> <p>When discharged to the environment, clean fill material will not have a detectable effect relative to the background.</p>	Slips/road clearance, construction site clearance, earthworks surplus
Council	The Hamilton City Council or any person delegated or authorised to act on its behalf			
Council collection points	Places or containers approved by Council where approved containers may be left for collection or waste may be deposited if collection from a public place is unfeasible or impractical			
Cover material	Means material specified by the Council under clause 4.1.f as suitable for use as cover material at a class 1-4 landfill site			

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Deposit	To cast, place, throw, drop or allow to escape any waste or diverted material  <i>depositing</i> , in relation to litter, includes— (a) casting, placing, throwing, or dropping litter; and (b) allowing litter to be cast, thrown, dropped, or to escape, from any motor vehicle or trailer
Disposal	As defined in the Waste Minimisation Act 2008
Donation collection point	A place approved by Council where reusable or recyclable types of waste may be deposited for the purposes of raising funds from the waste items
Event	An activity that is irregular or infrequent and does not require the construction of a permanent building, the installation of permanent infrastructure or services, or works such as vegetation clearing or other operational work. Events involve large groups of people either as participants or spectators and include carnivals, parades, concerts, markets, craft or trade fairs, field days, open days, displays and the like. This definition applies only where the activity is not covered by another definition/activity in the District Plan
Home composting	The activity of creating decaying organic matter from domestic green waste and/or food waste into compost
Illegal Dumping	Means the same as Litter
Licence	A licence, consent, permit or approval to do something under this Bylaw and includes any conditions to which the licence is subject
Litter	Any refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth or waste matter or any other thing of a like nature deposited in a public place
Litter receptacle	A receptacle provided for the collection of litter
Manager	A person who controls or manages any premises, activity, or event, regardless of whether that person has a proprietary interest in those premises or that activity or event. Includes a Body Corporate
Multi - Unit Development	A property comprising three or more separately occupied residential units or business units, whether in the same building or in separate buildings, and held either in common ownership or in separate ownership
MUD	Multi - Unit Development
Nuisance	A nuisance in terms of the Health Act 1956
Occupier	The inhabitant occupier of any property; and in relation to any land (including any premises and any coastal marine area), includes any agent, employee, or other person acting or apparently acting in the general management or control of the land, or any plant or machinery on that land
Packaging	Materials used to wrap or protect goods

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Person	An individual, a corporation sole, a body corporate, and an unincorporated body
Premises	A building or buildings and the land belonging to it or them
Public place	<p>As defined in the Litter Act 1979</p> <p>Includes—</p> <p>(a) every motorway, road, street, private street, footpath, access way, service lane, court, mall, and thoroughfare:</p> <p>(b) any public reserve within the meaning of section 2 of the Reserves Act 1977 to which the public generally has access, whether with or without payment of any fee, and any reserve under that Act classified as a nature reserve or a scientific reserve:</p> <p>(c) any park, garden, or other place of public recreation to which the public has access, whether with or without payment of any fee:</p> <p>(d) any beach or foreshore, or the bank of any river or stream, or the margin of any lake, to which the public traditionally has access, whether with or without payment of any fee:</p> <p>(e) any waters to which the public traditionally has access, whether with or without payment of any fee, for bathing or other recreational purposes:</p> <p>(f) every wharf, pier, or jetty (whether under the control of a harbour board or not) to which the public has access:</p> <p>(g) any conservation area within the meaning of the Conservation Act 1987:</p> <p>(h) any airport within the meaning of section 2 of the Airport Authorities Act 1966:</p> <p>(i) any cemetery within the meaning of section 2 of the Burial and Cremation Act 1964:</p> <p>(j) any land vested in or controlled by any local authority (within the meaning of section 5(1) of the Local Government Act 2002) or the Crown, being land that is not occupied pursuant to any lease, licence, or other authority by any private person:</p> <p>(k) any national park constituted under the National Parks Act 1980:</p> <p>(l) any other place whether public or private in the open air, including any walkway within the meaning of section 4 of the Walking Access Act 2008, to which the public has access, whether with or without payment of any fee,—but does not include any site for the disposal of litter, or any receptacle installed in any such public place pursuant to this Act or any other Act</p>
Public Notice	<p>To:</p> <p>(a) publish on an Internet site to which the public has free access a notice that—</p> <p>(i) includes all the information that is required to be publicly notified; and</p> <p>(ii) is in the prescribed form (if any); and</p> <p>(b) publish a short summary of the notice, along with details of the Internet site where the notice can be accessed, in 1 or more newspapers circulating in the entire area likely to be affected by the matter to which the notice relates.</p> <p>The notice and the short summary of the notice must be worded in a way that is clear and concise</p>
Recovery	The extraction of materials or energy from waste or diverted material for further use or processing; and includes making waste or diverted material into compost
Retail	The use of land or buildings where goods and services are offered or exposed to the general public for sale, hire or use, but excludes restaurants, licenced premises, offices or drive-through services
Solid Waste Storage Area	An on-site storage area for refuse, recyclable material and organic matter that is accessible for waste collection services
Treatment	Means subjecting waste to any physical, biological, or chemical process to change its volume or character so that it may be disposed of with no or reduced adverse effect on the environment; but does not include dilution of waste

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Waste

(a) means any thing disposed of or discarded; and  
(b) includes a type of waste that is defined by its composition or source (for example, organic waste, electronic waste, or construction and demolition waste); and  
(c) to avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded

Waste categories:

Related to the source of the waste	Related to the composition of waste	Related to restrictions applied to waste
Domestic Waste Commercial Waste Construction and Demolition Waste	Food Waste Green Waste Hazardous Waste Inorganic Material Recyclable Material Refuse Reusable Material Special Waste	Diverted Material Prohibited Waste

Category	Definition
Commercial waste	Waste that results from a commercial enterprise and includes waste generated by the carrying on of any business, manufacture, process, trade, market, or other undertaking
Construction and demolition waste	Waste generated from any building construction or demolition works; and includes any concrete, plasterboard, wood, steel, brick, cardboard, metals, plastic or glass
Diverted material	Any thing that is no longer required for its original purpose and, but for commercial or other waste minimisation activities, would be disposed of or discarded
Domestic waste	Waste consisting of refuse, recyclable material or organic matter (food waste and/or green waste) originating from any household or from the cafeteria, lunchroom or canteen of any commercial enterprise, but does not include commercial waste nor prohibited waste.
Food waste	Waste that is derived from any item of food and is organic in origin and includes fruit and vegetable scraps, meat, fish and bone discards, and any other similar food waste
Green waste	Compostable plant material
Hazardous waste	Waste that is reasonably likely to be or contain a substance that meets 1 or more of the classification criteria for substances with explosive, flammable, oxidising, toxic, corrosive or ecotoxic properties under the Hazardous Substances (Classification) Notice 2017
Inorganic material	Waste consisting of household equipment, furniture, appliances and material of a similar type that due to its nature or size cannot be collected as domestic waste in an approved container, and that is specified by the Council as suitable for:  a) collection from a public place by the Council; b) collection from any premises by the Council; or c) delivery to a resource recovery facility

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	Litter	Any refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth or waste matter or any other thing of a like nature deposited in a public place. For clarity, litter includes illegal dumping.
	Organic matter	Food waste and/or green waste that is specified by the Council under clause 5.15a4.1.a as organic matter
	Prohibited waste	<p>Waste containing-</p> <ul style="list-style-type: none"> <li>any material capable of causing injury to any person or animal unless the material is sufficiently contained to prevent injury;</li> <li>any material capable of causing damage to the approved container or likely to shatter in the course of collection material unless the material is sufficiently contained to prevent damage to the approved container or to prevent injury;</li> <li>any material that may endanger any person, animal or vehicle which may come in to contact with it prior to, during or following collection, transportation or disposal;</li> <li>any radioactive wastes, but excluding domestic smoke detectors;</li> <li>any used oil and lead-acid batteries;</li> <li>any hazardous waste;</li> <li>medical waste;</li> <li>any other material publicly notified as prohibited by the Council under clause 5.15h</li> </ul>
	Recyclable material	Waste specified by the Council under clause 5.15a as suitable for recycling
	Recycling	The reprocessing of waste or diverted material to produce new materials
	Refuse	<p>Waste which</p> <p>(a) subject to (b), is not organic matter, recyclable material, prohibited waste, construction and demolition waste or inorganic material;</p> <p>(b) may include organic matter and/or recyclable material that does not exceed the maximum allowable limits specified by the Council under clause 5.15 of this Bylaw</p>
	Reusable material	<p>Waste or diverted material that is further used in its existing form for the original purpose of the materials or products that constitute the waste or diverted material, or for a similar purpose</p> <p><i>reuse</i> means the further use of waste or diverted material in its existing form for the original purpose of the materials or products that constitute the waste or diverted material, or for a similar purpose</p>
	Special Waste	Any waste whether from a commercial premise or any other source which is hazardous, toxic or by its nature requires special disposal because of environmental considerations or landfill operational requirements. Examples of such are: asbestos, inflammable, explosive or corrosive substances and radioactive substances
Waste collector	A person who collects or transports waste and includes commercial and non-commercial collectors and transporters of waste (for example, community groups and not-for-profit organisations); but does not include individuals who collect and transport waste for personal reasons (for example, a person taking household garden waste to a landfill)	
Waste management facility	A facility which primarily provides waste management and disposal services or waste remediation and materials recovery services, in relation to solid waste	

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Waste management facility operator	A person who owns or manages a waste management facility
Waste management and minimisation plan	A waste management and minimisation plan adopted by a territorial authority under section 43 of the Waste Minimisation Act 2008
Waste Plan	A plan, required by the Council under this Bylaw, that sets out how waste is managed at a Multi – unit Development, Event or Site where building works are carried out
Waste operator	A person who is a waste collector or operates a waste management facility
Waste remediation and materials recovery services	The remediation and clean-up of contaminated buildings and mine sites, mine reclamation activities, removal of hazardous material and abatement of asbestos, lead paint and other toxic material. This also includes recovery, sorting, and/or storage services in relation to waste
Waste treatment and disposal services	The treatment or disposal of waste (including hazardous waste), including the operation of landfills, combustors, incinerators, compost dumps and other treatment facilities (except sewage treatment facilities), and waste transfer stations

#### 4. CONTROLS

- 4.1. Any control specified by the Council under s 151(2) of the Local Government Act 2002 to support the implementation of this Bylaw:
- a. must be made by a resolution and public notice; and
  - b. may:
    - i. prohibit, restrict, or control any matter or thing generally, for any specific category or case, or in a particular case;
    - ii. apply to all waste or to any specified category of waste; and
    - iii. apply to the City or to a specified part of the City; and
    - iv. apply at all times or at any specified time or period of time

#### 5. COLLECTION, TRANSPORTATION, PROCESSING, AND DISPOSAL OF WASTE

##### GENERAL RESPONSIBILITIES

- 5.1. The occupier and the manager of a premises must ensure that the domestic waste from the premises is separated into waste types as determined by the Council, and deposited for collection in the correct approved container.
- 5.2. No person may deposit in a container material that is not approved for that type of container.
- 5.3. The owner and/or the manager of any premises must ensure that approved containers are provided to tenants.
- 5.4. The owner, occupier and the manager of any premises must ensure that:



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- a. reasonable steps are taken to prevent the waste escaping from any waste container;
- b. waste from the premises has no more than a minimal adverse effect on neighbouring occupiers;
- c. any waste container is regularly emptied when it is full;
- d. the contents of any waste container, excluding containers for green waste, are protected from rain or ingress or egress of flies and animals;
- e. all dwellings contain a practical means and route of safe access and egress to any solid waste storage area for both residents and waste operators (where applicable); and
- f. steps are taken to ensure that no waste is deposited in or about any building or its surrounding area (including kerbside) except in accordance with this Bylaw;

5.5. The occupier and the manager of any premises who is in control of an approved container must ensure that:

- a. the container is kept in a safe location, hygienic, in good repair, and without any modifications or alterations to its appearance;
- b. if required, waste is deposited in the container in a manner that allows the whole of the contents to fall out easily and cleanly when the container is emptied;
- c. the container is placed for collection in an upright position off the road, in front of the premises from which the waste originated and as close to the kerbside as possible;
- d. reasonable steps are taken to prevent the container disrupting or obstructing pedestrian and vehicular traffic and to preserve access to the premises.

5.6. No person may:

- a. put waste into an approved container which has been provided to any other person, without that other person's consent;
- b. remove waste from, or interfere with any waste deposited in an approved container, except the Council, a licenced waste collector or the person who deposited the waste;
- c. remove or interfere with any mode of identification of any approved container, including electronic devices attached to the container;
- d. remove a container provided by the Council from the premises to which it has been allocated, except with the prior written approval of the Council.

5.7. The occupier and the manager of any premises is responsible for any waste generated on the premises until it has been collected.

### **LICENSING OF WASTE COLLECTION AND WASTE MANAGEMENT FACILITY OPERATORS**

5.8. The following waste operators must have a waste operator licence issued by the Council and must not collect waste if they do not hold such a licence:

- a. Any waste collector who collects and/or transports waste from land in the City:
  - i. in a quantity of at least 40 tonnes of waste in any twelve-month period; and / or
  - ii. at least 40 times in any twelve-month period
- b. Waste management facility operators with a facility in the City which handles more than 40 tonnes of waste in any twelve-month period.

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- 5.9. An application for a waste operator licence must be made on the application form which is available from the Council, and must be accompanied by any application fee and the information required by the Council to process the application.
- 5.10. The holder of an existing licence may apply to the Council for a renewal of that licence.
- 5.11. A licence is personal to the holder and is not transferable.
- 5.12. A licence may be granted or refused at the discretion of the Council, and if granted may be on such terms and conditions as the Council deems appropriate.
- 5.13. When considering a licence application, the Council may take into account the following non-exhaustive list of factors:
- a. The extent to which the licenced activities will promote public health and safety;
  - b. The extent to which the licenced activities support achievement of the Council's waste management and minimisation plan, including goals and initiatives within that plan;
  - c. The quantity and type of waste to be handled;
  - d. The methods employed for the handling of the waste;
  - e. The frequency and location of the waste collection, removal and transportation services;
  - f. The specifications of the vehicles, equipment, and containers to be used for the handling of waste;
  - g. The applicant's experience, reputation, and track record in the waste and diverted material industry; and
  - h. The terms and conditions under which any 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.
- 5.14. A licenced waste operator must comply with all terms and conditions of the licence. These conditions may include, but are not limited to, the following matters:
- a. Term – a licence may be granted for a term of up to 5 years;
  - b. Licence fee – the licensee must pay an annual licence fee in an amount determined by the Council's annual fee and charges;
  - c. Bond – the Council may, on a case by case basis, require a licence holder to post a bank-guaranteed bond;
  - d. Compliance with standards – the licence holder must comply with any standards or policies the Council has set for waste handling such as:
    - i. Provision of waste collection services within reasonable times specified by the Council;
    - ii. The collection of any litter within a specified distance of an approved container awaiting collection and any litter spillage from the licence holder's vehicle during the collection, transportation or disposal process; and
  - e. Kerbside collections – restrictions on the timing and/or location of collections; and
  - f. Provision of information – the licence holder must provide data relating to waste they have handled to the Council during the term of their licence, in the form and at the times determined by the Council, which may include:

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- i. the quantities of various waste categories that have been handled by the waste operator during a period of time;
- ii. waste log books for each vehicle operated in accordance with the licence recording the quantity, composition and destination of each waste type and the point in time when such data was recorded during the waste collection, transportation or disposal process;
- iii. weighbridge receipts;
- iv. gate records of waste tonnage.

### **GENERAL CONTROLS ON THE COLLECTION, TRANSPORTATION AND DISPOSAL OF WASTE**

5.15. The Council may specify controls for the following matters in relation to the collection, transportation or disposal of waste from any property:

- a. types of domestic waste that may be treated for all purposes (including deposit, collection, transportation, and disposal) as recyclable material, organic matter or refuse;
- b. maximum allowable limits of a specified waste type that may be collected or transported from a public place in an approved container for refuse and that subsequently may be disposed of;
- c. maximum allowable limits of a waste type that may be placed in a container approved for another waste type;
- d. the maximum number of hours prior to or following the collection period that a container may be placed in a public place; and
- e. the maximum weight of waste put in individual containers; and
- f. types of waste that may be handled at any class 1 – 4 landfill and material that may be used as cover material at any such site;
- g. materials that may be used as natural or other hardfill material at a Class 5 landfill;
- h. types of waste that are prohibited; and
- i. the locations where collections from a public place may occur;
- j. the types of waste that may be collected from a public place.

5.16. General controls on the collection, transportation and disposal of waste must be accordance with clause 4.

5.17. Any waste operator who collects or transports waste must:

- a. make available to the owner, occupier or manager of a premises one or more approved containers to enable separate collection of each of the waste types required to be separately collected from the premises; and
- b. not collect for disposal any domestic waste which has not been separated into refuse, recyclable material and organic matter and exceeds the maximum allowable limits specified by the Council under clause 5.15c; and
- c. not dispose to a class 1 – 4 landfills any waste type that could be reused or recycled.

### **COLLECTIONS FROM A PUBLIC PLACE**

5.18. Any person providing or using a waste collection service in or from a public place must comply with this Bylaw.

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- 5.19. Waste may not be placed on a public place for collection unless it is:
- a. domestic waste;
  - b. green waste;
  - c. any other type of waste determined by the Council in clause 5.15 as able to be placed on a public place for collection.
- 5.20. Prohibited waste, diverted material, construction and demolition waste or commercial waste may not be placed in a public place for collection unless authorised by the Council under this Bylaw.
- 5.21. Any waste operator who collects or transports waste from a public place must ensure waste containers provided clearly differentiate the waste operators' containers from the containers of other operators.
- 5.22. The Council may specify controls for the following matters in relation to the collection or transportation of waste from a public place:
- a. the area to which the control applies;
  - b. the type, size, colour, and construction of containers that may be used for the storage and collection of waste;
  - c. the types of waste that may be collected in various types of container;
  - d. the categories of waste that may be deposited at or collected from a public place;
  - e. the conditions applicable to any collection service from a public place;
  - f. the placement and retrieval of approved containers for collection, collection days and times, and restrictions on the number and weight of approved containers;
  - g. requirements to ensure the correct separation of categories of wastes into approved containers;
  - h. the locations, access times and conditions of use of Council collection points;
  - i. any other operational matter required for the safe and efficient operation of a collection service from a public place.
- 5.23. No person may deposit waste at a Council or donation collection point other than in accordance with clauses 5.25 to 5.27.
- 5.24. Controls in relation to the collection or transportation of waste from a public place must be accordance with clause 4.

### **COUNCIL COLLECTION POINTS**

- 5.25. The Council may specify:
- a. any place, or receptacle in a public place, as a Council collection point for the collection of domestic waste; and
  - b. controls relating to the deposit of waste at the Council collection point.
- 5.26. Controls in relation to Council collection points must be accordance with clause 4.

### **DONATION COLLECTION POINTS**

- 5.27. Anyone intending to provide a donation collection point must obtain Council approval in advance and must operate the donation collection point in compliance with any requirements the Council specifies including, but not limited to:

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- a. the location;
- b. vehicle access;
- c. the type of waste which may be deposited;
- d. the use of approved containers;
- e. the removal of deposited waste from the collection point; and
- f. a requirement to clean up or remove any litter or graffiti.

### **INORGANIC MATERIAL**

- 5.28. The Council may specify controls for the following matters in relation to the collection of inorganic material from a public place:
- a. the weight, size and nature of inorganic material that may be deposited for collection;
  - b. the categories of inorganic material that may be deposited for collection;
  - c. the times, locations and conditions applicable to the collection of inorganic material;
  - d. the methods by which the inorganic material may be collected;
  - e. any other operational matters required for the safe and efficient collection of inorganic material from a public place.
- 5.29. Any person who deposits inorganic material for collection on, or collects or transport inorganic material from, a public place must comply with the controls made by the Council.
- 5.30. Controls in relation to the collection of inorganic material from a public place must be accordance with clause 4.

### **NUISANCE AND LITTER**

- 5.31. No person may:
- a. allow any accumulation of waste or diverted material on or around any premises they own, occupy or manage to become offensive, a nuisance or likely to be injurious to health;
  - b. use an approved container in a manner that creates a nuisance, is offensive or is likely to be injurious to health.
- 5.32. Except as provided for under any Council Bylaw, no person may:
- a. burn or allow to be burnt on any property they own, occupy or manage any waste except organic matter;
  - b. bury or allow to be buried on any property they own, occupy or manage any waste except:
    - i. organic material;
    - ii. dead companion animals and nuisance pests; or
    - iii. for the purposes of home composting.
  - c. dispose of any waste on any premises except at:
    - i. a class 1-4 landfill, or
    - ii. any premises they own, occupy or manage, for the purposes of home composting.

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- 5.33. No person may:
- a. deposit any waste arising from that person's household or that person's business activities in any litter receptacle provided by the Council in any public place;
  - b. remove any waste from any litter receptacle provided by the Council in any public place, where this results in any waste being deposited outside the receptacle, unless authorised by the Council to do so;
  - c. deposit or attempt to deposit any waste in any receptacle provided by the Council in any public place if:
    - i. the receptacle is full; or
    - ii. the waste is likely to escape.
  - d. affix any item to any litter receptacle provided by the Council in any public place; or
  - e. damage any litter receptacle provided by the Council in any public place.
- 5.34. The owner, occupier or manager of any premises on which any item is affixed or displayed that is likely to become litter, must take all steps to the satisfaction of the Council to prevent it becoming litter, and to promptly remove it in the event that it does become litter.
- 5.35. The occupier of a retail premises must provide appropriate facilities so that customers can choose to remove packaging associated with products that they have purchased and leave that packaging at the retail premises at the point of purchase. For the purposes of this Bylaw, such packaging is the responsibility of the occupier of the retail premises unless and until it is removed from the premises by a purchaser.

#### **PROVISION OF MULTI-UNIT DEVELOPMENT WASTE PLANS**

- 5.36. Any person who owns, occupies or manages a MUD must comply with any approved MUD Waste Plan required under this Bylaw.
- 5.37. From the date of adoption of this Bylaw, any person intending to construct a MUD must submit a MUD Waste Plan at the same time as the resource consent application for that MUD.
- 5.38. Any MUD Waste Plan must comply with 5.39 and 5.40 of this Bylaw and be approved by the Council.
- 5.39. A MUD Waste Plan must include, but is not limited to, the following:
- a. identification of an adequate area on the premises for the storage of containers that is readily accessible to the occupiers of units and to a licenced waste operator (where applicable) to enable separate collection and transportation of refuse, recyclable material and/or organic matter;
  - b. the methods to be used to minimise noise and odour and to keep the area hygienic, free from vermin or other infestations and protected from theft and vandalism;
  - c. identification of the practical means and route of safe access and egress to the solid waste storage area for both residents and waste operators (where applicable);
  - d. an estimate of the volumes of refuse, recyclable material and organic matter that will be generated;
  - e. how waste generated by the MUD is to be minimised;
  - f. how the collection and use of recyclables and reusable material will be maximised;

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- g. a statement that:
    - i. the MUD is able to be serviced via the notified standard Council-provided waste service; or
    - ii. the MUD requires a waste service which cannot be serviced via the notified standard Council-provided waste service. This statement must also include detail of the non-standard service requirements and whether the occupier will be expected to pay any servicing costs.
  - h. the steps which will be taken to ensure that no waste is deposited in or about the MUD or its precincts (including kerbside) in breach of this Bylaw; and
  - i. any other matter required by the Council to ensure MUD waste is managed in accordance with the Council Waste Management and Minimisation Plan.
- 5.40. The Council may specify controls for the following matters in relation to the collection or transportation of waste from MUD:
- a. the categories of recyclable material, organic matter and refuse that may be deposited at or collected from a Multi-unit Development;
  - b. the times, locations and conditions applicable to any collection service from a MUD, including the placement and retrieval of containers for collection, collection times and restrictions on the number and weight of approved containers;
  - c. requirements to ensure the correct separation of refuse, organic matter and recyclable materials into approved containers;
  - d. any other operational matter required for the safe and efficient operation of a collection service from a MUD.
- 5.41. Any person who manages a MUD or owns or occupies a unit in a MUD must comply with any controls for the deposit, collection, transportation and management of waste in the MUD made by the Council.
- 5.42. Controls on the collection or transportation of waste from MUDs must be accordance with clause 4.
- 5.43. The Council may, on application, grant a written exemption from compliance with all or any the requirements of this clause if:
- a. in the opinion of the Council, the costs of full compliance would be disproportionate to any resulting waste management and minimisation benefits; or
  - b. the manager or owner demonstrates to the satisfaction of the Council that refuse, recyclable material and organic matter are collected separately; and regularly.

### **PROVISION OF EVENTS WASTE PLANS**

- 5.44. Any organiser of any event must obtain prior approval from the Council for an Event Waste Plan for the event.
- 5.45. The Council may require an Event Waste Plan to meet requirements set out by the Council Event guidelines which may include:
- a. an estimate of the types and volumes of waste to be generated by the event;
  - b. how waste generated by the event is to be minimised;

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- c. the steps to be taken to maximise the collection and re-use of recyclable material and reusable material;
  - d. the equipment to be provided for the storage, collection and transportation of waste and diverted material;
  - e. the method of and person responsible for the collection and disposal of waste generated by the event;
  - f. the provision of litter minimisation, collection, and removal from within the event site and its immediate surrounds; and
  - g. any other matters relating to event waste management and minimisation that may be specified by the Council.
- 5.46. The organiser of an event must comply with the approved Event Waste Plan.
- 5.47. On completion of the event, the organiser must provide the Council with a report on the implementation of the Event Waste Plan, including:
- a. a waste analysis which sets out the predicted and actual types and amounts of waste generated by the event; and
  - b. the waste management facilities used to recover, recycle, treat or dispose of waste generated by the event.

### **PROVISION OF SITE WASTE PLANS FOR BUILDING WORK**

- 5.48. Any person applying for a building consent must also submit a Site Waste Plan to the Council for approval.
- 5.49. A Site Waste Plan must comply with the Council guidelines which may include:
- a. the name of the client, principal contractor, and person who prepared the Site Waste Plan; and
  - b. the location of the site;
  - c. the estimated total cost of the building work;
  - d. a description of each type of waste expected to be produced;
  - e. an estimate of the quantity of each type of waste; and
  - f. the proposed method of waste management for each type of waste (e.g. recovery, recycling, disposal).
- 5.50. While the building work is being carried out, the principal contractor must:
- a. ensure that
    - i. reasonable steps are taken to prevent waste escaping from any waste container;
    - ii. waste from the site has no more than a minimal adverse effect on neighbouring occupiers;
    - iii. any waste container is regularly emptied when it is full;
  - b. review the Site Waste Plan as necessary;
  - c. record quantities and types of waste produced; and
  - d. record the types and quantities of waste that have been:



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- i. reused (on or off site)
- ii. recycled (on or off site)
- iii. sent to other forms of recovery (on or off site)
- iv. sent to landfill
- v. otherwise disposed of.

- 5.51. Within 90 days of completion of the building work the principal contractor must provide an updated Site Waste Plan to the Council that includes:
- a. confirmation that the plan has been monitored and updated;
  - b. a comparison of estimated quantities of each type of waste generated against the actual quantities of each waste type; and
  - c. an explanation of any deviation from the plan
- 5.52. The principal contractor must ensure that a copy of the plan is kept on site, and that every contractor knows where it can be found. It must be available to any contractor carrying out any work described in the plan.

### 6. GENERAL PENALTIES AND POWERS

- 6.1. Any person who acts in breach of this Bylaw commits an offence and is liable upon summary conviction to a fine, as provided for under the Local Government Act 2002 (which specifies a fine not exceeding \$20,000), and may also be liable to penalties under other legislation.

### 7. OTHER ENFORCEMENT POWERS

#### GENERAL RESPONSIBILITIES

- 7.1. Where an owner, occupier or manager of a premises does not comply with any of clauses 5.1 to 5.7, the Council may:
- a. Notify the occupier, owner or manager that they have failed to comply with the Bylaw; and
  - b. Provide details of the failure to comply and information on how to comply; and
  - c. Inform the occupier, owner or manager:
    - i. that the breach shall be recorded against their property; and
    - ii. if the property receives three recorded breaches within a three-month period their waste service may be withdrawn; and
    - iii. specify the steps which the owner or manager will need to follow in order to appeal the decision or reinstate the service.
- 7.2. Any final notice of withdrawal of service shall also be sent to the postal address of the ratepayer for the property and shall specify:
- a. the date of service withdrawal; and
  - b. the steps which the owner or manager will need to follow in order to appeal the decision or reinstate the service.

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### LICENCED WASTE OPERATORS

- 7.3. Where a licence holder does not comply with the terms and conditions of a waste operator licence, the Council may:
- a. issue a written warning to the licence holder, which may be treated 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 bond where the Council has incurred any cost as a result of the breach of the licence condition. This includes where the Council has itself performed or arranged for the performance of any licenced activity on the default of the licence holder;
  - d. review the amount and nature of the bond, which may result in an increase of the amount of the bond;
  - e. enforce any offence that may have been committed under the Litter Act 1979; and
  - f. enforce any breach of this Bylaw, as provided for in the Local Government Act 2002 or other legislation.

### COLLECTIONS FROM A PUBLIC PLACE OR COLLECTION POINT

- 7.4. The Council may:
- a. remove the contents of any approved container left out for collection from a public place, where the contents or placement of the container do not comply with any aspect of clause 5.18 to 5.24;
  - b. suspend the use of any Council collection point service, where any aspect of clauses 5.25 or 5.27 have not been complied with;
  - c. withdraw approval for provision of a donation collection point, where any aspect of clause 5.27 has not been complied with;
  - d. enforce any offence that may have been committed under the Litter Act 1979;
  - e. enforce breach of this Bylaw, as provided for in the Local Government Act 2002 or other legislation.

### INORGANIC MATERIAL

- 7.5. Where a person does not comply with a control made by the Council under clauses 5.28 and 5.29, the Council (or a licenced waste operator where applicable) may:
- a. reject (i.e. not collect) the inorganic material, if the inorganic material or placement if any aspect of clauses 5.28 and 5.29, have not been complied with;
  - b. remove the inorganic material, where the inorganic material or placement if any aspect of clauses 5.28 and 5.29, have not been complied with;
  - c. enforce any offence that may have been committed under the Litter Act 1979; and
  - d. enforce breach of this Bylaw, as provided for in the Local Government Act 2002 or other legislation.

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### NUISANCE AND LITTER

- 7.6. Where a person does not comply with a control made by the Council under clause 5.31 to 5.35, the Council may:
- a. issue a notice requiring corrective action within a specified time period;
  - b. recover costs as set out in 9.3;
  - c. enforce any offence that may have been committed under the Litter Act 1979; and
  - d. enforce breach of this Bylaw, as provided for in the Local Government Act 2002 or other legislation

### WASTE MANAGEMENT AND MINIMISATION PLANS

- 7.7. Where a person does not comply with any Waste Plan required under this Bylaw for a MUD, Event or Building Work, the Council may:
- a. revoke the applicable Waste Plan and require a new Waste Plan to be submitted for approval, which may require a new application fee to be paid; and
  - b. impose a higher fee for Waste Plan applications following revocation, in accordance with the Local Government Act 2002; and
  - c. enforce any offence that may have been committed under the Litter Act 1979; and
  - d. enforce breach of this Bylaw, as provided for in the Local Government Act 2002 or other legislation.

### WASTE PLANS FOR MULTI-UNIT DEVELOPMENTS

- 7.8. Where a person does not comply with any of clauses 5.36 to 5.41, the Council may:
- a. issue a notice requiring corrective action within a specified time period; and
  - b. recover costs as set out in 9.3.
- 7.9. Where an owner, occupier or manager of a MUD does not comply with any of clauses 5.36 to 5.41, the Council may:
- a. notify the occupier, owner or manager that they have failed to comply with the Bylaw;
  - b. provide details of the failure to comply and information on how to comply; and
  - c. inform the occupier, owner or manager
    - i. that the breach shall be recorded against their property; and
    - ii. if the property receives three recorded breaches within a three-month period their waste service may be withdrawn; and
    - iii. specify the steps which the owner or manager will need to follow in order to appeal the decision or reinstate the service.
- 7.10. Any final notice of withdrawal of service shall also be sent to the postal address of the ratepayer for the address and shall specify:
- a. the date of service withdrawal; and
  - b. the steps which the owner or manager will need to follow in order to appeal the decision or reinstate the service.

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### WASTE PLANS FOR EVENTS

- 7.11. Where an applicant does not comply with any of clauses 5.44 to 5.47, the Council may:
- withhold or revoke consent for any event;
  - issue a notice requiring corrective action within a specified time period; and
  - recover costs as set out in 9.3.

### WASTE PLANS FOR BUILDING WORK

- 7.12. Where a person does not comply with any of clauses 5.48 to 5.52, the Council may:
- issue a notice requiring corrective action within a specified time period; and
  - recover costs as set out in 9.3.

## 8. EXCEPTIONS AND SAVING PROVISIONS

- 8.1. A person is not in breach of this Bylaw if that person proves that the act or omission was in compliance with the directions of an authorised Council officer.

## 9. FEES AND CHARGES

- 9.1. The Council may charge fees for licences or Waste Plans, including fees to process an application or carry out inspections as part of any waste collection or facility operator licence; or Waste Plan.
- 9.2. The Council may require waste collection and facility operators to provide a bond pursuant to s56(3) of the Waste Minimisation Act 2008.
- 9.3. The Council may recover costs associated with enforcement of this Bylaw in accordance with the Local Government Act 2002 or other legislation.

**The foregoing bylaw was made by resolution by the Hamilton City Council on 28 November 2019 to come into effect on 29 November 2019.**

### EXPLANATORY NOTE

*This note is for information purposes and does not form part of this Bylaw.*

*A minor error was corrected in clause 9.2 of this Bylaw on 29 April 2021, by Council resolution. The previous version incorrectly referred to section 56(3) of the Local Government Act 2002; this amended version correctly refers to section 56(3) of the Waste Minimisation Act 2008.*