



Comhairle Chontae Chill Chainnigh

Kilkenny County Council

DRAFT

County Kilkenny Waste Management Bye-laws, 2018



County Kilkenny Waste Management Bye-laws, 2018

Statutory Basis of the Bye-law

Kilkenny County Council, pursuant to Section 35(1) of the Waste Management Act 1996 and Section 199(1) of the Local Government Act 2001 and in accordance with Part 19 of the Local Government Act 2001, hereby makes the following bye-laws:

Citation

These bye-laws may be cited as the County Kilkenny Waste Management Bye-laws, 2018.

Date of Commencement

These bye-laws shall enter into force on the XX of XX 20XX.

Geographical area of application

These bye-laws shall apply to the functional area of Kilkenny County Council.

Revocations

These bye-laws repeal the Kilkenny County Council Regulation of Collection, Storage and Presentation of Household Waste Bye-Laws, approved 22nd March 2004.

Scope of these bye-laws: Waste Types and Controlled Activities

Unless the following bye-laws indicate to the contrary, these bye-laws apply to both household and commercial waste.

1. Interpretation and Definitions

In these bye-laws, these words and phrases have the following meanings:

“appropriate waste container” means a waste container suitable for the collection of kerbside waste and which is a receptacle that complies with the standards for mobile waste containers (wheeled bins) which are specified in the CEN standard entitled IS EN 840 (Parts 1-6);

“authorised person” means a person authorised by Kilkenny County Council in accordance with Section 204 of the Local Government Act 2001 or a member of An Garda Síochána;

“authorised waste collector means a person authorised in accordance with Section 34 of the Waste Management Act, including any regulations made thereunder, for the collection of the type of waste being collected;

“authorised waste facility” means a waste recovery or disposal facility:

(a) which is authorised under the Waste Management Act, under the Environmental Protection Agency Act, under any regulations stemming from either of these Acts or under regulations made under the European Communities Act 1972 relating to the control of waste management activities; and

(b) where the authorisation of that facility permits the acceptance of the waste being referred to in the particular part of these bye-laws;

“bring facility” means an authorised waste facility comprising one or more purpose-built receptacles in which segregated recyclable household waste may be deposited by the public for the purposes of the recovery of that waste;

“commercial kerbside waste” shall mean commercial waste that is kerbside waste.

“commercial waste” means waste from premises used wholly or mainly for the purposes of a trade or business or for the purposes of sport, recreation, education or entertainment but does not include household, agricultural or industrial waste;

“designated waste collection day” shall mean the day designated by an authorised waste collector for the collection of kerbside waste, and different days may be designated for commercial kerbside waste and household kerbside waste;

“designated bag collection area” is an area designated by Kilkenny County Council in accordance with Article 20 of the Waste Management (Collection Permit) Regulations 2007 where waste can be collected in bags or sacks;

“fixed payment notice” means a notice provided for by these bye-laws and by Section 206 of the Local Government Act 2001 which is issued to a person in respect of a contravention of these bye-laws and which, as an alternative to prosecution, requires that person to pay a specified fixed payment by a specified time;

“food waste” means waste food that is household waste or, as the case may be, commercial waste, and shall have the same meaning as that applying to Regulation 7 of the Waste Management (Food Waste) Regulations 2009 (SI 508 of 2009) or, as the case may be, to Regulation 6 of the European Union (Household Food Waste and Bio-Waste) Regulations 2015 (SI 430 of 2015);

Food Waste Regulations: see “national legislation on food waste”;

“holder” means the waste producer or the person who is in possession of the waste and “holder of commercial waste” and “holder of household waste” shall be interpreted accordingly;

“household kerbside waste” means household waste that is kerbside waste;

“household waste” means waste produced within the curtilage of a building or self-contained part of a building used for the purposes of living accommodation;

“kerbside waste” means that fraction of commercial or household waste presented for collection from a premises and which is to be collected by an authorised waste collector, with the exception of wastewater, construction and demolition waste and bulky waste more suitable for collection in a skip or other such receptacle (including heavy waste such as waste furniture, carpets and rubble), as well as hazardous waste and other streams of household or commercial waste which are required to be collected in another appropriate manner, such as waste electrical and electronic equipment and waste batteries;

“national legislation on food waste” means the Waste Management (Food Waste) Regulations 2009 (SI 508 of 2009) and the European Union (Household Food Waste and Bio-Waste) Regulations 2015 (SI 430 of 2015);

“occupier” includes, in relation to any premises, the owner, a lessee, any person entitled to occupy the premises and any other person having, for the time being, control of the premises;

“person” shall, for the purposes of these bye-laws, include an individual, company (whether limited, incorporated or not), partnership, co-operative or other similar body within the meaning of the definition contained in the Interpretation Act 2005;

“recyclable household kerbside waste” means the fraction of household kerbside waste that comprises recyclable household waste and which includes the materials set out in Schedule 1¹;

¹ At the end of this appendix

“residual household kerbside waste” means the fraction of household kerbside waste remaining after that waste has been separated from the fractions of:

- (a) recyclable household kerbside waste,*
- (b) food waste where food waste is required to be segregated under the national legislation on food waste or by these bye-laws, and*
- (c) if subject to separate collection by an authorised waste collector, biodegradable garden waste.*

Unless the contrary is indicated, for the avoidance of doubt and in accordance with Section 19 of the Interpretation Act 2005, the definitions in the Waste Management Act 1996 apply to these bye-laws, including to the following terms:

“facility”, “disposal”, “hazardous waste”, “premises”, “recovery”, “recycling”, “separate collection”, “waste”, “waste producer”.

Where it is necessary, the Interpretation Act 2005 shall apply in construing any provision of these bye-laws.

2. Obligation to Participate in a Waste Collection Service

“(a) Subject to paragraph (b), household and commercial kerbside waste that arises from the premises where such waste is produced shall not be presented to any person other than to an authorised waste collector.

(b) Paragraph (a) does not apply where such waste:

(i) is deposited in an appropriate waste container provided under a contract by an authorised waste collector to another person for the management of that waste and where that other person has consented to the receipt of that waste, or

(ii) is delivered directly by the holder to an authorised waste facility.

(c) Documentary evidence, such as receipts, statements or other proof of payment, demonstrating compliance with this bye-law shall be presented to an authorised person within a time specified in a written request from either that person or from another authorised person employed by Kilkenny County Council.

3. Maintenance and Management of Waste Containers

Containers used for the presentation of kerbside waste shall be maintained in such condition and state of repair that the waste placed therein will not be a source of nuisance or litter. Waste shall not be presented in a container where:

(a) the wheels or lid have been removed or damaged to such an extent that it is not able to contain the waste without spillage, is otherwise unfit for the purpose for which it was designed or is not capable of being conveniently emptied.

4. Location for container storage

Other than on the day before and the designated waste collection day, containers used for the presentation of kerbside waste shall be held within the curtilage of the premises where the waste is produced. They shall not be stored on a roadway, footway, footpath or any other public place unless the location has been expressly authorised in writing by an authorised person.

5. Use of Waste Containers on Collection Day

(a) Subject to paragraph (b), household and commercial kerbside waste shall only be presented for collection in an appropriate waste container. The container shall not be over-loaded and the lid shall be securely closed. No waste shall be presented on the top of the lid or adjacent to the waste container.

(b) Paragraph (a) shall not apply where waste is collected in pre-paid & authorised waste collector branded bags or sacks in an area designated by Kilkenny County Council as a designated bag collection area.

6. Collection Times and Container Removal

Kerbside waste presented for collection shall not be presented for collection earlier than 08.00 pm on the day immediately preceding the designated waste collection day.

All containers used for the presentation of kerbside waste and any uncollected waste shall be removed from any roadway, footway, footpath or any other public place no later than 09:00am on the day following the designated waste collection day, unless an alternative arrangement has been approved in accordance with bye-law 6.

7. Prohibited Waste Types

Household and commercial waste that comprises hazardous waste or waste electrical and electronic equipment shall not be placed in an appropriate waste container for kerbside collection.

8(a). Segregation of Household (& Commercial) Waste and Contamination Prevention

(a) Household (and commercial) kerbside waste shall be segregated into residual household and commercial kerbside waste and recyclable household and commercial kerbside waste, with these fractions being stored separately.

Any such separated recyclable waste shall not be deposited into a container designated for residual household and commercial kerbside waste and no such residual waste shall be deposited into a container designated for recyclable household and commercial kerbside waste.

(b) Neither recyclable household or commercial kerbside waste nor food waste arising from households shall be contaminated with any other type of waste before or after it has been segregated.

Note: while the remainder of this paragraph does not form part of these bye-laws, there are separate legal requirements mandating householders to segregate food waste and to keep it separate. These are contained in the European Union (Household Food Waste and Bio-Waste) Regulations 2015. Food waste also may be subject to home composting or be delivered to an authorised waste facility.

9. Additional Provisions for Householders not availing of a Kerbside Collection Service

Where an occupier of a dwelling is not participating in a household kerbside waste collection service, that person shall ensure that:

(a) recyclable household kerbside waste segregated in compliance with bye-law 8 is taken to an authorised waste facility and is deposited there in a manner that allows it to be recycled or otherwise recovered,

- (b) residual household kerbside waste segregated in compliance with bye-law 8 is taken to an authorised waste facility, and*
- (c) documentation, including receipts, is obtained and retained for a period of no less than one year to provide proof that any waste removed from the premises has been managed in a manner that conforms to these bye-laws, to the Waste Management Act and, where such legislation is applicable to that person, to the European Union (Household Food Waste and Bio-Waste) Regulations 2015.*

Documentation required to be obtained and retained by this bye-law, or copies of it, shall be presented to an authorised person within a time period specified in a written request from either that person or from another authorised person employed by Kilkenny County Council.

10. Provisions affecting Multi-user Buildings, Apartment Blocks, etc

A management company, or an other person if there is no such company, who exercises control and supervision of residential and/or commercial activities in multi-unit developments, mixed-use developments, flats or apartment blocks, combined living/working spaces or other similar complexes shall ensure that:

- (a) separate receptacles of adequate size and number are provided for the proper segregation, storage and collection of recyclable household kerbside waste and residual household kerbside waste*
- (b) additional receptacles are provided for the segregation, storage and collection of food waste where this practice is a requirement of the national legislation on food waste,*
- (c) the receptacles referred to in paragraphs (a) and (b) are located both within any individual apartment and at the place where waste is stored prior to its collection,*
- (d) any place where waste is to be stored prior to collection is secure, accessible at all times by tenants and other occupiers and is not accessible by any other person other than an authorised waste collector,*
- (e) written information is provided to each tenant or other occupier about the arrangements for waste separation, segregation, storage and presentation prior to collection,*
- (f) an authorised waste collector is engaged to service the receptacles referred to in this section of these bye-laws, with documentary evidence, such as receipts, statements or other proof of payment, demonstrating the existence of this engagement being retained for a period of no less than two years. Such evidence shall be presented to an authorised person within a time specified in a written request from either that person or from another authorised person employed by Kilkenny County Council,*
- (g) receptacles for kerbside waste are presented for collection on the designated waste collection day,*
- (h) adequate access and egress onto and from the premises by waste collection vehicles is maintained.*

11. Interference with Orderly Waste Collection

- (a) Employees of an authorised waste collector or of Kilkenny County Council involved in the removal of waste shall not be wilfully obstructed, disturbed, interrupted or otherwise interfered with in the course of their engagement in waste collection.*
- (b) Unless the following activities have been subject to approval by the authorised waste collector responsible for the container, a microchip attached to an appropriate waste container or any non-time expired identification mark, badge, label, tag, disc or other*

thing attached to that container or to a refuse bag or to another container shall not be removed, damaged, destroyed, tampered with or otherwise rendered inoperative.

- (c) Waste stored or presented for the purposes of collection shall not be:
 - (i) supplemented by waste added by another person unless that person has been authorised to do so by the person storing or, as the case may be, presenting the container of waste for collection*
 - (ii) otherwise interfered with by another person.**
- (d) Waste shall not be deposited into a refuse collection vehicle by any person other than by an employee of an authorised waste collector or a local authority*

12. Additional Provisions for Commercial Waste

Commercial waste shall not be deposited at any bring facility provided by or on behalf of Kilkenny County Council.

13. Enforcement Provisions/Fixed Payment Notices

- (a) Subject to paragraph (b), a person found guilty of the contravention of these bye-laws shall be liable to the penalty of no more than €2500 [penalty cannot exceed €2,500].*
- (b) Paragraph (a) shall not apply where a fixed payment notice has been issued in accordance with the Local Government Act 2001 (Bye-Laws) Regulations and where a full payment has been made by the person subject to that notice.*
- (c) Where the contravention of any provision of these bye-laws continues after a person has been subject to the fine referred to in paragraph (a), a person found guilty of an offence relating to this continued contravention shall be liable to a penalty of no more than €500 [penalty cannot exceed €500] per day for each day the contravention continues after that conviction.*
- (d) A fixed payment notice may be issued requiring a person found to have contravened or be contravening these bye-laws to make a payment of €75 [penalty cannot exceed €75]. Payment of this notice shall be made within 21 days of the date of the notice in order to avoid the person subject to this notice being prosecuted for the contravention of these bye-laws.*

SCHEDULE1. Recyclable Kerbside Waste

| Paper | Aluminium Cans | Plastic Bottles (PET 1) |
|-------------------------------|---------------------------------------|--------------------------------|
| Newspapers | Drink cans | Mineral bottles |
| Magazines | Soda & beer cans | Water bottles |
| Junk mail | | Mouthwash bottles |
| Envelopes | Steel cans | Salad dressing bottles |
| Paper | Pet food cans | |
| Phone books | Food cans | Plastic Bottles (HDPE2) |
| Catalogues | Biscuit tins | Milk bottles |
| Tissue boxes | Soup tins | Juice bottles |
| Sugar bags | | Cosmetic bottles |
| Calendars | Cardboard | Shampoo bottles |
| Diaries | Food boxes | Household cleaning bottles |
| Letters | Cereal boxes | Laundry detergent bottles |
| Computer paper | Kitchen towel tubes | Window cleaning bottles |
| Used beverage & juice cartons | Parcel boxes | Bathroom bottles |
| Milk cartons | | |
| Egg boxes | Plastic Pots, Trays & Tubs | |
| Holiday brochures | Yogurt pots | |
| Paper potato bags | Margarine tubs | |
| | Rigid food trays | |
| | Liquid soap containers | |

For Further Information go to www.mywaste.ie