

**Waste Avoidance and Resource Recovery Act 2007**

**Local Government Act 1995**

**City of Joondalup**

**WASTE LOCAL LAW 2016**

***Waste Avoidance and Resource Recovery Act 2007***  
***Local Government Act 1995***

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**Waste Local Law 2016**

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***Waste Avoidance and Resource Recovery Act 2007***  
***Local Government Act 1995***

**City of Joondalup**

**Waste Local Law 2016**

Under the powers conferred on it by the *Waste Avoidance and Resource Recovery Act 2007* and the *Local Government Act 1995* and under all other enabling powers, the Council of the City of Joondalup resolved on **[insert date]** to make the following local law.

**Part 1 - Preliminary**

**1.1 Citation**

This local law may be cited as the *City of Joondalup Waste Local Law 2016*.

**1.2 Commencement**

This local law commences 14 days after the day on which it is published in the *Government Gazette*.

**1.3 Purpose and effect**

- (1) The purpose of this local law is to provide for the regulation, control and management of waste services, including the use and control of receptacles for the deposit and collection of waste, undertaken by or on behalf of the local government within the district.
- (2) The effect of this local law is to establish the requirements with which any owner or occupier of premises using local government waste services, including the use of receptacles for the deposit and collection of waste within the district, must comply.

**1.4 Application**

This local law applies throughout the district.

**1.5 Repeal**

Part 5 of the *City of Joondalup Health Local Law 1999*, published in the *Government Gazette* on 27 August 1999 and as amended and published in the *Government Gazette* No. 136 of 10 July 2000 and No. 7 of 15 January 2002, is repealed, except clauses 5.4(1), 5.4(3), 5.12 and the definitions of 'authorised person' and 'receptacle' as contained in clause 5.1.

## 1.6 Definitions

(1) In this local law—

**authorised person** means a person appointed by the local government under section 9.10 of the LG Act to perform any of the functions of an authorised person under this local law;

**bulk waste** means bulky goods generated from residential dwellings including old furniture, whitegoods, bicycles, mattresses and other household items up to 1.5 metres in length and 70 kg in weight;

**carriageway** has the meaning given to it in the *Road Traffic Code 2000*;

**collectable waste** means local government waste that is not –

- (a) liquid refuse;
- (b) liquid waste; or
- (c) non-collectable waste;

**collectable waste receptacle** means a receptacle for the deposit and collection of collectable waste that is –

- (a) a recycling waste receptacle;
- (b) a general waste receptacle; or
- (c) an organic waste receptacle;

**collection**, when used in relation to a receptacle, means the collection and removal of collectable waste from the receptacle by the local government or its contractor;

**collection day** means the day determined by the local government for the collection of collectable waste in the district or a part of the district;

**collection time** means the time on the collection day determined by the local government for the collection of collectable waste in the district or a part of the district;

**commencement date** means the date on which this local law commences operation under clause 1.2;

**commercial purpose** means using bulk waste in or for a business activity or for a direct or indirect financial gain;

**costs** of the local government include administrative costs;

**Council** means the Council of the local government;

**district** means the district of the local government;

**general waste receptacle** means a receptacle for the deposit and collection of collectable waste that is not recycling waste;

**LG Act** means the *Local Government Act 1995*;

**LG Regulations** means the *Local Government (Functions and General) Regulations 1996*;

**local government** means the City of Joondalup;

**local government waste** has the same meaning as in the WARR Act;

**non-collectable waste** has the meaning set out in Schedule 1;

**nuisance** means –

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

**occupier** in relation to premises, means any or all of the following –

- (a) a person by whom or on whose behalf the premises are actually occupied; or
- (b) a person having the management or control of the premises;

**organic waste** means waste that decomposes readily, such as garden waste or food waste;

**organic waste receptacle** means a receptacle for the deposit and collection of organic waste;

**owner** has the meaning given to it in the LG Act;

**public place** includes a place to which the public ordinarily have access, whether or not by payment of a fee;

**receptacle**, means a receptacle –

- (a) that has been supplied for the use of the premises by the local government or its contractor, or which has otherwise been approved by the local government; and
- (b) the waste from which is collected and removed from the premises by the local government or its contractor;

**recycling waste receptacle** means a receptacle for the deposit and collection of recycling waste;

**recycling waste** means—

- (a) paper and cardboard;
- (b) plastic food and drink containers;
- (c) glass containers;
- (d) steel containers;
- (e) aluminium containers;
- (f) liquid paper board; and
- (g) any other waste determined by the local government to be recycling waste;

**specified** means specified by the local government or an authorised person, as the case may be;

**street alignment** means the boundary between the land comprising a street and the land that abuts the street;

**verge** means that part of a thoroughfare between the carriageway and the nearest adjacent street alignment, but does not include a footpath;

**verge waste collection** means the collection of bulk waste or garden waste invited to be placed on the verge adjacent to a residential property;

**WARR Act** means the *Waste Avoidance and Resource Recovery Act 2007*;

**WARR Regulations** means the *Waste Avoidance and Resource Recovery Regulations 2008*;

**waste** has the meaning given to it in the WARR Act;

**waste service** has the meaning given to it in the WARR Act.

## **1.7 Authority to make determinations**

The local government may make determinations as to specific matters affecting the operation of this local law, as follows:

- (a) the determination of “recycling waste” for the purposes of the definition in clause 1.6;
- (b) the determination of other “non-collectable waste” for the purposes of clause (m) of Schedule 1.

## **1.8 Local public notice of determinations**

Where, under this local law, the local government has a power to determine a matter –

- (a) local public notice, under section 1.7 of the LG Act, must be given of the matter determined;
- (b) the determination becomes effective on and from the date local public notice is given;
- (c) a person must comply with a determination;
- (d) the local government is to keep a register of determinations made under clause 1.7; and
- (e) the determination must be recorded in a publicly accessible register of determinations that must be maintained by the local government.

## **1.9 Rates, fees and charges**

The local government's powers to impose rates, fees and charges in relation to waste services are set out in sections 66 to 68 of the WARR Act and section 6.16 and 6.17 of the LG Act.

## **1.10 Power to provide waste services**

The local government's power to provide, or enter into a contract for the provision of, waste services is dealt with in section 50 of the WARR Act.

# **Part 2 - Local government waste**

## **2.1 Supply of receptacles**

- (1) Subject to subclause 2, the local government is to supply, for the use of each premises that are, or are capable of being, occupied or used for residential purposes, one or more receptacles for the collection and removal, from those premises, of collectable waste.
- (2) In the case of multi-residential premises, where it is considered that individual receptacles for each premises would not be practical, the local government may exercise discretion as to the number of receptacles to be supplied for the collection and removal, from those premises, of collectable waste.
- (3) The owner of premises to which subclause (1) and (2) applies must –
  - (a) ensure that the fee or charge (if any) imposed by the local government in relation to each receptacle is paid to the local government; and
  - (b) ensure that each receptacle is used, in respect of those premises, in accordance with this local law.

## **2.2 Deposit of waste in receptacles**

- (1) An owner or occupier of premises must not deposit or permit to be deposited in a receptacle any non-collectable waste.



- (2) A person must not deposit waste in a receptacle that has been provided for the use of other premises without the consent of the owner or occupier of those premises.

### **2.3 General waste receptacles**

An owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle—

- (a) where the receptacle has a capacity of 240 litres – more than 70 kilograms of collectable waste;
- (b) where the receptacle has a capacity of 120 litres – more than 50 kilograms of collectable waste; or
- (c) where the receptacle has any other capacity – more than the weight as specified on the receptacle.

### **2.4 Recycling waste receptacles**

An owner or occupier of premises must not deposit or permit to be deposited in a recycling waste receptacle –

- (a) anything other than recycling waste for which that receptacle was provided by the local government for those premises; and
- (b) where the receptacle has a capacity of 240 litres – more than 70 kilograms of recycling waste;
- (c) where the receptacle has a capacity of 120 litres – more than 50 kilograms of recycling waste;
- (d) where the receptacle has a capacity of 360 litres – more than 70 kilograms of recycling waste; or
- (e) where the receptacle has any other capacity – more than the weight as specified on the receptacle.

### **2.5 Organic waste receptacles**

An owner or occupier of premises must not deposit or permit to be deposited in an organic waste receptacle –

- (a) anything other than organic waste for which that receptacle was provided by the local government for those premises; and
- (b) where the receptacle has a capacity of 240 litres – more than 70 kilograms of organic waste;
- (c) where the receptacle has a capacity of 120 litres – more than 50 kilograms of organic waste; or
- (d) where the receptacle has any other capacity – more than the weight as specified on the receptacle.

## **2.6 Direction to place or remove a receptacle**

- (1) An authorised person may give a written direction to an owner or occupier of specified premises –
  - (a) to place a receptacle in respect of those premises for collection; or
  - (b) to remove a receptacle in respect of those premises after collection.
- (2) The direction under subclause (1) may specify when the placement or removal is to occur, or where the receptacle is to be placed, or both.
- (3) An owner or occupier of specified premises must comply with a direction given under this clause.

## **2.7 Duties of owner or occupier**

An owner or occupier of premises must –

- (a) except for a reasonable period before and after collection day, keep each receptacle in a storage space or area that is behind the street alignment;
- (b) take reasonable steps, if placing a receptacle for collection on the verge adjoining the premises, or other area as approved in writing by an authorised person, to ensure that, within a reasonable period before collection time, each receptacle –
  - (i) is within one metre of the carriageway;
  - (ii) does not unduly obstruct any footpath, cycle way, right-of-way or carriageway; and
  - (iii) faces squarely to the edge of and opening towards the carriageway,or in such other position as is approved in writing by an authorised person;
- (c) take reasonable steps to ensure that the premises are provided with an adequate number of receptacles; and
- (d) if the receptacle is lost, stolen, damaged or defective, notify the local government, as soon as practicable, after the event.

## **2.8 Exemption**

- (1) An owner or occupier of premises may apply in writing to the local government for an exemption from compliance with the requirements of clause 2.7(a) or (b).
- (2) An authorised person may grant, with or without conditions, or refuse an application for exemption from compliance under this clause.
- (3) An exemption granted under this clause must state –

- (a) the premises to which the exemption applies;
  - (b) the period during which the exemption applies; and
  - (c) any conditions imposed by the local government or the authorised person.
- (4) An exemption granted under this clause ceases to apply –
- (a) if an authorised person decides, on reasonable grounds, that there has been a failure to comply with a condition of the exemption; and
  - (b) from the date that an authorised person informs the owner or occupier of its decision under clause 2.8(4)(a).

## **2.9 Damaging or removing receptacles**

A person, other than the local government or its contractor, must not –

- (a) damage or destroy a receptacle; or
- (b) except as permitted by this local law or as authorised by the local government or an authorised person, remove a receptacle from any premises to which it was delivered by the local government or its contractor.

## **2.10 Verge waste collections**

- (1) Where the local government has advertised a verge waste collection an owner or occupier of premises, unless with and in accordance with the approval of the local government or an authorised person –
  - (a) must deposit green waste or bulk waste on the verge adjoining their premises, only during the period of time, and in accordance with other terms and conditions, as advertised by the local government in relation to that verge waste collection; and
  - (b) must otherwise comply with those terms and conditions.
- (2) Where green waste or bulk waste has been deposited on a verge for a verge waste collection, a person must not remove any of that waste for a commercial purpose but may remove it for any other purpose.
- (3) Except where green waste or bulk waste is lawfully removed from a verge under this clause, a person must not disassemble or tamper with that waste deposited on a verge for a verge waste collection so as to increase the risk of harm to any person.
- (4) Clause 2.10(2) does not apply to the local government or a person engaged or contracted by the local government in relation to the verge waste collection.

## **Part 3 - General duties**

### **3.1 Duties of an owner or occupier**

An owner or occupier of premises must –

- (a) take reasonable steps to ensure that a sufficient number of receptacles are provided to contain all waste which accumulates or may accumulate in or from the premises;
- (b) ensure that each receptacle is kept in good condition and repair;
- (c) take all reasonable steps to –
  - (i) prevent fly breeding and keep each receptacle free of flies, maggots, cockroaches, rodents and other vectors of disease;
  - (ii) prevent the emission of offensive or noxious odours from each receptacle; and
  - (iii) ensure that each receptacle does not cause a nuisance to an occupier of adjoining premises;
- (d) whenever directed to do so by an authorised person, thoroughly clean, disinfect, deodorise and apply a residual insecticide to each receptacle; and
- (e) if directed by an authorised person, remove any waste from a receptacle that has not been properly deposited in that receptacle in accordance with this local law.

### **3.2 Removal of waste from premises**

- (1) A person must not remove any waste from premises unless that person is –
  - (a) the owner or occupier of the premises;
  - (b) authorised to do so by the owner or occupier of the premises; or
  - (c) authorised in writing to do so by the local government or an authorised person.
- (2) A person must not remove any waste from a receptacle without the approval of –
  - (a) the local government or an authorised person; or
  - (b) the owner or occupier of the premises at which the receptacle is ordinarily kept.

### **3.3 Waste control on building sites**

- (1) In this clause –

**building work** means –

- (a) building work for which a building permit is required under the *Building Act 2011*; and
- (b) demolition work for which a demolition permit is required under the *Building Act 2011*;

**building work waste** means all waste from building work that is capable of being windblown; and

**receptacle** means a receptacle the waste from which is collected and removed otherwise than by the local government or its contractor.

- (2) A person must not allow, commence or continue any building work on premises unless, at all times while the building work is being undertaken –
  - (a) there is located on the premises, as close as practicable to the building work a receptacle with a capacity of not less than four cubic metres, or as otherwise approved by the local government, suitable for the collection and disposal of building work waste; and
  - (b) building work waste is deposited and kept in the receptacle.

## **Part 4 - Enforcement**

### **4.1 Objection and appeal rights**

Division 1 of Part 9 of the LG Act applies to a decision under this local law to grant, renew, vary or cancel an approval, exemption or authorisation under this local law.

### **4.2 Offences and general penalty**

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law a person is prohibited from doing, commits an offence.
- (2) A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to a further penalty not exceeding \$500 in respect of each day or part of a day during which the offence has continued.

### **4.3 Offence to fail to comply with notice**

A person who fails to comply with a notice given to him or her under this local law commits an offence.

### **4.4 Local government may undertake requirements of notice**

If a person fails to comply with a notice given to him or her under this local law the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

#### **4.5 Prescribed offences**

- (1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 9.16(1) of the LG Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 2.

#### **4.6 Form of notices**

- (1) Where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the LG Act is that of Form 1 in Schedule 1 of the LG Regulations;
- (2) The form of the infringement notice given under section 9.16 of the LG Act is that of Form 2 in Schedule 1 of the LG Regulations; and
- (3) The form of the infringement withdrawal notice given under section 9.20 of the LG Act is that of Form 3 in Schedule 1 of the LG Regulations.

**Waste Avoidance and Resource Recovery Act 2007  
Local Government Act 1995**

City of Joondalup

**Waste Local Law 2016**

**Schedule 1 - Meaning of 'non-collectable waste'**

***non-collectable waste*** means –

- (a) hot or burning material;
- (b) household hazardous waste, including paint, acids, alkalis, fire extinguishers, solvents, pesticides, oils, gas cylinders, batteries, chemicals and heavy metals;
- (c) any other hazardous material, such as radioactive waste;
- (d) any explosive material, such as flares or ammunition;
- (e) electrical and electronic equipment;
- (f) hospital, medical, veterinary, laboratory or pathological substances;
- (g) construction or demolition waste;
- (h) sewage;
- (i) any metal object that is not capable of being reasonably bent, broken or crushed;
- (j) 'controlled waste' for the purposes of the *Environmental Protection (Controlled Waste) Regulations 2004*;
- (k) any object that is greater in length, width, or breadth than the corresponding dimension of the receptacle or that will not allow the lid of the receptacle to be tightly closed;
- (l) waste that is or is likely to become offensive or a nuisance, or give off an offensive or noxious odour, or to attract flies or cause fly breeding unless it is first wrapped in non-absorbent or impervious material or placed in a sealed impervious and leak-proof container; and
- (m) any other waste determined by the local government to be non-collectable waste.

**Waste Avoidance and Resource Recovery Act 2007  
Local Government Act 1995**

**City of Joondalup**

**Waste Local Law 2016**

**Schedule 2 - Prescribed offences**

<b>Item No.</b>	<b>Clause No.</b>	<b>Description</b>	<b>Modified Penalty</b>
1	2.1(2)(a)	Failing to pay fee or charge	\$50
2	2.1(2)(b)	Failing to ensure lawful use of receptacle	\$100
3	2.2(1)	Depositing non-collectable waste in a receptacle	\$100
4	2.2(2)	Depositing waste in another receptacle without consent	\$100
5	2.3(a), (b) and (c)	Exceeding weight capacity of a general waste receptacle	\$125
6	2.4(a)	Depositing unauthorised waste in a recycling waste receptacle	\$100
7	2.4(b), (c), (d) and (e)	Exceeding weight capacity of a recycling waste receptacle	\$125
8	2.5(a)	Depositing unauthorised waste in an organic waste receptacle	\$100
9	2.5(b), (c) and (d)	Exceeding weight capacity of an organic waste receptacle	\$125
10	2.6(3)	Failing to comply with a direction concerning placement or removal of a receptacle	\$100
11	2.7(a)	Failing to keep a receptacle in the required location	\$100
12	2.7(b)	Failing to place a receptacle for collection in a lawful position	\$100
13	2.7(c)	Failing to provide a sufficient number of receptacles	\$100
14	2.7(d)	Failing to notify of a lost, stolen, damaged or defective receptacle	\$25
15	2.9(a)	Damaging or destroying a receptacle	\$100
16	2.9(b)	Removing a receptacle from premises	\$100
17	2.10(1)	Failing to comply with a term or condition of verge waste collection	\$125
18	2.10(2)	Removing waste for commercial purposes	\$250
19	2.10(3)	Disassembling or leaving in disarray waste deposited for collection	\$100
20	3.1(a)	Failing to provide a sufficient number of receptacles	\$100
21	3.1(b)	Failing to keep a receptacle clean and in a good condition and repair	\$100
22	3.1(c)(i)	Failing to prevent fly breeding and vectors of disease in a receptacle	\$100



Item No.	Clause No.	Description	Modified Penalty
23	3.1(c)(ii)	Failing to prevent the emission of offensive odours from a receptacle	\$100
24	3.1(c)(iii)	Allowing a receptacle to cause a nuisance	\$100
25	3.1(d)	Failing to comply with a direction to clean, disinfect or deodorise receptacle	\$100
26	3.2(1)	Unauthorised removal of waste from premises	\$100
27	3.2(2)	Removing waste from a receptacle without approval	\$100
28	3.3(2)(a)	Failing to provide receptacle for building waste	\$100
29	3.3(2)(b)	Failing to deposit and keep building waste in receptacle	\$100
30	4.3	Offence to fail to comply with notice	\$100

Dated this dd of mm 2016.

The Common Seal of the City of Joondalup )  
was affixed by authority of a resolution )  
of the Council in the presence of: )

.....  
TROY PICKARD  
MAYOR

.....  
GARRY HUNT  
CHIEF EXECUTIVE OFFICER

Consented to:

.....  
JASON BANKS  
DIRECTOR GENERAL  
DEPARTMENT OF ENVIRONMENT REGULATION

Dated this DD of MM 2016.

## City of Joondalup draft Waste Local Law 2016 – Comparison Matrix

New local law clause	Clause Title	Existing local law clause	Comment
<b>PART 1 – Preliminary</b>			
1.1	Citation	Health LL 1.1	Local Law will be cited as the <i>City of Joondalup Waste Local Law 2016</i> .
1.2	Commencement	Health LL 1.2	Local law commences 14 days after its publication in the <i>Government Gazette</i> .
1.3	Purpose and effect	Health LL 1.3	The purpose of the local law is to provide for the regulation, control and management of waste services, including the use and control of receptacles for the deposit and collection of waste, undertaken by or on behalf of the local government within the district. The effect of the local law is to establish the requirements with which any owner or occupier of premises using local government waste services, including the use of receptacles for the deposit and collection of waste within the district, must comply.
1.4	Application	Health LL 5.9	This local law applies throughout the district.
1.5	Repeal	Health LL 1.4	Repeals Part 5 of the <i>City of Joondalup Health Local Law 1999</i> , except clauses 5.4(1) and 5.4(3), and 5.12 which relate to requirements pertaining to multi-residential, commercial and industrial premises, and bin enclosures, respectively.
1.6	Definitions	Health LL 1.5; 5.1	Provides a definition of terms referred to throughout the local law.
1.7	Authority to make determinations	New	Provides the authority for the local government to make future determinations as to specific matters affecting the operation of the local law.
1.8	Local public notice of determinations	New	States the local government is to give local public notice of a determination made and keep a register of determinations to be accessible to the public.
1.9	Rates, fees and charges	New	Highlights the statutory provisions enabling a local government to impose rates, fees and charges in relation to waste services.
1.10	Power to provide waste services	New	Details the statutory provisions enabling a local government to provide waste services.

New local law clause	Clause Title	Existing local law clause	Comment
<b>PART 2 – Local government waste</b>			
2.1	Supply of receptacles	New	Specifies that the local government is to supply one or more receptacles to each residential premises for the collection and removal of collectable waste and that any fee for the supply of the receptacle(s) is to be paid by the owner of the premises.
2.2	Deposit of waste in receptacles	Health LL 5.2	Only collectable waste to be deposited and no dumping in receptacles on other premises without consent. The new clause is much briefer than the existing clause, however many parts of the existing clause are now listed within definitions of ‘collectable waste’ and ‘non-collectable waste’.
2.3	General waste receptacles	Health LL 5.2	Specifies maximum weight capacity for each type of general waste receptacle.
2.4	Recycling waste receptacles	Health LL 5.2	Specifies that only recycling waste can be placed in a recycling waste receptacle and the maximum weight capacity for each type of recycling waste receptacle.
2.5	Organic waste receptacles	Health LL 5.2	Specifies that only organic waste can be placed in an organic waste receptacle and the maximum weight capacity for each type of organic waste receptacle.
2.6	Direction to place or remove a receptacle	Health LL 5.3	The new clause provides that written notice may be provided to <u>specified</u> premises regarding correct placement or timely removal of a bin. This is different to the previous clauses that provided a blanket approach to issuing directions and was a key concern of the JSCDL.
2.7	Duties of owner or occupier	Health LL 5.2 and 5.3	Specifies what an owner must do in relation to the keeping, maintaining, placing and collection of receptacles.
2.8	Exemption	New	Provides the opportunity for an owner or occupier of premises to seek changes or exemption from conditions regarding their duties under clause 2.7.
2.9	Damaging or removing receptacles	Health LL 5.7	Persons not to damage or destroy a receptacle, or permanently remove a receptacle from the premises.

New local law clause	Clause Title	Existing local law clause	Comment
2.10	Verge waste collections	Health LL 5.10	<p>Specifies:</p> <ul style="list-style-type: none"> <li>• conditions associated with putting out bulk waste for collection</li> <li>• persons cannot remove waste put out for collection for commercial purposes</li> <li>• persons cannot tamper or disassemble waste put out for collection.</li> </ul> <p>The JSCDL was explicit in its review of the model local law that persons had a right to 'scavenge' as long as it was not for commercial purposes, or created additional mess or nuisance by way of disassembly or tampering.</p>
<b>PART 3 – General duties</b>			
3.1	Duties of an owner or occupier	Health LL 5.5	Owner or occupier to ensure adequate number of receptacles and kept clean.
3.2	Removal of waste from premises	Health LL 5.8	Specifies waste is not permitted to be removed from a premises or a receptacle without permission of the owner or occupier.
3.3	Waste control on building sites	Health LL 5.13	Specifies a suitable receptacle must be provided on a building site for the collection and disposal of building waste that is capable of being windblown.
<b>PART 4 – Enforcement</b>			
4.1	Objection and appeal rights	New	Indicates persons have a right to object or appeal a decision of the local government in accordance with Division 1, Part 9 of the <i>Local Government Act 1995</i> .
4.2	Offences and general penalty	Health LL 9.1	Penalties amended to align with maximum allowable penalty in accordance with section 9.14 of the <i>Local Government Act 1995</i> .
4.3	Offence to fail to comply with notice	Health LL 9.1	States that failure to comply with a direction or notice issued under the local law is an offence.
4.4	Local government may undertake requirements of notice	New	Enables the recovery of costs associated with action taken to remedy any issue caused by an offence.
4.5	Prescribed offences	Health LL 9.1	Refers to prescribed offences and the associated penalties. Modified penalty amounts for offences are less than those presented in the model local law, however are considered appropriate in terms of the offence committed.

New local law clause	Clause Title	Existing local law clause	Comment
4.6	Form of notices	New	Refers to the use of standard forms prescribed by the <i>Local Government Act 1995</i> and the <i>Local Government (Functions and General) Regulations 1996</i> .
Schedule 1	Meaning of non-collectable waste	Health LL 5.2(3)(iii)	Defines waste that is not permitted to be placed in a waste receptacle.
Schedule 2	Prescribed offences	Health LL 9.1	Lists the prescribed offences within the local law and the associated penalties.

### Former clauses not provided in new local law

Former local law clause	Clause Title	Comment
Health LL 5.1	Interpretation	The definitions of 'authorised person' and 'receptacle' are to be retained, for use in conjunction with the following clauses that are to be retained.
Health LL 5.4	Multi-residential, commercial and industrial premises	WALGA notes in its guidance Note for the Template Waste Local Law that all references to waste generated at commercial, industrial and food business premises have been removed to reflect the fact that the WARR Act does not provide local government with the head of power to collect waste from non-residential sources. Subclauses (1) and (3) of this clause will be retained in the <i>Health Local Law 1999</i> .
Health LL 5.6	Ownership of receptacles	This clause offers no benefit to the local law.
Health LL 5.11	Ownership of collected refuse	This clause offers no benefit to the local law.
Health LL 5.12	Suitable enclosure	In its Guidance Note for the Template Waste Local Law, WALGA notes that the issue of 'suitable enclosures' or 'waste corrals' in relation to group dwellings cannot be addressed via the Waste Local Law. This clause will be retained in the <i>Health Local Law 1999</i> .
Health LL 5.14	Greenwaste recycling site	The City of Joondalup does not operate a greenwaste recycling site within the District.

- (4) Any person seeking the transfer of a licence shall make application on the prescribed form and shall forward the application to the local government together with the approved fee. The application shall be signed by the proposed transferee of the licence and the holder of the licence.

#### **4.6 Licence conditions**

A licence shall be issued upon and subject to the condition that the holder of the licence shall:

- (a) display the licence and certification of registration of the eating house in a conspicuous place in the eating house;
- (b) notify the local government in writing within 14 days of any change of address;
- (c) notify the local government in writing of any alteration, addition or other work relating to the construction, drainage or ventilation of the eating house prior to the commencement of such alteration, addition or other work;
- (d) notify the local government in writing of any proposed changes to the menu;
- (e) notify the local government in writing of any proposed increase in staff numbers and the gender of same;
- (f) notify the local government of anything which may or has caused contamination of food; and
- (g) prevent public access to the food preparation and storage areas at all times.

#### **4.7 Eating areas**

The proprietor of any eating house shall maintain the public's dining area in a clean and hygienic condition, including any outdoor eating area and shall, when directed by an environmental health officer, thoroughly clean and disinfect any such area.

### **PART 5 - REFUSE DISPOSAL**

#### **5.1 Interpretation**

In this Part, unless the context otherwise requires:

“authorised person” means a person authorised by the local government to carry into effect the provisions of this local law ;

“building setback line” means the approved building alignment line facing the street used for service delivery;

“collection day” means the day of the week from time to time notified to the occupier of the premises on which rubbish and refuse is collected and removed by the local government or its contractor;

“commercial waste” means refuse and other rubbish generated from other than a residential premises and includes trade waste;

“domestic waste” means refuse and other rubbish generated within, or originating from, a residential premises and includes house refuse;

“greenwaste” means vegetative material as approved by the local government;

“greenwaste re-cycling site” means a site or sites set aside by the local government for the receipt, processing and storage of greenwaste;

“kerb line” means the point where the road carriageway adjoins the road verge;

“public place” includes a street, way or place which the public are allowed to use, whether the street, way or place is, or is not, on private property;

“receptacle” means:

- (a) a polyethylene cart fitted with wheels, a handle and a lid and having a capacity of either 120 litres or 240 litres;
- (b) any container of a type and capacity as approved by the local government.

“refuse disposal site” means Tamala Park Refuse Disposal Site, Marmion Ave, Mindarie;

“residential premises” means a premises used for residential purposes;

“rubbish or refuse” includes, but is not limited to, any filth, dirt, ashes, vegetation, garden refuse, waste material, waste food, sludge, offensive matter, cinders, wood or metal shavings and sawdust but does not include liquid waste or liquid refuse.

“street alignment” means the boundary between the land comprising a street and the land that abuts thereon, but where a new street alignment is prescribed under the Local Government (Miscellaneous Provisions) Act 1960, means the new street alignment so prescribed; and

“waste” means commercial waste or domestic waste or both as the context requires.



## **5.2 Refuse to be deposited in receptacles**

The occupier of every premises shall:

- (1) subject to paragraph (3), cause all refuse to be deposited in a receptacle;
- (2) at all times keep the lid of the receptacle closed except when depositing refuse in or cleaning the receptacle;
- (3) not deposit or permit to be deposited in a receptacle:
  - (i) more than 70 kilograms of refuse in the case of a receptacle with a capacity of 240 litres; or
  - (ii) more than 50 kilograms of refuse in the case of a receptacle with a capacity of 120 litres; and
  - (iii) any material being or consisting of:
    - (a) hot or burning ashes;
    - (b) oil, motor spirit or other flammable liquid;
    - (c) liquid, paint, or other solvent;
    - (d) bricks, concrete, earth or other like substances;
    - (e) drugs, dressings, bandages, swabs or blood samples unless placed in a sealed impervious container;
    - (f) hospital, medical, veterinary, laboratory or pathological substances containing blood unless placed in a sealed impervious container;
    - (g) syringes, needles, surgical hardware, broken glass, sharps or other sharp objects unless placed in a sealed impervious container;
    - (h) cytotoxics, radioactive substances and dangerous chemicals;
  - (iv) any object which is greater in length, width or breadth than the corresponding dimensions of the receptacle or which will not allow the lid to be tightly closed; or

- (v) refuse which is or likely to become offensive or a nuisance or to give off any offensive or noxious odour or to attract flies or cause fly breeding unless it is first wrapped in non-absorbent or impervious material or placed in a sealed impervious container;
- (4) except for collection day, keep the receptacle on the premises located behind the building setback line, or other location approved by an authorised person;
- (5) at all times keep the receptacle clean, and whenever directed by an authorised officer or an environmental health officer, thoroughly cleanse and disinfect the receptacle;
- (6) notify the local government within 7 days after the event if the receptacle is lost, stolen, damaged or becomes defective;
- (7) not mark or disfigure the receptacle in any manner other than by the placement of a street or unit number upon it in numerals no higher than 100 millimetres; and
- (8) not use the receptacle for any purpose other than the storage of refuse.

### **5.3 Residential collection arrangements**

- (1) An owner or occupier of a residential premises shall, prior to 0600 hours on collection day, place the receptacle on the verge in front of the premises immediately behind the kerb line, unless an authorised person has specified an alternative position in which case the receptacle shall be placed at the alternative position; and as soon as practicable after the contents of the receptacle have been removed, return it to its place of storage as defined in clause 5.2(4).
- (2) Collection of refuse shall be at least once weekly or otherwise as directed by an authorised person or an environmental health officer.

### **5.4 Multi-residential, commercial and industrial premises**

- (1) In the case of multi-residential, commercial or industrial premises, where it is considered that individual receptacles for each premises would not be practical, the local government may exercise discretion as to the number of receptacles to be provided and to the number of collections carried out each week. Receptacles containing food or any other putrescible matter shall be emptied at least weekly or more often as directed by an authorised person or an environmental health officer.

- (2) The owner or occupier of any commercial or industrial premises shall not, unless approved by an authorised person, deposit or permit to be deposited in a receptacle, anything specified in clause 5.2 (3).
- (3) The owner or occupier of any commercial, industrial or multi unit premises shall:
  - (a) take all reasonable steps to prevent fly breeding in, and the emission of offensive or noxious odour, from the receptacle;
  - (b) whenever directed by an authorised person or an environmental health officer, thoroughly clean and disinfect the receptacle.
  - (c) cause the receptacle to be located on the premises in an enclosure constructed and located as approved by an authorised person; and
  - (d) ensure that the receptacle is readily accessible for the purposes of collection.

### **5.5 Premises generally**

- (1) An owner or occupier shall:
  - (a) ensure that there are a sufficient number of receptacles provided to contain all rubbish and refuse which is produced in or on the premises;
  - (b) ensure that each receptacle on the premises:
    - (i) has, where required, a close fitting lid;
    - (ii) is constructed of sound non-absorbent material; and
  - (c) keep each receptacle thoroughly clean and in good condition and repair; and
  - (d) keep the cover on each receptacle closed except when depositing refuse in, or cleaning, the receptacle.

### **5.6 Ownership of receptacles**

A receptacle supplied by the local government or its contractor remains the property of the local government or its contractor as the case may be.

**5.7 Damage to receptacles**

A person shall not:

- (a) damage, destroy or interfere with a rubbish receptacle supplied by the local government or its contractor;
- (b) except as permitted by this local law or an authorised person, remove a receptacle from any premises to which it was delivered by the local government or its contractor.

**5.8 Removal of rubbish or refuse**

- (1) Home occupiers are authorised to occasionally deliver accumulated refuse from their home to the local government's refuse disposal site, over and above that usually included in local government's weekly domestic refuse collection service;
- (2) The owner or occupier of a premises, other than a residential premises, shall make suitable arrangements for the regular removal of rubbish from the premises in accordance with this local law.

**5.9 Prescribed area - Section 112A Health Act**

The whole of the district is prescribed as the area within which the provision of section 112A of the Act shall operate and have effect.

**5.10 Deposit of refuse**

- (1) A person shall not deposit or cause or permit to be deposited, any rubbish or refuse in or on any street or on any land other than a refuse disposal site.
- (2) Notwithstanding sub-clause 5.10 (1), an owner or occupier may place rubbish in or upon any street, right of way, thoroughfare or lane when expressly invited by an authorised person to do so.
- (3) Unless otherwise approved by an authorised person, the rubbish can only be placed immediately adjacent the person's property but not to obstruct traffic or block any road user's visibility of the road.
- (4) All material placed out for collection shall be of the type authorised and must be stacked or contained in accordance with the conditions stated in the invitation of the local government.

### **5.11 Ownership of collected refuse**

All refuse or rubbish collected by the local government or its contractor becomes the property of the local government upon collection.

### **5.12 Suitable enclosure**

- (1) An owner or occupier of a premises consisting of more than 3 dwellings, or used for commercial or industrial purposes, or as a food premises, shall provide a suitable enclosure for the storage and cleaning of receptacles on the premises.
- (2) An owner or occupier of premises required to provide a suitable enclosure under this clause shall:
  - (a) ensure the enclosure is not used to store anything except rubbish receptacles; and
  - (b) maintain the enclosure in a clean condition at all times.
- (3) For the purposes of this clause, a “suitable enclosure” means an enclosure approved by the local government.

### **5.13 Construction site rubbish**

On every building construction site the builder shall:

- (a) ensure that, on any premises in which building or construction work is being carried out, an appropriate refuse receptacle is provided on site for the storage of building rubbish;
- (b) ensure that all rubbish from the site is placed in the receptacle as directed by an authorised person, any building surveyor of the local government or any environmental health officer;
- (c) ensure the receptacle is maintained on the site for the duration of the construction work; and
- (d) ensure the container does not overflow.

### **5.14 Greenwaste recycling site**

- (1) A person shall not enter or remain on the local government’s greenwaste recycling site except for the purpose of depositing greenwaste and only after payment of the prescribed fee.

- (2) A person shall not deposit anything other than greenwaste at the greenwaste re-cycling site.

## **PART 6 - PEST CONTROL**

### **6.1 Interpretation**

In this Part, unless the context otherwise requires:

“mosquitoes” means any of the insects constituting the family *Diptera culicidae* commonly known as mosquitoes.

### **6.2 Premises to be kept free of mosquito breeding matter**

An owner or occupier of a premises shall keep the premises free of:

- (a) refuse; and
- (b) water

that is, liable to become the breeding place of mosquitoes.

### **6.3 Measures to be taken by an owner or occupier**

An owner or occupier of any premises shall:

- (a) where there is a fountain, ornamental pool, pond or excavation of any kind which contains water suitable for the breeding of mosquitoes, keep the water:
  - (i) stocked with mosquito predatory fish; or
  - (ii) covered with a film of petroleum oil or treated with an approved larvicide; and
- (b) where there is a water tank, well, cistern, vat or barrel:
  - (i) provide the vessel with an impervious cover;
  - (ii) cover all openings with mosquito proof mesh; and
- (c) where drinking water is kept in a vessel or other receptacle for consumption by an animal or bird:
  - (i) frequently change the water; and