

**PROPOSED CITY OF JOONDALUP WASTE LOCAL LAW 2017
SCHEDULE OF SUBMISSIONS AND COMMENTS FOLLOWING ADVERTISING
(CLOSED 9 JANUARY 2017)**

**APPENDIX 9
ATTACHMENT 1**

No.	SUMMARY OF SUBMISSION	CITY COMMENT
Department of Local Government and Communities		
1	<p>WALGA model</p> <p>It is noted that the City's local law appears to be based on the new model prepared by WALGA and the Department of Environment Regulation (DoER), however the City should be prepared for the possibility that the Joint Standing Committee on Delegated Legislation (JSCDL) may still raise concerns with the local law.</p>	<p>The local law has been prepared based on the new model prepared by WALGA and DoER, in conjunction with assistance from the JSCDL. Changes to the model are minimal and reflect specific issues relevant to the City of Joondalup, while also noting similar provisions in Waste Local Laws recently adopted and gazetted by other local governments.</p>
2	<p>Citation year</p> <p>It is suggested that the title of the local law should be changed to <i>City of Joondalup Waste Local Law 2017</i> to account for the fact that the local law will most likely be made and gazetted in 2017. This change should be reflected throughout the local law, including the Schedules.</p>	<p>Supported. 2016 replaced with 2017 throughout the local law.</p>
3	<p>Page numbers</p> <p>It is suggested the page numbers be removed from the footer. These numbers may no longer be accurate when the local law is published in the <i>Government Gazette</i>.</p>	<p>Supported. All page numbers have been removed. An unofficial version of the local law will also be created for the benefit of the public, containing additional information notes and page numbers for better referencing.</p>
4	<p>Clause 1.3 – Purpose and effect</p> <p>Clause 1.3(3) sets out the intent of the local law. This clause has no legislative effect and can be removed if the City wishes.</p>	<p>As per section 3.15 of the <i>Local Government Act 1995</i>, inclusion of the purpose and effect assists with informing residents of the district of the purpose and effect of the local law. This has been a standard practice at the City for its local law framework.</p>

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	<p>While the <i>Local Government Act 1995</i> (the Act) requires the purpose or intent (and effect) be included in the public notices relating to a proposed local law, there is no requirement to include the intent (and effect) in the local law itself.</p>	<p>The comment is noted and no change is recommended.</p>
5	<p>Clause 1.5 - Repeal</p> <p>It is suggested that this clause be redrafted. An example for the City's consideration is:</p> <p>"This local law repeals part 5 of the <i>City of Joondalup Health Local Law 1999</i> as published in the <i>Government Gazette</i> on 27 August 1999 and as amended on 10 July 2000 and 15 January 2002, except for the following clauses:</p> <ul style="list-style-type: none"> (a) clause 5.1 – the definitions <i>authorised persons</i> and <i>receptacle</i>; (b) clause 5.4(1); (c) clause 5.4(3); and (d) clause 5.12." 	<p>Supported. Clause 1.5 amended as suggested.</p>
6	<p>Clause 1.6 - Definitions</p> <p>It is suggested that the City inserts a definition for the term "Schedule" – for example:</p> <p>"<i>Schedule</i> means a schedule to this local law;"</p> <p>In addition, the following definitions should be deleted as these terms do not appear to be used anywhere else in the</p>	<p>Noted and amended as suggested.</p> <p>Supported and amended as suggested.</p>

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	<p>local law:</p> <p><i>“commencement date”</i>; <i>“Council”</i>; and <i>“WARR Regulations”</i>.</p>	
7	<p>Clause 1.7 – Authority to make determinations</p> <p>Clause 1.7 provides that the City can “determine” other waste as “recycling waste” or “non-collectable” waste under clause 1.6 and paragraph (m) in Schedule 1, respectively. It is suggested that the City review the definition of “recycling waste” under 1.6 and “non-collectable waste” in paragraph (m) of Schedule 1 and consider whether the preceding paragraphs already provide enough restrictions to suit the City’s requirements.</p>	<p>Noted but not supported. The JSCDL was explicitly clear in its comment on the model local law and in previous reports on the use of determination devices within local laws, that it prefers specific details to be included within the local law, rather than relying on a separate determination making process. This was also reflected in the ‘Guidance Note’ issued by WALGA that accompanied the release of the template waste local law. City officers have reviewed the lists of “recycling waste” and “non-collectable waste” and are satisfied with their current scope. The ability to make determinations at a future date, rather than undertake a local law amendment process for potentially minor changes to permitted waste materials is considered to be better administrative practice and more cost effective.</p>
8	<p>Number of receptacles – sufficient versus adequate</p> <p>The Department notes that the local law refers to the provision of both “sufficient” and “adequate” numbers of receptacles in clauses 2.7(c) and 3.1(a). It is suggested that one term be used consistently. If the City chooses to do this, any corresponding offence descriptions should be updated accordingly.</p>	<p>Supported. Terminology amended throughout the local law to reflect consistent use of the term “adequate”.</p>
9	<p>Schedule 1 and 2</p> <p>It is suggested that the heading of the Schedules be followed</p>	<p>Supported. Amended as suggested.</p>

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	<p>by a bracketed reference to the relevant clause in the local law, for example:</p> <p>Schedule 2 – Prescribed Offences [Clause 4.5]</p>	
10	<p>Written approval</p> <p>The Department is aware that this local law is being made under the <i>Waste Avoidance and Resource Recovery Act 2007</i> as well as the <i>Local Government Act 1995</i>. The City should ensure that a copy of the proposed local law has been provided to the Minister for Environment, if this has not already occurred.</p>	<p>Noted. Copy of local law already provided to Minister for Environment.</p>
11	<p>Minor edits</p> <p>Clause 1.6</p> <p>(a) Designation “(1)” should be deleted as there are no other subclauses in this clause.</p> <p>(b) In the definition of receptacle, delete the comma immediately following the defined term.</p> <p>Clause 1.7</p> <p>(a) Replace the colon with a dash to be consistent with the rest of the clauses in the local law.</p> <p>(b) In paragraph (b), replace the word ‘clause’ with ‘paragraph’.</p> <p>Clause 2.1</p> <p>(a) In 2.1(1), replace “subclause 2” with “subclause (2)”.</p>	<p>Noted and amended as suggested.</p> <p>Noted and amended as suggested.</p> <p>Noted and amended as suggested.</p> <p>Noted and amended as suggested.</p> <p>Noted and amended as suggested.</p>

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	<p>Clause 4.5 (a) In 4.5(2) it is suggested that the words “adjacent to the clause” be replaced with the words “adjacent to the description”, as this more accurately describes where the modified penalty is located in Schedule 2.</p> <p>Clause 4.6 Each of the subclauses of clause 4.6 should be formatted as a complete sentence, with the first word in title case and each sentence ending with a full stop.</p> <p>Schedule 2 (a) Item 16 – insert the words ‘without authorisation’ at the end of the description. (b) Item 19 – replace “Disassembling or leaving in disarray” with “Disassemble or tamper with”. (c) Item 21 – delete the words ‘clean and’ from the offence description, as the term “clean” is not used in clause 3.1(b). (d) Item 30 – delete the words “Offence to fail” and replace with the word “Failure”.</p> <p>The City should check all references and cross references, particularly in any changes are made as a result of the Department’s comments.</p>	<p>Noted and amended as suggested.</p> <p>Noted and amended as suggested.</p> <p>Noted and amended as suggested.</p> <p>Noted and amended as suggested.</p> <p>Noted and amended as suggested.</p> <p>Noted.</p>
WA Local Government Association		
12	<p>Clause 1.3 – Purpose and effect</p> <p>The DLGC has previously stated this is not required in a</p>	<p>Noted. As per section 3.15 of the <i>Local Government Act 1995</i>, inclusion</p>

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	local law but by the same token this will not lead to a requirement to amend the local law.	of the purpose and effect assists with informing residents of the district of the purpose and effect of the local law.
13	<p>Clause 1.7 – Authority to make determinations</p> <p>This is a new clause which explains the types of determinations that may be made under clause 1.8, however the definitions of both ‘collection day’ and ‘collection time’ are linked to determinations, but are not mentioned in clause 1.7.</p>	Noted. Sub clauses (c) and (d) added to clause 1.7 to include reference to the local government’s ability to make determinations about “collection day” and “collection time”, respectively.
14	<p>Clause 1.8 – Local public notice of determinations</p> <p>(a) This clause is a determination device that was of specific interest to the JSCDL at the time of their Inquiry – Report 77. One assurance WALGA gave in developing the determination device was a condition that annual local public notice be given of any determination appearing in the Determinations Register for it to have ongoing effect. The deletion of this condition may be queried by the JSCDL when scrutinising the local law.</p> <p>(b) Another difference is the date of effect of a</p>	<p>Noted but not supported. The condition of annual local public notice is inconsistent with the treatment of determinations made under other local laws, such as the <i>City of Joondalup Local Government and Public Property Local Law 2014</i>. Also, the use of sunset clauses as provided in the template local law and referred to by WALGA have historically not been supported by the JSCDL. Additionally, the JSCDL did not state in its Report No. 77 that it wanted annual local public notice, but stated in clause 6.39 as follows:</p> <p><i>“The Committee notes that it would be less inclined to recommend disallowance of a determination device in a local law if the determinations in question were required by the local law to be listed in a publicly available register of determinations, giving them a similar level of public accessibility as local laws themselves”.</i></p> <p>The Determinations Register is published on the City’s website and is a document that is freely publicly accessible in accordance with section 5.94(j) of the <i>Local Government Act 1995</i>.</p> <p>Noted but not supported. The effective date of a determination has been</p>

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	determination. WALGAs template states 'only after' publication whereas the Joondalup local law states 'on and from' publication. The JSCDL may raise a question regarding this difference.	drafted to be consistent with procedures for the making of determinations as previously approved by the JSCDL in other local laws, such as the <i>City of Joondalup Local Government and Public Property Local Law 2014</i> . Amending the procedure in the <i>City of Joondalup Waste Local Law 2017</i> will only make the determination making procedure inconsistent with other local laws, creating confusion as to when a determination is to take effect.
15	Clause 3.1(e) – Removal of waste from receptacle This subclause does not appear in the template Waste Local Law and may be questioned by the JSCDL and DoER.	Noted. The DoER has not provided comment on the inclusion of this subclause, or requested its removal. The subclause is designed to enable authorised persons to request owners of specific premises, who have deposited waste into the wrong receptacle, such as general waste into a recycling waste receptacle, to remove that waste to ensure the recycling waste can be collected without contamination.
16	Clause 3.3 – Waste control on building sites Although adopted by the City of Wanneroo and City of Bunbury, this clause does not appear in the template Waste Local Law and may be questioned by the JSCDL and DER. When developing the template, WALGA formed the view there is no local law-making head of power in the WARR Act relating to building and construction waste. It remains to be seen what the future members of the JSCDL make of this content.	Noted. The DoER has not provided comment on the inclusion of this subclause, or requested its removal. Both the City of Wanneroo and City of Bunbury Waste Local Laws were allowed by the JSCDL and no undertakings requested in relation to those local laws.
17	Clause 4.1 – Objection and appeal rights This clause currently reflects the content of the WALGA template up until October 2016. At that time, the JSCDL	Noted but not supported. The City's preference is to simplify the clause for the benefit of the public.

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	<p>pointed out a discrepancy in the version of the template Waste Local Law that was the subject of Inquiry and Report No. 77 and requested the template be amended to re-introduce the following missing content (noting that the clause references below relate to the template local law). The City has the option of amending its local law:</p> <p>Objection and appeal rights</p> <p>Division 1 of Part 9 of the LG Act applies to a decision under this local law to grant, renew, vary or cancel –</p> <ul style="list-style-type: none"> (a) an approval under clause 2.7(b); (b) an exemption under clause 2.8(2); (c) an approval under clause 2.10(1); (d) an authorisation under clause 3.2(1)(c); (e) an approval under clause 3.2(2); and (f) an approval under clause 3.3(3). 	
18	<p>Clause 4.3 - Offence to fail to comply with notice</p> <p>Refers to notice given under the local law, but there is no reference in the local law to any occasion where a notice may be given. However, there are a number of instances where the direction of an authorised person is mentioned in this local law. Suggest that the following clause from the template Waste Local Law be inserted as follows:</p> <p><i>“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.”</i></p>	<p>Noted and supported. While it is considered that the giving of a notice is a decision as defined in section 9.2 of the <i>Local Government Act 1995</i>, the amended wording provides clarity and simplicity for readers of the local law.</p>

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19	<p>Clause 4.4 – Local government may undertake requirements of notice</p> <p>Differs from the template which states:</p> <p><i>“The costs and expenses incurred by the local government are to be recoverable, as a debt due to the local government, in a court of competent jurisdiction.”</i></p>	<p>Noted but not supported. The wording in the proposed clause states the local government can recover the costs and expenses as a debt, without specifying through a court. It reflects the intent of section 64(7) of the <i>Waste Avoidance and Resource Recovery Act 2007</i> which states:</p> <p><i>“A local law may specify the method and the means by which any fines imposed are to be paid and collected, or recovered”.</i></p> <p>This simply means that cost recovery action will only be pursued through a court where an offender is not willing to enter into a payment option with the City. This reduces costs, time and imposition on all parties.</p>
Department of Environment Regulation		
20	<p>Clause 1.6 - Definitions</p> <p>It is recommended that the definition of <i>nuisance</i> be deleted.</p>	<p>Noted and supported. DoER has indicated it will not consent to the inclusion of the definition of nuisance, as the proposed definition comprises both a common law and dictionary definition, which creates difficulties to accurately interpret what is meant. Deleting the definition of nuisance means that any reference to nuisance in the local law in clauses 3.1(c)(iii), paragraph (k) of Schedule 1 and Item 24 of Schedule 2 would need to be determined at law. Waste Local Laws recently gazetted and accepted by the JSCDL have not included a definition for nuisance, at the request of DoER. Furthermore, DoER has requested DLGC and WALGA to exclude the definition from the template local law.</p>
Ms Mel Woods		

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21	<p>Item 7 of Schedule 2 – Offence to exceed weight capacity of recycling receptacle</p> <p>It is unreasonable to expect people to estimate the weight of their recycling bin. I would challenge any person on the Council to do so. If a person fills their bin reasonably with approved recyclable waste – such as glass bottles – it is unreasonable they should be fined by Council for exceeding a weight limit that they had no reasonable way of knowing or avoiding.</p>	<p>Noted but not supported. The weight limits of recycling bins are stated on the receptacles and well advertised. A resident would not be able to move their bin to the kerb for collection without substantial (and most likely mechanical) assistance if it greatly exceeded the stated maximum limit. In addition, the use of fines as a penalty mechanism is a last resort, with City officers informing and educating residents in the first instance and working with repeat offenders to explore other solutions.</p>
22	<p>Item 13 of Schedule 2 – Failing to provide a sufficient number of receptacles</p> <p>Item 13 fines a resident for “Failing to provide a sufficient number of receptacles”. However, the responsibility for provision of receptacles under clause 2.1(1) is the Council. Is the Council planning to fine itself \$100 every time that a resident has insufficient receptacles?</p>	<p>The City will provide at least one receptacle to each ordinary residential property. It is the responsibility of a property owner or occupier to ensure they have a sufficient number of receptacles to contain the rubbish and recycling generated at their property. If additional receptacles are required, the property owner or occupier must request the additional receptacles from the City and pay the appropriate charges for collection. The penalty for clause 2.7(c) is designed to ensure an adequate number of bins are provided to cater for the waste generated at the property. The use of fines as a penalty mechanism is a last resort, with City officers informing and educating residents in the first instance and working with repeat offenders to explore other solutions.</p>
23	<p>Clause 3.1 – Duties of an owner or occupier</p> <p>This clause fines an ‘owner or occupier’ for an unsanitary bin – this clause is not clear and is rife for issues in implementation. If a renter allows their bin to get smelly – is the landlord then liable to pay a fine? What happens in</p>	<p>This clause allows the City to approach an owner <u>or</u> occupier (which could include a lessee or body corporate strata manager in multi-residential properties) to address any unsanitary issues that may arise.</p>

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	<p>multiple dwelling locations, such as at an Over 55 residence? Surely it is the occupier who is responsible for their own waste.</p> <p>Clause 3.1(c) seems generally unreasonable. Perth is located in a hot climate. Flies, maggots and cockroaches are inevitable over summer and food spoils in the heat during the week. To expect that residents take 'all reasonable steps' is unclear. What constitutes a 'reasonable step'?</p> <p>It appears that clause 3.1 would best be adhered to if sub-clauses (i) and (ii) were removed. By simply 'ensuring that each receptacle does not cause a nuisance to an occupier of adjoining premises' you ensure that bins are placed where they can not cause harm to others. It is therefore unreasonable to have the fines at Item 22 and Item 23 in Schedule 2.</p> <p>How exactly does a person prevent the emission of offensive odours from their bin? Clause 3.1 should be re-written to specify the location of where bins are kept – rather than the contents of the reasonably expected contents within them.</p>	<p>The proper management of waste is crucial to minimise the potential for cockroaches, fly breeding, rodents and scavenging birds, which are then likely to create a nuisance or environmental health issues for neighbouring residents. The City has comprehensive education and information kits for residents on how to manage rubbish and its potential to attract rodents and insects.</p> <p>Noted and not supported. Sub-clauses (i) and (ii) require owners or occupiers to take all reasonable steps to prevent fly breeding, and keep each receptacle free of flies, maggots, cockroaches and rodents; and prevent the emission of offensive or noxious odours. Occupiers can do this by correctly wrapping refuse, freezing particularly susceptible waste from decomposition and noxious odours such as seafood and other meats; regularly cleaning bins, keeping the lid shut and locating bins out of the sun.</p> <p>Refer above.</p>

Waste Avoidance and Resource Recovery Act 2007

Local Government Act 1995

City of Joondalup

WASTE LOCAL LAW ~~2016~~2017

Waste Avoidance and Resource Recovery Act 2007
Local Government Act 1995

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Waste Local Law ~~2016~~2017

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Waste Avoidance and Resource Recovery Act 2007
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Waste Local Law ~~2016~~2017

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~~2017*.

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

This local law repeals part 5 of the *City of Joondalup Health Local Law 1999* as published in the *Government Gazette* on 27 August 1999 and as amended on 10 July 2000 and 15 January 2002, except for the following clauses:

- (a) clause 5.1 – the definitions **authorised persons** and **receptacle**;
- (b) clause 5.4(1);
- (c) clause 5.4(3); and

~~(d) clause 5.12, 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

(4) In this local law—

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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;~~

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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;

Schedule means a schedule to this local law; ,

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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-paragraph~~ (m) of Schedule 1-;
- ~~(c) the determination of a “collection day” for the purposes of the definition in clause 1.6;~~
- ~~(d) the determination of a “collection time” for the purposes of the definition in clause 1.6.~~

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~~(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~~an ~~sufficient~~adequate 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~~**Failure to comply with notice**

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

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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 description~~ 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~~2017

Schedule 1 - Meaning of 'non-collectable waste'

[Clause 1.5]

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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~~2017

Schedule 2 - Prescribed offences

[Clause 4.5]

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Item No.	Clause No.	Description	Modified Penalty
1	2.1(3)(a)	Failing to pay fee or charge	\$50
2	2.1(3)(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-an sufficient adequate 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 <u>without authorisation</u>	\$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 <u>tamper with</u> waste deposited for collection	\$100
20	3.1(a)	Failing to provide a-an sufficient adequate number of receptacles	\$100
21	3.1(b)	Failing to keep a receptacle clean and in a good condition and repair	\$100

Item No.	Clause No.	Description	Modified Penalty
22	3.1(c)(i)	Failing to prevent fly breeding and vectors of disease in a receptacle	\$100
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 Failure to comply with notice	\$100

| Dated this dd of mm ~~2016~~2017.

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~~2017.

Waste Avoidance and Resource Recovery Act 2007

Local Government Act 1995

City of Joondalup

WASTE LOCAL LAW 2017

Waste Avoidance and Resource Recovery Act 2007
Local Government Act 1995

City of Joondalup

Waste Local Law 2017

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Waste Avoidance and Resource Recovery Act 2007
Local Government Act 1995

City of Joondalup

Waste Local Law 2017

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 2017*.

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

This local law repeals part 5 of the *City of Joondalup Health Local Law 1999* as published in the *Government Gazette* on 27 August 1999 and as amended on 10 July 2000 and 15 January 2002, except for the following clauses:

- (a) clause 5.1 – the definitions **authorised persons** and **receptacle**;
- (b) clause 5.4(1);
- (c) clause 5.4(3); and
- (d) clause 5.12.

1.6 Definitions

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;

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;

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;

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;

Schedule means a schedule to this local law;

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*;

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 paragraph (m) of Schedule 1;
- (c) the determination of a “collection day” for the purposes of the definition in clause 1.6;
- (d) the determination of a “collection time” for the purposes of the definition in clause 1.6.

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 an adequate 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 Failure to comply with notice

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.

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 description 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.
- (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 2017

Schedule 1 - Meaning of 'non-collectable waste'
[Clause 1.5]

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 2017

**Schedule 2 - Prescribed offences
[Clause 4.5]**

Item No.	Clause No.	Description	Modified Penalty
1	2.1(3)(a)	Failing to pay fee or charge	\$50
2	2.1(3)(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 an adequate 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 without authorisation	\$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 tamper with waste deposited for collection	\$100
20	3.1(a)	Failing to provide an adequate number of receptacles	\$100
21	3.1(b)	Failing to keep a receptacle in a good condition and repair	\$100

Item No.	Clause No.	Description	Modified Penalty
22	3.1(c)(i)	Failing to prevent fly breeding and vectors of disease in a receptacle	\$100
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	Failure to comply with notice	\$100

Dated this dd of mm 2017.

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 2017.