

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
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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 21 February 2017 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 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 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
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**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
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**Schedule 2 - Prescribed offences
[Clause 4.5]**

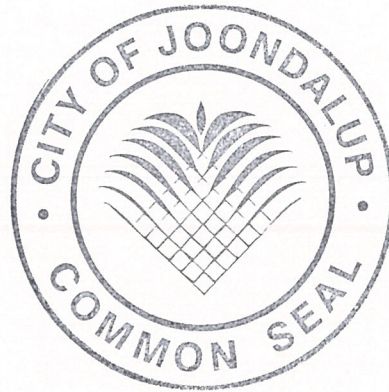
Item No.	Clause No.	Description	Modified Penalty
1	2.1(3)(a)	Failing to pay fee or charge	\$50
2	2.1(3)(b)	Failing to ensure lawful use of receptacle	\$100
3	2.2(1)	Depositing non-collectable waste in a receptacle	\$100
4	2.2(2)	Depositing waste in another receptacle without consent	\$100
5	2.3(a), (b) 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 25th of July 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:

.....
CHIEF EXECUTIVE OFFICER
DEPARTMENT OF ENVIRONMENT REGULATION

Dated this 14th of June 2017.