



TOWN OF
VICTORIA PARK



Waste Local Law 2022

Town of Victoria Park



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WASTE LOCAL LAW 2022

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LOCAL GOVERNMENT ACT 1995
WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
TOWN OF VICTORIA PARK
WASTE LOCAL LAW 2022

Under the powers conferred by the *Local Government Act 1995*, *Waste Avoidance and Resource Recovery Act 2007* and by all other powers the Council of the Town of Victoria Park resolved to make the following local law on 20 September 2022.

Part 1 – Preliminary

1 Short Title

This is the *Town of Victoria Park Waste Local Law 2022*.

2 Commencement

This local law commences on:

- (a) 1 August 2022; or
 - (b) fourteen days following its publication in the *Government Gazette*;
- whichever occurs last.

3 Repeal

Clauses 39 to 48 (inclusive) of the *Town of Victoria Park Health Local Law 2003*, as amended, published in the *Government Gazette* on 19 April 2004 is repealed.

4 Application

This local law applies throughout the district.

5 Interpretation

- (1) In this local law unless the context otherwise requires—

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;

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; or
- (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;

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 (where a recycling waste receptacle is provided) or organic material (where an organic waste receptacle is provided);

LG Act means the Local Government Act 1995;

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

local government means the Town of Victoria Park;

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

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

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 same meaning as 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 containers comprised of polyethylene terephthalate or high density polyethylene;
- (c) glass containers;

- (d) steel containers;
- (e) aluminium containers;
- (f) liquid paper board; and
- (g) any other waste determined by the local government to be recycling waste;

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

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

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 same meaning as in the WARR Act;

and

waste service has the same meaning as in the WARR Act

- (2) Where, in this local law, a duty or liability is imposed on an owner or occupier, or on an owner and occupier, the duty or liability is taken to be imposed jointly and severally on each of the owners or occupiers.

6 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 only after local public notice has been given;
- (c) the determination remains in force for the period of one year after the date that local public notice has been given under subclause (a);
- (d) after the period referred to in subclause (c), the determination continues in force only if, and for so long as, it is the subject of local public notice, given annually, under section 1.7 of the LG Act; and
- (e) the determination must be recorded in a publicly accessible register of determinations that must be maintained by the local government.

7 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 sections 6.16 and 6.17 of the LG Act.

8 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

9 Supply of receptacles

- (1) 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) The owner of premises to which subclause (1) 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.

10 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.

11 General waste receptacles

- (1) 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; or
 - (b) where the receptacle has any other capacity—more than the weight determined by the local government.
- (2) Where the local government supplies recycling waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any recycling waste.
- (3) Where the local government supplies organic waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any organic waste.

12 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 the particular type of recycling waste for which that receptacle was provided by the local government for those premises;
- (b) where the receptacle has a capacity of 240 litres— more than 70 kilograms of recycling waste; or
- (c) where the receptacle has any other capacity—more than the weight determined by the local government.

13 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 the particular type of organic waste for which that receptacle was provided by the local government for those premises;
- (b) where the receptacle has a capacity of 240 litres— more than 70 kilograms of organic waste; or
- (c) where the receptacle has any other capacity—more than the weight determined by the local government

14 Direction to place or remove a receptacle

(1) The local government or 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 premises must comply with a direction given under this clause.

15 Duties of owner or occupier

An owner or occupier of premises must—

- (a) except for a reasonable period before and after collection time, 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 determined by the local government, ensure that, within a reasonable period before collection time, each receptacle is —
 - (i) within 1 metre of the carriageway;
 - (ii) placed so that it does not unduly obstruct any footpath, cycle way, right-of-way or carriageway; and
 - (iii) facing squarely to the edge of and opening towards the carriageway,

or in such other position as is approved in writing by the local government or an authorised person ; and

- (c) if the receptacle is lost, stolen, damaged or defective, notify the local government, as soon as practicable, after the event.

16 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 15(a) or (b).
- (2) The local government or 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 the local government decides, on reasonable grounds, that there has been a failure to comply with a condition of the exemption; and
 - (b) from the date that the local government informs the owner or occupier of its decision under clause 16(4)(a).

17 Damaging or removing receptacles

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

- (a) damage, destroy or interfere with 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.

18 Verge collections

- (1) Where the local government has advertised a verge waste collection (such as a green waste, or a bulk waste, verge collection) a person, unless with and in accordance with the approval of the local government or an authorised person—
 - (a) must deposit waste 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 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 waste is lawfully removed from a verge under this clause, a person must not disassemble or tamper with any waste deposited on a verge for a verge waste collection so as to increase the risk of harm to any person.
- (4) Clause 18(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

19 Duties of an owner or occupier

An owner or occupier of premises must—

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

20 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.

21 Receptacles and containers for public use

A person must not, without the approval of the local government or an authorised person—

- (a) deposit household, commercial or other waste from any premises on or into; or
- (b) remove any waste from,

a receptacle provided for the use of the general public in a public place.

Part 4 – Enforcement

22 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 –

- (a) an approval under clause 15(b);
- (b) an exemption under clause 16(2);
- (c) an approval under clause 17(b);
- (d) an approval under clause 18(1);
- (e) an authorisation under clause 20(1)(c);
- (f) an approval under clause 20(2); and
- (g) an approval under clause 21.

23 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.

24 Other costs and expenses

- (1) A person who is convicted of an offence under this local law is to be liable, in addition to any penalty imposed under clause 24, to pay to the local government the costs and expenses incurred by the local government in taking remedial action such as—
 - (a) removing and lawfully disposing of toxic, hazardous or poisonous waste;
- (2) 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 civil jurisdiction.

25 Modified penalties

- (1) An offence against any provision of these Local Laws is a prescribed offence for the purposes of section 9.16 (1) of the *Local Government Act 1995*.
- (2) The amount appearing in the third column of Schedule B directly opposite the offence is the modified penalty payable in respect of that offence.

26 Form of notices

For the purposes of these Local Laws—

- (a) Where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the *Local Government Act 1995* is that of Form 1 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.
- (b) the form of the infringement notice referred to in section 9.16 of the *Local Government Act 1995* is to be in or substantially in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (c) the form of the notice referred to in section 9.20 of the *Local Government Act 1995* is to be in or substantially in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

Schedule A - Meaning of 'non-collectable waste'

non-collectable waste means –

- (a) hot or burning material;
- (b) household hazardous waste, including paint, acids, alkalis, fire extinguishers, solvents, pesticides, oils, gas cylinders, batteries, chemicals and heavy metals;
- (c) any other hazardous material, such as radioactive waste;
- (d) any explosive material, such as flares or ammunition;
- (e) electrical and electronic equipment;
- (f) hospital, medical, veterinary, laboratory or pathological substances;
- (g) construction or demolition waste;
- (h) sewage;
- (i) 'controlled waste' for the purposes of the *Environmental Protection (Controlled Waste) Regulations 2004*;
- (j) 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;
- (k) 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
- (l) any other waste determined by the local government to be non-collectable waste.

Schedule B - Prescribed Offences

Item No.	Clause No.	Nature of Offence	Modified Penalty
1	9(2)(a)	Failing to pay fee or charge	\$350
2	9(2)(b)	Failing to ensure lawful use of receptacle	\$350
3	10(1)	Depositing non-collectable waste in a receptacle	\$350
4	10(2)	Depositing waste in another receptacle without consent	\$350
5	11(1)	Exceeding weight capacity of a general waste receptacle	\$350
6	11(2) and (3)	Depositing unauthorised waste in a general waste receptacle	\$350
7	12(a)	Depositing unauthorised waste in a recycling waste receptacle	\$350
8	12(b) and (c)	Exceeding weight capacity of a recycling waste receptacle	\$250
9	13(a)	Depositing unauthorised waste in an organic waste receptacle	\$350
10	13(b) and (c)	Exceeding weight capacity of an organic waste receptacle	\$350
11	14(3)	Failing to comply with a direction concerning placement or removal of a receptacle	\$250
12	15(a)	Failing to keep a receptacle in the required location	\$250
13	15(b)	Failing to place a receptacle for collection in a lawful position	\$250
14	15(c)	Failing to notify of a lost, stolen, damaged or defective receptacle	\$50
15	17(a)	Damaging, destroying or interfering with a receptacle	\$400
16	17(b)	Removing a receptacle from premises	\$400
17	18(1)	Failing to comply with a term or condition of verge waste collection	\$400
18	18(2)	Removing waste for commercial purposes	\$350
19	18(3)	Disassembling or leaving in disarray waste deposited for collection	\$250
20	19(a)	Failing to provide a sufficient number of receptacles	\$250
21	19(b)	Failing to keep a receptacle clean and in a good condition and repair	\$250
22	19(c)(i)	Failing to prevent fly breeding and vectors of disease in a receptacle	\$350
23	19(c)(ii)	Failing to prevent the emission of offensive odours from a receptacle	\$350
24	19(c)(iii)	Allowing a receptacle to cause a nuisance	\$350
25	19(d)	Failing to comply with a direction to clean, disinfect or deodorise receptacle	\$300
26	20(1)	Unauthorised removal of waste from premises	\$250
27	20(2)	Removing waste from a receptacle without approval	\$250
28	21(a)	Depositing unauthorised waste in a receptacle provided for public use	\$250
29	21(b)	Unauthorised removal of waste from a receptacle provided for public use	\$250