

## Notice of Undertaking – Animals, Environment, Nuisance and Pests Local Law

### Undertaking 1

When the *Town of Bassendean Animals, Environment, Nuisance and Pests Local Law 2019* is next amended or reviewed, amend the local law as follows:

- (a) In the definition of authorised person in clause 1.5:
  - i. delete the word 'caged'
  - ii. delete the word 'LG' which appears prior to the word 'Act'.
- (b) In clause 3.4 delete the word 'and' which appears after the first occurrence of the word 'appearance';
- (c) In clause 3.6:
  - i. Insert the number (1) before the phrase 'the owner or occupier of a residential lot shall not –'
  - ii. in clause 3.6(c) delete the word 'unless;'
  - iii. delete clause 3.6(c)(i) and (ii)
  - iv. create a sub-clause 3.6(2) which provides clause 3.6(1) shall not apply if the vehicle, part or body of a vehicle, vessel or machinery is inside a building or within an area enclosed by a fence or wall not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts of bodies of vehicles or machinery from the street and from adjoining properties.
- (d) In clause 4.5 delete the word 'truck' and replace it with the words 'commercial vehicle'.

Make all necessary consequential amendments.

### Undertaking 2

Until the Local law is amended in accordance with undertaking 1:

- (a) Not enforce the Local Law in a manner contrary to undertaking 1.
- (b) Where the Local Law is made publicly available, whether in hard copy or electronic form (including on the Town's website), ensure that it is accompanied by a copy of these undertakings.



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# TOWN OF BASSENDEAN

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LOCAL GOVERNMENT ACT 1995

## ANIMALS, ENVIRONMENT, NUISANCE AND PESTS LOCAL LAW 2019

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WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007  
LOCAL GOVERNMENT ACT 1995

## WASTE LOCAL LAW 2019



**LOCAL GOVERNMENT ACT 1995**

## TOWN OF BASSENDEAN

**ANIMALS, ENVIRONMENT, NUISANCE AND PESTS  
LOCAL LAW 2019**

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## LOCAL GOVERNMENT ACT 1995

## TOWN OF BASSENDEAN

ANIMALS, ENVIRONMENT, NUISANCE AND PESTS  
LOCAL LAW 2019

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Town of Bassendean resolved on 31 March 2020 to make the following local law.

## PART 1—PRELIMINARY

**1.1 Citation**

This local law may be cited as the *Town of Bassendean Animals, Environment, Nuisance and Pests Local Law 2019*.

**1.2 Commencement**

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

**1.3 Application**

This local law applies throughout the district.

**1.4 Repeal**

The *Town of Bassendean Health Local Law 2001*, published in the *Government Gazette* on 24 August 2001 is amended as follows:

- (a) delete Part 4, Division 1;
- (b) delete Part 4, Division 2; clauses 4.15 and 4.16;
- (c) delete Part 4, Division 3;
- (d) delete Part 5, Division 1;
- (e) delete Part 5, Division 2;
- (f) delete Part 5, Division 3;
- (g) delete Part 5, Division 4; and
- (h) delete Part 6.

**1.5 Interpretation**

(1) In this local law, unless the context specifies otherwise—

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

*affiliated person* means a person who is a member of a poultry or pigeon club incorporated under the *Associations Incorporation Act 2015*;

*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 caged;

*birds* includes budgerigars, canaries, finches, quail, doves and other small birds;

*Code of Practice—Pigeon Keeping* means the Code of Practice for Pigeon Keeping and Racing in Western Australia as prescribed by the *Animal Welfare (General) Regulations 2003* as amended from time to time;

*commercial vehicle* means a motor vehicle having a tare weight in excess of 3000 kilograms;

*commercial wrecking* means the activity of wrecking vehicles or machinery for the purpose of conducting a business by offering vehicles, machinery or parts thereof for purchase, trade, sale or gain;

*district* means the district of the local government;

*land* includes any building or structure on the land;

*local government* means the Town of Bassendean;

*lot* has the meaning given to it by the *Planning and Development Act 2005*;

**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 by a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

**occupier** means any person who is in control of any land or part of any land or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to land to perform any work in relation to any land and includes a builder or contractor;

**other caged birds** includes parrots, galahs, corellas and the like;

**owner** where used in relation to land, has the meaning given by the *Local Government Act 1995*;

**permit** means a permit issued under this local law;

**pigeon** includes homing pigeons and other domesticated breeds of the species *Columba livia*, but does not include native pigeons or doves whether or not the keeping of such birds is subject to the approval of the Department of Biodiversity, Conservation and Attractions;

**poultry** includes fowls, peafowl, turkeys, geese, ducks, bantams and other domestic fowls;

**refuse** means any waste material including bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, timber, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter;

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

**Schedule** means a schedule to this local law;

**thoroughfare** means any highway or thoroughfare which the public are entitled to use, including the verge and other things including bridges and culverts appurtenant to it;

**vehicle** means any motor vehicle, part of a motor vehicle in a state of disrepair or in the process of being wrecked whether licensed or not; and

**wreck** includes the dismantling, breaking up, storage and disposal of vehicles.

(2) Any other expression used in this local law and not defined herein shall have the meaning given to it in the Act.

(3) Where in this local law a duty, obligation or liability is imposed on an owner or occupier the duty shall be deemed to be imposed jointly and severally on each owner and occupier.

(4) This local law is subject to sections 3.25, 3.27 and Schedules 3.1 and 3.2 of the *Local Government Act 1995* and any powers of entry exercised by this local government under this local law is subject to Part 3, Division 3, Subdivision 3 of the Act.

## PART 2—KEEPING OF ANIMALS

### Division 1—Keeping of animals and birds

#### 2.1 Interpretation

In this division, unless the context otherwise requires—

**animal** includes cats, dogs, rabbits, ferrets or the like; and

**bird** includes but is not limited to poultry, galahs, parrots, corellas, cockatoos and other Australian native birds, budgerigars, finches, pigeons and doves or the like.

#### 2.2 Cleanliness

An owner or occupier of a premises, in or on which an animal or bird is kept shall—

- (a) keep the premises free from excrement, filth, food waste and all other matter which is, or is likely to become offensive or attract rats or other vectors of disease;
- (b) when so directed by local government, clean and disinfect the premises;
- (c) keep the premises, so far as possible free from flies or other vectors of disease, by spraying with a residual insecticide or other effective means; and
- (d) ensure the keeping of the animal or bird does not cause a nuisance and is not offensive or dangerous to health.

#### 2.3 Animal enclosures

(1) A person shall not keep or cause, or permit to be kept, any animal enclosure on premises which are not effectively drained or of which the drainage flows to the walls or foundations of any building.

(2) The local government may by notice in writing direct the owner or occupier require the surface of the ground of all enclosures used for the keeping of animals to be paved, graded and drained.

#### 2.4 Disposal of dead animals

An owner or occupier of land on which there is a dead animal shall immediately dispose of the dead animal in such a manner as not to cause or be a nuisance to any person.

*Division 2—Keeping of large animals***2.5 Interpretation**

In this Division, unless the context otherwise requires—

**cow** includes an ox, calf, or bull;

**horse** includes an ass, mule, donkey or pony; and

**large animal** includes a pig, sheep, goat, deer, llama, alpaca or camel.

**2.6 Conditions for keeping of an animal**

(1) Subject to subclause (2) an owner or occupier of premises shall not keep or allow to be kept any horse, cow or large animal on those premises.

(2) An owner or occupier of premises may upon written application to the local government, request permission to keep one or more sheep or horse. The number of sheep or horses permitted by the local government shall be at a rate not greater than one horse or sheep per 2000 square metres of land set aside for the exclusive use of the sheep or horse.

(3) The owner or occupier of premises with approval to keep sheep or horses, shall provide for their use a stable or enclosure which shall—

(a) not be situated within 30 metres of a dwelling;

(b) be constructed of an impervious material; and

(c) have a floor, constructed of cement, concrete or other similar impervious material with the upper surface of which at least 75mm above the surface of the ground.

(4) The owner or occupier of any premises on which a stable is located shall—

(a) maintain the stable in a clean condition, free of insect pests, rodents and offensive odour;

(b) when so directed in writing by an authorised person, clean, wash and disinfect the stable; and

(c) when so directed in writing by an authorised person, spray the stable or such parts as may be directed, with a residual insecticide.

*Division 3—Keeping of poultry, pigeons and caged birds***2.7 Limitation on numbers of poultry and pigeons and caged birds**

(1) An owner or occupier of premises shall—

(a) subject to paragraph 1(b), not keep a combined total of more than 12 poultry or caged birds or 6 ducks without the written approval of the local government, on any one lot of land;

(b) not keep more than 12 pigeons unless the owner or occupier is an affiliated person in which case the maximum number of pigeons may be increased to 75;

(c) subject to subclause (3), not keep any of the following—

(i) geese;

(ii) a turkey;

(iii) peafowl;

(iv) rooster; and

(v) other caged birds,

on any land within the district.

(2) The local government may either reduce the approved number of poultry, pigeons or caged birds kept by an owner or occupier, or ban the keeping of poultry, pigeons or caged birds by an owner or occupier, if the conditions of this Division are not complied with or if excessive noise is evident.

(3) The local government may, upon written application to it, grant approval to a person who is the owner or occupier of premises to keep on those premises, either a goose, gander, turkey, peafowl, rooster or other caged birds.

(4) A person who has been granted approval under subclause (3) hereof, to keep a goose, gander, turkey, peafowl, rooster or other caged birds, on the premises may do so only while he/she is the occupier thereof.

(5) The local government may cancel the approval granted to an occupier under subclause (3) hereof, upon receipt of a justified complaint relating to the keeping of either a goose, gander, turkey, peafowl, rooster or other caged birds.

**2.8 Conditions for keeping poultry in limited numbers**

(1) A person who keeps poultry or permits poultry to be kept shall ensure that—

(a) no poultry are kept within 9 metres of a neighbouring dwelling and 5 metres from an opening to a dwelling;

(b) no poultry approach within 9 metres of a public street, public building, commercial premises or food premises;

(c) all poultry are kept in an enclosure not closer than 1.2 metres to any property boundary, within which is a properly constructed, weatherproof structure for roosting, which shall;

(i) allow a minimum of 0.3 square metres of floor area per fowl;

(ii) have an impervious floor of 50 millimetre minimum thickness, graded to the front to facilitate easy cleaning;



- (iii) be designed to allow easy access for cleaning; and
  - (iv) have the walls and roof constructed of an impervious material.
- (d) all structures or enclosures within which poultry are kept are maintained at all times in a clean condition;
- (e) the enclosures have an otherwise unobstructed area of at least 2 square metres per poultry; and
- (f) the occupier shall clean and disinfect the enclosure, structure and surrounds, and trap or bait flies, rodents and other vectors of disease when so directed by an authorised person.
- (2) An owner or occupier of a premises, may upon written application to the local government, request permission to vary the provisions contained within 2.8(1) (a), (b), (c) and/or (e).
- (3) Local government may cancel the approval granted to an owner/occupier under subclause (2) hereof, upon receipt of a justified complaint relating to the conditions for keeping of poultry in limited numbers.

### **2.9 Conditions for keeping of pigeons in limited numbers**

- (1) A person who keeps, or permits to be kept, pigeons shall ensure that—
- (a) no opening to a pigeon loft, including openings for ventilation, is within 15 metres of a public street, public building, commercial premises or food premises;
  - (b) no opening to a pigeon loft, including openings for ventilation, is within 9 metres of any residential dwelling;
  - (c) no pigeon loft is located within 1.2 metres of a boundary of an adjoining property;
  - (d) all structures used to house pigeons shall be of sound, weatherproof construction, the framework and roost being of smooth sealed timber or metal, the walls and roof to be constructed of galvanised iron or other approved material, and the floor to be constructed in a manner and of a material which will facilitate the hygienic removal of waste matter, husks, seed, feathers, dead birds and faecal matter;
  - (e) bird cages, aviaries, lofts and surrounds shall be kept in a clean condition to the satisfaction of an authorised person;
  - (f) the occupier shall clean and disinfect cages, aviaries, lofts and surrounds, and trap or bait flies, rodents and other vectors of disease when so directed by an authorised person;
  - (g) the local government may, at its discretion, prohibit an owner or occupier exercising homing pigeons between specified hours of the day, if health or nuisance related problems become evident; and
  - (h) where there is any discrepancy between this clause relating to the Keeping of Pigeons, cage-birds and other cage-birds and the Code of Practice—Pidgeon Keeping the higher standard of construction and hygiene shall prevail.

### **2.10 Removal of non-conforming structure or enclosure**

- (1) If a structure or enclosure is used for the keeping of poultry or pigeons contrary to the provisions of sections 2.8 and 2.9 respectively, the local government may by notice in writing direct the owner or occupier to take such actions as the authorised person considers necessary within the time specified in the notice.
- (2) Where a notice is issued under subclause (1), the requirements set out in the notice must be complied with within the period specified in the notice.

### **2.11 Restrictions on pigeon nesting or perching**

- (1) The local government may by notice in writing direct the owner or occupier of a premises in which pigeons are in a habit of nesting or perching, to take such actions as the authorised person considers necessary to prevent them from continuing to do so.
- (2) Where a notice is issued under subclause (1), the requirements set out in the notice must be complied with within the period specified in the notice.

## **PART 3— LANDCARE**

### *Division 1—Liquid waste*

#### **3.1 Interpretation**

In this division, unless the context otherwise requires—

**liquid refuse** includes all washings from windows and vehicles; overflow, bleed off, condensate and drainage from air conditioning equipment including cooling towers and evaporative coolers and any other liquid used for cooling purposes; and

**liquid waste** means bathroom, kitchen, scullery and laundry wastes, the contents of septic tanks, all washings from animal and poultry pens and any other domestic or trade wastes that are discharged by means of a drain to a receptacle for drainage.

#### **3.2 Deposit of liquid refuse**

An owner and/or occupier of land shall take reasonable steps to—

- (a) contain all liquid refuse on the land; and
- (b) ensure no liquid refuse is released or escapes from the land, whether by means of wind, water or any other cause.

**3.3 Disposal of liquid waste**

- (1) The owner or occupier of premises shall—
- (a) provide one or more of the methods prescribed in this clause, for the disposal of all liquid waste produced on the premises; and
  - (b) at all times maintain in good working order and condition any apparatus used for the disposal of liquid waste.
- (2) Liquid waste shall be disposed of by one or more of the following methods—
- (a) discharging it into the sewerage system of a licensed water service operator in a manner approved by the licensed water service operator;
  - (b) discharging it into an apparatus for the treatment of sewage and disposal of effluent and liquid waste approved by the Chief Health Officer or the local government; or
  - (c) collection and disposal at an approved liquid waste disposal site in a manner approved by the Chief Health Officer.

*Division 2—Unightly land and disused materials***3.4 Removal of refuse and disused material**

- (1) The owner or occupier of a lot shall not keep, or permit to remain on the lot, any refuse, rubbish or disused material of any nature or kind which in the opinion of authorised person is likely to give the lot an untidy appearance and, or does not conform with the general appearance of other land in that part of the district.
- (2) The local government may by notice in writing direct the owner or occupier to take such actions as the authorised person considers necessary to remove of refuse, rubbish or disused material from the lot within the time frame specified in the notice.

**3.5 Removal of unsightly overgrowth of vegetation**

- (1) The owner or occupier of a lot shall not permit to remain on a lot any unsightly overgrowth of vegetation that gives the lot an untidy appearance and does not conform with the general appearance of other land in that part of the district.
- (2) The local government may give notice in writing to the owner or occupier of a lot to take such actions as the authorised person considers necessary to remove the overgrowth of vegetation within the time specified in the notice.

**3.6 Storage of vehicles and machinery**

The owner or occupier of a residential lot shall not—

- (a) store any vehicle, part or body of a vehicle, vessel or machinery in a state of disrepair;
- (b) allow to remain on any land, a vehicle, part or body of a vehicle, vessel, or machinery in a state of disrepair;
- (c) wreck, dismantle or break up any vehicle, part or body of a vehicle, vessel or machinery; unless—
  - (i) inside a building; or
  - (ii) within an area enclosed by a fence or wall not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts of bodies of vehicles or machinery from the street and from adjoining properties; or
- (d) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.

**3.7 Commercial wrecking of vehicles**

An owner or occupier of land in the district must not undertake, permit or suffer the commercial wrecking of vehicles on that land, without first having obtained written approval from the local government.

**3.8 Disposing of disused refrigerators or similar containers**

A person shall not place, leave or dispose of a disused refrigerator, ice-chest, ice-box, trunk, chest or other similar article having a compartment which has a capacity of 0.04 cubic metres or more on any land without first removing every door and lid and every lock, catch and hinge attached to a door or lid or otherwise rendering every door and lid incapable of being fastened.

*Division 3—Swimming pool backwash management***3.9 Disposal of swimming pool backwash**

The owner or occupier of land on which a swimming pool is constructed shall ensure that backwash is not permitted to discharge onto or run-off onto adjacent land.

**PART 4—NUISANCES***Division 1—Light***4.1 Use of exterior lights**

An owner or occupier of land on which floodlights or other exterior lights are erected or used shall not allow the floodlights or other exterior lights to shine directly onto any other premises.

#### 4.2 Emission or reflection of light

An owner or occupier of land shall ensure that—

- (a) artificial light is not emitted or reflected from anything on the land so as to illuminate premises outside that land at a level that interferes unreasonably with normal daily activities; and
- (b) natural light is not reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare.

#### 4.3 Notice may require specified action to prevent emission or reflection of light

(1) Where—

- (a) floodlights or other exterior lights shine directly onto any other premises;
- (b) artificial light is emitted or reflected from anything on the land so as to illuminate premises outside the land that interferes unreasonably with normal daily activities; or
- (c) natural light is reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare,

the local government may by notice in writing direct the owner or occupier to take such actions as the authorised person considers necessary within the time specified in the notice.

(2) The notice referred to in subclause (1) may direct that—

- (a) floodlights or other exterior lights are used only during the hours specified in the notice;
- (b) the direction in which the lights shine be altered as specified in the notice;
- (c) any reflective surfaces be painted or otherwise treated so as to abate the nuisance; or
- (d) any combination of these measures that the local government believes to be appropriate to the circumstances.

#### *Division 2—Smoke, fumes, odours and other emissions*

#### 4.4 Escape of smoke, fumes, odours and other emissions

(1) An owner or occupier of land or premises shall take all reasonable steps not to cause or permit the escape of smoke, fumes or odours from the land or premises in such quantity or of such a nature as to cause or to be a nuisance to any person.

(2) Subclause (1) does not apply to odour from the use of organic fertilisers applied in accordance with the product label or in the case of bulk fertiliser in a manner as to minimise nuisance.

#### *Division 3—Commercial vehicle noise*

#### 4.5 Commercial vehicle noise from residential land

A person shall not start or drive a truck on land or adjacent to land which is zoned, approved or used for residential purposes between the hours of 10.00 pm and 7.00 am on the following day without first obtaining the written approval of the local government.

#### *Division 4—Bird nuisance*

#### 4.6 Restrictions on feeding of birds

(1) A person shall not feed a pigeon, dove, ibis, raven, corella, lorikeet or other wild bird so as to cause a nuisance.

(2) Where an authorised person forms the opinion that a person has not complied with subclause (1) the local government may give notice to a person requiring the person to clean up and properly dispose of any feed or waste products specified in the notice.

### PART 5— PEST CONTROL

#### *Division 1—Flies*

#### 5.1 Interpretation

In this Division, unless the context otherwise requires—

*flies* means any of the two-winged insects constituting the order *Diptera* commonly known as flies.

#### 5.2 Fly breeding matter not to be left on premises unless covered or treated

An owner or occupier of premises shall not place, throw or leave, or permit or cause to be placed, thrown or left, in, on, or about the premises any matter or thing which is liable to attract, or be a breeding place for flies unless that matter or thing is covered, protected, treated or dealt with in such a manner as to effectively prevent it from attracting or being a breeding place for flies.

#### 5.3 Measures to be taken by an occupier

An occupier of premises shall ensure that—

- (a) rubbish receptacles are kept clean and tightly sealed at all times except when refuse is being deposited or emptied;
- (b) food scraps and uneaten animal and bird food are wrapped tightly and deposited in a rubbish receptacle without delay;

- (c) lawn clippings used on gardens as mulch are raked out thinly;
- (d) fertilisers are dug well into the soil;
- (e) compost heaps are kept well covered;
- (f) barbecues are kept clean and free from food scraps;
- (g) anything that is buried and may attract or be a breeding place for flies is covered with at least 200 millimetres of soil and compacted; and
- (h) excrement from pets is collected and properly disposed of without delay.

#### **5.4 Local government may give notice directing measures to be taken**

Where in the opinion of an authorised person flies are prevalent or are breeding on any premises, the local government may give to the owner or occupier of the premises a notice in writing directing him or her to take, within the time specified in the notice, such measures as in the opinion of the authorised person are necessary to—

- (a) control the prevalence of flies;
- (b) effect the eradication of flies; and
- (c) effectively prevent the breeding of flies.

#### *Division 2—Mosquitoes*

#### **5.5 Interpretation**

In this Division, unless the context otherwise requires—

**mosquitoes** means any of the two-winged insects constituting the family *Diptera Culicidae* commonly known as mosquitoes.

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

An owner or occupier of premises shall keep the premises free of—

- (a) refuse; and
- (b) water located so as to be, liable to become the breeding place of mosquitoes.

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

An owner or occupier of premises—

- (a) where there is a fountain, pool, pond or excavation of any kind which contains water suitable for the breeding of mosquitoes, shall keep the water—
  - (i) stocked with mosquito predatory fish; or
  - (ii) covered with a film of petroleum oil or other larvicide; and
- (b) where there is a water tank, well, cistern, vat or barrel, shall—
  - (i) keep it protected with a mosquito-proof cover; and
  - (ii) screen all openings, other than the delivery exit, with wire mesh having openings no larger than 1.2 millimetres.

#### **5.8 Drains, channels, compensating basins and septic tanks**

An owner or occupier of land shall—

- (a) cause all drains, channels and compensating basins in or on the land to be kept in good order and free of mosquito larvae; and or
- (b) where a septic tank is installed on the land—
  - (i) apply an approved larvicide according to the directions on the container, into the septic tank system, whenever directed to do so by the local government.
  - (ii) provide, and keep in sound condition at all times, wire mesh having openings no larger than 1.2 millimetres covering any inlet vent to the tank.

#### **5.9 Drainage of land**

An owner or occupier of land upon which there is water liable to become a breeding place for mosquitoes shall, when required by the local government, effectively drain the land and, for that purpose, shall—

- (a) make or provide drains on the land;
- (b) remove all irregularities in the surface of the land;
- (c) if necessary, adjust the surface of the land or raise the level of the surface in such a manner that—
  - (i) the water on the land may flow into the drains without obstruction; and
  - (ii) no water shall remain on any portion of the land other than the drains; and
- (d) keep all drains in good order and free from obstruction.

#### **5.10 Swimming pools**

Where there is a swimming pool on any premises where the circulation system does not function, or has not been used such that the pool water is green or stagnant and suitable for the breeding of mosquitoes, the owner or occupier shall when required by a notice issued by the local government—

- (a) re-activate the pool circulation system within a time specified and operate it so that the water is filtered for as many hours as may be specified; and/or

- (b) chlorinate and adjust pH of the pool to—
  - (i) 4 milligrams per litre free chlorine; and
  - (ii) pH within the range 7.2 to 7.6; or
- (c) empty or drain the pool; or
- (d) pour up to 1 litre of paraffin oil or kerosene onto the water surface of the pool; and
- (e) maintain the pool water free of mosquito breeding.

#### *Division 3—Rodents*

##### **5.11 Interpretation**

In this Division, unless the context otherwise requires—

**rodents** means those animals belonging to the order *Rodentia* and includes rats and mice but does not include animals (other than rats) kept as pets in an enclosure designed for the purpose of keeping as pets animals of that kind.

##### **5.12 Measures to be taken to eradicate rodents**

- (1) An owner or occupier of premises shall at all times take effective measures to eradicate any rodents in or on the premises.
- (2) Without limiting the generality of subclause (1), an owner or occupier of premises, whenever there are indications of the presence of rodents in, on or about the premises, and while such indications continue, shall—
  - (a) take effective measures to keep the premises free from rodents including—
    - (i) protecting food stuffs;
    - (ii) using a rodenticide bait or a properly baited trap; and
    - (iii) preventing rodents having access to water on the premises;
  - (b) inspect daily each rodenticide bait or trap used and, whenever a rodent is found, shall—
    - (i) if it is not already dead, kill it immediately; and
    - (ii) dispose of the carcass in such a manner as will not create a nuisance; and
  - (c) take whatever measures for the eradication of rodents as an authorised person may from time to time direct.

##### **5.13 Waste food etc.**

An owner or occupier of premises shall—

- (a) not store, or allow to be stored, on any premises, any food, refuse or other waste matter unless it is contained in a rodent proof receptacle or compartment; and
- (b) follow any direction of the authorised person to dispose of fallen fruit, nuts or seed.

##### **5.14 Restrictions on materials affording harbourage for rodents**

- (1) An owner or occupier of premises shall cause—
  - (a) any part of the premises; or
  - (b) any material, sewer, pipe or other thing in or on the premises, that might afford access or harbourage to rodents to be altered, repaired, protected, removed or otherwise dealt with so as to prevent it being used as access for or harbourage of rodents.
- (2) The local government may by notice direct, an owner or occupier of premises to take whatever action that, in the opinion of an authorised person, is necessary or desirable to prevent or deter the presence of rodents in or on the premises.
- (3) An owner or occupier of premises shall comply with a notice from, and within the time allowed by local government under this clause.

#### *Division 4—Cockroaches*

##### **5.15 Interpretation**

In this Division, unless the context otherwise requires—

**cockroach** means any of the various *orthopterous* insects commonly known as cockroaches.

##### **5.16 Measures to be taken to eradicate cockroaches**

- (1) An owner or occupier of premises shall take effective measures to eradicate any cockroaches in or on the premises.
- (2) Without limiting the generality of sub-clause (1), an owner or occupier of premises, whenever there are any indications of the presence of cockroaches in, on or about the premises, and while such indications continue, shall take effective measures to keep the premises free from cockroaches including—
  - (a) washing and storing, immediately after use, cooking and eating utensils;
  - (b) wrapping and depositing in a rubbish receptacle without delay all food scraps, uneaten pet food and garbage; and
  - (c) whenever required by local government, treating any area with baits or other methods to eradicate cockroaches.

*Division 5—European Wasps***5.17 Interpretation**

In this Division, unless the context otherwise requires—

**European Wasp** means a wasp *Vespula germanica*.

**5.18 Measures to be taken to keep premises free from European wasp nests**

An owner or occupier of premises shall ensure that the premises are kept free from European Wasp nests and shall—

- (a) immediately notify the local government of any wasp nest in, on or about the premises that is suspected to be a European Wasp nest;
- (b) follow any direction of an authorised person for the purpose of destroying the wasps and their nest; and
- (c) assist an authorised person to trace any nest that may be present in, on or about the premises.

**PART 6—OBJECTIONS AND APPEALS****6.1 Objections and appeals**

When the local government makes a decision under this local law as to whether it will—

- (a) grant a person a permit or authorisation;
- (b) vary or cancel a permit or authorisation; or
- (c) give a person a notice,

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations shall apply to that decision.

**PART 7—ENFORCEMENT***Division 1—Notices given under this local law***7.1 Notice of breach**

(1) Where a breach of any provision of this local law has occurred, the local government may give a notice in writing to the person alleged to be responsible for such a breach.

(2) A notice issued pursuant to subclause (1) shall—

- (a) specify the provision of this local law which has been breached;
- (b) specify the particulars of the breach; and
- (c) state the manner in which the recipient is required to remedy the breach to the satisfaction of the local government within a time period stipulated in the notice which shall be not less than 7 days from the giving of the notice.

(3) It is an offence to fail to comply with a notice issued by the local government pursuant to subclause (1).

**7.2 Form of notices**

Where this local law refers to the giving of a notice other than the giving of an infringement notice and no particular form is prescribed, it will be sufficient that the notice be in writing giving sufficient details to enable the owner, occupier or other person to whom the notice is issued to know the offence committed and the measures required to be taken or conditions with which compliance is required, as the case may be.

*Division 2—Offences and Penalties***7.3 Offences and penalties**

(1) A person who—

- (a) fails to do anything required or directed to be done under this local law;
- (b) fails to comply with the requirements of a notice issued under this local law by the local government; or
- (c) does anything which under this local law that person is prohibited from doing,

commits an offence.

(2) Where, under this local law, an act is required to be done or forbidden to be done in relation to any land or premises, the owner or occupier of the land or premises has the duty of causing to be done the act so required to be done, or of preventing from being done the act forbidden to be done.

(3) A person who commits an offence under this local law is liable to a maximum penalty of \$5000 and where the offence is of a continuing nature a maximum daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

*Division 3—Infringement Notices and Modified Penalties***7.4 Prescribed offences**

(1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1—

- (a) in the case of a first offence the modified penalty will be that prescribed in column 4 of Schedule 1; and
- (b) in the case of a subsequent offence the modified penalty will be that prescribed in column 5 of Schedule 1.

**7.5 Form of infringement notices**

For the purposes of this local law—

- (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 Act is that of Form 1 in Schedule 1 of the Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice given under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the Regulations.

**Schedule 1**

## PRESCRIBED OFFENCES

[Clause 7.4]

Item	Clause	Description of offence	Modified penalty— first offence	Modified penalty— subsequent offence
1.	2.2	Failing to keep an animal or bird in accordance with a condition of this local law	\$250	\$500
2.	2.3(1)	Failing to maintain an animal enclosure	\$250	\$500
3.	2.4	Failing to immediately dispose of a dead animal in a manner as not to cause a nuisance	\$250	\$500
4.	2.6	Failing to keep an animal in accordance with conditions of this local law	\$250	\$500
5.	2.7(1)(a)	Keeping more than 12 poultry or caged birds	\$250	\$500
6.	2.7(1)(c)	Keeping of a goose or gander, turkey, peafowl, rooster or other caged bird without written permission of the local government	\$250	\$500
7.	2.8	Failing to keep poultry in accordance with conditions of this local laws	\$250	\$500
8.	2.9	Failing to keep pigeons in accordance with conditions of this local laws	\$250	\$500
9.	2.10(2)	Failing to comply with a notice to remove non-conforming structure or enclosure	\$250	\$500
10.	2.11(2)	Failing to comply with a notice issued to prevent pigeons nesting or perching	\$250	\$500
11.	3.2	Release of liquid refuse from the land	\$250	\$500
12.	3.3(2)	Failing to dispose of liquid waste in an approved manner	\$250	\$500
13.	3.4(1)	Keeping or allowing to be kept on a lot refuse, rubbish or disused material giving the land an untidy appearance	\$250	\$500
14.	3.5(1)	Keeping or allowing to be kept on a lot unsightly overgrowth of vegetation giving the land an untidy appearance	\$250	\$500
15.	3.6(a)	Storing on a lot a vehicle, part or body of a vehicle or machinery in a state of disrepair	\$250	\$500
16.	3.6(b)	Storing or allowing to remain on land, a vehicle, part or body of a vehicle or machinery in a state of disrepair	\$250	\$500
17.	3.6(c)(i)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not inside a building	\$250	\$500

Item	Clause	Description of offence	Modified penalty— first offence	Modified penalty— subsequent offence
18.	3.6(c)(ii)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not behind a sufficient fence or wall	\$250	\$500
19.	3.6(d)	Wrecking, dismantling or breaking up a vehicle, vessel or machinery so as to cause a nuisance	\$250	\$500
20.	3.7	Commercial wrecking of vehicles on land without local government approval	\$250	\$500
21.	3.8	Disposing of disused refrigerator or similar container with door or lid that can be fastened	\$250	\$500
22.	3.9	Discharging swimming pool backwash onto adjacent land	\$250	\$500
23.	4.1	Erection or use of lighting installations other than in accordance with this local law	\$250	\$500
24.	4.2(a) and (b)	Permit the emission or reflection of light	\$250	\$500
25.	4.4(1)	Allowed the escape of smoke, fumes, odour and other emissions so as to cause a nuisance	\$250	\$500
26.	4.5	Use of a commercial vehicle other than in accordance with this local law	\$250	\$500
27.	4.6(1)	Feeding a bird so as to cause or create a nuisance	\$250	\$500
28.	5.2	Failing to keep premises free of fly breeding matter	\$250	\$500
29.	5.3	Failing to comply with conditions of this local law preventing fly breeding	\$250	\$500
30.	5.6	Failing to keep premises free of mosquito breeding matter	\$250	\$500
31.	5.7	Failing to comply with a condition of this local law to prevent mosquito breeding	\$250	\$500
32.	5.8	Failing to maintain a drain, channel, compensating basin or septic tank in accordance with a condition of this local law	\$250	\$500
33.	5.9	Failing to drain land	\$250	\$500
34.	5.10	Failing to comply with a notice of the local government	\$250	\$500
35.	5.12(1)	Failing to take effective measures to eradicate rodents in or on the premises	\$250	\$500
36.	5.12(2)	Failing to take measures to eradicate rodents in accordance with this local law	\$250	\$500
37.	5.13(a)	Failing to prevent access by rodents to waste food, refuse or other waste	\$250	\$500
38.	5.13(b)	Failing to follow a direction to dispose of fallen fruit, nuts or seed	\$250	\$500
39.	5.14(1)	Failing to alter, repair, protect, remove or otherwise deal with part of a premises or other thing on the premises used as access for or harbourage of rodents	\$250	\$500
40.	5.16(1)	Failing to take effective measures to eradicate cockroaches	\$250	\$500
41.	5.18	Failing to ensure premises is free of European Wasp nests	\$250	\$500

Dated this 8th day of April 2020.

The Common Seal of the Town of Bassendean was affixed by authority of a resolution of the Council in the presence of—

RENEE McLENNAN, Mayor.

PETA MABBS, Chief Executive Officer.





**WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007  
LOCAL GOVERNMENT ACT 1995**

TOWN OF BASSENDEAN

**WASTE LOCAL LAW 2019**

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WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007  
LOCAL GOVERNMENT ACT 1995

TOWN OF BASSENDEAN

WASTE LOCAL LAW 2019

Under the powers conferred on it by the *Waste Avoidance and Resource Recovery Act 2007*, the *Local Government Act 1995* and under all other enabling powers, the Council of the Town of Bassendean resolved on 31st March 2020 to make the following local law.

PART 1—PRELIMINARY

**1.1 Short title**

This is the *Town of Bassendean Waste Local Law 2019*.

**1.2 Commencement**

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

**1.3 Application**

This local law applies throughout the district.

**1.4 Repeal**

This local law repeals part 4, division 2 of the *Town of Bassendean Health Local Law 2001*, as published in the *Government Gazette* on 24 August 2001, except for the following clauses—

- (b) clause 4.16

**1.5 Meaning of terms used in this local law**

(1) In this local law—

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

**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;

**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 Town of Bassendean;

**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 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;

**waste facility** means a waste facility, as defined in the WARR Act, that is operated by the local government; 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.

### 1.6 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, shall 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 paragraph (a);
- (d) after the period referred to in paragraph (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 shall be recorded in a publicly accessible register of determinations that shall be maintained by the local government.

### 1.7 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.

### 1.8 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

### 2.1 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.

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

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

- (1) An owner or occupier of premises shall 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 a capacity of 140 litres—more than 70 kilograms of collectable waste; or
  - (c) 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 shall 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 shall not deposit or permit to be deposited in a general waste receptacle any organic waste.

### **2.4 Recycling waste receptacles**

An owner or occupier of premises shall 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 a capacity of 360 litres—more than 70 kilograms of recycling waste; or
- (d) where the receptacle has any other capacity—more than the weight determined by the local government.

### **2.5 Organic waste receptacles**

An owner or occupier of premises shall 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.

### **2.6 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 paragraph (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 shall comply with a direction given under this clause.

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

An owner or occupier of premises shall—

- (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;

- (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 (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 shall 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 2.8(4)(a).

### **2.9 Damaging or removing receptacles**

A person, other than the local government or its contractor, shall 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.

### **2.10 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) shall 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 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 shall—

- (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.

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

- (1) A person shall 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 shall 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 Receptacles and containers for public use**

A person shall 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—OPERATION OF WASTE FACILITIES****4.1 Operation of this Part**

This Part applies to a person who enters a waste facility.

**4.2 Hours of operation**

The local government may from time to time determine the hours of operation of a waste facility.

**4.3 Signs and directions**

(1) The local government or an authorised person may regulate the use of a waste facility—

- (a) by means of a sign; or
- (b) by giving a direction to a person within a waste facility.

(2) A person within a waste facility shall comply with a sign or direction under paragraph (1).

(3) The local government or an authorised person may direct a person who commits, or is reasonably suspected by the local government or the authorised person of having committed, an offence under this clause to leave the waste facility immediately.

(4) A person shall comply with a direction under paragraph (3).

**4.4 Fees and charges**

(1) Unless paragraph (3) applies, a person shall, on or before entering a waste facility or on demand by the local government or an authorised person, pay the fee or charge as assessed by an authorised person.

(2) An authorised person may assess the fee or charge in respect of a particular load of waste at a rate that applies to any part of that load, even if that rate is higher than the rate that would apply to any other part of the load.

(3) Paragraph (1) does not apply—

- (a) to a person who disposes of waste in accordance with the terms of—
  - (i) a credit arrangement with the local government; or
  - (ii) any other arrangement with the local government to pay the fee or charge at a different time or in a different manner; and
- (b) to the deposit of waste owned by the local government, or in the possession of an employee on behalf of the local government.

**4.5 Depositing waste**

(1) A person shall not deposit waste at a waste facility other than—

- (a) at a location determined by a sign and in accordance with the sign; and
- (b) in accordance with the direction of an authorised person.

(2) The local government may determine the classification of any waste that may be deposited at a waste facility.

**4.6 Prohibited activities**

(1) Unless authorised by the local government, a person shall not—

- (a) remove any waste or any other thing from a waste facility;
- (b) deposit at a waste facility that is a landfill site any waste that is toxic, poisonous or hazardous, or the depositing of which is regulated or prohibited by any written law;
- (c) light a fire in a waste facility;
- (d) remove, damage or otherwise interfere with any flora in a waste facility;
- (e) remove, injure or otherwise interfere with any fauna in a waste facility; or
- (f) damage, deface or destroy any building, equipment, plant or property within a waste facility.

(2) A person shall not act in an abusive or threatening manner towards any person using, or engaged in the management or operation of, a waste facility.

**PART 5—ENFORCEMENT****5.1 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—

- (a) an approval under clause 2.7(b);
- (b) an exemption under clause 2.8(2);
- (c) an approval under clause 2.9(b);



- (d) an approval under clause 2.10(1);
- (e) an authorisation under clause 3.2(1)(c);
- (f) an approval under clause 3.2(2); and
- (g) an approval under clause 3.3.

### 5.2 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.

### 5.3 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 5.2, 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; or
- (b) making good any damage caused to a waste facility.

(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.

### 5.4 Prescribed offences

(1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 9.16(1) of the LG Act.

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 2.

### 5.5 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.

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## Schedule 1

### MEANING OF 'NON-COLLECTABLE WASTE'

[Clause 1.5(1)]

**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.
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**Schedule 2**  
**PRESCRIBED OFFENCES**

<b>Item No.</b>	<b>Clause No.</b>	<b>Description</b>	<b>Modified Penalty</b>
1	2.1(2)(a)	Failing to pay fee or charge	\$350
2	2.1(2)(b)	Failing to ensure lawful use of receptacle	\$350
3	2.2(1)	Depositing non-collectable waste in a receptacle	\$350
4	2.2(2)	Depositing waste in another receptacle without consent	\$350
5	2.3(1)	Exceeding weight capacity of a general waste receptacle	\$350
6	2.3(2) and (3)	Depositing unauthorised waste in a general waste receptacle	\$350
7	2.4(a)	Depositing unauthorised waste in a recycling waste receptacle	\$350
8	2.4(b), (c) and (d)	Exceeding weight capacity of a recycling waste receptacle	\$250
9	2.5(a)	Depositing unauthorized waste in an organic waste receptacle	\$350
10	2.5(b) and (c)	Exceeding weight capacity of an organic waste receptacle	\$350
11	2.6(3)	Failing to comply with a direction concerning placement or removal of a receptacle	\$250
12	2.7(a)	Failing to keep a receptacle in the required location	\$250
13	2.7(b)	Failing to place a receptacle for collection in a lawful position	\$250
14	2.7(c)	Failing to provide a sufficient number of receptacles	\$250
15	2.7(d)	Failing to notify of a lost, stolen, damaged or defective receptacle	\$50
16	2.9(a)	Damaging, destroying or interfering with a receptacle	\$400
17	2.9(b)	Removing a receptacle from premises	\$400
18	2.10(1)	Failing to comply with a term or condition of verge waste collection	\$400
19	2.10(2)	Removing waste for commercial purposes	\$350
20	2.10(3)	Disassembling or leaving in disarray waste deposited for collection	\$250
21	3.1(a)	Failing to provide a sufficient number of receptacles	\$250
22	3.1(b)	Failing to keep a receptacle clean and in a good condition and repair	\$250
23	3.1(c)(i)	Failing to prevent fly breeding and vectors of disease in a receptacle	\$350
24	3.1(c)(ii)	Failing to prevent the emission of offensive odours from a receptacle	\$350
25	3.1(c)(iii)	Allowing a receptacle to cause a nuisance	\$350
26	3.1(d)	Failing to comply with a direction to clean, disinfect or deodorise receptacle	\$300
27	3.2(1)	Unauthorised removal of waste from premises	\$250
28	3.2(2)	Removing waste from a receptacle without approval	\$250
29	3.3 (a)	Depositing waste without authority into a receptacle provided for the use of the general public in a public place	\$300
30	3.3(b)	Removing waste without authority from a receptacle provided for the use of the general public in a public place	\$300
31	4.3(2)	Failing to comply with a sign or direction	\$500
32	4.3(4)	Failing to comply with a direction to leave	\$500
33	4.4(1)	Disposing waste without payment of fee or charge	\$500
34	4.5(1)	Depositing waste contrary to sign or direction	\$500
35	4.6(1)(a)	Removing waste without authority in a waste facility	\$250
36	4.6(1)(b)	Depositing toxic, poisonous or hazardous waste at a waste facility	\$500
37	4.6(1)(c)	Lighting a fire in a waste facility	\$300
38	4.6(1)(d)	Removing or interfering with any flora in a waste facility	\$300

<b>Item No.</b>	<b>Clause No.</b>	<b>Description</b>	<b>Modified Penalty</b>
39	4.6(1)(e)	Removing or interfering with any fauna without approval in a waste facility	\$300
40	4.6(1)(f)	Damaging, defacing or destroying any building, equipment, plant or property within a waste facility	\$500
41	4.6(2)	Acting in an abusive or threatening manner	\$300

Consented to—

MIKE ROWE, Director General, Department of Water  
and Environmental Regulation.

Dated this 20th of December 2019.

The common seal of the Town of Bassendean was hereunto affixed to this document by resolution of the Council in the presence of—

Dated this 8th April 2020.

RENEE JOY McLENNAN, Mayor.  
PETA MAREE MABBS, Chief Executive Officer.