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LOCAL GOVERNMENT ACT 1995
WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007

**SHIRE OF DERBY/WEST
KIMBERLEY**

**WASTE SERVICES LOCAL
LAW 2011**

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

SHIRE OF DERBY/WEST KIMBERLEY

WASTE SERVICES LOCAL LAW 2011

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LOCAL GOVERNMENT ACT 1995
WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007

SHIRE OF DERBY/WEST KIMBERLEY

WASTE SERVICES LOCAL LAW 2011

Under the powers conferred by the *Waste Avoidance and Resource Recovery Act 2007* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Derby/West Kimberley resolved on 16 December 2010, to make the following local law.

PART 1—PRELIMINARY

1.1. Citation

This local law may be cited as the *Shire of Derby/West Kimberley Waste Services Local Law 2011*.

1.2. Commencement

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

1.3. Application

This local law applies within the townsites of Derby and Fitzroy Crossing.

1.4. Definitions

In this local law unless the context otherwise requires—

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

authorised person means a person appointed by the local government under section 9.10 of the *Local Government Act 1995* to perform any of the functions of an authorised person under this local law;

collection day means the day of the week on which waste is collected and removed by the local government or its contractor;

collection time where used in connection with any premises, means the time of the day on which waste is collected and removed from the premises by the local government or its contractor;

district means the district of the local government;

EHO means the local government's Environmental Health Officer;

local government means the Shire of Derby/West Kimberley;

occupier where used in relation to land, has the meaning given in section 1.4 of the *Local Government Act 1995*;

owner, in relation to premises comprised of or on land, has the meaning given in section 1.4 of the *Local Government Act 1995*;

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

receptacle where used in connection with any premises means—

- (a) a polyethylene cart fitted with wheels, a handle and a lid and having a capacity of at least 120 litres; or
- (b) a container provided by the local government or its contractor for the deposit, collection and recycling of specific materials; and supplied to the premises by the local government or its contractor;

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

street has the same meaning as in the *Local Government Act 1995*;

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

waste includes matter—

- (a) whether liquid, solid, gaseous or radioactive and whether useful or useless, which is discharged into the environment; or
- (b) prescribed by the regulations to be waste;

waste facility means premises used for the storage, treatment, processing, sorting, recycling or disposal of waste; and

waste service means—

- (a) the collection, transport, storage, treatment, processing, sorting, recycling or disposal of waste; or
- (b) the provision of receptacles for the temporary deposit of waste; or
- (c) the provision and management of waste facilities, machinery for the disposal of waste and processes for dealing with waste.

PART 2—WASTE SERVICES

2.1. Provision of waste service

The local government shall undertake or contract for the efficient execution of a waste service in those parts of the district to which this local law applies.

2.2. Obligations of the owner or occupier

(1) Owners or occupiers shall—

- (a) not remove any waste from the premises other than in accordance with this local law;
- (b) pay to the local government the annual waste collection rate imposed under section 66 of the Act;
- (c) pay to the local government the annual receptacle charge made in lieu of, or in addition to the annual waste collection rate, under section 67 of the Act.

(2) The local government may in writing authorise the occupier of a premises within its district to remove waste from or on the premises if—

- (a) the waste on the premises is not available for removal at regular periods and is of such a nature or quantity as to be unsuitable for removal by the local government or its contractor; or
- (b) there is installed on the premises efficient apparatus for the destruction of the waste and the apparatus is used to dispose of the waste on the premises without causing a nuisance or permitting the discharge of smoke into the atmosphere in such quantities or of such a nature as to cause annoyance to persons.

(3) Where any waste is removed from the premises under a written authority of a local government, the person removing it shall—

- (a) dispose of it at the place set apart by the local government for the disposal of waste; and
- (b) pay to the local government the fee for the disposal as determined by the local government from time to time under sections 6.16 to 6.19 of the *Local Government Act 1995*.

2.3. Receptacles

An owner or occupier of premises shall—

- (a) ensure the premises are provided with a receptacle for the depositing of waste and maintain the receptacle in a serviceable condition;
- (b) at all times keep the lid of the receptacle closed except when depositing waste or cleaning the receptacle;
- (c) except for a reasonable period before and after collection time, keep the receptacle on the premises and located—
 - (i) behind the street alignment and so as not to be visible from a street or public place; or
 - (ii) in such other position as is approved by the local government;
- (d) on each collection day at or prior to 6.00 am place the receptacle out in the street in a position, prescribed by the local government, where it is visible from the carriageway of the street or the right of way, but so that it does not obstruct any thoroughfare, land, footpath, cycleway or other carriageway and positioned with the handle facing away from the kerb line, or placed in such other position as is approved by the local government.

2.4. 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 2.3(c)(i) or where the receptacle is to be placed on collection day by clause 2.3(d).

(2) The local government may grant or refuse, with or without conditions, 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.

(4) The local government may rescind the exemption or from time to time vary conditions imposed by it under this clause by giving written notice of the variation to the person to whom the exemption was given.

2.5. Use of receptacles

An owner or occupier of premises shall—

- (a) not deposit or permit to be deposited in a receptacle—
 - (i) more than 70 kilograms of waste;
 - (ii) hot or burning ash;
 - (iii) oil, motor spirit or other flammable liquid;
 - (iv) liquid paint, solvent or other liquid;
 - (v) bricks, concrete, building rubble, asbestos, earth or other like substances;
 - (vi) drugs, dressings, bandages, swabs or blood samples unless placed in a sealed impervious and leak-proof container;
 - (vii) hospital, medical, veterinary, laboratory or pathological substances containing blood unless placed in a sealed impervious and leak-proof container;
 - (viii) syringes, needles, surgical hardware, broken glass, or other sharp objects unless placed in a durable, impervious and leak-proof container;
 - (ix) cytotoxics, radioactive substances and dangerous chemicals;
 - (x) sewage, manure, nightsoil, faeces or urine;
 - (xi) any object which is greater in length, width or breadth than the corresponding dimension of the receptacle or which will not allow the lid of the receptacle to be tightly closed;
 - (xii) waste which 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 container; or
 - (xiii) hazardous products including ammunition and flares;
- (b) at all times keep the receptacle in a clean condition;
- (c) whenever directed to do so by an EHO, thoroughly clean, disinfect, deodorise and apply a residual insecticide to the receptacle;
- (d) take all reasonable steps to prevent—
 - (i) fly breeding and keep the receptacle free of flies, maggots, cockroaches, rodents and other vectors of disease; and
 - (ii) the emission of offensive and noxious odours from the receptacle; and
- (e) ensure that the receptacle does not cause a nuisance to the occupiers of adjoining premises.

2.6. Ownership of receptacles

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

(2) The owner or occupier of a premises supplied with a receptacle remains responsible for any waste placed or deposited in the receptacle until such time as it has been removed by the local government or its contractor.

2.7. Damage to receptacles

(1) Where a receptacle is supplied under clause 2.6 a person 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, remove a receptacle from any premises;

(2) If the receptacle of a premises is damaged, defective, lost or stolen, the owner or occupier of the premises shall notify the local government within 7 days after the event.

2.8. Use of other containers

(1) In the case of premises consisting of more than 3 dwellings, any premises used for commercial or industrial purposes or food premises, the local government may authorise waste to be deposited in a container other than a receptacle.

(2) The owner or occupier of premises who is authorised under this clause to deposit waste in a container shall—

- (a) unless approved by the local government not deposit or permit to be deposited in the container anything specified in clause 2.5(a)(ii) to (xiii);
- (b) take all reasonable steps to prevent fly breeding in, and the emission of offensive or noxious odours from the container;
- (c) whenever directed by an EHO to do so, thoroughly clean, disinfect, deodorise and apply a residual insecticide to the container;
- (d) cause the container to be located on the premises in an enclosure that meets the requirements of a “suitable enclosure” as defined in clause 2.9(3);
- (e) ensure that the container is not visible from the street but is readily accessible for the purposes of collection; and
- (f) ensure that the container does not cause a nuisance to an occupier of adjoining premises.

(3) An owner or occupier shall—

- (a) ensure that there are a sufficient number of containers provided to contain all waste which accumulates or may accumulate in or from the premises;
- (b) ensure that each container on the premises—
 - (i) has a close-fitting lid;
 - (ii) is constructed of non-absorbent and non-corrosive material; and
 - (iii) is clearly marked, for the use of, and is used only for, the temporary deposit of waste;
- (c) keep or cause to be kept each container thoroughly clean and in good condition and repair;
- (d) place any waste in, and only in, a container marked for that purpose;
- (e) keep the cover on each container except when it is necessary to place something in, or remove something from it; and
- (f) ensure that each container is emptied at least weekly or as directed by the EHO.

2.9. Suitable enclosure

(1) An owner or occupier of premises—

- (a) consisting of more than 3 dwellings; or
- (b) used for commercial or industrial purposes or a food premises shall, if required by the local government, provide a suitable enclosure for the storage and cleaning of receptacles on the premises.

(2) An owner or occupier of premises required to provide a suitable enclosure under this clause shall keep the enclosure thoroughly clean and disinfected.

(3) For the purposes of this clause, a **suitable enclosure** means an enclosure—

- (a) of sufficient size to accommodate all receptacles or other containers used on the premises but in any event having a floor area not less than—
 - (i) where the premises comprises 3 or more dwellings, twice the size of the combined floor area of a number of receptacles equal to 1 receptacle per dwelling;
 - (ii) where the premises is used for commercial or industrial purposes, or a food premises, twice the size of the combined floor area of all receptacles used on the premises; or
 - (iii) where there is in use on the premises a container or containers approved under clause 2.8, twice the size of the combined floor area of all containers approved for use on the premises.
- (b) having walls not less than 1.8 metres in height and having an access way of not less than 1 metre in width and fitted with a self-closing gate;
- (c) containing a smooth, non-slip and impervious floor—
 - (i) of not less than 75 millimetres in thickness; and
 - (ii) which is evenly finished to a surface having a fall of not less than 1 in 100;
- (d) which is easily accessible to allow for the removal of the receptacles;
- (e) provided with a ramp into the enclosure having a gradient no steeper than 1:8 unless otherwise approved by the local government; and
- (f) provided with a tap connected to an adequate supply of water.

2.10. Recyclable and bulk material collections

(1) Where the local government provides—

- (a) a collection service for recyclable material, the occupier of premises shall comply with and observe the directions given by the local government in relation to that collection;
- (b) a collection for bulk material, the occupier of premises shall comply with and observe the directions given by the local government in relation to that collection.

(2) Where additional collection services are provided upon request by the occupier of premises, fees as set by the local government from time to time under sections 6.16 to 6.19 of the *Local Government Act 1995* shall be paid.

2.11. Waste removal vehicles

A vehicle used by the local government or its contractor for the collection and transport of waste shall—

- (a) be provided with a compartment in which all waste shall be deposited for removal, and of which the interior is constructed from or surfaced with impermeable material; and
- (b) have a cover over the compartment at all times when the vehicle is engaged in the transport of waste.

2.12. Method of removal of waste

A person engaged in the removal of waste from premises shall—

- (a) convey all waste from the receptacles of the occupier of the premises and deposit the waste in the portion of the collection vehicle intended to hold the waste; and
- (b) replace the receptacle in the position it was lifted from.

PART 3—WASTE FACILITY**3.1. Deposit of waste**

- (1) The driver of a vehicle upon entering a waste facility shall not deposit any waste until authorised to do so by the attendant or person in charge.
- (2) A person shall not deposit waste in or on a waste facility except—
- (a) at such place on the site as may be directed by the authorised person in charge of the facility; or
 - (b) if the authorised person in charge is not in attendance at the facility, as may be directed by a notice erected on the site.
- (3) The local government may, under and in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*, set and amend a scale of fees and charges payable for admission to dispose of or dump waste at a waste facility and such scale may specify classes and differing classes to which differing fees and charges shall apply.

3.2. Removal from waste facility

- (1) A person shall not remove any waste from a waste facility without the written approval of the local government.
- (2) A person who obtains approval from the local government shall comply with any conditions imposed by the local government and set out in the approval.

PART 4—OFFENCES AND PENALTIES**4.1. Offences**

- (1) Any 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 that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

Dated: 25th August, 2011.

The Common Seal of the Shire of Derby/West Kimberley was affixed by authority of a resolution of the Council in the presence of—

E. M. ARCHER, Shire President.
S. BURGE, Chief Executive Officer.

Consented to—

KEIRAN MCNAMARA, Chief Executive Officer.
Department of Environment and Conservation.

Dated: 1st August, 2011.
