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CITY OF GOSNELLS

LOCAL GOVERNMENT ACT 1995

**STANDING ORDERS LOCAL
LAW 2016**

WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995

WASTE LOCAL LAW 2016

LOCAL GOVERNMENT ACT 1995

CITY OF GOSNELLS

STANDING ORDERS LOCAL LAW 2016

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LOCAL GOVERNMENT ACT 1995

CITY OF GOSNELLS

STANDING ORDERS LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Gosnells resolved on 8 November 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Gosnells Standing Orders Local Law 2016*.

1.2 Commencement

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

1.3 Interpretation

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

absolute majority has the meaning given to it in the Act;

Act means the *Local Government Act 1995*;

adjourned meeting means a meeting to deal with matters which were not completed when discussions or decision making at a prior meeting were postponed until another time;

clause means a clause of this local law;

CEO means the Chief Executive Officer of the local government;

committee means a committee of the Council established under the Act;

committee meeting means a meeting of a committee;

Council means the Council of the local government;

election day has the meaning given to it in the Act;

employee means a person employed by the local government;

local government means the City of Gosnells;

meeting means a meeting of the Council or a committee, as the context requires;

Member has the meaning given to it in the Act;

Presiding Member means—

(a) in respect of the Council, the person presiding under section 5.6 of the Act; and

(b) in respect of a committee, the person presiding under sections 5.12, 5.13, and 5.14 of the Act;

Regulations means the *Local Government (Administration) Regulations 1996*;

resolution means a decision of Council made by the appropriate majority;

simple majority means more than 50% of the members present and voting; and,

substantive motion means an original motion or an original motion as amended, but does not include an amendment or a procedural motion.

(2) Unless otherwise defined, the terms and expressions used in this local law have the meaning given to them in the Act and Regulations.

1.4 Repeal

The *City of Gosnells Standing Orders Local Law 2012*, published in the *Government Gazette* on 20 July 2012 is hereby repealed.

PART 2—CALLING AND CONVENING MEETINGS**2.1 Ordinary Council meetings**

An ordinary meeting of the Council, held as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.

2.2 Special meetings of Council

Special meetings of Council are those for considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential, the purpose of which is to be detailed in the notice convening the meeting.

2.3 Convening Council meetings

(1) Subject to subclause (2), the CEO is to give at least 72 hours notice, for the purposes of section 5.5 of the Act, in convening a special meeting of the Council.

(2) Where, in the opinion of the Mayor or at least one-third of the Members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special meeting.

PART 3—QUORUM**3. Procedure where quorum not present during a meeting**

(1) If at any time during a meeting a quorum is not present, the Presiding Member upon becoming aware of the fact is to immediately suspend the proceedings of the meeting for a period of up to 15 minutes.

(2) If a quorum is not present at the expiration of the period in subclause (1), the Presiding Member may either suspend the proceedings of the meeting for a further period of up to 15 minutes or adjourn the meeting to a later time on the same day or to another date.

PART 4—BUSINESS OF A MEETING**4.1 Business to be specified**

(1) With the exception of that provided for in clause 4.14, no business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda.

(2) No business is to be transacted at a special meeting of the Council other than that specified in the agenda, which reflects the purpose of the meeting as specified in the notice.

(3) Subject to subclause (4), no business is to be transacted at an adjourned meeting of the Council other than that—

- (a) specified in the notice of the meeting which had been adjourned; and
- (b) which remains unresolved.

(4) Where a meeting is adjourned to the next ordinary meeting of the Council then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to be dealt with before considering Item 11 of the Order of Business on the Agenda at that ordinary meeting.

4.2 Order of business

Unless otherwise decided by the Council the order of business at any ordinary meeting of the Council is to be as follows—

1. Declaration of Opening/Announcement of Visitors/ Disclaimer
2. Attendance
 - 2.1 Apologies
 - 2.2 Approved leave of absence
3. Disclosure of interests
4. Announcements by the Presiding Member (without discussion)
5. Reports of delegates (without discussion)
6. Question time for the public and the receiving of public statements
 - 6.1 Question time
 - 6.2 Public statements
7. Confirmation of minutes
8. Receiving of petitions and presentations
 - 8.1 Petitions
 - 8.2 Presentations
9. Applications for leave of absence
10. Questions by Members of which due notice has been given (without discussion)
11. Items brought forward for the convenience of those in the public gallery
12. Reports of Committee Meetings
13. Reports
14. Motions of which previous notice has been given
15. Urgent business
16. Confidential matters
17. Closure

4.3 Announcements by Presiding Member

At any meeting of the Council the Presiding Member may announce or direct attention to any matter of relevance to the business of the Council, however no discussion on the matter shall take place.

4.4 Reports of delegates

At any meeting of Council—

- (1) a Member appointed by the Council to a committee or external organisation may provide a brief verbal report on the progress of that committee or organisation; and
- (2) a Member that has attended a function on behalf of the City may provide a brief verbal report on that function;

however no discussion on the report shall take place.

4.5 Question time for the public

(1) In this clause—

- (a) a question includes part of a question (so that a question in 3 parts is to be treated as 3 questions);
- (b) in relation to a question, “vexatious” means a question asked to harass, annoy or cause detriment to any other person.

(2) A member of the public who wishes to ask a question at a meeting must—

- (a) before the commencement of the meeting, submit their question in writing, on the form provided by the local government, to the CEO or his or her representative; and
- (b) be present at the meeting when the question is asked, however the person may seek approval from the Presiding Member for their nominated representative to ask the question on their behalf.

(3) A completed question time form must include—

- (a) the name and residential or contact address of the person who wishes to ask the question; and
- (b) the question in a succinct and legible form.

(4) In cases of disability or other extenuating circumstances—

- (a) an officer of the local government, if requested to do so, may assist the person to complete a question time form;
- (b) in the absence of that assistance, the Presiding Member may permit a person to ask a question that was not included on a question time form.

(5) (a) If more than 2 questions are submitted in writing by any one person, the Presiding Member shall allow that person, in the first instance, to ask a maximum of 2 questions.

- (b) If after all other members of the public have asked their questions, and where time permits, the Presiding Member will allow members of the public who wish to ask more than 2 questions to sequentially ask one further question. This process will continue until the allotted time has expired.

- (c) Where only one person wishes to ask more questions and where time permits, the Presiding Member will invite that person to ask their additional questions.

(6) The Presiding Member may decide that a question is out of order, and is not to be recorded or responded to—

- (a) if it is not in the form of a question, having regard to its content and length, is essentially a statement of expression of opinion rather than a question, provided that the Presiding Member has taken reasonable steps to assist the member of the public to phrase the statement as a question; or
- (b) if the question uses an offensive or objectionable expression or is defamatory or vexatious.

(7) The Presiding Member or Council cannot determine that a question is vexatious if the question relates to a matter affecting the local government or to whether there has been a breach of legislation by the local government, a Councillor or a local government employee.

(8) The Presiding Member may determine that any question requiring research or investigation be answered in writing as soon as practicable.

(9) Where the necessary information is available at the time the question is posed, a response will be provided by either the CEO, relevant Member or employee nominated by the Presiding Member.

(10) If the 15 minute period set aside for question time for the public is reached, Council, by resolution, may resolve question time be extended for an additional 15 minutes to allow further questions to be asked.

(11) No more than 2, 15 minute extensions to question time for the public will be permitted.

4.6 Public statements

(1) Members of the public may, during the public statements segment of the order of business, with the consent of the Presiding Member make a public statement on any matter that appears on the agenda for that meeting provided that—

- (a) The member of the public submits to the CEO prior to the commencement of the meeting, a public statement in the form determined by the CEO which shall include the name and residential or contact address of the member of the public;

- (b) The public statement precedes discussion of any matter which requires a decision to be made at the meeting but otherwise at item (6.2) of order of business at clause 4.2;
- (c) The public statement is limited to a maximum period of 3 minutes, unless otherwise determined by the Presiding Member; and
- (d) No discussion or questions relating to the statement are permitted, unless otherwise determined by the Presiding Member.

(2) Fifteen minutes is to be allocated for the public statement time.

(3) Once all statements have been made, nothing prevents the unused part of the statement time period from being used for other matters.

(4) If the 15 minute period set aside for public statement time is reached, Council, by resolution, may resolve statement time be extended for an additional 15 minutes to allow statements to be made.

(5) No more than 2, 15 minute extensions to public statement time will be permitted.

(6) Procedures for public statement time shall be in accordance with policy adopted from time to time by the Council and, where the policy is silent on the matter, the procedures for that matter are to be determined by the Presiding Member.

4.7 Confirmation of minutes

(1) When minutes of meetings are distributed for consideration prior to their confirmation at the next meeting, if a Member is dissatisfied with the accuracy of the minutes, the Member is to provide the CEO with a written copy of the alternative wording to amend those minutes prior to the commencement of the meeting.

(2) At the meeting where the Minutes are to be confirmed, the Member who provided the alternative wording shall, at the time for confirmation of minutes—

- (a) state the item or items with which he or she is dissatisfied; and
- (b) propose a motion clearly outlining the alternative wording to amend the minutes.

(3) Members at the meeting must not discuss items of business contained in the unconfirmed minutes, other than discussion as to their accuracy as a record of the proceedings.

4.8 Petitions

(1) A petition is to—

- (a) be addressed to the Mayor;
- (b) be made by electors of the district;
- (c) state the request on each page of the petition;
- (d) contain the name, address and signature of each elector making the request;
- (e) contain a summary of the reasons for the request;
- (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given; and
- (g) be respectful and temperate in its language and not contain language disrespectful to Council.

(2) The presentation of the petition shall be confined to the reading of the petition.

(3) In response to a petition presented to it, the Council may resolve—

- (a) that the petition be received;
- (b) that the petition be rejected;
- (c) that the petition be received and report prepared for Council; or
- (d) that the petition be received and referred to the CEO for action.

(4) Discussion is not permitted on any motion referred to in subclause (3).

(5) At the same meeting that a matter is presented to Council in a petition, Council is not to vote on the matter in the petition unless the matter is the subject of a report included in the agenda; detailing the issues raised in the petition.

4.9 Presentations

(1) In this clause, a *presentation* means the acceptance of a gift, grant or an award by the Council on behalf of the local government or the community.

(2) A presentation may be made to the Council at a meeting only with the prior approval of the Presiding Member.

4.10 Leave of absence

(1) A Member seeking the Council's approval to take leave of absence shall give written notice to the CEO prior to the commencement of the meeting.

(2) The notice referred to in subclause (1) shall include the period of leave of absence required and the reasons for seeking the leave.

4.11 Questions on notice

(1) A Member who wishes to ask a question at a meeting of the Council on a matter that is not included in the agenda for that meeting is to give written notice of the specific question to the CEO at least 3 clear working days before the meeting of the Council.

(2) If the question referred to in subclause (1) relates to a matter affecting the local government, is respectful and temperate in its language, it is to be tabled at the meeting, at item 10 of the order of business at clause 4.2 and the answer is, as far as practicable, to be provided at that meeting of the Council.

(3) Every question and answer is to be submitted as briefly and concisely as possible, and no discussion on the question or answer is permitted.

4.12 Items brought forward for the convenience of those in the public gallery

The Presiding Member may determine that any items on the agenda which are either the subject of a question or statement by members of the public, or requested by others in attendance be brought forward to Item 11 in the Order of Business and dealt with in the order in which they appear on the agenda.

4.13 Motions of which previous notice has been given

(1) Unless the Act, Regulations or this local law otherwise provide, a Member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included on the agenda.

(2) A notice of motion under subclause (1) is to be given at least 7 days before the meeting at which the motion is moved.

(3) A notice of motion is to be accompanied by supporting reasons and relate to the good governance of the district.

(4) The CEO—

- (a) may, with the concurrence of the Mayor, exclude from the agenda any notice of motion deemed to be, or likely to involve, a breach of this local law or any other written law;
- (b) will inform Members on each occasion that a notice has been excluded and the reasons for that exclusion;
- (c) may, after consultation with the Member where this is practicable, make such amendments to the form but not the substance as will bring the notice of motion into due form; and
- (d) may provide to the Council relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.

(5) A motion of which notice has been given is to lapse unless—

- (a) (i) the Member who gave notice of it, or some other Member authorised by the originating Member in writing, moves the motion when called on; and
- (ii) the motion is seconded; or
- (b) the Council on a motion agrees to defer consideration of the motion to a later date.

(6) If a notice of motion is given and lapses under subclause (5), notice of a motion in the same terms or to the same effect is not to be given again for at least 3 months from the date of such lapse.

4.14 Urgent business

A Member may move a motion to consider an item of urgent business that is not included in the agenda for that meeting provided that—

- (a) The Presiding Member has first consented to the business raised;
- (b) The Presiding Member considers that either—
 - (i) the urgency of the business is such that the business cannot await inclusion in the agenda for the next meeting of the Council; or
 - (ii) the delay in referring the business to the next meeting of the Council could have adverse legal or financial implications for the local government.
- (c) Other than a motion to revoke referred to in clause 13.1, the item of urgent business is presented in the form of a detailed staff report outlining the social, environmental, financial and statutory implications of the proposal, a copy of which is to be provided to Members prior to the commencement of the meeting.

4.15 Confidential matters—meetings not open to the public

(1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.

(2) The Council in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.

(3) If a resolution under subclause (2) is carried—

- (a) the Presiding Member is to direct everyone to leave the meeting except—
 - (i) the Members;
 - (ii) the CEO; and
 - (iii) any employee specified by the Presiding Member; and
- (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council, by resolution, decides otherwise.

(4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the Presiding Member, be removed from the meeting.

(5) A resolution under this clause may be made without notice.

(6) Once the meeting is reopened to members of the public, the Presiding Member is to ensure that, if anyone returns to the meeting, any resolution of the Council made while the meeting was closed is to be read aloud including the details of any voting recorded.

4.16 Confidentiality of information withheld

(1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be—

- (a) identified in the agenda of a Council meeting under the item “Confidential matters”;
- (b) marked “Confidential” in the agenda; and
- (c) kept confidential by employees and Members until in the opinion of the CEO, the reason for confidentiality ceases to exist.

(2) A Member or an employee in receipt of confidential information under subclause (1) or information that is provided or disclosed during a meeting or part of a meeting that is closed to the public is not to disclose any of that information to any person other than another Member or an employee to the extent necessary for the purpose of carrying out his or her duties.

(3) Subclause (2) does not apply where a Member or employee discloses the information to a legal practitioner or government officer for the purpose of seeking advice in order to lawfully fulfil his or her role and responsibilities, or where disclosure is required or permitted by law.

4.17 Order of business at special meetings

Unless otherwise decided by the Council the order of business at a Special Meeting is to be as follows—

1. Declaration of Opening/Announcement of Visitors/Disclaimer
2. Attendance
 - 2.1 Apologies
 - 2.2 Approved leave of absence
3. Disclosure of interests
4. Question time for the public and receiving of public statements
 - 4.1 Question time
 - 4.2 Public statements
5. Receiving of petitions and presentations
 - 5.1 Petitions
 - 5.2 Presentations
6. Reports
7. Closure

PART 5—PUBLIC PARTICIPATION

5.1 Distinguished visitors

If a distinguished visitor is present at a meeting of the Council, the Presiding Member may acknowledge the presence of the distinguished visitor at an appropriate time during the meeting, and the presence of that visitor shall be recorded in the minutes.

5.2 Recording of proceedings

(1) A person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council without the permission of the Presiding Member.

(2) If the Presiding Member gives permission under subclause (1), the Presiding Member is to advise the meeting immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.

5.3 Prevention of disturbance

(1) A reference in this clause to a person is to a person other than a Member.

(2) A person addressing the Council shall be courteous and respectful to the Council and the processes under which it operates and shall comply with any direction by the Presiding Member.

(3) A person observing a meeting shall not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.

(4) A person shall ensure that his or her mobile telephone, pager or other audible device is not switched on or used during any meeting of the Council.

(5) A person who fails to comply with the provisions of this clause when so directed by the Presiding Member shall immediately leave the Council chamber or meeting room.

(6) A person directed to leave the Council chamber or meeting room and failing to do so may, by order of the Presiding Member, be removed from the Council chamber or meeting room.

(7) The direction of the Presiding Member is final and may not be challenged by moving dissent with the ruling.

PART 6—QUESTIONS BY MEMBERS**6.1 Questions during debate**

(1) At any time during the debate on a motion prior to the mover of the motion commencing the right of reply, a Member may ask a question and, with the consent of the Presiding Member, may ask one or more further questions.

(2) Where possible, the CEO, or the CEO's nominee, is to answer each question to the best of his or her knowledge and ability but, if the information is unavailable or requires research or investigation, the CEO or the CEO's nominee may ask that—

- (a) the question be placed on notice for the next meeting of Council; or
- (b) the answer to the question be given within 7 days to all Members.

6.2 Restrictions on questions and answers

(1) Questions asked by a Member, and responses given by the CEO or the CEO's nominee—

- (a) are to be brief and concise; and
- (b) are not to be accompanied by argument, expression of opinion or statements, except to the extent necessary to explain the question or answer.

(2) In answering any question, the CEO or the CEO's nominee may qualify his or her answer and may at a later time in the meeting or at a later meeting alter, correct, add to or otherwise amend his or her original answer.

PART 7—CONDUCT OF MEMBERS**7.1 Members to be in their proper places**

(1) At the first meeting held after each election day, the CEO is to allot a position at the Council table which reflects the alphabetical order of the surname of each Member, commencing from the right hand side of the Presiding Member.

(2) The allotted positions remain unless and until the Council unanimously resolves otherwise.

(3) Each Member is to occupy his or her allotted position at each Council meeting.

7.2 Advice of entry or departure

After the business of a Council Meeting has commenced, a Member is not to enter or leave the meeting without first informing the Presiding Member, in order to facilitate the recording in the minutes of the time of entry and departure.

7.3 Titles to be used

A speaker, when referring to the Mayor, Deputy Mayor or Presiding Member, or a Member or employee, is to use the title of that person's office.

7.4 Crossing Council chambers

(1) When the Presiding Member is putting any motion or amendment to the vote, a Member shall not leave or cross the Council chamber.

(2) Whilst another Member is speaking, a Member shall not pass between the speaker and the Presiding Member.

7.5 No conversing with the public during meetings

A Member shall not converse with any member of the public in the public gallery during a Council meeting.

7.6 Members to indicate their intention to speak

A Member of the Council who wishes to speak is to indicate his or her intention to speak by raising his or her hand or by another method agreed by the Council.

7.7 Members to address Presiding Member

A Member moving a motion or amendment or taking any part in any discussion shall address the Presiding Member.

7.8 Members and employees to rise

At a Council meeting—

- (a) Any Member, other than the Presiding Member, asking a question or taking part in discussion or a debate; or
- (b) Any employee, other than the CEO, answering a question

shall stand, except when prevented from doing so by sickness or infirmity.

7.9 Priority of speaking

(1) Where two or more Members indicate, at the same time, their intention to speak, the Presiding Member is to decide which Member is entitled to be heard first.

(2) A decision of the Presiding Member under subclause (1) is not open to discussion, dissent or point of order.

7.10 Presiding Member may take part in debates

- (1) The Presiding Member may, without vacating the chair, take part in debate upon any matter before the Council, subject to compliance with this local law.
- (2) The Presiding Member may only speak once and this is to be done before the right of reply.

7.11 Relevance

- (1) A Member is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.
- (2) The Presiding Member, at any time, may—
 - (a) call the attention of the meeting to—
 - (i) any irrelevant, repetitious, offensive or insulting language by a Member; or
 - (ii) any breach of order or decorum by a Member; and
 - (b) direct that Member to discontinue.
- (3) A Member is to comply with the direction of the Presiding Member under subclause (2).

7.12 Speaking twice

- (1) A Member is not to address the Council more than once on any motion or amendment except—
 - (a) as the mover of a substantive motion, to exercise a right of reply;
 - (b) to raise a point of order; or
 - (c) to make a personal explanation.
- (2) A Member who asks a question, makes a request or responds to a request under clause 9.7 has not addressed the meeting for the purpose of this clause.

7.13 Duration of speeches

- (1) A Member is not to speak on any matter for more than 5 minutes without the consent of the Council which, if given, is to be given without debate.
- (2) An extension under this clause cannot be given to allow a Member's total speaking time to exceed 10 minutes.

7.14 No speaking after conclusion of debate

A Member is not to speak on any motion or amendment—

- (a) after the mover has replied; or
- (b) after the motion or amendment has been put to the vote.

7.15 No interruption

A Member must—

- (a) not make any noise or disturbance or converse in a loud manner whilst another Member is speaking;
- (b) not cause any interruption or speak out of turn during a meeting, other than to raise a point of order, call attention to the absence of a quorum, make a personal explanation under clause 7.16 or move a procedural motion; and
- (c) ensure that his or her mobile telephone, pager or other audible device is switched off or maintained in the silent mode and not used during any meeting of the Council.

7.16 Personal explanations

- (1) A Member who wishes to make a personal explanation relating to a matter referred to by another Member who is then speaking is to indicate to the Presiding Member his or her intention to make a personal explanation.
- (2) The Presiding Member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other Member.
- (3) A Member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood and is not to seek to strengthen his or her former argument by new matter or by replying to other Members.

7.17 No reopening of discussion

A Member is not to reopen discussion on any Council decision, except to move that the decision be revoked or changed.

7.18 Adverse reflection

- (1) A Member is not to reflect adversely on a decision of the Council except on a motion that the decision be revoked or changed.
- (2) A Member is not—
 - (a) to reflect adversely on the character or actions of another Member or employee; or
 - (b) to impute any motive to a Member or employee,

unless the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.

(3) A Member is not to use offensive or objectionable expressions in reference to any Member, employee or other person.

(4) A Member shall at all times be factual when dealing with matters before Council and not knowingly make false or misleading statements.

7.19 Withdrawal of offensive language

(1) A Member who, in the opinion of the Presiding Member, uses an expression which—

(a) in the absence of a resolution under clause 7.18—

(i) reflects adversely on the character or actions of another Member or employee; or

(ii) imputes any motive to a Member or employee; or

(b) is offensive or insulting, must, when directed by the Presiding Member, withdraw the expression and make a satisfactory apology.

(2) If a Member fails to comply with a direction of the Presiding Member under subclause (1), the Presiding Member may refuse to hear the Member further on the matter then under discussion and call on the next speaker.

7.20 Consumption of alcohol during meetings

The consumption of alcoholic beverages in any Council meeting is prohibited.

7.21 Smoking prohibited

Smoking in any meeting is prohibited.

PART 8—PRESERVING ORDER

8.1 Presiding Member to preserve order

(1) The Presiding Member is to preserve order, and, whenever he or she considers necessary, may call any Member to order.

(2) When the Presiding Member speaks during a debate, any Member then speaking is immediately to sit down and every Member present is to preserve strict silence so that the Presiding Member may be heard without interruption.

(3) Subclause (2) is not to be used by the Presiding Member to exercise the right provided in clause 7.10, but to preserve order.

8.2 Point of order

(1) Any Member, by way of point of order, may direct the attention of the Presiding Member to any breach of this local law.

(2) A Member raising a point of order shall specify the grounds of the breach of order before speaking further on the matter.

(3) A Member rising to express a difference of opinion or to contradict a speaker shall not be recognised as raising a point of order.

(4) Despite anything in this local law to the contrary, a point of order—

(a) takes precedence over any discussion; and

(b) until determined, suspends the consideration or discussion on any other matter.

8.3 Procedures on a point of order

(1) A person who is addressing the Presiding Member or Council is not to be interrupted except on a point of order.

(2) A person interrupted on a point of order is to resume his or her seat until—

(a) the Member raising the point of order has been heard; and

(b) the Presiding Member has ruled on the point of order,

and, if permitted, the person who has been interrupted may then proceed.

8.4 Ruling by the Presiding Member

(1) The Presiding Member is to rule on any point of order which is raised by either upholding or rejecting the point of order.

(2) A ruling by the Presiding Member on a point of order is to be final unless the majority of Members then present and voting on a motion moved immediately after the ruling, dissent from the ruling.

(3) In the event a motion of dissent under subclause (2) fails, if the Presiding Member rules that—

(a) any motion, amendment or other matter before the meeting is out of order, it is not to be considered further; and

(b) a statement made or act done by a person is out of order, the Presiding Member may require the person to make an explanation, retraction or apology.

8.5 Continued breach of order

If a person—

(a) persists in any conduct that the Presiding Member had ruled is out of order; or

(b) refuses to make an explanation, retraction or apology required by the Presiding Member under clause 8.4(3)(b),

in the case of a Member, the Presiding Member may direct the Member to refrain from taking any further part in the debate of the item before the meeting, other than by voting, and the Member is to comply with that direction, and in the case of any other person, the Presiding Member may direct that person to leave the Chamber.

8.6 Right of Presiding Member to adjourn

- (1) For the purpose of preserving or regaining order, the Presiding Member may adjourn the meeting for a period of up to 15 minutes.
- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the Presiding Member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a time determined by the Presiding Member on the same day or to another day.

PART 9—DEBATE OF SUBSTANTIVE MOTIONS

9.1 Motions to be stated and in writing

Any Member who wishes to propose a motion other than a recommendation contained within the agenda, or an amendment to a motion, but not a procedural motion, shall unless ruled otherwise by the Presiding Member submit it in writing, accompanied by comment outlining the reason for the motion or amendment, to the Presiding Member prior to a vote being taken.

9.2 Motions to be supported

- (1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a Council meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations.

9.3 Unopposed business

- (1) Immediately after a substantive motion has been moved and seconded, the Presiding Member shall ask the meeting if any Member opposes it, wishes to speak or wishes to ask a question.
- (2) If no Member opposes the motion, or wishes to speak or ask a question, the Presiding Member may put the motion to the vote without debate.
- (3) If a Member signifies opposition to the motion or wishes to speak, it is to be dealt with in accordance with clause 9.5.
- (4) If a Member wishes to ask a question, the question is to be asked and answered.

9.4 Only one substantive motion at a time

- (1) When a substantive motion is under debate at a meeting of the Council, no further substantive motion is to be accepted.
- (2) The Council is not to consider more than one substantive motion at any time.

9.5 Order of call in debate

If there is opposition to a motion or a Member wishes to speak, the Presiding Member is to call speakers to a motion in the following order—

- (a) the mover to speak to the motion;
- (b) the seconder to speak to the motion;
- (c) a speaker against the motion, if any;
- (d) a speaker for the motion;
- (e) other speakers, if any against and for the motion, alternating where possible; and
- (f) the mover exercises the right of reply, which closes debate.

9.6 Limit of debate

The Presiding Member may offer the right of reply and put a substantive motion to the vote if he or she believes that sufficient discussion has taken place even though all Members may not have spoken.

9.7 Member may require motion to be read

A Member may require the motion or matter under discussion to be read at any time during a debate, but not so as to interrupt any other Member who is speaking.

9.8 Amendments to motions

An amendment to a motion can be proposed once the substantive motion has been moved and seconded and the mover has had the opportunity to speak to the motion.

9.9 Order of amendments

Any number of amendments may be proposed to a substantive motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn, carried or lost.

9.10 Who can move amendment to a motion

Anyone, except the mover and seconder of the substantive motion and a Member who has spoken on the substantive motion, may propose an amendment to the motion.

9.11 Form of an amendment

Every amendment is to be—

- (a) relevant to the motion to which it is moved; and
- (b) worded to indicate precisely which words need to be deleted, added or altered.

9.12 Amendment must not negate original motion

An amendment to a substantive motion cannot have the effect of negating the original motion.

9.13 Mover of motion may speak on amendment

Any Member, including the mover of a substantive motion, may speak during debate on an amendment.

9.14 Effect of an amendment

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion.

9.15 Withdrawal of a motion or amendment

- (1) The Council may, without debate, grant leave for a motion or amendment to be withdrawn or altered by the mover, with the consent of the seconder, provided there is no objection by any Member.
- (2) If a Member objects, discussion on either the motion or amendment shall continue and no alteration shall occur.

9.16 Right of reply

- (1) The mover of a substantive motion has the right of reply.
- (2) The mover of any amendment to a substantive motion has a right of reply in relation to that amendment.
- (3) The right of the reply may only be exercised—
 - (a) where no amendment is moved to the substantive motion, at the conclusion of the discussion on the motion;
 - (b) on an amendment, at the conclusion of discussion on that amendment; or
 - (c) where one or more amendments have been moved to the substantive motion, at the conclusion of the discussion on the substantive motion and any amendments.
- (4) After the mover of an amendment or the substantive motion has commenced the reply, no other Member is to speak on the amendment or motion, ask a question or propose a further amendment.
- (5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.
- (6) At the conclusion of the right of reply, the amendment, substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

9.17 Foreshadowing alternative motions

- (1) Should a Member wish to negate a substantive motion and have Council consider a new substantive motion on the matter with different intent, the Member must foreshadow the new substantive motion prior to the right of reply.
- (2) Should a substantive motion be lost, the Presiding Member will call upon the Member who foreshadowed the new substantive motion to move the proposed motion.
- (3) Once moved and seconded, the foreshadowed motion becomes the substantive motion and the same procedures and rules of debate apply to this motion as any other motion.
- (4) If more than one foreshadowed motion is proposed for any item before the Council, the Presiding Member shall deal with them in the order in which they were presented.

9.18 Motions supported become decisions

Where the Council adopts a motion either with or without amendment, the motion so adopted is deemed to be the decision of Council.

PART 10—PROCEDURAL MOTIONS**10.1 Permissible procedural motions**

In addition to the right to move an amendment to a substantive motion (under Part 9), a Member may move any of the following procedural motions—

- (a) that the motion be deferred;
- (b) that the meeting now adjourn;
- (c) that the debate on the motion be adjourned;
- (d) that the motion be now put;
- (e) that the Member be no longer heard; or
- (f) that the ruling of the Presiding Member be disagreed with.

10.2 No debate on procedural motions

(1) The mover of a motion specified in paragraph (a), (b), (c), or (f) of clause 10.1 may speak to the motion for not more than 5 minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

(2) The mover of a motion specified in paragraph (d) or (e) of clause 10.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

10.3 Who may move

(1) No Member who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

(2) A Member is not to move or second more than one motion of adjournment during the same meeting of the Council.

10.4 Procedural motions—right of reply on substantive motion

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion or the amendment.

10.5 The motion be deferred—effect of motion

(1) If a motion “that the motion be deferred”, is carried, then all debate on the primary motion and any amendment is to cease and the motion or amendment is to be resubmitted for consideration at a time and date determined by the CEO.

(2) A motion “that the motion be deferred” must not be moved in respect of the election of the Mayor or Deputy Mayor.

(3) A member must not, at the same meeting, move or second more than one motion “that the motion be deferred” in respect of the same item.

10.6 The meeting now adjourn—effect of motion

(1) If a motion “that the meeting now adjourn” is carried, then the meeting is to be adjourned to a time and date specified in the motion, or where no time and date is specified, to such time and date as the Presiding Member declares, or to the next ordinary meeting.

(2) Where debate on a motion is interrupted by an adjournment under subclause (1)—

(a) the debate is to be resumed at the date and time specified as required in subclause (1) and at the point where it was so interrupted; and

(b) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and

(c) the provisions of clause 7.12 apply when the debate is resumed.

(3) If a motion “that the meeting now adjourn” is lost, no similar motion is to be moved until after the conclusion of the business under discussion at the time the motion was moved.

(4) A member must not, at the same meeting, move or second more than one motion for the adjournment of the meeting.

10.7 The debate be adjourned—effect of motion

(1) If a motion “that the debate be adjourned”, is carried—

(a) all debate on the primary motion or amendment is to cease and is to continue at a time and date specified in the motion;

(b) the names of members who have spoken on the matter are to be recorded in the minutes; and

(c) the provisions of clause 7.12 apply when the debate is resumed.

(2) A motion “that the debate be adjourned” must not be moved in respect of the election of the Mayor or Deputy Mayor.

(3) A member must not, at the same meeting, move or second more than one motion “that the debate be adjourned” in respect of the same item.

10.8 The motion be now put—effect of motion

(1) If a motion “that the motion be now put”, is carried during discussion of a primary motion, the Presiding Member is to offer the right of reply and then immediately put the motion to the vote without further debate.

(2) If the motion “that the motion be now put” is carried during debate of an amendment, the Presiding Member is to put the amendment to the vote without further debate.

(3) If the motion “that the motion be now put” is lost, debate is to continue.

10.9 Ruling by the Presiding Member be disagreed with—effect of motion

(1) If a motion “that the ruling of the Presiding Member be disagreed with” is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

(2) Where the Presiding Member has adjourned the meeting in accordance with clause 8.6, the motion, that the Presiding Member be disagreed with, may not be moved.

10.10 Member be no longer heard—effect of motion

If a motion “that the member be no longer heard” is carried, the speaker against whom the motion has been moved must not speak further on the current primary motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the primary motion.

PART 11—VOTING**11.1 Motion—when put**

Immediately after the debate on any motion is concluded and the right of reply has been exercised, the Presiding Member—

- (a) is to put the motion to the Council; and
- (b) if requested by any Member, is to again state the terms of the motion.

11.2 Dividing motions for voting

Where a report to Council contains more than one motion, the Presiding Member may put the motions individually, in groups or as one.

11.3 Method of taking vote

The Presiding Member, in taking the vote on any motion or amendment—

- (a) may put the motion or amendment as often as may be necessary to enable him or her to determine whether the affirmative or negative has the majority of votes;
- (b) is to count and determine the votes of members in any way (such as electronically or by a show of hands) that enables a record to be taken of each Member’s vote; and
- (c) subject to this clause, is to declare the result.

11.4 Recording of votes

The names of all Members voting for or against a motion shall be recorded, adjacent to the respective motion, in the minutes.

PART 12—ADJOURNMENT OF MEETING**12. Meeting may be adjourned**

- (1) On a motion for the adjournment of a meeting being carried, a record shall be taken of those who have spoken on the subject under consideration at the time of adjournment.
- (2) All business not dealt with on the agenda of a meeting adjourned under clause 10.6 is to be resumed at the meeting determined under that clause at the point at which it was adjourned, immediately following Item 10 in the Order of business as listed in clause 4.2, or as determined by an absolute majority resolution of Council.
- (3) Those Members to which subclause (1) applies shall not be permitted to speak on any subsequent consideration of the same subject at the reconvened meeting in accordance with clause 7.12.
- (4) Subclause (3) does not deprive the mover of the motion of the right of reply.

PART 13—REVOKING OR CHANGING DECISIONS**13.1 Revoking or changing decisions at the same meeting**

- (1) The Council may at the same meeting at which it is passed, revoke or change a decision if all Members who were present in the Council chamber at the time the decision was passed are also present in the Council chamber at the time the revoking or changing is proposed.
- (2) The revocation or change referred to in sub-clause (1) shall be considered under Item 15 “Urgent Business” in the order of business on the Agenda and no notice of motion is required for it to be considered by Council.

13.2 Implementing a decision

- (1) A resolution shall not be implemented by the CEO or any employee of the local government until noon on the first working day following the Council meeting at which that resolution was passed.
- (2) Where a notice of motion to revoke or change a resolution in accordance with clause 13.3 is received after the meeting at which the resolution was passed, but before noon on the first working day following that meeting, a resolution shall not be acted upon until the motion to revoke or change is—
 - (a) moved and voted upon by the Council; or
 - (b) withdrawn by the proponents of the motion to revoke or change a resolution.
- (3) Where a resolution as referred to in subclause (2) is defeated or withdrawn by the proponent, the CEO shall implement the original resolution of Council after noon on the first working day following the decision.

13.3 Method of submitting motions to revoke or change

A notice of motion to revoke or change a decision shall—

- (a) be submitted in writing to the CEO at least 7 working days prior to the scheduled meeting at which it is proposed to be moved;

- (b) be signed by at least one third of the number of offices of Members of the Council;
- (c) clearly identify the resolution to be revoked or changed; and
- (d) clearly state the reason or reasons for seeking the revocation or change.

13.4 Limitations on revocations and impact statement

The Council shall not consider a motion to revoke or change a decision of the Council if at the time the motion is moved or notice is given—

- (a) action has been taken to implement the decision; or
- (b) where the decision concerns the issue of an approval or the authorisation of a licence, permit or certificate, and where the approval or authorisation of a licence, permit or certificate has been put into effect by the local government in writing to the applicant or the applicant's agent by an employee of the local government authorised to do so,

without having considered a statement of impact prepared by or at the direction of the CEO of legal and financial consequences of the proposed revocation or change.

13.5 Absence of mover or seconder

(1) A motion to revoke or change a prior decision of the Council must be moved and seconded by the required number of offices of Members of the Council, as required by the Regulations before it can be debated.

- (2) If a motion to revoke or change a decision is not supported in accordance with sub-clause (1) it—
 - (a) lapses and can not be dealt with later on that agenda; and
 - (b) is considered to have failed.

13.6 Repeated revocations by the same Member prohibited

If the Council, on a motion moved by any Member, resolved not to revoke or change a resolution, then the Council shall not entertain a motion by the same Member to revoke or change the same resolution at a subsequent meeting unless the notice of motion referred to in clause 13.3 is signed by an absolute majority of the Council.

PART 14—SUSPENSION OF LOCAL LAW

14.1 Suspension of provision of local law

(1) A Member may at any time move that the operation of clause 7.12 of the provisions of this local law be suspended.

(2) A Member moving a motion under subclause (1) is to state the reason for the motion but no other discussion is to take place.

- (3) A motion under subclause (1) which is—
 - (a) seconded; and
 - (b) carried by an absolute majority,

is to suspend the operation of that clause for the duration of the specific agenda item identified by the mover.

(4) The mover of a substantive motion debated following the suspension of clause 7.12 does not close debate on the item when speaking more than once.

14.2 Where local law does not apply

(1) In situations where—

- (a) clause 7.12 of this local law has been suspended; or
- (b) a matter is not regulated by the Act, the Regulations or this local law,

the Presiding Member is to decide questions relating to the conduct of the meeting.

(2) The decision of the Presiding Member under subclause (1) is final, except where a motion is moved and carried under clause 10.9.

PART 15—COMMITTEES OF THE COUNCIL

15.1 Establishment, type and membership of Committees

A Council resolution to establish a committee under section 5.8 of the Act is to include—

- (a) the terms of reference of the committee;
- (b) the number of Council Members, employees and other persons to be appointed to the committee;
- (c) the names or titles of the Council Members and employees to be appointed to the committee;
- (d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments;
- (e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

15.2 Calling committee meetings

The CEO is to call a meeting of any committee when requested by the Presiding Member of a committee or any 2 members of that committee.

15.3 Order of business

(1) Unless otherwise decided by the committee, the order of business at any meeting of a committee is to be as follows—

1. Declaration of Opening
2. Attendance
 - 2.1 Apologies
 - 2.2 Approved leave of absence
3. Disclosure of interest
4. Question time for the public
5. Confirmation of minutes
6. Reports
7. Confidential matters
8. Closure

(2) Notwithstanding subclause (1), there is to be no public question time in meetings of committees other than a committee to which the Council has delegated a power or duty under section 5.17 of the Act.

15.4 Participation at committee meetings

(1) A Member may attend any meeting of a committee established by the Council as an observer, even if the Member is not appointed to that committee.

(2) A deputy to a Member of a committee established by the Council may attend a meeting of that committee as an observer, even if the deputy is not acting in the capacity of a Member.

(3) The Member in the case of subclause (1), or deputy to a Member attending a committee meeting as an observer in the case of subclause (2)—

- (a) may, with the consent of the Presiding Member, make an oral submission to the committee for up to 3 minutes, but cannot vote, on any motion before the committee; and
- (b) must sit in the area set aside for observers separated from the committee members.

15.5 Local law applies to committees

Unless otherwise specifically provided, the provisions of this local law apply generally to the proceedings of committees, except for—

- (a) clause 7.1;
- (b) clause 7.8; and
- (c) clause 7.12.

PART 16—MEETINGS OF ELECTORS**16.1 Procedure for electors' meetings**

In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the Presiding Member is to have regard to the Act, Regulations and this local law.

16.2 Participation of non-electors

A person who is not an elector of the local government shall not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits the person do so.

PART 17—ENFORCEMENT**17. Penalty for breach**

A person who breaches a provision of this local law commits an offence.

Penalty: \$1,000.00 and a daily penalty of \$100.00.

PART 18—COMMON SEAL**18.1 Custody of the common seal**

The CEO is to have charge of the common seal of the local government and is responsible for its safe custody and proper use.

18.2 Register

The CEO is to maintain a register that is to record, in respect of each occasion when the common seal is affixed to a document—

- (a) the date that the common seal was affixed;
- (b) the nature of the document; and
- (c) the parties described in the document.

18.3 Use of common seal

(1) The common seal of the local government may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by the Mayor and either the CEO or a senior employee authorised by the Chief Executive Officer.

(2) Any person who uses the common seal of the local government or a replica without the Council's authority commits an offence.

Dated: 28 November 2016.

The Common Seal of the City of Gosnells was affixed by the authority of a resolution of the Council in the presence of—

OLWEN SEARLE, JP, Mayor.

IAN COWIE, PSM, Chief Executive Officer.

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

CITY OF GOSNELLS

WASTE LOCAL LAW 2016

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WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995

CITY OF GOSNELLS

WASTE LOCAL LAW 2016

Under the powers conferred on it by the *Waste Avoidance and Resource Recovery Act 2007* and the *Local Government Act 1995* and under all other enabling powers, the Council of the City of Gosnells resolved on 22 November 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Short title

This is the *City of Gosnells Waste Local Law 2016*.

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 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; or
- (b) a general waste receptacle;

collection when used in relation to a receptacle, means the collection and removal of collectable waste from the receptacle by the local government or its contractor;

collection day means the day determined by the local government for the collection of collectable waste in the district or a part of the district;

collection time means the time on the collection day determined by the local government for the collection of collectable waste in the district or a part of the district;

commencement date means the date on which this local law commences operation under clause 1.2;

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 City of Gosnells;

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

non-collectable waste has the meaning set out in Schedule 1;

nuisance means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference.

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;

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*;

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.

1.5 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 1 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 must be recorded in a publicly accessible register of determinations that must be maintained by the local government.

PART 2—LOCAL GOVERNMENT WASTE

2.1 Supply of receptacles

The local government is to supply, for the use of each premises that is, or is capable of being, occupied or used for residential purposes, 1 or more receptacles for the collection and removal, from that premises, of collectable waste.

2.2 Deposit of waste in receptacles

- (1) An owner or occupier of premises must not deposit or permit to be deposited in a receptacle any non-collectable waste.
- (2) A person must not deposit waste in a receptacle that has been provided for the use of other premises without the consent of the owner or occupier of those premises.

2.3 General waste receptacles

(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 50 kilograms of collectable waste; or
- (b) where the receptacle has any other capacity—more than the weight determined by the local government.

(2) An owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any recycling waste.

2.4 Recycling waste receptacles

An owner or occupier of premises must not deposit or permit to be deposited in a recycling waste receptacle—

- (a) anything other than 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 50 kilograms of recycling waste; or
- (c) where the receptacle has any other capacity—more than the weight determined by the local government.

2.5 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.

2.6 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) 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 a sufficient 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.

2.7 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 2.6(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 2.7(4)(a).

2.8 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.

2.9 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) 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.

PART 3—GENERAL DUTIES

3.1 Duties of an owner or occupier

An owner or occupier of premises must—

- (a) ensure that each receptacle is kept in good condition and repair;
- (b) 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
- (c) 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 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.

PART 4—ENFORCEMENT

4.1 Offences and general penalty

(1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law a person is prohibited from doing, commits an offence.

(2) A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to a further penalty not exceeding \$500 in respect of each day or part of a day during which the offence has continued.

4.2 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 4.1, 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.

4.3 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.

4.4 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.

Schedule 1
MEANING OF 'NON-COLLECTABLE WASTE'

[Clause 1.4(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 under clause 1.5 to be non-collectable waste.

Schedule 2
PRESCRIBED OFFENCES

[Clause 4.3]

Item No.	Clause No.	Description	Modified Penalty
1	2.2(1)	Depositing non-collectable waste in a receptacle	\$200
2	2.2(2)	Depositing waste in another receptacle without consent	\$200
3	2.3(1)	Exceeding weight capacity of a general waste receptacle	\$200
4	2.3(2)	Depositing recycling waste in a general waste receptacle	\$200
5	2.4(a)	Depositing unauthorised waste in a recycling waste receptacle	\$200
6	2.4(b) and (c)	Exceeding weight capacity of a recycling waste receptacle	\$200
7	2.5(3)	Failing to comply with a direction concerning placement or removal of a receptacle	\$200
8	2.6(a)	Failing to keep a receptacle in the required location	\$200
9	2.6(b)	Failing to place a receptacle for collection in a lawful position	\$200
10	2.6(c)	Failing to provide a sufficient number of receptacles	\$200
11	2.8(a)	Damaging, destroying or interfering with a receptacle	\$250
12	2.8(b)	Removing a receptacle from premises without permission	\$200
13	2.9(1)	Failing to comply with a term or condition of verge waste collection	\$200
14	2.9(2)	Increase risk of harm to a person by disassembling or tampering with waste deposited for collection	\$250
15	3.1(a)	Failing to keep a receptacle in a good condition and repair	\$200
16	3.1(b)(i)	Failing to prevent fly breeding and vectors of disease in a receptacle	\$250
17	3.1(b)(ii)	Failing to prevent the emission of offensive or noxious odours from a receptacle	\$250
18	3.1(b)(iii)	Allowing a receptacle to cause a nuisance	\$250

Item No.	Clause No.	Description	Modified Penalty
19	3.1(c)	Failing to comply with a direction to clean, disinfect or deodorise receptacle	\$250
20	3.2(1)	Unauthorised removal of waste from premises	\$200
21	3.2(2)	Removing waste from a receptacle without approval	\$200

Dated: 28 November 2016.

The Common Seal of the City of GOSNELLS was affixed by authority of a resolution of the Council in the presence of—

OLWEN SEARLE, JP, Mayor.

IAN COWIE, PSM, Chief Executive Officer.
