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Shire of Christmas Island Waste Local Law 2019

I, GORDON SINCLAIR THOMSON, President of the Shire of Christmas Island, publish the *Shire of Christmas Island Waste Local Law 2019* under subsections 3.12 (5) of the *Local Government Act 1995* (W A) as applied by the *Christmas Island Act 1958*.

Dated 19 November 2019

Gordon Thomson

GORDON SINCLAIR THOMSON

WASTE LOCAL LAW 2019

Waste Avoidance and Resource Recovery Act 2007
Local Government Act 1995

Shire of Christmas Island

Waste Local Law 2019

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Waste Avoidance and Resource Recovery Act 2007
Local Government Act 1995

Shire of Christmas Island

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 Shire of Christmas Island on 19 November 2019 to make the following local law.

Part 1 - Preliminary

1.1 Short title

This is the Shire of Christmas Island 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 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 the Shire of Christmas Island;

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.

1.5 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 one year after the date that local public notice has been given under subclause (a);

(d) after the period referred to in subclause (c), the determination continues in force only if, and for so long as, it is the subject of local public notice, given annually, under section 1.7 of the LG Act; and

(e) the determination must be recorded in a publicly accessible register of determinations that must be maintained by the local government.

1.6 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.

1.7 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 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 70 kilograms of collectable waste; or

(b) where the receptacle has any other capacity—more than the weight determined by the local government.

(2) Where the local government supplies recycling waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any recycling waste.

(3) Where the local government supplies organic waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any organic waste.

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 70 kilograms of recycling waste; or

(c) 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 must not deposit or permit to be deposited in an organic waste receptacle—

(a) anything other than the particular type of organic waste for which that receptacle was provided by the local government for those premises;

(b) where the receptacle has a capacity of 240 litres - more than 70 kilograms of organic waste; or

(c) where the receptacle has any other capacity - more than the weight determined by the local government.

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 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.

2.7 Duties of owner or occupier

An owner or occupier of premises must—

(a) except for a reasonable period before and after collection time, keep each receptacle in a storage space or area that is behind the street alignment;

(b) take reasonable steps, if placing a receptacle for collection on the verge adjoining the premises, or other area as determined by the local government, ensure that, within a reasonable period before collection time, each receptacle is —

(i) within 1 metre of the carriageway;

(ii) placed so that it does not unduly obstruct any footpath, cycle way, right-of-way or carriageway; and

(iii) facing squarely to the edge of and opening towards the carriageway,

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

(c) take reasonable steps to ensure that the premises are provided with an adequate number of receptacles; and

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

2.8 Exemption

(1) An owner or occupier of premises may apply in writing to the local government for an exemption from compliance with the requirements of clause 2.7(a) or (b).

(2) 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 2.8(4)(a).

2.9 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.

2.10 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) must deposit waste only during the period of time, and in accordance with other terms and conditions, as advertised by the local government in relation to that verge waste collection; and

(b) must otherwise comply with those terms and conditions.

(2) Where waste has been deposited on a verge for a verge waste collection, a person must not remove any of that waste for a commercial purpose but may remove it for any other purpose.

(3) Except where waste is lawfully removed from a verge under this clause, a person must not disassemble or tamper with any waste deposited on a verge for a verge waste collection so as to increase the risk of harm to any person.

(4) Clause 2.10(2) does not apply to the local government or a person engaged or contracted by the local government in relation to the verge waste collection.

Part 3 - General duties

3.1 Duties of an owner or occupier

An owner or occupier of premises must—

(a) take reasonable steps to ensure that 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 must not remove any waste from premises unless that person is—

(a) the owner or occupier of the premises;

(b) authorised to do so by the owner or occupier of the premises; or

(c) authorised in writing to do so by the local government or an authorised person.

(2) A person must not remove any waste from a receptacle without the approval of –

(a) the local government or an authorised person; or

(b) the owner or occupier of the premises at which the receptacle is ordinarily kept.

3.3 Receptacles and containers for public use

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

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

(b) remove any waste from,

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

Part 4 - 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 must comply with a sign or direction under subclause (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 must comply with a direction under subclause (3).

4.4 Fees and charges

(1) Unless subclause (3) applies, a person must, 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) Subclause (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 must 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 must 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 must 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.

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.

Schedule 2 - Prescribed offences

Item No.	Clause No.	Description	Modified Penalty
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) and (c)	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

Item No.	Clause No.	Description	Modified Penalty
27	3.2(1)	Unauthorised removal of waste from premises	$250
28	3.2(2)	Removing waste from a receptacle without approval	$250
29	4.3(2)	Failing to comply with a sign or direction	$500
30	4.3(4)	Failing to comply with a direction to leave	$500
31	4.4(1)	Disposing waste without payment of fee or charge	$500
32	4.5(1)	Depositing waste contrary to sign or direction	$500
33	4.6(1)(a)	Removing waste without authority in a waste facility	$250
34	4.6(1)(b)	Depositing toxic, poisonous or hazardous waste at a waste facility	$500
35	4.6(1)(c)	Lighting a fire in a waste facility	$300
36	4.6(1)(d)	Removing or interfering with any flora in a waste facility	$300
37	4.6(1)(e)	Removing or interfering with any fauna without approval in a waste facility	$300
38	4.6(1)(f)	Damaging, defacing or destroying any building, equipment, plant or property within a waste facility	$500
39	4.6(2)	Acting in an abusive or threatening manner	$300

The Common Seal of the Shire of Christmas Island was affixed by authority of a resolution of the Council in the presence of:

Gordon Thomson

Cr Gordon THOMSON
Shire President

OF CHRISTMAS ISLAND
364
Seal

Mr D PRICE
Chief Executive Officer

Dated: 19 / 11 /2019

Local law consented to:

CHIEF EXECUTIVE OFFICER
Department of Water and Environmental Regulation

Dated: 6 / 11 /2019