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WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995

EASTERN METROPOLITAN REGIONAL COUNCIL

WASTE MANAGEMENT FACILITIES LOCAL LAW 2020

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LOCAL GOVERNMENT ACT 1995**

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SCHEDULE 1—PRESCRIBED OFFENCES

WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995

EASTERN METROPOLITAN REGIONAL COUNCIL

WASTE MANAGEMENT FACILITIES LOCAL LAW 2020

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 Eastern Metropolitan Regional Council resolved on 3 December 2020 to make the following local law.

PART 1—PRELIMINARY

1.1 Short title

This is the *Eastern Metropolitan Regional Council Waste Facilities Local Law 2020*.

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 Red Hill Waste Management Facility and the Hazelmere Resource Recovery Park.

1.4 Repeal

The *Eastern Metropolitan Regional Council Waste Management Facilities Local Law 2019* published in the *Government Gazette* on 3 January 2020 is repealed.

1.5 Meaning of terms used in this local law

(1) In this local law—

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

costs of the regional local government include administrative costs;

Council means the council of the regional local government;

Hazelmere Resource Recovery Park is the waste facility located on 77 Lakes Road, Hazelmere WA 6055

LG Act means the *Local Government Act 1995*;

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

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

Red Hill Waste Management Facility is the waste facility located at 1094 Toodyay Road, Red Hill WA 6056

regional local government means the Eastern Metropolitan Regional Council established under section 3.61 of the *Local Government Act 1995*;

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

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 regional local government.

1.6 Local public notice of determinations

Where, under this local law, the regional 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 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 regional local government.

1.7 Rates, fees and charges

The regional local government's powers to impose rates, fees and charges in relation to waste services are set out in sections 66 to 68 of the WARR Act and sections 6.16 and 6.17 of the LG Act.

1.8 Power to provide waste services

The regional 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—OPERATION OF WASTE FACILITIES

2.1 Operation of this Part

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

2.2 Hours of operation

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

2.3 Signs and directions

- (1) The regional 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 regional local government or an authorised person may direct a person who commits, or is reasonably suspected by the regional 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).

2.4 Fees and charges

- (1) Unless subclause (3) applies, a person must, on or before entering a waste facility or on demand by the regional 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 regional local government; or
 - (ii) any other arrangement with the regional 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 regional local government, or in the possession of an employee on behalf of the regional local government.

2.5 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 regional local government may determine the classification of any waste that may be deposited at a waste facility.

2.6 Prohibited activities

- (1) Unless authorised by the regional 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 3—ENFORCEMENT**3.1 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.

3.2 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 3.1, to pay to the regional local government the costs and expenses incurred by the regional 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 regional local government are to be recoverable, as a debt due to the regional local government, in a court of competent civil jurisdiction.

3.3 Prescribed offences

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the LG Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

3.4 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
PRESCRIBED OFFENCES

[cl. 3.3]

Item No.	Clause No.	Description	Modified Penalty
1	2.3(2)	Failing to comply with a sign or direction	\$500
2	2.3(4)	Failing to comply with a direction to leave	\$500
3	2.4(1)	Disposing waste without payment of fee or charge	\$500
4	2.5(1)	Depositing waste contrary to sign or direction	\$500
5	2.6(1)(a)	Removing waste without authority in a waste facility	\$250
6	2.6(1)(b)	Depositing toxic, poisonous or hazardous waste at a waste facility	\$500
7	2.6(1)(c)	Lighting a fire in a waste facility	\$300
8	2.6(1)(d)	Removing or interfering with any flora in a waste facility	\$300
9	2.6(1)(e)	Removing or interfering with any fauna without approval in a waste facility	\$300
10	2.6(1)(f)	Damaging, defacing or destroying any building, equipment, plant or property within a waste facility	\$500
11	2.6(2)	Acting in an abusive or threatening manner	\$300

The Common Seal of the Eastern Metropolitan Regional Council was affixed by authority of a resolution of the Council in the presence of—

Cr. JAI WILSON, Chairperson.
MARCUS GEISLER, Chief Executive Officer.

Consented to—

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

Dated 16th day of October, 2020.