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LOCAL GOVERNMENT ACT 1995

WASTE AVOIDANCE AND RESOURCE
RECOVERY ACT 2007

EASTERN METROPOLITAN
REGIONAL COUNCIL

WASTE MANAGEMENT
FACILITIES LOCAL LAW 2008

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

EASTERN METROPOLITAN REGIONAL COUNCIL

WASTE MANAGEMENT FACILITIES LOCAL LAW 2008

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

EASTERN METROPOLITAN REGIONAL COUNCIL

WASTE MANAGEMENT FACILITIES LOCAL LAW 2008

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 powers, the Eastern Metropolitan Regional Council resolved on 4 December 2008 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Eastern Metropolitan Regional Council Waste Management Facilities Local Law 2008*.

1.2 Commencement

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

1.3 Application and intent

- (1) This local law provides for the orderly regulation of the disposal of waste and the payment of fees for that disposal at Red Hill Waste Management Facility and Hazelmere Timber Recycling Centre.
- (2) Any person within, entering or leaving the site of either waste management facility, or doing any act prohibited under this local law in the vicinity of either site, is subject to the provisions of this local law.
- (3) This local law is intended to result in—
 - (a) the control of the nature of waste disposed of at a waste management facility and where that waste is placed within the facility;
 - (b) the payment of the appropriate fee by any person disposing of waste at a waste management facility;
 - (c) the orderly movement of vehicles entering and leaving a waste management facility;
 - (d) the capacity for employees operating waste management facilities to give enforceable instructions to any person using a facility;
 - (e) the protection of property at a waste management facility; and
 - (f) the prevention of the dumping of waste on land surrounding a waste management facility.

1.4 Definitions

- (1) In this local law, unless the contrary intention appears—
 - “**access way**” means any traffic route through a waste management facility;
 - “**authorised person**” means a person authorised 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;
 - “**commencement date**” means the day on which this local law comes into operation;
 - “**Council**” means the Council of the Regional Local Government;
 - “**Hazelmere Timber Recycling Centre**” means the land known as—
 - Lot 2 in Certificate of Title Volume 1570 Folio 697
 - Pt 100 in Certificate of Title Volume 1243 Folio 87;
 - “**LG Act**” means the *Local Government Act 1995*;
 - “**LG Regulations**” means the *Local Government (Functions and General) Regulations 1996*;
 - “**Red Hill Waste Management Facility**” means the land known as—
 - Lot 1 in Certificate of Title Volume 2205 Folio 615
 - Lot 2 in Certificate of Title Volume 1717 Folio 585

Lot 11 in Certificate of Title Volume 1783 Folio 671
 Lot 12 in Certificate of Title Volume 1672 Folio 829
 Lot 81 in Certificate of Title Volume 1131 Folio 63
 Lot 501 in Certificate of Title Volume 2227 Folio 692;

“**Regional Local Government**” means the Eastern Metropolitan Regional Council;

“**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 management facility**” means either the Red Hill Waste Management Facility or the Hazelmere Timber Recycling Centre.

(2) If a term has a meaning in the WARR Act or the LG Act, it has the same meaning in this local law unless the contrary intention appears in this local law.

PART 2—PAYMENT OF FEES

2.1 Fees

Fees for the disposal of waste at a waste management facility are imposed and determined by the Council under sections 6.16-6.19 of the LG Act.

2.2 Payment

(1) Subject to clause 2.2(2), the correct fee must be paid for any waste delivered to or left at a waste management facility before the person delivering or leaving the waste departs from the waste management facility.

(2) The only circumstance under which a person may deliver or leave waste at a waste management facility without paying the correct fee before departing from the waste management facility is when—

- (a) an exemption from the payment of a fee applies to the person or the waste; or
- (b) an arrangement has been made with an authorised person for paying the fee at a different time or in a different manner.

(3) Unless a clause 2.2(2) circumstance applies, a person who delivers waste to or leaves waste at a waste management facility and then departs from the facility without paying the correct fee commits an offence.

PART 3—OBSTRUCTING ACCESS

3.1 Prohibition

A person who does anything to obstruct an access way within a waste management facility or at the entrance to a waste management facility commits an offence.

3.2 Impounding

A vehicle or any other goods that are obstructing an access way within a waste management facility or at the entrance to a waste management facility may be removed and impounded by an authorised person.

PART 4—GENERAL REQUIREMENTS FOR USE OF A FACILITY

4.1 Instructions

(1) An authorised person may give a person within a waste management facility any instruction in regard to regulating the use of the facility.

(2) A person within a waste management facility must obey an instruction given under clause 4.1(1) and any rules or instructions exhibited on a sign within the facility.

(3) A person who does not comply with clause 4.1(2) commits an offence.

(4) An authorised person may direct a person who has committed an offence under clause 4.1(3) to leave the waste management facility.

(5) A person who does not comply with a direction under clause 4.1(4) commits an offence.

4.2 Disposal of waste

(1) A person who disposes of any waste at a waste management facility other than in accordance with the instruction of an authorised person commits an offence.

(2) A person who disposes of any waste on a road reserve adjoining a waste management facility, or on other land adjoining a waste management facility commits an offence.

4.3 Removal of waste

A person who removes any waste from a waste management facility without express authority from an authorised person commits an offence.

4.4 Lighting of fires

A person who, without express authority from an authorised person, lights, or attempts to light, a fire within a waste management facility commits an offence.

4.5 Damage to property

A person who damages, defaces or otherwise interferes with any building, equipment or other property within a waste management facility commits an offence.

4.6 Flora and fauna

A person who, within a waste management facility—

- (a) digs up, removes, damages or otherwise interferes with any flora; or
- (b) traps, chases, worries, removes or otherwise interferes with any fauna,

unless—

- (c) with the express authority of an authorised person; and
- (d) in accordance with the *Environmental Protection Act 1986*, the *Wildlife Conservation Act 1950* and other relevant legislation,

commits an offence.

4.7 Non-acceptable waste

(1) A person who, at a waste management facility, disposes of any waste that cannot be accepted at that class of facility commits an offence.

(2) If a person disposes of material in breach of clause 4.7(1) then—

- (a) the Regional Local Government may remove the waste and make good any damage caused by its disposal at the waste management facility; and
- (b) the costs of removal and making good any damage may be recovered from that person in a court of competent jurisdiction.

PART 5—ENFORCEMENT**5.1 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) Any 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.

5.2 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.

5.3 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; and

(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.

*Schedule 1***PRESCRIBED OFFENCES**

Clause	Description	Modified Penalty
2.2(3)	Disposal of waste without payment of fee	\$500
3.1	Obstructing access way	\$500
4.1(3)	Failure to obey instruction	\$200
4.1(5)	Failure to comply with a direction	\$500
4.2	Disposal of waste other than in accordance with instruction	\$500
4.3	Removal of waste without authority	\$200
4.4	Lighting a fire without authority	\$200
4.5	Damaging property	\$200

Schedule 2

[reg.25]

Forms

Form 1

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

NOTICE TO OWNER OF VEHICLE INVOLVED IN OFFENCE

Date...../...../.....

Eastern Metropolitan Regional Council

To: (1)

Of: (2)

It is alleged that on...../...../.....at (3)

at (4).....your vehicle (5).....

was involved in the commission of the following offence—.....

.....

.....

.....

contrary to section/regulation/clause.....of the (6).....

You are required under section 9.13 of the Local Government Act 1995 to identify the person who was driver or person in charge of the vehicle at the time when the offence is alleged to have been committed.

If you do not prove otherwise, you will be deemed to have committed the offence unless—

(a) within 28 days after being served with this notice—

(i) you inform the chief executive officer, or another authorised officer, of the Eastern Metropolitan Regional Council as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; or

(ii) you satisfy the chief executive officer that the vehicle had been stolen, or was being unlawfully used, at the time the offence is alleged to have been committed;

or

(b) you were given an infringement notice for the alleged offence and the modified penalty specified in it is paid within 28 days after the notice was given or such further time as is allowed.

Name and title of authorised person giving the notice

Signature.....

(1) Name of owner or "owner of (vehicle identification)"

(2) Address of owner (not required if owner not named)

(3) Time at which offence allegedly committed

(4) Place at which offence allegedly committed

(5) Vehicle identification

(6) Name of the Act, regulations or local law

Form 2

[reg.26(1)]

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

INFRINGEMENT NOTICE

Serial No

Date...../...../.....

Eastern Metropolitan Regional Council

To:(1)

Of:(2)

It is alleged that on...../...../.....at(3)

at(4)

you committed the following offence—

.....
.....
.....

contrary to section/regulation/clause.....of the ⁽⁶⁾.....

The modified penalty for the offence is \$.....

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorised person at ⁽⁶⁾..... within a period of 28 days after the giving of this notice.

Name and title of authorised person giving the notice

Signature

⁽¹⁾ Name of alleged offender [“owner of (*vehicle identification*)” suffices if notice given with a notice under section 9.13 of the LG Act]

⁽²⁾ Address of alleged offender [not required if notice given with a notice under section 9.13 of the LG Act]

⁽³⁾ Time at which offence allegedly committed

⁽⁴⁾ Place at which offence allegedly committed

⁽⁵⁾ Name of the Act, regulations or local law

⁽⁶⁾ Place where modified penalty may be paid

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

Cr DAVID FARDIG, Chairperson.
PETER SCHNEIDER, Chief Executive Officer.

Consented to—

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

Dated 22 May 2009.
