

14.1.2 WASTE LOCAL LAW 2026

Ward	All Wards
Disclosure of Interest	Nil
Business Unit	Governance
Authorised Officer	Executive Manager Governance
Voting Requirements	Absolute Majority

KEY ISSUES

- At its meeting held on 13 December 2017, Council endorsed, as part of a future review of its local laws, the deconsolidation of the *Consolidated Local Law 2005*. This draft Waste Local Law forms part of this deconsolidation process.
- The transitional provisions introduced by the *Local Government Amendment Act 2024 as it pertains to local laws, require the City of Swan to review its local laws by no later than 5 December 2026*.

BACKGROUND

The *Local Government Act 1995* on 6 December 2024 was amended with the assent of the *Local Government Amendment Act 2024* which among many other reforms, has changed the review period for local laws from being every eight (8) years to being every 15 years. A two-year transition period is in effect from 6 December 2024 concluding on 5 December 2026.

At its meeting held on 13 December 2017, Council endorsed the deconsolidation of the *Consolidated Local Law 2005* as part of a future review of the local laws. On reviewing the *Consolidated Local Law 2005* for deconsolidation, four local laws were identified to be made, namely the:

1. Activities in Thoroughfares and Public Places and Trading Local Law
2. Waste Local Law
3. Animals, Nuisance and Environment Local Law
4. Trading in Public Places Local Law

During the process of the deconsolidation, and subsequent creation of new local laws, relevant elements of the Health Local Law 2002 and Consolidated Local Law 2005 will be incorporated into these new local laws and at the end of the period, the Health Local Law 2002 and Consolidated Local Law 2005 will be repealed.

In February 2025, staff briefed Council on the draft Waste Local Law. At the 12 March 2025 Ordinary Council Meeting (OCM), Council resolved not to proceed with the draft local law until the following matters had been addressed:

- a. Council has been briefed on the powers that are currently available to the City under the existing Health Local Law 2002, in regard to waste management.
- b. Council have been provided an opportunity to comment on the City of Swan Waste Local Law 2025, prior to the matter being presented to Council for consideration for advertising.
- c. Council have been provided with a copy of the marked-up changes in the WALGA draft model Waste Local Law.
- d. The City has reviewed its waste bin collection system, in light of residents and ratepayer concerns, with a report to come back to Council.

Items (a), (b) and (c) were presented as part of the 23 March 2026 Council Briefing Session.

Item (d) was addressed in a report presented to the 13 August 2025 OCM, where Council resolved to continue with the staged rollout of the three-bin Food Organics Garden Organics (FOGO) system, including a range of bin sizes within urban areas.

DETAILS

The purpose of the proposed Waste Local Law is to provide for the regulation, control and management of waste services, including the use and control of receptacles for the deposit and collection of waste, undertaken by or on behalf of the City.

Currently, the City operates without a dedicated Waste Local Law and relies on the Consolidated Local Law 2005 and the Health Local Law 2002. While these laws contain some provisions for waste management, they present several challenges. Being over 20 years old, they do not reflect modern waste management practices, such as the three-bin system, and do not adequately support measures to control contamination.

A contemporary, dedicated Waste Local Law will provide clarity for residents and businesses on their responsibilities, support the effective management of waste services, and allow non-compliance to be addressed efficiently without the need for court proceedings.

The proposed Local Law is based on the WA Local Government Association (WALGA) Waste Model Local Law Template, which has been reviewed by the Joint Standing Committee. The Model Local Law provides a tested and legally robust framework specifically designed for Western Australian councils. Modifications have been made to tailor the template to the City's local context and to reflect the deconsolidation of the Consolidated Local Law 2005 and the Health Local Law 2002.

A comprehensive list of changes can be found below:

WALGA Waste Model Local Law Template	Draft Waste Local Law	Rationale
1.5 Meaning of terms used in this local law	Included a definition of nuisance.	The term "nuisance" is referenced in both the template local law and the draft local law; however, the template does not provide a definition. Including a definition helps provide clarity and assists officers in consistently interpreting and applying the law.
2.1 Supply of receptacles	Added (3) The local government will provide waste services only to receptacles supplied by the local government. (4) The local government determines the maximum number of receptacles that may be supplied to a premises and may deny requests for additional receptacles. (5) The local government may remove a receptacle from a specific premises if the owner or occupier does not fulfil the requirements under subclauses 2.1(2)(a) and 2.1(2)(b).	Clarifies that the City will only provide waste services to City-supplied receptacles. Allows authorised officers to manage unreasonable requests for excessive numbers of bins. Provides a mechanism for the removal of receptacles where the owner does not pay the property's waste service charge or does not use the receptacle in accordance with the local law.

WALGA Waste Model Local Law Template	Draft Waste Local Law	Rationale
2.3 General Waste receptacles	Added (b) where the receptacle has a capacity of 140 litres - more than 50 kilograms of collectable waste; “unless otherwise directed by the local government”	Sets a maximum weight limit for 140L general waste bins to ensure safe collection and prevent injury or equipment damage. Provides the City with flexibility to support staged service changes. For example, during the phased rollout of the three-bin system, residents may be required to place FOGO material in the general waste bin until their FOGO receptacle is delivered.
2.4 Recycling waste receptacles	Added (c) where the receptacle has a capacity of 360 litres - more than 70 kilograms of recycling waste; (e) The local government may remove recycling waste receptacles where an owner or occupier of a specific premise has failed to follow the requirements under subclause 2.4(a).	Sets a maximum weight limit for 360L recycling bins to ensure safe collection and prevent injury or equipment damage. Provides an enforcement mechanism to reduce contamination, maintain the quality of recyclables, and ensure the wider community is not unfairly impacted by the cost of contamination.
2.5 Organic waste receptacles	Added (c) where the receptacle has a capacity of 140 litres - more than 50 kilograms of collectable waste; (e) The local government may remove organic waste receptacles where an owner or occupier of a specific premise has failed to follow the requirements under subclause 2.5(a).	Sets a maximum weight limit for 140L organic bins to ensure safe collection and prevent injury or equipment damage. Provides an enforcement mechanism to reduce contamination, maintain the quality of fogo material, and ensure the wider community is not unfairly impacted by the cost of contamination.
2.7 Duties of owner or occupier	Added (b) if given notice in writing from the local government that the owner or occupier is in breach of subclause 2.7(a), comply with the directions given in the notice within the timeframe specified in the written notice; (c) (iv) 0.5 metres apart (v) at least 1 metre from permanent or temporary infrastructure such as fences, signs, light poles, trees or cars; and (vi) not placed under overhead obstructions such as trees or	Ensures prompt compliance, supports safe collection, and protects infrastructure and the community from improper bin storage/placement.

WALGA Waste Model Local Law Template	Draft Waste Local Law	Rationale
	utility lines less than 3.6m above the road surface; (d) not overfill and must have lid closed properly	
2.10 Verge Collections	Added (1) “informed, notified”	Gives flexibility in communication of verge collections through a variety of methods (i.e. via letters, emails, SMS etc).
3.1 Duties of an owner and occupier	Added the word “clean” to part (b)	Owners and occupiers should be responsible for keeping their receptacle clean.
4.6 Prohibited activities	Removed (b) “that is a landfill site”	By removing the term “landfill site,” Clause 4.6(1)(b) can now apply to the City’s recycling centres and prohibits the disposal of toxic, poisonous, or hazardous waste unless authorised by the City.
N/A	Added in Part 5 Builders Waste	Waste disposal bins on builders’ sites are currently covered in the City’s Consolidated Local Laws 2005. As part of the deconsolidation process, its most appropriate to move this provision into the Waste Local Law, since it directly relates to waste management.
N/A	Notice of Breach	Outlines the notice of breach process and enables the City to recover costs if the person fails to comply.
Schedule 2 – Prescribed offences	Added offences for the new clauses • 13 - Failing to comply with a notice to keep a receptacle in the required location - \$250 • 15 - Overfilling a receptacle - \$250 • 42 to 45 – Building waste - \$300 Added offence for an existing clause • 30 - Depositing household commercial or other waste into, or removing waste from, the receptacle provided for the use of the general public in a public place without approval - \$250 Increasing modified penalty amounts	Modified penalties provide the City with an enforceable tool to address non compliance, without resorting to full court proceedings. Two modified penalties have been increased to reflect the greater severity of the offences, following feedback from the February 2025 Council Briefing sessions.

WALGA Waste Model Local Law Template	Draft Waste Local Law	Rationale
	• 37 - Lighting a fire in a waste facility - \$500 (was \$300) • 41 - Acting in an abusive or threatening manner - \$500 (was \$300)	

The proposed local law is designed specifically for the City's waste services and therefore does not address all waste or waste behaviors such as littering and illegal dumping, liquid waste or waste water, and animal waste which are covered by other legislation such as the:

- *Litter Act 1979*
- Litter Regulations 1981
- *Bush Fires Act 1954*
- Health (Asbestos) Regulations 1992
- *Dangerous Goods Safety Act (2004)*
- *Radiation Safety Act 1975*
- Criminal Code
- Proposed Animals, Nuisance & Public Health Local Law

Applying the Waste Local Law to address non-compliant behaviours could result in a high number of breaches, which would be resource-intensive to manage. Enforcement also needs to be considered in the context of community sentiment, particularly during the rollout of FOGO.

To manage these risks, officers will prioritise education and awareness strategies to support residents in adjusting to the new service, introducing enforcement measures only if these educational approaches prove ineffective. Residents will be given sufficient time, information, and support to comply, with enforcement used as a last resort to promote lasting behaviour change.

CONSULTATION

During the February 2025 council briefing session, initial feedback was received regarding the proposed penalties. Some council members expressed concerns that the penalties appeared too high, while others noted that certain penalties seemed disproportionate (for example, the penalty for lighting a fire). Further concerns were raised that the penalties may lose their effectiveness over time, as they cannot be indexed once set.

In response, staff reviewed this feedback and proposed adjustments to specific penalties, including those relating to aggressive behaviour and lighting a fire, to better reflect the severity of the offences. It is important that penalty amounts at least cover the cost of compliance. If penalties are set too low, there is a risk that individuals may choose to accept the infringement rather than comply, thereby undermining the intent of the Local Law.

A council briefing session was held on 23 March 2026. A comparison table of Schedule 2 has been provided as an attachment to this report.

On this basis, staff recommend retaining the amounts outlined in the template, as they are broadly consistent with penalties set by other councils and are intended to balance cost recovery with encouraging compliance, while avoiding excessively high penalty levels.

Public consultation will occur following resolution of this item.

ATTACHMENTS

1. Draft Waste Local Law 2026 [**14.1.2.1** - 19 pages]
2. Modified Penalties Comparison (Schedule 2) [**14.1.2.2** - 2 pages]

STRATEGIC IMPLICATIONS

Governance

G1 Empower and represent the community

G1.1 Involve, engage and inform our community

G1.2 Communicate effectively and provide a consistent, responsive customer experience

STATUTORY IMPLICATIONS

Local Government Act 1995

Section 3.12 – procedure for making local laws

Waste Avoidance and Resource Recovery Act 2007

FINANCIAL IMPLICATIONS

There is sufficient money available in the Members of Council – Advertising budget to promote this local law to the community for public submissions.

Schedule 2 of the draft Waste Local Law lists prescribed offences designed to address non-compliance without resorting to full court proceedings. Infringements are typically issued only after other measures, such as education, have been exhausted. The enforcement of these infringements requires City resources to manage their identification, notification, application, and collection.

The proposed modified penalties for the prescribed offences are comparable with those applied in other Western Australian local governments' Waste Local Laws.

RECOMMENDATION

That Council resolve to:

1. Propose to make the attached City of Swan Waste Local Law 2026 and advertise the Council's intention for a period not less than six (6) weeks, in accordance with section 3.12 of the *Local Government Act 1995*.

The Presiding Member to give Notice to the meeting by stating the following purpose and effect of the *City of Swan Waste Local Law 2026* in accordance with section 3.12 of the *Local Government Act 1995*:

Purpose:	The purpose of this Local Law is to provide for the regulation, control and management of waste services, including the use and control of receptacles for the deposit and collection of waste, undertaken by or on behalf of the City of Swan.
Effect:	The effect of this Local Law is to ensure sufficient provision of regulation, control and management of waste services.

Comparison of Schedule 2 - Model Law vs Proposed Law

Old Item	New Item	Old Clause	New Clause	Old Description	New Description	Old Penalty	New Penalty
1	1	2.1(2)(a)	No Change	Failing to pay fee or charge	No Change	\$ 350	No Change
2	2	2.1(2)(b)	No Change	Failing to ensure lawful use of receptacle	No Change	\$ 350	No Change
3	3	2.2(1)	No Change	Depositing non-collectable waste in a receptacle	No Change	\$ 350	No Change
4	4	2.2(2)	No Change	Depositing waste in another receptacle without consent	No Change	\$ 350	No Change
5	5	2.3(1)	No Change	Exceeding weight capacity of a general waste receptacle	No Change	\$ 350	No Change
6	6	2.3(2) and (3)	No Change	Depositing unauthorised waste in a general waste receptacle	No Change	\$ 350	No Change
7	7	2.4(a)	2.4(1)(a)	Depositing unauthorised waste in a recycling waste receptacle	No Change	\$ 350	No Change
8	8	2.4(b) and (c)	2.4(1)(b), (c) and (d)	Exceeding weight capacity of a recycling waste receptacle	No Change	\$ 250	No Change
9	9	2.5(a)	2.5(1)(a)	Depositing unauthorized waste in an organic waste receptacle	No Change	\$ 350	No Change
10	10	2.5(b) and (c)	2.5(1)(b), (c) and (d)	Exceeding weight capacity of an organic waste receptacle	No Change	\$ 350	No Change
11	11	2.6(3)	No Change	Failing to comply with a direction concerning placement or removal of a receptacle	No Change	\$ 250	No Change
12	12	2.7(a)	No Change	Failing to keep a receptacle in the required location	No Change	\$ 250	No Change
	13	-	2.7(b)	-	Failing to comply with a notice to keep a receptacle in the required location	-	\$ 250
13	14	2.7(b)	2.7(c)	Failing to place a receptacle for collection in a lawful position	No Change	\$ 250	No Change
	15	-	2.7(d)	-	Overfilling a receptacle	-	\$ 250
14	16	2.7(c)	2.7(e)	Failing to notify of a lost, stolen, damaged or defective receptacle	No Change	\$ 250	No Change
15	17	2.9(a)	No Change	Damaging, destroying or interfering with a receptacle	No Change	\$ 400	No Change
16	18	2.9(b)	No Change	Removing a receptacle from premises	No Change	\$ 400	No Change
17	19	2.10(1)	No Change	Failing to comply with a term or condition of verge waste collection	No Change	\$ 400	No Change
18	20	2.10(2)	No Change	Removing waste for commercial purposes	No Change	\$ 350	No Change
19	21	2.10(3)	No Change	Disassembling or leaving in disarray waste deposited for collection	No Change	\$ 250	No Change
20	22	3.1(a)	No Change	Failing to provide a sufficient number of receptacles	No Change	\$ 250	No Change
21	23	3.1(b)	No Change	Failing to keep a receptacle clean and in a good condition and repair	No Change	\$ 250	No Change
22	24	3.1(c)(i)	No Change	Failing to prevent fly breeding and vectors of disease in a receptacle	No Change	\$ 350	No Change
23	25	3.1(c)(ii)	No Change	Failing to prevent the emission of offensive odours from a receptacle	No Change	\$ 350	No Change
24	26	3.1(c)(iii)	No Change	Allowing a receptacle to cause a nuisance	No Change	\$ 350	No Change