

**LOCAL GOVERNMENT ACT 1995**

*Shire of Wagin*

**UNSIGHTLY LAND AND REFUSE, RUBBISH OR DISUSED MATERIAL ON  
LAND LOCAL LAW 2008**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Wagin resolved on the 15 April 2008 to make the following local law.

**1. Citation**

This local law may be cited as the *Shire of Wagin Unightly Land and Refuse, Rubbish or Disused Material on Land Local Law 2008*.

**2. Definitions**

- (1) In this local law, unless the context otherwise requires—
- “**abandoned**” means being left on the land without being moved or used for it’s original purpose for a period longer than 3 months;
  - “**Act**” means the *Local Government Act 1995*;
  - “**authorized person**” means a person appointed by the local government to be an authorized person for the purposes of this local law;
  - “**CEO**” means the Chief Executive Officer of the local government;
  - “**district**” means the district of the local government;
  - “**deposited**” means placed on the land and not used for it’s original purpose for a period longer than 3 months;
  - “**local government**” means the Shire of Wagin;
  - “**unightly**” has the same meaning as defined in schedule 3.1 of the *Local Government Act 1995* as amended;
  - “**material**” means the substance of which things are composed and includes organic and inorganic matter;
  - “**refuse, rubbish or disused material**” includes—
    - (i) any abandoned or unwanted object, material or thing, whether it has any present value or not, placed on the land;
    - (ii) any motor vehicle, motor vehicle part, caravan, trailer, boat or other thing or machinery which has been parked, deposited or stored on any land, notwithstanding that it may have a value, being visible from the road or adjoining land, which in the opinion of the CEO, or an authorized person, is unightly;
    - (iii) any wood, timber, lumber or cuttings, logs or remnants of trees, or chopped, split or chipped wood, and any like material notwithstanding that it may have a value; or
    - (iv) anything placed on the land that in the opinion of an authorized person is—
      - a. unightly;
      - b. is likely to adversely affect the health, safety, comfort, convenience or amenity of the inhabitants of that land or any other land or is likely to cause damage to that land or any other land; or

- c. results in that land having an appearance which does not conform with the general appearance of other land in the locality.

**“placed”** means stored, deposited or put;

**“serve”** has the same meaning as defined in section 75 and 76 of the Interpretation Act 1984; and

**“stored”** means placed on the land and not used for its original purpose.

- (2) Where in this local law a duty of liability is imposed on an owner or owner-occupier of land, the duty of liability is imposed jointly and severally on each tenant in common.

### **3. Object and purpose**

The object and purpose of this local law is to ensure owners or owner-occupiers maintain their land in a condition free of refuse, rubbish or disused material that is unsightly.

### **4. Notices**

- (1) If there is on any land, vacant or otherwise within the district, any refuse, rubbish or disused material, an authorized person may issue and serve a notice signed by the CEO—
  - (i) requiring the owner or owner-occupier to—
    - a. clean up;
    - b. clear away; and
    - c. remove;any refuse, rubbish or disused material; and
  - (ii) requiring the owner or owner-occupier to dispose of any refuse, rubbish or disused material; and
  - (iii) advising the owner or owner-occupier that they have 28 days in which to lodge a notice of objection with the CEO of the local government; and
  - (iv) advising the owner or owner-occupier that failure to comply with the notice may result in Court action proceeding without further notice; and
  - (v) advising the owner or owner-occupier that failure to comply with the notice may result in the local government carrying out the work set out in the notice, the costs of which will be recovered from the owner or owner-occupier of the land.
- (2) If there is on any land, vacant or otherwise within the district, any refuse, rubbish or disused material, an authorized person may issue and serve a notice signed by the CEO—
  - (i) requiring the owner or owner-occupier to—
    - a. shield from view by the construction of a fence or screen to the satisfaction of the local government; or
    - b. carry out any other works to achieve the object of this local law; and
  - (ii) advising the owner or owner-occupier that they have 28 days in which to lodge a notice of objection with the CEO of the local government; and
  - (iii) advising the owner or owner-occupier that failure to comply with the notice may result in Court action proceeding without further notice; and
  - (iv) advising the owner or owner-occupier that failure to comply with the notice may result in the local government carrying out the work set out in the notice, the costs of which will be recovered from the owner or owner-occupier of the land.

### **5. Application of Division 1, Part 9 of the Act**

When the local government makes a decision under clause 4, the provisions of Division 1 of Part 9 of the Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

### **6. Objections and appeals**

The owner or owner-occupier of land, having been served with notice under this local law, is deemed to be an affected person under the Act, and may within 28 days of being served with the notice, lodge a notice of objection, in writing, addressed to the CEO.

### **7. Breach for failure to comply with a notice**

An owner or owner-occupier, having been served with a notice, who fails to comply with the terms of the notice within the prescribed time, commits an offence.

Penalty—

- (i) \$5,000; and
- (ii) a daily penalty of \$500.

### **8. Entry and disposal of refuse, rubbish or disused material**

Where an owner or owner-occupier fails to comply with the terms of a notice, and refuses to give the local government written permission to enter onto the land to carry out the work specified in the notice, the local government may, at the time of conviction for a breach of this local law make application to the Court for—

- (i) a warrant to enter onto the land to carry out the work specified in the notice;  
and,
- (ii) an order that refuse, rubbish or disused material that is removed and impounded be confiscated and disposed of.

### **9. Recovery of costs**

The local government may recover the cost of work that an owner or owner-occupier fails to carry out prescribed by a notice under this local law as a debt due from the owner or owner-occupier.

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Dated: 29 April 2008.

The Common Seal of the Shire of Wagin was affixed by the authority of a resolution of the Council in the presence of—

M. J. BROCKWAY, Shire President.  
L. J. CALNEGGIA, A/Chief Executive Officer.