

LOCAL GOVERNMENT ACT 1995

SHIRE OF SERPENTINE-JARRAHDALÉ

LOCAL LAW RELATING TO UNSIGHTLY LAND AND REFUSE, RUBBISH OR DISUSED MATERIALS ON LAND

In pursuance of the powers conferred upon it by the *Local Government Act 1995* and under all other powers enabling it, the Shire of Serpentine-Jarrahdale resolved on 27th of January 2004 to make the following local law.

PART 1 – PRELIMINARY

1. Citation.

This local law may be cited as the Shire of Serpentine-Jarrahdale Local Law relating to Unsightly Land and Refuse, Rubbish Disused Materials on Land.

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 its original purpose for a period longer than 6 months.
 - “Act” means the *Local Government Act 1995*;
 - “CEO” means the Chief Executive Officer of the local government;
 - “district” means the district of the local government;
 - “deposited” means placed onto the Land and not used for its original purpose for a period longer than 6 months.
 - “local government” means the Shire of Serpentine-Jarrahdale;
 - “unsightly” 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 Local government Officer, is unsightly;
 - (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 a Local Government Officer is:
 - 1. unsightly;
 - 2. is likely to adversely affect the value of any other Land;
 - 3. 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
 - 4. 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*.
 - “stored” means placed onto the Land and not used for its original purpose.

- (2) Where in these local laws a duty of liability is imposed on an owner or occupier of land, the duty of liability is imposed jointly and severally on each of the owners or occupiers.

3. Object.

The object and purpose of this Local Law is to ensure owners or occupiers maintain their Land in a condition free of Refuse, Rubbish or Disused material that is Unightly.

PART 2 – GENERAL

4. Notices.

If there is on any land, vacant or otherwise within the district, any Refuse, Rubbish or Disused Material a Local Government officer may issue and serve a notice signed by the Chief Executive Officer;

(1) requiring the owner or occupier to:

- (i) clean up,
- (ii) clear away,
- (iii) remove,
- (iv) shield from view by the construction of a fence or screen to the satisfaction of the Local Government,
- (v) carry out any other works to achieve the object of the Local Law.

(2) requiring the owner or occupier to dispose of any Refuse, Rubbish or Disused material;

(3) advise the owner or occupier that they have 28 days in which to lodge a notice of objection with the Chief Executive Officer of the Local Government.

(4) advise the owner or occupier that the failure to comply with the notice may result in Court action proceeding without further notice.

(5) advise the owner or occupier that failure to comply with a 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 occupier of the Land.

5. Objection by Owner or Occupier.

The owner or 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 a notice, lodge a notice of objection, in writing, addressed to the Chief Executive Officer. (Part 9 Division 1 of the Act)

PART 3 – PENALTIES

6. Breach for Failure to Comply with a Notice.

An owner or 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 \$500.00

7. Entry and Disposal of Refuse, Rubbish or Disused Materials.

Where an owner or 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; (Section 3.33 of the Act); and,
- (ii) an order that Refuse, Rubbish or Disused materials removed and impounded be confiscated and disposed of. (Section 3.43, Section 3.47 of the Act).

8. Contravention Leading to Impounding.

The contravention of this Local Law is a Contravention that can lead to impounding. (Section 3.37 of the Act)

9. Recovery of Costs.

The Local Government may recover the cost of work that an owner or occupier fails to carry out prescribed by a notice under this Local Law as a debt due from the owner or occupier. (Section 3.26 (3) and 3.48 of the Act)

Dated: the 30th day of January in the year 2004.

The Common Seal of the Shire of Serpentine-Jarrahdale was affixed by authority of a resolution of the Council in the presence of –

D.L. Needham - Shire President.
D.E. Price - Chief Executive Officer.
