

**SHIRE OF MOUNT MAGNET**



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**MOUNT MAGNET**

**WASTE LOCAL LAW**

**MARCH 2018**

**LOCAL GOVERNMENT ACT 1995**

**WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007**

Shire of Mount Magnet

**WASTE LOCAL LAW 2018**

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**LOCAL GOVERNMENT ACT 1995**

**WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007**

Shire of Mount Magnet

**WASTE LOCAL LAW 2018**

Under the powers conferred by the *Waste Avoidance and Resource Recovery Act 2007* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Mount Magnet resolved on **the ??? 2018** to make the following local law.

**Part 1 – Preliminary**

**1.1 Citation**

This local law may be cited as the Shire of Mount Magnet Waste Local Law 2018.

**1.2 1.2 Commencement**

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

**1.3 1.3 Definitions**

In this local law unless the context otherwise requires:

**Act** means the *Waste Avoidance and Resource Recovery Act 2007*;

**authorised person** means a person appointed under section 9.10 of the *Local Government Act 1995* to perform any functions of an authorised person under this local law;

**collectable waste** means local government waste that is not liquid waste, liquid refuse or non-collectable waste;

**collection day** means the day of the week on which waste is collected and removed by the local government or its contractor;

**collection time** where used in connection with any premises, means the time of the day on which waste is collected and removed from the premises by the local government or its contractor;

**district** means the district of the local government;

**footpath** has the meaning as a constructed path for people to walk along;

**kerb** has the meaning applied by the Oxford Dictionary as a stone edging to a pavement or raised path;

**liquid refuse and waste** means any liquid such as wastewater, fats, oils or grease including used gases or sludge;

**local government** means the Shire of Mount Magnet;

**owner** in relation to premises comprised of or on land, has the meaning given in section 1.4 of the *Local Government Act 1995*;

**occupier** where used in relation to land, has the meaning given in section 1.4 of the *Local Government Act 1995*;

**public place** includes a street, way or place which the public are allowed to use, whether the street, way or place is or is not on private property;

**receptacle** where used in connection with any premises means;

- (a) a polyethylene cart fitted with wheels, a handle and a lid and having a capacity of either 120 litres or 240 litres;
- (b) a polyethylene or steel container fitted with wheels and lockable lids and having a capacity of 1100 litres; or
- (c) a container provided by the local government or its contractor for the deposit, collection or recycling of specific materials; and supplied to the premises by the local government or its contractor in an approved bin size;

**refuse, rubbish or disused material** includes any material which is abandoned or unwanted by its owner or the person in possession of it;

**regulations** means the *Waste Avoidance and Resource Recovery Regulations 2008*;

**right of way** means the legal right established by usage or grant to pass along a specific route through grounds or property belonging to another;

**street** has the same meaning as in the *Local Government Act 1995*;

**street alignment** means the boundary between the land comprising a street and the land that abuts thereon, but where a new street alignment is prescribed under the *Local Government (Miscellaneous Provisions) Act 1960*, means the new street alignment so prescribed;

**vehicle** has the meaning given to it by the *Road Traffic (Administration) Act 2008*;

**verge** means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line but does not include a footpath;

**waste** includes matter;

- (a) whether liquid, solid, gaseous or radioactive and whether useful or useless, which is discharged into the environment;
- (b) prescribed by the regulations to be waste;

**waste facility** means premises approved for the storage, treatment, processing, sorting, recycling or disposal of waste; and

**waste service** means;

- (a) the collection, transport, storage, treatment, processing, sorting, recycling or disposal of waste; or
- (b) the provision of receptacles for the temporary deposit of waste; or
- (c) the provision and management of waste facilities, machinery for the disposal of waste and processes for dealing with waste.

#### 1.4 Repeal

The previous Removal of Refuse, Rubbish, Litter, Vehicle Bodies, Disused Material and Unsightly Objects from Land 1995 Local Law was repealed on 24 September 2003 as published in the Government Gazette.

#### 1.5 Application

This local law applies throughout the district.

## Part 2 – Waste services

### 2.1 Provision of Waste Service

The local government shall undertake or contract for the efficient execution of a waste service in those parts of the district to which this local law applies.

### 2.2 Obligations of the Owner or Occupier

- (1) Owners or occupiers shall;
  - (a) not remove waste from premises other than in accordance with this local law; and
  - (b) pay to the local government the annual waste collection rate imposed under section 66 of the Act, the receptacle charge imposed under section 67 of the Act or a fee set in accordance with section 68 of the Act and pursuant to section 6.16 of the Local Government Act 1995;
- (2) The local government may in writing authorise the occupier of premises within its district to remove or dispose of waste from or on the premises if;
  - (a) the waste on the premises is not available for removal at regular periods or is of such a nature or quantity as to be unsuitable for removal by the local government or its contractor; or
  - (b) there is installed on the premises efficient apparatus for the destruction of the waste and the apparatus is used to dispose of the waste on the premises without causing a nuisance or permitting the discharge of smoke into the atmosphere in such quantities or of such a nature as to cause annoyance to persons.
- (3) Where any waste is removed from the premises under a written authority of the local government, the person removing it shall dispose of it at a waste facility.

### 2.3 Use of Receptacles

- (1) The occupier of every premises shall;
  - (a) subject to paragraph (c), cause all refuse to be deposited in a receptacle;
  - (b) at all times keep the lid of the receptacle closed except when depositing refuse in or cleaning the receptacle;
  - (c) not deposit or permit to be deposited in a receptacle;
    - (i) more than 70 kg of refuse in the case of a receptacle with a capacity of 240 litres; or
    - (ii) more than 50 kg of refuse in the case of a receptacle with a capacity of 120 litres; and
    - (iii) any material being or consisting of;
      - (a) hot or burning ashes;
      - (b) oil, motor spirit or other flammable liquid;
      - (c) liquid, liquid paint, or other solvent;
      - (d) bricks, concrete, earth or other like substances;
      - (e) drugs, dressings, bandages, swabs or blood samples unless placed in a sealed impervious and leak-proof container;

- (f) hospital, medical, veterinary, laboratory or pathological substances containing blood unless placed in a sealed impervious and leak-proof container;
  - (g) syringes, needles, surgical hardware, broken glass, sharps or other sharp objects unless placed in a sealed impervious leak-proof and impenetrable container; or
  - (h) cytotoxics, radioactive substances, vehicle batteries and dangerous chemicals;
- (iv) any object which is greater in length, width or breadth than the corresponding dimensions of the receptacle or which will not allow the lid to be tightly closed; or
  - (v) refuse which is or likely to become offensive or a nuisance or to give off any offensive or noxious odour or to attract flies or cause fly breeding unless it is first wrapped in absorbent or impervious material or placed in a sealed impervious container;
- (d) except for collection day, keep the receptacle on the premises located behind the building line, or other location approved by the local government;
  - (e) at all times keep the receptacle clean and whenever directed by the local government to do so, thoroughly cleanse and disinfect the receptacle and place and keep in the receptacle a deodorant material;
  - (f) notify the local government within 7 days after the event if the receptacle is lost, stolen, damaged or becomes defective;
  - (g) not mark or disfigure the receptacle in any manner other than by the placement of a street or unit number upon it in numerals no higher than 100mm; and
  - (h) not use the receptacle for any purpose other than the storage of refuse.
- (2) An owner or occupier of premises shall;
- (a) within the 12 hours prior to 0600 hours on collection day;
    - (i) place the receptacle on the verge between 1 to 3 metres from the kerb line, and so as not to cause any interference to public use of the road, footpath or other carriageway. The receptacle may otherwise be placed at a position specifically approved by the local government; or
    - (ii) where the receptacle is collected via a right-of-way or lane abutting the premises, place the receptacle adjacent to the boundary of the premises so abutting and in such a manner as to be serviceable from the right-of-way or lane; and
  - (b) within 12 hours of the contents of the receptacle having been removed, return the receptacle to its place of storage.
- (3) Where refuse emanating from premises is of a nature that the local government considers that it requires to be treated before being placed in a receptacle, the local government may give directions as to the manner in which it is to be so treated and the occupier of those premises shall comply with those directions.
- (4) Collection of refuse shall be once weekly unless otherwise determined by the local government.
- (5) In the case of multi-residential, commercial or industrial premises, where it is considered that individual receptacles for each premises would not be practical, the local government may exercise discretion as to the number of receptacles to be provided and to the number of collections carried out each week.

- (6) In the case of premises consisting of more than 3 dwellings or any premises used for commercial or industrial purposes or as a food premises, the local government may authorise rubbish or refuse to be deposited in a container other than a receptacle.
- (7) The owner or occupier of premises who is authorised under this section to deposit rubbish or refuse in a container shall;
  - (a) unless approved by the local government, not deposit or permit to be deposited in the container anything specified in clause 2.3(1)(c)(iii)-(v);
  - (b) take all reasonable steps to prevent fly breeding in, and the emission of offensive or noxious odours from the container;
  - (c) whenever directed by the local government to do so, thoroughly clean, disinfect, deodorise and apply a residual insecticide to the container;
  - (d) cause the container to be located on the premises in an enclosure constructed and located in accordance to clause 2.7(3);
  - (e) ensure that the container is not visible from the street but is readily accessible for the purposes of collection; and
  - (f) ensure that the container does not cause a nuisance to an occupier of adjoining premises.
- (8) An owner or occupier shall;
  - (a) ensure that there are a sufficient number of receptacles provided to contain all rubbish and refuse which accumulates or may accumulate in or from the premises;
  - (b) ensure that each receptacle on the premises;
    - (vi) has a close fitting lid;
    - (vii) is constructed of non-absorbent and non-corrosive material; and
    - (viii) is clearly marked, for the use of, and is used only for, the temporary deposit of rubbish or refuse;
  - (c) keep or cause to be kept each receptacle thoroughly clean and in good condition and repair;
  - (d) place any rubbish or refuse in, and only in, a receptacle marked for that purpose;
  - (e) keep the cover on each receptacle except when it is necessary to place something in, or remove something from, it; and
  - (f) ensure that the receptacles are emptied at least weekly or as directed by the local government.

## 2.4 Exemption

- (1) An owner or occupier of premises may apply in writing to the local government for an exemption from compliance with the requirements of clauses 2.3 (1) (a) or 2.3 (2).
- (2) The local government may grant or refuse, with or without conditions, an application for exemption from compliance under clause 2.4(1).
- (3) An exemption granted under clause 2.4 shall state;
  - (a) the premises to which the exemption applies;
  - (b) the period during which the exemption applies; and
  - (c) any conditions imposed by the local government.
- (4) The local government may rescind the exemption or from time to time vary conditions imposed by it under this clause by giving written notice of the variation to the person to whom the exemption was given.

## 2.5 Ownership of Receptacles

A receptacle supplied by the local government or its contractor remains the property of the local government or its contractor as the case may be.

## 2.6 Damage to Receptacles

A person other than the local government or its contractor shall not;

- (a) damage, destroy or interfere with a receptacle supplied by the local government or its contractor; or
- (b) except as permitted by this Local law or as authorised by the local government, remove a receptacle from any premises to which it was delivered by the local government or its contractor; or
- (c) for the purpose of defining interfere or interference, the meaning does not include a property owner who is otherwise using their receptacle in accordance with this local law.

## 2.7 Suitable Enclosure

- (1) An owner or occupier of a premise;
  - (a) consisting of more than three (3) dwellings; or
  - (b) used for commercial or industrial purposes, or a food premises;
  - (c) shall if required by the local government provide a suitable enclosure for the storage and cleaning of receptacles on the premises.
- (2) An owner or occupier of premises required to provide a suitable enclosure under this clause shall keep the enclosure thoroughly clean and disinfected.
- (3) For the purposes of this clause, a “suitable enclosure” means an enclosure;
  - (a) of sufficient size to accommodate all receptacles used on the premises but in any event having a floor area not less than 3 metres by 3 metres;
  - (b) constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by the local government;
  - (c) having walls not less than 1.8 metres in height and having an access way of not less than 1 metre in width and fitted with a self-closing gate;
  - (d) containing a smooth, non-slip and impervious floor—
    - (ix) of not less than 75 millimetres in thickness; and
    - (x) which is evenly graded to a grated outlet connected to the existing sewer disposal system connection on the property;
  - (e) which is easily accessible to allow for the removal of the receptacles;
  - (f) provided with a ramp into the enclosure having a gradient no steeper than 1:8 unless otherwise approved by the local government; and
  - (g) provided with a tap connected to an adequate supply of water.

## 2.8 Building Construction

- (1) During all periods of construction on any building site, the builder shall;
  - (a) provide and take reasonable steps to keep on such site a waste disposal bin, being either;
    - (i) a bin of not less than 4 cubic metres in capacity; or



- (ii) a receptacle or other container approved by the local government;
  - (b) keep such site free of waste and offensive matter; and
  - (c) keep the street verge immediately adjacent to such site free of waste or offensive matter.
- (2) On completion of construction, the builder shall immediately clear the site and the adjacent street verge of all waste, waste materials and offensive matter and all waste bins provided by the builder.
- (3) In subclauses (1) and (2), "waste" includes all discarded stones, brick, lime, timber, iron, tiles, bags, plastics and any broken, used or discarded matter.

## **2.9 Deposit of Waste**

- (1) A person shall not deposit or cause or permit to be deposited any waste in or on any street or on any land other than a waste facility.
- (2) The driver of a vehicle, upon entering a waste facility, shall not deposit any waste until authorised to do so by the attendant or person in charge of the waste facility.
- (3) A person shall not deposit waste in or on a waste facility except;
  - (a) at such place on the site as may be directed by the person in charge of the facility; or
  - (b) if the person in charge is not in attendance at the facility, as may be directed by a notice erected on the site.

## **2.10 Removal of Waste from Premises or Receptacle**

- (1) A person shall not remove any waste from the premises unless that person is;
  - (a) the owner or occupier of the premises;
  - (b) authorised to do so by the owner or occupier of the premises; or
  - (c) authorised in writing to do so by the local government.
- (2) A person shall not, without the approval of the local government or the owner of a receptacle, remove any waste from the receptacle or other container provided for the use of the general public in a public place.
- (3) Where the local government provides;
  - (a) a collection service for recyclable material, the occupier of premises shall comply with and observe the directions given by the local government in relation to that collection; and
  - (b) a collection for bulk material, the occupier of premises shall comply with and observe the directions given by the local government in relation to that collection.
- (4) Where additional collection services are provided upon request by the occupier of the premises, fees as set by the local government from time to time under sections 6.16 and 6.19 of the Local Government Act 1995 shall be paid.

## **2.11 Burning Waste**

- (1) A person shall not;
  - (a) without the approval of the local government; and
  - (b) except in accordance with the terms and conditions to which the approval is subject, set fire to, or cause to be set on fire, any waste either;
    - (i) in any incinerator; or
    - (ii) on the ground.
- (2) Subject to subclause (3), an approval of the local government is issued subject to the following conditions;

- (a) the material to be burnt;
    - (i) does not include any plastic, rubber, food scraps, green garden cuttings and other material which may become offensive when burnt; and
    - (ii) is of such quantity, or of such a nature, as to be unsuitable for removal by the local government's waste collection service;
  - (b) there is no other appropriate means of disposal;
  - (c) an incinerator must have a minimum of 205 litre capacity fitted with a cast iron top with a reverse vortex cone and connected to a 1.8 meter air adjustable flue terminating with a mesh spark arrestor; and
  - (d) an incinerator unit used for fire must be located;
    - (i) at least 3 metres from a fence, building or inflammable matter; and
    - (ii) in such a position so as not to create a nuisance or be offensive to other persons.
- (3) Subject to the provisions of the Bush Fires Act 1954, it is prohibited to clear by burning any fire breaks, vacant lots or other land of grass, straw, hay, undergrowth, herbage and other vegetation whether or not dead and standing or not standing, without written approval of the local government.

## **2.12 Waste Removal Vehicles**

A vehicle used by the local government, its contractor or any person for the collection and transport of waste shall;

- (a) be provided with a compartment in which all waste shall be deposited for removal, and of which the interior is constructed from or surfaced with impermeable material; and
- (b) have a cover over the compartment at all times when the vehicle is engaged in the transport of waste.

## **2.13 Method of Removal of Waste**

A person engaged in the removal of waste from premises shall;

- (a) convey all waste from the receptacles of the occupier of the premises and deposit the waste in the portion of the collection vehicle intended to hold the waste; and
- (b) replace the receptacle at the point designated by the local government and in accordance with contractual obligations.

## **2.14 Removal from Waste Facility**

- (1) A person shall not remove any waste from a waste facility without the written approval of the local government.
- (2) A person who obtains approval from the local government shall comply with any conditions imposed by the local government and set out in the approval.

## Part 3 – Offences and penalties

### 3.1 Offences and penalties

- (1) Any 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 that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

### 3.2 Objection and appeal rights

Division 1 of Part 9 of the Local Government Act 1995 applies to a decision under this local law to grant, renew, vary or cancel –

- (a) an authorisation under clause 2.2(2);
  - (b) an approval under clause 2.3(2)(a)(i);
  - (c) an approval under clause 2.3(7)(a);
  - (d) an exemption under clause 2.4(1);
  - (e) an authorisation under clause 2.6(6);
  - (f) an approval under clause 2.7(3)(b);
  - (g) an approval under clause 2.7(3)(f);
  - (h) an approval under clause 2.8(1)(a)(ii);
  - (i) an authorisation under clause 2.10(1)(c);
  - (j) an approval under clause 2.10(2);
  - (k) an approval under clause 2.11(1);
  - (l) an approval under clause 2.11(3); and
  - (m) an approval under clause 2.14(1).
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The Common Seal of the Shire of Mount Magnet was affixed by authority of a resolution of the Council in the presence of:

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**Cr Jorgen JENSEN**

Shire President

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**Mr Kelvin MATTHEWS**

Chief Executive Officer

Dated:...../...../2018

Local law consented to: \_\_\_\_\_

**CHIEF EXECUTIVE OFFICER**

Department of Water and Environmental Regulation

Dated:...../...../2018