



Local Nuisance - Unsightly Conditions

The *Local Nuisance and Litter Control Act 2016* (the Act) supports and enhances local amenity values by strengthening local nuisance and litter management services within South Australian communities. The Act provides legislative tools to deal with unsightly conditions in the community.

What is Local Nuisance?

Local nuisance is described in the Act as being any adverse impact on the amenity value of an area, which unreasonably interferes with, or is likely to unreasonably interfere with, the enjoyment of that area by people in that area.

What is Amenity?

Amenity value is defined in the Act as including any quality or condition of an area that is conducive to its enjoyment. This can refer to a wide range of qualities, characteristics and attributes about a place or area that people value and which contributes to their experience of a good quality of life. Whilst the amenity values that individuals seek to appreciate vary according to each person's own principles, there is a wide range of common ideals that are generally accepted as being key elements relative to the amenity value of a community.

What are unsightly conditions?

Schedule 1 of the Act defines unsightly conditions as:

Conditions on premises involving—

- excessive or unconstrained rubbish, waste or vegetation; or
- stockpiled, excessive or unconstrained disused or derelict items or material that a reasonable person would consider to be rubbish or waste; or
- graffiti (other than authorised graffiti) that has been left on the premises for more than 28 days (or 7 days for offensive graffiti); or
- conditions involving a building on the premises having been left partially demolished or in a state of disrepair, dilapidation or damage.
- where, in the opinion of an authorised officer, the conditions have had an adverse effect on the amenity value of the area or caused the premises to be significantly out of conformity with the general appearance of neighbouring premises.

What are the impacts of unsightly conditions?

Unsightly conditions can adversely affect the amenity value of an area particularly those qualities, characteristics and attributes about a place or area that people value and which contributes to their enjoyment of a place and their experience of a good quality of life within their own community.

How Council determine if premises have unsightly conditions?

Council will refer to Schedule 1 of the Act to assist in determining if a premises has unsightly conditions. If there is reasonable belief that this is the case, then an authorised officer can declare that unsightly conditions exist and hence, local nuisance is being caused.

What is the law with regard to unsightly conditions?

It is an offence under the Act to cause local nuisance by way of unsightly conditions and penalties can apply. If a matter is considered serious enough, a council can issue the person causing the nuisance with a Nuisance Abatement Notice, which will specify a certain period within which the offender must rectify the problem. Such notices may also be issued orally in the first instance if a matter is considered severe. A council can also expiate an offence by way of an on-the-spot-fine. A council's enforcement approach, such as issuing of expiations, warnings, requests to cease an activity, will depend on the circumstances and the council's enforcement policy.

When should unsightly conditions be reported?

In the first instance a person should try and discuss concerns with the people (e.g. neighbours) from where the nuisance is emanating from, as they may not be aware that they are causing a nuisance. Generally, councils will only become involved if an issue within the community (e.g. between neighbours) cannot be resolved or if the nuisance is a broad-scale issue involving multiple parties.

How does Council manage complaints?

The City of Holdfast Bay uses a graduated response to enforcement in line with Council's Compliance and Enforcement Policy. The Compliance and Enforcement Policy provides guidance to the Council as to how and when enforcement mechanisms should be applied under the Act and to inform its community as to how decisions on enforcement matters are made. A copy can be requested from Council.

More information

If you would like any more information, or to make a complaint, please contact us by phone on (08) 8229 9999, or via email at mail@holdfast.sa.gov.au