

CITY OF KALAMUNDA

DOGS LOCAL LAW 2020

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Body of Local Law

Part 1- Preliminary

1.1 Citation- title change from *Shire of Kalamunda Dogs Local Law 2010* to "*City of Kalamunda Dogs Local Law 2020*"

1.2 *Application* changed to Commencement-

Changed from "*This local law applies throughout the district of the Shire of Kalamunda*" to "*This local law comes into operation 14 days its publication in the Government Gazette*".

1.3 *Commencement* changed to "*Application*"

Changed from *This local law will come into operation on the fourteenth day after the day on which it is published in the Government Gazette.*

1.5 Definitions-

Added meaning "*adjoining includes land or premises which have a portion of a common boundary with a lot or is separated from that lot by a public reserve, road, right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6 metres in width;*

Changed meaning of *Dangerous dog* to include section. "***dangerous dog*** has the meaning given to it by section 3(1) of the Act"- removed restricted breed meaning.

Added the following meanings:

district means the district of the City of Kalamunda;

dog management facility has the meaning given to it in section 3(1) of the Act;

infringement notice means the notice referred to in clause 7.4;

kennel establishment means any premises where more than the number of dogs under clause 3.2(2) over the age of three months are kept, boarded, trained or bred temporarily,

usually for profit and where the occupier of the premises is not the ordinary keeper of the dogs;

licence means a licence to keep an approved kennel establishment on premises granted under clause 4.7;

licensee means the holder of a licence granted under clause 4.7;

Local Government Changed from 'Shire' to 'City of Kalamunda'

Local planning scheme definition removed the "or a town planning scheme which was made under the Town Planning and Development Act 1928"

Added to definitions-

notice of withdrawal means the notice referred to in clause 7.7(1);

owner, in relation to a dog, has the same meaning as in section 3(1) and (2) of the Act;

person liable for the control of the dog has the same meaning as in section 3(1) of the Act;

premises in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence made under clause 4.1;

public place has the meaning given to it by section 3(1) of the Act;

Amended - Regulations means the *Dog Regulations 2013*; instead of *Dog regulations 1976*

Added-

Schedule means a schedule to this local law;

set fee means a fee or charge made by the local government in accordance with clause 2.1 or clause 4.8;

transferee means a person who applies for the transfer of a licence to her or him under clause 4.12.

Removed meaning of *Pound Keeper*-

Part 2-IMPOUNDING OF DOGS

2.1 *Charges and costs*- title change to "*Fees and charges*"

2.2 *Attendance of pound keeper at pound*- title change to "*Attendance of Authorised person at Dog Management Facility*"

Now stating- "*An authorised person is to be in attendance at the dog management facility for the release of dogs at the times and on the days of the week as determined by the CEO*"

2.3 *Release of Impounding Dog* numbering change to - "*release of impounding dog*".

Deleted - 2.4 *No breaking into or destruction of Pound-*

A person who – (a) unless he or she is the pound keeper or a person authorised to do so, releases or attempts to release a dog from a pound; or (b) destroys, breaks into, damages or in any way interferes with or renders not dog-proof – (i) any pound; or (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog, commits an offence.

Penalty: Where the dog is a dangerous or restricted breed dog, \$2,000; otherwise \$1,000.

Replaced with - 2.4 "*Unauthorised Release- unauthorised release of dogs is dealt with by section 43 of the Act*".

PART 3 – title changed from *REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS* to "*Keeping of Dogs*"

3.1 Dogs to be confined-

Added-

Section 3.1 (1) (3)- Added "Notwithstanding subclause (1) and (2), the confinement of dangerous dogs is dealt with in the Act and the Regulations".

3.2 Limitation on the number of dogs-

Added-

3.2 (2) (a) "two dogs over the age of three months and the young of those dogs under that age if the premises are zoned other than as rural, rural residential or urban under a local planning scheme; or

(b) "four dogs over the age of three months and the young of those dogs under that age if the premises are zoned as rural, rural residential or urban under a local planning scheme".

Added the following additional clauses to provide clarity with respect to applications for the keeping of additional dogs

3.3 Application to keep additional dog or dogs-

(1) Subject to clause 3.5, the local government may consider an application to keep an additional dog or dogs where—

(a) the property is deemed suitable by an authorised person—

(i) having sufficient space capable of confining all dogs;

(ii) noise, odours, fleas, flies and other vectors of disease will be effectively controlled; and

(iii) the care and welfare of the dogs is considered adequate.

(b) the details of every dog proposed to be kept on the premises are provided including name, age, colour/description, breed, registration number and microchip details; and

(c) sufficient reason has been provided, including—

(i) to replace an elderly or sick dog not expected to live;

(ii) a family emergency resulting in the dog being inherited;

(iii) merging of two households;

(iv) where the applicants have had approval to keep an additional dog or dogs in another local authority; or

(v) on premises zoned as rural or rural residential under a local planning scheme, the dog or dogs are required for stock management or to be on the premises temporarily for the purposes of training for stock management.

(2) An application to keep two additional dogs on premises that are zoned other than as rural or rural residential under a local planning scheme shall—

(a) provide sufficient detail regarding the reason for keeping more than two dogs;

(b) provide written consent from owners and occupiers of any premises adjoining the premises; and

(c) in the case of a tenanted property, provide written consent from either the landowner or their appointed property manager.

(3) An application to keep more than four dogs on premises zoned as rural or rural residential under a local planning scheme shall—

(a) provide sufficient detail regarding the reason for keeping more than four dogs;

and

(b) in the case of a tenanted property, provide written consent from either the landowner or their appointed property manager.

3.4 Determination of Application-

"In determining an application for a licence, the local government is to have regard to—

- (a) the matters referred to in clause 3.5;*
- (b) the effect which approval of the proposed may have on the environment or amenity of the neighbourhood; and*
- (c) whether approval of the application will create a nuisance for the owners and occupiers of adjoining premises".*

3.5 Where application cannot be approved-

The local government will not approve an application to keep an additional dog or dogs where—

- (a) more than four dogs are proposed to be kept on premises zoned other than as rural or rural residential under a local planning scheme;*
- (b) more than six dogs are proposed to be kept on premises zoned as rural or rural residential under a local planning scheme; or*
- (c) where any dog already kept on the premises is a dangerous dog.*

3.6 Conditions of approval

- (1) The local government may approve an application to keep an additional dog or dogs subject to any conditions as considered appropriate.*
- (2) Approval of an application is not transferable to successive owners or occupiers of the premises.*

3.7 Revocation of licence to keep additional dogs

Where a person does not comply with the conditions of approval to keep an additional dog or dogs under clause 3.6 the local government may revoke the approval to keep an additional dog or dogs.

PART 4- APPROVED KENNEL ESTABLISHMENTS

Removed - 4.1 – Interpretation- - all now included in clause 1.5

Renumbered remaining clauses and changed as follows:

4.1- Application for licence for approved kennel establishment:

Deleted previous clause and replaced with:

4.2 Notice of Proposed use

Changes to 4.2 (3)

Deleted:

Where –

- (a) the notices given under subclause (1) do not clearly identify the premises; or*
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,*

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

Replaced with

"The local government may refuse to determine the application for a licence until the notice or notices, as the case may be, is given in accordance with its directions where—

- (a) a notice given under subclause (1) does not clearly identify the premises; or*
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises".*

4.3 Exemption from the notice requirements**Deleted:**

Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a –

- (a) permitted use; or*
- (b) use which the local government may approve subject to compliance with specified notice requirements, under a local planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.*

Replaced with:

The requirements of clauses 4.2 and 4.4(a) and Schedule 1 clause 5(c) do not apply in respect of the application for a licence where under a local planning scheme an application for a licence is made in respect of premises on which an approved kennel establishment is either a—

- (a) permitted use; or*
- (b) use which the local government may approve subject to compliance with specified notice requirements.*

4.4 When application can be determined-**Changes to (b) and (c)- Section changes now read**

- (a) "the applicant submits proof that the notices referred to in clause 4.2(1) have been given in accordance with that clause; and*
- (b) the local government has considered any written submissions received within the time specified in clause 4.2(2)(a) on the proposed use of the premises.*

4.5 Determination of application

- (a) the matters referred to in clause 4.7; changed to 4.6
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises; **changed to** 4.2 (2) (a)

4.12 Transfer

Deleted:

- (1) An application for the transfer of a valid licence from the licensee to another person must be –*
 - (a) made in the form determined by the local government.*
 - (b) made by the transferee;*
 - (c) made with the written consent of the licensee; and*
 - (d) lodged with the local government together with –*
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and*
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.10(3).*
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).*
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate or refuse to approve an application for the transfer of a valid licence.*
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.*

Replaced with:

- (1) An written application for the transfer of a valid licence from the licensee to another person must be—
 - (a) made by the transferee;
 - (b) made with the written consent of the licensee; and
 - (c) lodged with the local government together with—
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence;
 - (ii) the set fee for the application for the transfer of a licence referred to in clause 4.8(3); and
 - (iii) any other relevant information required. any other relevant information required.
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).

- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.13(b), the transferee becomes the licensee of the licence for the purposes of this local law.

Added:**4.14 Objections and appeals**

- (1) *The provisions of Division 1 of Part 9 of the Local Government Act 1995 and regulation 33 of the Local Government (Functions and General) Regulations 1996 apply to a decision where the local government makes a decision as to whether it will—*
 - (a) *grant an application for a licence;*
 - (b) *vary or cancel a licence;*
 - (c) *impose or amend a condition to which a licence is subject; or*
 - (d) *transfer of a licence.*
- (2) *Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the local government.*

Part 5- DOGS IN PUBLIC PLACES**Deleted current clauses 5.1 and 5.2 and replaced with:****5.1 Places where dogs are prohibited absolutely- Removed all prohibited places, replaced with**

"Designation of places where dogs are prohibited absolutely is dealt with in the Act".

5.2 Places which are dog exercise areas- removed all exercise areas and replaced with

"Designation of places which are dog exercise areas is dealt with in the Act".

Part 6- MISCELLANEOUS**6.1 Offence to excrete changed to "Fees and Charges" added in**

"Set fees and charges are to be imposed and determined by the local government under sections 6.16 to 6.19 of the Local Government Act 1995".

6.2 changed to Offence to excrete added in

6.2 (4) - Notwithstanding clause 7.2, the maximum penalty for an offence under subclause (1) is \$1000.

Part 7- Enforcement**7.1 Interpretation removed and replaced with**

7.1 Offences-

A 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.

7.2 Modified penalties changed to General penalty added in

"A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of the day during which the offence has continued".

7.3 Issue of infringement notice changed to Modified penalties**7.2 2(b)- Removed****7.4 Failure to Pay Modified Penalty changed to 7.5****7.4 Changed to Issue of Infringement Notice.**

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 2 of Schedule 1 of the Local Government (Functions and General) Regulations 1996"

7.5 Payment of Modified penalty changed to 7.6**7.5 now Failure to pay modified penalty- changed to**

"Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by an authorised person, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty".

7.6 withdrawal of infringement notice changed to 7.7**7.6 now Payment of modified penalty****7.7 withdrawal of infringement notice now stating**

- (1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 3 of Schedule 1 of the Local Government (Functions and General) Regulations 1996.*
- (2) A person authorised to issue an infringement notice under clause 7.4 cannot sign or send a notice of withdrawal.*

7.7 Service now 7.8 Service of Notices

SCHEDULE 3Title changed from *Offences* to *Prescribed Offences***Deleted Existing table:**

<i>Offence</i>	<i>Nature of offence</i>	<i>Modified Penalty</i>	<i>Dangerous or Restricted Breed Dog Modified Penalty</i>
<i>2.4 (a)</i>	<i>Attempting to or causing the unauthorised release of a dog from a pound</i>	<i>200</i>	<i>400</i>
<i>2.4 (b)</i>	<i>Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs</i>	<i>200</i>	
<i>3.1</i>	<i>Failing to provide means for effectively confining a dog</i>	<i>100</i>	<i>200</i>
<i>5.1(2)</i>	<i>Dog in place which is prohibited absolutely</i>	<i>200</i>	<i>400</i>
<i>6.1 (2)</i>	<i>Dog excreting in prohibited place</i>	<i>40</i>	

Replaced with:

<i>Item</i>	<i>Clause</i>	<i>Nature of offence</i>	<i>Modified penalty \$</i>	<i>Dangerous Dog Modified Penalty \$</i>
<i>1</i>	<i>3.1</i>	<i>Failing to provide means for effectively confining a dog</i>	<i>200</i>	<i>As per Regulations</i>
<i>2</i>	<i>3.6</i>	<i>Failure to comply with conditions of approval to keep additional dog or dogs</i>	<i>200</i>	<i>500</i>
<i>3</i>	<i>4.7</i>	<i>Failure to comply with the conditions of a licence</i>	<i>100</i>	<i>200</i>
<i>4</i>	<i>6.2</i>	<i>Dog excreting in prohibited place</i>	<i>100</i>	<i>100</i>