

Dog Act 1976
Local Government Act 1995

CITY OF GOSNELLS
DOGS LOCAL LAW 2020

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Gosnells resolved on 11 February 2020 to make the following local law.

Part 1 — Preliminary

1.1 Citation

This local law may be cited as the *City of Gosnells Dogs Local Law 2020*.

1.2 Commencement

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

1.3 Repeal

The *City of Gosnells Dogs Local Law 2011* published in the *Government Gazette* on 6 July 2011 is repealed.

1.4 Interpretation

In this local law unless the context otherwise requires —

Act means the *Dog Act 1976*;

authorised person means a person appointed by the local government to perform all or any of the functions conferred on an authorised person under this local law;

dangerous dog has the meaning given to it in the Act;

district means the district of the local government;

local government means the City of Gosnells;

local planning scheme means a planning scheme of the local government made under the *Planning and Development Act 2005*;

pound means any dog management facility, or any replacement facility, established as a pound by the local government under section 11(1) of the Act;

premises has the meaning given to it in the Act;

Regulations means the *Dog Regulations 2013*;

Schedule means a Schedule to this local law; and

thoroughfare has the meaning given to it in the *Local Government Act 1995*.

1.5 Application

This local law applies throughout the district.

Part 2 — Impounding of dogs

2.1 Charges and costs

The following are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995* —

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of an authorised person at pound

An authorised person is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the local government.

2.3 Release of impounded dog

- (1) A claim for the release of a dog seized and impounded is to be made to an authorised person.
- (2) An authorised person is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the authorised person, evidence —
 - (a) of their ownership of the dog or of their authority to take delivery of it; or
 - (b) that they are the person identified as the owner on a microchip implanted in the dog.

Part 3 — Requirements and limitations on the keeping of dogs

3.1 Dogs to be confined

- (1) An occupier of premises on which a dog is kept must —
 - (a) cause a portion of the premises on which the dog is kept to be fenced or walled in a manner capable of confining the dog;
 - (b) ensure the fence or wall used to confine the dog and every gate or door in the fence or wall is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
 - (c) ensure that every gate or door in the fence or wall is kept closed at all times (unless the gate is temporarily opened in a manner that ensures the dog remains confined) and is fitted with a proper latch or other means of fastening it when the dog is on the premises;
 - (d) maintain the fence or wall and all gates and doors in the fence or wall in good order and condition; and

- (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) Where an occupier fails to comply with subclause (1), he or she commits an offence.
- (3) Notwithstanding subclauses (1) and (2) the confinement of dangerous dogs is dealt with in the Act and Regulations.

3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been —
 - (a) licensed under Part 4 as an approved kennel establishment; or
 - (b) granted an exemption under section 26(3) of the Act.
- (2) Where a property within the district has an area of less than 2,000 m² an owner or occupier of any premises on that property shall not keep on the property more than 2 dogs over the age of 3 months.
- (3) Where a property within the district has an area of 2,000 m² to 10,000 m², an owner or occupier of any premises on that property shall not keep on the property more than 3 dogs over the age of 3 months.
- (4) Where a property within the district has an area greater than 10,000 m², an owner or occupier of any premises on that property shall not keep on the property more than 4 dogs over the age of 3 months.
- (5) Notwithstanding the provisions of subclause (2), (3), and (4), an owner or occupier of a premise which is situated within that area of the district where kennels are permitted under any local planning scheme, may keep, without a kennel establishment licence, up to 4 dogs over the age of 3 months registered in compliance with the Act and the young of those dogs under that age.

Part 4 — Approved kennel establishments

4.1 Interpretation

In this Part and in Schedule 2—

licence means a licence to keep an approved kennel establishment on premises;

licensee means the holder of a licence;

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; and

transferee means a person who applies for the transfer of a licence to her or him under clause 4.11.

4.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the local government together with —

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and ensure their health and welfare;
- (c) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs which may be nominated from time to time by the local government; and
- (d) the fee for the application for a licence referred to in clause 4.7(1).

4.3 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 4.4;
- (b) any written submissions received on the proposed use of the premises;
- (c) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (d) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (e) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.4 Where application cannot be approved

The local government can not approve an application for a licence where —

- (a) an approved kennel establishment can not be permitted by the local government on the premises under a local planning scheme; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.5 Conditions of approval

- (1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.
- (2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

4.6 Compliance with conditions of approval

A licensee who does not comply with the conditions of a licence commits an offence under the Act and Regulations.

4.7 Fees

- (1) On lodging an application for a licence, the applicant is to pay a fee to the local government.
- (2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.
- (4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

4.8 Form of licence

The licence is to be in the form determined by the local government and is to be issued to the licensee.

4.9 Period of licence

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 4.7(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.10 Variation or cancellation of licence

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence —
 - (a) on the request of the licensee;
 - (b) following a breach of the Act, the Regulations or this local law; or
 - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of —
 - (a) paragraph (a) of subclause (2), the date requested by the licensee; or
 - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.
- (4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.11 Transfer

- (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 4.7(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 4.12(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.12 Notification

The local government is to give written notice to —

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.10(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.10(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.10(2), which notice is to be given in accordance with section 27(6) of the Act.

4.13 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) transfer a licence: or
 - (d) impose or amend a condition to which a licence is subject.
- (2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the local government.

4.14 Inspection of kennel

With the consent of the occupier, an authorised person may inspect an approved kennel establishment at any time.

Part 5 — Miscellaneous

5.1 Offence to excrete

- (1) A dog must not excrete on —
 - (a) any thoroughfare or other public place; or
 - (b) any land which is not a public place without the consent of the occupier.
- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.
- (3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.
- (4) Notwithstanding clause 6.2, the maximum penalty for an offence committed under this clause is \$1,000.

Part 6 — Enforcement

6.1 Interpretation

In this Part —

infringement notice means the notice referred to in clause 6.4; and

notice of withdrawal means the notice referred to in clause 6.7(1).

6.2 Offences and General Penalty

- (1) 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 a person is prohibited from doing, commits an offence.

- (2) A person who commits an offence under this local law is liable, on conviction, to a penalty not less than \$500 and 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.

6.3 Modified penalties

- (1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence.

6.4 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 8 of Schedule 1 of the Regulations.

6.5 Failure to pay modified penalty

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 the local government, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

6.6 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the local government, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

6.7 Withdrawal of infringement notice

- (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 9 of Schedule 1 of the Regulations.
- (2) A person authorised to issue an infringement notice under clause 6.4 cannot sign or send a notice of withdrawal.

6.8 Service

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

SCHEDULE 1 — APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

[clause 4.2]

I/We (full name/s)					
Postal Address					
				Post Code	
Phone No.		Email		Mobile.	
Apply for a licence for an approved kennel establishment at				(address of premises)	
For Number of dogs		Breed of dogs			
* (name of person)		Will be residing at the premises on and from			(insert date)
* (name of person)		Will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at			
(insert address)					
* (name of person)		Will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at			
(insert address of residence)					
On and from	(insert date)				

*** Only applicable section needs to be completed.**

Attached are:

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) documentary evidence that a person will reside—
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (d) if the person in item (c) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as
 ,in the keeping of dogs at the proposed kennel establishment.

Signature of applicantDate

Note: a licence if issued will have effect for a period of 12 months – section 27.5 of the Dog Act.

OFFICE USE ONLY

Application fee paid on _____[insert date].

SCHEDULE 2 — CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

[clause 4.5(1)]

An application for a licence for an approved kennel establishment may be approved subject to the following conditions —

- (a) each kennel must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than —
 - (i) 30m from the front boundary of the premises and 10m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 10m from any place of worship, school room, hall, factory, or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence a minimum of 1.8m in height constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be 2.5m² in area for each dog over the age of 3 months kept therein;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be —
 - (i) at least 100mm above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must discharge to a properly laid, ventilated and trapped drain in accordance with the health requirements of the local government;

- (g) all kennel floor washings must pass through the drains in item (f)(x) and must be piped to an approved apparatus for the treatment of sewage (as specified by the *Health (Treatment of Sewage and Disposal of Liquid Waste) Regulations 1974*) and in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or alternatively internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel shall be 2m;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheathed internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person;
- (o) all refuse, faeces and food waste must be disposed of daily to the satisfaction of an authorised person;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water both for cleaning and drinking must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside —
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

**SCHEDULE 3 — OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY
APPLIES**

[clause 6.2]

ITEM	CLAUSE	NATURE OF OFFENCE	MODIFIED PENALTY \$
1	3.1	Failing to provide means for effectively confining a dog.	150
2	5.1(2)	Dog excreting in a prohibited place	100

Dated 17/2/ 2020

The Common Seal of the City of Gosnells was affixed by authority of a resolution of the Council in the presence of:



DAVID GOODE JP
MAYOR



IAN COWIE PSM
CHIEF EXECUTIVE OFFICER