



CITY OF GOSNELLS

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KEEPING OF FARM ANIMALS

CITY OF GOSNELLS PUBLIC HEALTH LOCAL LAW 2017

Local Government Act 1995

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PART 1 – PRELIMINARY

1.5 Interpretation

(1) In this local law, unless the context specifies otherwise –

authorised person means a person authorised by the local government, under section 9.10 of the *Local Government Act 1995* to administer or enforce this local law;

Class 6 building means a Class 6 building as defined by the Building Code;

Class 9 building means a Class 9 building as defined by the Building Code;

cockroach means any of the various *Orthopterous* insects commonly known as cockroaches;

cow includes an ox, calf or bull;

district means the district of the City of Gosnells;

farm animal includes a horse, cow, sheep, goat, pig or other ungulate;

fertiliser includes manure;

food business has the meaning given to it by the *Food Act 2008*;

horse includes an ass, mule, donkey or pony;

land includes any building or structure on the land;

livestock means a farm animal;

livestock vehicle means a vehicle that contains livestock or previously has been used for the carriage of livestock;

local government means the City of Gosnells;

local planning scheme has the meaning given to it by the *Planning and Development Act 2005*;

lot has the meaning given to it by the *Planning and Development Act 2005*;

manure receptacle means a receptacle, of sufficient capacity to receive all manure produced in one week on premises upon which a farm animal or farm animals are kept, constructed of smooth, durable, impervious materials, fitted with a fly proof, hinged cover and with no part of the floor lower than the adjoining ground;

miniature horse means a horse whose maximum adult height does not exceed 863.6 millimetres and is classified as a miniature by the Miniature Horse Association of Australia;

miniature pig means a pig that does not exceed 650 millimetres in height as an adult and weighs less than 55 kilograms;

nuisance means –

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

occupier where used in relation to land means the person by whom or on whose behalf the land is actually occupied or, if there is no occupier, the person entitled to possession of the land;

Regulations means the *Local Government (Functions and General) Regulations 1996*;

residential building has the meaning given to it in the Residential Design Codes of Western Australia;

residential zone includes any area zoned “Residential” or “Residential Development” under a local planning scheme;

rodents means those animals belonging to the order *Rodentia* and includes rats and mice but does not include animals kept as pets in an enclosure designed for the purpose of keeping as pets, animals of that kind;

rural zone means any area zoned “General Rural” or “Special Rural” under a local planning scheme;

street means any highway or thoroughfare which the public are entitled to use, and includes every part of the highway or thoroughfare, including the verge and other things including bridges and culverts appurtenant to it;

vermin includes rats, mice, flies, fleas, mites, lice, cockroaches and any other animal, whether vertebrate or invertebrate, which is known to be a vector of disease or likely to cause damage to human food, habitation or possessions.

- (2) Any other expression used in this local law and not defined herein shall have the meaning given to it in the *Local Government Act 1995* or the *Health (Miscellaneous Provisions) Act 1911*.
- (3) Where under this local law the local government is authorised to carry out actions or cause works to be undertaken as a consequence of the failure of any person to comply with the terms of a notice or other conduct, the right to enter land is at all times subject to the provisions of Part 3, Division 3, Subdivision 3 of the *Local Government Act 1995*.

PART 2 – KEEPING OF ANIMALS

Division 2 – Keeping of farm animals

2.8 Keeping farm animals

- (1) Subject to clauses 2.9 and 2.10, an owner or occupier of premises in a residential zone shall not keep or permit to be kept on the premises more than 2 farm animals.
- (2) Subject to clauses 2.9 and 2.10, in a rural zone there is no limit on the number of farm animals that may be kept provided those animals are kept in accordance with the provisions of any local planning scheme applicable to that zone.

2.9 Conditions for keeping farm animals

The owner or occupier of premises upon which farm animals are kept shall-

- (1) Ensure that the area in which the farm animals are kept has a minimum cleared area of 150 square metres and the farm animals are prevented from approaching within 9 metres of any residential building on any other lot, Class 6 or 9 building, business premises or food business;
- (2) In the case of horses (other than miniature horses) or cows, ensure that the area in which the horses or cows are kept has a minimum area of one hectare and the horses or cows are prevented from approaching within 9 metres of any residential building on any other lot, Class 6 or 9 building, business premises or food business;
- (3) Take reasonable measures to -
 - (a) keep the premises free from excrement, filth, food waste and all other matter that is likely to become offensive or injurious to health or to attract rodents, vermin, or insects;
 - (b) keep the premises, as far as possible, free from flies or vermin, and when directed by an authorised person, spray the premises with residual insecticide or use any other effective means to kill and repel flies or vermin;
 - (c) ensure that the portion of the premises on which the farm animals are kept is fenced or walled in a manner capable of confining the animal and, having regard to the species, age, size and condition of the animal, capable of preventing the animal at all times from passing over, under or through it; and
 - (d) when directed by an authorised person, clean and disinfect the premises.

2.10 Keeping of pigs

- (1) Other than in a rural zone an owner or occupier of land shall not keep any pig other than a miniature pig.
- (2) An owner or occupier of premises in a rural zone shall not keep more than one pig other than a miniature pig and other than on premises registered as a

piggery pursuant to the provisions of the *Health (Miscellaneous Provisions) Act 1911*.

2.11 Requirements for farm animal shelters

Any stable, enclosure or shelter provided for the keeping of farm animals shall –

- (a) not be situated within 9 metres of any residential building on any other lot, Class 6 or 9 building, business premises or food business;
- (b) not be situated within one metre of any lot boundary;
- (c) provide adequate shelter, drainage and ventilation; and
- (d) when required by the local government have a separate stall for each animal.

2.12 Application for exemption for keeping farm animals

- (1) A person may apply in writing for an exemption from the conditions for keeping farm animals prescribed in clauses 2.8(1), 2.9(1), 2.9(2) or 2.10(2).
- (2) The application for an exemption should include –
 - (a) a statement outlining the reasons why an exemption is sought;
 - (b) the number of farm animals proposed to be kept; and
 - (c) a site plan showing lot size, location of enclosure, and the distance of the enclosure from any boundaries and buildings on adjoining lots.
- (3) Prior to granting an exemption, the local government shall take into account the opinions of the owners and occupiers of adjoining properties.
- (4) The local government may grant, with or without conditions, or refuse to grant an application for exemption received under this clause.
- (5) Where an exemption for the keeping of farm animals is granted subject to conditions, the holder of the exemption shall comply or cause compliance with those conditions.
- (6) A grant of exemption is personal to the applicant and applies only to the land described in the exemption.
- (7) The applicant shall notify the local government of any change in the circumstances on which the grant of an exemption was based as soon as the changes occur.
- (8) The grant of exemption can be withdrawn by the local government in the event that –
 - (a) the holder does not comply or cause compliance with the conditions;
 - (b) there is a change in the circumstances upon which the exemption was granted; or
 - (c) the animals subject to the exemption cause a nuisance.

PART 4 – DISPOSAL OF ANIMALS

4.1 Slaughter of animals

A person shall not slaughter any animal within the district unless –

- (a) the slaughter of an animal is at premises approved for that purpose; or
- (b) by owners or occupiers of rural properties preparing meat for their own consumption.

4.2 Disposal of dead animals

An owner or occupier of premises, other than a veterinary practice, on which there is a dead animal or bird shall dispose of it as soon as practicable and in a manner that does not create a nuisance.

PART 8 - ENFORCEMENT

Division 2 – Offences and penalties

Subdivision 1 - General

8.3 Offences and penalties

- (1) A person who –
 - (a) fails to do anything required or directed to be done under this local law;
 - (b) fails to comply with the requirements of a notice issued under this local law by an authorised person; or
 - (c) does anything which under this local law that person is prohibited from doing, commits an offence.

- (2) Where, under this local law, an act is required to be done or forbidden to be done in relation to any land or premises, the owner or occupier of the land or premises has the duty of causing to be done the act so required to be done, or of preventing from being done the act forbidden to be done.

- (3) A person who commits an offence under this local law is liable to a maximum penalty of \$5,000 and a maximum daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

Subdivision 2 – Infringement notices and modified penalties

8.4 Prescribed offences

- (4) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of Section 9.16(1) of the *Local Government Act 1995*.

- (5) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

8.5 Form of infringement notices

For the purposes of this local law –

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the *Local Government Act 1995* is that of Form 1 in Schedule 1 of the Regulations;
- (b) the form of the infringement notice given under section 9.16 of the *Local Government Act 1995* is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice given under section 9.20 of the *Local Government Act 1995* withdrawing an infringement notice is that of Form 3 in Schedule 1 of the Regulations.

SCHEDULE 1 - PRESCRIBED OFFENCES

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[Clause 8.4]

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY (\$)
9	2.8(1)	Keeping more than the permitted number of farm animals	150
10	2.9	Failing to comply with a condition for the keeping of farm animals	150
11	2.10(1)	Keeping a pig on land zoned anything other than rural	150
12	2.10(2)	Keeping more than one pig on land in a rural zone	150
13	2.11	Failure to comply with a requirement for a farm animal shelter	150
14	2.12(5)	Failure to comply with a condition of exemption for keeping a farm animal	150
39	8.1(3)	Failure to comply with a notice issued by the local government	1000