

City of Kalamunda

Dog Local Law 2021

Changes:

Title- changed from Shire of Kalamunda to City of Kalamunda

Dogs Local Law 2010 changed to Dogs Local Law 2021

'Arrangement'- removed- page 1

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PART 7— ENFORCEMENT

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SCHEDULE 1 – changed to INFORMATION REQUIRED FOR APPLICATION FOR A LICENCE
FOR AN APPROVED KENNEL ESTABLISHMENT

SCHEDULE 3 – title change to PRESCRIBED OFFENCES

Title changes from Shire of Kalamunda to City of Kalamunda

- 1.1 Citation- Local law title change to City of Kalamunda Dogs Local Law 2021
- 1.2 and 1.3 have changed around ‘Commencement and Application’
- 1.5 Interpretation changed to Definition

Added definitions-

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;

dangerous dog has the meaning given to it by section 3(1) of the Act;

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

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;

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;

Part 2- Impounding of Dog

2.1 Charges and costs – Fees and charges

2.2 title change to- Attendance of authorised person at dog management facility

Definition of pound changed to dog management facility.

2.4 'Unauthorised' release replaces 'No breaking into or destruction of pound

Unauthorised release of dogs is dealt with by section 43 of the Act.

Part 3- Keeping of dogs

3.2 Limitation on the number of dogs- reviewed and recommended by Community Safety

(2) the limit on the number of dogs which may be kept on any premises is for the purpose of section 26 (3) of the Act- REMOVE THE FOLLWING

(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.

The review found that (a) and (b) should be removed due to unnecessary change. The reasoning for obtaining an exemption should stay at any size property wanting/requiring the need to keep more than 2 dogs.

3.3 Application to keep additional dog or dogs- Added

(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.

Removed (2) and (3) in the proposed local laws as this was removed under S3.3 'Application to keep additional dog or dogs', - all properties wanting more than 2 dogs are required to have a multiple dog permit.

Added in (d)- in line with the current requirements to seek approval if the property is tenanted.

- (d) "In the case of a tenanted property provide written consent by either the landowner or their appointed property manager".

3.4- added- '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.
- (c) Where approval of the application will create a nuisance for the owners and occupiers of adjoining premises.

On the review it was determined that (c) is an assumption and Community safety already have appropriate procedures in place to investigate properties should we receive complaints of a nuisance

3.5 where application cannot be approved- added

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 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.

(a), (b) and (c) have been removed due to this no longer being relevant as all properties exceeding 2 dogs require a permit and replaced with;

- (a) It exceeds the limit (6) referred to in the Act.

3.6 Conditions of approval – added

- (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) A person who fails to comply with a condition imposed under subclause (1) commits an offence.

3.7 Revocation of licence to keep additional dogs- added

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

4.1 interpretation has been removed

4.1 Application for licence for approved kennel establishment

4.2 notice of proposed use

4.3 exemption from notice requirements

Have been covered in the Planning Development Application, it has been noted that this would be doubling up on actions already taken.

4.4 when application can be determined. Was 4.5

4.5 Determination of application. Was 4.6

4.6 Where application cannot be approved. Was 4.7

4.7 Conditions of approval. Was 4.8

4.8 Fees. Was 4.10

4.9 Form of licence. Was 4.11

4.10 Period of Licence. Was 4.12

4.11 Variation or cancellation. Was 4.13

4.12 Transfer. Was 4.14

4.13 Notification. Was 4.15

4.14 Objections and appeal- added

- (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.

4.15 Inspection of kennel- Was 4.16

Part 5- Dogs in Public Places

5.1 Places where dogs are prohibited absolutely- removed all prohibited areas from the local law as now determined by council resolution.

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

5.2 Places which are dog exercise areas- removed as per above.

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

Part 6- Miscellaneous

6.1 Fees and charges

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 Offence to excrete- was 6.1

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

Part 7- Enforcement

7.1 Interpretation -removed- Replaced with 'Offences'- added

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 Penalty- changed to General penalty

“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 an infringement notice changed to “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 if the dog is not a dangerous dog.
- (3) The amount appearing in the fifth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

7.3 Issue of infringement notice changed to 7.4

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*.

7.4 Failure to pay modified penalty changed to 7.5

7.5 Payment of modified penalty changed to 7.6

7.6 withdrawal of infringement notice changed to 7.7

- (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' changed to Service of Notices 7.8

Schedule 1- Form: Application for a licence for an approved kennel establishment

changed to information required for application for a licence for an approved kennel establishment.

Schedule 3 – Offences changed to 'Prescribed Offences'

Offence	Nature of Offence	Modified penalty	Dangerous or restricted breed dog modified penalty \$
2.4 (a)	Attempting to or causing the unauthorised release of a dog from the pound	200	400
2.4 (b)	Interfering with any pound or vehicle used for the purpose of catching, holding, or conveying dogs	200	
3.1	Failing to provide means for effectively confining a dog	100	200
4.9	Failing to comply with the conditions of a licence	100 and a daily penalty of 10	200 and a daily penalty of 20
5.1 (2)	Dog in place which is prohibited absolutely	200	400
6.1 (2)	Dog excreting in prohibited place	40	

'Prescribed Offences'- changed to

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

Dated: