Local Government Act 1995

Dog Act 1976

CITY OF NEDLANDS
DOGS LOCAL LAW 2023

Local Government Act 1995
Dog Act 1976

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Local Government Act 1995
Dog Act 1976

CITY OF NEDLANDS

DOGS LOCAL LAW 2023

Under the powers conferred by the *Local Government Act 1995*, the *Dog Act 1976* and under all other powers enabling it, the Council of the City of Nedlands resolved on 12 December 2023 to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Nedlands Dogs Local Law 2023.*

1.2 Repeal

The *City of Nedlands Dogs Local Law 2012* published in the *Government Gazette* on 11 October 2012 and amended in the *Government Gazette* on 5 July 2013 is repealed.

1.3 Definitions

In this local law unless the context otherwise requires -

Act means the *Dog Act 1976*;

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

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

local government means the City of Nedlands;

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

Regulations means the *Dog Regulations 2013*;

Schedule means a schedule in this local law; and

thoroughfare has the meaning given to it in section 1.4 of the *Local Government Act 1995.*

1.4 Application

This local law applies throughout the district

PART 2 - REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

2.1 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 in a manner capable of confining the dog;

(b) ensure the fence used to confine the dog and every gate or door in the fence 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 is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) and is fitted with a proper latch or other means of fastening it;

(d) maintain the fence and all gates and doors in the fence 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.

2.2 Limitation on the number of dogs

(1) This clause does not apply to premises which have been -

(a) licensed under Part 3 as an approved kennel establishment;

(b) granted an exemption under section 26(3) of the Act; or

(c) established as a veterinary hospital or a veterinary clinic.

(2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act is two (2) dogs over the age of 3 months and the young of those dogs under that age unless—

(a) the premises are on land situated within a part of the district where kennels are permissible under a Local Planning Scheme of the City; and

(b) the premises are licensed as an approved kennel establishment.

PART 3 - APPROVED KENNEL ESTABLISHMENTS

3.1 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 3.14.

3.2 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) evidence of planning approval obtained from the local government:
(b) plans and specifications of the kennel establishment, including a site plan;
(c) copies of the notices to be given under clause 3.3;
(d) 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 so as to ensure their health and welfare;
(e) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government; and
(f) the fee for the application for a licence referred to in clause 3.10.

3.3 Notice of proposed use

(1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged –

(a) once in a newspaper circulating in the district; and
(b) to the owners and occupiers of any premises adjoining the premises.

(2) The notices in subclause (1) must specify that -

(a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
(b) the application and plans and specifications may be inspected at the offices of the local government.

(3) 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.

3.4 Exemption from notice requirements

(1) 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 3.2(c), 3.3 and 3.5(c) do not apply in respect of the application for a licence.

(2) The local government may require advertising of an application as part of the planning process.

3.5 When application can be determined

An application for a licence is not to be determined by the local government until –

(a) planning approval has been given by the local government;

(b) the applicant has complied with clause 3.2;

(c) the applicant submits proof that the notices referred to in clause 3.3(1) have been given in accordance with that clause; and

(d) the local government has considered any written submissions received within the time specified in clause 3.3(2)(a) on the proposed use of the premises.

3.6 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 3.7;

(b) any written submissions received within the time specified in clause 3.3(2)(a) on the proposed use of the premises;

(c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;

(d) the effect which the approved kennel establishment may have on the environment or amenity of the neighbourhood;

(e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and

(f) 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.

3.7 Where application cannot be approved

The local government cannot approve an application for a licence where -

(a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme unless prior valid planning approval has been issued by the local government and the application for a licence is consistent with that approval; 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.

3.8 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.

3.9 Compliance with conditions of approval

Penalties applicable where a licensee does not comply with the conditions of a licence are contained in the Act and Regulations.

3.10 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 6.15 to 6.19 of the *Local Government Act 1995*.

3.11 Form of licence

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

3.12 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 3.10(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.

3.13 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.

3.14 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 3.10(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 3.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

3.15 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 3.13(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 3.13(2)(a); and
(g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 3.13(2), which notice is to be given in accordance with section 27(6) of the Act.

3.16 Inspection of kennel

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

PART 4 - MISCELLANEOUS

4.1 Offence to excrete

(1) A dog must not excrete on –
(a) any thoroughfare, any dog exercise area 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.

PART 5 - ENFORCEMENT

5.1 Interpretation

In this Part -

infringement notice means the notice referred to in clause 5.3; and

notice of withdrawal means the notice referred to in clause 5.7(1).

5.2 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 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.

5.3 Modified penalties

The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.

5.4 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 the First Schedule of the Regulations.

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

5.6 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 CEO, 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.

5.7 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 the First Schedule of the Regulations.

(2) A person authorised to issue an infringement notice under clause 5.4 cannot sign or send a notice of withdrawal.

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

(clause 3.2)

DOGS LOCAL LAW 2023

I/we (full name) .....

of (postal address) .....

(telephone number) .....

(facsimile number) .....

(E-mail address) .....

Apply for a licence for an approved kennel establishment at (address of premises) .....

.....

For (number and breed of dogs) .....

* (insert name of person) ..... will be residing at the premises on and from (insert date) .....

* (insert 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).

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) copy of notice of proposed use to appear in newspaper;
(d) copy of notice of proposed use to be given to adjoining premises;
(e) written 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
(f) if the person in item (e) 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 applicant .....

Date .....

* delete where inapplicable.

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 3.8(1))

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

(a) each kennel, unless it is fully enclosed, must have a yard attached to it;

(b) each kennel and each yard must be at a distance of not less than -

(i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
(ii) 10m from any dwelling; and
(iii) 25m from any church, school room, hall, factory, dairy 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 constructed of link mesh or netting or other materials approved by the local government;

(d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;

(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 lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;

(g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage 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 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 must be, whichever is the lesser of -

(i) 2m; or
(ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;

(k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted 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 into the approved apparatus for the treatment of sewage;

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

(q) suitable water 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 5.3)

Offence	Nature of offence	Modified penalty $
2.1	Failing to provide means for effectively confining a dog	200
4.1(2)	Dog excreting in prohibited place	200

Dated 13 February 2024

The Common Seal of the City of Nedlands was affixed by authority of a resolution of the Council in the presence of –

Fiona Argyle
Mayor

No 1028

Tony Free
Acting Chief Executive Officer