



CITY OF GOSNELLS

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KEEPING OF POULTRY & PIGEONS

CITY OF GOSNELLS PUBLIC HEALTH LOCAL LAW 2017

Local Government Act 1995

CITY OF GOSNELLS PUBLIC HEALTH LOCAL LAW 2017

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;

aviary bird means any bird, other than poultry or pigeons, kept or usually kept in an aviary or cage;

birds includes poultry;

district means the district of the City of Gosnells;

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

land includes any building or structure on the land;

local government means the City of Gosnells;

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;

pigeon includes homing pigeons and other domesticated breeds of the species *Columba livia*, but does not include native pigeons or doves whether or not the keeping of such birds is subject to the approval of the Department of Biodiversity, Conservation and Attractions;

poultry includes fowls, roosters, ducks, peafowls, turkeys, geese, guinea fowls, pheasants and other birds commonly kept for the production of eggs or meat for domestic consumption;

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;

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;

unreasonable noise has the meaning given to it by the *Environmental Protection Act 1986*;

- (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 1 – Keeping of birds

2.1 Keeping of poultry and pigeons in a residential zone

Subject to clause 2.4, an owner or occupier of premises in a residential zone shall not keep or permit to be kept on the premises –

- (a) more than 6 poultry; or
- (b) more than 20 pigeons.

2.2 Conditions for keeping of poultry

A person who keeps poultry or permits poultry to be kept shall ensure that –

- (a) no poultry shall be kept less than 9 metres from any residential building on any other lot;
- (b) no poultry is able to approach within 9 metres of a public street, public building, commercial premises or food business; and
- (c) all structures or enclosures within which poultry are kept are maintained at all times in a clean condition.

2.3 Conditions for keeping of pigeons

A person who keeps pigeons or permits pigeons to be kept shall ensure that –

- (a) all pigeons are kept in a properly constructed pigeon loft, except where registered homing pigeons are freed for exercise;
- (b) all structures or enclosures within which pigeons are kept are maintained at all times in a clean condition;
- (c) no opening to a pigeon loft, including openings for ventilation, is within 9 metres of any residential building on any other lot;
- (d) no opening to a pigeon loft, including openings for ventilation, is within 9 metres of a public street, public building, commercial premises or food business.

2.4 Roosters, geese, turkeys and peafowl

Except on land in a rural zone or kennels zone an owner or occupier of premises shall not keep or permit to be kept any –

- (a) roosters;
- (b) geese or ganders;
- (c) turkeys; or
- (d) peacocks or peahens.

2.5 Conditions for keeping of aviary birds

A person who keeps, or permits to be kept, aviary birds shall ensure that –

- (a) the aviary or cage is kept in a clean condition and good repair at all times;
- (b) the aviary or cage in which the birds are kept is located at least 1 metre from any lot boundary and at least 5 metres from a residential building on any other lot.

2.6 Nuisance caused by birds

An owner or occupier of land shall not keep any bird or birds which –

- (a) are or create a nuisance; or
- (b) emit an unreasonable noise.

2.7 Application for exemption for keeping of birds

- (1) A person may apply in writing for an exemption to compliance with the conditions in clauses 2.1, 2.2(a), 2.2(b), 2.3(c), 2.3(d) or 2.5(b).
- (2) The application for an exemption should include:
 - (a) a statement outlining the reasons why an exemption is sought;
 - (b) the number of birds proposed to be kept;
 - (c) a site plan showing lot size, location of enclosure, and the distance of the enclosure from any boundaries and buildings on adjoining lots; and
 - (d) proof of membership of a poultry or pigeon club (if applicable).
- (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 birds 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 change occurs.
- (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 birds 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

- (1) 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*.

- (2) 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

[Clause 8.4]

| ITEM | CLAUSE | DESCRIPTION | MODIFIED PENALTY (\$) |
|------|--------|--|-----------------------|
| 1 | 2.1 | Keeping more than the permitted number of poultry or pigeons in a residential zone | 150 |
| 2 | 2.2 | Failure to comply with condition for keeping of poultry | 150 |
| 3 | 2.3 | Failure to comply with condition for keeping of pigeons | 150 |
| 4 | 2.4 | Keeping a rooster, goose or gander, turkey, peacock or peahen in other than a rural zone or kennels zone | 150 |
| 5 | 2.5 | Failure to comply with conditions for keeping of aviary birds | 150 |
| 6 | 2.6(a) | Permitting a bird or birds to cause a nuisance | 150 |
| 7 | 2.6(b) | Permitting a bird or birds to emit an unreasonable noise | 150 |
| 8 | 2.7(5) | Failure to comply with conditions of exemption for keeping of birds | 150 |
| 39 | 8.1(3) | Failure to comply with a notice issued by the local government | 250 |