

CITY OF CANNING

DOG ACT 1976
LOCAL GOVERNMENT ACT 1995

DOG LOCAL LAW 2021

LOCAL GOVERNMENT ACT 1995

PARKING AMENDMENT LOCAL LAW 2021

**DOG ACT 1976
LOCAL GOVERNMENT ACT 1995**

CITY OF CANNING

DOG LOCAL LAW 2021

TABLE OF CONTENTS

PART 1—PRELIMINARY

- 1.1 Title
- 1.2 Commencement
- 1.3 Application
- 1.4 Repeal
- 1.5 Terms used

PART 2—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

- 2.1 Dogs to be confined
- 2.2 Limitation on the number of dogs

PART 3—APPROVED KENNEL ESTABLISHMENTS

- 3.1 Terms used
- 3.2 Application for licence for approved kennel establishment
- 3.3 Notice of proposed use
- 3.4 Exemption from notice requirements
- 3.5 When application can be determined
- 3.6 Determining an application
- 3.7 Where an application cannot be granted
- 3.8 Decision on an application
- 3.9 Compliance with conditions of a licence
- 3.10 Fees
- 3.11 Period of a licence
- 3.12 Variation or cancellation of a licence
- 3.13 Transfer of a licence
- 3.14 Notification
- 3.15 Inspection of kennel

PART 4—MISCELLANEOUS

- 4.1 Offence to excrete

PART 5—ENFORCEMENT

- 5.1 Interpretation
- 5.2 Offences
- 5.3 Prescribed offences
- 5.4 Issue of infringement notice
- 5.5 Failure to pay modified penalty
- 5.6 Payment of modified penalty
- 5.7 Withdrawal of infringement notice

SCHEDULE 1—PRESCRIBED OFFENCES

**DOG ACT 1976
LOCAL GOVERNMENT ACT 1995**

CITY OF CANNING

DOG LOCAL LAW 2021

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 Canning resolved on 16 March 2021 to make the following local law.

PART 1—PRELIMINARY

1.1 Title

This is the *City of Canning Dog Local Law 2021*.

1.2 Commencement

This local law comes into operation 14 days after the day on which it is published in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

Part VI of the *City of Canning Consolidated Local Laws* published in the *Government Gazette* on 31 March 2000, is repealed.

1.5 Terms used

(1) 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 under section 29(1) of the Act, or appointed under section 9.10 of the *Local Government Act 1995*, to perform any of the functions of an authorised person under this local law;

CEO means the Chief Executive Officer of the local government;

dangerous dog has the meaning in section 3(1) of the Act;

district means the district of the local government;

local government means the City of Canning;

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 to this local law; and

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

(2) A term that is used in this local law and is not defined in subclause (1) has the meaning in the Act or, if not defined in the Act, the meaning in the *Local Government Act 1995*.

PART 2—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

2.1 Dogs to be confined

(1) This clause does not apply to the confinement of a dangerous dog (which is dealt with in the Act and Regulations).

(2) An occupier of premises on which a dog is kept must ensure—

(a) that each portion of the premises on which the dog is kept is fenced in a manner capable of confining the dog;

(b) that the fence used to confine the dog and each 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) 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) that the fence, and each gate or door in the fence, is maintained in good order and condition;
- (e) that the fence is erected and maintained in accordance with the provisions of the *City of Canning Fencing Local Law 2021*; and
- (f) 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—that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

(3) An occupier who fails to comply with subclause (2) commits an offence.

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) For the purpose of section 26(4) of the Act, the limit on the number of dogs which may be kept in or at any premises is, 2 dogs over the age of 3 months and the young of those dogs under that age.

PART 3—APPROVED KENNEL ESTABLISHMENTS

3.1 Terms used

In this Part, unless the context otherwise requires—

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 3.13.

3.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form approved by the local government and must be lodged with the local government together with—

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 3.3;
- (c) 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;
- (d) 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
- (e) the fee for the application for a licence referred to in clause 3.10(1).

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) each notice given under subclause (1) does 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,

the local government may refuse to determine the application for a licence until each notice is given in accordance with its directions.

3.4 Exemption from notice requirements

The requirements of clauses 3.2(b), 3.3 and 3.5(c) do not apply in respect of the application for a licence if the application is made in respect of premises on which an approved kennel establishment is either—

- (a) a permitted use under a planning scheme; or
- (b) a use which, under a planning scheme, the local government may approve subject to compliance with specified notice requirements.

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 (if required) has been given by the local government;
- (b) the applicant has complied with clause 3.2;
- (c) unless clause 3.4 applies—
 - (i) the applicant submits proof that the notices referred to in clause 3.3(1) have been given in accordance with that clause; and
 - (ii) 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 Determining an 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;
- (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; and
- (g) any other matters that the local government considers to be relevant in the circumstances of the application.

3.7 Where an application cannot be granted

The local government cannot grant 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 Decision on an application

(1) The local government may, in respect of an application for a licence—

- (a) grant the application, unconditionally or subject to any conditions that it considers appropriate; or
- (b) refuse to grant the application.

(2) If the local government grants the application subject to conditions, those conditions may relate to matters such as—

- (a) the location, number, type, form or construction, of a kennel or yard;
- (b) the maintenance, in good order and in a clean and sanitary condition, of the kennel establishment;
- (c) the type and construction of any fencing used to confine dogs;
- (d) the maintenance, cleaning and sanitising of drinking and eating vessels;
- (e) the appropriate disposal of all refuse, faeces and food waste;
- (f) the effective control of odours, fleas and flies; and
- (g) the provision of suitable water available at the kennel establishment.

(3) If the local government grants the application, it is to issue a licence to the applicant in the form determined by the CEO.

(4) If the local government refuses to grant the application, it must advise the applicant in writing of its decision.

3.9 Compliance with conditions of a licence

A licensee who does not comply with the conditions of a licence is subject to the penalties under the Act and Regulations.

3.10 Fees

(1) On lodging an application for a licence, the applicant must pay a fee to the local government.

(2) On the issue or renewal of a licence, the licensee must pay a fee to the local government.

(3) On lodging an application for the transfer of a valid licence, the transferee must pay a fee to the local government.

(4) The fees referred to in subclauses (1) to (3) are to be determined by the local government under sections 6.15 to 6.19 of the *Local Government Act 1995*.

3.11 Period of a licence

- (1) A licence has effect for the period 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.

3.12 Variation or cancellation of a licence

- (1) The local government may, at any time, vary the conditions of a licence by giving written notice to the licensee and specifying the date on which the varied conditions are to become effective.
- (2) The local government may cancel a licence—
 - (a) on the request of the licensee; or
 - (b) if the local government is dissatisfied with the conduct of the establishment, such as, if the licensee breaches the Act, the Regulations or this local law.
- (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) paragraph (b) 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.

3.13 Transfer of a licence

- (1) An application for the transfer of a valid licence from the licensee to another person (*transferee*) 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 either the transferee or another person who will have 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; 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, in respect of an application for the transfer of a valid licence—
 - (a) grant the application, whether or not subject to any conditions that it considers appropriate; or
 - (b) refuse to grant the application.
- (4) Where the local government grants an application for the transfer of a valid licence, then on the date of the grant, unless otherwise specified in the notice issued under clause 3.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

3.14 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 3.12(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 3.12(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraph (b) of clause 3.12(2), which notice is to be given in accordance with section 27(6) of the Act.

3.15 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 the excreta is removed immediately by that person.

(4) Notwithstanding clause 5.2, the penalty for an offence under this clause is \$1000.

PART 5—ENFORCEMENT

5.1 Interpretation

In this Part—

infringement notice means the notice referred to in clause 5.4; and

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

5.2 Offences

(1) A person who fails to do anything required 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 exceeding \$5,000 and, if the offence is of a continuing nature, to a further penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

5.3 Prescribed offences

(1) The offences contained in Schedule 1 are offences in relation to which a modified penalty may be imposed.

(2) The amount appearing in the final column of Schedule 1 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

5.4 Issue of infringement notice

An authorised person who has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, may issue to that person a notice in the form of Form 8 in Schedule 1 to the Regulations.

5.5 Failure to pay modified penalty

A person who has received an infringement notice and who 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 in Schedule 1 to 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—PRESCRIBED OFFENCES

[Clause 5.3]

Item No.	Clause No.	Nature of Offence	Modified Penalty
1	2.1(2)	Failing to provide means for effectively confining a dog	\$250
2	4.1(2)	Dog excreting in prohibited place	\$100

Dated this 19th of March 2021.

The Common Seal of the City of Canning was affixed by authority of a resolution of the Council in the presence of—

PATRICK HALL, Mayor.
ATHANASIOS KYRON, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

CITY OF CANNING

PARKING AMENDMENT LOCAL LAW 2021

Under the powers conferred by the *Local Government Act 1995*, and all other powers enabling it, the Council of the City of Canning resolved on 16 March 2021 to make the following local law.

1. Citation

This local law is cited as the *City of Canning Parking Amendment Local Law 2021*.

2. Commencement

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

3. Principal local law

This local law amends the *City of Canning Parking Local Law 2010*, published in the *Government Gazette* on 17 December 2010.

4. Clause 1.5 amended

In clause 1.5—

- (a) delete the definition of “**ACROD sticker**”;
- (b) in the appropriate alphabetical position, insert—
“**disability parking permit**” has the meaning given in the *Local Government (Parking for People with Disabilities) Regulations 2014*; and
- (c) in the definition of “**sign**”, add the words ‘yellow or white line,’ after ‘mark,’.

5. Clause 5.9(3) replaced

Clause 5.9(3) is replaced with—

- (3) A driver may park a vehicle in a parking bay (except in a parking area for people with disabilities) for twice the length of time allowed, provided that—
 - (a) the driver’s vehicle displays a disability parking permit; and
 - (b) a person with disabilities to which that disability parking permit relates is either the driver of or a passenger in the vehicle.

6. Clause 6.2(1) replaced

Clause 6.2(1) is replaced with—

- (1) This clause applies to a driver if—
 - (a) the driver’s vehicle displays a disability parking permit; and
 - (b) a person with a disability is either the driver or a passenger in the vehicle.

7. Clause 6.11(1) amended

In clause 6.11(1) replace ‘form’ with ‘from’.

8. Clause 9.2(3) replaced

Clause 9.2(3) is replaced with—

- (3) Any person who commits an offence under this local law shall be liable, upon 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.

9. Schedule 2 amended

In the fourth column of the table in Schedule 2—

- (a) replace all instances of ‘60’ with ‘100’ and
- (b) replace all instances of ‘80’ with ‘120’.

10. Schedule 3 amended

In Forms 1, 2 and 3 of Schedule 3, replace *'Local Government (Parking for Disabled Persons) Regulations 1988'* with *'Local Government (Parking for People with Disabilities) Regulations 2014'*.

Dated this 19th of March 2021.

The Common Seal of the City of Canning was affixed by authority of a resolution of the Council in the presence of—

PATRICK HALL, Mayor.
ATHANASIOS KYRON, Chief Executive Officer.
