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CITY OF NEDLANDS

LOCAL GOVERNMENT ACT 1995

THOROUGHFARES LOCAL LAW

DOG ACT 1976

DOGS LOCAL LAW

LOCAL GOVERNMENT ACT 1995

CITY OF NEDLANDS

THOROUGHFARES LOCAL LAW

Under the powers conferred by the *Local Government Act 1995* and by all other powers, the Council of the City of Nedlands resolved to make the following Local Law on the 24th day of October 2000.

PART 1—PRELIMINARY**1. Citation**

This Local Law may be cited as the *City of Nedlands Thoroughfares Local Law*.

2. Repeal

The following Local Laws are repealed—

- By-laws Relating to Street Lawns and Gardens and the Laying of Pipes Under Carriageways published in the *Government Gazette* 26 February 1982 and amended on 23 December 1994;
- By-laws Relating to Animals and Vehicles on Roads and the Deposit of Rubbish and Other Materials on Streets and Public Places published in the *Government Gazette* 12 March 1963 and amended on 9 October 1981; and
- By-laws Relating to the Prevention of Damage to Footpaths, Verges and Rights of Way published in the *Government Gazette* on 17 March 1989.

3. Operation

This Local Law will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.

4. Application

This Local Law applies throughout the district.

5. Interpretation

In this Local Law, unless the context otherwise requires—

“Act” means the *Local Government Act 1995*;

“adjacent owner” means the owner of any property or lot adjoining a street verge which is subject to a verge treatment;

“authorised person” means a person authorised by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

“carriageway” means a portion of a road that is improved, designed or ordinarily used for vehicular traffic, and includes the shoulders, and areas, including embayments, at the side or centre of the road, for the standing or parking of vehicles, but does not include a lane, right of way or driveway;

“CEO” means the Chief Executive Officer or Acting Chief Executive Officer of the City of Nedlands;

“Council” means the Council of the City of Nedlands;

“crossover” means a constructed pavement giving access from a carriageway to private land;

“footpath” means a path or shared path that is used or intended for use by pedestrians or cyclists and includes use by disabled persons in wheelchairs or motorised wheelchairs;

“garden” means an area of a street which is planted, developed or treated otherwise than as a lawn but does not include any development or treatment which involved the construction of works in a street within the meaning of Schedule 9.1 of the *Local Government Act 1995*;

“intersection” means the area comprised within imaginary straight lines joining in succession the points of transection of the property lines of two or more roads that meet each other. Where the property lines are curved at any corner, the point of transection of the property lines shall be regarded as the point on the curve nearest to the point at which those property lines, if extended in straight lines from each end of the curve, would meet;

“junction” means that part of a road lying between imaginary straight lines at right angles to the road commencing from the point of transection formed by its own property lines with the property lines of a road which abuts thereon. Where the property lines are curved at any corner, the point of transection formed by the property lines shall be determined in the same manner as is provided in the definition of “intersection”;

“kerb” means the concrete strip used to protect and define the edge of a carriageway;

- “lawn” means an area of a street which is planted solely with grass and which comprises no other landscaping feature other than a tree or shrub planted by the City;
- “local government” means the local government of the City of Nedlands;
- “permit” means written authorisation from the CEO or an Officer of the City of Nedlands;
- “property line” means the boundary between the land comprising a street and the land that abuts thereon;
- “public place” means any thoroughfare or place which the public are allowed to use, whether the thoroughfare or place is or is not on private property and includes parklands, squares, reserves, beaches, and other lands set apart for the use and enjoyment of the public, including all lands which belong to or which are vested in, or are under the care, control or management of the local government;
- “right of way” means a right of way described in Part VIII Section 167A of the *Transfer of Land Act 1893-1972*;
- “road” means any highway, road, street, land, thoroughfare, right of way, cul-de-sac or similar place which the public are allowed to use, and includes all of the land lying between the property lines, including the street verge and footpath adjacent to it;
- “road crossing” means a trench excavated across a carriageway, verge or footpath for installing public utilities, drainage or reticulation;
- “standard crossover” means a crossover with the standard dimensions of 2.75 metres wide at the boundary line and 4.5 metres wide at the kerb line, and, constructed to comply with the Council Crossover Specification;
- “street” includes a carriageway—which the public are allowed to use, and includes every part of the carriageway;
- “thoroughfare” means a road or other thoroughfare and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end;
- “vehicle” includes every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; but excludes wheel chairs designed for use by a physically impaired person on a footpath; and a pram or similar device; and
- “verge” means that portion of the street between the property line and the carriageway;
- 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*.

PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

Division 1—General

6. General prohibitions

A person shall not—

- (a) plant any plant which may grow to a height that will cause an obstruction to visibility for pedestrians, cyclists or motorists;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless—
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the written authority of the local government;
- (c) interfere with pedestrian and vehicular access on thoroughfares;
- (d) throw, place or deposit any obstruction, box, case, crate, bottle, coal, timber, brick or other material on or in any public place unless the person is acting under the written authority of the local government;
- (e) break up, damage, or destroy any street, way, footpath or other public place;
- (f) place on any footpath any substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (g) drain or discharge water from private property onto a carriageway or footpath;
- (h) cause any obstruction to a water channel or drainage course in a thoroughfare;
- (i) leave an animal or vehicle or any part of a vehicle in a public place so as to obstruct any portion of that place;
- (j) construct or use anything on, under or over a thoroughfare;
- (k) unless at the direction of the local government, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law; or
- (l) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device.

7. Activities allowed with a permit—general

(1) A person shall not, without a permit—

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only during the period of time advertised in connection with that collection by the local government;
- (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
- (d) fell any tree onto a thoroughfare;
- (e) unless installing a permissible verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, woodchips, bark or sawdust;
- (f) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare; or
- (g) interfere with the soil of, or take anything from a thoroughfare.

(2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

PART 3—STREET LAWNS AND GARDENS*Division 1—Permissible Verge Developments***8. Existing verge developments**

Where before the coming into operation of this local law a garden has been planted in a street the owner or occupier of the land that abuts on that portion of the street in which that garden is planted shall ensure that the garden complies with the provisions of this local law but is not required to obtain a permit pursuant to this local law.

9. Items for which a permit is not required

A permit is not required from the local government for planting lawn on verges.

10. Items for which a permit is required

(1) A person shall not plant a garden in a street, except pursuant to a permit issued by the City and then only in conformity with this Local Law.

(2) The City shall not issue a permit for the planting of a garden in any portion of a street, except on the application of the owner or occupier of that land that abuts on that portion of the street.

(3) A person requiring a permit to plant a garden on a verge shall submit to the City a sketch plan setting out details of the proposed garden and the positions of the proposed garden beds and any species of trees or shrubs proposed to be planted.

(4) A permit issued for the purposes of this Local Law shall be issued by the CEO or his/her nominee and may contain such conditions as the CEO or his/her nominees consider appropriate.

(5) A person shall not plant a garden beyond the verge in respect of which the permit is issued.

(6) All verges shall be graded from the property line of the land abutting on that portion of the street to the kerb of the carriageway and in accordance with the general ground levels pertaining to that street.

11. Laying of irrigation pipes under street lawns or gardens

(1) The owner or occupier of land abutting on a portion of a street in which a lawn or garden is planted shall ensure that any water pipe laid under that lawn or garden—

- (a) is laid and kept beneath the surface of the street, at a depth of not more than 300mm nor less than 150mm and so that any fitting connected to a pipe does not project unreasonably above the surface of the lawn or garden;
- (b) if connected to a public water supply, is laid to comply with the requirements of the body constituted for, and having control of that supply;
- (c) if connected to a private water supply, where passing under road, pavement, made footpaths or crossings, is of galvanised iron, PVC or of copper; and
- (d) has approved valves, located within the property where they are connected to the water supply and is fitted so as to give complete control of the flow of water from that supply.

(2) Where a person, in the course of laying pipes pursuant to this Local Law causes damage to any road, pavement, footpath or crossing, or to any water, gas or sewerage pipes, to any power or telephone cables or to a fire hydrant, that damage may be made good, by the authority having the control of the thing damaged at the expense of that person or of the person on whose behalf the pipes were laid, and the amount of that expense may be recovered in a court of competent jurisdiction.

12. Watering of lawns

A person shall not water a street lawn or garden in such a manner as will, or may, occasion inconvenience to persons using the adjoining carriageway or footpath.

13. Restrictions on verge development

(1) A person shall not plant or keep any shrub in a garden in a street if that shrub is of a height or of a variety likely to grow to a height that will cause an obstruction of visibility for pedestrians, cyclists or motorists.

(2) Nothing in this Local Law authorises a person to place or erect any fence, bore, well, enclosure or other obstruction on, or about, a lawn or garden in a street.

14. Obligations of owner or occupier

(1) An owner or occupier who installs or maintains a verge development shall—

(a) keep the verge development in a good and tidy condition and ensure, where the verge development is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;

(b) not place any obstruction on or around the verge treatment; and

(c) not disturb a footpath on the verge.

(2) The City shall not be liable for any damage sustained by a person by reason of, or arising out of, the planting, or existence, of a lawn or garden in a street.

15. Power to carry out public works on verge

Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority—

(a) is not liable to compensate any person for that disturbance;

(b) may backfill with sand, if necessary, any garden or lawn; and

(c) is not liable to replace or restore any—

(i) verge development and, in particular, any plant or hard surface; or

(ii) sprinklers, pipes or other reticulation equipment.

PART 4—FOOTPATHS, CROSSOVERS AND RIGHTS OF WAY

Division 1—Works on thoroughfares

16. Works on thoroughfares

A person shall not carry out any works in a thoroughfare or public place without first obtaining a permit from the local government, in accordance with regulation 17 of the *Local Government (Uniform Local Provisions) Regulations 1996*, unless otherwise provided for in this Part.

17. Permission from the local government for works on thoroughfares

(1) The local government may—

(a) grant a permit to construct anything on, over or under a public thoroughfare or other public place that is local government property; and

(b) impose conditions in respect of the permit, which may include a condition imposing a charge for any damage to the public thoroughfare or public place resulting from the construction.

(2) A person who constructs anything in accordance with a permit from the local government is required to—

(a) maintain it;

(b) obtain from any insurance company approved by the local government, an insurance policy, in the joint names of the local government and the person, indemnifying the local government against any claim for damages which may arise in, or out of, its construction, maintenance or use; and

(c) make good all damage caused to the verge, carriageway, footpath, drains, kerb and right-of-way during the whole of the time the works are in progress.

(3) A person who fails to comply with a condition of the permit commits an offence.

Division 2—Vehicle crossovers

Subdivision 1—Temporary crossovers

18. Temporary crossovers

(1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works shall obtain a permit for the construction of a temporary crossover to protect the existing carriageway, kerb, drains and footpath, where—

(a) a crossover does not exist; or

(b) a crossover does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossover.

(2) The “person responsible for the works” in subclause (1) is to be taken to be—

(a) the builder named on the building licence issued under the *Local Government (Miscellaneous Provisions) Act 1960*, if one has been issued in relation to the works; or

(b) the registered proprietor of the lot, if no building licence has been issued under the *Local Government (Miscellaneous Provisions) Act 1960* in relation to the works.

(3) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that until such time as the temporary crossover is removed, the permit holder shall keep the temporary crossover in good repair and in such condition so as to not create any danger or obstruction to persons using the thoroughfare.

19. Removal of redundant temporary crossover

(1) Where works on a lot will result in a crossover no longer giving access to a lot, the crossover is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.

(2) The local government may give written notice to the owner or occupier of a lot requiring her or him at their cost to—

- (a) remove any part of or all of a crossover which does not give access to the lot; and
- (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,

within the period of time stated in the notice, and the owner or occupier of the lot shall comply with that notice.

Subdivision 2—Standard vehicle crossover

20. Standard vehicle crossover

(1) A person who desires to construct a vehicle crossover; or make alterations to an existing crossover shall apply to the local government in writing for a permit to do so.

(2) The application shall specify the places at which such crossover is made or is to be made and the materials to be used.

(3) A person shall pay a deposit to the Local Government, the amount as shall be set from time to time.

(4) The provisions of Regulations 12 to 16 of the *Local Government (Uniform Local Provisions) Regulations 1996* shall apply.

21. Contribution by Local Government for a Standard Crossover

For the purpose of determining the local government's contribution towards the construction of a standard vehicle crossover as stipulated in the *Local Government (Uniform Local Provisions) Regulations 1996*, the minimum requirements for a standard vehicle crossover for a Residential area shall be used to determine the contribution for construction of a standard vehicle crossover.

Division 3—Footpaths

22. Excavation under footpath

A person shall not excavate through or under a footpath without—

- (a) first obtaining a permit from the local government;
- (b) lodging with the local government a deposit or bond; or
- (c) otherwise than in accordance with the terms of the permit of the local government.

23. Footpath protection

(1) The owner, or occupier, licensee or contractor who undertakes works on private property adjacent to a footpath, must—

- (a) Take all necessary precautions to ensure that the footpath is not damaged during the course of the works; and
- (b) Notify the local government of any existing damage to the footpath prior to the commencement of the works.

(2) A person who carries out any building or other operations or works necessitating the crossing of a footpath with vehicles that may cause damage to the footpath, must ensure that—

- (a) All reasonable precautions are taken to prevent damage to the footpath during the course of the works; and
- (b) Heavy vehicles that access the private property, are to cross the footpath at the designated area for the proposed vehicle crossing.

(3) Any person who causes damage to a footpath during works undertaken on private property or works within the road reserve shall pay the costs of the local government to repair the damage.

Division 4—Rights of Way

24. Rights-of-Way

(1) A person requiring access to a right-of-way from their property shall pay a "Right-of-Way Upgrade fee" equivalent to the average cost to pave, seal, drain, kerb and light the right-of-way for an average property abutting that right-of-way.

(2) The local government shall pay the fee into the Reserve Account used for maintaining and upgrading right-of-ways.

PART 5—ANIMALS AND VEHICLES IN PUBLIC PLACES**25. Leaving animal or vehicle in public place or on local government property**

(1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is authorised to do so under a written law.

(2) A person will not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.

(3) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours unless that vehicle causes an obstruction.

(4) Where an authorised person finds a vehicle left in a public place contrary to the provisions of subclauses (1) and (3) of these local laws the authorised person may impound that vehicle.

26. Unlawful parking

A vehicle which is parked in any portion of a public place where vehicles may not lawfully be parked is deemed to be causing an obstruction.

27. Prohibitions relating to animals

(1) In subclause (2), “owner” in relation to an animal includes—

- (a) an owner of it;
- (b) a person in possession of it;
- (c) a person who has control of it; and
- (d) a person who ordinarily occupies the premises where the animal is permitted to stay.

(2) An owner of an animal shall not—

- (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
- (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
- (c) train or race the animal on a thoroughfare.

(3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

28. Removal of animal or vehicle

Where an authorised person or a member of the Police Force finds an animal or vehicle left in a public place, contrary to the provisions of clause 25 of this local law, he or she may remove the animal or vehicle—

- (a) in the case of an animal, place it in a public pound;
- (b) in the case of a vehicle, place it in an appointed place.

29. Animal to be dealt with by law

Where an authorised person places an animal in a public pound pursuant to clause 28 of this local law, the animal shall thereafter be dealt with according to law.

PART 6—PERMITS*Division 1—Applying for a permit***30. Application for a permit**

(1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).

(2) An application for a permit under this local law shall—

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;
- (c) provide the information required by the form; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

(4) The local government may require an applicant to give local public notice of the application for a permit.

(5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

31. Decision on application for permit

(1) The local government may—

- (a) approve an application for a permit unconditionally or subject to any conditions; or
- (b) refuse to approve an application for a permit.

(2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.

(3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

(4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).

(5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

Division 2—Conditions

32. Conditions which may be imposed on a permit

The local government may approve an application for a permit subject to conditions relating to—

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the approval of another application for a permit which may be required by the local government under any written law;
- (f) the area of the district to which the permit applies;
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and
- (i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

33. Compliance with and variation of conditions

Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of these conditions.

Division 3—Miscellaneous

34. Withdrawal of permit

A permit issued pursuant to this Local Law can be withdrawn at any time by the City and the owner or occupier of the property that abuts the street where the garden is kept shall follow all reasonable directions given by the City with regard to the removal of the garden and the said owner or occupier shall be responsible for any costs or damage associated with the removal of the garden.

35. Cancellation of a permit

A permit may be cancelled by the local government for failure by a permit holder with the conditions of the permit.

36. Production of permit

A permit holder is to produce to an authorised person her or his permit as soon as practicable when required to do so by that authorised person.

PART 7—OBJECTIONS AND APPEALS

37. Application of Part 9 Division 1 of Act

When the local government makes a decision—

- (a) under clause 31(1); or
- (b) as to whether it will renew, vary, or cancel a permit,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations, relating to objection and appeal rights, apply to that decision.

PART 8—MISCELLANEOUS NOTICES

38. Notice to remove anything on lawn or garden

An authorised person may at any time by notice in writing to the owner or occupier of land that abuts on a portion of a street in which a lawn or garden is planted require that owner or occupier to remove any tree, shrub, water piping or fitting from that lawn or garden. The owner or occupier shall comply with that notice within the time stipulated for compliance in the notice.

39. Notice to repair damage to thoroughfare

Where any portion of a thoroughfare has been damaged, the local government may by notice to the person who caused the damage order the person to repair or replace that portion of the thoroughfare to the satisfaction of the local government.

40. Notice to remove thing unlawfully placed on thoroughfare

Where any thing is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property which abuts on that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

PART 9—ENFORCEMENT*Division 1—Notices given under this local law***41. Offence to fail to comply with notice**

Whenever the local government gives a notice under this local law requiring a person to do any thing, if the person fails to comply with the notice, the person commits an offence.

42. Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 41, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

PART 10—PENALTIES*Division 1—Offences and penalties*

Subdivision 1—General

43. Offences

(1) Any 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) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not less than \$500 and not exceeding \$5,000. If the offence is of a continuing nature, such person may be liable to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

Subdivision 2—Infringement notices and modified penalties

44. 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 Act.

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

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

45. Forms

Unless otherwise specified, 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 Act 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 Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) The form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

46. Delegation

The City may delegate any of the powers, functions and duties in this Local Law to the CEO.

Schedule 1

PRESCRIBED OFFENCES

Clause	Description	Modified Penalty \$
6(b)	Damaging lawn or garden.....	100
6(f)	Placing hazardous substance on footpath.....	100
6(k)	Damaging or interfering with signpost or structure on thoroughfare	100
6(l)	Riding of skateboard or similar device on mall or verandah of shopping centre.....	100
7(1)(a)	Digging a trench through a kerb or footpath without a permit.....	100
7(1)(b)	Throwing or placing anything on a verge without a permit	100

Clause	Description	Modified Penalty \$
7(1)(d)	Felling a tree onto thoroughfare without a permit.....	100
7(1)(e)	Installing pipes or stone on thoroughfare without a permit.....	100
7(1)(f)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit.....	100
7(1)(g)	Interfering with anything on a thoroughfare without a permit	100
10(1)	Installation of verge development without a permit	100
14(1)	Failure to maintain verge development or placement of obstruction on verge.....	100
18(1)	Failure to obtain permit for temporary crossing	100
19(2)	Failure to comply with notice to remove crossing and reinstate kerb.....	100
25(1)	Failure to comply with notice to rectify default.....	100
27(2)(a)	Animal on thoroughfare when not led, ridden or driven.....	100
27(2)(b)	Animal on public place with infectious disease	100
27(2)(c)	Training or racing animal on thoroughfare in built-up area	100
27(3)	Horse led, ridden or driven on thoroughfare in built-up area without a permit or other legal authority.....	100
33	Failure to comply with a condition of a permit.....	100
36	Failure to produce permit on request of authorised person.....	100
41	Failure to comply with notice given under local law	100

This Local Law was made by the City of Nedlands at an Ordinary Meeting held on the 24th day of October 2000.

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

J. M. PATERSON, Mayor.
S. SILCOX, Chief Executive Officer.

DOG ACT 1976

CITY OF NEDLANDS

DOGS LOCAL LAW

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DOG ACT 1976

CITY OF NEDLANDS

DOGS LOCAL LAW

Under the powers conferred by the Dog Act 1976 and under all other powers enabling it, the Council of the City of Nedlands resolved on 24 October 2000 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*.

1.2 Repeal

The City of Nedlands By-Law Relating to Dogs published in the *Government Gazette* on 3rd December 1982 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;

“lawful manner” means not contrary to the provisions of the *Litter Act 1979 (WA)*;

“local government” means the City of Nedlands;

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

“Regulations” means the *Dog Regulations 1976*;

“thoroughfare” has the meaning given to it in section 1.4 of the *Local Government Act 1995*; and

“town planning scheme” means a town planning scheme made by the local government under the *Town Planning and Development Act 1928* which applies throughout the whole or a part of the district.

1.4 Application

This local law applies throughout the district.

PART 2—IMPOUNDING OF DOGS**2.1 Charges and costs**

The following are to be imposed and determined by the local government under sections 6.16 – 6.19 of the *Local Government Act 1995*—

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of pound keeper at pound

The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the CEO.

2.3 Release of impounded dog

(1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the CEO.

(2) The pound keeper is not to release a dog seized and impounded to any person unless the pound keeper is satisfied that person is the—

- (a) owner of the dog or has authority to take delivery of it; or
- (b) is the person identified as the owner on a microchip implanted in the dog.

2.4 No breaking into or destruction of pound

A person who—

- (a) unless he or she is the pound keeper or a person authorised to do so, releases or attempts to release a dog from a pound; or
- (b) destroys, breaks into, damages or in any way interferes with or renders not dog-proof—
 - (i) any pound; or
 - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog, commits an offence.

PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

3.1 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 to that premises;
- (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) apart from when such gate or door is being used for the purposes of entering or exiting, ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises 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 a temporary period) for effectively confining the dog within the premises.

(2) Where an occupier fails to comply with subclause (1), he or she commits an offence.

3.2 Limitation on the number of dogs

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

- (a) licensed under Part 4 as an approved kennel establishment; or
- (b) granted an exemption under section 26(3) of the Act.

(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 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a district.

PART 4—APPROVED KENNEL ESTABLISHMENTS

4.1 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 4.14.

4.2 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) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (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 acknowledgment 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 4.10(1).

4.3 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.

4.4 Exemption from notice requirements

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 town planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

4.5 When application can be determined

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

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 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 4.7;
- (b) any written submissions received within the time specified in clause 4.3(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 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.

4.7 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 town planning scheme; 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.

4.8 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 or an Environmental Health Officer 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.

4.9 Compliance with conditions of approval

A licensee who does not comply with the conditions of a licence commits an offence.

4.10 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 6.16—6.19 of the *Local Government Act 1995*.

4.11 Form of licence

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

4.12 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 4.10(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.

4.13 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.
- (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.

4.14 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 4.10(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 4.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.15 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 4.13(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 4.13(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.13(2), which notice is to be given in accordance with section 27(6) of the Act.

4.16 Inspection of kennel

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

PART 5—DOGS IN PUBLIC PLACES

5.1 Places where dogs are prohibited

- (1) Dogs are prohibited from entering or being in any of the following places—
 - (a) where so indicated by a sign erected by the local government;
 - (b) a public building;
 - (c) a theatre or picture gardens;
 - (d) a house of worship;
 - (e) all premises or vehicles classified as food premises or food vehicles under the *Health (Food Hygiene) Regulations 1993*; and
 - (f) a public swimming pool.
- (2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.

5.2 Places which are dog exercise areas

(1) The Council of the local government may from time to time by resolution set aside areas within the district that may be used for the purpose of a dog exercise area.

(Council Resolution C139.00 24 October 2000—Areas Prohibited to Dogs and Dog Exercise Areas)

(2) Subclause (1) does not apply to—

- (a) land which has been physically set apart as a children's playground;
- (b) an area being used for sporting or other activities, as permitted by the local government, during the times of such use; or
- (c) a car park.

PART 6—MISCELLANEOUS

6.1 Offence to excrete

(1) A dog must not excrete on—

- (a) any thoroughfare or other public place; or
- (b) any land which is not a public place without the consent of the occupier.

(2) A person who is in control of a dog commits an offence if any dog excreta is not removed immediately by that person and disposed of in a lawful manner.

PART 7—ENFORCEMENT

7.1 Interpretation

In this Part—

“infringement notice” means the notice referred to in clause 7.3; and

“notice of withdrawal” means the notice referred to in clause 7.6(1).

7.2 Penalties

A person who commits a breach or fails to comply with any of the requirements of this local law commits an offence and is liable to a penalty not exceeding \$2,000 and where a breach of a condition a daily penalty not exceeding \$200 as determined by an appropriate Court of Law.

7.3 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 third column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if—

- (a) the dog is not a dangerous dog; or
- (b) the dog is a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.

(3) 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 a dangerous dog.

7.4 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 7 of the First Schedule of the Regulations.

7.5 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.

7.6 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.

7.7 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 8 of the First Schedule of the Regulations.

(2) A person authorised to issue an infringement notice under clause 7.4 cannot sign or send a notice of withdrawal.

7.8 Service

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government or to his last known place of abode.

7.9 Delegation

The City may delegate any of the powers, functions and duties in this local law to the CEO.

Schedule 1

(clause 4.2)

LOCAL LAWS RELATING TO DOGS

APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

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 applicable.

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

(clause 4.8(1))

CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

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;
- (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;
- (s) the licensee must provide a hand basin for employees in all food preparation areas and areas where dogs are washed or where possible contact with animal faeces occur, to enable staff to wash their hands;
- (t) the licensee is to ensure that the hand basin is provided with soap and paper towel;
- (u) the licensee is to provide and maintain at all times an adequate supply of hot and cold water to every hand basin;
- (v) the licensee must take or cause to be taken any effective action necessary to prevent the entry of and to eradicate vermin on the premises;
- (w) the food preparation areas and food storage area and areas where pet litter is emptied to be kept in a clean and sanitary condition and in a state of good repair at all times; and
- (x) the licensee is to ensure that all appliances in the premises are maintained in a clean and sanitary condition and in a state of good repair at all times.

Schedule 3

(clause 7.3)

OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

Offence	Nature of Offence	Modified Penalty \$	Dangerous Dog Modified Penalty
2.4(a)	Attempting to or causing the unauthorised release or a dog from a pound	200	400
2.4(b)& (c)	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	50	200
4.9	Failing to comply with the conditions of a licence	100	200
5.1(2)	Dog in place from which prohibited—		
	• First Offence	100	200
	• Second and subsequent offence	200	400
6.1(2)	Dog excreting in prohibited place	100	

This Local Law was made by the City of Nedlands at an Ordinary Meeting held on the 24th day of October 2000.

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

J. M. PATERSON, Mayor.
S. SILCOX, Chief Executive Officer.

