

LOCAL GOVERNMENT ACT 1995

CITY OF WANNEROO

Animals Local Law 2021

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Wanneroo resolved on 12 October 2021 to make the following local law.

Part 1 PRELIMINARY

1.1 Citation and application

This local law may be cited as the *City of Wanneroo Animals Local Law* and shall apply throughout the district.

1.2 Commencement

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

1.3 Repeal and transitional provisions

1) The *City of Wanneroo Animals Local Law 1999*, published in the *Government Gazette, Number 163* dated 27 August 1999, is repealed.

2) An application for, or an application for the renewal of, a licence, permit or other authorisation made under a repealed local law that has not been finally determined before the commencement day is (to the extent that it is applicable) to be dealt with and determined as if it were an application under this local law.

3) A licence, permit or other authorisation under a repealed local law that is in force before the commencement day is to be regarded on and after that day as a licence under this local law and may be dealt with accordingly.

1.4 Interpretation

(1) In this local law, unless the context specifies otherwise—

Act means the *Local Government Act 1995*;

animal includes any living animal, tame or wild, kept by a person;

applicant means a person who applies for a Certificate of Registration;

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

caravan park has the meaning given to it in the *Caravan Parks and Camping Grounds Act 1995*;

Certificate of Registration means a certificate of registration to keep pigeons issued pursuant to this local law;

Code of Practice means the Code of Practice for Pigeon Keeping and Racing in Western Australia as prescribed by the *Animal Welfare Act 2002* and *Animal Welfare (General) Regulations 2003*, as amended from time to time;

commercial lot means a lot zoned commercial, mixed use or business or an equivalent commercial zone under the local planning scheme and/or structure plan, but does not include a lot occupied by a residential building;

cow includes an ox, calf or bull;

district means the district of the City of Wanneroo and includes any area placed under the jurisdiction of the City pursuant to any Act or Regulation;

dwelling means a building or portion of a building being used, adapted or designed, or intended to be used, for the purpose of human habitation;

food premises means a premises where food is stored, kept, prepared, manufactured, processed, cooked or served or otherwise dealt with for subsequent sale to the public;

grouped dwelling means a dwelling which is one of two or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above another, except where special conditions of landscape or topography dictate otherwise, and includes a dwelling on a survey strata plan with common property;

horse includes an ass, mule, donkey, Shetland pony, pony or miniature horse;

industrial lot means a lot situated within a general industrial or service industrial zone or an equivalent industrial zone under the local planning scheme and/or structure plan;

land means land in the district and includes houses, buildings, works and structures, in or upon the land;

large animal includes a horse, cow, sheep, goat, pig, buffalo, deer, camel, llama, alpaca, emu, ostrich, or any other animal so classified by the local government;

livestock means any horse, cattle, sheep, goat, pig, buffalo, deer, camel, llama and alpaca;

local government means the City of Wanneroo;

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

lot has the meaning given to it in the *Planning and Development Act 2005*;

multiple dwelling means a dwelling in a group of more than one dwelling on a lot where any part of the plot ratio area of a dwelling is vertically above any part of the plot ratio area of any other but—

- (a) does not include a grouped dwelling; and
- (b) includes any dwellings above the ground floor in a mixed use development;

nuisance means—

- (a) an activity or condition which is harmful or annoying and which constitutes a reasonable basis for 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;

owner has the meaning given to it in the Act;

penalty unit has the meaning given to it in the *City of Wanneroo Penalty Units Local Law 2015*;

person means any person, company, public body, association or body of persons, corporate or unincorporated and includes an owner, occupier, licensee and permit holder, but does not include the local government;

pigeon includes homing pigeon and racing pigeon;

poultry means any domestic fowl or chicken, bantam, duck, goose, guinea fowl, pheasant, turkey, peahen or peacock and other bird kept for the production of eggs or meat for domestic consumption;

pound means a building or yard established by the local government for the impounding of animals for the purposes of this local law;

premises includes the following—

- (a) land (whether or not vacant);
- (b) the whole or part of a building or structure (whether of a permanent or temporary nature); and
- (c) a vehicle;

public place means—

- (a) a street;
- (b) any local government property; or
- (c) a place to which the public have access;

reserve means any land—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an otherwise unvested facility within section 3.53 of the Act.

residential lot means any lot—

- (a) situated within a residential, special residential or smart growth community zone as classified by the local planning scheme and/or structure plan; or
- (b) which is or will be predominantly used for residential purposes; but

does not include a rural lot.

rural lot means any lot situated within a general rural, special rural, rural resource, rural community, landscape enhancement or an equivalent rural zone as classified by the local planning scheme;

Schedule means a schedule to this local law;

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;

thoroughfare has the meaning given to it in the Act;

young bird means any pigeon under 24 days of age and, unless the contrary can be shown, a pigeon shall be deemed under this local law to be a young bird if it is without feathers on the flesh under the wings.

(2) Any other expression used in this local law and not defined herein shall have the meaning given to it in the Act.

(3) Where in this local law a duty, obligation or liability is imposed on an “owner” or “occupier” the duty shall be deemed to be imposed jointly and severally on each owner and occupier.

(4) Where under this local law the local government is authorised to carry out actions or cause to be undertaken works 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 Act.

Part 2 LIVESTOCK

2.1 Livestock Not to Stray

The owner or person in charge of livestock shall not permit that livestock to stray or to be at large in a street, public place or upon private land without the consent of the land owner.

2.2 Land to be Fenced

The owner or occupier of land on which livestock is kept shall cause the land or the portion of the land (as applicable) to be fenced in a manner capable of confining the livestock to where the livestock is kept.

Part 3 ANIMALS

3.1 General

The owner or occupier of premises where an animal is kept shall—

- (1) keep the premises free from excrement, filth, food waste and all other matter that is likely to become offensive or injurious to health or to attract rats, vermin or insects;
- (2) when so directed by an authorised person, clean and disinfect the premises; and
- (3) not keep animals, or permit animals to remain on any premises in such numbers that they are, or are likely to be in the opinion of the local government, a nuisance or injurious or dangerous to health.

3.2 Keeping of Large Animals

Subject to the provisions of the local planning scheme, an owner or occupier of premises shall not—

- (1) keep a large animal on any land less than 2,000m² in area or in a commercial lot or industrial lot;
- (2) permit any large animal to be within 9 metres of any dwelling, food premises, shop, public building, hospital or school; and
- (3) keep an ostrich or emu on any residential lot, commercial lot or industrial lot.

3.3 Manure Receptacle

An owner or occupier of premises where a large animal is kept shall—

- (1) provide in a convenient position, an impervious receptacle with a tight fitting lid, for storage of manure;
- (2) keep the lid of the receptacle closed except when manure is being deposited or removed;
- (3) cause the receptacle to be emptied at least once a week and more often as necessary to prevent it becoming offensive or a breeding place for flies or other insects; and
- (4) cause all manure produced on the premises to be collected daily and placed in the receptacle.

3.4 Burial of Animals

(1) The operators of a commercial poultry farm, licensed piggery or similar intensive animal farming shall not dispose of any dead animals or poultry on their premises without written approval from the local government or an authorised person.

(2) Owners and occupiers of land in any rural area who occasionally need to bury an animal on their land, shall cover the carcass with lime before burial.

3.5 Horse Exercise Area

(1) Subject to section 3.6, the local government may make a determination to set aside a reserve or foreshore or portion of a reserve or foreshore as an area upon which a person may ride or drive a horse or into which a person may bring a horse.

(2) A person shall not ride, drive or bring a horse onto any reserve or foreshore or any part thereof that has not been set aside for those purposes.

(3) A person shall not ride, drive, exercise or train a horse on any part of a reserve or foreshore set aside under section 3.5(1) faster than walking pace or in a manner likely to create a danger or become a nuisance to the public or to any person.

(4) Any person liable for the control of a horse who permits that horse to excrete in any public place or on any land within the district without the consent of the occupier of that land commits an offence unless the excreta is removed forthwith and disposed of either—

- (a) on private land with the written consent of the occupier; or
- (b) in such other manner as the local government or an authorised person may approve in writing.

(5) A person shall not bring a horse onto any reserve or foreshore or any part thereof that is set aside specifically for the exercise of dogs.

3.6 Procedure for making a determination

- (1) The CEO or an authorised person is to give local public notice of the local government's intention to make a determination pursuant to section 3.5 of this local law.
- (2) The local public notice referred to in subclause (1) is to state that—
 - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
 - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
 - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the local government may decide—
 - (a) to give local public notice that the proposed determination has effect as a determination on and from the date of publication;
 - (b) to amend the proposed determination, in which case subclause (5) is to apply; or
 - (c) not to continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c), the local government—
 - (a) is to consider those submissions; and
 - (b) may decide—
 - (i) whether or not to amend the proposed determination; or
 - (ii) whether or not to continue with the proposed determination.
- (5) If the local government decides to amend the proposed determination, it is to give local public notice—
 - (a) of the effect of the amendments; and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the local government decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).

3.7 Discretion to erect sign

The local government may erect a sign on local government property to give notice of the effect of a determination, which applies to that property.

3.8 Determination to be complied with

A person must comply with a determination.

3.9 Register of determinations

- (1) The local government is to keep a register of determinations made under clause 3.5, and of any amendments to or revocations of determinations made under clause 3.10.
- (2) Sections 5.94 and 5.95 of the Act apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

3.10 Amendment or revocation of a determination

- (1) The local government may amend or revoke a determination.
- (2) The provisions of clause 3.6 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the local government revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

Part 4 POULTRY AND PIGEONS

4.1 Limitation on Numbers of Poultry

(1) Subject to the provisions of this Part 4, an owner or occupier of land must not keep more than the following poultry (including restrictions on the type of poultry) without the written approval of the local government—

Lot size	Maximum number of poultry
Up to 600m ²	2 poultry (no ducks permitted)
601m ² to 800m ²	4 poultry (no ducks permitted)
801m ² to 1,000m ²	6 poultry (including a maximum of 2 ducks)
1,001m ² to 5,000m ²	12 poultry (including ducks)
5,001m ² to 10,000m ²	25 poultry (including ducks)
Over 10,000m ²	50 poultry (including ducks)

(2) An owner or occupier of a residential lot must not keep, or permit to be kept, a rooster, goose, turkey, peafowl or any other poultry that is likely to cause a nuisance.

(3) An owner or occupier of land on which is situated a grouped dwelling or multiple dwelling (except for land on which no more than two grouped dwellings are permitted) must not keep, or permit to be kept, any poultry.

4.2 Conditions of Keeping Poultry

- (1) On lot sizes up to and including 1,000m², the following conditions apply to the keeping of poultry—
 - (a) Poultry must be kept in a securely fastened cage or in a shed within an enclosure, and if fitted, the roof of the cage or shed shall have sufficient slope to shed storm water.
 - (b) The cage, shed and enclosure must be of sound construction and must not be located within—
 - (i) 1 metre of any lot boundary; and
 - (ii) 5 metres of any neighbouring dwelling or street.
- (2) On lot sizes between 1,001m² and 5,000m², the following conditions apply to the keeping of poultry—
 - (a) Poultry must be kept in a shed or in a shed within an enclosure, provided that the shed has a concrete floor at least 50 millimetres thick.
 - (b) The shed and enclosure must be of sound construction and must not be located within—
 - (i) 1 metre of any lot boundary; and
 - (ii) 9 metres of any neighbouring dwelling or street.
- (3) On lot sizes over 5,000m², the following conditions apply to the keeping of poultry—
 - (a) Poultry must be kept in a shed or in a shed within an enclosure, provided that the shed has a concrete floor at least 50 millimetres thick.
 - (b) The shed and enclosure must be of sound construction and must not be located within—
 - (i) 1 metre of any lot boundary; and
 - (ii) 15 metres of any neighbouring dwelling or street.
- (4) All structures or enclosures within which poultry are kept must be maintained in a clean condition and free from offensive odours.

4.3 Limit on Number of Pigeons

- (1) In this section *registered pigeon fancier* means a current financial member of a recognised incorporated pigeon or pigeon fancier body.
- (2) A person shall not keep pigeons on any land in the district without having first obtained a Certificate of Registration from an authorised person.
- (3) Subject to section 4.3(4), the maximum number of pigeons which may be kept on land pursuant to a Certificate of Registration shall not exceed 20, excluding young birds.
- (4) A person who produces satisfactory proof that they are a current financial member of a recognised incorporated racing pigeon body or are a registered pigeon fancier, may be permitted by an authorised person to keep up to 150 pigeons, excluding young birds, on any residential lot or rural area subject to section 4.3(6).
- (5) Pigeons shall not be kept within a caravan park or on any land on which is situated a grouped dwelling or multiple dwelling, except for land on which no more than two grouped dwellings are permitted.
- (6) Unless previously approved by the local government prior to this local law coming into effect, pigeons shall not be kept on any land which has an area of less than 600m².

4.4 Conditions of Keeping Pigeons

- (1) An application for a Certificate of Registration must—
 - (a) be on the form approved by an authorised person from time to time;
 - (b) include specifications, site and construction plans of proposed cages, enclosures or lofts;
 - (c) be accompanied by the written signed consent of all owners and occupiers whose land is adjacent to or adjoins the land upon which the applicant intends to keep or is keeping pigeons; and
 - (d) be accompanied by the registration fee set by the local government.
- (2) The holder of a Certificate of Registration shall—
 - (a) keep all pigeons confined continuously in cages, enclosures and lofts approved by an authorised person except that homing pigeons and racing pigeons registered in accordance with this local law may be released in accordance with this local law;
 - (b) keep all cages, enclosures, lofts and their immediate surrounds clean and maintained in good order and condition at all times, with the minimum standard to be adhered to being that specified in the Code of Practice; and
 - (c) dispose of all loft litter by immediate burial or by being bagged and deposited in a household rubbish bin to ensure no nuisance occurs.

- (3) At any time an authorised person may—
- (a) amend the conditions contained in or relating to a Certificate of Registration; and
 - (b) where any complaint of a nuisance is received, vary the hours for release of pigeons and impose any other conditions deemed necessary to minimise any nuisance from the keeping of pigeons or any associated activity.
- (4) An authorised person may cancel or refuse to approve a Certificate of Registration if any one or more of the following occurs—
- (a) the land is not maintained in accordance with this local law;
 - (b) the cages, enclosures or lofts have fallen into disrepair, are unclean or infested with vectors of disease;
 - (c) the pigeons are being released outside the times permitted in section 4.6;
 - (d) a condition imposed in accordance with this local law or a Certificate of Registration has not been complied with in the time limits set out for doing so;
 - (e) the applicant or holder of the Certificate of Registration, as the case may be, has two or more convictions under this local law; or
 - (f) non-payment of registration fees.

4.5 Pigeon Cage, Enclosure or Loft Requirements

- (1) A cage, enclosure or loft used to house pigeons shall aesthetically blend with its surrounds, be constructed of new materials and shall be constructed to the following minimum requirements—
- (a) the base floor of any loft shall be of 50mm thick concrete;
 - (b) in the case of an elevated loft the suspended floor shall be constructed and maintained in accordance with the requirements in the Code of Practice;
 - (c) cladding of a loft, including the roof, shall be of smooth fibro cement sheeting, sheet metal or other smooth material;
 - (d) except as provided in section 4.5(1)(e), a loft height shall not exceed 2.4 metres at any point when measured from ground level;
 - (e) where a loft has a gable roof, the loft height shall not exceed 3 metres at any point when measured from ground level; and
 - (f) otherwise comply with the Code of Practice in relation to construction requirements.
- (2) A cage, enclosure or loft shall not be located within—
- (a) 1 metre of the lot boundary with any land adjacent to or adjoining the land used to house the pigeons; or
 - (b) 9 metres of any street, dwelling, food premises, shop, public building, school, hospital, hall, factory or dairy.

4.6 Exercise of Pigeons

- (1) A person who is registered to keep homing pigeons or racing pigeons may only release such homing pigeons or racing pigeons for exercise between the hours set out in the Code of Practice.
- (2) A person shall not release more than 60 registered homing pigeons or racing pigeons for exercise or training at any one time.

Part 5 OBJECTIONS AND REVIEW

5.1 Objection and review rights

Division 1 of Part 9 of the Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to a decision under this local law in respect of the grant, renewal, transfer, amendment, suspension or cancellation of a Certificate of Registration.

Part 6 ENFORCEMENT

Division 1—Notices

6.1 Notice requirements

A notice under this Division must—

- (1) be in writing;
- (2) be given to a person who has failed to comply with a provision of this local law; and
- (3) specify the reason for giving the notice, the work or action that is required to be undertaken and the time within which it is to be undertaken.

6.2 Local government may undertake requirements of notice

This local law is subject to section 3.25, 3.27 and Schedule 3.1 and 3.2 of the *Local Government Act 1995* and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3, Subdivision 3 of the Act.

6.3 Offence to fail to comply with notice

A person who fails to comply with a notice given to them under this local law commits an offence.

Division 2—Offences and penalties

6.4 Offences and general penalty

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) A person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000 and where the offence is of a continuing nature, to an additional daily penalty not exceeding \$500 in respect of each day or part of a day during which the offence has continued.

6.5 Prescribed offences

- (1) An offence against a section of this local law specified in the Schedule is a prescribed offence for the purposes of section 9.16 of the Act.
- (2) The number of modified penalty units for a prescribed offence is that specified in the fourth column of the Schedule.
- (3) If this local law expresses a modified penalty as a number of penalty units, the monetary value of the modified penalty is the number of dollars obtained by multiplying the value of the penalty unit by the number of penalty units.

6.6 Form of Infringement Notices

- (1) The form of the notice referred to in section 9.16 of the Act is to be in the form of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.
- (2) The form of the infringement withdrawal notice referred to in section 9.20 of the Act is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

SCHEDULE—PRESCRIBED OFFENCES

Item No.	Section No.	Nature of Offence	Modified Penalty Units
		Part 2—Livestock	
1	2.1	Permitting livestock to stray or be at large in a street, public place or on private land without consent	20
2	2.2	Failing to keep land fenced in a manner capable of confining livestock	20
		Part 3—Animals	
3	3.1 (1)	Failing to keep premises free from excrement, filth, food waste and all other matter that is likely to become offensive or injurious to health or to attract rats, vermin or insects	20
4	3.1 (2)	Failing to clean and disinfect premises where an animal is kept when so directed by an authorised person	20
5	3.1 (3)	Keeping or permitting animals to remain on premises in such numbers that they are, or are likely to be in the opinion of the local government, a nuisance or injurious or dangerous to health	15
6	3.2 (1)	Keeping a large animal on any land less than 2,000m ² in area or on a commercial lot or industrial lot	15
7	3.2 (2)	Permitting a large animal to be within 9 metres of any dwelling, food premises, shop, public building, hospital or school	15
8	3.2 (3)	Keeping an ostrich or emu on a residential lot, commercial lot or industrial lot	15
9	3.3 (1), (2)	Failing to provide an impervious receptacle with a tight fitting lid, for storage of manure	10
10	3.3 (3)	Failing to empty manure receptacle at least once a week to prevent it becoming offensive or a breeding place for flies or other insects	10
11	3.3 (4)	Failing to cause all manure produced on the premises to be collected daily and placed in the receptacle	15
12	3.4 (1)	Disposing of dead animals or poultry without written approval from the local government or an authorised person	20
13	3.4 (2)	Failing to cover animal carcass with lime before burial	10
14	3.5 (2)	Riding, driving or bringing a horse onto a reserve or foreshore not set aside for those purposes	10

15	3.5 (3)	Riding, driving, exercising or training a horse on a reserve or foreshore faster than walking pace or in a manner likely to create a danger or become a nuisance	10
16	3.5 (4)	Permitting a horse to excrete in a public place or on any other land and failing to remove excreta forthwith and disposing of it in an approved manner	10
17	3.5 (5)	Bringing a horse onto a reserve or foreshore set aside for the exercise of dogs	10
		Part 4—Poultry and Pigeons	
19	4.1 (1)	Keeping poultry in excess of the numbers (and other restrictions) set out in section 4.1(1) without the written approval of the local government	15
20	4.1 (2)	Keeping or permitting to be kept on a residential lot, a rooster, goose, turkey, peafowl or other poultry that is likely to cause a nuisance	20
21	4.1 (3)	Keeping or permitting to be kept, any poultry on land on which is situated a grouped dwelling or multiple dwelling (except for land on which no more than two grouped dwellings are permitted)	15
22	4.2 (1), (2) and (3)	Failing to meet the conditions for keeping poultry	15
23	4.2 (4)	Failing to maintain structures or enclosures within which poultry are kept in a clean condition and free from offensive odours	20
24	4.3 (1)	Keeping pigeons without first obtaining a Certificate of Registration	20
25	4.3 (2)	Keeping more than 20 pigeons under a Certificate of Registration	15
26	4.3 (3)	Keeping more than the maximum number of pigeons approved by an authorised person	15
27	4.3 (5)	Keeping pigeons within a caravan park or on land on which is situated a grouped dwelling or multiple dwelling (except for land on which no more than two grouped dwellings are permitted)	15
28	4.3 (6)	Keeping pigeons on land less than 600m ² in area	15
29	4.4 (2) (a)	Failing to keep pigeons confined continuously in cages, enclosures and lofts approved by an authorised person	15
30	4.4 (2) (b)	Failing to keep cages, enclosures, lofts and their immediate surrounds clean and maintained in good order and condition to the minimum standards specified in the Code of Practice	15
31	4.4 (2) (c)	Failing to dispose of loft litter in an approved manner to ensure no nuisance occurs	20
32	4.5 (1)	Cages, enclosures or lofts used to house pigeons do not meet the minimum requirements	10
33	4.5 (2)	Constructing or permitting a cage, enclosure or loft to be located within 1 metre from lot boundary of occupied land or 9 metres from any street, dwelling, food premises, shop, public building, school, hospital, hall, factory or dairy	15
34	4.6 (1)	Releasing registered pigeons outside hours set out in the Code of Practice	15
35	4.6 (2)	Releasing more than 60 registered pigeons for exercise or training at any one time	15

Dated 19th October 2021.

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

TRACEY GARDNER ROBERTS, Mayor.
DANIEL JOHN SIMMS, Chief Executive Officer.