



ATTACHMENTS

Development and Infrastructure Services Committee Meeting

12 July 2017

6.00pm

City of Albany Council Chambers

DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE
ATTACHMENTS – 12/07/2017

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REPORT ITEM DIS036 REFERS
DOG ACT 1976
LOCAL GOVERNMENT ACT 1995

CITY OF ALBANY

DOG LOCAL LAW 2017

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

PART 1—PRELIMINARY

1.1 Short title

This is the City of Albany *Dog Local Law 2017*.

1.2 Commencement

This local law commences 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

Parts 2, 3 and Schedule 2 and 3 of the City of Albany Animals Local Laws 2001, published in the *Government Gazette* on 15 January 2002, is repealed.

1.5 Meaning of terms used in this local law

(1) In this local law —

Act means the *Dog Act 1976*;

Application means the completed form lodged by an applicant as required by this local law;

Applicant means the owner or occupier of premises who makes an application for a permit under this local law;

Assistance dogs has the meaning given in the Act.

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;

Council means the Council of the City of Albany;

dangerous dog has the meaning given to it in the Act

district means the district of the local government;

dog management facility has the meaning give to it in section 3(1) of the Act. For the purpose of this local law, Pound means a dog management facility under the Act.

kennel establishment means any structure or land used for the boarding or breeding of dogs;

local government means the City of Albany;

local planning scheme means a local planning scheme made by the local government under the *Planning and Development Act 2005* which applies throughout the whole or a part of the district;

LG Act means the *Local Government Act 1995*;

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

nuisance means – has the meaning given under section 38 of the Act.

Planning Approval means an approval issued under the local planning scheme as amended from time to time;

Prohibited places. Under s.31(2B) of the Act, a local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited –

- (a) at all times; or
- (b) at specified times.

Public Place has the same meaning given in the Act.

premises has the same meaning given in the Act.

Regulations means the *Dog Regulations 2013*;

Schedule means a schedule in this local law;

Seized means a dog seized by an authorised person, but not having been placed in a pound;

thoroughfare has the meaning given to it in section 1.4 of the LG Act;

valid in relation to a license issued under this local law means current and for which all the associated fees have been paid in full;

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 to 6.19 of the LG Act –

- (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;
- (c) the cost of implantation of a microchip referred to in section 30A.(3) of the Act; and
- (d) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

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;
 - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;

- (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) and is fitted with a an effective operational latch or other means of fastening it;
 - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
 - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
 - (f) where a dog is a dangerous dog, the enclosure must meet the specifications of s.33GA(2) of the Act.
- (2) An occupier who fails to comply with subclause (1) commits an offence.

3.2 Limitation on the number of dogs

- (1) This clause does not apply to dangerous dogs (declared) or dangerous dogs (restricted breeds).
- (2) 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.
- (3) For the purpose of section 26 (4) of the Act, a person shall not, without a permit, keep or permit to be kept —
 - (a) on premises situated on a lot having an areas of 4 hectares or more – 6 dogs over the ages of 3 months and the young of those dogs under that age; or
 - (b) on premises situated on any other lot – 2 dogs over the age of 3 months and the young of those dogs under that age.

PART 4 - APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2—

adjoining land means land or premises which have a common boundary or portion of a boundary with a lot or is separated from that lot by a right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6m in width;

fit and proper person means a person who does not have an unspent conviction under the *Animal Welfare Act 2002* or a history of contravention of the *Dog Act 1976*;

license means a license to keep an approved kennel establishment on premises;

premises, in addition to the meaning given to it in section 3 of Act, means the premises described in the application for a license; and

transferee means a person who applies for the transfer of a license to him or her under clause 4.14 of this local law.

4.2 Application for license for approved kennel establishment

An application for a license must be made in the form of that in Schedule 1, and must be lodged with the City 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 or CEO,

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 adopted or nominated by the local government;
- (e) the fee for the application for a license referred to in clause 4.10 (1) of this local law; and
- (f) a copy of a Planning Approval issued by the local government under a local planning scheme.

4.3 Notice of proposed use

- (1) An applicant for a license must give notice of the proposed use of the premises as an approved kennel establishment after the application for a license has been lodged—
 - (a) once in a newspaper circulating in the district; and
 - (b) to the owner 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 sub clause (1) do not clearly identify the premises; or
 - (b) a notice given under sub clause (1) (a) is of a size or in a location in the newspaper which, in the opinion of the CEO, 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 license 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 local 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 license 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 license, the local government is to have regard to—

- (a) the matters referred to in clause 4.8;
- (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 license is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) the extent to which the kennel establishment may 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 license 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 license where—

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme; or
- (b) an applicant for a license 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; or
- (c) if the applicant is not a fit and proper person to keep an approved kennel establishment.

4.8 Conditions of approval

- (1) The local government may approve an application for a license subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.
- (2) In respect of a particular application for a license, 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 license commits an offence.

4.10 Fees

- (1) On lodging an application for a license, the applicant is to pay a fee to the local government.
- (2) On the issue or renewal of a license, the licensee is to pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid license, the transferee is to pay a fee to the local government.
- (4) The fees referred to in sub clauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the LG Act.

4.11 Form of license

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

4.12 Period of license

- (1) The period of effect of a license is set out in section 27 (5) of the Act.
- (2) A license is to be renewed if the fee referred to in clause 4.9 (2) is paid to the local government prior to the expiry of the license.
- (3) On the renewal of a license the conditions of the license at the time of its renewal continue to have effect.

4.13 Variation or cancellation of license

- (1) The City may through a written notice to the licensee vary the conditions of a license.

- (2) The City may cancel a license—
- (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 license is cancelled is to be, in the case of—
- (a) paragraph (a) of sub clause (2), the date requested by the licensee; or
 - (b) paragraphs (b) and (c) of sub clause (2), the date determined under section 27 (6) of the Act.
- (4) If a license is cancelled the fee paid for that license is not refundable for the term of the license that has not yet expired.

4.14 Transfer

- (1) An application for the transfer of a valid license 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 license; and
 - (ii) the fee for the application for the transfer of a license referred to in clause 4.10 (3).
- (2) The local government is not to determine an application for the transfer of a valid license 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 license.
- (4) Where the local government approves an application for the transfer of a valid license, 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 license 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.

5.1 Places where dogs are prohibited absolutely

- (1) The owner or person liable for the control of a dog, other than an assistant dog as defined in s.8 of the Act, shall not allow a dog to enter or be in or on any of the following places —
 - (a) a public building unless permitted by a sign;
 - (b) a theatre or picture gardens;
 - (c) all businesses or vehicles classified as food business or food transport vehicles under the *Food Act 2008*; and
 - (d) a public swimming pool.
- (2) In accordance with s.31(2B) of the Act, the local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited.
- (3) If a dog enters or is in a place specified in subclauses (1) or (2), every person liable for the control of the dog at that time commits an offence.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

5.2 Places which are dog exercise areas

In accordance with the s.31(3A) of Act, the local government may, by absolute majority as defined in the LG Act section 1.4, specify a public place, or a class of public place that is under the care, control or management of the local government to be a place where dogs are can exercise.

5.3 Place which are rural leashing (leash compulsory) areas

In accordance with s.31(3B) of the Act, the local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a rural leashing area.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

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) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.
- (3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

PART 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 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 fourth 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 fifth 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.

7.3 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 8 of the First Schedule of the Regulations.

7.4 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.

7.5 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 of receipt.

7.6 Withdrawal of infringement notice

- (1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 9 of the First Schedule of the Regulations.
- (2) A person authorised to issue an infringement notice under clause 7.3 cannot sign or send a notice of withdrawal.

7.7 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.

7.8 Penalty

Any person who contravenes any provision of this local law or fails to comply with a notice issued under this local law commits an offence not exceeding \$2,000.

REPORT ITEM DIS036 REFERS

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

(clause 4.2)

I/we (full name): of (postal address)
.....
.....
.....
.....
(telephone number)
(facsimile number)
(E-mail address)

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

For (number and breed of dogs)

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

* (insert name of person) will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at (insert address of residence) on and from (insert date).

Attached are:

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside -
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as, in the keeping of dogs at the proposed kennel establishment.

Signature of applicant, Date

*delete where inapplicable. Note: a licence if issued will have effect for a period of 12 months – section 27.5 of the Dog Act.

OFFICE USE ONLY

Application fee paid on:
[insert date].

SCHEDULE 2 - CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

REPORT ITEM DIS036 REFERS

(clause 4.8(1))

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

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than -
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church (place of worship), school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be -
 - (i) at least 100mm above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of -
 - (i) 2m; or
 - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside -
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

REPORT ITEM DIS036 REFERS

**SCHEDULE 3— OFFENCES IN RESPECT OF WHICH MODIFIED
PENALTY APPLIES**

(clause 7.2)

Item	Clause	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$
1	3.1	Failing to provide means for effectively confining a dog	100	200
2	3.2	Failure to limit number of dogs	200	400
3	4.9	Failing to comply with the conditions of a kennel establishment licence	200	
4	5.1	Dog in a place from which it is prohibited absolutely.	200	400
5	5.3	Dog in a rural leashing (leash compulsory) area without a leash.	200	400
6	6.1	Failing to remove dog excrement.	100	100

Dated this: day of 2017.

The Common Seal of the)
 City of Albany was affixed)
 by the authority of the)
 resolution of Council)
 in the presence of:)

.....

Dennis Wellington, Mayor

.....

Andrew Sharpe, Chief Executive Officer

Note

Most issues regulating dogs are dealt with by the Dog Act 1976 and Dog Regulations 2013. This includes:

- Registration of dogs;
- 'Dangerous dogs' as defined by the Act;
- Operation of dog management facilities (pounds), including:
 - o Issues in relation to the impounding of dogs;
 - o Attendance of a pound keeper at the pound; and
 - o Release of impounded dogs are dealt with by the Dog Act 1976, and in particular section 29.
- Registration fees (although fees for the seizure and impounding of a dog may be set by a local government in its annual budget under section 6.16 of the Local Government Act 1995);
- How off leash dog exercise areas are established;
- Dogs wandering at large;
- Dog attacks;
- Provisions about assistance animals such as guide dogs;
- Modified penalties applicable for minor offences.

The only matters that a local government may make local laws about are listed in section 51 of the Dog Act:

51. Local law making powers

A local government may so make local laws —

- (a) providing for the registration of dogs;
- [(b) deleted]
- (c) specifying areas within which it shall be an offence (unless the excreta are removed) for any person liable for the control of a dog to permit that dog to excrete on any street or public place or on any land without the consent of the occupier;
- (d) requiring that in specified areas a portion of the premises where a dog is kept must be fenced in a manner capable of confining the dog;
- (e) providing for the establishment and maintenance of dog management facilities and other services and facilities necessary or expedient for the purposes of this Act;
- (f) providing for the detention, maintenance, care and release or disposal of dogs seized;
- (g) as to the destruction of dogs pursuant to the powers hereinbefore conferred;
- [(h) deleted]
- (i) providing for the licensing, regulating, construction, use, and inspection of approved kennel establishments.

26. Limitation as to numbers

- (1) A local government may, by a local law under this Act —
 - (a) limit the number of dogs that have reached 3 months of age that can be kept in or at premises in the local government's district; or
 - (b) limit the number of dogs of a breed specified in the local law that can be kept in or at premises in the local government's district.
- (2) A local law mentioned in subsection (1) —
 - (a) may limit the number of dogs that can be kept in or at premises to 2, 3, 4, 5 or 6 only; and
 - (b) cannot prevent the keeping in or at premises of one or 2 dogs that have reached 3 months of age and any pup of either of those dogs under that age; and
 - (c) cannot apply to dogs kept at premises that are licensed under section 27 as an approved kennel establishment; and
 - (d) cannot apply to dangerous dogs (declared) or dangerous dogs (restricted breed).

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<p style="text-align: center;">DOG ACT 1976 LOCAL GOVERNMENT ACT 1995 City of Albany DOG LOCAL LAW 2017</p> <p>Under the powers conferred by the <i>Dog Act 1976</i>, the Local Government Act 1995 and under all other powers enabling it, the Council of the City of Albany resolved on [insert date] to make the following local law.</p> <p style="text-align: center;">PART 1 – PRELIMINARY</p> <p>1.1 Short title This is the City of Albany <i>Dog Local Law 2017</i>.</p> <p>1.2 Commencement This local law commences 14 days after the day on which it is published in the <i>Government Gazette</i>.</p> <p>1.3 Application This local law applies throughout the district.</p>	<p>Consistent with WALGA local law.</p>
<p>1.4 Repeal Parts 2, 3 and Schedule 2 and 3 of the City of Albany <i>Animals Local Laws 2001</i>, published in the <i>Government Gazette</i> on 15 January 2002, is repealed.</p>	<p>Consistent with WALGA local law.</p>
<p>1.5 Meaning of terms used in this local law (1) In this local law —</p>	<p>Not consistent with WALGA local law. Simplified wording.</p>
<p>Act means the Dog Act 1976;</p>	<p>Consistent with WALGA local law.</p>
<p>Application means the completed form lodged by an applicant as required by this local law;</p>	<p>Not consistent with WALGA local law. Additional Clause.</p>
<p>Applicant means the owner or occupier of premises who makes an application for a permit under this local law;</p>	<p>Not consistent with WALGA local law. Additional Clause.</p>
<p>Assistance dogs has the meaning given in the Act.</p>	<p>Not consistent with WALGA local law. Additional Clause. Section 8 of the Dog Act 1976: 8. Assistance dogs (1) In this section — assistance dog means a dog — (a) that is trained or is being trained by a representative of an organisation that is prescribed for the purposes of this definition; or (b) that is trained or is being trained by an individual having the qualifications and experience prescribed for the purposes of this definition; or (c) that is assessed by a person mentioned in paragraph (a) or (b) as being competent to be an assistance dog; or (d) that is being assessed by a person mentioned in paragraph (a) or (b) to decide whether the dog is competent to be an assistance dog; or (e) that has been approved, for the purposes of a law of another State or a Territory, as a dog whose use can alleviate or manage an effect of a person's disability or medical condition; or (f) that is approved by the CEO for the purposes of this definition.</p>
<p>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;</p>	<p>Generally consistent with WALGA local law.</p>
<p>CEO means the Chief Executive Officer of the local government;</p>	<p>Consistent with WALGA local law.</p>
<p>Council means the Council of the City of Albany;</p>	<p>Not consistent with WALGA local law. Additional Clause.</p>

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<i>dangerous dog</i> has the meaning given to it in the Act	Consistent with WALGA local law. Note: dangerous dogs include both dangerous dog (declared) and dangerous dog (restricted breed)
<i>district</i> means the district of the local government;	Consistent with WALGA local law.
<i>dog management facility</i> has the meaning give to it in section 3(1) of the Act. <i>For the purpose of this local law, Pound means a dog management facility under the Act.</i>	Not consistent with WALGA local law. Additional Clause.
<i>kennel establishment</i> means any structure or land used for the boarding or breeding of dogs;	Not consistent with WALGA local law. Additional Clause.
<i>local government</i> means the City of Albany;	Consistent with WALGA local law.
<i>local planning scheme</i> means a local planning scheme made by the local government under the <i>Planning and Development Act 2005</i> which applies throughout the whole or a part of the district;	Consistent with WALGA local law.
<i>LG Act</i> means the <i>Local Government Act 1995</i> ;	Not consistent with WALGA local law. Additional Clause.
<i>lot</i> has the meaning given to it in the <i>Planning and Development Act 2005</i> ;	Not consistent with WALGA local law. Additional Clause. See clause: 4.1 Interpretation. adjoining means land or premises which have a common boundary or portion of a boundary with a lot or is separated from that lot by a right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6m in width;
<i>nuisance</i> means – has the meaning given under section 38 of the Act.	Note: Nuisance dogs are dealt with under the Act and this is not an area that Local governments can make local laws on under s.51 of the Act. Not consistent with WALGA local law. Additional clause.
<i>Planning Approval</i> means an approval issued under the local planning scheme as amended from time to time;	Not consistent with WALGA local law. Additional Clause. See clause: 4.2 Application for license for approved kennel establishment
<i>Prohibited places.</i> Under s.31(2B) of the Act, a local government may, by absolute majority as defined in the <i>Local Government Act 1995</i> section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited – (a) at all times; or (b) at specified times.	Not consistent with the WALGA local law. Additional Clause. Dog Act 1976 31. Control of dogs in certain public places (2B) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited — (a) at all times; or (b) at specified times.
<i>Public Place</i> has the same meaning given in the Act.	Not consistent with WALGA local law. Additional Clauses.
<i>premises</i> has the same meaning given in the Act.	Not consistent with WALGA local law. Additional Clauses.
<i>Regulations</i> means the <i>Dog Regulations 2013</i> ;	Consistent with WALGA local law.
<i>Schedule</i> means a schedule in this local law;	Consistent with WALGA local law.
<i>Seized</i> means a dog seized by an authorised person, but not having been placed in a pound;	Not consistent with WALGA local law. Additional Clause. In accordance with section 51 (f) of the Dog Act 1976.
<i>thoroughfare</i> has the meaning given to it in section 1.4 of the LG Act;	Consistent with WALGA local law.
<i>valid</i> in relation to a license issued under this local law means current and for which all the associated fees have been paid in full;	
PART 2—IMPOUNDING OF DOGS	Not consistent with WALGA local law. Additional Clause.

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<p>2.1 Charges and costs The following are to be imposed and determined by the local government under sections 6.16 to 6.19 of the LG Act –</p> <ul style="list-style-type: none"> (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; (c) the cost of implantation of a microchip referred to in section 30A.(3)of the Act; and (d) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act. 	<p>Consistent with WALGA local law. Note: the release of impounded dogs is adequately covered in s.29(8) of the Act, Consistent with WALGA local law. Note: the release of impounded dogs is adequately covered in s.29(8) of the Act, Consistent with WALGA local law.</p>
<p>PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS</p>	
<p>3.1 Dogs to be confined (1) An occupier of premises on which a dog is kept must —</p> <ul style="list-style-type: none"> (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog; (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it; (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) and is fitted with an effective operational latch or other means of fastening it; (d) maintain the fence and all gates and doors in the fence in good order and condition; and (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises. (f) where a dog is a dangerous dog, the enclosure must meet the specifications of s.33GA(2) of the Act. <p>(2) An occupier who fails to comply with subclause (1) commits an offence.</p>	<p>Generally consistent with WALGA local law. See subclause (2).</p>
<p>3.2 Limitation on the number of dogs (1) This clause does not apply to dangerous dogs (declared) or dangerous dogs (restricted breeds). (2) This clause does not apply to premises which have been—</p> <ul style="list-style-type: none"> (a) licensed under Part 4 as an approved kennel establishment; or (b) granted an exemption under section 26 (3) of the Act. <p>(3) For the purpose of section 26 (4) of the Act, a person shall not, without a permit, keep or permit to be kept —</p> <ul style="list-style-type: none"> (a) on premises situated on a lot having an areas of 4 hectares or more – 6 dogs over the ages of 3 months and the young of those dogs under that age; or (b) on premises situated on any other lot – 2 dogs over the age of 3 months and the young of those dogs under that age. 	<p>Note: see s.26(2)(d) of the Act regarding limitation on the number of dangerous dogs. Generally consistent with WALGA local law. Variance based on number of dogs and ages, see 3.2(2)(a)&(b). Consider definition of a kennel and what is the number of dogs that will determine if a premises needs to comply with kennel conditions. Note: added the ability for a person to seek a permit to keep more than the limited number of dogs.</p>
<p>PART 4—APPROVED KENNEL ESTABLISHMENTS</p>	
<p>4.1 Interpretation In this Part and in Schedule 2—</p> <p><i>adjoining land</i> means land or premises which have a common boundary or portion of a boundary with a lot or is separated from that lot by a right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6m in width;</p> <p><i>fit and proper person</i> means a person who does not have an unspent conviction under the <i>Animal Welfare Act 2002</i> or a history of contravention of the <i>Dog Act 1976</i>;</p> <p><i>license</i> means a license to keep an approved kennel establishment on premises;</p> <p><i>premises</i>, in addition to the meaning given to it in section 3 of Act, means the premises described in the application for a license; and</p>	<p>Consistent with WALGA local law. Additional Terms:</p> <p>adjoining land means land or premises which have a common boundary or portion of a boundary with a lot or is separated from that lot by a right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6m in width;</p> <p>fit and proper person means a person who has an unspent conviction under the Animal Welfare Act 2002 or a history of contravention of the Dog Act 1976;</p>

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<i>transferee</i> means a person who applies for the transfer of a license to him or her under clause 4.14 of this local law.	
<p>4.2 Application for license for approved kennel establishment An application for a license must be made in the form of that in Schedule 1, and must be lodged with the City together with—</p> <ul style="list-style-type: none"> (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 or CEO, 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 adopted or nominated by the local government; (e) the fee for the application for a license referred to in clause 4.10 (1) of this local law; and (f) a copy of a Planning Approval issued by the local government under a local planning scheme. 	Consistent with WALGA local law. Additional Clause: (a) a copy of a Planning Approval issued by the local government under a local planning scheme. Delegated power to the CEO, see 4.2 (c).
<p>4.3 Notice of proposed use</p> <ul style="list-style-type: none"> (1) An applicant for a license must give notice of the proposed use of the premises as an approved kennel establishment after the application for a license has been lodged— <ul style="list-style-type: none"> (a) once in a newspaper circulating in the district; and (b) to the owner and occupiers of any premises adjoining the premises. (2) The notices in subclause (1) must specify that— <ul style="list-style-type: none"> (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— <ul style="list-style-type: none"> (a) the notices given under sub clause (1) do not clearly identify the premises; or (b) a notice given under sub clause (1) (a) is of a size or in a location in the newspaper which, in the opinion of the CEO, 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 license until the notices or notice, as the case may be, is given in accordance with its directions. 	Consistent with WALGA local law. Delegated power to CEO, see 4.3(3)(b).
<p>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—</p> <ul style="list-style-type: none"> (a) permitted use; or (b) use which the local government may approve subject to compliance with specified notice requirements, under a local planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence. 	Consistent with WALGA local law.
<p>4.5 When application can be determined An application for a license is not to be determined by the local government until —</p> <ul style="list-style-type: none"> (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. 	Consistent with WALGA local law.
<p>4.6 Determination of application In determining an application for a license, the local government is to have regard to—</p> <ul style="list-style-type: none"> (a) the matters referred to in clause 4.8; (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 license is approved; (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood; 	Generally consistent with WALGA local law. See clause 4.6 (e).

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<p>(e) the extent to which the kennel establishment may create a nuisance for the owners and occupiers of adjoining premises; and</p> <p>(f) whether or not the imposition of and compliance with appropriate conditions of a license will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.</p>	
<p>4.7 Where application cannot be approved The local government cannot approve an application for a license where—</p> <p>(a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme; or</p> <p>(b) an applicant for a license 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; or</p> <p>(c) if the applicant is not a fit and proper person to keep an approved kennel establishment.</p>	Generally consistent with WALGA local law. Additional Clause, see 4.7(c).
<p>4.8 Conditions of approval</p> <p>(1) The local government may approve an application for a license subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.</p> <p>(2) In respect of a particular application for a license, the local government may vary any of the conditions contained in Schedule 2.</p>	Generally consistent with WALGA local law. See Schedule 2.
<p>4.9 Compliance with conditions of approval A licensee who does not comply with the conditions of a license commits an offence.</p>	Consistent with WALGA local law.
<p>4.10 Fees</p> <p>(1) On lodging an application for a license, the applicant is to pay a fee to the local government.</p> <p>(2) On the issue or renewal of a license, the licensee is to pay a fee to the local government.</p> <p>(3) On lodging an application for the transfer of a valid license, the transferee is to pay a fee to the local government.</p> <p>(4) The fees referred to in sub clauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the LG Act.</p>	Consistent with WALGA local law.
<p>4.11 Form of license The license is to be in the form determined by the local government and is to be issued to the licensee.</p>	Consistent with WALGA local law.
<p>4.12 Period of license</p> <p>(1) The period of effect of a license is set out in section 27 (5) of the Act.</p> <p>(2) A license is to be renewed if the fee referred to in clause 4.9 (2) is paid to the local government prior to the expiry of the license.</p> <p>(3) On the renewal of a license the conditions of the license at the time of its renewal continue to have effect.</p>	Consistent with WALGA local law.
<p>4.13 Variation or cancellation of license</p> <p>(1) The City may through a written notice to the licensee vary the conditions of a license.</p> <p>(2) The City may cancel a license—</p> <p>(a) on the request of the licensee;</p> <p>(b) following a breach of the Act, the Regulations or this local law; or</p> <p>(c) if the licensee is not a fit and proper person.</p> <p>(3) The date a license is cancelled is to be, in the case of—</p> <p>(a) paragraph (a) of sub clause (2), the date requested by the licensee; or</p> <p>(b) paragraphs (b) and (c) of sub clause (2), the date determined under section 27 (6) of the Act.</p> <p>(4) If a license is cancelled the fee paid for that license is not refundable for the term of the license that has not yet expired.</p>	Consistent with WALGA local law.
<p>4.14 Transfer</p> <p>(1) An application for the transfer of a valid license from the licensee to another person must be—</p> <p>(a) made in the form determined by the local government;</p> <p>(b) made by the transferee;</p> <p>(c) made with the written consent of the licensee; and</p> <p>(d) lodged with the local government together with —</p>	Consistent with WALGA local law.

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<p>(i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the license; and</p> <p>(ii) the fee for the application for the transfer of a license referred to in clause 4.10 (3).</p> <p>(2) The local government is not to determine an application for the transfer of a valid license until the transferee has complied with subclause (1).</p> <p>(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 license.</p> <p>(4) Where the local government approves an application for the transfer of a valid license, 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 license for the purposes of this local law.</p>	
<p>4.15 Notification The local government is to give written notice to—</p> <p>(a) an applicant for a licence of the local government’s decision on her or his application;</p> <p>(b) a transferee of the local government’s decision on her or his application for the transfer of a valid licence;</p> <p>(c) a licensee of any variation made under clause 4.13(1);</p> <p>(d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;</p> <p>(e) a licensee when her or his licence is renewed;</p> <p>(f) a licensee of the cancellation of a licence under clause 4.13(2)(a); and</p> <p>(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.</p>	<p>Consistent with WALGA local law.</p>
<p>4.16 Inspection of kennel With the consent of the occupier, an authorised person may inspect an approved kennel establishment at any time.</p>	<p>Consistent with WALGA local law.</p>
<p>PART 5—DOGS IN PUBLIC PLACES</p>	
<p>5.1 Places where dogs are prohibited absolutely</p> <p>(1) The owner or person liable for the control of a dog, other than an assistant dog as defined in s.8 of the Act, shall not allow a dog to enter or be in or on any of the following places —</p> <p>(a) a public building unless permitted by a sign;</p> <p>(b) a theatre or picture gardens;</p> <p>(c) all businesses or vehicles classified as food business or food transport vehicles under the <i>Food Act 2008</i>; and</p> <p>(d) a public swimming pool.</p> <p>(2) In accordance with s.31(2B) of the Act, the local government may, by absolute majority as defined in the <i>Local Government Act 1995</i> section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited.</p> <p>(3) If a dog enters or is in a place specified in subclauses (1) or (2), every person liable for the control of the dog at that time commits an offence.</p> <p><i>Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.</i></p>	<p>Note: adequately covered in s.8 of the Act. Section (2B) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited —</p> <p>(a) at all times; or</p> <p>(b) at specified times.</p>
<p>5.2 Places which are dog exercise areas In accordance with the s.31(3A) of Act, the local government may, by absolute majority as defined in the <i>Local Government Act 1995</i> section 1.4, specify a public place, or a class of public place that is under the care, control or management of the local government to be a place where dogs are can exercise.</p>	<p>Note: Dog Act 1976, Section 31. Control of dogs in certain public places. (3A) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a dog exercise area.</p>
<p>5.3 Place which are rural leashing (leash compulsory) areas In accordance with s.31(3B) of the Act, the local government may, by absolute majority as defined in the <i>Local Government Act 1995</i> section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a rural leashing area.</p> <p><i>Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.</i></p>	<p>(3B) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place that is under the care, control or management of the local government to be a rural leashing area.</p> <p>Pursuant to the Dog Act 1976, dogs, within a town site, must be on a leash or held by a person who is capable of controlling the dog in any public place (any place to which the public may lawfully have access) including; Beaches; Parks & gardens, car parks etc.. with the exception that on permitted beaches, dogs may</p>

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	be exercised without restraint but the owner must be in attendance and capable of restraining the dog if necessary.
PART 6—MISCELLANEOUS	
<p>6.1 Offence to excrete</p> <p>(1) A dog must not excrete on—</p> <p style="margin-left: 20px;">(a) any thoroughfare or other public place; or</p> <p style="margin-left: 20px;">(b) any land which is not a public place without the consent of the occupier.</p> <p>(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.</p> <p>(3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.</p>	Generally consistent with WALGA local law.
PART 7—ENFORCEMENT	
<p>7.1 Interpretation</p> <p>In this Part—</p> <p><i>infringement notice</i> means the notice referred to in clause 7.3; and</p> <p><i>notice of withdrawal</i> means the notice referred to in clause 7.6 (1).</p>	Consistent with WALGA local law.
<p>7.2 Modified penalties</p> <p>(1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.</p> <p>(2) 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 —</p> <p style="margin-left: 20px;">(a) the dog is not a dangerous dog; or</p> <p style="margin-left: 20px;">(b) the dog is a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.</p> <p>(3) The amount appearing in the fifth 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.</p>	Consistent with WALGA local law.
<p>7.3 Issue of infringement notice</p> <p>Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 8 of the First Schedule of the Regulations.</p>	Consistent with WALGA local law. Action required: Confirm FORM number, 8 or 7.
<p>7.4 Failure to pay modified penalty</p> <p>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.</p>	Consistent with WALGA local law.
<p>7.5 Payment of modified penalty</p> <p>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 of receipt.</p>	Consistent with WALGA local law.
<p>7.6 Withdrawal of infringement notice</p> <p>(1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 9 of the First Schedule of the Regulations.</p> <p>(2) A person authorised to issue an infringement notice under clause 7.3 cannot sign or send a notice of withdrawal.</p>	Consistent with WALGA local law.

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<p>7.7 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.</p>	<p>Consistent with WALGA local law.</p>
<p>7.8 Penalty Any person who contravenes any provision of this local law or fails to comply with a notice issued under this local law commits an offence not exceeding \$2,000.</p>	<p>Not consistent with WALGA local law. Additional Clause:</p>

Proposed Schedules:	Remarks/Comments:
<p style="text-align: center;">Schedule 1 - Application for a licence for an approved kennel establishment (clause 4.2)</p> <p>I/we (full name): of (postal address)</p> <p>.....</p> <p>(telephone number)(facsimile number).....</p> <p>(E-mail address)</p> <p>Apply for a licence for an approved kennel establishment at (address of premises)</p> <p>For (number and breed of dogs)</p> <p>* (insert name of person) will be residing at the premises on and from (insert date)</p> <p>* (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).</p> <p>Attached are:</p> <p>(a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;</p> <p>(b) plans and specifications of the kennel establishment;</p> <p>(c) copy of notice of proposed use to appear in newspaper;</p> <p>(d) copy of notice of proposed use to be given to adjoining premises;</p> <p>(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</p> <p>(f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.</p> <p>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.</p> <p>Signature of applicant, Date</p> <p>* delete where inapplicable.</p> <p><u>Note:</u> a licence if issued will have effect for a period of 12 months – section 27.5 of the Dog Act.</p> <p style="text-align: center;">OFFICE USE ONLY</p> <p style="text-align: center;">Application fee paid on: [insert date].</p>	

Proposed Schedules:	Remarks/Comments:
<p style="text-align: center;">Schedule 2 - Conditions of a licence for an approved kennel establishment (clause 4.8(1))</p> <p>An application for a licence for an approved kennel establishment may be approved subject to the following conditions:</p> <ul style="list-style-type: none"> (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 - <ul style="list-style-type: none"> (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 (place of worship), 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 - <ul style="list-style-type: none"> (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; <ul style="list-style-type: none"> (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 - <ul style="list-style-type: none"> (i) 2m; or (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position; (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government; (l) all external surfaces of each kennel must be kept in good condition; (m) the roof of each kennel must be constructed of impervious material; (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person; (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage; (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled; (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside - <ul style="list-style-type: none"> (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. 	

<i>Proposed Schedules:</i>					<i>Remarks/Comments:</i>
Schedule 3 - Offences in respect of which modified penalty applies (clause 7.2)					
Item	Clause	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$	
1	3.1	Failing to provide means for effectively confining a dog	100	200	
2	3.2	Failure to limit number of dogs	200	400	
3	4.9	Failing to comply with the conditions of a kennel establishment licence	200		
4	5.1	Dog in a place from which it is prohibited absolutely.	200	400	
5	5.3	Dog in a rural leashing (leash compulsory) area without a leash.	200	400	
6	6.1	Failing to remove dog excrement.	100	100	

Dated:

The Common Seal of the City of Albany was affixed by the authority of the resolution of Council in the presence of:

.....
Dennis Wellington, Mayor

.....
Andrew Sharpe, Chief Executive Officer