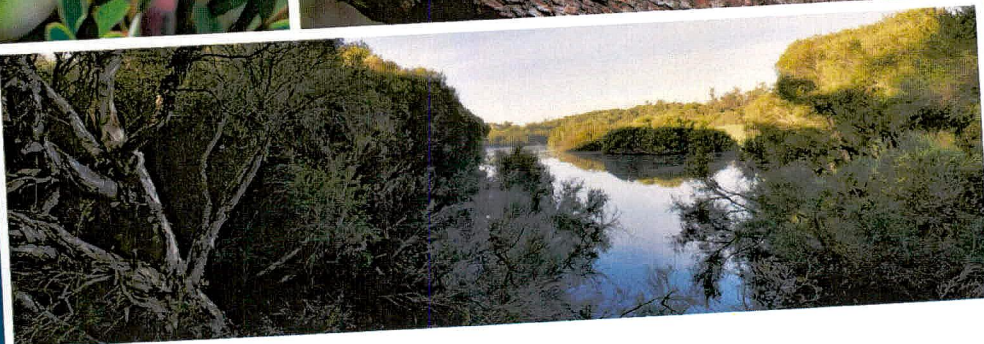
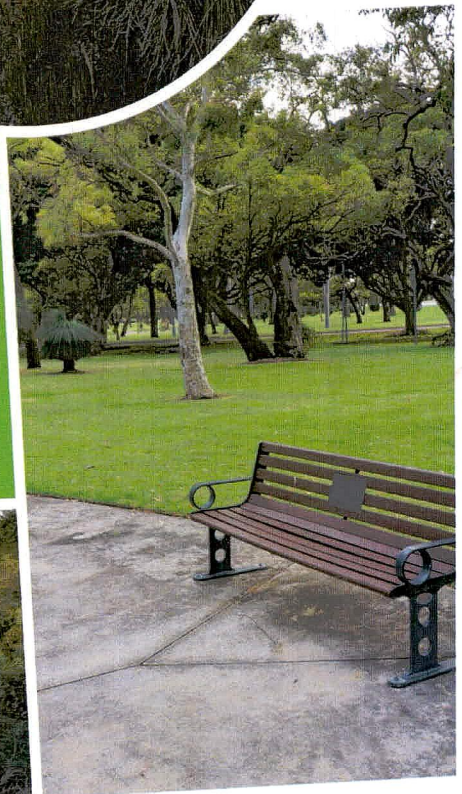
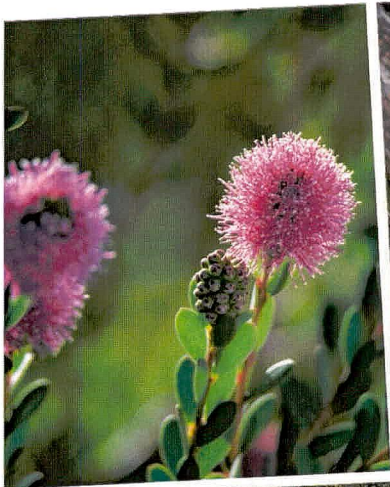


# City of Kwinana

## Animal, Environment and Amenity Local Law 2024



# City of Kwinana

## ANIMAL, ENVIRONMENT AND AMENITY LOCAL LAW 2024

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## Local Government Act 1995

### City of Kwinana

# Animal, Environment and Amenity Local Law 2024

Under the powers conferred on it by the *Local Government Act 1995* and all other powers enabling it, the Council of the City of Kwinana resolved on 25 September 2024 to make the following local law.

## PART 1 – PRELIMINARY

### 1.1 Citation

This Local Law may be cited as the *City of Kwinana Animal, Environment and Amenity Local Law 2024*.

### 1.2 Commencement

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

### 1.3 Repeal

- (1) The *Town of Kwinana By-Law No. 29(B) Relating to the Keeping of Pigeons* published in the *Government Gazette* on 12 November 1996 is repealed.
- (2) The *Town of Kwinana Piggeries By-Laws* published in the *Government Gazette* on 9 September 1983 is repealed.
- (3) The *Town of Kwinana Health (Keeping of Horses and Equine Premises) Local Laws 1997* published in the *Government Gazette* on 11 February 1998 is repealed.
- (4) The *Town of Kwinana Urban Environment and Nuisance Local Law 2003* published in the *Government Gazette* on 18 July 2003 and amended from time to time is repealed.
- (5) The *Town of Kwinana Bee Keeping Local Law 2002* published in the *Government Gazette* on 7 May 2002 is repealed.
- (6) The following parts of the *Town of Kwinana Health By-Law 1963* published in the *Government Gazette* on 28 February 1964 and amended from time to time, are repealed —
  - (a) Part I General Sanitary Provisions by-laws 1 to 1B, 2, 4A, 4AB to 4AF, 5 to 35aA, 36 to 68 and Schedule A;
  - (b) Part II Infectious Diseases;
  - (c) Part III Private Hospitals;
  - (d) Part IV Dairies and Milk Shops;

- (e) Part VII Food;
- (f) Part VIII Barbers Shops and Hairdressing Establishments; and
- (g) Part IX Offensive Trades.

## 1.4 Application

This local law applies throughout the district.

## 1.5 Definitions

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

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

**affiliated person** means a person that is a member of a pigeon or poultry association, which is an incorporated body under the *Associations Incorporation Act 2015*;

**amusement** means entertainment provided by equipment operated for hire or reward which provides entertainment or amusement through movement of the equipment, or part of the equipment, or when passengers travel on, around or along the equipment or move the equipment through self-powered motion;

**associated building or facilities** includes a feed room, gear room, shoeing area, hosing down area, lunging yard, rolling yard, veterinary treatment area, and a vehicle and float storage area used in the keeping, caring or management of horses;

**authorisation** includes a permit or approval granted under this local law;

**authorised person** means a person authorised by the CEO of the local government, under section 9.10 of the Act to administer or enforce this local law;

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

**beehive** means a movable or fixed structure, container or object which contains a bees nest and in which bees are kept;

**building site** means any land for which a building permit issued under *Building Act 2011* is current and upon which building work has commenced;

**CEO** means the Chief Executive Officer of the local government;

**Code of Practice** means the *Code of Practice for Pigeon Keeping and Racing in Western Australia*, administered by the Department of Primary Industries and Regional Development/Agriculture and Food, as amended from time to time, in conjunction with the Pigeon Racing Federation WA Inc. and the Independent Racing Pigeon Federation Inc.;

**demolition site** means any land for which a demolition permit issued under the *Building Act 2011* is current and upon which the demolition work has commenced;

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

**development site** includes any land for which there is a current development or subdivision approval, and any land upon which, construction work, earthworks, clearing of scrub, trees or overgrowth or any other site works are taking or have taken place, whether or not such works are subject to a development or subdivision approval;

**district** means the district of the local government;

**dust** means any visible granular or particulate material which has or has the potential to become airborne and includes organic and non-organic matter and sand, but does not include smoke;

**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;

**Environmental Management Guidelines** means the Environmental Management Guidelines for Horse Facilities and Activities (Water Quality Protection Guideline 13), administered by the Department of Water and Environmental Regulation, as amended from time to time;

**farm animal** includes cow, sheep, goat, pig or other hoofed mammal, excluding a horse;

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

**horse** includes any animal of the *Equidae* family, including a horse, ass, mule, donkey or pony;

**Jandakot UWPCA** means the Jandakot Underground Water Pollution Control Area, a gazetted public drinking water source area under the *Metropolitan Water Supply, Sewerage and Drainage Act 1909*;

**land** has the meaning given in clause 7 of the *Property Law Act 1969*. That definition includes a building or part of a building;

**liquid waste** means waste from any process or activity, whether useful or useless, that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land, air or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater;

**livestock** means a farm animal;

**local government** means the City of Kwinana;

**local planning scheme** has the meaning given to it made by the local government under the *Planning and Development Act 2005*;

**manure receptacle** means a receptacle, of sufficient capacity to receive all manure produced in one week on land upon which a farm animal or farm animals, a horse or horses are kept, constructed of smooth, durable, impervious materials, fitted with a fly proof, hinged cover and with no part of the floor lower than the adjoining ground;

**mosquito** means any of the two-winged insect constituting the family *Diptera Culicidae* and commonly known as mosquito;



**nuisance** means —

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

**occupier** has the same meaning as in the Act;

**owner** has the same meaning as in the Act;

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

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

**refuse** includes bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter whatsoever, whether of the same type as, or a different type from, those mentioned here;

**recycling** means —

- (a) paper and cardboard;
- (b) plastic containers comprised of polyethylene terephthalate or high-density polyethylene;
- (c) glass containers;
- (d) steel containers;
- (e) aluminium containers;
- (f) liquid paper board; and
- (g) any other waste determined by the local government to be recycling waste;

**Regulations** means the *Local Government (Functions and General) Regulations 1996*;

**residential zone** includes any land zoned Residential or Special Residential under a local planning scheme;

**rodents** means those mammals belonging to the order *Rodentia* and includes rats and mice, but does not include mammals of that species kept as pets in an enclosure designed for the purpose of keeping pets;

**rural zone** means any land zoned Rural or Special Rural or otherwise zoned for rural purposes under a local planning scheme;

**sand** means granules or particles of rock, earth, clay, loam, silt and any other granular, particulate or like material, and includes dust and gravel;

**slaughter** means to kill an animal for food;

**stable** means any building used for the keeping, breeding, caring, feeding and rearing of horses;

**stable shelter** in relation to stabling of horses means a three or four walled and fully roofed structure with or without a concrete floor provided for the substantial protection of horses from inclement weather that is provided and approved in lieu of a stable;

**Stocking Rate Guidelines** means the Stocking Rate Guidelines For Rural Small Holdings, Swan Coastal Plain and Darling Scarp and surrounds, Western Australia Plain and Darling Scarp and surrounds, Western Australia, administered by the Department of Primary Industries and Regional Development, as amended from time to time;

**stormwater** means any naturally occurring water that results from rainfall on or around a site, or water flowing onto the site;

**street** means any highway or thoroughfare which the public are entitled to use, and includes every part of the highway or thoroughfare, including the verge and other things including bridges and culverts appurtenant to it;

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

**vermin** includes rats, mice, flies, fleas, mites, lice, cockroaches and any other animal, whether vertebrate or invertebrate, which is known to be a vector of disease or is likely to cause damage to human food, habitation or possessions;

**water resources** includes watercourses, waterways and their estuaries, inlets and floodplains, wetlands, groundwater, surface water, stormwater and drainage.

- (2) Any word or term used in this local law that is not defined in subclause (1) shall have the meaning given to it in the Act.
- (3) Where under this local law the local government is authorised to carry out actions or cause works to be undertaken as a consequence of the failure of any person to comply with the terms of a notice or other conduct, the right to enter land is at all times subject to the provisions of Part 3, Division 3, Subdivision 3 of the Act.
- (4) Where, in this local law, a duty or liability is imposed on an owner or occupier, or on an owner and occupier, the duty or liability is taken to be imposed jointly and severally on each of the owners or occupiers.

## **PART 2 – KEEPING OF ANIMALS**

### **Division 1– Keeping of animals**

#### **2.1 Cleanliness**

- (1) An owner or occupier of land on which an animal is kept shall keep such land —
  - (a) free from excrement, filth, food waste and all other matter which causes, or is likely to cause a nuisance, become offensive or injurious to health or to attract vermin; and
  - (b) so far as possible, free from flies or other vermin, by spraying with a residual insecticide or other effective means.
- (2) When directed by an authorised officer, an owner or occupier of land upon which an animal is kept shall clean and disinfect any portion of such land.

#### **2.2 Disposal of dead animals**

- (1) An owner or occupier of land, other than a veterinary practice, on which there is a dead animal, must dispose of the dead animal —
  - (a) as soon as practicable; and
  - (b) in a manner that does not
    - (i) create a nuisance;
    - (ii) become offensive; or
    - (iii) attract vermin.
- (2) A dead animal must not be disposed of within 100 metres of any water resources or within the Jandakot UWPCA.

### **Division 2 – Keeping of farm animals**

#### **2.3 Keeping of farm animals**

An owner or occupier of land in a residential zone shall not keep, or permit to be kept, any farm animals on such land.

#### **2.4 Keeping of pigs**

An owner or occupier of land shall not keep any pig —

- (a) within a residential zone; or
- (b) within the Jandakot UWPCA.

#### **2.5 Conditions for keeping farm animals**

The owner or occupier of land upon which farm animals are kept shall ensure —



- (a) all farm animals are prevented from approaching within 18 metres of any dwelling, public building, building used for commercial purposes or food business;
- (b) that the land on which the farm animals are enclosed is fenced or walled in a manner capable of confining such animals and, having regard to the species, age, size and condition of the animals, capable of preventing the animals from escaping; and
- (c) such animals are kept in accordance with the provisions of any local planning scheme applicable to that zone.

## **2.6 Requirements for farm animal shelters**

The owner or occupier of land on which farm animals are kept shall ensure that any stable, enclosure or shelter provided for the keeping of farm animals is —

- (a) not situated within 18 metres of any dwelling, public building, building used for commercial purposes or food business; and
- (b) maintained in a manner so as to provide adequate shelter, drainage and ventilation.

## **2.7 Slaughter of farm animals**

- (1) Subject to subclause (2), a person shall not slaughter any farm animal on any land.
- (2) Subclause (1) does not apply to euthanasia of animals by veterinarians, abattoirs, animal food processing premises, vermin control or any premises approved for slaughtering purposes.

# **Division 3 – Keeping of horses**

## **2.8 Keeping of horses**

An owner or occupier of land shall not keep, or permit to be kept, any horse —

- (a) on land other than within a rural zone; and
- (b) contrary to the provisions of any local planning scheme applicable.

## **2.9 Requirements for construction of stable, stable shelter, paddock, yards, training/walking rings and associated buildings or facilities**

- (1) Any stable or stable shelter shall not be situated within —
  - (a) 18 metres of any dwelling, building used for commercial purposes or food business on an adjacent lot;
  - (b) 9 metres of any dwelling, building used for commercial purposes or food business within the same lot;
  - (c) a 30 metre radius of any private bore, well or dam;

- (d) 18 metres from the property boundary; and
  - (e) 9 metres of any street in the case of a corner site.
- (2) Any stable or stable shelter situated within the Jandakot UWPCA are to be in accordance with the requirements of Environmental Management Guidelines.
- (3) Any stable or stable shelter shall —
  - (a) have a separate stall for each horse in accordance with subclause (4);
  - (b) have each wall and roof constructed of an impervious material;
  - (c) have on all sides of the building between the top of the wall and the roof a clear opening of at least 150 millimetres in height, unless otherwise approved by the local government; and
  - (d) have walls that are not less than 3 metres in height and in length.
- (4) Subject to subclause (5), a stable must have —
  - (a) a roof that covers the entire floor area of the stall; and
  - (b) a floor with an upper surface that —
    - (i) is raised at least 75 millimetres above the surface of the surrounding ground;
    - (ii) is constructed of cement, concrete or other similar impervious materials;
    - (iii) has an adequate fall to a drain which shall empty into a trapped gully situated outside the stable that discharges to sewer or an approved effluent disposal system; and
    - (iv) has an area of not less than 12 square metres for each stall.
- (5) A stable or stable shelter constructed with a sand floor shall be constructed as follows —
  - (a) the site must be well drained with the highest known water table no closer than 2 metres to the sand floor level which may be achieved artificially;
  - (b) the footings to each stable are to be a minimum of 450 millimetres below ground level;
  - (c) the roof is to be not less than 50% of the floor area; and
  - (d) in all other respects, the requirements of subclause (3) apply to the stable building.
- (6) Any associated building or facility shall not be closer than 9 metres to any dwelling.
- (7) Any paddock, yards or training/walking rings shall not be situated within —
  - (a) 18 metres of any dwelling, building used for commercial purposes or food business on an adjacent land;

- (b) 9 metres of any dwelling, building used for commercial purposes or food business within the same land;
- (c) a 30 metre radius of any private bore, well or dam; and
- (d) the minimum buffer distances set within the Environmental Management Guidelines for land situated within the Jandakot UWPCA.

## **2.10 Maintenance**

The owner or occupier of land where any horse is kept shall —

- (a) ensure that stables, stable shelters and any associated building or facilities are —
  - (i) maintained in good working order;
  - (ii) in sound, weatherproof condition; and
  - (iii) are fit for use,
 including but not limited to their roofs, walls, floors, guttering, downpipes (including on-site storm water disposal systems), doors and windows.
- (b) maintain fences, railings and gates in the stables, stable shelters, paddocks, yards, training/walking rings in good working order and repair; and
- (c) ensure any paddock is fenced or walled in a manner capable of confining any horse contained therein.

## **2.11 Waste and manure management**

The owner or occupier of land where any horse is kept shall ensure that —

- (a) no manure receptacle is situated closer than 10 metres from any dwelling on an adjacent property;
- (b) waste and manure are not permitted to accumulate unless stored or treated so as not to create a nuisance, become offensive or injurious to health or attract vermin; and
- (c) manure is managed in accordance with the planning approval under the under the local planning scheme.

## **Division 4 – Keeping of poultry, pigeons and birds**

### **2.12 Keeping of poultry and pigeons**

- (1) Subject to subclause (2), an owner or occupier of land must not keep or permit to be kept on such land —
  - (a) more than 10 poultry or pigeons in a residential zone; or



- (b) more than 25 poultry or 50 pigeons in a rural zone without the approval of the local government in accordance with clause 2.20.
- (2) Subclause (1) shall not apply to premises approved by the local government for veterinary purposes or intensive agriculture.

### **2.13 Requirements for keeping of poultry**

An owner or occupier of land upon which poultry are kept, other than for veterinary purposes or intensive agriculture, must ensure that —

- (a) all poultry are kept in a properly constructed and securely fastened enclosure;
- (b) poultry are prevented from approaching within 9 metres of a street, or any dwelling on any other lot, or land used for public building or commercial purposes or food business;
- (c) the enclosure is kept in clean condition and in good repair at all times; and
- (d) effective measures are taken to control vermin and eradicate offensive odours.

### **2.14 Requirement for keeping of pigeons**

- (1) An owner or occupier of land upon which pigeons are kept shall ensure that —
  - (a) all pigeons are kept in a properly constructed enclosure and confined in that enclosure except where registered homing pigeons are freed for exercise;
  - (b) no opening to an enclosure, including openings for ventilation, is within 9 metres of any street, dwelling, public building, building used for commercial purposes or food business; and
  - (c) the enclosure is kept in a clean condition and in good repair at all times, with effective measures taken to control vermin and eradicate offensive odours.
- (2) An affiliated person shall ensure that all pigeons are kept in accordance with the Code of Practice for Pigeon Keeping and Racing in Australia and subject to the provisions of this local law.

### **2.15 Roosters, geese, turkeys and peafowl**

Other than land within a rural zone, an owner or occupier of land must not keep or permit to be kept, any —

- (a) roosters;
- (b) geese;
- (c) turkeys; or
- (d) peafowl.

### **2.16 Requirements for keeping of aviary birds**

An owner or occupier of land shall ensure that any enclosure used for the keeping of aviary birds is —

- (a) of sound, weatherproof construction as follows —
  - (i) the framework and roost are to be smooth sealed timber or metal;
  - (ii) the walls and roof are to be constructed of galvanised iron or other approved material; and
  - (iii) the floor is to be constructed in a manner that facilitates the hygienic removal of waste matter, husks, seeds, feathers, dead birds and faecal matter;
- (b) kept in clean condition and good repair at all times; and
- (c) kept at least 5 metres from any premises on any other land.

#### **2.17 Nuisance caused by birds or poultry**

An owner or occupier of land shall not keep any bird or poultry which —

- (a) causes, or is likely to cause a nuisance; or
- (b) emits an unreasonable noise.

#### **2.18 Restrictions on feeding of uncaged birds**

- (1) A person shall not feed or permit the feeding of any uncaged bird unless otherwise approved by the local government.
- (2) Where an authorised person is satisfied that a person has not complied with subclause (1) the authorised person may serve the person a notice of breach requiring the person to clean up and properly dispose of any feed or waste products specified in the notice.
- (3) Where approval has been given by the local government to feed or permit the feeding of any uncaged bird, the approval can be withdrawn by the local government in the event that —
  - (a) the holder does not comply or cause compliance with the conditions;
  - (b) there is a change in the circumstances upon which the approval was granted; or
  - (c) the feeding or permission to feed any uncaged bird causes a nuisance.

#### **2.19 Restrictions on pigeons nesting or perching**

An authorised person may order an owner or occupier of land on which pigeons nest or perch, to take adequate steps to prevent them from continuing to do so.

#### **2.20 Application for approval for keeping of poultry or pigeons contrary to clause 2.12(1)(b)**

- (1) An owner or occupier of land may apply in writing to the local government for approval to keep poultry or pigeons otherwise than in accordance with clause 2.12(1)(b).
- (2) An application to the local government for approval pursuant to subclause (1) is to include —

- (a) a statement outlining the reasons why approval is sought;
  - (b) the number of poultry or pigeons proposed to be kept;
  - (c) a site plan showing land size, location of enclosure, the distance of the enclosure from any boundaries and buildings on adjoining land and any nearby water resources;
  - (d) where applicable, proof affiliation to a poultry or pigeon keeping association;
  - (e) proof of registration as a livestock owner where required by the *Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*; and
  - (f) any fee determined by the local government.
- (3) Prior to determining an application for approval, the local government may seek and consider the views and concerns of any owner or occupier of an adjoining property.
  - (4) The local government may grant approval of an application pursuant to subclause (1), with or without conditions, or refuse to grant approval.
  - (5) Where an approval pursuant to subclause (1) is granted subject to conditions, the holder of the approval shall comply with those conditions.
  - (6) A grant of approval is personal to the applicant and applies only to the land described in the approval.
  - (7) The applicant shall notify the local government of any change in the circumstances on which the grant of an approval was based as soon as any change occurs.
  - (8) An approval can be cancelled by the local government in the event that –
    - (a) the holder does not comply with any conditions set by the local government;
    - (b) there is a change in the circumstances upon which the approval was granted; or
    - (c) the granting of the approval causes a nuisance in the opinion of the local government.

## **Division 5 – Keeping of bees**

### **2.21 Keeping of bees**

An owner or occupier of land shall not keep, or permit to be kept, bees in more than two bee hives, unless approval is granted by the local government in accordance with clause 2.24.

### **2.22 Requirements for keeping of bees**

An owner or occupier of land shall not keep, or permit to be kept, bees in any beehive unless

- (a) a good and sufficient water supply is located on the land which is readily accessible by the bees situated at distance of less than 5 metres from the hive;



- (b) a screen or other barrier prevents the bees flying low over a street, public place or adjoining land;
- (c) each beehive is kept as follows —
  - (i) at least 9 metres from any building on any other land;
  - (ii) at least 9 metres from any footpath, street, private street or public place;
  - (iii) at least 5 metres from the boundary of the land; and
- (d) where required, the owner or occupier is registered under the *Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*.

### **2.23 Nuisance caused by bees**

A person shall not keep, or allow bees or beehives to be kept, on land so as to create a nuisance.

### **2.24 Application for approval for keeping of more than two bee hives**

- (1) An owner or occupier of land may apply in writing to the local government for approval to keep more than two bee hives on such land.
- (2) An application for approval should include —
  - (a) a statement outlining the reasons why an approval is sought;
  - (b) the number of bee hives proposed to be kept;
  - (c) a site plan showing land size, the location of bee hives, and the distance of the enclosure from any boundaries and buildings on adjoining land;
  - (d) where required, proof of registration as a beekeeper under the *Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*; and
  - (e) payment of any fee determined by the local government.
- (3) Prior to determining an application, the local government may seek and consider the views and concerns of the owners and occupiers of adjoining land.
- (4) The local government may grant approval, with or without conditions, or refuse to grant approval.
- (5) Where approval is granted subject to conditions, the holder of the approval shall comply with those conditions.
- (6) A grant of approval is personal to the applicant and applies only to the land described in the approval.
- (7) The applicant shall notify the local government of any change in the circumstances on which the approval was based as soon as any change occurs.
- (8) An approval can be cancelled by the local government in the event that —

- (a) the holder does not comply with the conditions of approval;
- (b) there is a change in the circumstances upon which the approval was granted; or
- (c) the granting of the approval causes a nuisance.

## **Division 6 – Previous approvals**

### **2.25 Previous approvals by local government**

- (1) Every registration or approval granted by the local government relating to the keeping of poultry, pigeons, pigs, horses and bees under the former provisions and in force immediately before the commencement of local laws, has effect as if granted under this local law and notwithstanding any of the provisions in this local law, may be renewed or transferred, on application made under this local law, at the discretion of the local government subject to such conditions or restrictions, if any, that the local government may deem necessary to impose.
- (2) In clause 2.25(1), “former provisions” means the *Town of Kwinana Health (Keeping of Horses and Equine Premises) Local Laws 1997*, *Town of Kwinana Bee Keeping Local Law 2002*, *Town of Kwinana Bee Keeping Local Law 2002*, *Town of Kwinana Piggeries By-laws*, *Town of Kwinana By-Law No. 29(B), Relating to the Keeping of Pigeons* or *Town of Kwinana Health By-Law 1963* as repealed.

## **PART 3 – VERMIN CONTROL**

### **Division 1 – Mosquitoes**

#### **3.1 Mosquito control**

- (1) An owner or occupier of land must keep the land free of water located so as to be, or be liable to become, a breeding place for mosquitoes.
- (2) An authorised person may order an owner or occupier of land to take adequate and reasonable measures to prevent the pooling of water or undertake control measures to prevent mosquito breeding.

### **Division 2 – Rodents**

#### **3.2 Measures to be taken to eradicate rodents**

- (1) Where there are indications of the presence of rodents, the owner or occupier of land must take adequate and reasonable measures to keep such land free from rodents and prevent rodent breeding.
- (2) An authorised person may order an owner or occupier of land to take adequate and reasonable measures to eradicate rodents or undertake control measures to prevent rodent breeding.

## **Division 3 – Cockroaches**

### **3.3 Measures to be taken to eradicate cockroaches**

- (1) Where there are indications of the presence of cockroaches in, on or about land, the owner or occupier of such land must take adequate and reasonable measures to keep the land free from cockroaches and prevent cockroach breeding.
- (2) An authorised person may order an owner or occupier of land to take adequate and reasonable measures to eradicate cockroaches or undertake control measures to prevent breeding of cockroaches.

## **PART 4 – NUISANCES**

### **Division 1 – Amusements**

#### **4.1 Operation of amusements**

A person shall not provide or conduct any amusements on land so as to create or cause a nuisance to any owner or occupier of land in the district, without the approval of the local government.

### **Division 2 – Light**

#### **4.2 Emission or reflection of light**

An owner or occupier of land must not —

- (a) permit artificial light to be emitted or reflected from anything on the land so as to illuminate premises outside that land at a level that interferes unreasonably with normal activities; or
- (b) permit natural light to be reflected from anything on the land so as to create or be a nuisance to any owner or occupier of adjoining land or person using a street as a thoroughfare.

#### **4.3 Use of exterior lighting**

An owner and or occupier of land on which floodlights, lighting installations or other exterior lights are erected or used must not allow the floodlights or other exterior lights to shine directly onto adjoining land so as to cause a nuisance.

#### **4.4 Notice**

The local government may give a notice to the owner or occupier of land to abate a nuisance arising from a contravention of clause 4.2 or 4.3 within the time specified in the notice by —

- (a) preventing artificial light from being emitted or reflected from the land;
- (b) treating any reflective surfaces;
- (c) restricting the hours of use of the floodlights, lighting installations or other exterior lights; or



- (d) requiring alterations to the direction in which any lights are shining.

### **Division 3 – Smoke, fumes, odours, and other emissions**

#### **4.5 Burning rubbish, refuse or other material**

- (1) An owner or occupier of land must not set fire to, or cause to be set on fire, any rubbish, refuse or other material listed in Schedule 2 on the land, unless approved under a written law.
- (2) Subclause (1) does not apply to any barbeque, solid fuel water heater, space heater or ovens fired with dry paper, dry wood, synthetic charcoal or charcoal type fuel.

#### **4.6 Escape of smoke, fumes, odours, and other emissions**

An owner or occupier of land must take reasonable steps to prevent the escape of smoke, fumes or odours from the land in such quantity or of such a nature as to cause or to be a nuisance to any person, unless that owner or occupier has approval under a written law that permits the escape of smoke, fumes or odours from the land.

## **PART 5 – UNSIGHTLY LAND AND DISUSED MATERIALS**

### **5.1 Removal of refuse and disused materials**

The owner or occupier of land shall not keep, or permit to remain on the land, any refuse, rubbish or disused material of whatsoever nature or kind which in the opinion of an authorised person is likely to give the land an untidy appearance and does not conform with the general appearance of other land in that particular part of the district.

### **5.2 Removal of unsightly overgrowth of vegetation**

The owner or occupier of land shall not permit any unsightly overgrowth of vegetation on the land that gives the premises an untidy appearance and does not conform with the general appearance of other land or premises in that particular part of the district.

### **5.3 Fencing unsightly land**

The local government may give notice to an owner or occupier of land to ensure that unsightly land is enclosed, to the satisfaction of the local government, with a fence or other means suitable to prevent the land, so far as is practicable, from being unsightly.

### **5.4 Storage of vehicles and machinery**

The owner or occupier of land shall not —

- (a) wreck, dismantle or break up any vehicle or machinery (or any part thereof); or
- (b) store or allow to remain on any land any vehicle or machinery (or any part thereof) in a state of disrepair or disuse,

unless inside a building within an area enclosed by a fence or wall of not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles or machinery from the street and from adjoining land.

## **PART 6 – STORMWATER AND WASTEWATER MANAGEMENT**

### **6.1 Containment of stormwater, rainwater, and wastewater**

An owner or occupier of land shall ensure that all rainwater and stormwater received on the land, and all wastewater generated on the land is contained on the land or discharged into an approved drainage structure or sewerage apparatus.

### **6.2 Containment and disposal of swimming pool and other wastewater**

An owner or occupier of land shall ensure that all wastewater and backwash water from any swimming pool or spa filtration systems or other water storage systems on the land is contained within the land and diverted to the storm water drainage system on the land.

## **PART 7 — HAZARDOUS MATERIALS**

### **7.1 Hazardous plants and trees**

- (1) Where a plant or tree situated on land presents a hazard, or endangers or may endanger any person or thing on adjoining land, an authorised person may give a notice to the owner or the occupier of the land to remove, cut, move or otherwise deal with the plant or tree so as to remove the danger or hazard.
- (2) Where a plant or tree situated on land presents a serious and immediate danger to any person or thing on adjoining land, an authorised person may take any remedial action considered appropriate in order to make a plant or tree safe without having given the owner or occupier notice under subclause (1).

### **7.2 Cyclonic activities or severe weather conditions**

Where there is likely to be a danger to the public or property which may result from cyclonic activity or severe weather, an authorised person may give a notice to the owner or the occupier of land specifying measures to be taken in relation to the premises to prevent or minimise any danger or hazard.

## **PART 8 – BUILDING, DEVELOPMENT AND LAND CARE**

### **Division 1 – Litter and refuse on building sites, development sites and demolition sites**

#### **8.1 Provision of refuse and recycling receptacles**

- (1) The owner or occupier of a building site, development site or demolition site shall at all times provide and maintain a refuse receptacle and recycling receptacle, available for use on the land.

- (2) A refuse receptacle and recycling receptacle under subclause (1) shall include a suitable cover, to the satisfaction of an authorised officer, of such design as will –
  - (a) contain any refuse and recycling waste likely to be produced on the land; and
  - (b) prevent refuse and recycling waste being blown from the receptacle by wind.

## **8.2 Requirements to control refuse and recycling waste**

- (1) From the time of commencement of works on a building site, development site or demolition site until the time of completion of such work, the owner or occupier of the land shall take reasonable steps to –
  - (a) ensure all refuse on the land is placed and contained in the refuse waste receptacle;
  - (b) ensure all recycling waste on the land is placed and contained in the recycling waste receptacle;
  - (c) keep the site as free as is reasonably practicable from any refuse and recycling waste;
  - (d) ensure all refuse and recycling waste are contained in the receptacles are prevented from being blown from the site by wind;
  - (e) maintain the street verge immediately adjacent to the land free of refuse and recycling waste from the site; and
  - (f) ensure the refuse and recycling waste receptacle is emptied when full.
- (2) The owner or occupier of a building site, development site or demolition site must ensure that within 2 days of completion of works on the site or when directed by an authorised officer –
  - (a) the land and the street verge immediately adjacent to it is cleared of all refuse; and recycling waste; and
  - (b) all recycling and refuse receptacles are removed from the land.

## **Division 2 – Prevention of dust and liquid waste**

### **8.3 Containment of dust and liquid waste**

- (1) An owner or occupier of land must take effective measures to –
  - (a) stabilise dust on the land;
  - (b) contain all liquid waste on the land; and
  - (c) ensure no dust or liquid waste is released or escapes from the land whether by means of wind, water, or any other cause.



- (2) An owner or occupier of land must notify the owners or occupiers of adjoining land in writing 48 hours prior to the commencement of any activity that has the potential to cause the release or escape of dust or liquid waste from the land, giving details of —
- (a) the nature of the activity;
  - (b) the proposed commencement time, frequency, duration time and location of the activity; and
  - (c) the name of the person responsible for carrying out the activity and how and where that person may be contacted.
- (3) Where an authorised person is satisfied that an owner or occupier has not complied with subclause (1), the local government may serve on the owner and or occupier of the land a notice requiring the owner and or occupier to do one or more of the following —
- (a) comply with subclause (1);
  - (b) clean up and properly dispose of any released or escaped dust or liquid waste;
  - (c) clean up and make good any damage resulting from the released or escaped dust or liquid waste; or
  - (d) take effective measures to stop any further release or escape of dust or liquid waste.
- (4) The requirements set out in a notice served under subclause (3) must be complied with —
- (a) within 48 hours of service of the notice where no other time is specified;
  - (b) within such other period as is specified in the notice; or
  - (c) immediately, if the notice so specifies.
- (5) Where an authorised person is satisfied that dust or liquid waste has escaped or has been released from an activity undertaken on land or as a consequence of the use of equipment on land, the local government may serve a notice on the owner and or occupier of the land and or the operator of the equipment, as the case may be, requiring that the activity or use of the equipment on the land be ceased immediately, for such period as is specified in such notice.
- (6) Where an authorised person is satisfied that dust or liquid waste is likely to be released or escape as a result of an activity to be carried out on any land, the local government may give to the owner and or occupier a notice providing that the activity may only be carried on subject to conditions specified in the notice.

## **PART 9 – OBJECTIONS AND APPEALS**

### **9.1 Objections and appeals**

When the local government decides under this local law whether it will —

- (a) grant a person an authorisation;
- (b) renew, vary, or cancel an authorisation; or
- (c) give a person a notice,

the provisions of Division 1 of Part 9 of the Act and Regulation 33 of the Regulations shall apply to that decision.

## **PART 10 – ENFORCEMENT**

### **Division 1 – Notices given under this local law**

#### **10.1 Notice of Breach**

- (1) Where a breach of any provision of this local law has occurred, the local government may give a notice in writing to the person alleged to be responsible for such breach directing them to take such actions as an authorised person considers necessary within the timeframe specified in the notice.
- (2) A notice given under subclause (1) shall —
  - (a) specify the provision of this local law which has been breached;
  - (b) specify the particulars of the breach; and
  - (c) state that the manner in which the person is required to remedy the breach to the satisfaction of the local government within the time specified in the notice.
- (3) If a person fails to comply with a notice given to him or her under this local law, the local government may do, or arrange to be done, the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in doing so.
- (4) This local law is subject to sections 3.25, 3.27 and Schedules 3.1 and 3.2 of the Act and any powers of entry exercised by the local government under this local law is subject to Part 3, Division 3, Subdivision 3 of the Act.

### **Division 2 – Offences and penalties**

#### **Subdivision 1 – General**

#### **10.2 Offences and penalties**

- (1) A person who —
  - (a) fails to do anything required or directed to be done under this local law;
  - (b) fails to comply with the requirements of a notice issued under this local law; or
  - (c) does anything prohibited under this local law,

commits an offence.

- (2) A person who commits an offence under this local law is liable to a maximum penalty of \$5,000 and a maximum daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

## **Subdivision 2 – Infringement notices and modified penalties**

### **10.3 Prescribed offences**

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.15 of the Act.
- (2) The amount of the modified penalty for a prescribed offence —
  - (a) for a first offence is that specified adjacent to the clause in the fourth column of Schedule 1; and
  - (b) for a subsequent offence is that specified adjacent to the clause in the fifth column of Schedule 1.

### **10.4 Form of infringement notices**

For the purposes of this local law —

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice given under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the Regulations.



## SCHEDULE 1 – PRESCRIBED OFFENCES

[clause 10.3(1)]

Item No.	Clause No.	Nature of offence	Modified Penalty First Offence (\$)	Modified Penalty Subsequent Offence (\$)
1	2.1(1)	Failure to keep land upon which an animal is kept to the required standard	150	300
2	2.1(2)	Failure to comply with a direction to clean and disinfect land upon which an animal is kept	150	300
3	2.2(1) and (2)	Failure to disposing of a dead animal in approved manner	150	300
4	2.3	Keeping a farm animal within a residential zone	150	300
5	2.4	Keeping of a pig within a non-permitted area	150	300
6	2.5(a)	Failure to ensure a farm animal is prevented from approaching a dwelling, public building, building used for commercial premises or food business	150	300
7	2.5(b)	Failure to ensure that land where a farm animal is kept is fenced or walled to the required standard	150	300
8	2.5(c)	Failure to keep a farm animal in accordance with planning scheme	150	300
9	2.6(a)	On land where farm animals are kept, failing to ensure any stable, enclosure or shelter is not situated within 18 metres of any dwelling, public building, building used for commercial purposes or food business	150	300
10	2.6(b)	On land where farm animals are kept, failing to ensure any stable, enclosure or shelter is maintained in a manner so as to provide adequate shelter, drainage and ventilation	150	300
11	2.7(1)	Slaughtering an animal other than at an approved premises	150	300
12	2.8(a)	Keeping of a horse outside of a rural zone	150	300
13	2.8(b)	Keeping of a horse contrary to the provisions of any local planning scheme	150	300
14	2.9(1) and (2)	Failure to ensure a stable or stable shelter is sited to the required standard	150	300
15	2.9(3), (4) and (5)	Stable or stable shelter contrary to the required standard	150	300

16	2.9(6)	Associated building or facility situated within 9 metres of any dwelling	150	300
17	2.9(7)	Failure to ensure a paddock, yard or training/walking ring is sited to the required standard	150	300
18	2.10(a)	Failure to maintain any stable, stable shelter, associated building or facility where any horse is kept to the required standard	150	300
19	2.10(b)	Failure to maintain fences, railings and gates to the required standard	150	300
20	2.10(c)	Failure to ensure any paddock where horses are kept is fenced or walled in a manner capable or confining a horse	150	300
21	2.11(a)	Manure receptacle on land where horses are kept situated within 10 metres of a dwelling on adjacent property	150	300
22	2.11(b) and (c)	On land where horses are kept, failing to handle waste and manure to the required standard	150	300
23	2.12(1)(a)	Exceeding the permitted number of poultry or pigeons in a residential zone	150	300
24	2.12(1)(b)	Exceeding the permitted number of poultry or pigeons in a rural zone without approval	150	300
25	2.13	Failure to comply with requirements for keeping of poultry	150	300
26	2.14(1) and (2)	Failure to comply with requirements for keeping of pigeons	150	300
27	2.15	Keeping a rooster, geese, turkey or peafowl outside of a rural zone	150	300
28	2.16	Failure to comply with requirements for keeping of aviary birds	150	300
29	2.17(a)	Keeping a bird or poultry that causes or is likely to cause a nuisance	150	300
30	2.17(b)	Keeping a bird or poultry which emits an unreasonable noise	150	300
31	2.18(1)	Feeding of uncaged bird without approval	150	300
32	2.18(2)	Failure to comply with a notice to clean up and dispose of feed or waste product	150	300
33	2.20(5)	Failure to comply with a condition of approval for keeping poultry or pigeons	150	300
34	2.20(7)	A holder of a permit to keep poultry or pigeons failing to notify of any change in circumstances	150	300
35	2.21	Keeping bees in more than two beehives on land without approval	150	300

36	2.22	Failure to comply with requirement for keeping of bees	150	300
37	2.23	Keeping bees so as to create a nuisance	150	300
38	2.24(5)	Failure to comply with a condition of approval for keeping bees	150	300
39	3.1(1)	Failure to keep land free of water that is or is liable to become a breeding place mosquito breeding	150	300
40	3.2(1)	Where there are indications of the presence of rodents, failure to take measures to keep land free from rodents and prevent breeding	150	300
41	3.3(1)	Where there are indications of the presence of cockroaches, failure to take measures to keep land free from cockroaches and prevent breeding	150	300
42	4.1	Providing or conducting amusements so as to create or cause a nuisance without approval	250	500
43	4.2(a)	Permitting artificial light to be emitted or reflected so as to illuminate premises at a level that interferes unreasonably with normal activities	250	500
44	4.2(b)	Permit natural light to be reflected so as to create or be a nuisance	250	500
45	4.3	Allowing floodlights or other exterior lights to shine into adjoining land so as to cause a nuisance	250	500
46	4.5(1)	Setting fire to rubbish, refuse or other material listed in Schedule 2 on the land without approval	250	500
47	4.6	Failure to take reasonable steps to prevent the escape of smoke, fumes, odours or other emissions so as to cause a nuisance	250	500
48	5.1	Refuse, rubbish or disused material on land so as to give untidy appearance	250	500
49	5.2	Failure to prevent unsightly overgrowth of vegetation	250	500
50	5.4(a)	Wrecking, dismantling or breaking up a vehicle or machinery outside of a building or enclosed area	250	500
51	5.4(b)	Storing or allowing any vehicle or machinery to remain outside of a building or enclosed area	250	500
52	6.1	Failure to ensure rainwater, wastewater or stormwater is contained, discharged to an approved drainage structure or sewage apparatus	250	500
53	6.2	Failure to ensure water from a swimming pool, spa filtration system or	250	500



		other water storage system is contained and diverted to storm water drainage		
54	8.1(1)	Failure to provide and maintain a refuse receptacle and a recycling receptacle at a building site, development site or demolition site	250	500
55	8.1(2)	Receptacle at a building site, development site or demolition site not to the required standard	250	500
56	8.2(2)(a)	Failure to clear refuse or recycling from a building site, development site or demolition site	250	500
57	8.2(2)(b)	Failure to remove receptacle from a building site, development site or demolition site	250	500
58	8.3(1)(a)	Failure to take effective measures to stabilise dust on the land	250	500
59	8.3(1)(b)	Failure to take effective measures to contain liquid waste on the land	250	500
60	8.3(1)(c)	Failure to take effective measures to ensure no dust or liquid waste is released or escapes from the land	250	500
61	8.3(2)	Failure to notify an owner or occupier of adjoining land of an activity with the potential to cause the release or escape of dust or liquid waste	250	500
62	10.2(1)(a)	Failure to do anything required or directed to be done	250	500
63	10.2(1)(b)	Failure to comply with a notice	250	500
64	10.2(1)(c)	Doing anything prohibited under local law	250	500

## **SCHEDULE 2 – MATERIALS NOT TO BE SET ON FIRE OR TO BE BURNT**

[clause 4.5]

- (1) Batteries
- (2) Carpet
- (3) Electrical products
- (4) Fabrics or textiles
- (5) Solvent
- (6) Paint
- (7) Plastic, including polystyrene and the like
- (8) Rubber
- (9) Timber that has been treated with preservatives
- (10) Tyres
- (11) Vehicles or vessels and their parts
- (12) Waste oil, fats or grease

Dated this 30<sup>th</sup>

day of September 2024

The Common Seal of the  
City of Kwinana was hereunto  
affixed in the presence of :

)  
)  
)



A handwritten signature in blue ink, appearing to read "Peter Feasey", written over a horizontal line.

Peter Feasey  
Mayor

A handwritten signature in blue ink, appearing to read "Wayne Jack", written over a horizontal line.

Wayne Jack  
Chief Executive Officer