

HEALTH ACT 1911

Town of Kwinana

BY-LAW NO. 29B RELATING TO THE KEEPING OF PIGEONS

The Town of Kwinana being a Local Health Authority under the provisions of the Health Act and having adopted the Model By-Laws made under the Act in pursuance of the powers conferred upon it by the Act and all other powers enabling it hereby makes and publishes the following By-Law:

1. In this By-Law, the Model By-Laws adopted by the Town of Kwinana by resolution published in the *Government Gazette* of 28 February 1964 and amended from time to time are referred to as "The Principal By-Laws".
2. The Principal By-Laws are amended by deleting in Part 1—General Sanitary Provisions By-Law 29B and substituting the following Heading and By-law 29B.

KEEPING OF PIGEONS

29B (1) In this By-Law:

"Code of Practice" means the Code of Practice—Pigeon Keeping and Pigeon Racing, International Standard Book Number (ISBN 0 958 6677 0 5), Part 1 (ISBN 0 958 6677 2 1), Part 2 (ISBN 0 958 6677 1 3) published May 1994, amended from time to time and approved by the Pigeon Racing Federation of WA (Incorporated) and the Independent Racing Pigeon Federation Inc.

"Council" means the Council of the Town of Kwinana.

"District" means the Municipal district of the Town of Kwinana.

"Food Premises" means a Food Premises as defined under Part viii Section 246G of the Health Act.

"Grouped Dwelling" means a dwelling which is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above another, except where special conditions of landscape or topography dictate otherwise.

"Manager Health Services" means an Environmental Health Officer appointed by Council to the office of Manager Health Services and includes Acting Manager Health Services."

"Scheme" means the Town of Kwinana Town Planning Scheme and includes any amendments thereto or any review thereof.

"Vector of Disease" means an arthropod or rodent that transmits an infectious agent from a source or reservoir to a person.

"Young Birds" means any birds under 24 days of age and are recognised as birds without feathers on the flesh under their wings.

- (2) (i) (a) No person shall keep pigeons on any land within the District without lodging an application to register the premises for the keeping of pigeons substantially in the form of Schedule 2, paying the annual registration fee prescribed in Schedule 1 and prior to written approval being granted substantially in the form of Schedule 3 to register the premises.
- (b) Pigeons shall not be kept on any land which is classified in the Scheme:
 - for a Caravan Park;
 - as Industrial Land; or
 - as Light Industrial land.

Except where an application is received to keep pigeons under Clause 9(1) on Light Industrial land which also includes a caretaker's residence, such application may be considered for approval. Council or the Manager Health Services may either approve the application with

or without conditions relating to the requirements of this by-law or refuse the application in accordance with this By-Law.

- (ii) The occupier of any Commercial premises so classified in the Scheme and approved as a Pet Shop, may keep up to 10 pigeons for immediate retail sale.
 - (iii) The occupier of every other premises approved to keep pigeons shall make an annual application in writing to the Council substantially in the form of Schedule 2 and pay the Council an Annual Registration Fee as shown in Schedule 1 on or before 30 June each year.
 - (iv) With every application for original registration there shall be lodged with the application plans, specifications, drawings, particulars and information as the Council or the Manager Health Services may require.
 - (v) Upon receipt of an application the Council or the Manager Health Services shall cause such premises for which the application is made to be inspected by an Environmental Health Officer who shall report upon the sufficiency of such premises and the compliance of all Acts, Regulations, By-laws, Orders and Rules in force within the District at the time in regard to the premises.
 - (vi) If upon such application and report being submitted, it shall appear to the Council or the Manager Health Services that the application for registration be granted, it shall, subject to the person complying with these By-Laws and all other Acts, Regulations, By-Laws and Rules as shall be in force at the time and upon being paid the registration fee prescribed in Schedule 1 register such premises by issuing a certificate substantially in the form of Schedule 3 for such premises.
- (3) All pigeons shall be kept confined continuously in cages, enclosures and lofts which are approved by the Manager Health Services except that registered homing pigeons and registered racing pigeons may be released in accordance with Clause 10 of the By-Law.
- (4) (i) No cage, enclosure or loft shall be located nearer than 1.2 metres from the boundary of land in another occupation, 9 metres from any dwelling house, church, school room, hall, factory, dairy or Food premises 18 metres from any street or road, except in cases of a corner property or cul-de-sac street, or a property which abuts two streets, when the minimum distance from any street or road reserve shall be not less than 9 metres.
- (ii) Where an application is received in accordance with Clause (2)(i)(a) and the number of pigeons exceed 20 in accordance with Clauses 9(1) and 9(2), Council may increase the 9 metre minimum distance of the loft from any premises specified in Clause 4(i) by virtue of the number of pigeons proposed to be kept, the location of other premises including residential premises or any other reason that is likely to cause a nuisance to contiguous owners/occupiers as identified via the consultation process required under Clauses 9(1) and 9(2).
- (5) (i) The cage, enclosure or loft used to house the pigeons, shall be constructed to at least the following specifications and approved prior to registration, by the Manager Health Services:
- (a) The floor shall be smooth impervious concrete, be not less than 50mm thick and graded evenly to the front. The floor in the case of an elevated loft, shall be made from other smooth impervious material or in compliance with the Code of Practice and be at least 20cm off the ground;
 - (b) The frames and box perch shall be flat sided sawn timber, finished to a smooth surface allowing for robust cleaning using a sharp implement.

- (c) Cladding shall be smooth fibro cement sheeting, sheet metal, brick, or other smooth material and which can be easily cleaned. Where applicable, the cage, enclosure or loft shall be lined internally in accordance with the Code of Practice;
 - (d) The roof shall be smooth corrugated fibro cement, tiles, sheet metal or other smooth roofing material approved by the Manager Health Services and shall have sufficient slope to shed stormwater;
 - (e) The cage, enclosure or loft shall be designed with a minimum internal height from floor to ceiling height of 1.65m measured at the walls and constructed in a sound, weatherproof manner and be of sufficient height and size to allow easy entry for cleaning but shall not exceed 3.0m in overall height;
 - (f) Provision shall be made to provide adequate ventilation to the cage, enclosure or loft during hot weather but all openings must be screened with metal or wooden dowelling with external dowelling set down into a solid splash board of minimum height above the floor of 500mm, or wire mesh with a maximum mesh size of 50mm square or 50mm diameter.
 - (g) The size shall be sufficient for the number of birds proposed to be kept therein and allow for any shelter, food and receptacles and the minimum space per pigeon shall be not less than the requirements in the Code of Practice.
- (ii) (a) If a structure, enclosure or loft is used for the keeping of pigeons contrary to the provisions of clause 5(i), Council or the Manager Health Services may direct the owner or occupier to remove it.
 - (b) An owner or occupier shall comply with a direction from the Council or Manager Health Services under this clause.
- (iii) (a) The Council or Manager Health Services may order an owner or occupier of a house or land or trees in or on which pigeons are, or are in the habit of nesting or perching, to take adequate steps to prevent them continuing to do so. Where the pigeons are considered to be feral, Council or the Manager Health Services may also direct that the owner or occupier eradicate the pigeons.
 - (b) An owner or occupier shall comply with a direction from the Council or Manager Health Services under this clause.
- (6) All cages, enclosures and lofts shall be kept clean and maintained in good order and condition at all times and the minimum standard shall be that specified in the Code of Practice.
 - (7) (i) All food shall be kept dry in fly, rodent and vectors of disease proof storage containers with tight fitting lids except that where 25kg or larger bags of grain are stored in bulk, they shall be stored on racks raised 150mm off the floor and adequate rodenticide baits shall be placed to the satisfaction of an Environmental Health Officer, to control rodents.
 - (ii) All waste, including husks, seed, feathers, dead birds and faecal matter shall be placed in plastic or double lined paper garbage bags, as soon as it is cleaned from the cage and the bags securely tied. The garbage bags shall be immediately deposited in an approved rubbish receptacle, pursuant to Council's health by-laws. Such receptacles shall have a tight fitting lid and be inaccessible to flies, rodents and other vectors of disease.
 - (iii) All food containers and rubbish receptacles shall be kept clean and maintained in good order and condition at all times.
- (8) (i) The surrounds of every cage, enclosure or loft shall be kept clean and the premises, including every cage, enclosure or loft, food storage areas and land immediately surrounding every cage, enclosure or loft shall be kept

free from waste, disused matter and any material or thing which may attract or provide harborage for flies, rodents and other vectors of disease at all times.

- (ii) The occupier shall clean, disinfect, trap or bait flies, rodents and vectors of disease or otherwise deal with the pigeons, cages, equipment and appliances, storage areas and land immediately surrounding the cage as directed by the Environmental Health Officer from time to time.
- (9) The maximum number of pigeons kept must not exceed 20, excluding the young birds on any land except:
- (i) that any person who on or before 30 June each year produces to the Council, satisfactory proof that they are a current financial member of a recognised incorporated Racing Pigeon body, or are a registered Pigeon Fancier, may be permitted to keep up to 150 pigeons excluding the young birds on any land zoned Residential, Special Residential, Special Rural or Rural and Light Industrial with a Caretaker's residence, subject to the written opinion being sought from all contiguous owners/occupiers whose property abuts the applicant's property prior to the application being considered for approval in accordance with Clause (2)(iv).
 - (ii) that any person who makes application under Clause (2) to Council to keep pigeons on land zoned under the Scheme for Grouped Housing and approved for two or more housing units shall have the application subject to seeking the written opinion of all contiguous owners/occupiers whose property abuts the applicant's property prior to the application being considered for approval in accordance with Clause (2)(iv).
- (10) (i) A person who is approved to keep Registered Homing or Racing Pigeons may only release them for exercise between the hours set out in the Code of Practice, unless otherwise authorised in writing by the Manager Health Services or subject to Clause 10(iii).
- (ii) Not more than 60 registered Homing or Racing pigeons shall be released for exercise or training at any one time.
 - (iii) Where the Council or the Manager Health Services receives any objections during consultation under Clause 9(1) or 9(2), or a complaint about a nuisance after approval has been granted to keep up to 150 pigeons, Council may vary the hours for release and impose any conditions deemed necessary to minimise any nuisance from the pigeons or any associated activity.
- (11) Where there is any discrepancy between By-Law 29B relating to the Keeping of Pigeons and the Code of Practice, the higher standard of construction and hygiene shall prevail and have effect from the date of confirmation in writing by Council or the Manager Health Services to the applicant or person approved to keep pigeons.
- (12) The Council or the Manager Health Services may cancel, refuse to approve or renew the registration of a premises for the keeping of pigeons for the following reasons:
- (a) That the premises are not maintained in accordance with the By-Law;
 - (b) That the cages, enclosures or loft have fallen into disrepair, are unclean or infested with vectors of disease;
 - (c) That the pigeons are being released outside the times permitted in clause 10 of this By-law or as approved by the Manager Health Services;
 - (d) That a condition imposed pursuant to the By-Law has not been complied with;
 - (e) Where the person has two or more prior convictions under this By-Law.
- (13) Any person who makes a false statement in connection with any application under this By-Law shall be guilty of an offence.

(14) Any person who commits an offence, fails to comply with this By-Law or condition imposed pursuant to this By-Law or any direction of Council or an Environmental Health Officer under the provisions of this By-Law commits an offence and shall be liable to—

- (a) A penalty which is not more than \$1,000 and not less than—
 - (i) In the case of a first such offence \$100
 - (ii) In the case of a second such offence \$200
 - (iii) in the case of a third or subsequent offence \$500
 and
- (b) If that offence is a continuing offence, a daily penalty which is not more than \$100 and not less than \$50 shall apply.

SCHEDULE 1

Registration fee payable on or before 30 June each year.

Keeping of up to 20 Pigeons (excluding young birds)	\$15.00
Keeping of more than 20 and up to 150 Pigeons (excludes young birds)	\$25.00

SCHEDULE 2

Town of Kwinana
HEALTH ACT 1911

Application for Registration of Premises for the Keeping of Pigeons

To: The Chief Executive Officer
Town of Kwinana
PO Box 21 Kwinana 6167

I (FULL NAME IN BLOCK LETTERS)
..... (FULL RESIDENTIAL ADDRESS)
being the owner/occupier (delete one) of the premises situated at

.....
hereby make application for approval to keep up to
pigeons excluding the young birds of those pigeons on the above premises. Plans and specifications are attached in accordance with Clause (2)(iv) of the By-Law.

The premises are zoned as: * commercial
 * residential
 * special residential
 * special rural
 * rural
 * light industrial with Caretaker's house
 (* delete those not applicable)

Dated this day of 19.....

.....
Signature of Applicant

SCHEDULE 3

Town of Kwinana

HEALTH ACT 1911

Certificate of Registration to Keep Pigeons

This is to certify that the premises situated at
and occupied by
are registered as premises upon which pigeons may be kept until the 30th day of June next following the date of issue of this certificate unless this Certificate of Registration is previously cancelled.

The maximum number of pigeons excluding young birds to be kept on the premises at any one time is

This certificate is issued subject to compliance with the Health Act Regulations and Bylaws from time to time in force thereunder and any conditions imposed pursuant to the By-Law Relating to the Keeping of Pigeons.

Dated this day of 19.....

.....
MANAGER—HEALTH SERVICES

NOTES

1. This certificate is invalid unless accompanied by a receipt bearing the imprint of the Town of Kwinana cash register.
2. This certificate is not transferable.
3. This certificate is to be available at all times at the premises registered herein and shall be produced when requested to do so by an Environmental Health Officer.
4. Where more than 20 pigeons are to be kept the certificate holder shall produce the appropriate recognised body proof of membership when requested by an Environmental Health Officer.

Passed by resolution at a meeting of the Town of Kwinana on the 8th day of May 1996.

Dated this 22nd day of May 1996.

The Common Seal of the Town of Kwinana was hereto affixed in the presence of—

J. H. D. SLINGER, Mayor.
R. K. SMILLIE, Chief Executive Officer.

Confirmed—

C. F. QUADROS, Delegate of Executive Director Public Health.

Approved by His Excellency, the Governor, in Executive Council on this 5th day of November 1996.

J. PRITCHARD, Clerk of the Council.